

# HOUSE BILL No. 1248

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 13-11-2; IC 13-26.

**Synopsis:** Regional water and sewer districts. Gives regulatory oversight of regional water and sewer districts to the Indiana utility regulatory commission or the county executives of the counties in which the district is located. Establishes notice and hearing procedures for establishment of a district and for certain district actions. Requires a district to have technical, managerial, and financial capacity to operate a utility. Provides for election of a district's board members. Provides for areas to opt in or out of a district. Requires a district to exhaust all available public funding before issuing bonds. Establishes a dispute mechanism for consumer complaints and to appeal rate increases. Eliminates mandatory connection to a district if the existing system is environmentally sound. Eliminates the option of a district to serve areas outside the district. Eliminates solid waste service as a district purpose. Changes requirements for district plans. Changes the standards and procedure for dissolution of a district. Gives the department of environmental management rulemaking authority to implement its responsibilities under the statute.

**Effective:** Upon passage.

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**Lytle, Mellinger**

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

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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.

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# 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 13-11-2-34 IS AMENDED TO READ AS  
2 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 34. (a)  
3 "Commission", for purposes of IC 13-25-1 and IC 13-25-2, refers to the  
4 Indiana emergency response commission.

5 (b) **"Commission", for purposes of IC 13-26, means the Indiana**  
6 **utility regulatory commission.**

7 (c) "Commission", for purposes of IC 13-29-1, means the Midwest  
8 Interstate Low-Level Radioactive Waste Commission.

9 (e) (d) "Commission", for purposes of IC 13-29-2-2 through  
10 IC 13-29-2-7, refers to the Ohio River Valley Water Sanitation  
11 Commission.

12 SECTION 2. IC 13-11-2-84.5 IS ADDED TO THE INDIANA  
13 CODE AS A NEW SECTION TO READ AS FOLLOWS  
14 [EFFECTIVE UPON PASSAGE]: **Sec. 84.5. "Financial capacity",**  
15 **for purposes of IC 13-26, means the ability of a district to acquire**  
16 **and manage sufficient financial resources to allow the district to**  
17 **achieve and maintain compliance with all of the following:**



1           **(1) IC 13-26.**

2           **(2) The rules of the water pollution control board.**

3           **(3) IC 8-1.**

4           **(4) The rules adopted by the Indiana utility regulatory**  
5           **commission under IC 8-1.**

6           SECTION 3. IC 13-11-2-86.5 IS ADDED TO THE INDIANA  
7           CODE AS A NEW SECTION TO READ AS FOLLOWS  
8           [EFFECTIVE UPON PASSAGE]: **Sec. 86.5. (a) "Freeholder", for**  
9           **purposes of IC 13-26, means a person who holds land:**

10           **(1) in fee;**

11           **(2) for life; or**

12           **(3) for some indeterminate time;**

13           **whether or not in joint title with at least one (1) other person.**

14           **(b) Each person who holds land, whether individually or in joint**  
15           **title, is considered a freeholder for purposes of voting under**  
16           **IC 13-26.**

17           SECTION 4. IC 13-11-2-90 IS AMENDED TO READ AS  
18           FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 90. "Governmental**  
19           **entity", for purposes of IC 13-25-6 and IC 13-26, means the state or a**  
20           **political subdivision.**

21           SECTION 5. IC 13-11-2-124.5 IS ADDED TO THE INDIANA  
22           CODE AS A NEW SECTION TO READ AS FOLLOWS  
23           [EFFECTIVE UPON PASSAGE]: **Sec. 124.5. "Managerial**  
24           **capacity", for purposes of IC 13-26, means the ability of a district**  
25           **to conduct its affairs in a manner enabling the district to achieve**  
26           **and maintain compliance with all of the following:**

27           **(1) IC 13-26.**

28           **(2) The rules of the water pollution control board.**

29           **(3) IC 8-1.**

30           **(4) The rules of the Indiana utility regulatory commission**  
31           **under IC 8-1.**

32           SECTION 6. IC 13-11-2-158 IS AMENDED TO READ AS  
33           FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 158. (a) "Person",**  
34           **for purposes of:**

35           **(1) IC 13-21 and IC 13-26;**

36           **(2) air pollution control laws;**

37           **(3) water pollution control laws; and**

38           **(4) environmental management laws, except as provided in**  
39           **subsections (c), (d), (e), and (h);**

40           **means an individual, a partnership, a copartnership, a firm, a company,**  
41           **a corporation, an association, a joint stock company, a trust, an estate,**  
42           **a municipal corporation, a city, a school city, a town, a school town, a**

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1 school district, a school corporation, a county, any consolidated unit of  
 2 government, political subdivision, state agency, a contractor, or any  
 3 other legal entity.

4 (b) "Person", for purposes of:

- 5 (1) IC 13-18-10; and  
 6 (2) IC 13-20-17;

7 means an individual, a partnership, a copartnership, a firm, a company,  
 8 a corporation, an association, a joint stock company, a trust, an estate,  
 9 a political subdivision, a state agency, or other legal entity, or their  
 10 legal representative, agent, or assigns.

11 (c) "Person", for purposes of:

- 12 (1) IC 13-20-13;  
 13 (2) IC 13-20-14;  
 14 (3) IC 13-20-16; and  
 15 (4) IC 13-25-6;

16 means an individual, a corporation, a limited liability company, a  
 17 partnership, or an unincorporated association.

18 (d) "Person", for purposes of IC 13-23, has the meaning set forth in  
 19 subsection (a). The term includes a consortium, a joint venture, a  
 20 commercial entity, and the United States government.

21 (e) "Person", for purposes of IC 13-25-3, means an individual, a  
 22 corporation, a limited liability company, a partnership, a trust, an  
 23 estate, or an unincorporated association.

24 ~~(f) "Person", for purposes of IC 13-26, means an individual, a firm,  
 25 a partnership, an association, a limited liability company, or a  
 26 corporation other than an eligible entity.~~

27 ~~(g)~~ (f) "Person", for purposes of IC 13-29-1, means any individual,  
 28 corporation, business enterprise, or other legal entity either public or  
 29 private and any legal successor, representative, agent, or agency of that  
 30 individual, corporation, business enterprise, or legal entity.

31 ~~(h)~~ (g) "Person", for purposes of:

- 32 (1) IC 13-30-6-6;  
 33 (2) IC 13-30-6-7; and  
 34 (3) IC 13-30-8-1;

35 has the meaning set forth in IC 35-41-1.

36 SECTION 7. IC 13-11-2-201 IS AMENDED TO READ AS  
 37 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 201. "Sewage  
 38 disposal system", for purposes of IC 13-18-12 **and IC 13-26**, means  
 39 septic tanks, wastewater holding tanks, seepage pits, cesspools, privies,  
 40 composting toilets, interceptors or grease traps, portable sanitary units,  
 41 and other equipment, facilities, or devices used to:

- 42 (1) store;

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1 (2) treat;  
 2 (3) make inoffensive; or  
 3 (4) dispose of;  
 4 human excrement or liquid carrying wastes of a domestic nature.

5 SECTION 8. IC 13-11-2-230.5 IS ADDED TO THE INDIANA  
 6 CODE AS A NEW SECTION TO READ AS FOLLOWS  
 7 [EFFECTIVE UPON PASSAGE]: **Sec. 230.5. "Technical capacity",**  
 8 **for purposes of IC 13-26, means the physical and operational**  
 9 **ability of a district to meet the requirements of all of the following:**

10 (1) **IC 13-26.**

11 (2) **The rules of the water pollution control board.**

12 (3) **IC 8-1.**

13 (4) **The rules of the commission adopted under IC 8-1.**

14 SECTION 9. IC 13-26-1-1 IS AMENDED TO READ AS  
 15 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) Any area  
 16 may be established as a regional water or sewage or ~~solid waste~~ district  
 17 under this article for one (1) or ~~more~~ **both** of the following purposes:

18 (1) To provide a water supply for domestic, industrial, and public  
 19 use to users inside ~~and outside~~ the district.

20 (2) To provide for the collection, treatment, and disposal of  
 21 sewage inside ~~and outside~~ the district.

22 ~~(3) To provide for the collection, treatment, and disposal of solid~~  
 23 ~~waste and refuse inside and outside the district.~~

24 **(b) This chapter does not prevent another person from serving**  
 25 **any area served by a regional district under this chapter.**

26 SECTION 10. IC 13-26-2-1 IS AMENDED TO READ AS  
 27 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) The  
 28 establishment of a regional district may be initiated only by a petition  
 29 filed with the department.

30 **(b) A copy of the petition shall also be filed not later than ten (10)**  
 31 **days after the filing with the department in the office of the executive**  
 32 **of each governmental entity:**

33 (1) **having territory within the proposed district; or**

34 (2) **within ten (10) miles of the boundary of the proposed**  
 35 **district.**

36 **(c) Not later than ten (10) days after the filing, a copy of the**  
 37 **petition shall be placed in each public library:**

38 (1) **within the proposed district; and**

39 (2) **in the county seat that is nearest to the proposed district**  
 40 **but not in the proposed district.**

41 SECTION 11. IC 13-26-2-2 IS AMENDED TO READ AS  
 42 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) The petition



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1 may **must** be **verified and** filed by any representative of one ~~(1)~~ or  
 2 more eligible entities involved after being authorized by the fiscal body  
 3 **county executive** of the petitioning eligible entity or entities included  
 4 in the plan of the proposed district. **each county that has territory in**  
 5 **the proposed district.**

6 (b) If the proposed district includes

7 ~~(1)~~ a state park or recreational area, forest land, or a reservoir; or  
 8 ~~(2)~~ land owned, leased, or controlled by the department of natural  
 9 resources; **state or any of its agencies, except highways and**  
 10 **public thoroughfares owned or controlled by the Indiana**  
 11 **department of transportation,**

12 the petition may be joined or filed by any representative of that  
 13 department after having been authorized by the natural resources  
 14 commission; **an authorized representative of the state** with the  
 15 approval of the executive of the county containing the territory of the  
 16 district.

17 SECTION 12. IC 13-26-2-3 IS AMENDED TO READ AS  
 18 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. A petition to  
 19 establish a district under this chapter must state the following:

20 (1) The proposed name of the district.

21 (2) The place in which the district's principal office is to be  
 22 located.

23 (3) The following information **with adequate supporting**  
 24 **documentation:**

25 (A) The ~~need~~ **public convenience and necessity** for the  
 26 proposed district.

27 (B) The purpose to be accomplished **and how the district will**  
 28 **accomplish the purpose.**

29 (C) How the district will be conducive to the public health,  
 30 safety, convenience, or welfare **of the affected population,**  
 31 including a specific statement of how:

32 (i) water supply, for a water district; **or**

33 (ii) sewage collection, disposal, and treatment, for a sewage  
 34 district; **or**

35 (iii) ~~solid waste disposal, recovery, or treatment,~~ for a solid  
 36 waste district;

37 is currently being provided **and any future development**  
 38 **plans that would require the proposed area to be served by**  
 39 **another entity.**

40 (D) ~~Whether there is~~ Any outstanding indebtedness **that**  
 41 **currently exists** for the purpose proposed in the proposed  
 42 district, including a statement as to how the current situation

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- 1 creates or adds to pollution or health hazards or impedes  
 2 development in the area **and describing how any such**  
 3 **outstanding indebtedness will be resolved.**
- 4 (4) ~~An accurate~~ **A map and a legal** description of the territory to  
 5 be included in the district. ~~which does not have to be given by~~  
 6 ~~metes and bounds or by legal subdivisions.~~ **The map must satisfy**  
 7 **the following:**
- 8 (A) **The territory must be shown on county maps scaled at**  
 9 **approximately one (1) inch per mile.**
- 10 (B) **The maps must include all roads and highways,**  
 11 **streams, section and township lines, and range and**  
 12 **township numbers.**
- 13 (C) **Township corner sections must be numbered (one (1),**  
 14 **six (6), thirty (30), and thirty-six (36)).**
- 15 (D) **The rural areas presently being served by sewage**  
 16 **disposal service, if any, must be colored in green. The area**  
 17 **requested must be colored in red. Any sewer systems or**  
 18 **municipal corporation limits within five (5) miles of the**  
 19 **proposed area to be served must be shown in blue. State**  
 20 **owned property must be shown in brown.**
- 21 The territory does not have to be contiguous, but the territory  
 22 must be so situated that the public health, safety, convenience, or  
 23 welfare will be promoted by the establishment as a single district  
 24 of the territory described.
- 25 (5) The petitioner's recommendations on:  
 26 (A) the manner of selection;  
 27 (B) the number; and  
 28 (C) the term, not exceeding four (4) years;  
 29 of the members of the board of trustees.
- 30 (6) The plan for financing the cost of the operations of the district  
 31 until the district is in receipt of revenue from the district's  
 32 operations or proceeds from the sale of bonds.
- 33 (7) Estimates **and supporting documentation** of the following:  
 34 (A) The costs of accomplishing the purpose of the district.  
 35 (B) The costs of operating and maintaining the works.  
 36 (C) The sources of the funding of these costs.  
 37 (D) The rates and charges that will be required.
- 38 (8) **The petitioner's intention to subject the district to the**  
 39 **jurisdiction of the commission or whether it will be subject to**  
 40 **the jurisdiction of the county executive of its county for**  
 41 **approval of rates and charges and of the issuance of stocks,**  
 42 **bonds, notes, or other indebtedness.**



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1           **(9) The petitioner's recommendation for the date of the**  
 2           **annual meeting.**

3           **(10) The name, address, and telephone number of the contact**  
 4           **person representing the proposed district for purposes of**  
 5           **department communication.**

6           **(11) The petitioner's technical, managerial, and financial**  
 7           **ability to operate a utility.**

8           SECTION 13. IC 13-26-2-4 IS AMENDED TO READ AS  
 9           FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. Upon the filing  
 10          of a **verified** petition to establish a district under this chapter, the  
 11          department shall determine whether the petition complies with the  
 12          requirements of this chapter as to form and content. The department  
 13          **may do any or all of the following:**

14           (1) ~~may not declare a petition void because of alleged defects;~~ and  
 15           **Request additional information.**

16           (2) ~~may;~~ In subsequent proceedings at any time, permit the  
 17           petition to be amended in form or substance.

18           **(3) Deny a petition that does not meet the requirements of this**  
 19           **chapter.**

20          SECTION 14. IC 13-26-2-6 IS AMENDED TO READ AS  
 21          FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. (a) Except as  
 22          provided in section 9 of this chapter, the hearing officer shall fix a time  
 23          and place inside or within ten (10) miles of the proposed district for the  
 24          hearing on ~~the petition for the establishment of the proposed district.~~  
 25          **any matter for which a hearing is authorized under this chapter.**

26          (b) ~~The hearing officer shall have~~ **petitioner shall make a**  
 27          **reasonable effort to provide** notice of the hearing ~~given~~ as follows:

28           (1) By publication one (1) time each week for two (2) consecutive  
 29           weeks in ~~a~~ **the largest** newspaper of general circulation in each  
 30           of the counties, in whole or in part, in the district.

31           (2) By certified mail, **return receipt requested**, mailed at least  
 32           two (2) weeks before the hearing to the following:

33           (A) ~~Each eligible entity~~ **The fiscal body of each county**  
 34           involved.

35           (B) The executive of each ~~entity:~~ **county.**

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

42           (D) Each sewage disposal company holding a certificate of



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1 territorial authority under IC 8-1-2-89 respecting territory in  
2 the proposed district.

3 **(E) Each governmental entity and public or private utility**  
4 **holding land or located within ten (10) miles of the**  
5 **boundary of the proposed district.**

6 **(3) The petitioner shall make reasonable effort to provide**  
7 **notice of the hearing by regular United States mail, postage**  
8 **prepaid, mailed at least two (2) weeks before the hearing to**  
9 **each freeholder within the proposed district.**

10 **(4) The notice shall include the date on which the hearing is to**  
11 **be held, a brief description of the subject of the petition, and**  
12 **the locations where copies of the petition are available for**  
13 **viewing. The petitioner shall pay the cost of complying with**  
14 **this section. The petitioner shall submit an affidavit to the**  
15 **department before the hearing that certifies that the**  
16 **petitioner has complied with this section.**

17 SECTION 15. IC 13-26-2-7 IS AMENDED TO READ AS  
18 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. (a) A person ~~or~~  
19 ~~an eligible entity~~ that resides or lies in or partially resides or lies in an  
20 area, **or is otherwise** affected by the establishment of a district:

21 (1) may, on or before the date set for the cause to be heard, file a  
22 written objection to the granting of the requests made in the  
23 petition; and

24 (2) may be heard at the hearing.

25 **(b) A person may file with the department an objection to its**  
26 **inclusion, in whole or in part, in the district. An entity filing an**  
27 **objection under this section has the burden of demonstrating,**  
28 **based on environmental considerations, that it should not be**  
29 **included in the district. The hearing officer's recommendations on**  
30 **the objection must be included in the findings and recommended**  
31 **order required by section 8 of this chapter.**

32 **(c) The state of Indiana, on behalf of any of its agencies, may file**  
33 **with the department an objection to the inclusion of state owned**  
34 **property, in whole or in part, in the district. The hearing officer**  
35 **shall grant such an objection, which shall be included in the**  
36 **findings and recommended order required by section 8 of this**  
37 **chapter.**

38 SECTION 16. IC 13-26-2-8 IS AMENDED TO READ AS  
39 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. (a) After the  
40 hearing, ~~on the petition for the establishment of the proposed district,~~  
41 which may be adjourned periodically, the hearing officer shall make  
42 findings on the petition and other relevant facts and recommendations

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- 1 as to whether:
- 2 (1) the petition should be:
- 3 (A) approved;
- 4 (B) approved with modifications; or
- 5 (C) denied; and
- 6 (2) a district should be established.
- 7 (b) If the recommendation is in the affirmative, the recommendation
- 8 must also include recommendations on:
- 9 (1) the manner of the selection or appointment;
- 10 (2) the number; and
- 11 (3) the terms;
- 12 of the board.
- 13 (c) The description of the territory to be included in a district may
- 14 not include territory in a ~~municipality~~ **governmental entity** that has,
- 15 by ordinance, ~~or~~ resolution, **or another legal mechanism**, filed with
- 16 the department, exercised the option not to be included in the district.
- 17 SECTION 17. IC 13-26-2-9 IS AMENDED TO READ AS
- 18 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. (a) If the
- 19 ~~department of natural resources~~ **has state or any of its agencies have**
- 20 filed a petition, the commissioner may waive the requirement for notice
- 21 and hearing provided in section 6 of this chapter.
- 22 (b) If the commissioner waives the notice and hearing requirement,
- 23 the hearing officer shall give written notice by certified mail under
- 24 section 6 of this chapter. Each recipient of notice has thirty (30) days
- 25 from the mailing of the notice within which to file objections or
- 26 material with the hearing officer.
- 27 (c) The hearing officer shall then proceed to make findings and
- 28 recommendations as provided in section 8 of this chapter, based upon
- 29 any material:
- 30 (1) received by the hearing officer; or
- 31 (2) obtained at the hearing officer's discretion through the hearing
- 32 officer's own investigation.
- 33 SECTION 18. IC 13-26-2-10 IS AMENDED TO READ AS
- 34 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. (a) If the
- 35 commissioner determines that the findings show that the ~~establishment~~
- 36 **of a recommended proposed** district:
- 37 (1) complies with the conditions of this chapter for establishment
- 38 of a district; ~~and~~
- 39 (2) **promotes public convenience and necessity; and**
- 40 (3) **appears capable of accomplishing the purpose or purposes in**
- 41 **an economically feasible manner; with the requisite technical,**
- 42 **managerial, and financial ability to operate a utility;**

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1 the commissioner shall issue an order directing that the district be  
 2 established as an independent municipal corporation with a name and  
 3 for the purposes designated in the order.

4 (b) An order **for establishing a district** must do the following:

5 (1) Provide for the selection or appointment and terms of offices,  
 6 not to exceed four (4) years, of the board.

7 (2) Provide requirements for sufficient bond for all officers,  
 8 trustees, or employees having power to dispense money of the  
 9 district.

10 (3) If ~~an eligible entity with~~ territory in the district has a public  
 11 water or ~~solid waste~~ sewer system, contain provisions protecting  
 12 the investments of the entities and protecting the rights of the  
 13 holders of bonds or other obligations issued to provide money for  
 14 the system.

15 (4) Direct the district to file a ~~detailed~~ **district plan as described**  
 16 **in IC 13-26-6** for the initial project of the district not later than  
 17 nine (9) months after the date of the preliminary order or within  
 18 a further time that the department from time to time orders.

19 (5) **Divide the district into areas to represent fairly on the**  
 20 **board all voters in the district.**

21 (6) **Provide for the annual meeting of the district.**

22 (7) **If a person has objected to inclusion in the district,**  
 23 **determine whether that person will be included in the district.**

24 (8) **If the petitioner has requested that the district be exempt**  
 25 **from the commission's jurisdiction, determine whether that**  
 26 **request is approved. If the request is approved:**

27 (A) **direct that it is subject to the jurisdiction of the county**  
 28 **executive for those functions removed from the**  
 29 **commission's jurisdiction;**

30 (B) **require that the district furnish services and seek**  
 31 **approval of the district's rates and charges under**  
 32 **IC 13-26-11-18;**

33 (C) **require that the district's rules be approved by the**  
 34 **county executive; and**

35 (D) **require that the district file an annual report detailing**  
 36 **its fiscal operations with its county executive.**

37 (9) **If the commissioner determines that a district is under the**  
 38 **commission's jurisdiction, that the district must be required**  
 39 **to furnish services and seek approval of its rates and charges**  
 40 **and be bound to all other provisions of IC 8-1 and IC 8-1.5**  
 41 **and the commission's rules, except to the extent as otherwise**  
 42 **provided in this article.**



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1 (c) If the commissioner determines that the findings for a  
2 petition for any other matter show that the petition:

3 (1) complies with this article; and

4 (2) appears capable of accomplishing the purpose or  
5 purposes;

6 with the requisite technical, managerial, and financial ability to  
7 operate a utility, the commissioner shall issue an order approving  
8 the petition.

9 SECTION 19. IC 13-26-2-11 IS AMENDED TO READ AS  
10 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 11. ~~Am~~ A final  
11 order for the establishment of a district of the department under this  
12 article is subject to review as provided in IC 4-21.5-5.

13 SECTION 20. IC 13-26-2-12 IS ADDED TO THE INDIANA  
14 CODE AS A NEW SECTION TO READ AS FOLLOWS  
15 [EFFECTIVE UPON PASSAGE]: Sec. 12. The water pollution  
16 control board may adopt rules under IC 4-22-2 to implement this  
17 article.

18 SECTION 21. IC 13-26-3-1 IS AMENDED TO READ AS  
19 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) A district  
20 established in accordance with IC 19-3-1 (before its repeal) by an order  
21 of the court before February 17, 1972, as a special district for any  
22 purpose or a solid waste district provided in:

23 (1) IC 13-3-2 (before its repeal); or

24 (2) this article;

25 is considered to be a district under this article.

26 (b) Orders of the court and acts of the board of directors are valid if  
27 permitted by this article. The district shall function as a district the  
28 same as if the district were established under this article.

29 SECTION 22. IC 13-26-4-1 IS AMENDED TO READ AS  
30 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) The board of  
31 trustees of a district is the governing body of the district. A board may  
32 consist of:

33 (1) three (3);

34 (2) five (5);

35 (3) seven (7); or

36 (4) nine (9);

37 trustees.

38 (b) A member of the board of trustees serves a term of four (4)  
39 years. Terms may be staggered.

40 (c) A member of the board of trustees or any person appointed  
41 to any position or employed in any capacity to serve the district  
42 may not:

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- 1           **(1) have any official or professional relationship or connection**
- 2           **with; or**
- 3           **(2) hold any stock or securities or have any pecuniary**
- 4           **interest;**
- 5           **in or with any of its consultants, contractors, or other agents.**

6           SECTION 23. IC 13-26-4-2.1 IS ADDED TO THE INDIANA  
 7 CODE AS A NEW SECTION TO READ AS FOLLOWS  
 8 [EFFECTIVE UPON PASSAGE]: **Sec. 2.1. (a) Not later than twenty**  
 9 **(20) days after an order establishing a district, the county executive**  
 10 **of the counties shall appoint the initial board of trustees. Each of**  
 11 **the areas in the district established by the department must be**  
 12 **represented on the board.**

- 13           **(b) A trustee must have the following qualifications:**
- 14           **(1) Be a freeholder of the area of the district for which the**
- 15           **trustee is appointed.**
- 16           **(2) Be an officer or a nominee of a corporate freeholder of the**
- 17           **area of the district for which the trustee is appointed.**
- 18           **(3) Be qualified by knowledge and experience in matters**
- 19           **pertaining to the development of the district.**
- 20           **(c) A majority of the trustees must be resident freeholders of the**
- 21 **district, if available and qualified.**

22           SECTION 24. IC 13-26-4-4 IS AMENDED TO READ AS  
 23 FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 4. If:**

- 24           ~~(1)~~ a district will include territory in more than one ~~(1)~~ county;
- 25           ~~(2)~~ a county executive has filed a **(1) the** petition for a district
- 26           including **includes** territory owned, leased, or controlled by the
- 27           department of natural resources; **state or any of its agencies,**
- 28           **excluding highways and public thoroughfares owned or**
- 29           **controlled by the Indiana department of transportation; or**
- 30           ~~(3)~~ **(2) the department of natural resources state or any of its**
- 31           **agencies** has filed a petition;

32           the order establishing the district may provide that the governor  
 33 appoints any number of trustees, but less than one-half (1/2) of the  
 34 total.

35           SECTION 25. IC 13-26-4-5 IS AMENDED TO READ AS  
 36 FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 5. If a ~~plan~~ the**  
 37 **petition** also contemplates that sewage treatment for the district will be  
 38 provided in cooperation with a municipality, the order must provide  
 39 that:

- 40           **(1) at least one (1) trustee shall be appointed by the executive of**
- 41           **the municipality; and**
- 42           **(2) at least:**

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- 1 (A) one (1) trustee shall be appointed by the fiscal body; and
- 2 (B) one (1) trustee shall be appointed by the executive;
- 3 of the county having the largest amount of territory in the district.

4 SECTION 26. IC 13-26-4-8 IS ADDED TO THE INDIANA CODE  
 5 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE  
 6 UPON PASSAGE]: **Sec. 8. (a) If the department's order provides  
 7 for election of trustees, trustees shall be elected at each annual  
 8 meeting of the district to fill vacancies on the board due to  
 9 expiration of terms, resignation, or otherwise. The election must be  
 10 conducted by written ballot. To be elected, an individual must  
 11 receive a majority of the votes of the freeholders of the district who  
 12 are:**

- 13 (1) present and voting in person; or
- 14 (2) absent but have mailed or delivered a written ballot vote.
- 15 (b) A written ballot vote must be signed and mailed or delivered  
 16 to the district office. A ballot is valid if delivered or received before  
 17 the scheduled date of the annual meeting.
- 18 (c) An elected trustee must meet the qualifications set forth in  
 19 section 2.1(b) of this chapter.

20 (d) Proxy voting is prohibited.

21 SECTION 27. IC 13-26-4-9 IS ADDED TO THE INDIANA CODE  
 22 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE  
 23 UPON PASSAGE]: **Sec. 9. (a) Not earlier than October 24 and not  
 24 later than November 1 of each year, the board shall invite  
 25 nominations to fill vacancies on the board at the next annual  
 26 meeting by one (1) publication in the largest newspaper of general  
 27 circulation in each county in the district. Each publication must  
 28 contain the following information:**

- 29 (1) The names of the trustees whose terms are expiring and  
 30 the area of the district involved.
- 31 (2) A request for nominations to fill vacancies.
- 32 (3) The qualifications for the office set forth in section 2.1(b)  
 33 of this chapter.
- 34 (b) Nominations for trustee must:
  - 35 (1) be submitted to the district office in writing before  
 36 December 1 following publication of the notice; and
  - 37 (2) be signed by at least five (5) freeholders from the areas  
 38 designated by the notice.
- 39 (c) A mailed nomination is valid if all of the following are  
 40 satisfied:
  - 41 (1) The nomination is delivered or postmarked before  
 42 December 1.

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(2) The envelope has sufficient United States postage.

(3) The envelope is addressed to the district's office.

SECTION 28. IC 13-26-4-10 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 10. (a) The annual meeting of the district must be held at the time designated in the department's order:**

(1) at the district's office; or

(2) at a place in or near the district as determined by resolution of the board adopted before December 1.

(b) Notice of the district annual meeting must be given by one

(1) publication in the largest newspaper of general circulation in each county in the district not earlier than thirty-one (31) days and not later than fourteen (14) days before the annual meeting.

(c) The notice of the annual meeting must contain the following information:

(1) The names of the nominees.

(2) The place where the election will be held.

(3) The time of the election.

(4) The fact that this is the annual meeting of the district.

(5) The purposes and agenda of the meeting.

(6) The time during which ballots may be cast.

SECTION 29. IC 13-26-4-11 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 11. (a) Before the annual meeting, the board shall prepare the ballots and a list of the freeholders of the district, which must be certified by the county auditor and placed in the district's files. A deficiency in this process or an omission of the names of any freeholders does not void action taken at an annual meeting.**

(b) Each freeholder is entitled to one (1) vote.

SECTION 30. IC 13-26-4-12 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 12. (a) At each annual meeting and before the election of trustees, the chair shall appoint three (3) freeholders of the district who are present at the annual meeting to act as clerks of and conduct the election.**

(b) Before casting a vote, a freeholder must sign the list of freeholders opposite the freeholder's name in the presence of the secretary of the district. If the clerks find that a freeholder's name is erroneously omitted from the list, the clerks shall place the name on the list. The omitted freeholder is then entitled to cast a ballot.

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1 (c) The clerks shall note the fact of receipt of a valid written  
 2 ballot vote opposite the name of the freeholder who cast the vote.  
 3 At this time, the written ballot vote is considered cast.

4 (d) At the close of the election poll, the clerks shall count the cast  
 5 ballots and make a report of the results. The secretary of the  
 6 district shall record the results in the records of the district. The  
 7 chair shall then declare the successful nominees elected, and the  
 8 elected directors are entitled to and shall assume all the duties of  
 9 the office for which elected.

10 (e) Consideration of any type may not be offered for the vote of  
 11 a freeholder.

12 SECTION 31. IC 13-26-4-13 IS ADDED TO THE INDIANA  
 13 CODE AS A NEW SECTION TO READ AS FOLLOWS  
 14 [EFFECTIVE UPON PASSAGE]: Sec. 13. (a) A challenge to voting  
 15 procedures may be filed by any freeholder by written petition with  
 16 the executive of the freeholder's county not later than five (5) days  
 17 after the election. A challenge must contain the following  
 18 information:

- 19 (1) The name and address of the petitioner.
- 20 (2) The specific grounds for the challenge.

21 (b) The county executive may investigate and conduct a hearing  
 22 on a challenge.

23 (c) If a challenge is not resolved within fifteen (15) days of filing,  
 24 the county executive shall file a copy of the petition with the circuit  
 25 court clerk of the county. The court shall set a hearing on the  
 26 matter at the earliest possible date, but not later than twenty (20)  
 27 days after the petition is filed with the circuit court clerk. The  
 28 court shall send notice of the hearing by certified mail to all of the  
 29 following:

- 30 (1) The county executive.
- 31 (2) The district.
- 32 (3) The petitioner at the address shown on the petition.

33 All parties shall appear in court without additional notice.

34 (d) At the discretion and upon the direction of the court, the  
 35 petitioner shall file with the petition a bond in the sum and with the  
 36 security fixed by the court. The bond must be conditioned on the  
 37 petitioner's payment of all or part of the costs of the hearing and  
 38 any damages awarded to the district if the petition is denied, as  
 39 ordered by the court.

40 (e) Upon the date fixed in the notice, the court shall, without a  
 41 jury, hear the evidence produced. The court may confirm the  
 42 decision of the county executive or the district, sustain the petition,



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1 or make any other ruling appropriate in the matter. The order of  
 2 the court is final and conclusive upon all the parties to the  
 3 proceeding and parties who might have appeared at the hearing.

4 SECTION 32. IC 13-26-4-14 IS ADDED TO THE INDIANA  
 5 CODE AS A NEW SECTION TO READ AS FOLLOWS  
 6 [EFFECTIVE UPON PASSAGE]: **Sec. 14. Promptly after**  
 7 **appointment or election, a trustee shall take the following oath:**

8 "I solemnly swear (or affirm) that I shall, to the best of my  
 9 ability, strive to accomplish the purposes for which the  
 10 district is established and properly to operate and maintain its  
 11 works of improvement."

12 SECTION 33. IC 13-26-4-15 IS ADDED TO THE INDIANA  
 13 CODE AS A NEW SECTION TO READ AS FOLLOWS  
 14 [EFFECTIVE UPON PASSAGE]: **Sec. 15. If a district fails to**  
 15 **conduct an election of trustees as provided by this chapter, any**  
 16 **interested person of the district may petition the county executive**  
 17 **to appoint a trustee to fill the vacancies. The county executive shall**  
 18 **make an appointment not later than fifteen (15) days from the date**  
 19 **the petition is filed.**

20 SECTION 34. IC 13-26-4-16 IS ADDED TO THE INDIANA  
 21 CODE AS A NEW SECTION TO READ AS FOLLOWS  
 22 [EFFECTIVE UPON PASSAGE]: **Sec. 16. For purposes of this**  
 23 **chapter, if the district is composed of land from more than one (1)**  
 24 **county, the county executive of each county may participate in the**  
 25 **following:**

- 26 (1) The appointment of the initial board.
- 27 (2) The filling of vacancies on the board.

28 SECTION 35. IC 13-26-4-17 IS ADDED TO THE INDIANA  
 29 CODE AS A NEW SECTION TO READ AS FOLLOWS  
 30 [EFFECTIVE UPON PASSAGE]: **Sec. 17. If a vacancy occurs on the**  
 31 **board, the county executive shall appoint a member to serve until**  
 32 **the next annual meeting. At the annual meeting, a member shall be**  
 33 **elected to complete the term. An individual appointed by the**  
 34 **county executive to fill a vacancy is eligible to hold the office as an**  
 35 **elected member.**

36 SECTION 36. IC 13-26-4-18 IS ADDED TO THE INDIANA  
 37 CODE AS A NEW SECTION TO READ AS FOLLOWS  
 38 [EFFECTIVE UPON PASSAGE]: **Sec. 18. The board shall by**  
 39 **resolution fix the time for holding regular meetings. The board**  
 40 **shall meet at least quarterly each year. IC 5-14-1.5 applies to all**  
 41 **board meetings.**

42 SECTION 37. IC 13-26-4-19 IS ADDED TO THE INDIANA

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1 CODE AS A NEW SECTION TO READ AS FOLLOWS  
 2 [EFFECTIVE UPON PASSAGE]: **Sec. 19. (a) Instead of electing the**  
 3 **board, an order establishing a district may provide for**  
 4 **appointments to the board by the county executive.**

5 **(b) An individual appointed to the board must have the**  
 6 **qualifications set forth in section 2.1(b) of this chapter and each of**  
 7 **the areas in the district established by the department must be**  
 8 **fairly represented on the board.**

9 SECTION 38. IC 13-26-4-20 IS ADDED TO THE INDIANA  
 10 CODE AS A NEW SECTION TO READ AS FOLLOWS  
 11 [EFFECTIVE UPON PASSAGE]: **Sec. 20. (a) A district board may**  
 12 **provide for the payment of not more than fifty dollars (\$50) per**  
 13 **day to board members for each day or part of a day devoted to the**  
 14 **work of the district.**

15 **(b) A board member is entitled to receive an amount for travel**  
 16 **expenses equal to the amount paid to state employees for expenses**  
 17 **incurred in the performance of duties.**

18 **(c) Payments made to board members under subsection (a) or**  
 19 **(b) shall be made from the district's general fund.**

20 SECTION 39. IC 13-26-4-21 IS ADDED TO THE INDIANA  
 21 CODE AS A NEW SECTION TO READ AS FOLLOWS  
 22 [EFFECTIVE UPON PASSAGE]: **Sec. 21. A majority of the board**  
 23 **constitutes a quorum. However, an action of the board is official**  
 24 **only if authorized by a majority of the board at a:**

- 25 (1) **regular meeting; or**  
 26 (2) **properly called special meeting.**

27 SECTION 40. IC 13-26-5-2 IS AMENDED TO READ AS  
 28 FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 2. A district may**  
 29 **do the following:**

- 30 (1) Sue or be sued.  
 31 (2) Make contracts in the exercise of the rights, powers, and  
 32 duties conferred upon the district.  
 33 (3) Adopt and alter a seal and use the seal by causing the seal to  
 34 be impressed, affixed, reproduced, or otherwise used. However,  
 35 the failure to affix a seal does not affect the validity of an  
 36 instrument.  
 37 (4) Adopt, amend, and repeal the following:  
 38 (A) Bylaws for the administration of the district's affairs.  
 39 (B) Rules and regulations for the following:  
 40 (i) The control of the administration and operation of the  
 41 district's service and facilities.  
 42 (ii) The exercise of all of the district's rights of ownership.



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- 1 (5) Construct, acquire, lease, operate, or manage works and obtain
- 2 rights, easements, licenses, money, contracts, accounts, liens,
- 3 books, records, maps, or other property, whether real, personal, or
- 4 mixed, of a person. ~~or an eligible entity.~~
- 5 (6) Assume in whole or in part any liability or obligation of
- 6 (A) ~~a another~~ person; **or**
- 7 (B) a nonprofit water ~~or sewage or solid waste project~~ system;
- 8 ~~or~~
- 9 ~~(C) an eligible entity;~~
- 10 including a pledge of part or all of the net revenues of a works to
- 11 the debt service on outstanding bonds of an entity in whole or in
- 12 part in the district and including a right on the part of the district
- 13 to indemnify and protect a contracting party from loss or liability
- 14 by reason of the failure of the district to perform an agreement
- 15 assumed by the district or to act or discharge an obligation.
- 16 (7) Fix, alter, charge, and collect reasonable rates and other
- 17 charges in the area served by the district's facilities to every
- 18 person whose premises are, whether directly or indirectly,
- 19 supplied with water or provided with sewage ~~or solid waste~~
- 20 services by the facilities for the purpose of providing for the
- 21 following:
- 22 (A) The payment of the expenses of the district.
- 23 (B) The construction, acquisition, improvement, extension,
- 24 repair, maintenance, and operation of the district's facilities
- 25 and properties.
- 26 (C) The payment of principal or interest on the district's
- 27 obligations.
- 28 (D) To fulfill the terms of agreements made with:
- 29 (i) the purchasers or holders of any obligations; or
- 30 (ii) a person. ~~or an eligible entity.~~
- 31 (8) Require connection to the district's sewer system of property
- 32 producing sewage or similar waste and require the discontinuance
- 33 of use of privies, cesspools, septic tanks, and similar structures if:
- 34 (A) there is an available sanitary sewer within three hundred
- 35 (300) feet of the property line; and
- 36 (B) the district has given written notice by certified mail to the
- 37 property owner at the address of the property at least ninety
- 38 (90) days before a date for connection to be stated in the
- 39 notice. **However, the district may not require connection if:**
- 40 **(i) the existing privy, cesspool, septic tank, or similar**
- 41 **structure was constructed within fifteen (15) years of the**
- 42 **date of the proposed connection; and**

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(ii) the county health department has not ordered correction of the existing privy, cesspool, septic tank, or similar structure or elimination of discharge from the system.

A person claiming an exemption under this clause has the burden of proof of both items (i) and (ii).

(C) The exclusion in clause (B) is not available to mobile home parks regulated by the state department of health under IC 16-41-27-11.

(9) Provide by ordinance for reasonable penalties for failure to connect and also apply to the circuit or superior court of the county in which the property is located for an order to force connection, with the cost of the action, including reasonable attorney's fees of the district, to be assessed by the court against the property owner in the action.

(10) Refuse the services of the district's facilities if the rates or other charges are not paid by the user.

(11) Control and supervise all property, works, easements, licenses, money, contracts, accounts, liens, books, records, maps, or other property rights and interests conveyed, delivered, transferred, or assigned to the district.

(12) Construct, acquire by purchase or otherwise, operate, lease, preserve, and maintain works considered necessary to accomplish the purposes of the district's establishment within or outside the district and enter into contracts for the operation of works owned, leased, or held by another entity, whether public or private.

(13) Hold, encumber, control, acquire by donation, purchase, or condemnation, construct, own, lease as lessee or lessor, use, and sell interests in real and personal property or franchises within or outside the district for:

- (A) the location or protection of works;
- (B) the relocation of buildings, structures, and improvements situated on land required by the district or for any other necessary purpose; or
- (C) obtaining or storing material to be used in constructing and maintaining the works.

(14) Upon consent of two-thirds (2/3) of the members of the board, **and after notice and hearing as provided in IC 13-26-2-6**, merge or combine with another district into a single district on terms so that the surviving district:

- (A) is possessed of all rights, franchises, and authority of the constituent districts; and

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- 1 (B) is subject to all the liabilities, obligations, and duties of  
 2 each of the constituent districts, with all rights of creditors of  
 3 the constituent districts being preserved unimpaired.
- 4 (15) Provide by agreement with another **eligible entity person** for  
 5 the joint construction of works the district is authorized to  
 6 construct if the construction is for the district's own benefit and  
 7 that of the other entity. For this purpose the cooperating entities  
 8 may jointly appropriate land either within or outside their  
 9 respective borders if all subsequent proceedings, actions, powers,  
 10 liabilities, rights, and duties are those set forth by statute.
- 11 (16) Enter into contracts with a person ~~an eligible entity, the state,~~  
 12 ~~or the United States~~ to provide services to the contracting party  
 13 for any of the following:
- 14 (A) The distribution or purification of water.
- 15 (B) The collection or treatment of sanitary sewage.
- 16 ~~(C) The collection, disposal, or recovery of solid waste.~~
- 17 (17) Make provision for, contract for, or sell the district's  
 18 byproducts or waste.
- 19 (18) Exercise the power of eminent domain.
- 20 (19) Remove or change the location of a fence, building, railroad,  
 21 canal, or other structure or improvement located within or outside  
 22 the district. If:
- 23 (A) it is not feasible or economical to move the building,  
 24 structure, or improvement situated in or upon land acquired;  
 25 and
- 26 (B) the cost is determined by the board to be less than that of  
 27 purchase or condemnation;
- 28 the district may acquire land and construct, acquire, or install  
 29 buildings, structures, or improvements similar in purpose to be  
 30 exchanged for the buildings, structures, or improvements under  
 31 contracts entered into between the owner and the district.
- 32 (20) Employ consulting engineers, superintendents, managers,  
 33 and other engineering, construction, and accounting experts,  
 34 attorneys, bond counsel, employees, and agents that are necessary  
 35 for the accomplishment of the district's purpose and fix their  
 36 compensation.
- 37 (21) Procure insurance against loss to the district by reason of  
 38 damages to the district's properties, works, or improvements  
 39 resulting from fire, theft, accident, or other casualty or because of  
 40 the liability of the district for damages to persons or property  
 41 occurring in the operations of the district's works and  
 42 improvements or the conduct of the district's activities.

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1 (22) Exercise the powers of the district without obtaining the  
 2 consent of other eligible entities. However, the district shall:  
 3 (A) restore or repair all public or private property damaged in  
 4 carrying out the powers of the district and place the property  
 5 in the property's original condition as nearly as practicable; or  
 6 (B) pay adequate compensation for the property.  
 7 (23) Dispose of, by public or private sale or lease, real or personal  
 8 property determined by the board to be no longer necessary or  
 9 needed for the operation or purposes of the district.  
 10 SECTION 41. IC 13-26-5-2.5 IS ADDED TO THE INDIANA  
 11 CODE AS A NEW SECTION TO READ AS FOLLOWS  
 12 [EFFECTIVE UPON PASSAGE]: **Sec. 2.5. (a) A district shall, to the**  
 13 **greatest extent and as expeditiously as possible, serve all**  
 14 **freeholders in the district.**  
 15 **(b) A district shall provide reasonable and adequate water or**  
 16 **sewage service and facilities as stated in the district's purposes.**  
 17 **(c) A district is entitled to charge reasonable and**  
 18 **nondiscriminatory rates, subject to IC 13-26-11-9.**  
 19 **(d) The county executive or the commission, as appropriate, has**  
 20 **jurisdiction to regulate the district to implement this section.**  
 21 SECTION 42. IC 13-26-5-4 IS AMENDED TO READ AS  
 22 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) The board  
 23 may adopt and enforce rules for the following purposes:  
 24 (1) To accomplish the purpose of a district.  
 25 (2) To protect the works, improvements, and properties, both real  
 26 and personal, that the district owns.  
 27 (3) To secure the best results from the construction, operation,  
 28 and maintenance of works, improvements, and properties.  
 29 (4) To prevent damage by the misuse of the works, improvements,  
 30 or properties by:  
 31 (A) the pollution or misuse of the waters in the district or of  
 32 the sewerage system; or  
 33 (B) the improper disposal of solid waste.  
 34 (b) The board may adopt and enforce rules under subsection (a) that  
 35 are necessary and advisable to do the following:  
 36 (1) Protect and preserve the works, improvements, and properties  
 37 owned or controlled by the district, prescribe the manner of use  
 38 by any person, and preserve order in and adjacent to the works.  
 39 (2) Prescribe the manner  
 40 ~~(A)~~ in which ditches, sewers, pipelines, or other works should  
 41 be adjusted to or connected with the works of the district. ~~and~~  
 42 ~~(B)~~ of waste disposal in the district.

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1 (3) Prescribe the permissible uses of the water supply and the  
 2 manner of distribution and prevent the pollution or unnecessary  
 3 waste of the water supply.  
 4 (4) Prohibit or regulate the discharge into the sewers of the  
 5 district of liquid or solid waste detrimental to the works and  
 6 improvements.  
 7 (c) Rules must be:  
 8 (1) consistent with:  
 9 (A) statutes; and  
 10 (B) the rules of the ~~solid waste management board or the water~~  
 11 ~~pollution control board~~; and  
 12 (2) maintained and open to inspection in the office of the district.  
 13 (d) The board may enforce by injunction or other legal remedy rules  
 14 adopted under this section. The board may remove a harmful or  
 15 improper construction or obstruction or may close an opening or  
 16 connection made improperly or in violation of the rules. A person that  
 17 willfully fails to comply with the rules is liable for damage caused by  
 18 the failure and for the cost of restoring or replacing construction  
 19 damaged.  
 20 SECTION 43. IC 13-26-5-6 IS AMENDED TO READ AS  
 21 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. (a) Subject to  
 22 ~~subsection (b); this section~~, the board may condemn for the use of the  
 23 district public or private land, easements, rights, rights-of-way,  
 24 franchises, or other property within or outside the district required by  
 25 the district for the accomplishment of the district's purposes according  
 26 to ~~the statutory procedure for the appropriation of land or other~~  
 27 ~~property taken by an eligible entity. IC 32-11-3.~~  
 28 (b) The power of condemnation by a district under this article may  
 29 not be exercised against a sewage disposal company holding a  
 30 certificate of territorial authority under IC 8-1-2-89 until the expiration  
 31 of twelve (12) years after the granting of the certificate of territorial  
 32 authority.  
 33 (c) **The power of condemnation may not be used against an**  
 34 **agency of the federal or state government without the consent of**  
 35 **that agency.**  
 36 SECTION 44. IC 13-26-5-7 IS AMENDED TO READ AS  
 37 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. (a) Exclusive of  
 38 building a sewage treatment plant ~~solid waste disposal or recovery~~  
 39 ~~system~~; or installing a supply of water, a district that desires to own,  
 40 acquire, construct, equip, improve, enlarge, extend, operate, and  
 41 maintain a works may proceed under this article if the district first  
 42 contracts for:

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1 (1) a supply of water; **or**  
 2 (2) the required treatment of the sewage emanating from the  
 3 district's works. ~~or~~  
 4 ~~(3) the disposition of solid waste generated within the district.~~  
 5 (b) A governmental or private body owning and operating facilities  
 6 for water supply **or** sewage ~~or solid waste disposal; recovery; or~~  
 7 ~~treatment~~ may contract to supply water or treat all or part of the sewage  
 8 ~~and solid waste~~ of a district. The contracts:  
 9 (1) must be authorized by ordinance; and  
 10 (2) are subject to approval by the department.  
 11 (c) All bonds issued under this article or IC 13-3-2 (before its  
 12 repeal) by a district contracting for:  
 13 (1) water supply;  
 14 (2) sewage; ~~or solid waste disposal;~~ or  
 15 (3) recovery treatment service;  
 16 under this section are payable before the expiration date of the contract  
 17 and districts may contract for the term of the bonds, including a term  
 18 or terms beyond the last maturity of the bonds.  
 19 SECTION 45. IC 13-26-6-1 IS AMENDED TO READ AS  
 20 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. A district plan  
 21 for the operation of the district must include **all of the following**:  
 22 (1) Engineering reports.  
 23 (2) Plans and specifications. ~~and~~  
 24 (3) A feasibility study in a form that the department requires.  
 25 (4) **A construction schedule.**  
 26 (5) **A septic maintenance plan.**  
 27 (6) **Proof of technical, financial, and managerial capacity to**  
 28 **operate a utility.**  
 29 SECTION 46. IC 13-26-6-2 IS AMENDED TO READ AS  
 30 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) **In response**  
 31 **to an application for approval of a district plan or an amendment**  
 32 **to a district plan, the department shall publish notice requesting**  
 33 **comments concerning the question of approval or denial of the**  
 34 **application.**  
 35 (b) **A comment period of at least thirty (30) days must follow**  
 36 **publication of notice under subsection (a). During the comment**  
 37 **period, interested persons may:**  
 38 (1) **submit written comments to the department concerning**  
 39 **the approval or denial of the plan; and**  
 40 (2) **request a public hearing on the approval or denial of the**  
 41 **plan.**  
 42 (c) **The department, in response to a written request, may hold**

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a public hearing on the application.  
(d) After the end of the comment period, or if a public hearing is held, after the public hearing, the commissioner shall do one (1) of the following:

- (1) Approve the application.
- (2) Deny the application.
- (3) Approve the application with modifications.

(e) The department shall serve notice of its action upon the following:

- (1) The district.
- (2) Each person who submitted written comments.
- (3) Each person who requests in writing notice of the determination.

(f) An action of the department under this chapter is subject to review under IC 4-21.5-3.

(g) If the department approves a district plan, the department shall authorize the district to proceed.

SECTION 47. IC 13-26-6-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. If:

- (1) the department determines that the project or operation of the district is not economically feasible; fair; or reasonable; or does not appear capable of accomplishing the project's or district's purposes with the requisite technical, managerial, and financial ability to operate a utility;
- (2) the district fails to file a plan for the operation of the district within the time prescribed by the department;
- (3) the department determines the district is not in compliance with the approved district plan;
- (4) the department determines that the district has failed to furnish reasonably adequate water or sewage service within the district; or
- (5) the department determines that the district has failed to comply with an applicable order or rule of the department, the county executive, or the commission in exercise of its powers;

the department may, after notice and hearing as provided in IC 13-26-2, declare the district dissolved and enter an order for the distribution of all assets owned by the district after the payment of liabilities to all eligible ratepayers who have timely filed claims.

SECTION 48. IC 13-26-7-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. If the commissioner orders a district dissolved as permitted in IC 13-26-6-4

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1 **or IC 13-26-8-3.1** the interest an entity has in the assets of the district  
2 is limited to those assets remaining after the payment of all other  
3 liabilities of the district.

4 SECTION 49. IC 13-26-8-1 IS AMENDED TO READ AS  
5 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. After the  
6 establishment of a district, ~~an eligible entity whose a person with~~  
7 territory is not ~~wholly~~ included within the district may file an  
8 application with the district setting forth the following:

9 (1) A general description of the territory the ~~eligible entity person~~  
10 desires to have included in the district. **The description must**  
11 **include a map of the existing district and a legal description**  
12 **of the proposed new territory. The map must satisfy the**  
13 **following:**

14 (A) **The territories must be shown on a county map (if the**  
15 **territories are in more than one (1) county, on separate**  
16 **county maps) scaled at approximately one (1) inch per**  
17 **mile.**

18 (B) **The maps must include all the roads and highways,**  
19 **streams, section and township lines, and range and**  
20 **township numbers.**

21 (C) **Township corner sections must be numbered (one (1),**  
22 **six (6), thirty (30), and thirty-six (36)).**

23 (D) **The rural areas presently being served must be colored**  
24 **in red. Sewer systems and municipal corporation limits**  
25 **within five (5) miles of the proposed area to be served**  
26 **under the application must be shown in blue. State owned**  
27 **property must be shown in brown.**

28 (2) **The public convenience and necessity for the inclusion of the**  
29 **territory in the district.**

30 (3) **That inclusion of the territory in the district will be conducive**  
31 **to the public health, safety, convenience, or welfare.**

32 (4) **That it will be practical and feasible for the territory to be**  
33 **included in the district.**

34 (5) **Proposed modifications to the district plan to include the**  
35 **new territory.**

36 SECTION 50. IC 13-26-8-2 IS AMENDED TO READ AS  
37 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. If an application  
38 is approved by a majority of the board, the ~~territory described in the~~  
39 ~~application becomes part of the district. The district shall then notify~~  
40 ~~the department of the inclusion of the additional territory in the district.~~  
41 **file a petition with the department as described in IC 13-26-2**  
42 **requesting an order of the department to include the territory**

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1 described in the application within the district. Upon the filing of  
 2 a petition, the department shall proceed in the same manner that  
 3 is set forth in IC 13-26-2, IC 13-26-4, IC 13-26-6, and IC 13-26-7.

4 SECTION 51. IC 13-26-8-3.1 IS ADDED TO THE INDIANA  
 5 CODE AS A NEW SECTION TO READ AS FOLLOWS  
 6 [EFFECTIVE UPON PASSAGE]: **Sec. 3.1. (a) At any time after the**  
 7 **creation of a district, the district, after motion by the district's**  
 8 **board, may file a petition with the department requesting the**  
 9 **approval of the department permitting the district to:**

10 (1) increase or add to the district's purposes or modify the  
 11 district plan approved by the department; or

12 (2) abandon or surrender all or part of a purpose or plan  
 13 approved by the department.

14 (b) The procedures and requirements for a petition filed under  
 15 this section shall be the same as those for establishment of a district  
 16 as described in IC 13-26-2.

17 (c) Upon the filing of a petition under this section, the  
 18 department shall proceed in the same manner that is set forth in  
 19 IC 13-26-2, IC 13-26-4, IC 13-26-6, and IC 13-26-7.

20 (d) The department may, after notice and hearing as provided  
 21 in IC 13-26-2:

22 (1) approve;

23 (2) modify and approve; or

24 (3) reject;

25 a request received under this section.

26 SECTION 52. IC 13-26-9-1 IS AMENDED TO READ AS  
 27 FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 1. This article does**  
 28 **not limit neither limits nor prohibits** the following:

29 (1) The formation and operation under IC 8-1-2-89 of a sewage  
 30 disposal company to provide sewage disposal service to a territory  
 31 lying in the territory of a district.

32 (2) The granting of a certificate of territorial authority under  
 33 IC 8-1-2-89 encompassing a part of the territory within the  
 34 district.

35 SECTION 53. IC 13-26-9-3 IS AMENDED TO READ AS  
 36 FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 3. A sewage**  
 37 **disposal company that is subject to the jurisdiction of the Indiana utility**  
 38 **regulatory commission under IC 8-1-2-89, and all of the territory lying**  
 39 **in the area to which the company holds a certificate of territorial**  
 40 **authority, is exempt from all ordinances and rules adopted by the**  
 41 **board, except those ordinances and rules pertaining to maintenance and**  
 42 **operation, until: unless**

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1           (1) the connection is made to the sewerage system of the district.  
2           and

3           (2) the district begins to provide service within the area covered  
4           by the certificate of territorial authority.

5           SECTION 54. IC 13-26-10-20 IS ADDED TO THE INDIANA  
6           CODE AS A NEW SECTION TO READ AS FOLLOWS  
7           [EFFECTIVE UPON PASSAGE]: **Sec. 20. A district shall**  
8           **demonstrate to either the commission or the county executive, as**  
9           **appropriate, that all available sources of public funding, including**  
10           **state and federal money, have been exhausted before issuance of**  
11           **revenue bonds.**

12           SECTION 55. IC 13-26-11-4 IS AMENDED TO READ AS  
13           FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. The rates and  
14           charges for services of a water ~~or sewer or solid waste disposal or~~  
15           ~~recovery~~ system do not have to be uniform throughout the district or for  
16           all users. The board may exercise reasonable discretion in:

- 17           (1) adopting different schedules of rates and charges; or  
18           (2) making classifications in schedules of rates and charges:  
19           (A) based upon variations in the costs of furnishing the  
20           services, including capital expenditures required, to various  
21           classes of users or to various locations in the district; or  
22           (B) where there are variations in the number of users in  
23           various locations in the district.

24           SECTION 56. IC 13-26-11-7 IS AMENDED TO READ AS  
25           FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. (a) ~~If a district~~  
26           ~~constructs sewers or water mains as a part of the construction of the~~  
27           ~~works that are suitable for use as a local or lateral sewer or main by~~  
28           ~~abutting or adjoining property, the district may charge for the~~  
29           ~~connection on the basis of the pro rata cost of construction of a local or~~  
30           ~~lateral sewer or water main sufficient to serve the property. The~~  
31           ~~district may charge each property owner that connects to the~~  
32           ~~system an amount not more than the actual cost of the connection~~  
33           ~~to the system.~~

34           (b) Each property owner must agree to pay for the connection in  
35           making an application for service. If payment is not made as agreed,  
36           the payment constitutes a lien on the property for which the connection  
37           is made.

- 38           (c) The proceeds of the connection charges may be handled as:  
39           (1) net revenues of the works; or  
40           (2) payments toward the cost of construction or future  
41           improvements.

42           SECTION 57. IC 13-26-11-9 IS AMENDED TO READ AS

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1       FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. (a) **A district**  
2       **shall furnish reasonably adequate service and facilities.**

3       (b) **The rates and charges made by a district for a service**  
4       **rendered or to be rendered, either directly or in connection with**  
5       **the service, must be nondiscriminatory, reasonable, just, and**  
6       **equitable.**

7       (c) **Reasonable, just, and equitable rates and charges are those that**  
8       **produce sufficient revenue to:**

9           (1) **pay all expenses incident to the operation of the works,**  
10          **including maintenance cost, operating charges, upkeep, repairs,**  
11          **and interest charges on bonds or other obligations;**

12          (2) **provide the sinking fund for the liquidation of bonds or other**  
13          **evidence of indebtedness and reserves against default in the**  
14          **payment of interest and principal of bonds; and**

15          (3) **provide adequate money to be used as working capital, as well**  
16          **as money for making improvements, additions, extensions, and**  
17          **replacements.**

18       **(b) (d) It is the intent of this article that the rates and charges**  
19       **produce an income sufficient to maintain the utility property in**  
20       **sound physical and financial condition to render adequate and**  
21       **efficient service.** Rates and charges too low to meet the financial  
22       requirements described in ~~subsection (a)~~ **this section** are unlawful. The  
23       initial rates and charges established after notice and hearing under this  
24       article are prima facie just and equitable.

25       (e) **Rates and charges established under this article are subject**  
26       **to the approval of the following:**

27           (1) **The county executive, if the county executive has**  
28           **jurisdiction under section 18 of this chapter.**

29           (2) **The commission, if the commission has jurisdiction under**  
30           **section 15 of this chapter. A district subject to the**  
31           **commission's jurisdiction must seek approval for all rates and**  
32           **charges, including initial rates and charges, by petitioning the**  
33           **commission.**

34       SECTION 58. IC 13-26-11-15 IS ADDED TO THE INDIANA  
35       CODE AS A NEW SECTION TO READ AS FOLLOWS  
36       [EFFECTIVE UPON PASSAGE]: Sec. 15. **Except as provided in this**  
37       **article or an order of the department, a district established under**  
38       **this article is subject to the jurisdiction of the commission and is**  
39       **required to comply with:**

40           (1) **IC 8-1;**

41           (2) **the commission's rules adopted under IC 8-1; and**

42           (3) **the commission's orders.**



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1 SECTION 59. IC 13-26-11-16 IS ADDED TO THE INDIANA  
 2 CODE AS A NEW SECTION TO READ AS FOLLOWS  
 3 [EFFECTIVE UPON PASSAGE]: Sec. 16. (a) Notwithstanding  
 4 section 15 of this chapter, a district may be removed from the  
 5 commission's jurisdiction for the approval of rates and charges  
 6 and of the issuance of stocks, bonds, notes, or other evidence of  
 7 indebtedness, if the board adopts an ordinance removing the  
 8 district from commission jurisdiction.

9 (b) The board shall, at least thirty (30) days before the final vote  
 10 on the ordinance, mail written notice of the meeting to all  
 11 freeholders and to the commission. An explanation of the removal  
 12 process must be provided at the public meeting held under this  
 13 section.

14 (c) The ordinance described in subsection (a) takes effect sixty  
 15 (60) days after adoption by the board.

16 (d) The question of removal from commission jurisdiction shall  
 17 be submitted to the freeholders if, not later than the end of the sixty  
 18 (60) day period described in subsection (c), the board receives a  
 19 petition that:

20 (1) is signed by at least five percent (5%) of the freeholders of  
 21 the district; and

22 (2) requests the board to submit the question of removal from  
 23 the commission's jurisdiction to the freeholders of the district  
 24 at the next annual meeting.

25 (e) If the board receives a petition described in subsection (d) in  
 26 the proper form, it shall submit the following question to the  
 27 freeholders at the next annual meeting:

28 "Shall the district be removed from the jurisdiction of the  
 29 Indiana Utility Regulatory Commission for the approval of  
 30 rates and charges and of the issuance of stocks, bonds, notes,  
 31 or other evidence of indebtedness?"

32 (f) The board shall mail written notice of the question to the  
 33 commission at least ten (10) days before the date of the annual  
 34 meeting.

35 (g) If a majority of those voting on the question described in  
 36 subsection (e) favor removing the district from the commission's  
 37 jurisdiction, the district is removed from the commission's  
 38 jurisdiction for approval of rates and charges and of the issuance  
 39 of stocks, bonds, notes, or other evidence of indebtedness. If the  
 40 board receives a petition under subsection (d), the ordinance does  
 41 not take effect until after removal is approved by a majority of  
 42 those voting.



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1 (h) In addition to the notice required by subsection (b), if the  
2 board adopts the ordinance described in subsection (b), the board  
3 shall mail written notice of the withdrawal from the commission's  
4 jurisdiction to the commission not later than thirty (30) days after  
5 the ordinance becomes effective.

6 (i) If a majority of those voting on the question described in  
7 subsection (e) vote against removal, the district remains under the  
8 commission's jurisdiction and the ordinance does not take effect.

9 (j) This section does not affect the obligations of a regional  
10 sewer district under IC 8-1-2.3 or any regional district under  
11 IC 8-1-22.5 or IC 8-1.5-3-14.

12 (k) A district removed from the commission's jurisdiction is  
13 subject to the county executive's jurisdiction for those functions  
14 removed from the commission's jurisdiction.

15 (l) Challenges to the voting and procedures for determining  
16 commission jurisdiction under this section shall be made to the  
17 commission under IC 8-1 and the commission's rules adopted  
18 under IC 8-1.

19 (m) The determination of the validity and effective date of  
20 withdrawal under this section shall be made by the commission and  
21 its decision is binding on the parties.

22 SECTION 60. IC 13-26-11-17 IS ADDED TO THE INDIANA  
23 CODE AS A NEW SECTION TO READ AS FOLLOWS  
24 [EFFECTIVE UPON PASSAGE]: Sec. 17. (a) The board may adopt  
25 an ordinance returning the district to the commission's jurisdiction  
26 for the approval of rates and charges and of the issuance of stocks,  
27 bonds, notes, or other evidence of indebtedness if it receives a  
28 petition that:

29 (1) is signed by at least five percent (5%) of the freeholders of  
30 the district; and

31 (2) requests the board to adopt an ordinance returning the  
32 district to the commission's jurisdiction.

33 (b) If the board fails to adopt an ordinance under subsection (a)  
34 not later than ninety (90) days after receiving the petition, a  
35 petition requesting the adoption of an ordinance to return to the  
36 commission's jurisdiction under subsection (a) may not be  
37 submitted for four (4) years from the date the last petition was  
38 submitted under this subsection.

39 (c) If the board fails to adopt the ordinance described in  
40 subsection (a) not later than ninety (90) days after receiving the  
41 petition, the question of the return to commission jurisdiction shall  
42 be submitted to the freeholders of the district if the board receives

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- 1 a second petition that:
- 2 (1) is signed by at least ten percent (10%) of the freeholders;
- 3 (2) requests the board to submit the question of the return to
- 4 the commission's jurisdiction to the freeholders at the next
- 5 annual meeting; and
- 6 (3) is submitted to the board after the ninety (90) day period
- 7 described in subsection (b).
- 8 (d) If the board receives a petition described in subsection (c) in
- 9 the proper form, it shall submit the following question to the
- 10 freeholders at the next annual meeting:
- 11 "Shall the district be returned to the jurisdiction of the
- 12 Indiana Utility Regulatory Commission for the approval of
- 13 rates and charges and of the issuance of stocks, bonds, notes,
- 14 or other evidence of indebtedness?".
- 15 (e) The board shall mail written notice of the question to the
- 16 commission at least ten (10) days before the date of the annual
- 17 meeting.
- 18 (f) If a majority of those voting on the question described in
- 19 subsection (d) favor returning the district to the commission's
- 20 jurisdiction, the district is returned to the commission's
- 21 jurisdiction for approval of rates and charges and of the issuance
- 22 of stocks, bonds, notes, or other evidence of indebtedness.
- 23 (g) If a majority of those voting disapprove of returning the
- 24 district to the commission's jurisdiction, a vote may not be
- 25 conducted on the question of returning to the commission's
- 26 jurisdiction for four (4) years from the date of the last vote on that
- 27 question.
- 28 (h) The question of returning to the commission's jurisdiction
- 29 may not be submitted to the freeholders of the district for a vote
- 30 conducted within four (4) years after the date the district was last
- 31 withdrawn from the commission's jurisdiction; and
- 32 (i) A petition requesting the adoption of an ordinance under
- 33 subsection (b) may not be submitted within four (4) years after the
- 34 date the district was last withdrawn from the commission's
- 35 jurisdiction.
- 36 (j) If a district is returned to the commission's jurisdiction
- 37 under this section, the board shall mail written notice to the
- 38 commission.
- 39 (k) Challenges to the voting and procedure for determining the
- 40 commission's jurisdiction under this section must be made to the
- 41 commission under IC 8-1 and the commission's rules adopted
- 42 under IC 8-1.



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1           **(l) The determination of the validity and effective date of return**  
 2 **to the commission's jurisdiction under this section shall be made by**  
 3 **the commission. The commission's decision is binding on the**  
 4 **parties.**

5           SECTION 61. IC 13-26-11-18 IS ADDED TO THE INDIANA  
 6 CODE AS A NEW SECTION TO READ AS FOLLOWS  
 7 [EFFECTIVE UPON PASSAGE]: **Sec. 18. (a) This section applies to**  
 8 **all districts that are not under the commission's jurisdiction for**  
 9 **approval of rates and charges.**

10           **(b) A freeholder in the district may file a written petition**  
 11 **objecting to the rates and charges of the district. A petition filed**  
 12 **under this subsection must:**

- 13           **(1) contain the name and address of the petitioner;**  
 14           **(2) be filed with the county executive not later than five (5)**  
 15 **days after the district adopts the ordinance establishing the**  
 16 **rates and charges;**  
 17           **(3) contain the specific grounds of objection.**

18           **(c) The county executive may investigate and conduct a hearing**  
 19 **on the objection.**

20           **(d) If the objection is not resolved or abandoned not later than**  
 21 **fifteen (15) days of filing, the county executive shall file with the**  
 22 **circuit court clerk of the county a copy of the rate ordinances and**  
 23 **the petition.**

24           **(e) The court shall then set the matter for hearing at the earliest**  
 25 **date possible, which must be not later than twenty (20) days of the**  
 26 **filing of the petition with the court. The court shall send notice of**  
 27 **the hearing by certified mail to the county executive, the district,**  
 28 **and to the petitioner at the address shown on the petition. All**  
 29 **parties shall appear in court without further notice.**

30           **(f) Neither the district nor the county executive may conduct**  
 31 **any further proceedings concerning the rates and charges until the**  
 32 **matters presented by the petition have been heard and determined**  
 33 **by the court.**

34           **(g) At the discretion and upon the direction of the court, the**  
 35 **petitioner shall file with the petition a bond in the sum and with the**  
 36 **security fixed by the court. The bond must be conditioned on the**  
 37 **petitioner's payment of all or part of the costs of the hearing and**  
 38 **any damages awarded to the district if the petition is denied, as**  
 39 **ordered by the court.**

40           **(h) Upon the date fixed in the notice, the court shall, without a**  
 41 **jury, hear the evidence produced. The court may:**

- 42           **(1) sustain the decision of the county executive or the district;**



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(2) sustain the petition; or  
(3) make any other ruling appropriate in the matter.  
**The order of the court is final and conclusive upon all the parties to the proceeding and parties who might have appeared at the hearing.**

SECTION 62. IC 13-26-13-12 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 12. (a) This section applies if a district is under the county executive's jurisdiction for approval of rates and charges and of the issuance of stocks and bonds, notes, or other indebtedness.**

(b) Except as otherwise provided in this article, an objection regarding actions of the board or other consumer disputes shall be filed with the county executive under this section.

(c) The county executive may investigate and enter orders on objections filed by ratepayers or freeholders arising under this article.

(d) The county executive's decision is binding on all parties to the objection.

SECTION 63. IC 13-26-13-13 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 13. (a) This section applies if a district is under the commission's jurisdiction for approval of rates and charges and of the issuance of stocks and bonds, notes, or other indebtedness.**

(b) An objection regarding actions of the board or other consumer disputes shall be filed with the commission as described in IC 8-1-2-34.5 and the commission's rules.

SECTION 64. THE FOLLOWING ARE REPEALED [EFFECTIVE UPON PASSAGE]: IC 13-11-2-62; IC 13-26-1-2; IC 13-26-4-2; IC 13-26-4-3; IC 13-26-4-6; IC 13-26-4-7; IC 13-26-6-3; IC 13-26-8-3; IC 13-26-11-3.

SECTION 65. [EFFECTIVE UPON PASSAGE] (a) **This SECTION applies to a regional water and sewage district covered by IC 13-26, as amended by this act.**

(b) The definitions in IC 13-11-2, to the extent applicable to IC 13-26, as amended by this act, apply throughout this SECTION.

(c) Appointments and elections of all board members after the effective date of this act must be in accordance with IC 13-26, as amended by this act.

(d) Notwithstanding subsection (c), a board member appointed or elected in accordance with IC 13-3-2 (before its repeal) or this

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1 article before the effective date of this act continues in office, if the  
2 member is otherwise eligible until expiration of the member's  
3 current term of office.  
4 (e) If an order of the department for a district established before  
5 the effective date of this act provides for election of board  
6 members, the district shall, not later than September 15, 2000, file  
7 a petition with the department to amend its order so that the board  
8 is appointed or elected in accordance with IC 13-26, as amended by  
9 this act.  
10 (f) A district established before the effective date of this act is  
11 subject to the county executive's jurisdiction as described in  
12 IC 13-26-11-18, as added by this act, and all other requirements for  
13 districts not under the commission's jurisdiction. However, such a  
14 district may choose, under IC 13-26-11-17, as added by this act, to  
15 be subject to the commission's jurisdiction under IC 13-26, as  
16 amended by this act.  
17 (g) This SECTION expires July 1, 2004.  
18 SECTION 66. An emergency is declared for this act.

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