

#### **IC 14-33-5.4**

##### Chapter 5.4. Election of Board Members in Specific Conservancy Districts

#### **IC 14-33-5.4-1**

##### **Application of chapter**

Sec. 1. (a) This chapter applies only to conservancy districts located wholly within a county having a population of more than twenty-three thousand five hundred (23,500) but less than twenty-four thousand (24,000).

(b) This article governs conservancy districts located wholly within a county having a population of more than twenty-three thousand five hundred (23,500) but less than twenty-four thousand (24,000) generally except when this article conflicts with a section of this chapter.

*As added by P.L.185-1995, SEC.2. Amended by P.L.170-2002, SEC.97.*

#### **IC 14-33-5.4-2**

##### **"Relative" defined**

Sec. 2. (a) As used in this chapter, "relative" of a candidate or trustee means an individual who is related to the candidate or trustee, or to the spouse of the candidate or trustee, as one (1) of the following:

- (1) Son.
- (2) Daughter.
- (3) Grandson.
- (4) Granddaughter.
- (5) Great-grandson.
- (6) Great-granddaughter.
- (7) Father.
- (8) Mother.
- (9) Grandfather.
- (10) Grandmother.
- (11) Great-grandfather.
- (12) Great-grandmother.
- (13) Brother.
- (14) Sister.
- (15) Nephew.
- (16) Niece.
- (17) Uncle.
- (18) Aunt.

(b) For the purposes of this section, relatives by adoption, half-blood, marriage, or remarriage are treated as relatives of whole kinship.

*As added by P.L.185-1995, SEC.2.*

#### **IC 14-33-5.4-3**

##### **Appointment; vacancies; election procedures**

Sec. 3. (a) Within twenty (20) days after the order establishing the

district, the board of commissioners of the county shall appoint the initial board of directors. A director shall be appointed for each of the areas in the district as established by the court. A director must be a freeholder of the area of the district for which appointed or an officer or nominee of a corporate freeholder of the area of the district for which appointed and must be qualified by knowledge and experience in matters pertaining to the development of the district. A majority of the directors must be resident freeholders of the district if available and qualified. A majority of the initial directors must be petitioners for the establishment of the district, but for this purpose an officer or nominee of a corporate freeholder of the district, if the corporation is one (1) of the petitioners, is considered a petitioner.

(b) When vacancies on the board occur due to expiration of terms, resignation, or otherwise, directors shall be elected by a majority, written ballot vote of the freeholders of the district. Between April 24 and May 1, the board shall invite nominations to fill vacancies on the board by one (1) publication in a newspaper of general circulation in each of the counties in the district. Each publication must:

- (1) contain the names of the directors whose terms are expiring and the area of the district involved;
- (2) invite nominations to fill vacancies; and
- (3) state the qualifications for the office, that are the same as prescribed by subsection (a), except a nominee need not have been a petitioner for the establishment of the district nor a resident of the area of the district for which nominations are invited.

(c) Nominations for director must be submitted to the office of the district in writing before June 1 following notice of vacancies and must be signed by at least five (5) freeholders from the areas designated by the secretary's notice. Nominations that are mailed are valid if delivered or postmarked before June 1 if the envelope has sufficient U.S. postage and is addressed to the district's office.

(d) The election of directors of a district shall be held the Saturday or Sunday immediately before or after July 4. The board of directors of a district shall establish the date for the election of directors.

(e) Notice of the annual election of directors of the district must be published in one (1) issue of a newspaper of general circulation in each county in the district. The notice must be published:

- (1) not less than fourteen (14); and
- (2) not more than thirty-one (31);

days before the election. The notice must contain the names of the nominees, the place where ballots can be cast in the election, and the date and time of the election.

(f) Before the election, the board shall prepare the ballots and a list of the freeholders of the district, that must be certified by the county auditor and placed in the district's files. No deficiency in this process or omission of the names of any freeholders voids action taken at an annual meeting.

(g) A freeholder is entitled to only one (1) vote per freeholder.

(h) Before the election of directors, the chairman shall appoint three (3) or, if necessary, more freeholders of the district to act as clerks of the election and to conduct the election.

(i) If a district fails to conduct an election of directors as provided by this chapter, any interested person of the district may petition the board of commissioners of the county to appoint a director to fill vacancies. The board of commissioners of the county shall make its appointment within fifteen (15) days from the date the petition is filed.

*As added by P.L.185-1995, SEC.2.*

#### **IC 14-33-5.4-3.5**

##### **Effect of dividing freehold to increase votes; secretary's determination; challenge of determination**

Sec. 3.5. (a) If in the opinion of the secretary of the district a freehold has been divided into multiple freeholds for the sole purpose of increasing the number of freeholders eligible to cast a vote in an election under this chapter, the secretary of the district may determine to exclude the freeholders of those multiple freeholds from the list of freeholders referred to in section 3(f) of this chapter.

(b) The determination of the secretary of the district under subsection (a) may be challenged by petitioning the circuit court that created the district.

*As added by P.L.16-2010, SEC.4.*

#### **IC 14-33-5.4-4**

##### **Requirements for voting eligibility**

Sec. 4. (a) The auditor of each county shall, at least forty-five (45) days before the election of directors of the district, provide the district with a current list of freeholders that sets forth:

(1) each parcel of real property that is:

(A) located within the county and the district; and

(B) subject to property tax under IC 6-1.1; and

(2) the name of each individual who is identified in property tax records as the holder of a freeholder's interest in a parcel of property described in subdivision (1).

(b) To be eligible to vote in an election of directors of a district:

(1) an individual must have a freeholder's interest in real property listed on the current tax list provided under subsection (a); and

(2) the individual's name must appear on the list of freeholders provided under subsection (a).

(c) Before casting a vote at a polling place, a freeholder shall sign the list of freeholders in the presence of the secretary of the district or an election clerk appointed under section 3(h) of this chapter. The freeholder shall sign the list in the space opposite the name of the freeholder on the list.

(d) Notwithstanding subsection (b)(2), if:

(1) a freeholder's name does not appear on the list of

freeholders; and  
(2) the secretary of the district or an election clerk finds that the freeholder's name was erroneously omitted from the list; the secretary or clerk shall place the freeholder's name on the list. After the freeholder's name is placed on the list, the freeholder is entitled to cast a ballot in the election.

(e) After placing a freeholder's name on the list under subsection (d), the secretary or clerk shall mark the list opposite the name of the freeholder who cast that vote to note the receipt of a valid written ballot vote from the freeholder.

*As added by P.L.185-1995, SEC.2.*

#### **IC 14-33-5.4-5**

##### **Voting procedures; presence of candidate at polling place**

Sec. 5. (a) Two (2) observers may monitor the voting at each polling place on behalf of each candidate for director. The district must provide each observer with a copy of the list of freeholders provided to the district under section 4(a) of this chapter.

(b) A candidate for director may not be present in a polling place during the day of the election of directors except to cast a ballot.

(c) The relative of a candidate for director may not be present in a polling place during the day of the election of directors except:

- (1) to cast a ballot; or
- (2) to act as an observer under subsection (a).

*As added by P.L.185-1995, SEC.2.*

#### **IC 14-33-5.4-6**

##### **Absentee ballots**

Sec. 6. (a) A district must adopt a form for applications for absentee ballots. The form adopted by the district must elicit the following information from the applicant:

- (1) Name.
- (2) Location within the district of the real estate that is held by the applicant, making the applicant a freeholder.

(b) An individual who:

- (1) holds a freeholder's interest in real property located within a district; and
- (2) wishes to cast an absentee ballot in an election of directors of the district;

must present an application for an absentee ballot to the trustee of the township in which the real property of the freeholder is located. The application must be made on the form adopted by the district under subsection (a).

(c) To be accepted, an application for an absentee ballot must reach the trustee at least thirty (30) days before the election.

(d) When the trustee receives an application for an absentee ballot under this section, the trustee shall verify that the name of the applicant appears on the list of freeholders provided to the district under section 4(a) of this chapter. For the purposes of this subsection, the district shall provide a copy of the list of freeholders

to the trustee of each township that is located in whole or in part within the district at least thirty (30) days before the election.

(e) If the name of an applicant appears on the list of freeholders, the trustee shall mail to the applicant:

- (1) an absentee ballot; and
- (2) instructions on the proper completion and mailing of the ballot.

(f) The instructions provided by the trustee under subsection (e)(2) must direct the applicant to return the absentee ballot by mail to the trustee.

(g) If the name of an applicant does not appear on the list of freeholders, the trustee shall:

- (1) discard the application of the applicant; and
- (2) mail to the applicant a letter or postcard informing the applicant that the applicant's application for an absentee ballot has been discarded because the applicant's name did not appear on the list of freeholders.

(h) A trustee shall:

- (1) keep a record of each absentee ballot mailed to an applicant under subsection (e);
- (2) retain absentee ballots that are returned to the office of the trustee before the date of the election; and
- (3) on the day of the election, deliver all absentee ballots retained under subdivision (2) to an election polling place.

(i) The district shall:

- (1) supply the trustee with:
  - (A) absentee ballots; and
  - (B) envelopes; and
- (2) reimburse the expenses incurred by the trustee for postage;

under this section.

(j) If a relative of a trustee is a candidate for director of a district, the duties of the trustee under this section with respect to the election of directors of the district shall be carried out by a member of the township board selected by the trustee.

*As added by P.L.185-1995, SEC.2.*

#### **IC 14-33-5.4-7**

##### **Results of election**

Sec. 7. (a) At the close of an election, the clerks appointed under section 3(h) of this chapter shall count the ballots cast and make a report of the results. The secretary of the district shall record the results reported by the clerks in the records of the district.

(b) After the results are reported and recorded under subsection (a), the chairman of the board of directors shall declare the successful nominees elected, and each elected director is entitled to and shall assume all duties of the office to which the nominee was elected at midnight the night of the election or as soon as possible thereafter.

*As added by P.L.185-1995, SEC.2.*

#### **IC 14-33-5.4-7.5**

##### **Single nominee considered elected; no election required when only one nominee in each district**

Sec. 7.5. (a) Notwithstanding the other provisions of this chapter, if there is only one (1) nominee for election to the board to represent an area, the nominee for election to the board to represent that area is considered elected.

(b) Notwithstanding the other provisions of this chapter, if there is only one (1) nominee for election to the board for each area for which a director is to be elected, the following apply:

(1) The election otherwise required to be held under this chapter is not required to be held.

(2) Each of the nominees for election to the board is considered elected as if the election had been held and each nominee was elected as provided in this chapter.

*As added by P.L.16-2010, SEC.5.*

#### **IC 14-33-5.4-8**

##### **Oath of office**

Sec. 8. Promptly after being appointed or elected under this chapter, a director shall take the following oath: "I do solemnly swear that I shall, to the best of my ability, strive to accomplish the purposes for which the district is established and properly to operate and maintain its works of improvement."

*As added by P.L.185-1995, SEC.2.*

#### **IC 14-33-5.4-9**

##### **Annual meeting**

Sec. 9. (a) The annual meeting of the district must be held at the time designated by the court under IC 14-33-2-27.

(b) The location of the annual meeting must be:

(1) the office of the district; or

(2) a place in or near the district as determined by resolution of the board adopted before December 1 of the year.

(c) Notice of the annual meeting of the district must be published in one (1) issue of a newspaper of general circulation in each county in the district. The notice must be published:

(1) not less than fourteen (14); and

(2) not more than thirty-one (31);

days before the annual meeting.

(d) The notice must set forth:

(1) the fact that the meeting is the annual meeting of the district; and

(2) the purposes of the meeting.

*As added by P.L.185-1995, SEC.2.*