



Ohio Revised Code

Section 3734.521 Change in district composition.

Effective: October 29, 1993

Legislation: Senate Bill 153 - 120th General Assembly

(A) As used in this section and sections 3734.531 and 3734.57 of the Revised Code, "change in district composition" or "change" includes the withdrawal of a county from a joint solid waste management district, the establishment of a new county or joint district, the joinder of a county to an existing joint district, the union of two or more joint districts, or any combination thereof.

(B) In addition to the requirements under Chapter 343. of the Revised Code, the requirements of this section govern a change in district composition when any of the districts involved are operating under a solid waste management plan or amended plan approved or ordered to be implemented under this section or section 3734.55 or 3734.56 of the Revised Code.

(C) For purposes of preparing the initial and amended solid waste management plans for the county and joint districts resulting from any proposed change in district composition, the solid waste management policy committee for the proposed resulting districts shall consist of the members prescribed in division (B) of section 3734.54 of the Revised Code from each county within the proposed district and shall include an additional public member only when one is required to be appointed under division (C) of section 3734.54 of the Revised Code.

(D) In the case of a proposed establishment of a new joint district, joinder of a county to an existing joint district, or union of existing joint districts that only involves existing county or joint districts that are operating under solid waste management plans or amended plans approved under this section or section 3734.55 or 3734.56 of the Revised Code and that does not involve the withdrawal of a county from an existing joint district, the solid waste management policy committee of the proposed joint district resulting from the change shall do all of the following:

(1) Prepare a draft initial or amended solid waste management plan for the proposed joint district that complies with divisions (A), (B), (D), and (E)(1) of section 3734.53 of the Revised Code;

(2) Upon completion of the draft initial or amended plan for the proposed joint district, proceed to



adopt and obtain approval of it in accordance with divisions (A), (B), and (C)(1) to (3) of section 3734.55 of the Revised Code;

(3) Submit the initial or amended plan for the proposed joint district to the director of environmental protection for approval not earlier than one hundred eighty days and not later than ninety days before the date that one of the existing districts involved in the proposed change is required to submit an amended plan under section 3734.56 of the Revised Code.

If any such proposed joint district fails to submit its plan or amended plan, as appropriate, to the director on or before the date required under division (D)(3) of this section, the proposed change shall not occur, and the director shall proceed in accordance with division (D) of section 3734.55 of the Revised Code to prepare an amended plan for each of the existing districts and order the implementation of the amended plans. If the proposed joint district fails to obtain approval of its initial or amended plan, as appropriate, within eighteen months after the date for submission of its initial or amended plan required under division (D)(3) of this section, the director shall proceed in accordance with division (D) of section 3734.55 of the Revised Code to prepare a plan or amended plan, as appropriate, for the proposed joint district and to order the implementation of the plan or amended plan.

(E) In the case of a proposed change in district composition that involves an existing district that is operating under a solid waste management plan or amended plan prepared and ordered to be implemented by the director under this section or section 3734.55 or 3734.56 of the Revised Code or that involves the withdrawal of a county from an existing joint district, the solid waste management policy committee of each of the districts resulting from the proposed change, not later than twenty months before one of the existing districts is required to submit an amended solid waste management plan under section 3734.56 of the Revised Code or twenty months before the triennial anniversary of the issuance of the order under division (D) or (F)(1) or (2) of this section or division (D) of section 3734.55 of the Revised Code requiring one of the districts involved to implement a plan prepared and ordered to be implemented under any of those divisions, shall submit to the director a preliminary demonstration of the availability of or access to solid waste management facility capacity under division (E)(1) or (2) of this section, as appropriate. The preliminary demonstrations of each of the proposed districts shall be submitted to the director at the same time.



As used in divisions (E) and (F) of this section, "preliminary demonstration of capacity" means the certification and demonstration required to be submitted under division (E)(1) of this section or the statement and financial feasibility study required to be submitted under division (E)(2) of this section, as appropriate.

(1) If a proposed district has located within its boundaries one or more solid waste facilities that have sufficient remaining capacity to dispose of all the solid waste generated within its boundaries during the subsequent ten-year period, or if the county or counties proposing to form the district have entered into one or more firm contracts or agreements that in the aggregate provide for the disposal of all the solid wastes generated within the proposed district during the subsequent ten-year period at facilities located outside the district or this state, the solid waste management policy committee of the proposed district shall submit to the director a certification and demonstration by the committee of the availability of or access to sufficient solid waste management facility capacity to provide for the disposal of all the solid wastes generated within the proposed district during that ten-year period.

The director shall approve or disapprove a preliminary demonstration of capacity within sixty days after receiving it. If the director finds that the policy committee has made the demonstration required by division (E)(1) of this section, he shall approve the preliminary demonstration. Otherwise, the director shall disapprove the preliminary demonstration.

(2) If a proposed district does not have sufficient solid waste management facility capacity within its boundaries or access to sufficient capacity by contract or agreement to make the demonstration required by division (E)(1) of this section, the solid waste management policy committee of the proposed district shall submit to the director a statement as to how the proposed district will provide for sufficient solid waste management facility capacity to dispose of all solid wastes generated within its boundaries during the subsequent ten-year period. The statement shall be accompanied by a study of the financial feasibility of the measures proposed in the statement. The statement and financial feasibility study shall contain an inventory of all existing solid waste disposal, transfer, and resource recovery facilities and recycling activities within the proposed district and estimates of the remaining capacity available at each such facility; estimates of the amounts of solid wastes that will be generated within the proposed district during each year of the subsequent ten-year period; an identification of the additional solid waste management facilities and capacity that the proposed district intends to provide to dispose of the estimated amounts of solid wastes; a schedule for



implementation of the measures proposed in the statement; if appropriate, estimates of the capital and operating costs of the additional facilities that the district intends to provide and of the rates to be charged to meet those costs; and, if appropriate, rates to be charged to meet the costs of capacity that the district intends to provide by contract or agreement.

The director shall approve or disapprove a statement and financial feasibility study within sixty days after receiving them. The director shall approve a statement and financial feasibility study only if they demonstrate a technically feasible and economically reasonable means of providing for the environmentally sound management of solid wastes generated in the district during the subsequent ten-year period. Otherwise, the director shall disapprove the statement and financial feasibility study.

(3) Upon approving or disapproving a preliminary demonstration of capacity under division (E)(1) or (2) of this section, the director shall provide written notice of his decision to the solid waste management policy committee that submitted it. If the director disapproves the preliminary demonstration of any of the proposed districts, the change in district composition shall not occur. The solid waste management policy committee of each of the existing districts operating under a solid waste management plan approved under this section or section 3734.55 of the Revised Code or an amended plan approved under this section or section 3734.56 of the Revised Code then shall proceed to adopt and obtain approval of an amended plan in accordance with division (A) of section 3734.56 of the Revised Code. If any of the existing districts is operating under a plan or an amended plan ordered to be implemented under this section or section 3734.55 or 3734.56 of the Revised Code, the director then shall proceed in accordance with division (B) of section 3734.56 of the Revised Code to prepare an amended plan for each such district and order the implementation of the amended plan. Division (E)(3) of this section does not preclude an existing district that is operating under a plan or amended plan prepared and ordered to be implemented by the director from proceeding under division (C) of section 3734.56 of the Revised Code to prepare and obtain approval of a plan to replace the initial or amended plan prepared by the director.

(4) If the director approves the preliminary demonstration of each of the proposed districts resulting from the change in district composition under division (E)(1) or (2) of this section, the solid waste management policy committee of each of the proposed districts shall begin preparing a draft initial solid waste management plan for the district, and the committee of the remaining joint district, if any, shall begin preparing a draft amended plan for the joint district. The initial or amended plan and



certification of capacity shall comply with divisions (A), (B), (D), and (E)(1) of section 3734.53 of the Revised Code. Upon completion of the draft initial or amended plan for the proposed district, the committee shall proceed to adopt and obtain approval of it in accordance with divisions (A), (B), and (C)(1) to (3) of section 3734.55 of the Revised Code. The initial plans of the proposed districts and the amended plan of the remaining joint district, if any, shall be submitted to the director at the same time and shall be submitted not later than twenty months after the proposed districts submitted their preliminary demonstrations of capacity under division (E)(1) or (2) of this section. If any of the proposed districts fails to submit its plan or amended plan to the director on or before the required date, the proposed change shall not occur, and the director then shall proceed in accordance with division (D) of section 3734.55 of the Revised Code to prepare an amended plan for each of the existing districts and to order the implementation of the amended plans.

(F) If any of the proposed districts resulting from a change in district composition, or the remaining joint district, if any, that is required to submit a preliminary demonstration of capacity under division (E)(1) or (2) of this section fails to obtain approval of its plan or amended plan within thirty-eight months after the submission of its preliminary demonstration of capacity, the director shall determine what actions are necessary to ensure that each county involved in the proposed change will be included in a district that either will have within its boundaries sufficient solid waste management facility capacity to provide for the disposal of all of the solid wastes generated within its boundaries during the subsequent ten-year period or will have access to sufficient capacity at facilities located outside the district or this state by contract or agreement to dispose of all of the solid wastes generated within the district during that ten-year period. Based upon that determination, the director shall do either of the following, as appropriate:

(1) If the director determines that the solid waste management needs of each of the counties involved can be met if the proposed change were to occur, he shall prepare an initial or amended plan that complies with divisions (A) and (D) of section 3734.53 of the Revised Code for each of the proposed or existing districts that failed to obtain approval of its plan or amended plan within thirty-eight months after the districts were required to submit their preliminary demonstrations of capacity under division (E)(1) or (2) of this section. None of the plans or amended plans prepared by the director shall contain any of the provisions required or authorized to be included in plans submitted by districts under division (B), (C), or (E) of section 3734.53 of the Revised Code. Upon completion of each such plan or amended plan, the director shall issue an order in accordance with Chapter 3745.



of the Revised Code directing the board of county commissioners or directors of the district for which the plan or amended plan was prepared to implement it in compliance with the implementation schedule contained in it.

(2) If the director determines that the solid waste management needs of each of the counties involved cannot be met if the proposed change in district composition were to occur, he shall make a determination as to how county or joint districts should be formed from among those counties to ensure that each will be included in a district that either will have within its boundaries sufficient solid waste management facility capacity to provide for the disposal of all the solid wastes generated within the district during the subsequent ten-year period or will have access to sufficient capacity at facilities located outside the district or this state by contract or agreement to dispose of all the solid wastes generated within the district during that ten-year period. After making his determination, the director shall prepare an initial or amended solid waste management plan for each of them. If the director determines that any existing district involved in the proposed change should be retained without a modification in its composition, the director shall prepare an amended plan for the district. The director shall prepare an initial or amended plan for each district whose composition would be changed under his determination. Each such plan or amended plan shall comply with divisions (A) and (D) of section 3734.53 of the Revised Code. None of the plans or amended plans shall contain any of the provisions required or authorized to be included in plans under division (B), (C), or (E) of that section.

If a plan prepared under this division provides for the establishment of a joint district by two or more counties that had each previously formed a county district, the director, in accordance with Chapter 3745. of the Revised Code, shall issue an order to the board of county commissioners of each of the counties directing them to enter into an agreement to form a joint district under division (A) of section 343.01 of the Revised Code within thirty days after the issuance of the order. If a plan or amended plan prepared by the director provides for the withdrawal of one or more counties from an existing joint district, the establishment of a new joint district, the joinder of one or more counties to an existing joint district, or the union of two or more existing joint districts, the director, in accordance with Chapter 3745. of the Revised Code, shall issue appropriate orders to the board of county commissioners of each county or existing county district and to the board of directors of each joint district that will be affected by the plan directing the board of county commissioners or directors, within thirty days after the issuance of the order, to adopt the appropriate resolutions and



enter into any necessary agreements under division (B) of section 343.01 of the Revised Code to effect the changes provided for in the plan. The requirements and procedures for approval of the withdrawal from, establishment of, joinder to, or union of districts under section 343.012 of the Revised Code do not apply to changes ordered under division (F)(2) of this section. The other provisions of that section do apply to changes ordered under division (F)(2) of this section.

Any order issued by the director under division (F)(2) of this section also shall require the district to be formed pursuant to the order to implement the plan or amended plan prepared by the director in compliance with the implementation schedule contained in the plan.

(G) No proposed change in district composition shall become final until one of the following has occurred:

(1) The director has approved the solid waste management plan of each newly formed district under section 3734.55 of the Revised Code and the amended plan of the remaining joint district, if any, under section 3734.56 of the Revised Code;

(2) In the case of a joint district subject to division (D) of this section that failed to obtain approval of its plan or amended plan on or before the date required under that division, the director has prepared a plan or amended plan for the district and has issued an order to the district directing it to implement the plan or amended plan prepared by the director;

(3) If the circumstances described in division (F)(1) of this section apply, the director has prepared a plan or amended plan for each of the districts involved that failed to obtain approval of its plan or amended plan on or before the date required under that division and has issued an order to each of them under that division directing the district to implement the plan prepared by the director, and the director has approved the plan or amended plan of each of the other proposed districts;

(4) If the circumstances described in division (F)(2) of this section apply, the director has prepared a plan or amended plan for each of the districts set forth in the determination made under that division and has issued an order under that division directing each of the districts to implement the initial or amended plan prepared for it by the director.



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(H) In addition to the requirements of division (G) of this section, if a change in district composition involves the withdrawal of a county from a joint district, it shall not become final until the county ceases to be a part of the joint district from which it is withdrawing pursuant to division (B) of section 343.012 of the Revised Code.