

CHAPTER 1051
ESTABLISHMENT AND DISSOLUTION OF SANITARY DISTRICTS
S.F. 2197

AN ACT relating to the establishment and dissolution of a sanitary district.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 358.4, Code 1983, is amended by striking the section and inserting in lieu thereof the following:

358.4 DATE AND NOTICE OF HEARING.

1. The board of supervisors to which the petition is addressed, at its next meeting, shall set the time and place for a hearing on the petition. The board shall direct the county auditor in whose office the petition is filed to cause notice to be given to all persons whom it may concern, without naming them, of the pendency and content of the petition, by publication of a notice once each week for two consecutive weeks in a newspaper of general circulation published in the county in which the proposed district is located, the last of which publications shall not be less than twenty days prior to the date set for the hearing of the petition. Proof of giving the notice shall be made by affidavit of the publisher and the proof shall be on file with the county auditor at the time the hearing begins. The notice of hearing shall be directed to all persons it may concern, and shall state:

a. That a petition has been filed with the county auditor of the county, naming it, for establishment of a proposed sanitary district, and the name of the proposed district.

b. An intelligible description of the boundaries of the territory to be embraced in the district.

c. The date, hour, and the place where the petition will come on for hearing before the board of supervisors of the named county.

d. That the board of supervisors will fix and determine the boundaries of the proposed district as described in the petition or otherwise, and for that purpose may alter and amend the petition. At the hearing all interested persons shall have an opportunity to be heard on the location and boundaries of the proposed district and to make suggestions regarding the location and boundaries.

2. For a district which does not include land within a city, copy of the notice shall also be sent by mail to each owner, without naming them, of each tract of land or lot within the proposed district as shown by the transfer books of the auditor's office. The mailings shall be to the last known mailing address unless there is on file an affidavit of the auditor or of a person designated by the board to make the necessary investigation, stating that a mailing address is not known and that diligent inquiry has been made to ascertain it. The copy of notice shall be mailed no less than twenty days before the day set for hearing and proof of service shall be by affidavit of the auditor. The proofs of service required by this subsection shall be on file at the time the hearing begins.

3. In lieu of the mailing to the last known address a person owning land affected by a proposed district may file with the county auditor an instrument in writing designating the

address for the mailing. This designation when filed is effective for five years and applies to all proceedings under this chapter. The person making the designation may change the address in the same manner as the original designation is made.

4. In lieu of publication, personal service of the notice may be made upon an owner of land in the proposed district in the manner and for the time required for service of original notices in the district court. Proof of the service shall be on file with the auditor on the date of the hearing.

Sec. 2. Section 358.5, Code 1983, is amended to read as follows:

358.5 HEARING OF PETITION AND ORDER. The board of supervisors to whom the petition is addressed shall preside at the hearing provided for in section 358.4 and shall continue the same hearing in session, with adjournments from day to day, if necessary, until completed, without being required to give any further notice thereof of the hearing. Proof of the residence residences and qualification qualifications of the petitioners as eligible electors shall be made by affidavit or otherwise as the board may direct. ~~Said~~ The board shall have power and authority to may consider the boundaries of any such a proposed sanitary district, whether the same they shall be as described in such the petition or otherwise, and for that purpose may alter and amend such the petition and limit or change the boundaries of the proposed district as stated in the petition. The board shall adjust the boundaries of a proposed district as needed to exclude land that has no reasonable likelihood of benefit from inclusion in the proposed district. The boundaries of any a proposed district shall not be changed to incorporate therein any property not included in the original petition and published notice until the owner ~~or owners~~ of said the property shall be is given notice thereof of inclusion as on the original hearing. All persons in such the proposed district shall have an opportunity to be heard touching regarding the location and boundaries of the proposed district and to make suggestions regarding the same location and boundaries, and said the board of supervisors, after hearing the statements, evidence and suggestions made and offered at the hearing, shall enter an order fixing and determining the limits and boundaries of such the proposed district and directing that an election be held for the purpose of submitting to the qualified electors resident owning land within the boundaries of the proposed district the question of organization and establishment of the proposed sanitary district as determined by said board of supervisors. The order shall fix a date for the election not more than sixty days after the date of the order, establish voting precincts within the proposed district and define their boundaries and specify the polling places therein as in the board's judgment will best serve the convenience of the voters, and shall appoint from residents of the proposed district three judges and two clerks of election for each voting precinct established. It shall not be mandatory for the county commissioner of elections to conduct an election held pursuant to this section, but it shall be conducted in accordance with the provisions of chapter 49 where not in conflict with this chapter.

However, a majority of the landowners, owning in the aggregate more than seventy percent of the total land in the proposed district, may file a written remonstrance against the proposed district at or before the time fixed for the hearing on the proposed district with the county auditor. If the remonstrance is filed, the board of supervisors shall discontinue all further proceedings on the proposed district and charge the costs incurred to date relating to the establishment of the proposed district.

Sec. 3. Section 358.9, Code 1983, is amended by adding after unnumbered paragraph 2 the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. However, for districts formed after July 1, 1984, successors to the initial trustees shall be elected at the next general election or at an annual meeting of the board of trustees called for that purpose. Upon petition of a majority of the landowners owning more than fifty percent of the total land in the district, the board of trustees shall call an annual meeting of the residents of the district to elect successors to trustees of the board. Vacancies shall be filled by the remaining trustees in the same manner as city council members as provided in section 372.13, subsection 2.

Sec. 4. NEW SECTION. 358.40 DISSOLUTION.

1. After three years from the establishment of a sanitary sewer district, a petition may be filed in the office of the county auditor, addressed to the board of supervisors, signed by a majority of persons owning land in the district and who in aggregate own at least sixty percent of the land in the district. The petition shall include the above facts and recite each of the following:

a. That more than three years has passed since the date of the election which established the district.

b. That there are no bonds or other evidences of indebtedness outstanding against the district, or if there is indebtedness, the petition shall contain a plan of dissolution which makes adequate provisions for payment of the indebtedness.

c. That a construction contract has not been let or work done on any improvements in the district or if either has occurred, the petition shall contain a plan of dissolution which makes adequate provisions for payment of the contract price or for the work.

2. All costs and expenses of the district shall be assessed against the district before dissolution by the levy of an annual tax necessary to accomplish payment, but the levy shall not exceed the rate provided in this section.

3. The board shall examine the petition at its next meeting after its filing or within twenty days of the filing, whichever date is earlier. Within ten days of the meeting, the board shall publish notice of the petition and the date, time, and place of the meeting at which time the board proposes to take action on the petition. The notice shall be published in a newspaper of general circulation published in the district and, if no newspaper is published within the district, in a newspaper published in the county in which the major part of the district is located. At the board's meeting, or subsequent meetings as necessary, if the petition is found to comply with the requirements of this section and the board of trustees consents by majority vote, the board of supervisors may provide for payment as requested or modify the method of payment of costs and expenses.

4. If the board decides that dissolution is warranted for the best interest of the public, it shall publish a notice in a newspaper of general circulation published in the district or, if no newspaper is published in the district, in a newspaper published in the county in which the major part of the district is located and give notice by mail to all known claimants or creditors of the district that it will receive and adjudicate claims against the district for four months from the date the notice is published and shall levy an annual tax as necessary against all property in the district for the number of years required to pay all claims allowed. However, the annual tax levied under this subsection shall not exceed four dollars per thousand dollars of assessed valuation of the taxable property within the district at the time of dissolution. The levy shall be made in the same manner as provided in section 76.2. After the board makes a specific finding that all indebtedness, costs, and expenses have been paid or levies approved for their payment, the board shall dissolve the district by resolution entered upon its records. The dissolution order shall be noted by the auditor on the county records, showing the date when the dissolution became effective.

5. The records of a dissolved district including, but not limited to, copies of all engineering files and work undertaken by engineers of a dissolved district, shall be deposited with the county auditor of the county designated by the board. Any remaining balances shall be deposited in the general fund of the county designated by the board. All other assets of the dissolved district shall become, by dissolution, assets of the county.

6. An action shall not be commenced to contest action of the board of supervisors under this section in adjudicating claims, providing for the levy of a tax, or dissolving the district unless it is brought within thirty days of the entry of the dissolution order on the county record.

Approved April 10, 1984

CHAPTER 1052
CITY PRECINCT LINES REDRAWN
S.F. 2222

AN ACT allowing a city to redraw precinct lines when adopting a system which provides for election of council members from wards or when changing the number of council members who are elected from wards.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 49.8, Code Supplement 1983, is amended by adding the following new subsection:

NEW SUBSECTION. When a city is changing its form of government from one which has council members elected at large to one which has council members elected from wards, or is changing its number of council members elected from wards, the city council may redraw the precinct boundaries in accordance with sections 49.3 and 49.5 to coincide with the new ward boundaries.

Approved April 10, 1984