

## **IC 14-33-6**

### **Chapter 6. District Plan**

#### **IC 14-33-6-1**

##### **Preparation of district plan**

Sec. 1. (a) Immediately after the organizational meeting of the board, the board must commence the preparation of the district plan to accomplish the purpose for which the district is established. The board may request and receive from a state agency information that:

- (1) the agency has collected regarding conditions in and immediately surrounding the district; and
- (2) is pertinent to planning the necessary structures or operations of the district.

(b) The board may:

- (1) contract;
- (2) enter into agreements with a state or federal agency; or
- (3) hire necessary personnel;

to provide technical data or otherwise assist in the preparation of the district plan.

(c) The board may also conduct hearings that the board finds necessary.

*As added by P.L.1-1995, SEC.26.*

#### **IC 14-33-6-2**

##### **Contents of district plan**

Sec. 2. (a) A district plan consists of an engineering report that sets forth the general, comprehensive plan for the accomplishment of each purpose for which the district was established. A district plan must contain the following:

- (1) Descriptions of the following:
  - (A) The physical nature of the district.
  - (B) The problems confronting the district.
  - (C) The works of improvement needed.
  - (D) The location of the works of improvement.
  - (E) The benefits to be derived from the improvements.
- (2) Maps, preliminary drawings, and estimates of costs based upon preliminary engineering surveys and studies.
- (3) Copies of agreements or other arrangements with other persons or governmental agencies with respect to the financing, construction, maintenance, and operation of any of the works of improvement proposed in the plan.

(b) A district plan may initially provide works of improvement for the accomplishment of less than all the purposes for which the district was established if:

- (1) there is good reason for accomplishing less than all the purposes; and
- (2) assurance is given that the program for the accomplishment of the other purposes will be set forth in an amendment to the district plan.

(c) It is not necessary to prepare:

(1) detailed construction drawings and specifications; and  
(2) refined cost estimates;  
as a part of a district plan.  
*As added by P.L.1-1995, SEC.26.*

### **IC 14-33-6-3**

#### **Time for presentation of plan**

Sec. 3. The board shall present the district plan to the commission within one hundred twenty (120) days after the date of the appointment of the members of the board, unless the board requests and receives additional time from the commission.  
*As added by P.L.1-1995, SEC.26.*

### **IC 14-33-6-4**

#### **Commission's treatment of plan**

Sec. 4. (a) The commission shall do the following:  
(1) Review each district plan.  
(2) Request the technical assistance of any other state agency, including:  
(A) the water pollution control board;  
(B) the state department of health; and  
(C) the department of environmental management;  
having administrative jurisdiction over any of the purposes of the district.  
(b) The commission may also request technical assistance of any federal agency.  
(c) The commission shall approve a plan if the following conditions are met:  
(1) Any other state agency having authority over certain purposes of the district has approved that part of the plan.  
(2) The commission finds that the plan accomplishes in an economical manner the purpose for which the district is established.  
(d) The commission may reject a plan or any part of a plan.  
The board may make the changes that are necessary to secure the approval of the commission.  
*As added by P.L.1-1995, SEC.26.*

### **IC 14-33-6-5**

#### **Plan filed with court; hearing; notice**

Sec. 5. (a) After receiving the approval of the commission, the board shall file the district plan with the court.  
(b) Upon receipt the court shall set a date for a hearing. The court shall give priority to the hearing in determining the date, but the court must allow at least twenty-one (21) days for interested persons to file exceptions.  
(c) The court shall order notice for the hearing that the court considers necessary, but publication must at least be made in each county having land in the district in accordance with IC 5-3-1 as if the notice affected county business.

*As added by P.L.1-1995, SEC.26.*

#### **IC 14-33-6-6**

##### **Findings by court; referral of plan back to board**

Sec. 6. (a) At the hearing the court shall make findings on the following:

- (1) Whether the district plan is necessary, proper, and feasible for the accomplishment of each purpose for which the district is established.
- (2) If the purpose of the district is other than water supply or sewage disposal, whether the estimated benefits to be received in the district will exceed the estimated costs and damages of the plan.
- (3) If the purpose of the district is water supply or sewage disposal, or both, whether the public health and convenience is served.
- (4) Whether compatibility with water projects listed in IC 14-33-2-17 is reasonably assured.

(b) If the court finds a plan lacking under subsection (a), the court shall refer the plan back to the board for changes that are necessary. The board has:

- (1) one hundred twenty (120) days; or
- (2) another period that the court orders;

to prepare and submit a new plan. The procedure for approval and order for hearing, notice, and making findings is the same as for the original submissions.

(c) If the court finds that a plan meets all the criteria of subsection (a), the court shall approve the plan.

*As added by P.L.1-1995, SEC.26.*

#### **IC 14-33-6-7**

##### **Appeals**

Sec. 7. The board or an interested person adversely affected by the plan may appeal an order:

- (1) referring the district plan back to the board; or
- (2) approving the district plan;

to the supreme court within thirty (30) days.

*As added by P.L.1-1995, SEC.26.*

#### **IC 14-33-6-8**

##### **Implementation of plan**

Sec. 8. (a) To implement a district plan, the board shall order the preparation of the detailed construction drawings, specifications, and refined cost estimates as soon as practicable after the approval of the district plan by the court if the work has not been submitted as a part of the district plan. The implementation may involve all or part of the works of improvement if the part constitutes a unit that:

- (1) can be constructed and operated as a feasible unit alone; and
- (2) can be operated economically in conjunction with other proposed works set forth in the district plan.

(b) When the drawings, specifications, and cost estimates have been prepared to the satisfaction of the board, the board shall by resolution tentatively adopt and submit the drawings, specifications, and cost estimates to the commission for approval.

*As added by P.L.1-1995, SEC.26.*

#### **IC 14-33-6-9**

##### **Hearing on drawings, specifications, and cost estimates**

Sec. 9. (a) Upon receipt of the written approval of the commission, the board shall schedule a hearing on the drawings, specifications, and cost estimates at which any interested person must be heard. The hearing shall be held:

- (1) in the office of the district; or
- (2) at another place designated in the notice of hearing that is generally convenient to the landowners of the district.

(b) The board shall give notice of the hearing as follows:

- (1) By at least one (1) publication in one (1) newspaper of general circulation in each county having land in the district.
- (2) By mail, first class postage prepaid, to the freeholder of each tract of real property that will be taken or damaged by the construction of the works of improvements.

(c) The notice must be published and mailed at least ten (10) days before the date of hearing.

*As added by P.L.1-1995, SEC.26.*

#### **IC 14-33-6-10**

##### **Board confirming or revoking tentative resolution**

Sec. 10. At the hearing the board shall by resolution:

- (1) confirm, with or without modification; or
- (2) revoke;

the board's tentative resolution adopting the drawings, specifications, and cost estimates.

*As added by P.L.1-1995, SEC.26.*

#### **IC 14-33-6-11**

##### **Contracts and construction of improvements**

Sec. 11. If the board confirms the drawings, specifications, and cost estimates, the board shall let contracts or otherwise construct the works of improvement provided in the drawings, specifications, and cost estimates. The board may not let a contract for an amount that exceeds the cost estimate. However, if all bids are greater than the cost estimate, the board may let a contract for an amount that does not exceed five percent (5%) over the cost estimate if the cost of rebidding, rising cost level, or other good reason necessitates this course of action.

*As added by P.L.1-1995, SEC.26.*

#### **IC 14-33-6-12**

##### **Amendment of plans**

Sec. 12. (a) As the result of:

(1) experience gained in the construction or operation of the works of a district; or

(2) changed conditions;

the district plan may be amended in any way as long as the amended district plan conforms to the other requirements of this chapter.

(b) The board shall prepare an amended district plan only if ordered to do so by the court. The court shall order an amended district plan if the court finds there is need for amendment based upon a petition filed by any of the following:

(1) By the board on the board's own motion.

(2) By the commission on the commission's own motion.

(3) By twenty percent (20%) of the freeholders owning land in the district. IC 14-33-2-3 applies to this petition.

(c) The party that filed a petition under subsection (b) may appeal an order denying the petition to the supreme court within thirty (30) days.

(d) The same procedures provided for the initial submission of the district plan must be complied with for the submission of an amended district plan.

*As added by P.L.1-1995, SEC.26.*

### **IC 14-33-6-13**

#### **Powers and duties of board**

Sec. 13. (a) The board shall place the district plan in operation by constructing all works and maintaining the works in accordance with the district plan.

(b) If necessary to discharge these responsibilities, the board may do the following:

(1) Levy taxes on the real property in the district.

(2) Make assessments on the real property in the district, except the property that is exempt under IC 14-33-7-4, for exceptional benefits to the property and further assessments pro rata for maintenance and operation of the works of improvement.

(3) Issue bonds and short and long term notes.

(4) Incur other debts and liabilities.

(5) Exercise the power of eminent domain, both inside and outside the boundaries of the district, in accordance with this article or another eminent domain statute. In the exercise of this power, due care shall be taken to minimize interference with other public interests involved.

(6) Make payments for the fair value of all property taken under eminent domain proceedings, and in cases that are appealed, make the payments into court and proceed promptly in placing the district plan in operation.

(7) Institute any type of civil legal proceedings in a court having jurisdiction over the person or property in question.

(8) Purchase or rent property.

(9) Sell services or property that are produced incident to the district plan at a fair and reasonable price.

(10) Make contracts or otherwise enter into agreements with

persons or federal or state agencies for construction, maintenance, or operation of any part of the district.

(11) Receive and disburse money.

(12) Lease land and other assets to municipalities, counties, and park boards of municipalities or counties, with the term and annual rental adequate to meet the district's repayment schedule for financing, if any, of the land and other assets leased. Municipalities, counties, and park boards of municipalities or counties may enter into leases without limitations of other statutes regarding the receipt of petitions, the duration of the term of the lease, or the distance of the land and other assets from the corporate boundaries. The municipalities, counties, and park boards may enter into leases:

(A) for terms as long as fifty (50) years;

(B) at locations that the municipalities, counties, and park boards determine would benefit the municipalities or counties; and

(C) upon terms, conditions, and covenants that are fair and reasonable.

The board may pledge the rental income from the lease as revenue for services or property produced incident to the operation of the district.

(13) Perform necessary construction and maintenance work as follows:

(A) Outside the district.

(B) Outside Indiana if:

(i) there is voluntary agreement on the part of persons outside Indiana; and

(ii) the work will confer benefits to the real property in the district in excess of costs and damages to be paid by the district.

*As added by P.L.1-1995, SEC.26.*

#### **IC 14-33-6-14**

##### **Association of conservancy district**

Sec. 14. (a) A board may establish an association of Indiana conservancy districts and have the district become a member. The association must have as purposes the following:

(1) To assist in the assembly and dissemination of information in all aspects of the organization, financing, construction of improvements, operation, and maintenance of districts for the benefit of districts and persons desiring to establish districts.

(2) To inform persons interested in the functions of districts.

(3) Because a district is a statutory entity, to assist in recommending legislation to keep abreast of developing needs.

(b) The commission shall make the initial call to establish the association and may thereafter, together with Purdue University, give the association the reasonable assistance that the association requires.

(c) The association shall determine and elect officers and

committees.

(d) Each member district may do the following:

(1) Pay reasonable annual dues.

(2) For the purpose of attending and engaging in the association's functions and affairs:

(A) employ agents and employees; and

(B) pay the expenses of the district's directors.

*As added by P.L.1-1995, SEC.26.*