
SENATE BILL No. 390

DIGEST OF INTRODUCED BILL

Citations Affected: IC 13-26.

Synopsis: Regional sewer districts. Requires that the board of trustees (board) of a regional sewer district (district) must be elected. Provides for the transition from an appointed to an elected board. Provides that a district may not require a property owner to discontinue use of a septic tank and connect to the district's sewer system if the property owner certifies that the septic tank is functioning satisfactorily. (Under current law, a property owner is exempt from connecting to a sewer system if the property owner's septic tank soil absorption system is less than five years old and satisfies other conditions.) Provides that a board may consider the need for a minimum service charge, rather than a flat connection charge, when determining rates and charges. Authorizes a board to exercise reasonable discretion in temporarily adjusting fees to reflect a user's nonuse of water, sewer, or solid waste services.

Effective: July 1, 2011.

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January 11, 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. 390



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

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

1 SECTION 1. IC 13-26-2-8 IS AMENDED TO READ AS
 2 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 8. (a) After the hearing
 3 on the petition for the establishment of the proposed district, which
 4 may be adjourned periodically, the hearing officer shall make findings
 5 on the petition and other relevant facts and recommendations as to
 6 whether:
 7 (1) the petition should be:
 8 (A) approved;
 9 (B) approved with modifications; or
 10 (C) denied; and
 11 (2) a district should be established.
 12 (b) If the recommendation is in the affirmative, the recommendation
 13 must also include recommendations on:
 14 (1) the manner of the selection; ~~or appointment~~;
 15 (2) the number; and
 16 (3) the terms;
 17 of the board.



1 (c) The description of the territory to be included in a district may
2 not include territory in a municipality that has, by ordinance or
3 resolution filed with the department, exercised the option not to be
4 included in the district.

5 SECTION 2. IC 13-26-2-10 IS AMENDED TO READ AS
6 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 10. (a) If the
7 commissioner determines that the findings show that the establishment
8 of a recommended district:

9 (1) complies with the conditions of this chapter for establishment
10 of a district; and

11 (2) appears capable of accomplishing the purpose or purposes in
12 an economically feasible manner;

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

16 (b) An order must do the following:

17 (1) Provide for the selection ~~or appointment~~ and terms of offices,
18 not to exceed four (4) years, of the board **as follows:**

19 (A) **For an order issued before July 1, 2011, by election or**
20 **appointment.**

21 (B) **For an order issued after June 30, 2011, by election.**

22 (2) Provide requirements for sufficient bond for all officers,
23 trustees, or employees having power to dispense money of the
24 district.

25 (3) If an eligible entity with territory in the district has a public
26 water or solid waste sewer system, contain provisions protecting
27 the investments of the entities and protecting the rights of the
28 holders of bonds or other obligations issued to provide money for
29 the system.

30 (4) Direct the district to file a detailed plan for the initial project
31 of the district not later than nine (9) months after the date of the
32 preliminary order or within a further time that the department
33 from time to time orders.

34 (c) **An order issued before July 1, 2011, is subject to amendment**
35 **under IC 13-26-4-8.**

36 SECTION 3. IC 13-26-4-2 IS AMENDED TO READ AS
37 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 2. (a) An order **issued**
38 **before July 1, 2011**, establishing a district may provide for the board
39 to be elected by the voters in the district from districts or wards or from
40 the district at large.

41 (b) **An order issued after June 30, 2011, establishing a district**
42 **must provide for the board to be elected by the voters in the**

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1 **district from districts or wards or from the district at large.**

2 (c) Elections and provisions for filling vacancies must be in
3 accordance with IC 3, with the commissioner or the commissioner's
4 designees performing the functions of the election officials.

5 SECTION 4. IC 13-26-4-3 IS AMENDED TO READ AS
6 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 3. (a) **This section
7 does not apply to orders issued after June 30, 2011.**

8 (b) Instead of electing the board, an order establishing a district may
9 provide for appointments to the board by the elected executive or
10 legislative officers of the eligible entities having territory in the district.

11 SECTION 5. IC 13-26-4-4 IS AMENDED TO READ AS
12 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 4. (a) **This section
13 does not apply to orders issued after June 30, 2011.**

14 (a) (b) If:

- 15 (1) a district will include territory in more than one (1) county;
- 16 (2) a county executive has filed a petition for a district including
17 territory owned, leased, or controlled by the department of natural
18 resources; or
- 19 (3) the department of natural resources has filed a petition;

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

23 (b) (c) If a district contains or a proposed district will contain a state
24 correctional facility, the department, when:

- 25 (1) issuing an order establishing the district under IC 13-26-2-10;
- 26 or
- 27 (2) approving or modifying a petition filed by the district's board
28 of trustees under IC 13-26-1-2;

29 may allow for the appointment of one (1) member of the board of
30 trustees of the district by the commissioner of the department of
31 correction.

32 SECTION 6. IC 13-26-4-5 IS AMENDED TO READ AS
33 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 5. (a) **This section
34 does not apply to an order issued after June 30, 2011.**

35 (b) If a plan also contemplates that sewage treatment for the district
36 will be provided in cooperation with a municipality, the order must
37 provide that:

- 38 (1) at least one (1) trustee shall be appointed by the executive of
39 the municipality; and
- 40 (2) at least:
 - 41 (A) one (1) trustee shall be appointed by the fiscal body; and
 - 42 (B) one (1) trustee shall be appointed by the executive;

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1 of the county having the largest amount of territory in the district.
2 SECTION 7. IC 13-26-4-8 IS ADDED TO THE INDIANA CODE
3 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
4 1, 2011]: **Sec. 8. (a) This section applies to an order that:**

- 5 **(1) is issued before July 1, 2011; and**
- 6 **(2) provides for appointment of at least one (1) trustee.**

7 **(b) Not later than January 1, 2012, an order must be amended**
8 **to provide for:**

- 9 **(1) the election of all trustees in accordance with IC 3, with**
10 **the commissioner or the commissioner's designees performing**
11 **the functions of the election officials; and**
- 12 **(2) the transition from appointed to elected trustees.**

13 SECTION 8. IC 13-26-5-2.5 IS AMENDED TO READ AS
14 FOLLOWS [EFFECTIVE JULY 1, 2011]: **Sec. 2.5. (a) As used in this**
15 **section, "septic tank" includes a septic tank soil absorption system**
16 **has the meaning set forth (as defined in IC 13-11-2-199.5).**

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

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

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

27 **(3) (1) The property owner, at the property owner's own expense,**
28 **obtains and provides to the district a certification from the local**
29 **health department or the department's designee that the septic**
30 **tank soil absorption system is functioning satisfactorily. If the**
31 **local health department or the department's designee denies the**
32 **issuance of a certificate to the property owner, the property owner**
33 **may appeal the denial to the board of the local health department.**
34 **The decision of the board is final and binding.**

35 **(4) (2) The property owner provides the district with:**

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

38 **(B) the certification described in subdivision (3); (1);**
39 **within the time limits set forth in subsection (g); (f).**

40 **(c) If a property owner, within the time allowed under subsection**
41 **(g); (f), notifies a district in writing that the property owner qualifies for**
42 **the exemption under this section, the district shall, until the property**

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1 owner's eligibility for an exemption under this section is determined,
2 suspend the requirement that the property owner discontinue use of a
3 septic tank ~~soil absorption system~~ and connect to the district's sewer
4 system.

5 (d) A property owner who qualifies for the exemption provided
6 under this section may not be required to connect to the district's sewer
7 system. ~~for a period of three (3) years beginning on the district's sewer~~
8 ~~system's anticipated connection date.~~ If ownership of the property
9 passes from the owner who qualified for the exemption to another
10 person during the exemption period, the exemption does not ~~apply~~
11 ~~transfer~~ to the subsequent owner of the property. **However, the**
12 **subsequent property owner may apply for an exemption under this**
13 **section.**

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

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

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

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

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

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

42 (g) (f) To qualify for an exemption under this section, a property

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owner must:

(1) within sixty (60) days after the date of the written notice given to the property owner under subsection ~~(f)~~; **(e)**, 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 notice provided under subdivision (1), provide the district with the certification required under subsection ~~(b)(3)~~; **(b)(1)**.

SECTION 9. IC 13-26-11-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 1. The rates and charges for a waterworks may be determined based on the following:

- ~~(1) A flat charge for each connection:~~
- ~~(2) (1) The amount of water consumed.~~
- ~~(3) (2) The size of the meter or connection.~~
- ~~(4) (3) Whether the property served has been or will be required to pay separately for the cost of any of the facilities of the works.~~
- ~~(5) (4) A combination of these or other factors, including the need for a minimum service charge, that the board determines is necessary to establish just and equitable rates and charges.~~

SECTION 10. IC 13-26-11-2, AS AMENDED BY P.L.189-2005, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 2. (a) Except as provided in subsection (b), the rates or charges for a sewage works ~~may~~ **must** be determined based on **a combination of the following factors:**

- ~~(1) A flat charge for each connection:~~
- ~~(2) (1) The amount of water used on the premises.~~
- ~~(3) (2) The number and size of water outlets on the premises.~~
- ~~(4) (3) The amount, strength, or character of sewage discharged into the sewers.~~
- ~~(5) (4) The size of sewer connections.~~
- ~~(6) (5) Whether the property served has been or will be required to pay separately for the cost of any of the facilities of the works.~~
- ~~(7) A combination of these or (6) Other factors, including the need for a minimum service charge, that the board determines is necessary to establish nondiscriminatory, just, and equitable rates or charges.~~

(b) If a campground is billed for sewage service at a flat rate under subsection (a), the campground may instead elect to be billed for the sewage service under this subsection by installing, at the campground's expense, a meter to measure the actual amount of sewage discharged by the campground into the sewers. If a campground elects to be billed by use of a meter:

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1 (1) the rate charged by a board for the metered sewage service
 2 may not exceed the rate charged to residential customers for
 3 equivalent usage; and

4 (2) the amount charged by a board for the campground's monthly
 5 sewage service for the period beginning September 1 and ending
 6 May 31 must be equal to the greater of:

7 (A) the actual amount that would be charged for the sewage
 8 discharged during the month by the campground as measured
 9 by the meter; or

10 (B) the lowest monthly charge paid by the campground for
 11 sewage service during the previous period beginning June 1
 12 and ending August 31.

13 (c) If a campground does not install a meter under subsection (b)
 14 and is billed for sewage service at a flat rate under subsection (a), for
 15 a calendar year beginning after December 31, 2004, each campsite at
 16 the campground may not equal more than one-third (1/3) of one (1)
 17 resident equivalent unit. The basic monthly charge for the
 18 campground's sewage service must be equal to the number of the
 19 campground's resident equivalent units multiplied by the rate charged
 20 by the board for a resident unit.

21 (d) The board may impose additional charges on a campground
 22 under subsections (b) and (c) if the board incurs additional costs that
 23 are caused by any unique factors that apply to providing sewage service
 24 for the campground, including, but not limited to:

25 (1) the installation of:

26 (A) oversized pipe; or

27 (B) any other unique equipment;

28 necessary to provide sewage service for the campground; and

29 (2) concentrations of biochemical oxygen demand (BOD) that
 30 exceed federal pollutant standards.

31 SECTION 11. IC 13-26-11-4 IS AMENDED TO READ AS
 32 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 4. The rates and
 33 charges for services of a water, sewer, or solid waste disposal or
 34 recovery system do not have to be uniform throughout the district or for
 35 all users. The board may exercise reasonable discretion in:

36 (1) adopting different schedules of rates and charges; ~~or~~

37 (2) making classifications in schedules of rates and charges:

38 (A) based upon variations in the costs of furnishing the
 39 services, including capital expenditures required, to various
 40 classes of users or to various locations in the district; or

41 (B) where there are variations in the number of users in
 42 various locations in the district; ~~or~~

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1 **(3) temporarily adjusting a user's fees to reflect the user's**
2 **nonuse of the services.**

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