

February 18, 1998

ENGROSSED SENATE BILL No. 387

DIGEST OF SB 387 (Updated February 17, 1998 12:26 pm - DI 69)

Citations Affected: IC 13-21; noncode.

Synopsis: Provision of services in a solid waste district. Restricts the powers of a solid waste management district concerning control over collection or disposal of solid waste and recyclables. Exempts household hazardous waste projects from those restrictions. Provides that the act does not apply to contracts executed before April 1, 1998. Allows the executives of certain cities in Lake County who are members of a solid waste management district board of directors to appoint a member of the legislative body of their cities to serve as the member of the board.

Effective: July 1, 1998.

Gard

(HOUSE SPONSORS — STURTZ, WOLKINS)

January 12, 1998, read first time and referred to Committee on Governmental and Regulatory Affairs.

January 29, 1998, amended, reported favorably — Do Pass.

February 2, 1998, read second time, ordered engrossed. Engrossed.

February 3, 1998, read third time, passed. Yeas 31, nays 18.

HOUSE ACTION

February 10, 1998, read first time and referred to Committee on Environmental Affairs.

February 17, 1998, amended, reported — Do Pass.

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February 18, 1998

Second Regular Session 110th General Assembly (1998)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 1997 General Assembly.

ENGROSSED SENATE BILL No. 387

A BILL FOR AN ACT to amend the Indiana Code concerning environmental law.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 13-21-3-5, AS ADDED BY P.L.1-1996, SECTION
2 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1,
3 1998]: Sec. 5. (a) Except as provided in subsections (b) through (d), the
4 board of a county district consists of the following members:
5 (1) Two (2) members appointed by the county executive from the
6 membership of the county executive.
7 (2) One (1) member appointed by the county fiscal body from the
8 membership of the fiscal body.
9 (3) One (1) member:
10 (A) who is the executive of the municipality having the largest
11 population in the county if that municipality is a city; or
12 (B) appointed from the membership of the legislative body of
13 a town if the town is the municipality having the largest
14 population in the county.
15 (4) One (1) member of the legislative body of the municipality
16 with the largest population in the county appointed by the

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1 legislative body of that municipality.

2 (5) One (1) member:

3 (A) who is the executive of a city in the county that is not the
4 municipality having the largest population in the county; or

5 (B) who is a member of the legislative body of a town that is
6 not the municipality having the largest population in the
7 county;

8 and who is appointed by the executive of that county to represent
9 the municipalities in the county other than the municipality
10 having the largest population.

11 (6) One (1) additional member appointed by the county executive
12 from the membership of the county executive.

13 (b) If a county having a population of more than four hundred
14 thousand (400,000) but less than seven hundred thousand (700,000) is
15 designated as a county district, the executives of the three (3) cities in
16 the county having the largest populations each serve as a member of
17 the board **or may appoint a member of the legislative body of their**
18 **city to serve as a member of the board.** If a county having a
19 population of more than two hundred thousand (200,000) but less than
20 three hundred thousand (300,000) is designated as a county district, the
21 executives of the two (2) cities in the county having the largest
22 populations each serve as a member of the board. If a county having a
23 population of more than two hundred thousand (200,000) but less than
24 three hundred thousand (300,000) is designated as a county district, the
25 board of that county district must include the following:

26 (1) One (1) member of the legislative body of the city having the
27 second largest population in the county, appointed by the
28 president of the city legislative body.

29 (2) One (1) member of the legislative body of a town located in
30 the county, appointed by the judge of the circuit court in the
31 county.

32 (c) If a county having a consolidated city is designated a county
33 district, the board of public works established under IC 36-3-5-6
34 constitutes the board of the county district.

35 (d) If a county designated as a county district has a population of
36 more than four hundred thousand (400,000) but less than seven
37 hundred thousand (700,000), the board of the district consists of the
38 following members:

39 (1) One (1) member appointed by the county executive from the
40 membership of the county executive.

41 (2) Two (2) members appointed from the county fiscal body
42 appointed from the membership of the county fiscal body.

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1 (3) The executive of each second or third class city **or a member**
 2 **of the legislative body of their city appointed by the executive.**

3 (4) One (1) member of the legislative body of each town
 4 appointed by the legislative body.

5 (5) One (1) member of the legislative body of the municipality
 6 with the largest population in the county appointed by the
 7 legislative body of that municipality.

8 (6) If a local government unit in the county has an operating final
 9 disposal facility located within the unit's jurisdiction, one (1)
 10 member of the unit's board of public works appointed by the
 11 board of public works.

12 SECTION 2. IC 13-21-3-14, AS ADDED BY P.L.125-1996,
 13 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 14 JANUARY 1, 1998 (RETROACTIVE)]: Sec. 14. (a) **Except as**
 15 **provided in subsection (c) and section 14.5 of this chapter,** the
 16 powers of a district do not include the following:

17 (1) The power of eminent domain.

18 (2) Except as provided in subsection (b), the power to exclusively
 19 control the collection or disposal of **any** solid waste ~~and~~ **or**
 20 recyclables within the district **by means that include the**
 21 **following:**

22 (A) **Franchising.**

23 (B) **Establishing a territory or territories within the district**
 24 **in which a person may provide service.**

25 (3) **The power to establish the type of service that a person**
 26 **must provide for the collection or disposal of solid waste or**
 27 **recyclables within the district.**

28 (4) **The power to establish fees that a person must charge for**
 29 **the collection or disposal of solid waste or recyclables within**
 30 **the district.**

31 (b) If one (1) or more of the governmental entities in a district, at the
 32 time of the formation of the district, is a party to a contract providing
 33 that the persons contracted with have the exclusive right to collect or
 34 dispose of solid waste within the jurisdiction of the governmental
 35 entity, the district may enter into an extension of that contract.

36 (c) **Subsection (a) does not apply to activities conducted as part**
 37 **of a household hazardous waste collection and disposal project.**

38 SECTION 3. IC 13-21-3-14.5, AS ADDED BY P.L.125-1996,
 39 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 40 JULY 1, 1998]: Sec. 14.5. (a) This section does not apply to the
 41 following:

42 (1) The continuation of waste management services that a solid

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- 1 waste district provides with its facilities or work force before
 2 March 15, 1996.
- 3 (2) Waste management services provided to the district under an
 4 agreement entered into by the district before March 15, 1996,
 5 with another person until the agreement terminates by its terms or
 6 is terminated for cause.
- 7 (3) The development, operation, and contracting for the
 8 development or operation of a publicly owned solid waste landfill
 9 in a county having a population of more than one hundred seven
 10 thousand (107,000) but less than one hundred eight thousand
 11 (108,000). The operation of the landfill must have begun before
 12 July 1, 2001.
- 13 (4) A contract entered into between the board and a third party
 14 before May 1, 1997, for the development or operation of a solid
 15 waste landfill in a county having a population of more than four
 16 hundred thousand (400,000) but less than seven hundred thousand
 17 (700,000). The third party is limited to those parties that
 18 submitted proposals to the board under a formal request for
 19 proposals that were selected by the board, before December 1,
 20 1995, as finalists in the contract negotiations.
- 21 (5) A contract between a board and a third party to operate a
 22 facility that is owned by the district and for which construction
 23 was substantially complete before March 1, 1996.
- 24 (b) Except as provided in subsection (c), a district may not:
- 25 (1) undertake to provide waste management services by means of
 26 its own work force; or
 27 (2) contract with any person to provide ~~solid~~ waste management
 28 services.
- 29 (c) A district may perform the activities described in subsection (b),
 30 if:
- 31 (1) the board is able to adopt a resolution under subsection (d);
 32 and
 33 (2) a private sector entity is not willing or able to provide waste
 34 management services at a reasonable cost to the district or if
 35 requested to do so by a unit of government that performs the
 36 activities with the unit's work force.
- 37 (d) The board may adopt a resolution determining that the district
 38 must either provide ~~solid~~ waste management services by means of its
 39 own work force or contract with a person to provide ~~solid~~ waste
 40 management services, only if the board finds that:
- 41 (1) the ~~solid~~ waste management service is not currently available
 42 in the district at a reasonable cost; and



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1 (2) providing the ~~solid~~ waste management service by means of its
 2 own work force or by contract will benefit the public health,
 3 welfare, and safety of residents of the district.

4 The board's determination must be supported with findings of fact.

5 (e) A district shall provide notice by publication under IC 5-3-1 and
 6 **at the time of publication serve by** first class mail to any person that
 7 delivers to the district an annual written request for notices before
 8 January 1 of any meeting to consider adoption of a resolution making
 9 a preliminary determination that it is necessary for the district to
 10 undertake to provide ~~solid~~ waste management services by means of its
 11 own work force or contract with any person to provide ~~solid~~ waste
 12 management services.

13 (f) Whenever a district evaluates the reasonableness of cost under
 14 this section, it shall:

15 (1) compare the cost of the same level of service provided in the
 16 district or in similar demographic areas within Indiana; and

17 (2) if ~~it~~ **the district** wishes to provide ~~the service waste~~
 18 **management services** with its own facilities or work force, **the**
 19 **district must** disclose the entire cost of providing the service by
 20 the district, including the following:

21 (A) subsidies arising from taxes, fees, grants, or
 22 intergovernmental transfers;

23 (B) in-kind contributions of real estate, interests in real estate,
 24 equipment, personnel, or other assets;

25 (C) discounts; and

26 (D) tax exemptions.

27 SECTION 4. [EFFECTIVE JANUARY 1, 1998 (RETROACTIVE)]:
 28 **IC 13-21-3-14 and IC 13-21-3-14.5, as amended by this act, do not**
 29 **apply to a contract executed before April 1, 1998.**

30 SECTION 5. **An emergency is declared for this act.**

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COMMITTEE REPORT

Mr. President: The Senate Committee on Governmental and Regulatory Affairs, to which was referred Senate Bill 387, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Replace the effective date in SECTION 1 with "[EFFECTIVE JANUARY 1, 1998 (RETROACTIVE)]".

Page 1, line 3, after "(c)" insert "**and section 14.5 of this chapter**".

Page 1, line 7, after "of" insert "**any**".

Page 1, delete line 9.

Page 1, line 10, delete "(B)" and insert "(A)".

Page 1, line 11, delete "(C)" and insert "(B)".

Page 1, line 11, after "Establishing" insert "**a territory or**".

Page 1, line 11, after "within" insert "**the district in**".

Page 2, delete lines 9 through 20.

Page 3, line 17, reset in roman "at a reasonable cost to".

Page 3, line 17, delete "within".

Page 3, line 25, after "district" delete ";".

Page 3, line 25, reset in roman "at a reasonable cost;".

Page 3, line 30, after "and" insert "**at the time of publication serve by**".

Page 3, line 37, reset in roman "Whenever a district evaluates the reasonableness of cost under".

Page 3, reset in roman lines 38 through 39.

Page 3, line 39, beginning with "(1)" begin a new line block indented.

Page 3, line 40, reset in roman "district or in similar demographic areas within Indiana; and (2) if".

Page 3, line 40, after "it" delete "If".

Page 3, line 40, beginning with "(2)" begin a new line block indented.

Page 4, line 3, beginning with "(A)" begin a new line double block indented.

Page 4, line 3, reset in roman "(A)".

Page 4, line 3, delete "(1)".

Page 4, line 5, reset in roman "(B)".

Page 4, line 5, delete "(2)".

Page 4, line 7, reset in roman "(C)".

Page 4, line 7, delete "(3)".

Page 4, line 8, reset in roman "(D)".

Page 4, line 8, delete "(4)".

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Page 4, after line 8, begin a new paragraph and insert:

"SECTION 4. [EFFECTIVE JANUARY 1, 1998 (RETROACTIVE)] IC 13-21-3-14 and IC 13-21-3-14.5, as amended by this act, do not apply to a contract executed before April 1, 1998.

SECTION 5. An emergency is declared for this act."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to Senate Bill 387 as introduced.)

GARD, Chairperson

Committee Vote: Yeas 9, Nays 2.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Environmental Affairs, to which was referred Senate Bill 387, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 13-21-3-5, AS ADDED BY P.L. 1-1996, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 5. (a) Except as provided in subsections (b) through (d), the board of a county district consists of the following members:

(1) Two (2) members appointed by the county executive from the membership of the county executive.

(2) One (1) member appointed by the county fiscal body from the membership of the fiscal body.

(3) One (1) member:

(A) who is the executive of the municipality having the largest population in the county if that municipality is a city; or

(B) appointed from the membership of the legislative body of a town if the town is the municipality having the largest population in the county.

(4) One (1) member of the legislative body of the municipality with the largest population in the county appointed by the legislative body of that municipality.

(5) One (1) member:

(A) who is the executive of a city in the county that is not the municipality having the largest population in the county; or

(B) who is a member of the legislative body of a town that is not the municipality having the largest population in the county;

and who is appointed by the executive of that county to represent the municipalities in the county other than the municipality having the largest population.

(6) One (1) additional member appointed by the county executive from the membership of the county executive.

(b) If a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000) is designated as a county district, the executives of the three (3) cities in the county having the largest populations each serve as a member of the board **or may appoint a member of the legislative body of their city to serve as a member of the board.** If a county having a population of more than two hundred thousand (200,000) but less than

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three hundred thousand (300,000) is designated as a county district, the executives of the two (2) cities in the county having the largest populations each serve as a member of the board. If a county having a population of more than two hundred thousand (200,000) but less than three hundred thousand (300,000) is designated as a county district, the board of that county district must include the following:

(1) One (1) member of the legislative body of the city having the second largest population in the county, appointed by the president of the city legislative body.

(2) One (1) member of the legislative body of a town located in the county, appointed by the judge of the circuit court in the county.

(c) If a county having a consolidated city is designated a county district, the board of public works established under IC 36-3-5-6 constitutes the board of the county district.

(d) If a county designated as a county district has a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000), the board of the district consists of the following members:

(1) One (1) member appointed by the county executive from the membership of the county executive.

(2) Two (2) members appointed from the county fiscal body appointed from the membership of the county fiscal body.

(3) The executive of each second or third class city **or a member of the legislative body of their city appointed by the executive.**

(4) One (1) member of the legislative body of each town appointed by the legislative body.

(5) One (1) member of the legislative body of the municipality with the largest population in the county appointed by the legislative body of that municipality.

(6) If a local government unit in the county has an operating final disposal facility located within the unit's jurisdiction, one (1) member of the unit's board of public works appointed by the board of public works."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to Senate Bill 387 as printed January 30, 1998.)

STURTZ, Chair

Committee Vote: yeas 13, nays 0.

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