



January 14, 2000

HOUSE BILL No. 1068

DIGEST OF HB 1068 (Updated January 13, 2000 10:20 AM - DI 94)

Citations Affected: IC 36-8.

Synopsis: Creation of fire districts. Allows a municipality that is located in two counties to establish a fire protection district. Repeals a conflicting provision.

Effective: July 1, 2000.

Oxley

January 10, 2000, read first time and referred to Committee on Local Government.
January 13, 2000, amended, reported — Do Pass.

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HB 1068—LS 6287/DI 87+



January 14, 2000

Second Regular Session 111th General Assembly (2000)

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 1999 General Assembly.

HOUSE BILL No. 1068

A BILL FOR AN ACT to amend the Indiana Code concerning local government.

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

1 SECTION 1. IC 36-8-11-2 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 2. As used in this
3 chapter:
4 "Board" refers to the board of fire trustees of a fire protection
5 district.
6 "Fiscal officer" means a bonded employee of the fire protection
7 district charged with the faithful receipt and disbursement of the funds
8 of the district.
9 "Freeholder" means an individual who holds land in fee, for life, or
10 for some indeterminate period of time, whether or not in joint title.
11 "Interested person" includes a freeholder or corporation owning
12 lands within the proposed or established fire protection district, a
13 person whose property may be condemned or injured by the district, the
14 proper officer of a municipality, an affected state agency, and all local
15 plan commissions.
16 "Joint title" means joint tenancy, tenancy in common, or tenancy by
17 the entirety.

HB 1068—LS 6287/DI 87+



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1 **"Primary county" refers to the county where the largest portion**
 2 **of a municipality is located if the municipality is located in two (2)**
 3 **counties.**

4 **"Secondary county" refers to the county where the smallest**
 5 **portion of a municipality is located if the municipality is located in**
 6 **two (2) counties.**

7 SECTION 2. IC 36-8-11-4 IS AMENDED TO READ AS
 8 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 4. (a) A county
 9 legislative body may establish fire protection districts for any of the
 10 following purposes:

11 (1) Fire protection, including the capability for extinguishing all
 12 fires that might be reasonably expected because of the types of
 13 improvements, personal property, and real property within the
 14 boundaries of the district.

15 (2) Fire prevention, including identification and elimination of all
 16 potential and actual sources of fire hazard.

17 (3) Other purposes or functions related to fire protection and fire
 18 prevention.

19 (b) Any area may be established as a fire protection district, but one
 20 (1) part of a district may not be completely separate from another part.
 21 A municipality may be included in a district, but only if it consents by
 22 ordinance, unless a majority of the freeholders of the municipality have
 23 petitioned to be included in the district.

24 (c) **Except as provided in subsection (d),** the territory of a district
 25 may consist of:

26 (1) one (1) or more townships and parts of one (1) or more
 27 townships in the same county; or

28 (2) all of the townships in the same county.

29 The boundaries of a district need not coincide with those of other
 30 political subdivisions.

31 **(d) The territory of a district may consist of a municipality that**
 32 **is located in more than one (1) county.**

33 SECTION 3. IC 36-8-11-5 IS AMENDED TO READ AS
 34 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 5. (a) Freeholders who
 35 desire the establishment of a fire protection district must initiate
 36 proceedings by filing a petition in the office of the county auditor **of**
 37 **the county where the freeholder's land is located.** The petition may
 38 also be filed by a municipality under an ordinance adopted by its
 39 legislative body **in each county where the municipality is located.**

40 (b) The petition must be signed:

41 (1) by at least twenty percent (20%), with a minimum of five
 42 hundred (500), of the freeholders owning land within the

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1 proposed district; or
 2 (2) by a majority of those freeholders owning land within the
 3 proposed district;
 4 whichever number is less.

5 **(c) This subsection applies to a district that consists of a**
 6 **municipality located in two (2) counties. The petitions filed in each**
 7 **county as set forth in section 5.1 of this chapter shall be considered**
 8 **parts of one (1) petition. The signature requirement of subsection**
 9 **(b) applies to the sum of the signatures on all parts of the petition.**

10 SECTION 4. IC 36-8-11-5.1 IS ADDED TO THE INDIANA CODE
 11 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 12 1, 2000]: **Sec. 5.1. (a) This section applies to a district that consists**
 13 **of a municipality located in two (2) counties.**

14 **(b) This section does not apply to a merged district under**
 15 **section 23 of this chapter.**

16 **(c) Freeholders within the proposed district who desire the**
 17 **establishment of a fire protection district must initiate proceedings**
 18 **by filing a petition to establish the district with the county auditor**
 19 **of the county where the freeholder's land is located. Sections 6 and**
 20 **7 of this chapter apply to a petition filed under this section. The**
 21 **number of freeholders who signed a petition shall be certified by**
 22 **the county auditor of the county that is the subject of the petition.**
 23 **If a petition is filed in both counties, the county auditor of the**
 24 **secondary county shall forward the petition to the primary county.**

25 **(d) The county auditor of the primary county shall present the**
 26 **petition to the legislative body of the primary county at its next**
 27 **regularly scheduled meeting or at a special meeting called for that**
 28 **purpose. Before or at the meeting, the legislative body shall**
 29 **determine whether the petition bears the necessary signatures and**
 30 **complies with requirements as to form and content. The legislative**
 31 **body may not dismiss a petition with the requisite signatures**
 32 **because of alleged defects without permitting amendments to**
 33 **correct errors in form or content.**

34 **(e) In determining whether the signers of a petition are**
 35 **freeholders, the names as they appear on the tax duplicates are**
 36 **prima facie evidence of the ownership of land.**

37 **(f) If the legislative body of the primary county determines that**
 38 **the petition conforms to the requirements of this chapter, the**
 39 **primary county or the secondary county, or both, may set a date**
 40 **for a public hearing on whether a fire protection district should, as**
 41 **a matter of public policy, be established in the area proposed in the**
 42 **petition. The district is established when both legislative bodies**



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1 **adopt an identical ordinance or resolution establishing the district.**

2 SECTION 5. IC 36-8-11-9.5 IS ADDED TO THE INDIANA CODE
3 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
4 1, 2000]: **Sec. 9.5. (a) This section applies to a district that contains
5 a municipality located in two (2) counties.**

6 **(b) This section does not apply to a merged district under
7 section 23 of this chapter.**

8 **(c) The freeholders owning land within the proposed district
9 may file a petition opposing the establishment of the district with
10 the county auditor of the county where the freeholder's land is
11 located. If a petition is filed in both counties, the county auditor of
12 the secondary county shall forward the petition to the primary
13 county and certify to the primary county the number of
14 freeholders who signed the petition. A petition against the
15 establishment of the fire protection district must be presented to
16 the legislative body of the primary county at or after a hearing on
17 the petition to establish a district and before the adoption of an
18 ordinance or resolution establishing the district.**

19 **(d) If the legislative body of the primary county finds that the
20 petition contains the signatures of fifty-one percent (51%) of the
21 freeholders within the proposed district or of the freeholders who
22 own two-thirds (2/3) of the real property within the proposed
23 district, determined by assessed valuation, the legislative body shall
24 dismiss the petition for the establishment of the district.**

25 SECTION 6. IC 36-8-11-11 IS AMENDED TO READ AS
26 FOLLOWS [EFFECTIVE JULY 1, 2000]: **Sec. 11.** To add area to a fire
27 protection district already established, the same procedure must be
28 followed as is provided for the establishment of a district. The petition
29 must be addressed to the legislative body of ~~the~~ **each** county in which
30 the district is located.

31 SECTION 7. IC 36-8-11-22.1 IS ADDED TO THE INDIANA
32 CODE AS A NEW SECTION TO READ AS FOLLOWS
33 [EFFECTIVE JULY 1, 2000]: **Sec. 22.1. (a) This section applies to a
34 district that consists of a municipality that is located in two (2)
35 counties.**

36 **(b) This section does not apply to a merged district under
37 section 23 of this chapter.**

38 **(c) Sections 6 and 7 of this chapter apply to the petition.**

39 **(d) The board of fire trustees for the district shall be appointed
40 as prescribed by section 12 of this chapter. However, the legislative
41 body of each county within which the district is located shall jointly
42 appoint one (1) trustee from each township or part of a township**



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1 contained in the district and one (1) trustee from the municipality
 2 contained in the district. The legislative body of each county shall
 3 jointly appoint a member to fill a vacancy.

4 (e) Sections 13, 14, and 15 of this chapter relating to the board
 5 of fire trustees apply to the board of the district. However, the
 6 county legislative bodies serving the district shall jointly decide
 7 where the board shall locate (or approve location of) its office.

8 (f) Sections 16, 17, 18, 19, and 21 of this chapter relating to the
 9 taxing district, bonds, annual budget, tax levies, and disbanding of
 10 fire departments apply to the district. However, the budget must
 11 be approved by the county fiscal body and county board of tax
 12 adjustment in each county in the district. In addition, the auditor
 13 of each county in the district shall perform the duties described in
 14 section 18(c) of this chapter.

15 SECTION 8. IC 36-8-11-24 IS AMENDED TO READ AS
 16 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 24. (a) Proceedings to
 17 dissolve a fire protection district may be instituted by the filing of a
 18 petition with the county legislative body that formed the district. **If the**
 19 **proceedings are for dissolution of a district to which section 5.1 of**
 20 **this chapter applies, the proceedings may be instituted by the filing**
 21 **of a petition with the primary county or the secondary county, or**
 22 **both.**

23 (b) The petition must be signed:

24 (1) by at least twenty percent (20%), with a minimum of five
 25 hundred (500), of the freeholders owning land within the district;
 26 or

27 (2) by a majority of those freeholders owning land within the
 28 district;

29 whichever is less.

30 (c) **Except as provided in subsection (d),** the provisions of section
 31 8 of this chapter concerning a petition to establish a district apply to a
 32 dissolution petition.

33 (d) **If the district is established under section 5.1 of this chapter,**
 34 **the provisions of section 5.1 of this chapter apply to a petition to**
 35 **dissolve the district.**

36 (e) **Except as provided in subsection (f),** a petition against the
 37 dissolution of the fire protection district may be presented to the county
 38 legislative body at or after a hearing on the petition to dissolve a district
 39 and before the adoption of an ordinance or resolution dissolving the
 40 district. If the legislative body finds that it contains the signatures of
 41 fifty-one percent (51%) of the freeholders within the district or of the
 42 freeholders who own two-thirds (2/3) of the real property within the



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1 district, determined by assessed valuation, the legislative body shall
2 dismiss the petition for the dissolution of the district.

3 ~~(e)~~ **(f) If a district is established under section 5.1 of this chapter,**
4 **the provisions of section 9.5 of this chapter apply to a petition to**
5 **dissolve the district.**

6 **(g) If, after the public hearing, the legislative body determines that**
7 **dissolution should occur, it shall adopt an ordinance dissolving the**
8 **district. If the district is established under section 5.1 of this**
9 **chapter, both legislative bodies of the counties containing the**
10 **district must adopt ordinances dissolving the district after**
11 **determining in a public hearing that the district should be**
12 **dissolved.**

13 ~~(f)~~ **(h) A dissolution takes effect three (3) months after the adoption**
14 **of the ordinance under subsection (a). The property owned by the**
15 **district after payment of debts and liabilities shall be disposed of in the**
16 **manner chosen by the county legislative body or county legislative**
17 **bodies. Dissolution of a district does not affect the validity of any**
18 **contract to which the district is a party.**

19 ~~(g)~~ **(i) A person aggrieved by a decision made by the county**
20 **legislative body or county legislative bodies under this section may,**
21 **within thirty (30) days, appeal the decision to the circuit court for the**
22 **any county in which the district is located. The appeal is instituted by**
23 **giving written notice to the each county legislative body within which**
24 **the district is located and filing with the circuit court clerk a bond in**
25 **the sum of five hundred dollars (\$500), with surety approved by the**
26 **legislative body or legislative bodies. The bond must provide that the**
27 **appeal will be duly prosecuted and that the appellants will pay all costs**
28 **if the appeal is decided against them. When an appeal is instituted, the**
29 **county legislative body or county legislative bodies shall file with the**
30 **circuit court clerk a transcript of all proceedings in the case, together**
31 **with all papers filed in the case. The county legislative body or county**
32 **legislative bodies may not take further action in the case until the**
33 **appeal is heard and determined. An appeal under this subsection shall**
34 **be heard by the circuit court without a jury. Change of venue from the**
35 **judge may be granted, but change of venue from the county may not be**
36 **granted.**

37 SECTION 9. IC 36-8-11-1 IS REPEALED [EFFECTIVE JULY 1,
38 2000].

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Local Government, to which was referred House Bill 1068, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 3, line 20, after "section." insert "**The number of freeholders who signed a petition shall be certified by the county auditor of the county that is the subject of the petition.**".

Page 3, line 22, after "primary county" insert ".".

Page 3, delete line 23.

and when so amended that said bill do pass.

(Reference is to HB 1068 as introduced.)

STEVENSON, Chair

Committee Vote: yeas 11, nays 0.

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