
HOUSE BILL No. 1090

DIGEST OF INTRODUCED BILL

Citations Affected: IC 8-1.5-4.

Synopsis: Municipal waterworks boards. Upon the petition of property owners within a municipal waterworks district, allows the county executive to appoint to the district's board of directors two additional directors who are residential customers of the waterworks owning real property within the district but outside the corporate boundaries of the municipality. Establishes a petition and remonstrance process to establish and eliminate the additional board positions.

Effective: July 1, 2003.

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January 7, 2003, read first time and referred to Committee on Local Government.

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First Regular Session 113th General Assembly (2003)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2002 Regular or Special Session of the General Assembly.

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HOUSE BILL No. 1090



A BILL FOR AN ACT to amend the Indiana Code concerning utilities and transportation.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 8-1.5-4-2 IS AMENDED TO READ AS
- 2 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. (a) If the legislative
- 3 body of a municipality, by ordinance, adopts the provisions of this
- 4 chapter, there is established a department of waterworks to be
- 5 controlled by a board of directors (referred to as "the board" in this
- 6 chapter). **Except as provided in section 2.5 of this chapter**, the board
- 7 consists of either three (3) or five (5) directors, as determined by
- 8 ordinance, who shall be appointed by the municipal executive.
- 9 (b) In case there are three (3) directors, not more than two (2) may
- 10 be of the same political party. In case there are five (5) directors, not
- 11 more than three (3) may be of the same political party.
- 12 (c) The terms of directors shall be prescribed by ordinance, but
- 13 initial terms must be prescribed so that the directors' terms will be
- 14 staggered. Each director shall give a bond, which shall be fixed by the
- 15 municipal fiscal officer and is subject to **his the municipal fiscal**
- 16 **officer's** approval.
- 17 (d) The **municipal** executive may remove a director **appointed**



1 **under this section** at any time when, in ~~his~~ **the municipal executive's**
 2 judgment, it is for the best interest of the department.

3 SECTION 2. IC 8-1.5-4-2.5 IS ADDED TO THE INDIANA CODE
 4 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 5 1, 2003]: **Sec. 2.5. (a) In the case of a waterworks district that**
 6 **serves territory outside the corporate boundaries of the**
 7 **municipality, the board may include two (2) directors who:**

8 (1) **serve in addition to the three (3) or five (5) directors**
 9 **appointed under section 2 of this chapter;**

10 (2) **are residential customers of the waterworks who own real**
 11 **property within the waterworks district but outside the**
 12 **corporate boundaries of the municipality; and**

13 (3) **are appointed by the county executive of the county in**
 14 **which the waterworks district is located after a petition and**
 15 **remonstrance process described in this section.**

16 (b) **Any time after the legislative body of a municipality adopts**
 17 **the provisions of this chapter by ordinance and the board of**
 18 **directors is appointed by the municipal executive under section 2**
 19 **of this chapter, a petition requesting a petition and remonstrance**
 20 **process concerning the appointment of two (2) additional directors**
 21 **as permitted under subsection (a) may be filed with the county**
 22 **auditor if the petition is signed by the lesser of:**

23 (1) **two hundred fifty (250) owners of real or personal**
 24 **property within the waterworks district; or**

25 (2) **ten percent (10%) of the owners of real or personal**
 26 **property within the waterworks district.**

27 **A petition under this subsection must be verified under oath by at**
 28 **least one (1) qualified petitioner. The county auditor shall file a**
 29 **certified copy of each petition received under this subsection with**
 30 **the board and the county executive not later than fifteen (15)**
 31 **business days after the county auditor's receipt of the petition.**

32 (c) **Upon receipt of a petition under subsection (b), the county**
 33 **auditor shall publish a notice in accordance with IC 5-3-1 of the**
 34 **filing of a petition under subsection (b) and of the applicability of**
 35 **a petition and remonstrance process under this section. The notice**
 36 **must state that any owners of real or personal property within the**
 37 **waterworks district who want to petition in favor of or**
 38 **remonstrate against the appointment of two (2) additional board**
 39 **directors must file petitions and remonstrances in compliance with**
 40 **subsection (d).**

41 (d) **Not earlier than ten (10) days or later than thirty (30) days**
 42 **after the date of the last publication under subsection (c), written**

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1 petitions in favor of and remonstrances against the appointment of
 2 two (2) additional board directors may be filed with the county
 3 auditor by an owner or owners of real or personal property within
 4 the waterworks district. The county auditor shall issue petition and
 5 remonstrance forms prescribed by the county auditor to persons
 6 who request the forms within the time for filing petitions and
 7 remonstrances specified in this subsection. Each form must be
 8 accompanied by instructions detailing the requirements that:

- 9 (1) the carrier and signers must be owners of real or personal
 10 property within the waterworks district;
 11 (2) the carrier must be a signatory on at least one (1) petition;
 12 (3) after the signatures have been collected, the carrier must
 13 swear or affirm before a notary public that the carrier
 14 witnessed each signature; and
 15 (4) govern the closing date for the petition and remonstrance
 16 period.

17 Persons requesting forms may not be required to identify
 18 themselves and may be allowed to pick up additional copies to
 19 distribute to other property owners. The county auditor shall
 20 certify the date of issuance on each petition or remonstrance form
 21 that is distributed under this subsection.

22 (e) Not later than fifteen (15) business days after the close of the
 23 filing period described in subsection (d), the county auditor shall
 24 file with the board and the county executive a certificate and
 25 certified copies of the petitions and remonstrances received under
 26 subsection (d). The certificate must state:

- 27 (1) the number of petitioners and remonstrators that are
 28 owners of real or personal property within the waterworks
 29 district;
 30 (2) the number of owners of real or personal property within
 31 the waterworks district that signed a petition in favor of the
 32 appointment of two (2) additional board directors; and
 33 (3) the number of owners of real or personal property within
 34 the waterworks district that signed a remonstrance against
 35 the appointment of two (2) additional board directors.

36 (f) If a greater number of owners of real or personal property
 37 within the waterworks district sign a remonstrance than the
 38 number that sign a petition, the county executive may not appoint
 39 two (2) additional directors to the board under subsection (h). The
 40 owners of real or personal property within the waterworks district
 41 may not file another petition requesting a petition and
 42 remonstrance process under subsection (b) within one (1) year

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1 after the date of the county auditor's certification of the results
2 under subsection (e).

3 (g) If a greater number of owners of real or personal property
4 within the waterworks district sign a petition than the number that
5 sign a remonstrance, the county executive, upon receipt of the
6 county auditor's certificate under subsection (e), shall immediately
7 notify by mail the:

8 (1) carrier of the original petition requesting a petition and
9 remonstrance process under subsection (b); and

10 (2) carrier of the petition under subsection (d), if different
11 than the person described in subdivision (1), containing the
12 greatest number of signatures in favor of the appointment of
13 additional board directors;

14 that the county executive will appoint two (2) additional board
15 directors under subsection (h). Each notice mailed under this
16 subsection must request recommendations for three (3) candidates
17 for each new director to be appointed to the board. Each candidate
18 recommended must be a residential customer of the waterworks
19 who owns real property within the waterworks district but outside
20 the corporate boundaries of the municipality. Of the three (3)
21 candidates recommended for each new board position, not more
22 than two (2) may be of the same political party. The
23 recommendations must be filed with the county executive not later
24 than thirty (30) days after the date of the notice requesting the
25 recommendations.

26 (h) The county executive shall make the initial appointments of
27 the two (2) additional directors to the board from among the
28 recommendations received under subsection (g). The two (2)
29 directors appointed may not be of the same political party. If the
30 county executive does not receive the recommendations within the
31 thirty (30) day period prescribed under subsection (g), the county
32 executive may appoint to the board any two (2) persons who are:

33 (1) residential customers of the waterworks who own real
34 property within the waterworks district but outside the
35 corporate boundaries of the municipality; and

36 (2) of different political parties.

37 The terms of the directors appointed under this subsection begin
38 on the date of appointment and are for the same number of years
39 as the terms of directors appointed under section 2 of this chapter,
40 but the initial terms must be prescribed so that the directors' terms
41 are staggered. Each director appointed under this subsection shall
42 give a bond, which shall be fixed by the county fiscal officer and

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1 subject to the county fiscal officer's approval. A director appointed
 2 to a board position established under this subsection shall serve on
 3 the board until the director's successor is appointed and qualified
 4 under subsection (i) or until the board position is eliminated under
 5 subsection (j).

6 (i) A director appointed to a board position established under
 7 subsection (h) may be removed by the county executive for cause,
 8 on charges of inefficiency or another proper charge, and without
 9 regard to the director's political affiliation, at any time when, in
 10 the county executive's judgment, it is for the best interest of the
 11 department, and subject to the approval of at least fifty percent
 12 (50%) of the remaining directors. If a vacancy occurs in a board
 13 position established under subsection (h) for any reason, including
 14 the expiration of the director's term, the county executive shall
 15 appoint a person to fill the vacancy for the remainder of the
 16 unexpired term or for the new term, whichever applies. The person
 17 appointed to fill the vacancy must be:

18 (1) a residential customer of the waterworks who owns real
 19 property within the waterworks district but outside the
 20 corporate boundaries of the municipality; and

21 (2) of a different political party than the other director
 22 holding a board position established under subsection (h).

23 A person appointed to a board position established under
 24 subsection (h) may be reappointed to subsequent terms.

25 (j) The board shall continue to have the two (2) positions
 26 established under subsection (h) until a petition requesting a
 27 petition and remonstrance process concerning the elimination of
 28 the two (2) board positions established under subsection (h) is filed
 29 with the county auditor if the petition is signed by the lesser of:

30 (1) two hundred fifty (250) owners of real or personal
 31 property within the waterworks district; or

32 (2) ten percent (10%) of the owners of real or personal
 33 property within the waterworks district.

34 If a petition is filed under this subsection, the petition and
 35 remonstrance procedures set forth in this section shall be followed
 36 to determine whether the two (2) board positions established under
 37 subsection (h) shall be eliminated. If a greater number of property
 38 owners sign a remonstrance against the elimination of the board
 39 positions than the number that sign a petition in favor of the
 40 elimination of the positions, the two (2) board positions established
 41 under subsection (h) are not eliminated, and property owners
 42 within the waterworks district may not file another petition

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1 requesting a petition and remonstrance process under this
2 subsection for one (1) year following the date of the county
3 auditor's certification of the results of the petition and
4 remonstrance process. If a greater number of property owners sign
5 a petition in favor of the elimination of the board positions than the
6 number that sign a remonstrance against the elimination of the
7 positions, the two (2) board positions established under subsection
8 (h) are eliminated on the date of the county auditor's certification
9 of the results of the petition and remonstrance process. However,
10 a director serving in one (1) of the two (2) board positions
11 established under subsection (h) on the date of the county auditor's
12 certification may, not later than thirty (30) days after the date of
13 the auditor's certification, take any action appropriate for winding
14 up the director's involvement on the board and completing any
15 business associated with the position that is initiated before the
16 date of the auditor's certification. Property owners within the
17 waterworks district may not file a petition requesting a petition
18 and remonstrance process under subsection (b) to reestablish the
19 eliminated positions for one (1) year following the date of the
20 county auditor's certification of the results of the petition and
21 remonstrance process.

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