

HOUSE BILL No. 1187

DIGEST OF INTRODUCED BILL

Citations Affected: IC 14-39.

Synopsis: Wastewater treatment for unincorporated areas. Provides for the establishment of a rural community wastewater district in an unincorporated area having a population of less than 1,250. Requires the creation of the wastewater district to be initiated through petition, and provides for remonstrance against creation. Provides the circuit court with jurisdiction over the township having the most land in the district as the court with jurisdiction over the petition and over future hearings of the district. Requires public hearings by the circuit court and by the township board on the petition. Requires the township board having the most land in the district to review the petition, to consult with other township boards that contain land in the district, to make
(Continued next page)

Effective: July 1, 1999.

Mangus

January 6, 1999, read first time and referred to Committee on Agriculture, Natural Resources and Rural.

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Digest Continued

findings related to the district, and to make a report to the circuit court. Provides for an advisory board to oversee the district. Provides that the advisory board is composed of five members: (1) three members elected by the residents of the district; (2) one member appointed by the township board of the township having the most land in the district; and (3) one member appointed by the township trustee of the township having the most land in the district. Provides for the duties and powers of the advisory board and the administration of the district. Allows the district to collect fees, user charges, and penalties. Provides the district with the authority to file a lien for past due fees, user charges, or penalties. Allows the district to seek funding from the wastewater revolving loan fund. Provides the district with the ability to issue revenue obligations.

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Introduced

First Regular Session 111th General Assembly (1999)

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 1998 General Assembly.

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HOUSE BILL No. 1187



A BILL FOR AN ACT to amend the Indiana Code concerning local government.

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

1 SECTION 1. IC 14-39 IS ADDED TO THE INDIANA CODE AS
 2 A **NEW ARTICLE** TO READ AS FOLLOWS [EFFECTIVE JULY 1,
 3 1999]:
 4 **ARTICLE 39. RURAL COMMUNITY WASTEWATER**
 5 **DISTRICT**
 6 **Chapter 1. Applicability and Purpose**
 7 **Sec. 1. This article applies to an unincorporated area with a**
 8 **population of less than one thousand two hundred fifty (1,250)**
 9 **according to:**
 10 (1) **the most recent federal census; or**
 11 (2) **if the most recent federal census figure is not available, a**
 12 **census approved by the state board of finance.**
 13 **Sec. 2. A rural community wastewater district may be**
 14 **established by an eligible entity to provide for the:**
 15 (1) **collection, treatment, and disposal of wastewater, sewage,**



1 and other liquid wastes; and
2 (2) operation, maintenance, cleaning, or repair of wastewater
3 treatment and disposal systems within the district.

4 **Chapter 2. Definitions**

5 **Sec. 1. The definitions in this chapter apply throughout this**
6 **article.**

7 **Sec. 2. "Advisory board" refers to the rural community**
8 **wastewater district advisory board established by IC 14-39-4-1.**

9 **Sec. 3. "District" refers to a rural community wastewater**
10 **district established under this chapter.**

11 **Sec. 4. "Eligible entity" means an unincorporated area that, at**
12 **the time of the submission of an application, has a population of**
13 **less than one thousand two hundred fifty (1,250) according to:**

- 14 (1) the most recent federal census; or
- 15 (2) if the most recent federal census figure is not available, a
- 16 census approved by the state board of finance.

17 **A hospital, a school, a church, a factory, a commercial**
18 **establishment, or an institution of any kind served or to be served**
19 **by a rural community sewer district is not considered to have a**
20 **population equivalent for the purpose of determining the entity's**
21 **eligibility. An eligible entity may cross county boundaries.**

22 **Sec. 5. "Township board" refers to the legislative body of the**
23 **township having the most land in the district or proposed district.**

24 **Sec. 6. "Township trustee" refers to the trustee of the township**
25 **having the most land in the district or proposed district.**

26 **Sec. 7. "Wastewater" means any of the following:**

- 27 (1) Human excreta, water, scum, sludge, and sewage from
- 28 sewage disposal systems, retained contents of wastewater
- 29 holding tanks, or portable sanitary units.
- 30 (2) Grease, fats, and retained wastes from grease traps or
- 31 interceptors.
- 32 (3) Wastes carried in liquid from ordinary living processes.
- 33 (4) Incidental or accidental seepage from sewage disposal
- 34 systems.

35 **Chapter 3. Establishment**

36 **Sec. 1. Freeholders who desire the establishment of a district**
37 **must initiate proceedings by filing a petition in the office of the**
38 **clerk of the circuit court with jurisdiction in the township**
39 **containing the most land within the proposed district.**

40 **Sec. 2. A petition filed under section 1 of this chapter must be**
41 **signed by freeholders owning land in the proposed district in the**
42 **minimum number or proportion of all freeholders in the proposed**

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district as follows:

- (1) Districts of not more than one hundred (100) freeholds, thirty percent (30%) of the freeholders.**
- (2) Districts of at least one hundred one (101) and not more than five hundred (500) freeholds, fifteen percent (15%) of the freeholders but not less than seventy-five (75) signatures.**
- (3) Districts of at least five hundred one (501) freeholds, ten percent (10%) of the freeholders but not less than one hundred (100) signatures.**

Sec. 3. To determine the number of freeholds in the proposed district and the number or proportion of freeholders owning land in the district qualified to sign a petition for establishment, the following apply:

- (1) Only one (1) freeholder's signature may be counted for any one (1) freehold. If a freehold is held in joint title, only one (1) freeholder's signature may be counted, and it may be the signature of any one (1) of the freeholders owning the freehold in joint title. If a given freeholder qualifies as set forth in this section for at least two (2) freeholds, the freeholder's signature shall be counted for each freehold.**
- (2) One (1) or more tracts of land owned solely by only one (1) freeholder constitute one (1) freehold.**
- (3) One (1) or more tracts of land owned in joint title by at least two (2) identical freeholders constitute one (1) freehold. However, if one (1) of the freeholders owning the freehold in joint title is a different or additional person, each freehold in joint title among nonidentical persons constitutes a separate and additional freehold.**
- (4) An officer authorized by a private corporation owning land in the proposed district may sign the petition. The officer's signature is prima facie evidence of the officer's authorization to sign the petition.**

Sec. 4. A petition must contain the following:

- (1) The name for the proposed district, which should be in the form of "_____ Rural Community Wastewater District".**
- (2) A description of the territory to be included, not necessarily by metes and bounds, but sufficiently accurate to inform the court and apprise the landowners of the possibility of the inclusion of their land in the district.**
- (3) A statement of each specific purpose for which the district is to be established.**
- (4) A statement of the necessity of accomplishing each**

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1 **purpose.**

2 **(5) A statement that the creation of the district will be**
3 **conducive to the public health, safety, or welfare.**

4 **(6) A statement that the costs and damages of and to be paid**
5 **solely by the district will probably be less than the benefits**
6 **received in the district.**

7 **(7) Whether the petition is conditioned upon a grant of federal**
8 **or state money, or both, identifying the money upon which the**
9 **petition is conditioned.**

10 **(8) Whether conditions attached to federal or state aid, or**
11 **both, are acceptable if the federal or state government, or**
12 **both, offer a grant of money.**

13 **Sec. 5. A petition may be circulated in several counterparts and**
14 **still constitute a single petition.**

15 **Sec. 6. (a) The petitioners must post a bond sufficient to pay the**
16 **cost of notice and all legal costs of the court connected with the**
17 **proceedings in case the court refuses to establish the district and**
18 **dismisses the petition.**

19 **(b) The petitioners shall pay the cost of notice and all legal costs**
20 **if the court dismisses the petition.**

21 **Sec. 7. The circuit court with jurisdiction in the township having**
22 **the most land in the proposed district has exclusive jurisdiction**
23 **over the establishment of the district. If the district is established,**
24 **this court also has exclusive jurisdiction over all further hearings**
25 **in connection with the district.**

26 **Sec. 8. (a) A court in which a petition is filed shall order the**
27 **proceedings transferred to the court having jurisdiction under**
28 **section 7 of this chapter if:**

- 29 **(1) the petition was filed in the wrong court by mistake; or**
30 **(2) the petition is amended so that another township has more**
31 **land in the proposed district.**

32 **(b) The court that establishes a district retains jurisdiction over**
33 **the district regardless of a change in area of the district that results**
34 **from later proceedings.**

35 **Sec. 9. Upon receipt of a petition for the establishment of a**
36 **district, the court shall docket the petition as a civil case and set a**
37 **date for hearing. The court shall give priority to the hearing in**
38 **determining the date, but the court must allow at least thirty (30)**
39 **days for interested persons to receive notice.**

40 **Sec. 10. The petitioners shall give notice of a hearing on the**
41 **petition as follows:**

- 42 **(1) By publication in two (2) newspapers of general**

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1 circulation in each township having land in the proposed
 2 district three (3) times at successive weekly intervals. The first
 3 publication must be at least thirty (30) days before the date of
 4 the hearing. If there is only one (1) newspaper of general
 5 circulation in a township, three (3) publications in that
 6 newspaper are sufficient.

7 (2) By mailing a copy of the notice at least twenty (20) days
 8 before the date of the hearing, first class postage prepaid, to
 9 each freeholder who has not signed the petition and who owns
 10 land in the proposed district, according to the records of the
 11 county auditor. The person mailing the notice shall file an
 12 affidavit with the court showing the following:

13 (A) The names of the persons to whom the notice was sent.

14 (B) The address to which the notice was sent.

15 (C) The date on which the notice was mailed.

16 **Sec. 11. Notice of the hearing on a petition serves as notice of all**
 17 **further proceedings in connection with the district.**

18 **Sec. 12. The notice of the hearing on the petition, in addition to**
 19 **all other requirements, must contain the following:**

20 (1) A statement that a petition for a district is before the
 21 court.

22 (2) A statement of each purpose for which the district is
 23 proposed.

24 (3) A statement as to which townships the area of the
 25 proposed district lies within, in whole or in part.

26 (4) The place of the hearing.

27 (5) The date of the hearing.

28 **Sec. 13. (a) A petition against the establishment of a district may**
 29 **be presented to the court at the hearing on a petition.**

30 (b) If the court finds that a petition against the establishment of
 31 a district contains the signatures of:

32 (1) at least fifty-one percent (51%) of the freeholders in the
 33 proposed district; or

34 (2) the freeholders who own at least sixty-six and sixty-seven
 35 hundredths percent (66.67%) of the total assessed valuation
 36 of the district as determined by the assessed valuation of the
 37 real property in the proposed district;

38 the court shall dismiss the petition for the establishment of the
 39 district.

40 (c) Sections 3 and 6 of this chapter apply to this section.

41 **Sec. 14. (a) At the hearing on a petition for the establishment of**
 42 **a district, the court shall determine whether the petition:**

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- 1 (1) bears the necessary signatures; and
 2 (2) complies with the requirements as to form and content.
 3 (b) The court may not dismiss a petition with the requisite
 4 signatures because of alleged defects without permitting, in this or
 5 subsequent proceedings, amendments to correct errors in form or
 6 content. The court shall hear any interested person on the question.
 7 (c) The following are prima facie evidence concerning the
 8 requirements for signatures on a petition:
 9 (1) Verified certification, based on personal knowledge or
 10 information and belief, by:
 11 (A) the persons who carried the petition; or
 12 (B) other persons knowing the facts as to the identity of the
 13 persons signing the petition and as to the ownership by
 14 those persons of land within the proposed district.
 15 (2) The records of the county auditor or county treasurer.
 16 (d) The determination of:
 17 (1) the number of freeholds; and
 18 (2) the necessary number and identity of freeholders;
 19 shall be made as of the date of filing a petition. If the petition as of
 20 that date bears the necessary number of signatures, the petition
 21 may not be dismissed because petitioners withdraw signatures that
 22 reduce the number of signatures below the required amount unless
 23 the withdrawals constitute more than fifty percent (50%) of the
 24 signers as of the date of filing.
 25 Sec. 15. (a) If the court determines that a petition conforms to
 26 the requirements, the court shall enter an order referring the
 27 petition to the township board.
 28 (b) The township board shall consult with all other township
 29 boards that contain land in the proposed district and shall make a
 30 determination and report to the court whether the proposed
 31 district meets the following conditions:
 32 (1) The proposed district appears to be necessary.
 33 (2) The proposed district holds promise of economic and
 34 engineering feasibility.
 35 (3) The proposed district seems to offer benefits in excess of
 36 costs and damages.
 37 (4) Whether the public health will be served immediately or
 38 prospectively by the establishment of the district for sewage
 39 treatment and disposal.
 40 (5) The proposed district proposes to cover and serve a proper
 41 area.
 42 (6) The proposed district could be established and operated in

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1 a manner compatible with established:

- 2 (A) conservancy districts;
 3 (B) flood control projects;
 4 (C) reservoirs;
 5 (D) lakes;
 6 (E) drains;
 7 (F) levees; and
 8 (G) other water management or water supply projects.

9 (c) The fact that all the land included in the proposed district is
 10 owned by one (1) freeholder or a limited number of freeholders is
 11 not a sufficient reason for the township board or the court to make
 12 unfavorable findings on the question of the establishment of the
 13 district. However, it must appear from the evidence that the land
 14 is subdivided or intended for subdivision and development and that
 15 the accomplishment of the purposes proposed and in the manner
 16 proposed would be necessary and desirable for the person
 17 acquiring and using the land after subdivision and development.

18 Sec. 16. (a) In determining the facts, the township board
 19 reviewing the petition shall hold hearings at which any interested
 20 person has the right to be heard.

21 (b) The township board shall give notice of the hearings by
 22 publication at least one (1) time in one (1) newspaper of general
 23 circulation in each township containing land in the proposed
 24 district.

25 Sec. 17. The expenses of the hearings, other expenses of
 26 necessary investigations and surveys, and expenses incurred by the
 27 township board in subsequent studies of district plans are payable
 28 initially out of the general money of the township that contains the
 29 most land in the district. The district shall repay the expenditures
 30 to the township from the district's planning money. Township
 31 board expenses include expenses incurred by an assisting or a
 32 cooperating state agency.

33 Sec. 18. (a) If a proposed purpose is within the administrative
 34 jurisdiction of another state agency, the township board shall
 35 request technical assistance of the agency and give full weight to
 36 the agency in making a report to the court.

37 (b) State agencies shall furnish assistance to the township board
 38 necessary to accomplish the purposes of this article.

39 Sec. 19. The township board shall make a report of the township
 40 board's findings to the court, including findings on the territorial
 41 limits of the proposed district. The township board shall make this
 42 report within one hundred twenty (120) days after the petition is



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1 referred to the township board, unless the township board requests
2 and receives approval from the court for additional periods of
3 thirty (30) days each.

4 **Sec. 20.** The fact finding report of the township board on the
5 proposed district is prima facie evidence of the facts stated in the
6 report in all subsequent proceedings.

7 **Sec. 21. (a)** The court may permit amendments to a petition to
8 conform to the findings of the township board.

9 (b) If a petition is amended to include additional land other than
10 the land published in the notice for hearing on the petition, the
11 court may make a final determination on the establishment of the
12 district only after there is published notice of the amendments or
13 of motion to amend by the petitioners. The petitioners also shall
14 mail a notice of the amendments or of the motion to amend to all
15 freeholders of the additional land according to section 10 of this
16 chapter, including mailing of notice under section 12 of this
17 chapter.

18 (c) If a petition is amended to include additional land:

19 (1) the requirements regarding signatures in sections 2 and 3
20 of this chapter must be satisfied as if the land had been
21 included in the petition as originally filed; and

22 (2) the following may be filed with the court at any time
23 before the conclusion of the hearing after the receipt of the
24 commission's report:

25 (A) Additional signatures to the petition for the
26 establishment of the district.

27 (B) Signatures to a petition against the establishment of a
28 district.

29 (C) Withdrawals from either petition.

30 **Sec. 22. (a)** Upon receipt of the township board's report, the
31 court shall set a date for a hearing. The court shall give priority to
32 this hearing in determining the date, but the court must allow at
33 least twenty-one (21) days for interested persons, including
34 petitioners, to file exceptions.

35 (b) The court shall order notice for this hearing as the court
36 considers necessary, but at least one (1) publication must be made
37 in one (1) newspaper of general circulation in each township
38 having land in the proposed district.

39 **Sec. 23. (a)** If the court finds that the evidence supports the
40 statements in a petition, the court shall order the district
41 established for the purposes named in the petition.

42 (b) If the court finds that the evidence supports at least one (1)

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1 of the purposes named in a petition but does not support at least
 2 one (1) of the other purposes, the court shall order the district
 3 established only for the purposes the court finds supported by the
 4 evidence.

5 **Sec. 24. If the court orders a district established, the court shall,**
 6 **in the order establishing the district:**

7 (1) appoint temporary members to the elected positions of the
 8 advisory board, until the next general election when elected
 9 members shall assume the elected offices;

10 (2) direct the:

11 (A) township board of the township that contains the most
 12 land in the district; and

13 (B) township trustee of the township that contains the most
 14 land in the district;

15 to fill the advisory board member vacancy for which they are
 16 responsible under IC 14-39-4-2 not later than thirty (30) days
 17 after the date of the order establishing the district; and

18 (3) determine the time of the annual meeting of the district,
 19 which must be before March 1 each year.

20 **Sec. 25. An order:**

21 (1) dismissing a petition; or

22 (2) establishing a district;

23 may be appealed to the court of appeals within thirty (30) days.

24 **Sec. 26. If:**

25 (1) a district is established by order of the court and an appeal
 26 is not taken within thirty (30) days; or

27 (2) an order establishing a district is affirmed by the supreme
 28 court;

29 the establishment of the district is final and may not be directly or
 30 collaterally questioned in an action or proceeding.

31 **Sec. 27. If a petition is dismissed:**

32 (1) because the court finds that the evidence does not support
 33 the petition according to section 25 of this chapter; or

34 (2) according to section 14 of this chapter;

35 a new petition may not be addressed to any court to establish a
 36 district with essentially the same boundaries for any of the same
 37 purposes for two (2) years after the date of the order dismissing the
 38 petition. However, a petition dismissed for want of jurisdiction,
 39 including an insufficient number of signatures, may be refiled at
 40 any time after the correction of the jurisdictional defect.

41 **Chapter 4. Establishment of Advisory Board**

42 **Sec. 1. A rural community wastewater district advisory board**

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1 is established in each rural community wastewater district.

2 **Sec. 2. (a) The rural community wastewater district advisory**
3 **board consists of five (5) members.**

4 **(b) The board is composed of:**

5 **(1) three (3) members elected by the eligible voters of the**
6 **district;**

7 **(2) one (1) member appointed by the township board of the**
8 **township that contains the most land in the district; and**

9 **(3) one (1) member appointed by the township trustee of the**
10 **township that contains the most land in the district.**

11 **(c) Each member serves a term of four (4) years, beginning**
12 **January 1.**

13 **(d) Members of the advisory board may not receive**
14 **compensation for their service to the advisory board.**

15 **Sec. 3. To be eligible to be a candidate for the advisory board**
16 **the following apply:**

17 **(1) Each prospective candidate must file a nomination petition**
18 **with the clerk of the circuit court at least seventy-four (74)**
19 **days before the primary election at which the members are to**
20 **be elected that includes the following information:**

21 **(A) The name of the prospective candidate.**

22 **(B) A certification that the candidate meets the**
23 **qualifications for candidacy under this chapter.**

24 **(C) A certification that the candidate lives in the district**
25 **and has resided within the district for at least the three (3)**
26 **years immediately preceding the election.**

27 **(2) Each prospective candidate, regardless of whether the**
28 **candidate is a district candidate or an at-large candidate,**
29 **must:**

30 **(A) be a registered voter and must have been a registered**
31 **voter for at least three (3) consecutive years immediately**
32 **preceding the election; and**

33 **(B) be a high school graduate or have received a:**

34 **(i) high school equivalency certificate; or**

35 **(ii) state of Indiana general educational development**
36 **(GED) diploma under IC 20-10.1-12.1.**

37 **(3) A prospective candidate may not:**

38 **(A) hold another elective or appointive office; or**

39 **(B) have a pecuniary interest in a contract with the**
40 **district;**

41 **as prohibited by law.**

42 **Sec. 4. The three (3) candidates who receive the most votes of all**

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1 candidates against whom the candidates run are elected.

2 **Sec. 5.** The township board, with assistance from the county
3 election board, shall establish balloting procedures under IC 3 for
4 the election and all other procedures required to implement this
5 chapter.

6 **Sec. 6. (a)** A vacancy on the advisory board must be filled
7 temporarily by the:

- 8 (1) advisory board if the vacancy is an elected member; or
- 9 (2) appointing authority if the vacancy is an appointed
10 member;

11 as soon as practicable after the vacancy occurs.

12 (b) A vacancy on the advisory board is filled in the same manner
13 as the member creating the vacancy was selected. The advisory
14 board shall fill a vacancy created by an elected member of the
15 advisory board with a resident of the district.

16 **Chapter 5. Administration and Procedures**

17 **Sec. 1.** The advisory board shall do the following:

- 18 (1) Exercise general supervision of and issue regulations for
19 the administration of the affairs of the district.
- 20 (2) Prescribe uniform rules pertaining to investigations and
21 hearings.
- 22 (3) Supervise the fiscal affairs and responsibilities of the
23 district.
- 24 (4) Prescribe the qualifications of, appoint, remove, and fix
25 the compensation of the employees of the district. The
26 compensation must be reasonable and similar in amount to
27 the compensation allowed employees performing similar
28 service for the state and political subdivisions of the state. The
29 board may hire a manager to oversee the day to day
30 operations of the district. The advisory board may delegate to
31 employees authority to perform ministerial acts in all cases
32 except where final action of the board is necessary.
- 33 (5) Keep an accurate and complete record of all district
34 proceedings and record and file all bonds and contracts,
35 assuming responsibility for the custody and preservation of all
36 papers and documents of the district.
- 37 (6) Make an annual report to the township board and the
38 township trustee of income and expenses. The report must be
39 submitted not later than thirty (30) days after the annual
40 meeting and may include any of the following:
 - 41 (A) A statement of the progress in accomplishing each
42 purpose for which the district is established.

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- 1 **(B) Any matter that the board believes should be brought**
- 2 **to the attention of the township board or township trustee**
- 3 **for instructions or approval.**
- 4 **(7) Adopt a seal and certify all official acts.**
- 5 **(8) Sue and be sued collectively by the legal name " _____**
- 6 **Rural Community Wastewater District", with service of**
- 7 **process made on the chairman of the board. However, costs**
- 8 **may not be taxed against the directors individually in an**
- 9 **action.**
- 10 **(9) Invoke any legal, equitable, or special remedy for the**
- 11 **enforcement of this article or of any proper action of the**
- 12 **board in a court.**
- 13 **(10) If advisable, establish an advisory committee.**
- 14 **(11) Exercise the powers granted under this article to**
- 15 **accomplish the purpose for which the district is established.**
- 16 **(12) Insure property, personnel, and operations of the district**
- 17 **against risks and in amounts that the board determines**
- 18 **necessary to protect the district.**
- 19 **(13) Authorize construction and oversee any project necessary**
- 20 **to accomplish the purpose for which the district is established.**
- 21 **(14) Collect fees, user charges, and penalties assessed against**
- 22 **real property in the district.**
- 23 **Sec. 2. (a) The advisory board shall meet at least monthly,**
- 24 **including an annual meeting on the date set by the court in the**
- 25 **order establishing the district.**
- 26 **(b) At the annual meeting the advisory board shall elect a chair**
- 27 **and a vice chair to preside over the meetings of the advisory board.**
- 28 **The vice chair may act as chair during the absence or disability of**
- 29 **the chair. The chair shall promptly notify in writing the:**
- 30 **(1) township board of each township that contains land in the**
- 31 **district;**
- 32 **(2) township trustee of each township that contains land in the**
- 33 **district; and**
- 34 **(3) circuit court;**
- 35 **of the names and addresses of the officers and directors of the**
- 36 **district.**
- 37 **(c) The vice chair of the advisory board is the officer responsible**
- 38 **for the collection of fees, user charges, and penalties. The vice chair**
- 39 **must make quarterly reports to the advisory board regarding**
- 40 **actions the vice chair has taken for the collection of past due fees**
- 41 **under sections 4 and 5 of this chapter.**
- 42 **Sec. 3. (a) At the first meeting of the first advisory board, the**

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1 advisory board shall adopt by majority vote a resolution
 2 designating the location in the district where the district will
 3 maintain an office. The advisory board may adopt a resolution by
 4 majority vote at any meeting of the advisory board to change the
 5 location of the district's office. The advisory board shall report the
 6 location of the office and a change in location to the court
 7 establishing the district.

8 (b) The advisory board shall do the following:

9 (1) Arrange for office space.

10 (2) Keep a record in the office of all transactions and minutes
 11 of all meetings.

12 (3) Keep all records and minutes available for inspection by
 13 any interested person of the district during the hours that the
 14 district office is open for business.

15 **Sec. 4. (a) Fees, user charges, and penalties assessed against real**
 16 **property under this chapter constitute a lien against the property**
 17 **assessed. The lien is superior to all other liens except tax liens.**
 18 **Except as provided in subsections (b) and (c), the lien attaches**
 19 **when notice of the lien is filed in the county recorder's office under**
 20 **section 5 of this chapter.**

21 (b) A fee is not enforceable as a lien against a subsequent owner
 22 of property unless the lien for the fee was recorded with the county
 23 recorder before the conveyance to the subsequent owner. If the
 24 property is conveyed before the lien can be filed, the advisory
 25 board shall notify the person who owned the property at the time
 26 the fee became payable. The notice must inform the person that
 27 payment, including penalty fees for delinquencies, is due not less
 28 than fifteen (15) days after the date of the notice. If payment is not
 29 received within one hundred eighty (180) days after the date of the
 30 notice, the amount due may be expensed as a bad debt loss.

31 (c) A lien attaches against real property occupied by someone
 32 other than the owner only if the advisory board notifies the owner
 33 within twenty (20) days after the time the district fees became sixty
 34 (60) days delinquent. However, the advisory board is required to
 35 give notice to the owner only if the owner has given the advisory
 36 board written notice of the address to which the notice is to be sent.

37 (d) The advisory board shall release:

38 (1) liens filed with the county recorder after the recorded date
 39 of conveyance of the property; and

40 (2) delinquent fees incurred by the seller;

41 upon receipt of a verified demand in writing from the purchaser.
 42 The demand must state that the delinquent fees were not incurred

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1 by the purchaser as a user, lessee, or previous owner and that the
2 purchaser has not been paid by the seller for the delinquent fees.

3 **Sec. 5. (a) The vice chair of the advisory board may defer**
4 **enforcing the collection of unpaid fees and penalties assessed under**
5 **this chapter until the unpaid fees and penalties have been due and**
6 **unpaid for at least ninety (90) days.**

7 (b) The vice chair of the advisory board is charged with the
8 collection of fees and penalties assessed under this chapter and
9 shall enforce their payment. The vice chair shall, not more than
10 four (4) times in any calendar year, prepare a list of the delinquent
11 fees and penalties that are enforceable under this section, which
12 must include:

13 (1) the name or names of the owner or owners of each lot or
14 parcel of real property on which fees are delinquent;

15 (2) the description of the premises, as shown by the records of
16 the county auditor; and

17 (3) the amount of the delinquent fees and the penalty.

18 (c) The vice chair shall record a copy of each list with the county
19 recorder who shall charge a fee for recording it in accordance with
20 the fee schedule established in IC 36-2-7-10. The vice chair shall
21 then mail to each property owner on the list a notice stating that a
22 lien against the owner's property has been recorded.

23 (d) The vice chair shall release any recorded lien when the
24 delinquent fees, penalties, service charges, and recording fees have
25 been fully paid. The county recorder shall charge a fee for
26 releasing the lien in accordance with IC 36-2-7-10.

27 (e) A district may foreclose a lien established by this chapter in
28 order to collect fees, user charges, and penalties after the amounts
29 have been past due for one hundred twenty (120) days. The district
30 shall recover the amount of the fees, user charges, and penalties
31 plus a reasonable attorney's fee. The court shall order the sale to
32 be made without relief from valuation or appraisal laws.

33 **Sec. 6. (a) The advisory board may borrow from the wastewater**
34 **revolving loan fund established in IC 13-18-13 for the construction,**
35 **modernization, enlargement, or alteration of a sewage or**
36 **wastewater treatment system or a part of the system. Money**
37 **borrowed may be used to purchase, construct, enlarge, or**
38 **modernize reservoirs, wells, mains, meters, storage tanks, pumps,**
39 **filtering beds, chemical treatment facilities, and anything necessary**
40 **to collect, store, and process sewage.**

41 (b) The advisory board may receive and accept from any source,
42 public or private, any money, property, or thing of value to be held,



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1 used, and applied to carry out the purposes of this chapter subject
 2 to the conditions upon which the grants or contributions are made,
 3 including gifts or grants from any department, agency, or
 4 instrumentality of the United States for any purpose consistent
 5 with this chapter.

6 **Sec. 7. A loan may be used to pay the following:**

7 (1) Engineering, legal, and administrative costs incidental to
 8 the application for the loan and the program for construction
 9 for which the money is borrowed.

10 (2) Necessary construction and purchases.

11 **Sec. 8. (a) The advisory board of a district that desires a loan
 12 must do the following:**

13 (1) First pass a resolution to that effect.

14 (2) Prepare and submit an application to the department of
 15 environmental management.

16 **(b) An application must state the following:**

17 (1) The amount of the loan desired.

18 (2) A statement of the need for the wastewater treatment
 19 system.

20 (3) A statement of the program for which the money will be
 21 used, supported by a preliminary engineering report that
 22 includes cost studies.

23 (4) Written statements that the eligible entity is unable to
 24 borrow the amount of the loan from the commercial money
 25 market by the sale of revenue or other bonds that the eligible
 26 entity may sell. The statements must be signed by at least two

27 (2) individuals separately engaged in the business of buying
 28 and selling municipal bonds.

29 (5) A program for the repayment of the loan.

30 (6) Other information that the department requests.

31 **Sec. 9. Upon receipt of an application, the department of
 32 environmental management shall:**

33 (1) investigate the application;

34 (2) determine if the proposed system meets environmental
 35 standards; and

36 (3) prepare a report on the application.

37 **Sec. 10. (a) The department of environmental management shall
 38 forward the application and the report on the application to the
 39 state board of finance.**

40 **(b) The state board of finance shall consider the economic need
 41 of the eligible entity applying for the loan and the report from the
 42 department of environmental management.**

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1 (c) The state board of finance shall approve or disapprove the
 2 application. If the state board of finance approves the application,
 3 the auditor of state shall promptly make the money available to the
 4 district applying for the loan.

5 **Sec. 11. (a) A loan under this chapter:**

6 (1) may be made for a period not to exceed twenty (20) years;
 7 and

8 (2) must bear interest as follows:

9 (A) At the rate of one and one-half percent (1.5%) per year
 10 for the first eight (8) years.

11 (B) After that, at the rate of five percent (5%) per year
 12 until repaid in full.

13 (b) A district receiving a loan under this chapter must agree to
 14 the following:

15 (1) Repay the loan in equal annual installments of principal.

16 (2) Pay interest annually on the unpaid balance of the loan.

17 (c) The first installment must be paid not later than December
 18 31 of the year following the year in which the loan is made
 19 available.

20 (d) The borrower may make a repayment of the loan in full or
 21 in part at any time without interest penalty.

22 (e) A loan payable from revenues may be refunded by the
 23 district by the issuance of bonds, notes, or other evidences of
 24 indebtedness, secured by a pledge of revenues or in another
 25 manner under other statutes.

26 **Sec. 12. If:**

27 (1) the principal and interest on the loans from other sources
 28 are to be paid from revenues; and

29 (2) the advisory board also proposes to pay the principal and
 30 interest on the loan authorized by this chapter from revenues;
 31 the obligation of the advisory board to repay the principal and
 32 interest of the loan from revenues is subordinate to the other loans
 33 from other sources.

34 **Sec. 13. (a) This section applies if an eligible entity:**

35 (1) fails to make payments to the wastewater revolving loan
 36 fund or other payments required by this chapter; or

37 (2) is indebted to the wastewater revolving loan fund for
 38 amounts incurred or accrued.

39 (b) The state may recover the amounts the eligible entity owes
 40 to the wastewater revolving loan fund by either of the following
 41 methods:

42 (1) The state may institute an appropriate action in the circuit



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1 or superior court with jurisdiction in the county in which the
 2 eligible entity is located on the instigation of the state board
 3 of finance and the department. The attorney general shall
 4 prosecute the action.

5 (2) The auditor of state may withhold the payment and
 6 distribution of state money that the defaulting district is
 7 entitled to receive under any statute.

8 **Sec. 14. (a)** This section applies if the wastewater system
 9 constructed, modernized, enlarged, or altered from a loan provided
 10 under this chapter is sold to another eligible entity regardless of
 11 whether the entity may borrow money under this chapter.

12 (b) The purchasing entity shall either:

13 (1) repay the loan provided under this chapter in full; or

14 (2) agree with the state board of finance to assume all the
 15 obligations for repayment of the loan of the selling entity.

16 (c) Upon acceptance of this agreement by the purchasing entity,
 17 the state board of finance shall release the selling entity from
 18 further liability in connection with the loan.

19 (d) If the wastewater system constructed, modernized, enlarged,
 20 or altered from a loan provided under this chapter is sold to a
 21 utility without taxing power, the loan shall be repaid in full not
 22 later than thirty (30) days after the consummation of the sale.

23 **Sec. 15.** The advisory board may issue revenue obligations for
 24 the following purposes:

25 (1) To obtain funds to pay for:

26 (A) the acquisition of property; or

27 (B) the construction, alteration, or modification of any part
 28 of the wastewater system.

29 (2) Subject to covenants and agreements with the holders of
 30 outstanding obligations, to fund or refund revenue
 31 obligations. If the advisory board determines that it would be
 32 advantageous to the district to exchange funding or refunding
 33 obligations for the revenue obligations being funded or
 34 refunded, an exchange may be made if the actual interest cost
 35 is not increased.

36 **Sec. 16. (a)** Revenue obligations must be secured by a pledge of
 37 the unobligated income and revenues of the district. The advisory
 38 board also may secure the payment of the revenue obligations by
 39 a mortgage upon the property of the district for whose benefit the
 40 proceeds of the revenue obligations are to be used.

41 (b) In authorizing the issuance of the obligations for any
 42 particular property or properties, the advisory board may:



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- 1 **(1) limit the amount of the obligations that may be issued as**
- 2 **a first lien and charge against the property or properties and**
- 3 **the income and revenues from the property; and**
- 4 **(2) authorize the issuance from time to time of additional**
- 5 **obligations secured by the same pledge or lien to provide**
- 6 **funds:**
- 7 **(A) for the completion of the property, properties,**
- 8 **betterments, improvements, extensions, or additions for**
- 9 **which the original obligations were issued; and**
- 10 **(B) to pay the cost of additional utility properties,**
- 11 **betterments, improvements, extensions, or additions to the**
- 12 **property.**
- 13 **The additional obligations must be issued on the terms and**
- 14 **conditions determined by the advisory board and may be**
- 15 **secured equally and ratably, without preference, priority, or**
- 16 **distinction, with the original issue of obligations, or may be**
- 17 **made junior to the original issue.**
- 18 **Sec. 17. (a) The revenue obligations must be authorized by**
- 19 **resolution adopted by the advisory board and the terms,**
- 20 **conditions, and form of the obligations must be set out in the**
- 21 **resolution or in a form of trust indenture between the corporation**
- 22 **and a designated corporate trustee, or both.**
- 23 **(b) The revenue obligations must bear interest, not to exceed a**
- 24 **maximum rate to be determined by the advisory board, payable**
- 25 **annually or at shorter intervals and must mature at the time or**
- 26 **times as determined in the resolution or indenture. The obligations**
- 27 **may be made redeemable before maturity at the option of the**
- 28 **advisory board under terms and conditions fixed by the resolution**
- 29 **or indenture.**
- 30 **(c) The principal and interest of the revenue obligations may be**
- 31 **made payable in any lawful medium. The resolution or indenture**
- 32 **shall determine the form of obligations, including the interest**
- 33 **coupons if any are attached, and must fix the denomination or**
- 34 **denominations of the obligations and the place or places of**
- 35 **payment of the principal and interest, which may be at any bank**
- 36 **or trust company within or outside the state.**
- 37 **(d) Provision may be made for the registration of any of the**
- 38 **obligations in the name of the owner as to principal alone, or as to**
- 39 **both principal and interest, but fully registered obligations must be**
- 40 **made convertible to coupon obligations at the option of the**
- 41 **registered owner.**
- 42 **(e) Obligations issued under this chapter, including interest, are**

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1 exempt from all state, county, and municipal taxation.

2 (f) The resolution or the indenture may also include provisions
3 for:

4 (1) protecting and enforcing the rights and remedies of the
5 holders of the obligations being issued and covenants setting
6 forth the duties of the advisory board and its officers in
7 relation to:

8 (A) the acquisition, construction, operation, and
9 maintenance of, and insurance to be carried on, the
10 property or properties for which the obligations are being
11 issued; and

12 (B) the maintenance of rates and charges to be collected on
13 account;

14 (2) the custody, safeguarding, and application of all money
15 and the rights and remedies of the trustee and the holders of
16 the obligations being issued;

17 (3) the issuance of additional parity obligations or junior lien
18 obligations secured by a:

19 (A) pledge of the revenues; or

20 (B) pledge or mortgage of the revenues and property
21 described in the resolution or indenture; and

22 (4) other terms, conditions, limitations, and covenants as the
23 advisory board considers proper.

24 (g) The obligations and interest coupons of the obligations are
25 negotiable instruments within the meaning and for all purposes
26 under state law, subject only to the provisions for registration of
27 the obligations.

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