WEST VIRGINIA CODE CHAPTER 16 ARTICLE 12

WV Legislature

§16-12-1. Incorporation as sanitary district for sewage disposal; petition, notice and hearing; election; form of ballot; expenses of election.

Whenever any area of contiguous territory shall contain one or more incorporated cities, towns, and/or villages, and shall be so situated that the construction and maintenance of a plant or plants for the purification and treatment of sewage and the maintenance of one or more outlets for the drainage thereof, after having been so treated and purified by and through such plant or plants will conduce to the preservation of the public health, comfort, and convenience, the same may be incorporated as a sanitary district under this article in the manner following, to wit:

Any 400 legal voters, residents within the limits of such proposed sanitary district, may petition the county commission of the county in which the proposed sanitary district, or the major portion thereof, is located, to cause the question to be submitted to the legal voters of such proposed sanitary district, whether such proposed territory shall be organized as a sanitary district under this article; such petition shall be addressed to the county commission and shall contain a definite description of the boundaries of the territory to be embraced in the such sanitary district, and the name of such proposed sanitary district: *Provided*, That no territory shall be included within more than one sanitary district organized under this article.

Notice shall be given by such county commission within 10 days after receiving the petition, of the time and place when a hearing on the petition for a sanitary district shall be held, by publication of such notice as a Class II legal advertisement in compliance with the provisions of §59-3-1 *et seq*. of this code, and the publication area for such publication shall be the area of the sanitary district. The first publication shall be made at least 20 days prior to such hearing. The hearing on the petition for a sanitary district shall be held not later than 30 days after the county commission receives the said petition. At such hearing the president of the county commission shall preside, and all persons resident within the limits of such proposed sanitary district shall have an opportunity to be heard upon the question of the location and boundary of such proposed sanitary district, and to make suggestions regarding the same, and the said county commission, after hearing statements, evidence, and suggestions, shall fix and determine the limits and boundaries of such proposed sanitary district as stated in the original petition unless by a vote of the majority of the legal voters resident within the limits of such proposed sanitary district, present at the said hearing, it should be decided to alter and amend such petition to change and redetermine the limits and boundaries of such proposed sanitary district.

After such determination by the county commission the same shall be incorporated in an order which shall be spread at length upon the records of the county commission. Upon the entering of such order, the county commission shall submit to the legal voters of the proposed sanitary district, the question of organization and establishment of the proposed sanitary district as determined by said county commission, at an election, to be held concurrently with the next regularly scheduled primary or general election, notice whereof shall be given by the county commission at least 20 days prior thereto by publication of such

WV Legislature

notice as a Class II-O legal advertisement in compliance with the provisions of §59-3-1 *et seq*. of this code, and the publication area for such publication shall be the area of the proposed sanitary district. Such notice shall specify briefly the purpose of such election, with the description of such proposed sanitary district, and the time and place for holding such election.

Each legal voter resident within such proposed sanitary district shall have the right to cast a ballot at such election. Ballots at elections held under this section shall be in substantially the following form, to wit:

/ / For sanitary district.

/ / Against sanitary district.

The ballots so cast shall be issued, received, returned, and canvassed in the same manner and by the same officers as is provided by law in the case of ballots cast for county officers, except as herein modified. The county commission shall cause a statement of the result of such election to be spread on the records of the county commission. If a majority of the votes cast upon the question of the incorporation of the proposed sanitary district shall be in favor of the proposed sanitary district, such proposed sanitary district shall thenceforth be deemed an organized sanitary district under this article. All courts in this state shall take judicial notice of the existence of all sanitary districts organized under this article.

The expenses of holding said special election shall be paid by the county commission of said county, in which said proposed sanitary district, or the major portion thereof, is located, out of the general funds of said county: *Provided*, That in the event such sanitary district is established and incorporated under this article, then said sanitary district shall repay to said county the expenses incurred in holding said special election within two years from the date of incorporating said sanitary district.

WV Legislature

§16-12-2. Board of trustees.

The county court of the county in which the said district or a major portion thereof is located, shall, by and with the approval of the majority of the council of the municipality situate within the said sanitary district, which at the last official census was shown to have the largest population, and within a period of twenty days after the adoption of said article, appoint a board of trustees, consisting of three members, who shall be residents and qualified voters in said district, for the government, control and management of the affairs and business of each sanitary district organized under this article. The trustees shall hold their office respectively for one, two and three years, from the first Monday of May next after their appointment and until their successors are appointed and have qualified, and thereafter on or before the second Monday in April of each year the said county court by and with the approval of the majority of the council of the municipality situate within the said sanitary district, which at the last official census was shown to have the largest population, shall appoint one trustee whose term shall be for three years commencing the first Monday in May of the year in which they are respectively appointed. The length of the term of the first trustees shall be determined by lot at their first meeting.

Said county court shall require each of said trustees to enter into bond, with security to be approved by such county court, in such sum as said county court may determine.

Whenever a vacancy in said board of trustees shall occur, either from death, resignation, refusal to qualify, or for any other reason, the county court by and with the approval of the majority of the council of the municipality situate within the said sanitary district, which at the last official census was shown to have the largest population, shall have power to fill such vacancy by appointment; and such person so appointed shall qualify for office in the manner hereinbefore stated and shall thereupon assume the duties of the office for the unexpired term to which such person was appointed: Provided, however, That the membership of the board of trustees shall at all times consist of two members who shall be residents and qualified voters of the municipality situate within the said sanitary district, which at the last official census was shown to have the largest population, and that the third member shall at all times be a resident and qualified voter within the said sanitary district, but from outside the corporate limits of the municipality situate within the said sanitary district, which at the last official census was shown to have the largest population.

Said trustees shall, from the time of their appointment, as provided in this article, be construed to be in law and in equity a body corporate and politic by the name and style of "The board of trustees of the (insert name of county in which district is located) sanitary district," and as such and in such name may prosecute and defend suits and have all other duties, rights and powers incident to corporations, not inconsistent with the provisions of this article.

A majority of the board of trustees shall constitute a quorum, but a smaller amount may adjourn from day to day. A concurrence of the majority shall be necessary to any action of such board.

The trustees appointed in pursuance of the foregoing provisions of this article shall, immediately after their appointment and at their first meeting in May of each year thereafter, elect one of their number as president, whose duty shall be to preside over all meetings of said board, and to call special meetings of said board when he or a majority of said board deem such meetings necessary and in case said president should fail or refuse to call such meeting or meetings, then such meeting or meetings may be called by a majority of said board. Said board of trustees shall adopt rules and regulations for the conduct of the business of said board, and shall fix a stated time at which the regular meetings of said board shall be held. Said board of trustees shall establish an office within said district and shall cause to be kept a full, complete, accurate and itemized account of all its expenditures and appropriations and a complete record of all its proceedings, ordinances, orders, resolutions, rules and regulations.

WV Legislature

§16-12-3. Employment of clerk and other officers; compensation; trustee or employee not to be interested in contract, etc., of sanitary district.

Said board of trustees shall have the right and power to employ a clerk, treasurer, chief engineer and attorney for such sanitary district, which officers shall hold their respective offices during the pleasure of such board, and shall give such bonds for the faithful performance of their duties as may be required by said board.

Said board shall also have power to employ and prescribe the duties and fix the compensation of all necessary officers and employees of said sanitary district: Provided, however, That a member of said board of trustees shall in no case receive a sum to exceed the sum of $300 per annum.

No trustee or employee of such sanitary district shall be directly or indirectly interested in any contract, work or business of sanitary district, or the sale of any article, the expense, price or consideration of which is paid by said sanitary district, nor in the purchase of any real estate or other property belonging to the sanitary district, or which shall be sold for taxes or assessments, or by virtue of legal process at the suit of said sanitary district: Provided, That nothing herein shall be construed as prohibiting the appointment or selection of any person as trustee or employee whose only interest in said sanitary district is as an owner of real estate in said sanitary district or of contributing to the payment of taxes levied by such sanitary district.

WV Legislature

§16-12-4. Publication and effective date of ordinances imposing penalty or making appropriation; certificate of clerk as proof of ordinances, orders and resolutions; evidence of passage and legal publication.

All ordinances imposing any penalty or making any appropriations shall, within one month after they are passed, be published as a Class II legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code, and the publication area for such publication shall be the sanitary district. No such ordinance shall take effect until ten days after it is so published, and all other ordinances, orders and resolutions shall take effect from and after their passage unless otherwise provided therein.

All ordinances, orders and resolutions, and the date of publication thereof, may be proven by certificate of the clerk under the seal of the corporation, and when printed in book or pamphlet form, and purporting to be published by the board of trustees, such book or pamphlet shall be received as evidence of the passage and legal publication of such ordinances, orders and resolutions, as of the dates mentioned in such book or pamphlet in all courts and places without further proof.

WV Legislature

§16-12-5. Sewage treatment plant and necessary appurtenances; board not to operate waterworks system for municipality.

The board of trustees of any sanitary district organized under this article shall have power to build and construct and to defray the costs of providing for the disposal of the sewage thereof including the sewage and drainage of any incorporated city, town, or village within the boundaries of such sanitary district, and to save and preserve the water supplied to the inhabitants of such district from contamination and for that purpose may build, construct, enlarge, repair, maintain and operate a sewage treatment plant or plants together with such intercepting sewers, trunk sewers, lateral sewers, pumping and ejector stations, force mains, outfall sewer or sewers, channels, drains, and all other necessary or useful and convenient appurtenances in connection therewith: Provided, That such works established or constructed by said sanitary district shall serve and benefit the entire territory within the sanitary district and not otherwise: Provided further, That nothing in this article shall be construed to limit the power of the municipalities included in said sanitary district from constructing and establishing drains and sewers within the corporate limits of such municipality: And provided further, That before any general outlet, main or trunk sewer shall be constructed by any such municipality, included in said sanitary district, a plan or profile of any such proposed general outlet, main or trunk sewer shall be filed in the office of the board of trustees of said sanitary district and be approved by said board. Such main channels, drains, ditches and outlets for carrying off and disposing of the drainage, including the sewage of such sanitary district, together with such adjuncts and additions thereto as may be necessary or proper to cause such channels or outlets to accomplish the end for which they were designed, and such disposal plants and works for disposing of the sewage of said sanitary district may extend outside the territory included within such sanitary district and the rights and powers of said board of trustees over the portion of such channel or outlet or sewage disposal plant, or works, lying outside of such sanitary district, shall be the same as those vested in said board over said portions of such channels or outlets, plants or works, within the said sanitary district.

Such board may also treat and purify such sewage so that when the same shall flow into any lake or other watercourse, it will not injuriously contaminate the waters thereof, and may adopt any other feasible method to accomplish the object for which such sanitary district may be created, and may also provide means whereby the said sanitary district may reach and procure supplies of water for diluting and flushing purposes: Provided, however, That nothing herein contained shall be construed to empower and authorize such board of trustees to operate a system of waterworks for the purpose of furnishing or delivering water to any such municipality or to the inhabitants thereof.

WV Legislature

§16-12-6. Penalty for failure to provide sewers and sewage treatment plant; duties of the Division of Environmental Protection and the bureau of public health; prosecution.

All sanitary districts organized under the provisions of this article shall proceed as rapidly as possible to provide sewers and a plant or plants for the treatment or purification of its sewage, which plant or plants shall be of suitable kind and sufficient capacity to properly treat and purify such sewage so as to conduce to the preservation of the public health, comfort and convenience and to render said sewage harmless, insofar as is reasonably possible, to animal, fish and plant life. Any violation of this proviso and any failure to observe and follow same, by any sanitary district organized under this article, is a misdemeanor on the part of the sanitary district and upon conviction, said sanitary district shall be punished by such fine as law and equity may require, and the trustees thereof may be removed from office as trustees of said sanitary district by an order of the court before whom the cause is heard. It is the duty of the Division of Environmental Protection or the bureau of public health or other body having proper supervision of such matters, to enforce the foregoing provisions; and upon complaint of said office or bureau it is the duty of the Attorney General or prosecuting attorney of the county in which such violation may occur, to institute and prosecute such cause by indictment or in the manner provided by law.

WV Legislature

§16-12-7. Collections for maintenance and operating costs of works for industrial sewage; how costs determined.

In providing works for industrial sewage, commonly called industrial wastes, in the manner above provided, whether said industrial sewage is disposed of in combination with municipal sewage or independently, said sanitary district shall have power to apportion and collect therefor, from the producer thereof, fair additional construction, maintenance and operating costs over and above those covered by normal taxes and/or service rates or charges, and in case of dispute as to the fairness of such additional construction, maintenance and operating costs, then the same shall be determined by a board of three engineers, one appointed by said sanitary district, one appointed by such producer or producers, or their legal representatives, and the third to be appointed by the two engineers as above described. In the event the two engineers so selected shall fail to agree upon a third engineer, then upon petition of either of the parties the circuit judge shall appoint such third engineer. A decision of a majority of said board shall be binding on both parties and the costs of services of said board shall be shared by both parties equally.

WV Legislature

§16-12-8. Acquisition and disposition of property.

Such sanitary district may acquire by purchase, condemnation, or otherwise, any and all real and personal property, right-of-way and privilege, either within or without its corporate limits, that may be necessary for its corporate purposes. The compensation to be paid for such use may be a gross sum, or it may be in the form of an annual rental, to be paid in yearly installments as and in the manner provided by the judgment or decree of the court wherein such proceedings may be had: Provided, however, That when such compensation is fixed at a gross sum all moneys for the purchase and condemnation of any property shall be paid before possession is taken or any work done thereon, and provided in case an appeal is taken by either party from the court in which such condemnation is ordered, whereby the damages are not finally determined, the amount of the damages awarded by such court shall be deposited with the clerk of such court, subject to the orders of such court, when the amount of damages shall be finally determined. All condemnation proceedings brought hereunder shall be governed by the statutes prescribing the procedure in case of eminent domain as provided by chapter fifty-four of the Code of West Virginia, 1931, as now or hereafter amended. Said sanitary district shall have the power to sell, convey, vacate and release the said real and personal property, right-of-way and privileges acquired by it when the same is no longer required for the purposes of said sanitary district.

WV Legislature

§16-12-9. Borrowing money; procedure for issuance of revenue or tax obligation bonds; debt limitation.

Said sanitary district may borrow money for corporate purposes and may issue revenue and/or tax obligation bonds therefor, but shall not become indebted in any manner, or for any purpose whatsoever, beyond an amount in the aggregate to exceed five percent of the valuation of the taxable property within said district, to be ascertained by the last assessment for state and county taxes, previous to incurring of said indebtedness. Whenever the board of trustees of such sanitary district desires to issue bonds hereunder they shall order an election to be held in such sanitary district upon the question. Notice of such election shall be given by said board of trustees by publication of such notice as a Class II-O legal advertisement in compliance with the provisions of article three, chapter fifty- nine of this code, and the publication area for such publication shall be the sanitary district. The first publication shall be made at least twenty days prior to said election. The notices of election shall state the amount of bonds to be issued and the polling places at which the election shall be held. The board of trustees shall appoint judges and clerks for such election and the return of such election shall be filed with the clerk of the board of trustees and be canvassed and the result ascertained by said board and entered upon the records of the sanitary district. If it shall appear that a majority of the voters voting at said election on said question shall have voted in favor of the issue of the said bonds, the board of trustees shall order and direct the execution of the bonds for and on behalf of said sanitary district. All bonds issued hereunder shall mature in not exceeding thirty annual installments. The ballots at elections held under this section shall be in substantially the following form, to wit:

Proposition to issue bonds of _____ sanitary district to the amount of _____ dollars.

___

/___/ Yes.

___

/___/ No.

WV Legislature

§16-12-10. Provision for service charges or direct annual tax to pay interest and principal of indebtedness.

At the time of, or before incurring any indebtedness, the board of trustees shall provide for the establishment and collection of service charges and/or a direct annual tax sufficient to pay the interest on such debt as it falls due, and also to pay and discharge the principal thereof as the same shall fall due, and at least within thirty years from the time of contracting the same. The trustees shall have power and it shall be their duty to establish and maintain just and equitable rates or charges for the use of, and the service rendered by such works, to be paid by the owner of each and every lot, parcel of real estate or building that is connected with and uses such works by or through any part of the sewerage system of the sanitary district, or that in any way uses or is served or benefited by such works, and may change and readjust such rates or charges from time to time. Such rates or charges shall be sufficient in each year for the payment of bond interest and principal requirements and the proper and reasonable expense of operation, repair, replacements and maintenance of the works so acquired or constructed from the proceeds of the revenue bonds hereby authorized to be issued.

The board of trustees may levy and collect other service charges and/or direct annual taxes for corporate purposes upon property within the territorial limits of such sanitary district, the aggregate amount of such direct annual taxes shall not exceed one third of one per cent of the value of the taxable property within the corporate limits, as the same shall be assessed and equalized for the state and county taxes of the year in which the levy is made: Provided, however, That a like direct annual tax in addition thereto may be levied when such additional tax has been authorized by the legal voters of such district at an election duly called therefor. Such election shall be governed by the terms of this article relating to elections held to decide on the proposition of issuing bonds of said district. The right to levy such additional tax, heretofore or hereafter authorized by the legal voters, may at any time after one or more tax levies thereunder, be terminated by a majority vote of the electors of such sanitary district at an election called for that purpose by the board of trustees of such sanitary district; it shall be the duty of the trustees of any such sanitary district to submit the proposition to terminate such additional taxing power when petitioned so to do by not less than ten percent of the legal voters of such sanitary district.

Said board of trustees shall cause the amount required to be raised by taxation in each year to be certified to the county clerk in the manner and at the time provided by the general revenue law. All taxes so levied and certified shall be collected and enforced in the same manner and by the same officers as state and county taxes, and shall be paid over by the officer collecting the same to the treasurer of the sanitary district in the manner and at the time provided by the general revenue law.

The treasurer shall, when the moneys of the district are deposited with any bank or other depository, require such bank or other depository to pay the same rates of interest for such moneys deposited as such bank or other depository is accustomed to pay depositors under like circumstances, in the usual course of business.

WV Legislature

§16-12-10a. Ultimate liability for tax or service charge.

It is the intent of this article that the tax or service charge herein imposed by said board of trustees is a tax, the ultimate incidence of and liability for which shall be upon the property owner or ultimate consumer.

WV Legislature

§16-12-11. Letting contracts; manner and cost of building additions or extensions; contracts to respond to emergency situations.

All contracts for work to be done by such sanitary district, the expense of which will exceed $25,000, shall be let to the lowest responsible bidder therefor. The board of trustees shall cause to be published a notice informing the public and contractors of the general nature of the work and of the fact that detailed plans, drawings and specifications are on file in the office of such board of trustees and calling for sealed proposals for the construction of the work to be done at a date not earlier than ten days after the last of such publications, such notice to be published as a Class II legal advertisement in compliance with the provisions of article three, chapter fifty- nine of this code, and the publication area for such publication shall be the sanitary district. Said board of trustees shall require each bidder to deposit with his or her respective bid a certified check for an amount not less than two and one-half percent of the engineer's estimate of such work to insure the execution of the contract for which such bid is made. The board of trustees may impose such conditions as it may deem necessary upon the bidders with regard to bond and surety, guaranteeing the good faith and responsibility of such bidders, and the faithful performance of such work according to contract, or for any other purpose. The board of trustees shall have the right to reject any and all bids, but if it does reject all bids, before other bids may be received notices shall be published as originally required. The board of trustees shall have power to let portions of said proposed work under different contracts.

Any additions or extensions to any sewage disposal plant, or sewers or drains or any other work constructed under the provisions of this article, shall be built under contract entered into under the provisions of this section in the same manner as the contract for the original plant or work. The cost of such additions or extensions, and of any additional lands or rights-of-ways acquired by said board, may be met by the sale of additional bonds to be issued and sold by the trustees, and the levy of taxes and/or the collection of service charges to retire such bonds, all as provided in this article.

Emergency repairs shall be exempt from the bidding requirements of this section. For the purpose of this section, the term emergency repairs means repairs that if not made immediately will seriously impair the use of building components, systems, and public infrastructure or cause danger to persons using the building components, systems, and public infrastructure.

WV Legislature

§16-12-12. When territory outside of district may use system.

Any sanitary district formed hereunder shall have the right to permit territory lying outside its limits, whether within any other sanitary district or not, to drain into and use any channel or drain made by it, upon such payments, terms and conditions as may be mutually agreed upon, and any sanitary district formed hereunder is hereby given full power and authority to contract for the right to use any drain or channel which may be made by any other sanitary district, upon such terms as may be mutually agreed upon, and to raise the money called for by any such contract in the same way and to the same extent as such district is authorized to raise money for any other corporate purposes.

WV Legislature

§16-12-13. How additional contiguous territory may be added to sanitary district.

Additional contiguous territory may be added to any sanitary district organized under this article in the manner following, to-wit: Ten percent or more of the legal voters resident within the limits of such proposed addition to such sanitary district may petition the county court of the county in which the original petition for the formation of said sanitary district was filed, to cause the question to be submitted to the legal voters of such proposed additional territory whether said proposed additional territory shall become a part of any contiguous sanitary district organized under this article and whether such additional territory and the taxpayers thereof shall assume a proportionate share of the bonded indebtedness, if any, of such sanitary district. Such petition shall be addressed to the county court of the county in which the original petition for the formation of the said sanitary district was filed, and shall contain a definite description of the boundaries of the territory sought to be added: Provided, That no territory disqualified in section one of this article shall be included.

Upon filing such petition in the office of the county clerk of the county of which the original petition for the organization of such sanitary district was filed, it shall be the duty of the county court of the county in which the original petition for the formation of the said sanitary district was filed, to call to its assistance the county courts of all the counties in which portions of such sanitary district and the proposed addition or additions thereto are situated, and such county courts after electing a presiding officer from among themselves, shall constitute themselves a board of commissioners which shall have the power and authority to consider the limits and boundaries of such proposed additional territory, in the same manner as provided for locating, fixing and deciding of the limits and boundaries of the original sanitary district, as provided in section one of this article. If such sanitary district as originally organized and the proposed addition or additions are located in one county, the county court of such county shall act in the same capacity and manner as provided for in locating, fixing and deciding of the limits and boundaries of the original sanitary district, as provided in section one of this article.

Notice shall be given by the county court of the time and place when and where all persons interested will be heard substantially as provided in and by section one of this article. The conduct of the hearing and the manner of conducting the subsequent election on the question whether the proposed additional territory shall become a part of such sanitary district and the issuance, reception, return and canvassing of the ballots shall be, as nearly as possible, in accordance with the provisions of section one of this article; the ballot for the election provided for in this section shall be substantially as follows, to wit:

/ / For joining sanitary district and assuming a proportionate share of bonded indebtedness, if any.

/ / Against joining sanitary district and assuming a proportionate share of bonded indebtedness, if any.

WV Legislature

If a majority of votes cast at such election shall be in favor of becoming a part of such sanitary district and if the trustees of such sanitary district accept the proposed additional territory by ordinance annexing the same, the county court shall enter an appropriate order in the records of the county court, and such additional territory shall thenceforth be deemed an integral part of such sanitary district. Any such sanitary district upon petition addressed to such county court, signed by a majority of the owners of lands constituting such territory who shall have arrived at lawful age and who represent a majority in area of such territory, which said petition shall contain a definite description of the boundaries of such territory, shall set forth the willingness of the petitioners that such territory and the taxpayers thereof assume a proportionate share of the bonded indebtedness, if any, of such sanitary district. Upon the filing of such petition and notice of, and hearing, and decision upon the same by the aforesaid county court or board of commissioners, all as hereinbefore provided, such county court or board of commissioners shall enter an order or orders containing its findings and decision as to the boundaries of the territory to be annexed, and thereupon, if the board of trustees of such sanitary district shall pass an ordinance annexing the territory described in such order to said sanitary district, said county court shall enter an appropriate order as hereinbefore provided, and such additional territory shall thenceforth be deemed an integral part of such sanitary district.

WV Legislature

§16-12-14. Disconnection of territory from sanitary district.

Any contiguous territory located within the boundaries of any sanitary district organized under this article, and upon the border of such sanitary district, may become disconnected from such sanitary district in the manner following, to wit: Ten percent or more of the legal voters resident in the territory sought to be disconnected from such sanitary district may petition the county court of the county in which the original petition for the organization of said sanitary district was filed, to cause the question of such disconnection to be submitted to the legal voters of such territory whether such territory shall be disconnected. Said petition shall be addressed to the county court of the county in which the original petition for the formation of such sanitary district was filed and shall contain a definite description of the boundaries of such territory to be disconnected and recite as a fact, that there is no bonded indebtedness of such sanitary district incurred while such territory to be disconnected was a part of such sanitary district and that such territory to be disconnected is not, at the time of the filing of such petition, and will not be, either benefited or served by any work or improvement either then existing or then authorized by said sanitary district. Upon filing such petition in the office of the county clerk of the county in which the original petition for the formation of such sanitary district has been filed it shall be the duty of the county court of the county in which the original petition for the formation of such sanitary district was filed, to consider the boundaries of such territory and the facts upon which the petition is founded, and shall consider the limits and boundaries of such proposed territory, in the same manner as provided for locating, fixing and deciding of the limits and boundaries of the original sanitary district, as provided in section one of this article. If any part of the territory proposed to be disconnected is situated in another county or counties other than that county in which the original petition was filed, then it shall be the duty of the said county court of the county in which the original petition was filed to call to its assistance the county courts of counties in which portions of such territory proposed to be disconnected is situated; such county courts shall constitute themselves a board of commissioners, and after electing a presiding officer from among themselves, shall consider the boundaries of such territory and the facts upon which the petition is founded, and shall consider the limits and boundaries of such proposed territory to be disconnected, in the same manner as provided for locating, fixing and deciding of the limits and boundaries of the original sanitary district, as provided in section one of this article: Provided, however, That it shall be the duty of the county court or the board of commissioners to deny the prayer of the petition for the disconnecting of any territory from the original sanitary district, if the material allegations therein contained are not founded in fact.

Notice shall be given by the county court of the time and place, when and where all persons interested will be heard substantially as provided in section one of this article. The conduct of the hearing and the manner of conducting the subsequent election on the question whether such territory shall become disconnected and the issuance, reception, return and canvassing of the ballots shall be, as nearly as possible, in accordance with the provisions of section one of this article. The ballots for the election provided for in this section shall be substantially as follows, to wit:

www.LegisTrue

___

/___/ For disconnection from sanitary district.

___

/___/ Against disconnection from sanitary district.

If a majority of the votes cast at such election shall be in favor of disconnection, and if the trustees of such sanitary district shall, by ordinance, disconnect such territory, thereupon the county court of the county in which the original petition for the formation of such sanitary district was filed, shall enter an appropriate order in the records of the said county court and thereafter such territory shall henceforth be deemed disconnected from such sanitary district.

WV Legislature