

§1101. Formation

The formation of a sanitary district is accomplished as follows. [PL 1989, c. 890, Pt. A, §40 (AFF); PL 1989, c. 890, Pt. B, §211 (AMD).]

1. Application. The municipal officers of the municipality or municipalities, or portions thereof, or the residents of unorganized territory, that desire to form a sanitary district shall file an application with the Board of Environmental Protection on a form or forms to be prepared by the commissioner, setting forth the name or names of the municipality or municipalities, or portions thereof, or, in the case of residents of unorganized territory, the names of the residents, that propose to be included in a proposed district, and shall furnish other data as the board may determine necessary and proper. The application must contain, but is not limited to, a description of the territory of the proposed district, the name proposed for the district which must include the words "Sanitary District," a statement showing the existence in the territory of the conditions requisite for the creation of a sanitary district as prescribed in section 1062. A copy of an engineering study or studies must be filed with the application. [PL 1989, c. 890, Pt. A, §40 (AFF); PL 1989, c. 890, Pt. B, §212 (AMD).]

1-A. Application by referendum. Residents of a municipality or municipalities, or portions thereof, that desire to form a sanitary district may petition the municipal officers to file an application for a sanitary district with the Board of Environmental Protection. The petition shall contain a description of the territory of the proposed district.

Upon receipt of a written petition signed by at least 10% of the number of voters voting for the gubernatorial candidates at the last statewide election in that proposed district, the municipal officers shall submit the question to the voters of the proposed district at the next general, primary or special election within the proposed district. The referendum question shall read as follows:

"Shall the municipal officers representing the proposed sanitary district, consisting of (describe the territory of the proposed district), file an application for a sanitary district with the Board of Environmental Protection on behalf of the residents of the proposed district?"

If the referendum question is approved by a majority of the legal voters voting at the election, provided that the total number of votes cast for and against the referendum question equaled or exceeded 20% of the total number of votes cast in the proposed district in the last gubernatorial election, the municipal officers representing the residents of the proposed sanitary district shall file an application for that proposed district in accordance with subsection 1. [PL 1981, c. 466, §2 (NEW).]

2. Public hearing. Upon receipt of the application, the Board of Environmental Protection shall cause a public hearing to be held thereon, in one of the municipalities within the proposed district, or, in the case of an application made solely by residents of unorganized territory, at some convenient place within the boundaries of the proposed district. [PL 1977, c. 300, §50 (AMD).]

3. Approval of application. After the public hearing on the evidence received at the hearing, the board shall make findings of fact and conclusions thereon and determine of record whether or not the conditions requisite for the creation of a sanitary district exist in the territory described in the application. If the board finds that those conditions do exist, it shall issue an order approving the proposed district as conforming to the requirements of this chapter and designating the name of the proposed district. The commissioner shall give notice to the municipal officers within the municipality or municipalities involved, and where unorganized territory is involved, to the persons signing the application mentioned in subsection 1 and to the commissioners of the county wherein the unorganized territory is located, of a date, time and place of a meeting of the municipal officers of the municipality or municipalities involved, and, where unorganized territory is involved, a joint meeting of all the

persons signing the application mentioned in subsection 1 and of the commissioners of the county in which the unorganized territory is located. The notice must be in writing and sent by registered or certified mail, return receipt requested, to the addresses shown on the application mentioned in subsection 1 and, in the case of county commissioners, to the addresses of the county commissioners obtained from the county clerk. A return receipt properly endorsed is evidence of the receipt of notice. The notice must be mailed at least 10 days prior to the date set for the meeting.

[PL 1989, c. 890, Pt. A, §40 (AFF); PL 1989, c. 890, Pt. B, §212 (AMD).]

4. Denial of application. If the board after a public hearing determines that the creation of a sanitary district in the territory described in the application is not warranted for any reason, it shall make findings of fact and conclusions thereon and enter an order denying its approval. The board shall give notice of the denial by mailing certified copies of the decision and order to the municipal officers of the municipality or municipalities involved, and, where unorganized territory is involved, to the persons signing the application mentioned in subsection 1 and to the commissioners of the county in which the unorganized territory is located. No application for the creation of a sanitary district, consisting of exactly the same territory, may be entertained within one year after the date of the issuance of an order denying approval of the formation of the sanitary district, but this provision does not preclude action on an application for the creation of a sanitary district embracing all or part of the territory described in the original application, provided that another municipality or fewer municipalities, or other or fewer sections thereof are involved, or that a different area of unorganized territory is involved, or, in the case of an application made solely by residents of unorganized territory, that an allegation of change in circumstances from those existing on the date of the previous application must be furnished to the commissioner with the resubmitted application.

[PL 1989, c. 890, Pt. A, §40 (AFF); PL 1989, c. 890, Pt. B, §212 (AMD).]

5. Appeal.

[PL 1977, c. 300, §51 (RP).]

6. Joint meeting. The persons to whom the notice described in subsection 3 is directed shall meet at the time and place appointed. In the case where more than one municipality or where unorganized territory is involved, they shall organize by electing a chair and a secretary. No action may be taken at this meeting unless at the time of convening thereof there are present at least 1/2 of the total number of municipal officers eligible to attend and participate at the meeting, and, where the proposed district includes or is composed solely of unorganized territory, at least 2/3 of the persons signing the application mentioned in subsection 1 and at least 2 commissioners of the county wherein such unorganized territory is located, other than to report to the Commissioner of Environmental Protection that a quorum was not present and to request the commissioner to issue a new notice for another meeting. The purpose of the meeting is to determine a fair and equitable number of trustees, subject to section 1104, to be elected by and to represent each participating municipality, or in the case of unorganized territory, the residents of the territory within the bounds of the proposed district. When a decision has been reached on the number of trustees and the number to represent each municipality or the residents of the unorganized territory within the bounds of the proposed district, subject to the limitations provided, this decision must be reduced to writing by the secretary and must be approved by a 2/3 vote of those present. Where 2 or more municipalities are or unorganized territory is involved, the vote so reduced to writing and the record of the meeting must be signed by the chair and attested by the secretary and filed with the commissioner. In cases where a single municipality is involved, a copy of the vote of the municipal officers duly attested by the clerk of the municipality must be filed with the commissioner.

[PL 1989, c. 890, Pt. A, §40 (AFF); PL 1989, c. 890, Pt. B, §212 (AMD).]

7. Submission. When the record of the municipality or the record of the joint meeting, when municipalities are or unorganized territory is involved, has been received by the Commissioner of Environmental Protection and found by the commissioner to be in order, the commissioner shall order

the question of the formation of the proposed sanitary district and other questions relating thereto to be submitted to the legal voters residing within the portion of the municipality, municipalities or unorganized territory that falls within the proposed sanitary district. The order must be directed to the municipal officers of the municipality or municipalities that propose to form said sanitary district, and, when the proposed sanitary district includes or is composed solely of unorganized territory, to the commissioners of the county in which the unorganized territory is located, directing them to forthwith call town meetings, city elections or a meeting of the residents of the unorganized territory within the bounds of the proposed sanitary district, as the case may be, for the purpose of voting in favor of or in opposition to each of the following articles or questions, as they may apply, in substantially the following form:

A. To see if the town (or city) of (name of town or city) will vote to incorporate as a sanitary district to be called (name) Sanitary District; [PL 1989, c. 890, Pt. A, §40 (AFF); PL 1989, c. 890, Pt. B, §212 (AMD).]

B. To see if the residents of the following described section of the town (or city) of (name of town or city) will vote to incorporate as a sanitary district to be called (name) Sanitary District: (legal description of the bounds of section to be included); [PL 1989, c. 890, Pt. A, §40 (AFF); PL 1989, c. 890, Pt. B, §212 (AMD).]

C. To see if the residents of the (following described section of) (name of town or city) (unorganized territory) will vote to join with the residents of the (following described section of) (name of town or city) (unorganized territory) to incorporate as a sanitary district to be called (name) Sanitary District: (legal description of the bounds of the proposed sanitary district, except when district is to be composed of entire municipalities); [PL 1991, c. 548, Pt. A, §30 (AMD).]

D. To see if the inhabitants of the following described section of that unorganized territory known as Township (number), Range (number) will vote to incorporate as a sanitary district to be called (name) Sanitary District: (legal description of the bounds of the proposed sanitary district); [PL 1989, c. 890, Pt. A, §40 (AFF); PL 1989, c. 890, Pt. B, §212 (AMD).]

E. To see if the residents of (the above described section of) (name of town or city) will vote to approve the total number of trustees and the allocation of representation among the municipalities (and included section of unorganized territory) on the board of trustees as determined by the municipal officers (and the persons representing the included area of unorganized territory) and listed as follows.

The total number of trustees will be (number) and the residents of (the above described section of) (town or city) are entitled to (number) trustees (and the residents of the above described section of unorganized territory are entitled to (number) trustees); and [PL 1991, c. 548, Pt. A, §30 (AMD).]

F. To choose (number) trustees to represent the residents of (the above described section) of (town or city) (unorganized territory) on the board of trustees of the (name) Sanitary District. [PL 1971, c. 400, §2 (RPR).]

At any such town meeting, city election or election by the residents of the proposed sanitary district, trustees must be chosen to represent the municipality or the unorganized territory within the proposed sanitary district in the manner provided in section 1105.

[PL 1991, c. 548, Pt. A, §30 (AMD).]

SECTION HISTORY

PL 1965, c. 310 (NEW). PL 1967, c. 431, §9 (AMD). PL 1967, c. 524, §2 (AMD). PL 1971, c. 400, §2 (RPR). PL 1971, c. 618, §12 (AMD). PL 1977, c. 300, §§50,51 (AMD). PL 1981, c. 466, §2 (AMD). PL 1989, c. 890, §§A40,B211, 212 (AMD). PL 1991, c. 548, §§A30,31 (AMD).

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