

**358.30A Severance of territory by resolution.**

1. The board of trustees of a sanitary district may by resolution propose the severance of a portion of the sanitary district's territory. The resolution shall specify the boundaries of the territory sought to be severed and shall propose another sanitary district or other governmental entity to which responsibility for the services provided by the sanitary district that adopted the resolution will be transferred. Within ten days following adoption of the resolution, the board of trustees shall file a copy of the resolution with the board of trustees of the sanitary district or the governing body of the other governmental entity to which responsibility for the services provided by the sanitary district seeking severance is proposed to be transferred.

2. *a.* At the next regular meeting of the board of trustees following adoption of the resolution, the board of trustees seeking severance shall set the time and place for a public hearing on the proposed severance and transfer, and any agreement between the sanitary district and the sanitary district or governmental entity to which responsibility for the services being provided will be transferred pursuant to [subsection 3](#). The board of trustees shall give notice to interested persons of the resolution and of the public hearing by publication as provided in [section 331.305](#). Proof of publication shall be filed with and preserved by the county auditor. A copy of the notice shall also be sent by regular mail to each owner of each tract of land within the area to be severed, as shown by the transfer books of the county auditor's office.

*b.* The notice of the public hearing shall include the following information:

(1) That a resolution has been adopted proposing to sever property from the sanitary district.

(2) A description of the property to be severed from the sanitary district.

(3) Identification of the sanitary district or governmental entity to which the responsibility for services will be transferred and a description of such services.

(4) The date, time, and place of the public hearing at which the severance and transfer will be considered.

3. *a.* Unless otherwise provided by an agreement under paragraph "b", and upon approval of the severance and transfer under [subsection 4](#), the real and personal property of the sanitary district located in the territory to be severed shall be transferred to the sanitary district or governmental entity assuming responsibility for services, and all liabilities, indebtedness, and all other property of the sanitary district outside of the territory to be severed shall remain with the sanitary district seeking severance.

*b.* The sanitary district seeking severance and the sanitary district or governmental entity to which the responsibility for services will be transferred may enter into an agreement for the transition of such services, the distribution and transfer of assets located in the territory to be severed, and the allocation of liabilities related to the territory to be severed.

4. At the hearing, all persons interested in the matter of the severance and transfer may appear and shall be heard and the board of trustees shall receive evidence on the matter. After hearing and reviewing the statements and evidence, if the board of trustees determines that the public health, comfort, convenience, or welfare will be promoted by the severance and transfer and if the other sanitary district or governmental entity has by resolution agreed to assume the duties, responsibilities, and functions of the sanitary district, the board of trustees of the sanitary district seeking severance may approve or deny the severance and transfer by order of the board of trustees. A decision of the board of trustees either approving or denying the severance and transfer shall not occur until at least two weeks have elapsed following the public hearing. The order of the board of trustees approving or denying the severance and transfer is not subject to approval at an election.

5. When a severance and transfer has been approved by order of the board of trustees, the order of the board of trustees shall be filed in the office of the recorder. The severance and transfer order shall be entered on the county records, showing the date when the severance and transfer became effective. Any agreement entered into under [subsection 3](#) shall also be filed along with, and as part of, the order of the board of trustees.

6. The assumption of duties, responsibilities, and functions by the sanitary district or

other governmental entity shall not affect or impair any rights or liabilities then existing for or against either the sanitary district from which the territory was severed or the assuming sanitary district or governmental entity, and they may be enforced as provided in [this subchapter](#).

7. An action shall not be commenced to contest action of the board of trustees of a sanitary district seeking severance under [this section](#) unless it is brought within thirty days of the entry of the severance and transfer order in the county records.

[2016 Acts, ch 1019, §1](#)