

---

---

**ENGROSSED**  
**HOUSE BILL No. 1248**

---

DIGEST OF HB 1248 (Updated February 7, 2000 5:43 PM - DI 84)

**Citations Affected:** IC 13-26.

**Synopsis:** Regional water and sewer districts. Makes various changes to the notice requirements for establishing a regional water, sewage, and solid waste district. Provides that a district may not require a property owner to connect to the district's sewer system if (1) the property owner's septic system was installed not more than five years before the district's sewer system first became available for connection; (2) the property owner's septic system was new at the time of installation and was approved by the local health department; and (3) the property owner provides certification from the local health department or a registered professional engineer that the septic system is functioning satisfactorily. Provides that the exemption from mandatory connection extends for a period of three years beginning on the date the district's sewer system first becomes available for connection. Provides that a district may require a property owner who otherwise qualifies for the connection exemption to connect to the district's sewer system if the district credits part of the cost of the property owner's septic system against the debt service portion of the property owner's monthly bill. Requires the board of trustees of a district established after June 30, 2000 to consider the availability of and the advisability of using local, state, or federal loans or grants for  
(Continued next page)

**Effective:** Upon passage; July 1, 2001.

---

---

**Lytle, Mellinger, Kruse, Scholer**

(SENATE SPONSORS — NUGENT, LEWIS)

---

---

January 10, 2000, read first time and referred to Committee on Commerce and Economic Development.

January 25, 2000, amended, reported — Do Pass.

February 1, 2000, read second time, amended, ordered engrossed.

February 2, engrossed.

February 7, 2000, read third time, passed. Yeas 81, nays 15.

SENATE ACTION

February 10, 2000, read first time and referred to Committee on Rules and Legislative Procedure.

February 15, 2000, amended, reported favorably — Do Pass; reassigned to Committee on Environmental Affairs.

---

---

EH 1248—LS 7251/DI 75



C  
O  
P  
Y

Digest Continued

a project before issuing bonds for the project. Establishes an interim study committee to study all aspects of regional water, sewage, and solid waste districts. Adds three members of the general assembly as nonvoting members of the Lake Michigan marina development commission.

C  
o  
p  
y



February 16, 2000

Second Regular Session 111th General Assembly (2000)

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 1999 General Assembly.

# ENGROSSED HOUSE BILL No. 1248



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 13-26-2-6 IS AMENDED TO READ AS
- 2 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. (a) Except as
- 3 provided in section 9 of this chapter, the hearing officer shall fix a time
- 4 and place inside or within ten (10) miles of the proposed district for the
- 5 hearing on ~~the petition for the establishment of the proposed district.~~
- 6 **any matter for which a hearing is authorized under this chapter.**
- 7 (b) The hearing officer shall ~~have~~ **make a reasonable effort to**
- 8 **provide** notice of the hearing ~~given~~ as follows:
- 9 (1) By publication ~~one (1) time of notice~~ **two (2) times** each week
- 10 for two (2) consecutive weeks in a ~~newspaper~~ **at least two (2)**
- 11 **newspapers** of general circulation in each of the counties, in
- 12 whole or in part, in the district. **The publication of notice must,**
- 13 **at a minimum, include a legal notice and a prominently**
- 14 **displayed three (3) inches by five (5) inches advertisement.**
- 15 (2) By certified mail, **return receipt requested**, mailed at least
- 16 two (2) weeks before the hearing to the following:
- 17 (A) ~~Each eligible entity involved.~~ **The fiscal and executive**

C  
O  
P  
Y

EH 1248—LS 7251/DI 75+



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41  
42

**bodies of each county with territory in the proposed district.**

(B) ~~The executive of each entity.~~ **all other eligible entities with territory in the proposed district.**

(C) ~~The department of natural resources if the department of natural resources is involved.~~ **state and any of its agencies owning, controlling, or leasing land within the proposed district, excluding highways and public thoroughfares owned or controlled by the Indiana department of transportation.**

(D) Each sewage disposal company holding a certificate of territorial authority under IC 8-1-2-89 respecting territory in the proposed district.

**(3) By making a reasonable effort to provide notice of the hearing by regular United States mail, postage prepaid, mailed at least two (2) weeks before the hearing to each freeholder within the proposed district.**

**(4) By including the date on which the hearing is to be held, a brief description of:**

**(A) the subject of the petition, including a description of the general boundaries of the area to be included in the proposed district; and**

**(B) the locations where copies of the petition are available for viewing.**

SECTION 2. IC 13-26-5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 2. A district may do the following:

- (1) Sue or be sued.
- (2) Make contracts in the exercise of the rights, powers, and duties conferred upon the district.
- (3) Adopt and alter a seal and use the seal by causing the seal to be impressed, affixed, reproduced, or otherwise used. However, the failure to affix a seal does not affect the validity of an instrument.
- (4) Adopt, amend, and repeal the following:
  - (A) Bylaws for the administration of the district's affairs.
  - (B) Rules and regulations for the following:
    - (i) The control of the administration and operation of the district's service and facilities.
    - (ii) The exercise of all of the district's rights of ownership.
- (5) Construct, acquire, lease, operate, or manage works and obtain rights, easements, licenses, money, contracts, accounts, liens,

C  
O  
P  
Y



- 1 books, records, maps, or other property, whether real, personal, or  
 2 mixed, of a person or an eligible entity.
- 3 (6) Assume in whole or in part any liability or obligation of:  
 4 (A) a person;  
 5 (B) a nonprofit water, sewage, or solid waste project system;  
 6 or  
 7 (C) an eligible entity;  
 8 including a pledge of part or all of the net revenues of a works to  
 9 the debt service on outstanding bonds of an entity in whole or in  
 10 part in the district and including a right on the part of the district  
 11 to indemnify and protect a contracting party from loss or liability  
 12 by reason of the failure of the district to perform an agreement  
 13 assumed by the district or to act or discharge an obligation.
- 14 (7) Fix, alter, charge, and collect reasonable rates and other  
 15 charges in the area served by the district's facilities to every  
 16 person whose premises are, whether directly or indirectly,  
 17 supplied with water or provided with sewage or solid waste  
 18 services by the facilities for the purpose of providing for the  
 19 following:  
 20 (A) The payment of the expenses of the district.  
 21 (B) The construction, acquisition, improvement, extension,  
 22 repair, maintenance, and operation of the district's facilities  
 23 and properties.  
 24 (C) The payment of principal or interest on the district's  
 25 obligations.  
 26 (D) To fulfill the terms of agreements made with:  
 27 (i) the purchasers or holders of any obligations; or  
 28 (ii) a person or an eligible entity.
- 29 (8) **Except as provided in section 2.5 of this chapter**, require  
 30 connection to the district's sewer system of property producing  
 31 sewage or similar waste and require the discontinuance of use of  
 32 privies, cesspools, septic tanks, and similar structures if:  
 33 (A) there is an available sanitary sewer within three hundred  
 34 (300) feet of the property line; and  
 35 (B) the district has given written notice by certified mail to the  
 36 property owner at the address of the property at least ninety  
 37 (90) days before a date for connection to be stated in the  
 38 notice.
- 39 (9) Provide by ordinance for reasonable penalties for failure to  
 40 connect and also apply to the circuit or superior court of the  
 41 county in which the property is located for an order to force  
 42 connection, with the cost of the action, including reasonable

C  
O  
P  
Y

- 1 attorney's fees of the district, to be assessed by the court against  
 2 the property owner in the action.
- 3 (10) Refuse the services of the district's facilities if the rates or  
 4 other charges are not paid by the user.
- 5 (11) Control and supervise all property, works, easements,  
 6 licenses, money, contracts, accounts, liens, books, records, maps,  
 7 or other property rights and interests conveyed, delivered,  
 8 transferred, or assigned to the district.
- 9 (12) Construct, acquire by purchase or otherwise, operate, lease,  
 10 preserve, and maintain works considered necessary to accomplish  
 11 the purposes of the district's establishment within or outside the  
 12 district and enter into contracts for the operation of works owned,  
 13 leased, or held by another entity, whether public or private.
- 14 (13) Hold, encumber, control, acquire by donation, purchase, or  
 15 condemnation, construct, own, lease as lessee or lessor, use, and  
 16 sell interests in real and personal property or franchises within or  
 17 outside the district for:
- 18 (A) the location or protection of works;  
 19 (B) the relocation of buildings, structures, and improvements  
 20 situated on land required by the district or for any other  
 21 necessary purpose; or  
 22 (C) obtaining or storing material to be used in constructing and  
 23 maintaining the works.
- 24 (14) Upon consent of two-thirds (2/3) of the members of the  
 25 board, merge or combine with another district into a single district  
 26 on terms so that the surviving district:
- 27 (A) is possessed of all rights, franchises, and authority of the  
 28 constituent districts; and  
 29 (B) is subject to all the liabilities, obligations, and duties of  
 30 each of the constituent districts, with all rights of creditors of  
 31 the constituent districts being preserved unimpaired.
- 32 (15) Provide by agreement with another eligible entity for the  
 33 joint construction of works the district is authorized to construct  
 34 if the construction is for the district's own benefit and that of the  
 35 other entity. For this purpose the cooperating entities may jointly  
 36 appropriate land either within or outside their respective borders  
 37 if all subsequent proceedings, actions, powers, liabilities, rights,  
 38 and duties are those set forth by statute.
- 39 (16) Enter into contracts with a person, an eligible entity, the  
 40 state, or the United States to provide services to the contracting  
 41 party for any of the following:
- 42 (A) The distribution or purification of water.

C  
O  
P  
Y

- 1 (B) The collection or treatment of sanitary sewage.
- 2 (C) The collection, disposal, or recovery of solid waste.
- 3 (17) Make provision for, contract for, or sell the district's
- 4 byproducts or waste.
- 5 (18) Exercise the power of eminent domain.
- 6 (19) Remove or change the location of a fence, building, railroad,
- 7 canal, or other structure or improvement located within or outside
- 8 the district. If:
- 9 (A) it is not feasible or economical to move the building,
- 10 structure, or improvement situated in or upon land acquired;
- 11 and
- 12 (B) the cost is determined by the board to be less than that of
- 13 purchase or condemnation;
- 14 the district may acquire land and construct, acquire, or install
- 15 buildings, structures, or improvements similar in purpose to be
- 16 exchanged for the buildings, structures, or improvements under
- 17 contracts entered into between the owner and the district.
- 18 (20) Employ consulting engineers, superintendents, managers,
- 19 and other engineering, construction, and accounting experts,
- 20 attorneys, bond counsel, employees, and agents that are necessary
- 21 for the accomplishment of the district's purpose and fix their
- 22 compensation.
- 23 (21) Procure insurance against loss to the district by reason of
- 24 damages to the district's properties, works, or improvements
- 25 resulting from fire, theft, accident, or other casualty or because of
- 26 the liability of the district for damages to persons or property
- 27 occurring in the operations of the district's works and
- 28 improvements or the conduct of the district's activities.
- 29 (22) Exercise the powers of the district without obtaining the
- 30 consent of other eligible entities. However, the district shall:
- 31 (A) restore or repair all public or private property damaged in
- 32 carrying out the powers of the district and place the property
- 33 in the property's original condition as nearly as practicable; or
- 34 (B) pay adequate compensation for the property.
- 35 (23) Dispose of, by public or private sale or lease, real or personal
- 36 property determined by the board to be no longer necessary or
- 37 needed for the operation or purposes of the district.
- 38 SECTION 3. IC 13-26-5-2.5 IS ADDED TO THE INDIANA CODE
- 39 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
- 40 1, 2001]: **Sec. 2.5. (a) As used in this section, "septic system"**
- 41 **includes privies, cesspools, septic tanks, and similar structures.**
- 42 **(b) Except as provided in subsection (c), the district may not**

COPY



1 require a property owner to connect to the district's sewer system  
 2 and to discontinue use of a septic system if the following conditions  
 3 are met:

4 (1) The property owner's septic system was installed not more  
 5 than five (5) years before the district's sewer system first  
 6 became available for connection.

7 (2) The property owner's septic system was new at the time of  
 8 installation and was approved in writing by the local health  
 9 department.

10 (3) The property owner, at the property owner's own expense,  
 11 obtains and provides to the district a certification from the  
 12 local health department or a registered professional engineer  
 13 that the septic system is functioning satisfactorily.

14 (c) A property owner who qualifies for the exemption provided  
 15 under this section may not be required to connect to the district's  
 16 sewer system for a period of three (3) years beginning on the date  
 17 the district's sewer system first becomes available for connection.  
 18 The exemption does not apply to a subsequent owner of the  
 19 property during the exemption period. A property owner has sixty  
 20 (60) days from the date of the notice given under section 2(8) of this  
 21 chapter to notify the district in writing that the property owner  
 22 may qualify for the exemption. The property owner has an  
 23 additional sixty (60) days from the date the district receives the  
 24 property owner's original notification to provide to the district the  
 25 certification required under subsection (b)(3). The district shall  
 26 suspend the date proposed for connection in the notice given under  
 27 section 2(8) of this chapter while a determination of the property  
 28 owner's eligibility for the exemption is pending.

29 (d) The district may require a property owner who qualifies for  
 30 the exemption under subsection (b) to connect to the district's  
 31 sewer system if the district credits the unamortized portion of the  
 32 original cost of the property owner's septic system against the debt  
 33 service portion of the customer's monthly bill according to the  
 34 following STEPS:

35 **STEP ONE:** Multiply the original cost of the property owner's  
 36 septic system by a fraction, the numerator of which is  
 37 ninety-six (96) months minus the age in months of the  
 38 property owner's septic system, and the denominator of which  
 39 is ninety-six (96) months.

40 **STEP TWO:** The total credit the district may provide to a  
 41 property owner shall equal four thousand eight hundred  
 42 dollars (\$4,800) or the result of STEP ONE, whichever is less.



C  
O  
P  
Y

1     **The district shall apportion the total credit amount as determined**  
2     **in STEP TWO against the debt service portion of the property**  
3     **owner's monthly bill over a period to be determined by the district,**  
4     **but not to exceed twenty (20) years, or two hundred forty (240)**  
5     **months.**

6             SECTION 4. IC 13-26-10-20 IS ADDED TO THE INDIANA  
7     CODE AS A NEW SECTION TO READ AS FOLLOWS  
8     [EFFECTIVE UPON PASSAGE]: **Sec. 20. (a) This section applies**  
9     **only to a district established after July 1, 2000.**

10            **(b) Before issuing bonds under this article, the board must**  
11     **consider the availability of and the advisability of using local, state,**  
12     **or federal loans or grant funds for the project.**

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

C  
o  
p  
y

