

State of Arkansas
90th General Assembly
Third Extraordinary Session, 2016

A Bill

Call Item 5
SENATE BILL 3

By: Senators Rapert, Irvin, Standridge, D. Sanders, B. Johnson, J. Cooper, J. Woods, Collins-Smith
By: Representatives Beck, D. Meeks, S. Meeks, Hickerson

For An Act To Be Entitled

AN ACT TO ENHANCE AND STREAMLINE THE PROCESS OF IDENTIFYING AND FILLING BOARD VACANCIES FOR CERTAIN IMPROVEMENT DISTRICTS, INCLUDING LEVEE, DRAINAGE, IRRIGATION, WATERSHED, AND RIVER IMPROVEMENT DISTRICTS; TO DECLARE AN EMERGENCY; AND FOR OTHER PURPOSES.

Subtitle

TO ENHANCE EXISTING SAFEGUARDS FOR IDENTIFYING AND FILLING BOARD VACANCIES FOR CERTAIN IMPROVEMENT DISTRICTS AND TO DECLARE AN EMERGENCY.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code § 14-86-103 is amended to read as follows:

14-86-103. Reporting.

(a) Definitions.

As used in this section, "district" means any levee, drainage, irrigation, watershed, or river improvement district in Arkansas, including, ~~but not limited to,~~ without limitation those districts:

(1) Formed or operating under this chapter, § 14-87-101 et seq., § 14-88-101 et seq., § 14-89-101 et seq., § 14-90-101 et seq., § 14-91-101 et seq., § 14-92-101 et seq., the Property Owners' Improvement District Law, § 14-93-101 et seq., the Municipal Property Owner's Improvement District Law, § 14-94-101 et seq., § 14-95-101 et seq., § 14-114-101 et seq., the Interstate



Watershed Cooperation Act, § 14-115-101 et seq., the Arkansas Irrigation, Drainage, and Watershed Improvement District Act of 1949, § 14-117-101 et seq., § 14-118-101 et seq., The Water Improvement District Accounting Law of 1973, § 14-119-101 et seq., § 14-120-101 et seq., § 14-121-101 et seq., § 14-122-101 et seq., § 14-123-101 et seq., § 14-124-101 et seq., and the Conservation Districts Law, § 14-125-101 et seq.; or

(2) Created by a special act of the General Assembly.

(b)(1) On or before December 31, 2009, each district shall file an initial report with the clerk of the county court in whose jurisdiction any property of the district is located.

(2) The initial report shall include the following:

(A) The name of the district;

(B) The date on which the district was formed;

(C) The statutory or other legal authority under which the district was formed;

(D) A description of the district's boundaries and a map of the district;

(E) The names and addresses of the district's directors and ~~its~~ officers and their respective terms of office;

(F) An identification of any vacancy on the district board or district commission;

(G) A map of the parcels of property located in the district; and

(H) The time, date, and location of the district board's or district commission's next annual meeting or, if the annual meeting is unscheduled, the time, date, and location of the district board's or district commission's next meeting.

(3) The clerk shall forward a file-marked copy of all reports filed under this subsection to the Arkansas Natural Resources Commission.

(c)(1) On or before December 31, 2010, and annually afterwards, the district shall file with the clerk of the county court in whose jurisdiction any property of the district is located a report that:

~~(1)~~(A) Provides the names and addresses of the members of the district board or district commission and its officers;

~~(2)~~(B) Identifies any vacancy on the district board or the district commission; and

~~(3)(C)~~ Provides the time, date, and location of the district board's or district commission's next annual meeting, if scheduled, and its next regularly scheduled meeting.

(2) The clerk shall forward a file-marked copy of all reports filed under this subsection to the Arkansas Natural Resources Commission.

(d)(1) A district that fails to perform any of the requirements of subsection (b) or subsection (c) of this section commits a violation punishable by a fine of not less than one hundred dollars (\$100) and not more than one thousand dollars (\$1,000) for each offense.

(2) ~~Any~~ A fine recovered under subdivision (d)(1) of this section shall be deposited into the county clerk's cost fund.

(3) A district shall not receive financial assistance from any state agency for a two-year period following the date the fine was assessed under subdivision (d)(1) of this section.

SECTION 2. Arkansas Code § 16-20-401 is amended to read as follows:

16-20-401. Duties of clerk generally.

(a) The county clerk shall, ~~by virtue of his or her office,~~ be clerk of the county court for his or her county, by virtue of his or her office.

(b) It shall be his or her duty to attend each regular or special session of the county court, either in person or by deputy, and to keep and preserve in his or her office a complete and correct record of the proceedings of the court.

(c)(1) When a report filed under § 14-86-103 or an affidavit of a district resident containing substantially the same information required under § 14-86-103**(b)** or § 14-86-103(c) and filed with the county clerk indicates a vacancy in a district board or district commission, the county clerk shall provide a written notice of the vacancy to:

~~(1)(A)~~ The members of the district board or the district commission; and

~~(2)(B)~~ The county court.

(2) A copy of the notice shall be published:

- (A) In a newspaper of general circulation in the county;
- (B) On a county-owned or county-affiliated website, if any.

(d)(1) When a report filed under § 14-86-103 or an affidavit of a

district resident containing substantially the same information required under § 14-86-103(b) or § 14-86-103(c) and filed with the county clerk indicates a vacancy in a district board or a district commission has not been filled in the interval after the county clerk gave the notices required under subsection (c) of this section, the county clerk shall provide a written notice of the continuing vacancy to:

~~(1)(A)~~ The members of the district board or the district commission; and

~~(2)(B)~~ The county court; ~~and.~~

~~(3) Any prosecuting attorney whose judicial district has jurisdiction over the district board or the district commission.~~

(2) A copy of the notice shall be published on a county-owned or county-affiliated website, if any, and in a newspaper of general circulation in the county and shall contain:

(A) The time, date, and location of a hearing on the vacancy before the county court;

(B) The purpose of the hearing before the county court that requires the landowners in the district to appear; and

(C) Notice that the landowners in attendance by majority vote may fill the continuing vacancies in the district board or district commission.

SECTION 3. Arkansas Code § 16-21-159 is amended to read as follows:

16-21-159. Duty after receiving notice of vacancy on district board.

(a) A ~~prosecuting attorney~~ county judge who receives notice under § 16-20-401(d) of a continuing vacancy on a district board or district commission ~~of a levee, drainage, irrigation, watershed, or river improvement district~~ shall investigate the alleged vacancy, and ~~take the appropriate action to fill any existing vacancy after conducting a hearing under § 16-20-401(d),~~ enter a county order reflecting the majority vote of the landowners of the district in attendance at the hearing to fill any continuing vacancies in the district board or district commission.

(b)(1) The county judge's order may assess the district fines for violations as well as the costs of the required publications of notices.

(2) A fine under subdivision (b)(1) of this section shall be not less than one hundred dollars (\$100) and not more than one thousand dollars

(\$1,000) for each offense.

(3) A fine recovered under subdivision (b)(2) of this section shall be deposited into the county clerk's cost fund.

SECTION 4. EMERGENCY CLAUSE. It is found and determined by the General Assembly of the State of Arkansas that there are currently many vacancies in levee district boards across the state; that the current procedure for filling these vacancies makes the process more difficult; and that this act is immediately necessary because of the critical importance of the efficient functioning of levee district boards. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on:

(1) The date of its approval by the Governor;

(2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or

(3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.