

IC 36-9-27-54**Construction of drains; petitions**

Sec. 54. (a) When one (1) or more persons want to establish a new regulated drain, and that drain cannot be established in the best and cheapest manner without affecting land owned by other persons, the person or persons seeking to establish the drain must file a petition with the board. If the proposed drain will affect land in two (2) or more counties, the petition shall be filed in each of the affected counties. The petition shall be entitled "In the Matter of the _____ Drain Petition".

(b) The petition may be filed by:

(1) the owners of:

(A) ten percent (10%) or more in acreage; or

(B) twenty-five percent (25%) or more of the assessed valuation;

of the land that is outside the corporate boundaries of a municipality and is alleged by the petition to be affected by the proposed drain;

(2) a county executive that wants to provide for the drainage of a public highway;

(3) a township executive or the governing body of a school corporation that wants to drain the grounds of a public school; or

(4) a municipal legislative body that wants to provide for the drainage of the land of the municipality.

(c) The petition must include the following items:

(1) A statement showing that each petitioner is qualified to file the petition.

(2) The legal description of each tract of land that a petitioner believes will be affected by the proposed drain, and the name and address of each owner, as shown by the tax duplicate or record of transfers of the county. However, a public way owned by a county or by the state shall be described by its name or number, and the right-of-way of a railroad may be described as the right-of-way of the owner through section, township, and range. The petition must describe an area of land equal to three-fourths (3/4) or more in area of all the affected land.

(3) The general route of the proposed drain.

(4) A statement that in the opinion of the petitioner the costs, damages, and expenses of the proposed drain will be less than the benefits accruing to the owners of land likely to be benefited by the drain.

(5) A statement that in the opinion of the petitioner the

proposed drain will:

(A) improve the public health;

(B) benefit a public highway in a county or a public street in a municipality;

(C) drain the grounds of a public school; or

(D) be of public utility.

(6) The name of the attorney representing the petitioner in the drainage petition.

(7) A statement that the petitioner shall pay the cost of notice and all legal costs, if the petition is dismissed.

The petitioner shall post a bond sufficient to pay the cost of notice and all legal costs if the petition is dismissed.

(d) The petition must be signed by each petitioner and filed in duplicate with the county surveyor, who shall receive it on behalf of the board. The surveyor shall examine the petition and if it is in proper form he shall mark it filed, showing the date of filing, and give it a distinguishing name by insertion in its caption. If the petition is not in proper form, the surveyor shall return it to the attorney for the petitioner, pointing out in what respects the petition fails to comply with this chapter. The attorney may then amend the petition and refile it with the surveyor.

As added by Acts 1981, P.L.309, SEC.101.