

CHAPTER 8
MISCELLANEOUS

DRAINS IN MORE THAN ONE COUNTY AND INTERSTATE DRAINS

Proceedings affecting land in more than one county are regulated by IC 36-9-27-14. This statute states the method of selecting and establishing a joint county board and provides that a joint county drainage board shall have all of the power, duty and authority, and shall be governed by the same procedure, in all matters properly before it, and all owners affected by such proceedings before a county drainage board affecting land wholly within one county, insofar as applicable.

Any petition for judicial review of a proceeding by a joint county drainage board is to be filed in the circuit or superior court of the county wherein the surveyor who is an ex-officio member of the joint board was elected. [IC 36-9-27-106]

IC 36-9-27-104 and 36-9-27-105 deal with drains affecting lands in Indiana and also in an adjoining state. These sections authorize county drainage boards and joint county drainage boards to join with the proper officers of another state in a joint effort to construct or reconstruct a drain. These sections also provide for formation of interstate boards, stipulate voting powers of members and further provide the method of assessing damages and benefits by the county drainage board or joint county drainage board pursuant to finding and certification by the interstate board.

INTEREST ON DEFERRED PAYMENTS

The rate of interest on installments of assessments for construction and reconstruction deferred beyond one year from the initial date set for payment is 10% per annum. [IC 36-9-27-85] Assessments for "Maintenance" are not subject to interest, but are subject to penalties for delinquencies.

PENALTIES ON DELINQUENCIES

Assessments for construction and reconstruction and assessments for maintenance are subject to penalty when delinquent. [IC 36-9-27-86] The rate of penalty, although not specifically stated in the law, is the same as the penalty on delinquent tax; i.e., 10% of the delinquent installment upon becoming delinquent and an additional 10% after each May 10 and November 10 in each year following the year of initial delinquency. When an installment is partially paid and partially delinquent, the penalty is on the delinquent part only. Penalties apply to both principal and interest when assessments for construction or reconstruction become delinquent.

BOARD MEMBER OWNING AFFECTED PROPERTY

IC 36-9-27-12 requires a drainage board member to disqualify himself (herself) from serving on the board on proceedings that affect real property which he or she owns. However, IC 36-9-27-12 does not apply to a joint drainage board that includes three or more counties in a drainage basin of more than 100,000 acres.

CERTAIN MUNICIPAL DRAINS EXEMPT; ASSESSMENT
OF LANDS BENEFITED BY REGULATED DRAINS

A drain that is located partly or wholly within the corporate boundaries of a municipality is subject to IC 36-9-27 only if it was constructed by the municipality under IC 36-9-27, IC 19-4 (repealed February 26, 1982), or a statute repealed by Acts 1965, c. 305, s. 1003. [IC 36-9-27-21(a)]

If a municipal drain not subject to IC 36-9-27 flows directly or indirectly into a regulated drain, the board shall assess the land benefited by the municipal drain to the extent that it is benefited by the construction, reconstruction or maintenance of the regulated drain. [IC 36-9-27-21(b)]

Notwithstanding IC 36-9-27-38, the drainage board may make only one assessment for the same purpose on each individual drain on a parcel if that parcel is partly within the corporate boundaries of a municipality having a drain affected by IC 36-9-27-21(b). For purposes of making this one (1) assessment, the total acreage of the parcel must be considered to be located where most of the land is situated, either within the boundaries or outside the boundaries. [IC 36-9-27-21(c)]