

SENATE BILL No. 387

DIGEST OF INTRODUCED BILL

Citations Affected: IC 13-21-3.

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. Limits the total balance of all funds, other than the nonreverting capital fund maintained by a solid waste management district, to 25% of the district's annual expenditures, and requires that funds in excess of that amount must be used for certain purposes. Removes the evaluation of cost from consideration when determining the need for a solid waste management district to provide waste management services.

Effective: July 1, 1998.

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January 9, 1998, read first time and referred to Committee on Governmental and Regulatory Affairs.

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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.

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 13-21-3-14, AS ADDED BY P.L.125-1996,
- 2 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 3 JULY 1, 1998]: Sec. 14. (a) **Except as provided in subsection (c)**, the
- 4 powers of a district do not include the following:
- 5 (1) The power of eminent domain.
- 6 (2) Except as provided in subsection (b), the power to exclusively
- 7 control the collection or disposal of solid waste ~~and or~~ recyclables
- 8 within the district **by means that include the following:**
- 9 (A) **Contractual obligations.**
- 10 (B) **Franchising.**
- 11 (C) **Establishing territories within which a person may**
- 12 **provide service.**
- 13 (3) **The power to establish the type of service that a person**
- 14 **must provide for the collection or disposal of solid waste or**
- 15 **recyclables within the district.**
- 16 (4) **The power to establish fees that a person must charge for**
- 17 **the collection or disposal of solid waste or recyclables within**



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1 **the district.**

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

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

9 SECTION 2. IC 13-21-3-14.3 IS ADDED TO THE INDIANA
10 CODE AS A NEW SECTION TO READ AS FOLLOWS
11 [EFFECTIVE JULY 1, 1998]: **Sec. 14.3. (a) The total balance of all
12 funds maintained by the solid waste management district, other
13 than a nonreverting capital fund maintained under
14 IC 13-21-3-12(24) by a solid waste management district, may not
15 exceed twenty-five percent (25%) of the district's total actual
16 annual expenditures.**

17 **(b) The district must use funds in excess of the amount
18 described in subsection (a) to offset tipping fees, property tax
19 revenues, or other fees and taxes imposed by the district in the
20 following year.**

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

25 (1) The continuation of waste management services that a solid
26 waste district provides with its facilities or work force before
27 March 15, 1996.

28 (2) Waste management services provided to the district under an
29 agreement entered into by the district before March 15, 1996,
30 with another person until the agreement terminates by its terms or
31 is terminated for cause.

32 (3) The development, operation, and contracting for the
33 development or operation of a publicly owned solid waste landfill
34 in a county having a population of more than one hundred seven
35 thousand (107,000) but less than one hundred eight thousand
36 (108,000). The operation of the landfill must have begun before
37 July 1, 2001.

38 (4) A contract entered into between the board and a third party
39 before May 1, 1997, for the development or operation of a solid
40 waste landfill in a county having a population of more than four
41 hundred thousand (400,000) but less than seven hundred thousand
42 (700,000). The third party is limited to those parties that



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1 submitted proposals to the board under a formal request for
 2 proposals that were selected by the board, before December 1,
 3 1995, as finalists in the contract negotiations.

4 (5) A contract between a board and a third party to operate a
 5 facility that is owned by the district and for which construction
 6 was substantially complete before March 1, 1996.

7 (b) Except as provided in subsection (c), a district may not:

8 (1) undertake to provide waste management services by means of
 9 its own work force; or

10 (2) contract with any person to provide ~~solid~~ waste management
 11 services.

12 (c) A district may perform the activities described in subsection (b),
 13 if:

14 (1) the board is able to adopt a resolution under subsection (d);
 15 and

16 (2) a private sector entity is not willing or able to provide waste
 17 management services at a reasonable cost to ~~within~~ the district or
 18 if requested to do so by a unit of government that performs the
 19 activities with the unit's work force.

20 (d) The board may adopt a resolution determining that the district
 21 must either provide ~~solid~~ waste management services by means of its
 22 own work force or contract with a person to provide ~~solid~~ waste
 23 management services, only if the board finds that:

24 (1) the ~~solid~~ waste management service is not currently available
 25 in the district; at a reasonable cost; and

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

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

30 (e) A district shall provide notice by publication under IC 5-3-1 and
 31 first class mail to any person that delivers to the district an annual
 32 written request for notices before January 1 of any meeting to consider
 33 adoption of a resolution making a preliminary determination that it is
 34 necessary for the district to undertake to provide ~~solid~~ waste
 35 management services by means of its own work force or contract with
 36 any person to provide ~~solid~~ waste management services.

37 (f) ~~Whenever a district evaluates the reasonableness of cost under
 38 this section, it shall:~~

39 ~~(1) compare the cost of the same level of service provided in the
 40 district or in similar demographic areas within Indiana; and (2) if it
 41 If the district wishes to provide the service waste management services
 42 with its own facilities or work force, the district must disclose the~~



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- 1 entire cost of providing the service by the district, including the
- 2 following:
- 3 ~~(A)~~ **(1)** subsidies arising from taxes, fees, grants, or
- 4 intergovernmental transfers;
- 5 ~~(B)~~ **(2)** in-kind contributions of real estate, interests in real estate,
- 6 equipment, personnel, or other assets;
- 7 ~~(C)~~ **(3)** discounts; and
- 8 ~~(D)~~ **(4)** tax exemptions.

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