

**SENATE BILL No. 236**

**DIGEST OF INTRODUCED BILL**

**Citations Affected:** IC 13-14-3; IC 13-26-5; IC 16-20-1-25; IC 36-7-8-3.

**Synopsis:** Septic tanks and sewer systems. Provides that the Indiana department of environmental management (IDEM) may not require a county to join or form a regional sewage district to provide sewer service to an unincorporated area of the county unless IDEM determines that the population density of the unincorporated area exceeds the minimum population density at which property owners in an unincorporated area of the county may be required to discontinue use of private sewage disposal systems. Requires the legislative body of a county that contains unincorporated areas to adopt an ordinance establishing the minimum population density at which property owners in an unincorporated area of the county may be required to discontinue use of private sewage disposal systems. Provides that a regional sewage district may not require a property owner to connect to a sewer system if the property is: (1) located in an unincorporated area; and (2) served by a private sewage disposal system that is functioning satisfactorily. Requires a health officer to obtain probable cause before ordering the abatement of unlawful conditions that transmit, generate, or promote disease. Specifies certain appurtenances to which a county ordinance imposing building standards on buildings, structures, and appurtenances does not apply.

**Effective:** July 1, 2011.

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January 6, 2011, read first time and referred to Committee on Energy and Environmental Affairs.

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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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**SENATE BILL No. 236**



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 13-14-3-3 IS AMENDED TO READ AS  
2 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 3. (a) If the  
3 commissioner finds that the local governmental units have not  
4 developed plans that provide for adequate:  
5 (1) water supply;  
6 (2) air, water, or wastewater treatment; or  
7 (3) solid waste disposal facilities;  
8 the department may hold a public hearing.  
9 (b) If the facts support the conclusion, the department may order the  
10 affected local governmental units to proceed to form regional water,  
11 sewage, air, or solid waste districts that are necessary under IC 13-26.  
12 **However, the department may not require a county to:**  
13 (1) establish or join a regional sewage district to serve; or  
14 (2) through a regional sewage district of which the county is  
15 a member, extend sewer service to;  
16 **an unincorporated area of the county unless the department**  
17 **determines that the population density of the unincorporated area**



1 of the county exceeds the minimum population density established  
2 in an ordinance adopted by the county legislative body under  
3 section 4 of this chapter.

4 SECTION 2. IC 13-14-3-4 IS ADDED TO THE INDIANA CODE  
5 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
6 1, 2011]: Sec. 4. (a) The legislative body of a county that contains  
7 unincorporated areas shall adopt an ordinance that establishes a  
8 minimum population density for an unincorporated area at which  
9 owners of property located in the unincorporated area may be  
10 required to connect to a regional sewer district's sewer system and  
11 to discontinue use of private sewage disposal systems. The county  
12 legislative body shall consult with the local health department to  
13 establish a minimum population density under this subsection.

14 (b) An ordinance adopted under subsection (a) may not violate  
15 any rules adopted by the department under IC 13-22-2-4 or  
16 IC 13-18.

17 (c) This section may not be construed to relieve a sewage  
18 disposal company of the requirement to obtain a certificate of  
19 territorial authority under IC 8-1-2-89.

20 SECTION 3. IC 13-26-5-2.5 IS AMENDED TO READ AS  
21 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 2.5. (a) As used in this  
22 section, "septic tank soil absorption system" has the meaning set forth  
23 in IC 13-11-2-199.5.

24 (b) This section applies to an owner of property located in an  
25 incorporated area.

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

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

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

36 (3) The property owner, at the property owner's own expense,  
37 obtains and provides to the district a certification from the local  
38 health department or the department's designee that the septic  
39 tank soil absorption system is functioning satisfactorily. If the  
40 local health department or the department's designee denies the  
41 issuance of a certificate to the property owner, the property owner  
42 may appeal the denial to the board of the local health department.

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1 The decision of the board is final and binding.  
 2 (4) The property owner provides the district with:  
 3 (A) the written notification of potential qualification for the  
 4 exemption described in subsection ~~(g)~~; **(h)**; and  
 5 (B) the certification described in subdivision (3);  
 6 within the time limits set forth in subsection ~~(g)~~; **(h)**.  
 7 ~~(c)~~ **(d)** If a property owner, within the time allowed under subsection  
 8 ~~(g)~~; **(h)**, notifies a district in writing that the property owner qualifies  
 9 for the exemption under this section, the district shall, until the  
 10 property owner's eligibility for an exemption under this section is  
 11 determined, suspend the requirement that the property owner  
 12 discontinue use of a septic tank soil absorption system and connect to  
 13 the district's sewer system.  
 14 ~~(d)~~ **(e)** A property owner who qualifies for the exemption provided  
 15 under this section may not be required to connect to the district's sewer  
 16 system for a period of three (3) years beginning on the district's sewer  
 17 system's anticipated connection date. If ownership of the property  
 18 passes from the owner who qualified for the exemption to another  
 19 person during the exemption period, the exemption does not apply to  
 20 the subsequent owner of the property.  
 21 ~~(e)~~ **(f)** The district may require a property owner who qualifies for  
 22 the exemption under this section to discontinue use of a septic tank soil  
 23 absorption system and connect to the district's sewer system if the  
 24 district credits the unamortized portion of the original cost of the  
 25 property owner's septic tank soil absorption system against the debt  
 26 service portion of the customer's monthly bill. The amount that the  
 27 district must credit under this subsection is determined in STEP TWO  
 28 of the following formula:  
 29 STEP ONE: Multiply the original cost of the property owner's  
 30 septic tank soil absorption system by a fraction, the numerator of  
 31 which is ninety-six (96) months minus the age in months of the  
 32 property owner's septic system, and the denominator of which is  
 33 ninety-six (96) months.  
 34 STEP TWO: Determine the lesser of four thousand eight hundred  
 35 dollars (\$4,800) or the result of STEP ONE.  
 36 The district shall apportion the total credit amount as determined in  
 37 STEP TWO against the debt service portion of the property owner's  
 38 monthly bill over a period to be determined by the district, but not to  
 39 exceed twenty (20) years, or two hundred forty (240) months.  
 40 ~~(f)~~ **(g)** A district that has filed plans with the department to create or  
 41 expand a sewage district shall, within ten (10) days after filing the  
 42 plans, provide written notice to affected property owners:

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

7 ~~(g)~~ **(h)** To qualify for an exemption under this section, a property  
 8 owner must:

- 9 (1) within sixty (60) days after the date of the written notice given
- 10 to the property owner under subsection ~~(f)~~; **(g)**, notify the district
- 11 in writing that the property owner qualifies for the exemption
- 12 under this section; and
- 13 (2) within sixty (60) days after the ~~district receives date of~~ the
- 14 written notice provided under subdivision (1), provide the district
- 15 with the certification required under subsection ~~(b)(3)~~; **(c)(3)**.

16 SECTION 4. IC 13-26-5-2.6 IS ADDED TO THE INDIANA CODE  
 17 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
 18 1, 2011]: **Sec. 2.6. (a) As used in this section, "licensed installer"**  
 19 **means a licensed or certified installer of private sewage disposal**  
 20 **systems.**

21 **(b) For purposes of this section, "local health department"**  
 22 **includes a designee of a local health department.**

23 **(c) As used in this section, "sewage disposal system" has the**  
 24 **meaning set forth in IC 13-11-2-201.**

25 **(d) This section applies to an owner of property located in an**  
 26 **unincorporated area of a county.**

27 **(e) A district that has filed plans with the department to create**  
 28 **or expand a sewage district shall, not later than ten (10) days after**  
 29 **filing the plans, provide written notice to affected property owners:**

- 30 (1) that the property owner may be required to discontinue
- 31 the use of a private sewage disposal system;
- 32 (2) that the property owner may qualify for an exemption
- 33 from the requirement to discontinue the use of the private
- 34 sewage disposal system; and
- 35 (3) that explains the procedures to claim an exemption under
- 36 this section.

37 **(f) A property owner is exempt from the requirement to connect**  
 38 **to a district's sewer system and to discontinue use of a private**  
 39 **sewage disposal system if the property owner provides the district**  
 40 **with the following documentation:**

- 41 (1) The written notification of potential qualification for the
- 42 exemption described in subsection (g).

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**(2) A certification from:**

- (A) the local health department; or**
- (B) a licensed installer;**

**that the property owner's private sewage disposal system is functioning satisfactorily as described in subsection (i).**

**(g) Not more than fourteen (14) days after receiving notice from a district under subsection (e), a property owner that seeks to qualify for an exemption under this section must do the following:**

- (1) Notify the district in writing that the property owner qualifies for the exemption.**
- (2) Obtain, at the property owner's own expense, a certification described in subsection (f)(2).**

**(h) Upon receiving written notice from a property owner under subsection (g)(1), and until the property owner's eligibility for an exemption under this section is finally determined, a district shall suspend the requirement that the property owner discontinue use of a private sewage disposal system and connect to the district's sewer system.**

**(i) If a property owner requests certification from a local health department under subsection (f)(2)(A), the local health department shall, not more than ninety (90) days after receiving the request, inspect the property owner's private sewage disposal system and issue a certificate or deny the request for certification that the private sewage disposal system is functioning satisfactorily.**

**(j) If the local health department denies the issuance of a certificate to the property owner under subsection (i), the local health department shall notify the property owner in writing of each reason the certificate was denied. Not more than fourteen (14) days after a property owner is denied a certification under subsection (i), the property owner may apply to the local health department for a reinspection of the property owner's private sewage disposal system. The local health department that receives an application for reinspection shall reinspect the system:**

- (1) on a date not more than ninety (90) days after the date on which the property owner applied for reinspection; or**
- (2) on a date more than ninety (90) days after the date of the application for reinspection, if the date is agreed to by the property owner and the local health department;**

**and shall issue or deny the certification. If the private sewage disposal system is not functioning satisfactorily and the local health department again denies the certification, the property owner may appeal the denial to the board of the local health department. The**

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decision of the board in an appeal under this subsection is final.

(j) If a property owner requests and obtains certification from a licensed installer under subsection (f)(2)(B), the property owner shall submit the certificate to the district not more than forty-five (45) days after receiving notice from the district under subsection (e).

(j) A certificate issued under subsection (i) or by a licensed installer is valid for a period determined by the district that filed plans and provided notice to the property owner under subsection (e), but must be valid for at least two (2) years.

(k) Not more than thirty (30) days after receiving an initial certificate issued under subsection (i) or by a licensed installer, a property owner must provide the certificate to the district to qualify for the exemption under this section. To maintain eligibility for an exemption under this section, a property owner must provide to the district an unexpired certificate issued under subsection (i) or by a licensed installer according to a schedule determined by the district but not more frequently than every two (2) years.

SECTION 5. IC 16-20-1-25 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 25. (a) A person shall not institute, permit, or maintain any conditions that may transmit, generate, or promote disease.

(b) A health officer, upon hearing **obtaining probable cause** of the existence of such unlawful conditions within the officer's jurisdiction, shall order the abatement of those conditions. The order must:

- (1) be in writing if demanded;
- (2) specify the conditions that may transmit disease; and
- (3) name the shortest reasonable time for abatement.

(c) If a person refuses or neglects to obey an order issued under this section, the attorney representing the county of the health jurisdiction where the offense occurs shall, upon receiving the information from the health officer, institute proceedings in the courts for enforcement. An order may be enforced by injunction. If the action concerning public health is a criminal offense, a law enforcement authority with jurisdiction over the place where the offense occurred shall be notified.

SECTION 6. IC 36-7-8-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 3. (a) The legislative body of a county having a county department of buildings or joint city-county building department may, by ordinance, adopt building, heating, ventilating, air conditioning, electrical, plumbing, and sanitation standards for unincorporated areas of the county. These standards take

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1 effect only on the legislative body's receipt of written approval from the  
2 fire prevention and building safety commission.

3 (b) An ordinance adopted under this section must be based on  
4 occupancy, and it applies to:

5 (1) the construction, alteration, equipment, use, occupancy,  
6 location, and maintenance of buildings, structures, and  
7 appurtenances that are on land or over water and are:

8 (A) erected after the ordinance takes effect; and

9 (B) if expressly provided by the ordinance, existing when the  
10 ordinance takes effect;

11 (2) conversions of buildings and structures, or parts of them, from  
12 one (1) occupancy classification to another; and

13 (3) the movement or demolition of buildings, structures, and  
14 equipment for the operation of buildings and structures.

15 (c) The rules of the fire prevention and building safety commission  
16 are the minimum standards upon which ordinances adopted under this  
17 section must be based.

18 (d) An ordinance adopted under this section does not apply to **the**  
19 **construction or alteration of private homes** that are built by  
20 individuals and used for their own occupancy, **including the**  
21 **construction or alteration of appurtenances to the private home.**  
22 **For purposes of this subsection, appurtenances include the**  
23 **following systems:**

24 (1) **Air conditioning.**

25 (2) **Ventilation.**

26 (3) **Heating.**

27 (4) **Energy.**

28 (5) **Plumbing.**

29 (6) **Sanitation.**

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