



February 18, 2011

HOUSE BILL No. 1197

DIGEST OF HB 1197 (Updated February 16, 2011 4:39 pm - DI 69)

Citations Affected: IC 13-26.

Synopsis: Regional water, sewage, and solid waste districts. Provides that certain property owners who install new septic tank soil absorption systems are exempt from connecting to a regional sewage district's sewer system for 10 years beginning on the date the septic tank system was installed. Specifies the connection fee a property owner who received an exemption must pay when the property owner connects to the district's sewer system. Provides that if a regional sewage district uses eminent domain to acquire an easement or right-of-way that easement or right-of-way may not exceed 50 feet in width. Allows territory to be added to a regional water, sewage, or solid waste district if the district's board files: (1) a motion adopted by the board requesting the addition; and (2) a petition signed by a majority of freeholders within the area proposed to be added requesting the addition; with the department of environmental management. Specifies the procedures that must be used to add territory to a district. Provides that if a district changes or readjusts the district's rates and charges, the board of trustees of the district must mail a notice of the new rates and charges to each user affected by the change or readjustment. Provides that if a sewage district adopts an ordinance increasing the rates and charges by more than 5% per year, the required notice must: (1) be mailed to each affected user not later than seven days after the ordinance is adopted; and (2) include a statement of a freeholder's right to file a petition objecting to the rates and charges.

Effective: Upon passage.

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January 10, 2011, read first time and referred to Committee on Local Government.
January 13, 2011, reassigned to Committee on Environmental Affairs.
February 17, 2011, amended, reported — Do Pass.

HB 1197—LS 7085/DI 103+



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February 18, 2011

First Regular Session 117th General Assembly (2011)

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 2010 Regular Session of the General Assembly.

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HOUSE BILL No. 1197



A BILL FOR AN ACT to amend the Indiana Code concerning environmental law.

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

1 SECTION 1. IC 13-26-5-2.5 IS AMENDED TO READ AS
 2 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2.5. (a) As used in
 3 this section, "septic tank soil absorption system" has the meaning set
 4 forth in IC 13-11-2-199.5.

5 (b) Subject to subsection (d) and except as provided in subsection
 6 (e), a property owner is exempt from the requirement to connect to a
 7 district's sewer system and to discontinue use of a septic tank soil
 8 absorption system if the following conditions are met:

9 ~~(1) The property owner's septic tank soil absorption system was~~
 10 ~~installed not more than five (5) years before the district's sewer~~
 11 ~~system's anticipated connection date.~~

12 ~~(2)~~ (1) The property owner's septic tank soil absorption system
 13 was new at the time of installation and was approved in writing by
 14 the local health department.

15 ~~(3)~~ (2) The property owner, at the property owner's own expense,
 16 obtains and provides to the district a certification from the local
 17 health department or the department's designee that the septic

HB 1197—LS 7085/DI 103+



1 tank soil absorption system is functioning satisfactorily. If the
2 local health department or the department's designee denies the
3 issuance of a certificate to the property owner, the property owner
4 may appeal the denial to the board of the local health department.
5 The decision of the board is final and binding.

6 ~~(4)~~ **(3)** The property owner provides the district with:
7 (A) the written notification of potential qualification for the
8 exemption described in subsection (g); and
9 (B) the certification described in subdivision ~~(3)~~; **(2)**;
10 within the time limits set forth in subsection (g).

11 (c) If a property owner, within the time allowed under subsection
12 (g), notifies a district in writing that the property owner qualifies for the
13 exemption under this section, the district shall, until the property
14 owner's eligibility for an exemption under this section is determined,
15 suspend the requirement that the property owner discontinue use of a
16 septic tank soil absorption system and connect to the district's sewer
17 system.

18 (d) A property owner who qualifies for the exemption provided
19 under this section may not be required to connect to the district's sewer
20 system for a period of ~~three (3)~~ **ten (10)** years beginning on the
21 ~~district's sewer system's anticipated connection date~~ **the new septic**
22 **tank soil absorption system was installed.** If ownership of the
23 property passes from the owner who qualified for the exemption to
24 another person during the exemption period, the exemption does not
25 apply to the subsequent owner of the property.

26 (e) The district may require a property owner who qualifies for the
27 exemption under this section to discontinue use of a septic tank soil
28 absorption system and connect to the district's sewer system if the
29 district credits the unamortized portion of the original cost of the
30 property owner's septic tank soil absorption system against the debt
31 service portion of the customer's monthly bill. The amount that the
32 district must credit under this subsection is determined in STEP TWO
33 of the following formula:

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

39 STEP TWO: Determine the lesser of four thousand eight hundred
40 dollars (\$4,800) or the result of STEP ONE.

41 The district shall apportion the total credit amount as determined in
42 STEP TWO against the debt service portion of the property owner's

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1 monthly bill over a period to be determined by the district, but not to
2 exceed twenty (20) years, or two hundred forty (240) months.

3 (f) A district that has filed plans with the department to create or
4 expand a sewage district shall, within ten (10) days after filing the
5 plans, provide written notice to affected property owners:

6 (1) that the property owner may be required to discontinue the use
7 of a septic tank soil absorption system;

8 (2) that the property owner may qualify for an exemption from the
9 requirement to discontinue the use of the septic tank soil
10 absorption system; and

11 (3) of the procedures to claim an exemption.

12 (g) To qualify for an exemption under this section, a property owner
13 must:

14 (1) within sixty (60) days after the date of the written notice given
15 to the property owner under subsection (f), notify the district in
16 writing that the property owner qualifies for the exemption under
17 this section; and

18 (2) within sixty (60) days after the district receives the written
19 notice provided under subdivision (1), provide the district with
20 the certification required under subsection ~~(b)(3)~~: **(b)(2)**.

21 **(h) When a property owner who qualifies for an exemption**
22 **under this section subsequently discontinues use of the property**
23 **owner's septic tank soil absorption system and connects to the**
24 **district's sewer system, the property owner may be required to pay**
25 **only the following to connect to the sewer system:**

26 **(1) The connection fee the property owner would have paid if**
27 **the property owner connected to the sewer system on the first**
28 **date the property owner could have connected to the sewer**
29 **system.**

30 **(2) Any additional costs:**

31 **(A) considered necessary by; and**

32 **(B) supported by documentary evidence provided by;**
33 **the district.**

34 SECTION 2. IC 13-26-5-6 IS AMENDED TO READ AS
35 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. (a) Subject to
36 ~~subsection~~ **subsections (b) and (c)**, the board may condemn for the use
37 of the district public or private land, easements, rights, rights-of-way,
38 franchises, or other property within or outside the district required by
39 the district for the accomplishment of the district's purposes according
40 to the statutory procedure for the appropriation of land or other
41 property taken by an eligible entity.

42 (b) The power of condemnation by a district under this article may

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1 not be exercised against a sewage disposal company holding a
2 certificate of territorial authority under IC 8-1-2-89 until the expiration
3 of twelve (12) years after the granting of the certificate of territorial
4 authority.

5 **(c) If the board of a regional sewage district exercises eminent**
6 **domain to acquire an easement or right-of-way within or outside**
7 **the district required by the district for the accomplishment of the**
8 **district's purposes, the easement or right-of-way may not exceed**
9 **fifty (50) feet in width.**

10 SECTION 3. IC 13-26-8-4 IS ADDED TO THE INDIANA CODE
11 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE
12 UPON PASSAGE]: Sec. 4. (a) This section applies to the addition of
13 territory to a district other than at the request of an eligible entity
14 described in section 1 of this chapter.

15 **(b) To add territory to a district already established, the board**
16 **must file both of the following with the department:**

17 **(1) A motion adopted by the board requesting the addition of**
18 **territory to the district.**

19 **(2) A petition that:**

20 **(A) is signed by the majority of freeholders within the area**
21 **proposed to be added; and**

22 **(B) requests the addition of the area to the district.**

23 **(c) Except as provided under subsection (d), if both petitions are**
24 **filed with the department under subsection (b):**

25 **(1) the same procedure must be used to add territory to the**
26 **district as is provided for the establishment of a district under**
27 **IC 13-26-2; and**

28 **(2) the department shall proceed in the same manner that is**
29 **set forth in IC 13-26-2, IC 13-26-4, IC 13-26-6, and**
30 **IC 13-26-7.**

31 **(d) For purposes of subsection (c):**

32 **(1) the commissioner is not required to appoint a hearing**
33 **officer under IC 13-26-2-5;**

34 **(2) the board shall:**

35 **(A) provide the notice of; and**

36 **(B) conduct;**

37 **the hearing required under IC 13-26-2-6; and**

38 **(3) instead of making findings and recommendations under**
39 **IC 13-26-2-8, the board shall submit documentary evidence to**
40 **the commissioner to prove the:**

41 **(A) notice was provided; and**

42 **(B) hearing was conducted;**

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1 **by the board as required under subdivision (2).**
2 SECTION 4. IC 13-26-11-13 IS AMENDED TO READ AS
3 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 13. (a) The
4 ordinance establishing the initial rates or charges, either as:
5 (1) originally introduced; or
6 (2) modified and amended;
7 shall be passed and put into effect after the hearing.
8 (b) A copy of the schedule of the rates and charges established must
9 be:
10 (1) kept on file in the office of the district; and
11 (2) open to public inspection.
12 **(c) Whenever the board acts under section 8(b) of this chapter,**
13 **to change or readjust the rates and charges, the board shall mail,**
14 **either separately or along with a periodic billing statement, a**
15 **notice of the new rates and charges to each user affected by the**
16 **change or readjustment. In the case of a sewage district, if the**
17 **change or readjustment increases the rates and charges by the**
18 **amount specified in section 15(c) of this chapter, the notice**
19 **required by this subsection:**
20 (1) must include a statement of a freeholder's rights under
21 section 15 of this chapter; and
22 (2) shall be mailed within the time specified in section 15(c) of
23 this chapter.
24 SECTION 5. An emergency is declared for this act.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Environmental Affairs, to which was referred House Bill 1197, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 13-26-5-2.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2.5. (a) As used in this section, "septic tank soil absorption system" has the meaning set forth in IC 13-11-2-199.5.

(b) Subject to subsection (d) and except as provided in subsection (e), a property owner is exempt from the requirement to connect to a district's sewer system and to discontinue use of a septic tank soil absorption system if the following conditions are met:

~~(1) The property owner's septic tank soil absorption system was installed not more than five (5) years before the district's sewer system's anticipated connection date.~~

~~(2) (1)~~ (1) The property owner's septic tank soil absorption system was new at the time of installation and was approved in writing by the local health department.

~~(3) (2)~~ (2) The property owner, at the property owner's own expense, obtains and provides to the district a certification from the local health department or the department's designee that the septic tank soil absorption system is functioning satisfactorily. If the local health department or the department's designee denies the issuance of a certificate to the property owner, the property owner may appeal the denial to the board of the local health department. The decision of the board is final and binding.

~~(4) (3)~~ (3) The property owner provides the district with:

(A) the written notification of potential qualification for the exemption described in subsection (g); and

(B) the certification described in subdivision ~~(3)~~; (2);

within the time limits set forth in subsection (g).

(c) If a property owner, within the time allowed under subsection (g), notifies a district in writing that the property owner qualifies for the exemption under this section, the district shall, until the property owner's eligibility for an exemption under this section is determined, suspend the requirement that the property owner discontinue use of a septic tank soil absorption system and connect to the district's sewer system.

(d) A property owner who qualifies for the exemption provided

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under this section may not be required to connect to the district's sewer system for a period of ~~three (3)~~ **ten (10)** years beginning on the ~~district's sewer system's anticipated connection date~~ **the new septic tank soil absorption system was installed.** If ownership of the property passes from the owner who qualified for the exemption to another person during the exemption period, the exemption does not apply to the subsequent owner of the property.

(e) The district may require a property owner who qualifies for the exemption under this section to discontinue use of a septic tank soil absorption system and connect to the district's sewer system if the district credits the unamortized portion of the original cost of the property owner's septic tank soil absorption system against the debt service portion of the customer's monthly bill. The amount that the district must credit under this subsection is determined in STEP TWO of the following formula:

STEP ONE: Multiply the original cost of the property owner's septic tank soil absorption system by a fraction, the numerator of which is ninety-six (96) months minus the age in months of the property owner's septic system, and the denominator of which is ninety-six (96) months.

STEP TWO: Determine the lesser of four thousand eight hundred dollars (\$4,800) or the result of STEP ONE.

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

(f) A district that has filed plans with the department to create or expand a sewage district shall, within ten (10) days after filing the plans, provide written notice to affected property owners:

- (1) that the property owner may be required to discontinue the use of a septic tank soil absorption system;
- (2) that the property owner may qualify for an exemption from the requirement to discontinue the use of the septic tank soil absorption system; and
- (3) of the procedures to claim an exemption.

(g) To qualify for an exemption under this section, a property owner must:

- (1) within sixty (60) days after the date of the written notice given to the property owner under subsection (f), notify the district in writing that the property owner qualifies for the exemption under this section; and
- (2) within sixty (60) days after the district receives the written

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notice provided under subdivision (1), provide the district with the certification required under subsection ~~(b)(3)~~: **(b)(2)**.

(h) When a property owner who qualifies for an exemption under this section subsequently discontinues use of the property owner's septic tank soil absorption system and connects to the district's sewer system, the property owner may be required to pay only the following to connect to the sewer system:

(1) The connection fee the property owner would have paid if the property owner connected to the sewer system on the first date the property owner could have connected to the sewer system.

(2) Any additional costs:

(A) considered necessary by; and

(B) supported by documentary evidence provided by; the district.

SECTION 2. IC 13-26-5-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. (a) Subject to ~~subsection~~ **subsections (b) and (c)**, the board may condemn for the use of the district public or private land, easements, rights, rights-of-way, franchises, or other property within or outside the district required by the district for the accomplishment of the district's purposes according to the statutory procedure for the appropriation of land or other property taken by an eligible entity.

(b) The power of condemnation by a district under this article may not be exercised against a sewage disposal company holding a certificate of territorial authority under IC 8-1-2-89 until the expiration of twelve (12) years after the granting of the certificate of territorial authority.

(c) If the board of a regional sewage district exercises eminent domain to acquire an easement or right-of-way within or outside the district required by the district for the accomplishment of the district's purposes, the easement or right-of-way may not exceed fifty (50) feet in width."

Page 1, delete lines 6 through 14, begin a new paragraph and insert:

"(b) To add territory to a district already established, the board must file both of the following with the department:

(1) A motion adopted by the board requesting the addition of territory to the district.

(2) A petition that:

(A) is signed by the majority of freeholders within the area proposed to be added; and

(B) requests the addition of the area to the district."

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Page 1, line 15, delete "If a petition is" and insert "**Except as provided under subsection (d), if both petitions are**".

Page 2, between lines 5 and 6, begin a new paragraph and insert:

"(d) For purposes of subsection (c):

(1) the commissioner is not required to appoint a hearing officer under IC 13-26-2-5;

(2) the board shall:

(A) provide the notice of; and

(B) conduct;

the hearing required under IC 13-26-2-6; and

(3) instead of making findings and recommendations under IC 13-26-2-8, the board shall submit documentary evidence to the commissioner to prove the:

(A) notice was provided; and

(B) hearing was conducted;

by the board as required under subdivision (2)."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1197 as introduced.)

WOLKINS, Chair

Committee Vote: yeas 11, nays 0.

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