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# HOUSE BILL No. 1060

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 14-39.

**Synopsis:** Rural community wastewater districts. Provides for the establishment of a rural community wastewater district in an unincorporated area having a population of less than 1,250. Requires the creation of the wastewater district to be initiated through petition, and provides for remonstrance against creation. Provides for an advisory board to oversee the district. Provides for the duties and powers of the advisory board and the administration of the district. Allows the district to collect fees, user charges, and penalties. Provides the district with the authority to file a lien for past due fees, user charges, or penalties. Allows the district to seek funding from the wastewater revolving loan fund. Allows the district to issue revenue obligations.

**Effective:** July 1, 2001.

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January 8, 2001, read first time and referred to Committee on Agriculture, Natural Resources and Rural Development.

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First Regular Session 112th General Assembly (2001)

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 2000 General Assembly.

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# HOUSE BILL No. 1060



A BILL FOR AN ACT to amend the Indiana Code concerning natural and cultural resources.

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

- 1 SECTION 1. IC 14-39 IS ADDED TO THE INDIANA CODE AS
- 2 A **NEW** ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1,
- 3 2001]:
- 4 **ARTICLE 39. RURAL COMMUNITY WASTEWATER**
- 5 **DISTRICT**
- 6 **Chapter 1. Applicability and Purpose**
- 7 **Sec. 1. This article applies to an unincorporated area with a**
- 8 **population of less than one thousand two hundred fifty (1,250)**
- 9 **according to:**
- 10 (1) **the most recent federal census; or**
- 11 (2) **if the most recent federal census figure is not available, a**
- 12 **census approved by the state board of finance.**
- 13 **Sec. 2. A rural community wastewater district may be**
- 14 **established by an eligible entity to provide for the:**
- 15 (1) **collection, treatment, and disposal of wastewater, sewage,**
- 16 **and other liquid wastes; and**
- 17 (2) **operation, maintenance, cleaning, or repair of wastewater**



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treatment and disposal systems within the district.

**Chapter 2. Definitions**

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

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

**Sec. 3.** "District" refers to a rural community wastewater district established by IC 14-39-1-2.

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

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

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

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

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

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

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

**Chapter 3. Establishment**

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

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

- (1) Districts of not more than one hundred (100) freeholds,

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

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

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

**Sec. 4. A petition must contain the following:**

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

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conducive to the public health, safety, or welfare.

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

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

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

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

Sec. 6. (a) The petitioners must post a bond sufficient to pay the cost of notice and all legal costs of the court connected with the proceedings if the court refuses to establish the district and dismisses the petition.

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

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

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

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

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

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

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

- (1) By publication in two (2) newspapers of general circulation in each township having land in the proposed district three (3) times at successive weekly intervals. The first

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1 publication must be at least thirty (30) days before the date of  
 2 the hearing. If there is only one (1) newspaper of general  
 3 circulation in a township, three (3) publications in that  
 4 newspaper are sufficient.

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

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

12 (B) The addresses to which the notice was sent.

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

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

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

18 (1) A statement that a petition for a district is before the  
 19 court.

20 (2) A statement of each purpose for which the district is  
 21 proposed.

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

24 (4) The place of the hearing.

25 (5) The date of the hearing.

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

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

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

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

36 the court shall dismiss the petition for the establishment of the  
 37 district.

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

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

41 (1) bears the necessary signatures; and

42 (2) complies with the requirements as to form and content.

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1           (b) The court may not dismiss a petition with the requisite  
2 signatures because of alleged defects without permitting, in this or  
3 subsequent proceedings, amendments to correct errors in form or  
4 content. The court shall hear any interested person on the question.

5           (c) The following are prima facie evidence concerning the  
6 requirements for signatures on a petition:

7           (1) Verified certification, based on personal knowledge or  
8 information and belief, by:

9           (A) the persons who carried the petition; or

10           (B) other persons knowing the facts as to the identity of the  
11 persons signing the petition and as to the ownership by  
12 those persons of land within the proposed district.

13           (2) The records of the county auditor or county treasurer.

14           (d) The determination of:

15           (1) the number of freeholds; and

16           (2) the necessary number and identity of freeholders;

17 shall be made as of the date of filing a petition. If the petition as of  
18 that date bears the necessary number of signatures, the petition  
19 may not be dismissed because petitioners withdraw signatures that  
20 reduce the number of signatures below the required amount unless  
21 the withdrawals constitute more than fifty percent (50%) of the  
22 signers as of the date of filing.

23           Sec. 15. (a) If the court determines that a petition conforms to  
24 the requirements, the court shall enter an order referring the  
25 petition to the township board.

26           (b) The township board shall consult with all other township  
27 boards that contain land in the proposed district and shall make a  
28 determination and report to the court whether the proposed  
29 district meets the following conditions:

30           (1) The proposed district appears to be necessary.

31           (2) The proposed district holds promise of economic and  
32 engineering feasibility.

33           (3) The proposed district seems to offer benefits that exceed  
34 costs and damages.

35           (4) Whether the public health will be served immediately or  
36 prospectively by the establishment of the district for sewage  
37 treatment and disposal.

38           (5) The proposed district proposes to cover and serve a proper  
39 area.

40           (6) The proposed district could be established and operated in  
41 a manner compatible with established:

42           (A) conservancy districts;

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- 1           **(B) flood control projects;**  
 2           **(C) reservoirs;**  
 3           **(D) lakes;**  
 4           **(E) drains;**  
 5           **(F) levees; and**  
 6           **(G) other water management or water supply projects.**  
 7           **(c) The fact that all the land included in the proposed district is**  
 8           **owned by one (1) freeholder or a limited number of freeholders is**  
 9           **not a sufficient reason for the township board or the court to make**  
 10           **unfavorable findings on the question of the establishment of the**  
 11           **district. However, it must appear from the evidence that the land**  
 12           **is subdivided or intended for subdivision and development and that**  
 13           **the accomplishment of the purposes proposed and in the manner**  
 14           **proposed would be necessary and desirable for the person**  
 15           **acquiring and using the land after subdivision and development.**  
 16           **Sec. 16. (a) In determining the facts, the township board**  
 17           **reviewing the petition shall hold hearings at which any interested**  
 18           **person has the right to be heard.**  
 19           **(b) The township board shall give notice of the hearings by**  
 20           **publication at least one (1) time in one (1) newspaper of general**  
 21           **circulation in each township containing land in the proposed**  
 22           **district.**  
 23           **Sec. 17. The expenses of the hearings, other expenses of**  
 24           **necessary investigations and surveys, and expenses incurred by the**  
 25           **township board in subsequent studies of district plans are payable**  
 26           **initially out of the general money of the township that contains the**  
 27           **most land in the district. The district shall repay the expenditures**  
 28           **to the township from the district's planning money. Township**  
 29           **board expenses include expenses incurred by an assisting or a**  
 30           **cooperating state agency.**  
 31           **Sec. 18. (a) If a proposed purpose is within the administrative**  
 32           **jurisdiction of another state agency, the township board shall**  
 33           **request technical assistance of the agency and give full weight to**  
 34           **the agency in making a report to the court.**  
 35           **(b) State agencies shall furnish assistance to the township board**  
 36           **necessary to accomplish the purposes of this article.**  
 37           **Sec. 19. The township board shall make a report of the township**  
 38           **board's findings to the court, including findings on the territorial**  
 39           **limits of the proposed district. The township board shall make this**  
 40           **report within one hundred twenty (120) days after the petition is**  
 41           **referred to the township board, unless the township board requests**  
 42           **and receives approval from the court for additional periods of**

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1 thirty (30) days each.

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

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

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

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

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

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

23 **(A)** Additional signatures to the petition for the  
24 establishment of the district.

25 **(B)** Signatures to a petition against the establishment of a  
26 district.

27 **(C)** Withdrawals from either petition.

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

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

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

40 **(b)** If the court finds that the evidence supports at least one (1)  
41 of the purposes named in a petition but does not support at least  
42 one (1) of the other purposes, the court shall order the district

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1 established only for the purposes the court finds supported by the  
2 evidence.

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

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

8 (2) direct the:

9 (A) township board of the township that contains the most  
10 land in the district; and

11 (B) township trustee of the township that contains the most  
12 land in the district;

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

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

19 **Sec. 25. An order:**

20 (1) dismissing a petition; or

21 (2) establishing a district;

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

23 **Sec. 26. If:**

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

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

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

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

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

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

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

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

41 **Sec. 1. A rural community wastewater district advisory board**  
42 **is established in each rural community wastewater district.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

40               **as prohibited by law.**

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

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

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

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

**as soon as practicable after the vacancy occurs.**

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

**Chapter 5. Administration and Procedures**

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

- (1) Exercise general supervision of and issue regulations for the administration of the affairs of the district.**
- (2) Prescribe uniform rules pertaining to investigations and hearings.**
- (3) Supervise the fiscal affairs and responsibilities of the district.**
- (4) Prescribe the qualifications of, appoint, remove, and fix the compensation of the employees of the district. The compensation must be reasonable and similar in amount to the compensation allowed employees performing similar service for the state and political subdivisions of the state. The board may hire a manager to oversee the day to day operations of the district. The advisory board may delegate to employees authority to perform ministerial acts in all cases except where final action of the board is necessary.**
- (5) Keep an accurate and complete record of all district proceedings and record and file all bonds and contracts, assuming responsibility for the custody and preservation of all papers and documents of the district.**
- (6) Make an annual report to the township board and the township trustee of income and expenses. The report must be submitted not later than thirty (30) days after the annual meeting and may include any of the following:**
  - (A) A statement of the progress in accomplishing each purpose for which the district is established.**
  - (B) A matter that the board believes should be brought to**

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the attention of the township board or township trustee for instructions or approval.

(7) Adopt a seal and certify all official acts.

(8) Sue and be sued collectively by the legal name " \_\_\_\_\_ Rural Community Wastewater District", with service of process made on the chair of the board. However, costs may not be taxed against the directors individually in an action.

(9) Invoke any legal, equitable, or special remedy for the enforcement of this article or of any proper action of the board in a court.

(10) If advisable, establish an advisory committee.

(11) Exercise the powers granted under this article to accomplish the purpose for which the district is established.

(12) Insure property, personnel, and operations of the district against risks and in amounts that the board determines necessary to protect the district.

(13) Authorize construction and oversee any project necessary to accomplish the purpose for which the district is established.

(14) Collect fees, user charges, and penalties assessed against real property in the district.

Sec. 2. (a) The advisory board shall meet at least monthly, including an annual meeting on the date set by the court in the order establishing the district.

(b) At the annual meeting the advisory board shall elect a chair and a vice chair to preside over the meetings of the advisory board. The vice chair may act as chair during the absence or disability of the chair. The chair shall promptly notify in writing the:

(1) township board of each township that contains land in the district;

(2) township trustee of each township that contains land in the district; and

(3) circuit court;

of the names and addresses of the officers and directors of the district.

(c) The vice chair of the advisory board is the officer responsible for the collection of fees, user charges, and penalties. The vice chair shall make quarterly reports to the advisory board regarding actions the vice chair has taken for the collection of past due fees under sections 4 and 5 of this chapter.

Sec. 3. (a) At the first meeting of the first advisory board, the advisory board shall adopt by majority vote a resolution designating the location in the district where the district will

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

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

- 7 (1) Arrange for office space.
- 8 (2) Keep a record in the office of all transactions and minutes  
9 of all meetings.
- 10 (3) Keep all records and minutes available for inspection by  
11 any interested person of the district during the hours that the  
12 district office is open for business.

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

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

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

35 (d) The advisory board shall release:

- 36 (1) liens filed with the county recorder after the recorded date  
37 of conveyance of the property; and
- 38 (2) delinquent fees incurred by the seller;

39 upon receipt of a verified demand in writing from the purchaser.  
40 The demand must state that the delinquent fees were not incurred  
41 by the purchaser as a user, lessee, or previous owner and that the  
42 purchaser has not been paid by the seller for the delinquent fees.

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

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

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

13           **(2) the description of the premises, as shown by the records of**  
 14 **the county auditor; and**

15           **(3) the amount of the delinquent fees and the penalty.**

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

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

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

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

39           **(b) The advisory board may receive and accept from any source,**  
 40 **public or private, any money, property, or thing of value to be held,**  
 41 **used, and applied to carry out the purposes of this chapter subject**  
 42 **to the conditions upon which the grants or contributions are made,**

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1 including gifts or grants from a department, agency, or  
 2 instrumentality of the United States for a purpose consistent with  
 3 this chapter.

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

- 5 (1) Engineering, legal, and administrative costs incidental to  
 6 the application for the loan and the program for construction  
 7 for which the money is borrowed.
- 8 (2) Necessary construction and purchases.

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

- 11 (1) Pass a resolution to that effect.
- 12 (2) Prepare and submit an application to the department of  
 13 environmental management.

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

- 15 (1) The amount of the loan desired.
- 16 (2) A statement of the need for the wastewater treatment  
 17 system.
- 18 (3) A statement of the program for which the money will be  
 19 used, supported by a preliminary engineering report that  
 20 includes cost studies.
- 21 (4) Written statements that the eligible entity is unable to  
 22 borrow the amount of the loan from the commercial money  
 23 market by the sale of revenue or other bonds that the eligible  
 24 entity may sell. The statements must be signed by at least two  
 25 (2) individuals separately engaged in the business of buying  
 26 and selling municipal bonds.
- 27 (5) A program for the repayment of the loan.
- 28 (6) Other information that the department requests.

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

- 31 (1) investigate the application;
- 32 (2) determine if the proposed system meets environmental  
 33 standards; and
- 34 (3) prepare a report on the application.

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

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

41 **(c) The state board of finance shall approve or disapprove the  
 42 application. If the state board of finance approves the application,**

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1 the auditor of state shall promptly make the money available to the  
2 district applying for the loan.

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

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

6 (2) must bear interest as follows:

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

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

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

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

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

15 (c) The first installment must be paid not later than December  
16 31 of the year following the year in which the loan is made  
17 available.

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

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

24 Sec. 12. If:

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

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

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

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

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

37 (b) The state may recover the amount the eligible entity owes to  
38 the wastewater revolving loan fund by either of the following  
39 methods:

40 (1) The state may institute an appropriate action in the circuit  
41 or superior court with jurisdiction in the county in which the  
42 eligible entity is located on the instigation of the state board

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of finance and the department. The attorney general shall prosecute the action.

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

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

(b) The purchasing entity shall either:

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

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

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

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

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

(1) To obtain funds to pay for:

(A) the acquisition of property; or

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

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

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

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

(1) limit the amount of the obligations that may be issued as a first lien and charge against the property or properties and

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1 the income and revenues from the property; and  
 2 (2) authorize the issuance from time to time of additional  
 3 obligations secured by the same pledge or lien to provide  
 4 funds:

5 (A) for the completion of the property, properties,  
 6 betterments, improvements, extensions, or additions for  
 7 which the original obligations were issued; and

8 (B) to pay the cost of additional utility properties,  
 9 betterments, improvements, extensions, or additions to the  
 10 property.

11 The additional obligations must be issued on the terms and  
 12 conditions determined by the advisory board, and may be  
 13 secured equally and ratably, without preference, priority, or  
 14 distinction, with the original issue of obligations, or may be  
 15 made junior to the original issue.

16 Sec. 17. (a) The revenue obligations must be authorized by  
 17 resolution adopted by the advisory board, and the terms,  
 18 conditions, and form of the obligations must be set out in the  
 19 resolution or in a form of trust indenture between the corporation  
 20 and a designated corporate trustee, or both.

21 (b) The revenue obligations must bear interest, not to exceed a  
 22 maximum rate to be determined by the advisory board, payable  
 23 annually or at shorter intervals and must mature at the time or  
 24 times as determined in the resolution or indenture. The obligations  
 25 may be made redeemable before maturity at the option of the  
 26 advisory board under terms and conditions fixed by the resolution  
 27 or indenture.

28 (c) The principal and interest of the revenue obligations may be  
 29 made payable in any lawful medium. The resolution or indenture  
 30 shall determine the form of obligations, including the interest  
 31 coupons if any are attached, and must fix the denomination or  
 32 denominations of the obligations and the place or places of  
 33 payment of the principal and interest, which may be at a bank or  
 34 trust company within or outside the state.

35 (d) Provision may be made for the registration of any of the  
 36 obligations in the name of the owner as to principal alone, or as to  
 37 both principal and interest, but fully registered obligations must be  
 38 made convertible to coupon obligations at the option of the  
 39 registered owner.

40 (e) Obligations issued under this chapter, including interest, are  
 41 exempt from all state, county, and municipal taxation.

42 (f) The resolution or the indenture may also include provisions

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**for:**

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

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

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

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

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

**(A) pledge of the revenues; or**

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

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

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

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