February 21, 2012

ENGROSSED
HOUSE BILL No. 1117

DIGEST OF HB 1117 (Updated February 16, 2012 12:45 pm - DI 103)

Citations Affected: IC 8-1; IC 13-11; IC 13-26; IC 16-20; IC 16-41; IC 32-21.

Synopsis: Regional water, sewage, or waste districts and utilities. Provides that if a not-for-profit sewer utility (utility) uses eminent domain to acquire an easement or right-of-way, the easement or right-of-way may not exceed 50 feet. Specifies that the following are not a not-for-profit utility: (1) A conservancy district. (2) For certain purposes, a utility owned, operated, or held in trust by a consolidated city. Requires notice and a hearing before a petition may be filed to establish a regional water, sewage, or solid waste district (district). Establishes requirements for appointment to the board of trustees of a district. Provides that a district or utility may not require a property owner to connect to the district's or utility's sewer system under certain

(Continued next page)

Effective: July 1, 2012.

Wolkins, Lehe

(SENATE SPONSORS — GARD, LEISING)

January 9, 2012, read first time and referred to Committee on Environmental Affairs.
January 25, 2012, amended, reported — Do Pass.
January 30, 2012, read second time, amended, ordered engrossed.
January 31, 2012, engrossed. Read third time, passed. Yeas 76, nays 20.

SENATE ACTION

February 1, 2012, read first time and referred to Committee on Utilities and Technology.
February 20, 2012, amended, reported favorably — Do Pass.

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Digest Continued

conditions for ten years. Allows the property owner to apply for two five year extensions. Provides that if a district uses a flat charge to determine a rate or charge for a sewage works, the district must provide a written summary of how the flat charge was calculated. Allows a campground or youth camp to be billed for sewage service at a flat rate or by installing a meter to measure the actual amount of sewage. Provides that, for billing purposes, a bed at a youth camp equals 1/8 residential equivalent unit. Establishes a procedure by which a ratepayer may object to initial rates and charges established by a district. Requires a health officer to verify the existence of unlawful conditions that transmit, generate, or promote disease before ordering their abatement. Provides that a person who provides false information to a health officer commits a Class C infraction. Requires a local health department to notify an applicant for a residential septic system permit of the existence of a district. Provides that a homeowner may include in a residential sales disclosure form information relating to a district.

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February 21, 2012

Second Regular Session 117th General Assembly (2012)

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 2011 Regular Session of the General Assembly.

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ENGROSSED
HOUSE BILL No. 1117

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:

SECTION 1. IC 8-1-2-125 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 125. (a) As used in this section, "not-for-profit utility" means a public water or sewer utility that:

(1) does not have shareholders;

(2) does not engage in any activities for the profit of its trustees, directors, incorporators, or members; and

(3) is organized and conducts its affairs for purposes other than the pecuniary gain of its trustees, directors, incorporators, or members.

The term does not include a conservancy district established under IC 14-33 or, for purposes of subsections (f), (g), (h), (i), (j), and (k), a utility company owned, operated, or held in trust by a consolidated city.

(b) As used in this section, "sewage disposal system" means a privy, cesspool, septic tank, or other similar structure. The term includes a septic tank soil absorption system (as defined in

IC 13-11-2-199.5). The term does not include a sewer system operated by a not-for-profit public sewer utility.

~~(b)~~ **(c)** A not-for-profit utility shall be required to furnish reasonably adequate services and facilities. The charge made by any not-for-profit utility for any service rendered or to be rendered, either directly or in connection with the service, must be nondiscriminatory, reasonable, and just. Each discriminatory, unjust, or unreasonable charge for the service is prohibited and unlawful.

~~(c)~~ **(d)** A reasonable and just charge for water or sewer service within the meaning of this section is a charge that will produce sufficient revenue to pay all legal and other necessary expense incident to the operation of the not-for-profit utility's system, including the following:

(1) Maintenance and repair costs.

(2) Operating charges.

(3) Interest charges on bonds or other obligations.

(4) Provision for a sinking fund for the liquidation of bonds or other evidences of indebtedness.

(5) Provision for a debt service reserve for bonds or other obligations in an amount not to exceed the maximum annual debt service on the bonds or obligations.

(6) Provision of adequate funds to be used as working capital.

(7) Provision for making extensions and replacements.

(8) The payment of any taxes that may be assessed against the not-for-profit utility or its property.

The charges must produce an income sufficient to maintain the not-for-profit utility's property in sound physical and financial condition to render adequate and efficient service. A rate too low to meet these requirements is unlawful.

~~(d)~~ **(e)** Except as provided in ~~subsection (c),~~ **subsections (f) and (h),** a not-for-profit public sewer utility may require connection to its sewer system of property producing sewage or similar waste and require the discontinuance of use of ~~privies, cesspools, septic tanks, and similar structures,~~ **a sewage disposal system** if:

(1) there is an available sanitary sewer within three hundred (300) feet of the property line; and

(2) the utility has given written notice by certified mail to the property owner at the address of the property at least ninety (90) days before the date for connection stated in the notice.

The notice given under subdivision (2) must also inform the property owner, other than an owner of property located in a consolidated city, that the property owner may qualify for an

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exemption as set forth in subsection (f).

~~(e) A not-for profit sewer utility may not require connection to its sewer system of property producing sewage or similar waste and require the discontinuance of use of privies, cesspools, septic tanks, and similar structures if the source of the waste is more than five hundred (500) feet from the point of connection to its sewer system.~~

(f) Subject to subsection (h), a property owner is exempt from the requirement to connect to a not-for-profit public sewer utility's sewer system and to discontinue use of a sewage disposal system if the following conditions are met:

(1) The property owner's sewage disposal system was new at the time of installation and approved in writing by the local health department.

(2) The property owner, at the property owner's expense, obtains and provides to the not-for-profit public sewer utility a certification from the local health department or the department's designee that the sewage disposal 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.

(3) The property owner provides the not-for-profit public sewer utility with:

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

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

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

(g) If a property owner, within the time allowed under subsection (i), notifies a not-for-profit public sewer utility in writing that the property owner qualifies for the exemption under this section, the not-for-profit public sewer utility 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 sewage disposal system and connect to the not-for-profit public sewer utility's sewer system.

(h) A property owner who qualifies for the exemption provided under this section may not be required to connect to the not-for-profit public sewer utility's sewer system for a period of ten (10) years beginning on the date the new sewage disposal system was installed. A property owner may apply for two (2) five (5) year extensions of the exemption provided under this section by

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following the procedures set forth in subsections (f) and (g). If ownership of an exempt property is transferred during a valid exemption period, including during an extension of an initial exemption:

(1) the exemption applies to the subsequent owner of the property for the remainder of the exemption period during which the transfer occurred; and

(2) the subsequent owner may apply for any remaining extensions.

However, the total period during which a property may be exempt from the requirement to connect to a district's sewer system under this section may not exceed twenty (20) years, regardless of ownership of the property.

(i) 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 (h), notify the not-for-profit public sewer utility in writing that the property owner qualifies for the exemption under this section; and

(2) within sixty (60) days after the not-for-profit public sewer utility receives the written notice provided under subdivision (1), provide the not-for-profit public sewer utility with the certification required under subsection (f)(2).

(j) When a property owner who qualifies for an exemption under this section subsequently discontinues use of the property owner's sewage disposal system and connects to the not-for-profit public sewer utility'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 not-for-profit public sewer utility.

(k) A not-for-profit public sewer utility may not require a property owner to connect to the not-for-profit public sewer utility's sewer system if:

(1) the property is located on at least ten (10) acres;

(2) the owner can demonstrate the availability of at least two

(2) areas on the property for the collection and treatment of

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sewage that will protect human health and the environment;
(3) the waste stream from the property is limited to domestic sewage from a residence or business;
(4) the system used to collect and treat the domestic sewage has a maximum design flow of seven hundred fifty (750) gallons per day; and
(5) the owner, at the owner's expense, obtains and provides to the district a certification from the local health department or the department's designee that the system is functioning satisfactorily.

(l) A property owner who connects to a not-for-profit public sewer utility's sewer system may provide, at the owner's expense, labor, equipment, materials, or any combination of labor, equipment, and materials from any source to accomplish the connection to the sewer system, subject to inspection and approval by the not-for-profit public sewer utility.

(m) This section does not prohibit the state department of health, a local health department, or a county health officer from proceeding under IC 16-41-20 to declare a dwelling served by a sewage disposal system a public nuisance and pursuing all available remedies.

SECTION 2. IC 8-1-8-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 1. (a) A public utility, except in cities of the third class, engaged in the production, transmission, delivery, or furnishing of heat, light, water, or power or for the collection, treatment, purification, and disposal in a sanitary manner of liquid and solid sewage or furnishing facilities for transmission of intelligence by electricity to towns and cities and to the public in general or for the furnishing of elevator or warehouse service, either directly or indirectly, to or for the public, for the purpose of enabling it to perform its functions, may appropriate and condemn lands of individuals and private corporations, or any easement in any lands, necessary to the carrying out of its objects, whether the same be for its building, structures, dams, line of poles, wires, mains, conduits, and pipelines, or right-of-way to accommodate railway siding or switch tracks connecting its plant or plants with the tracks of any common carrier, overflowage by backwater from its dams, waste, or sluiceways.

(b) However, within the limits of any incorporated town or city, the authority to appropriate does not:

(1) extend to lands situated in any city block in which more than fifty percent (50%) of the frontage is devoted to residence purposes;

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(2) extend to common carriers engaged in the transportation of freight or passengers; or

(3) give to any public utility any right or authority to:

(A) appropriate any land or easement within the corporate limits of any city for overflowage by backwater from any dam;

(B) appropriate or acquire any dam, race, or sluiceway existing on May 31, 1921, or any interest in either, except to use water for condensation purposes;

(C) appropriate or acquire any pipeline laid or contained within the limits of private property; or

(D) authorize any corporation developing hydroelectric power to unreasonably interfere with or disturb the natural flow of the stream from which power may be derived. Lands or easements in lands acquired by appropriation and condemnation shall be held and enjoyed by the company for those purposes as though the land or easement had been acquired by purchase.

(c) If a not-for-profit sewer utility (as described in IC 8-1-2-125(a)) appropriates or condemns land to acquire an easement or right-of-way necessary to carry out the not-for-profit sewer utility's objectives, the easement or right-of-way may not exceed fifty (50) feet in width.

~~(c)~~ **(d)** The appropriation and condemnation of lands and easements in lands authorized by this section must be done under the terms and conditions and in the manner prescribed by IC 32-24-1.

SECTION 3. IC 13-11-2-270 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: **Sec. 270. "Youth camp", for purposes of IC 13-26-11-2, means an area or a tract of land established, operated, or maintained to provide more than seventy-two (72) continuous hours of outdoor group living experiences:**

(1) away from established residences; and

(2) for educational, recreational, sectarian, or health purposes;

for at least ten (10) children who are less than eighteen (18) years of age and not accompanied by a parent or guardian.

SECTION 4. IC 13-26-2-2.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: **Sec. 2.5. (a) Before a representative may file a petition to establish a district, the representative must provide notice to all owners of property to be served by the proposed district that is the subject of the petition.**

(b) Notice under subsection (a) must be provided as follows:

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(1) Beginning at least thirty (30) days before the date on which a public meeting under subsection (c) is scheduled, by publication of notice one (1) time each week for three (3) consecutive weeks in at least two (2) newspapers of general circulation in each of the counties, in whole or in part, in the proposed district. If there is only one (1) newspaper of general circulation in a county, a single publication each week for three (3) consecutive weeks satisfies the requirement of this subdivision.

(2) Either:

(A) by United States mail, postage prepaid, mailed to each freeholder within the proposed district; or

(B) by broadcasting at least three (3) public service announcements each day for fourteen (14) days on at least two (2) radio stations operating in each of the counties, in whole or in part, in the proposed district;

beginning at least fourteen (14) days before the date on which a public meeting under subsection (c) is scheduled.

(c) After providing notice under subsection (b), a representative that seeks to file a petition to establish a district must conduct a public meeting to discuss and receive comments on the proposed district.

(d) A representative may not file a petition to establish a district:

(1) more than one hundred eighty (180) or less than sixty (60) days after providing notice under subsection (b); or

(2) less than thirty (30) days after a meeting held under subsection (c).

SECTION 5. IC 13-26-2-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 3. A petition to establish a district under this chapter must state the following:

(1) The proposed name of the district.

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

(3) The following information:

(A) The need for the proposed district.

(B) The purpose to be accomplished.

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

(i) water supply, for a water district;

(ii) sewage collection, disposal, and treatment, for a sewage

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district; or
(iii) solid waste disposal, recovery, or treatment, for a solid waste district;
is currently being provided.
(D) Whether there is any outstanding indebtedness for the purpose proposed in the proposed district, including a statement as to how the current situation creates or adds to pollution or health hazards or impedes development in the area.
(4) An accurate description of the territory to be included in the district, which does not have to be given by metes and bounds or by legal subdivisions. The territory does not have to be contiguous, but the territory must be so situated that the public health, safety, convenience, or welfare will be promoted by the establishment as a single district of the territory described.
(5) The petitioner's recommendations on:
(A) the manner of selection;
(B) the number; and
(C) the term, not exceeding four (4) years;
of the members of the board of trustees.
(6) The plan for financing the cost of the operations of the district until the district is in receipt of revenue from the district's operations or proceeds from the sale of bonds.
(7) Estimates of the following:
(A) The costs of accomplishing the purpose of the district.
(B) The costs of operating and maintaining the works.
(C) The sources of the funding of these costs.
(D) The rates and charges that will be required.
(E) The median income for households in the proposed district based on the most recent federal decennial census.
(8) A summary of alternatives to creating the district.

SECTION 6. IC 13-26-4-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 6. **(a)** An appointed trustee does not have to be a resident of the district.

(b) An appointed trustee must:
(1) own real property within the district;
(2) be a trustee appointed under section 4 or 5 of this chapter; or
(3) be an elected official who represents a political subdivision that has territory in the district.

SECTION 7. IC 13-26-4-8 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY

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1, 2012]: **Sec. 8. (a) When the board of a district conducts a public hearing or meeting, the board shall allow any person an opportunity to be heard:**

(1) in the presence of others who are present to testify; and

(2) in accordance with subsection (b).

(b) The board may limit testimony at a public hearing or meeting to a reasonable time stated at the opening of the public hearing or meeting.

SECTION 8. IC 13-26-5-2, AS AMENDED BY P.L.1-2009, SECTION 110, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 2. A district may do the following:

(1) Sue or be sued.

(2) Make contracts in the exercise of the rights, powers, and duties conferred upon the district.

(3) Adopt and alter a seal and use the seal by causing the seal to be impressed, affixed, reproduced, or otherwise used. However, the failure to affix a seal does not affect the validity of an instrument.

(4) Adopt, amend, and repeal the following:

(A) Bylaws for the administration of the district's affairs.

(B) Rules and regulations for the following:

(i) The control of the administration and operation of the district's service and facilities.

(ii) The exercise of all of the district's rights of ownership.

(5) Construct, acquire, lease, operate, or manage works and obtain rights, easements, licenses, money, contracts, accounts, liens, books, records, maps, or other property, whether real, personal, or mixed, of a person or an eligible entity.

(6) Assume in whole or in part any liability or obligation of:

(A) a person;

(B) a nonprofit water, sewage, or solid waste project system; or

(C) an eligible entity;

including a pledge of part or all of the net revenues of a works to the debt service on outstanding bonds of an entity in whole or in part in the district and including a right on the part of the district to indemnify and protect a contracting party from loss or liability by reason of the failure of the district to perform an agreement assumed by the district or to act or discharge an obligation.

(7) Fix, alter, charge, and collect reasonable rates and other charges in the area served by the district's facilities to every person whose premises are, whether directly or indirectly,

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supplied with water or provided with sewage or solid waste services by the facilities for the purpose of providing for the following:

(A) The payment of the expenses of the district.

(B) The construction, acquisition, improvement, extension, repair, maintenance, and operation of the district's facilities and properties.

(C) The payment of principal or interest on the district's obligations.

(D) To fulfill the terms of agreements made with:

(i) the purchasers or holders of any obligations; or

(ii) a person or an eligible entity.

(8) Except as provided in ~~section~~ **sections** 2.5 **and 2.6** of this chapter, require connection to the district's sewer system of property producing sewage or similar waste, and require the discontinuance of use of privies, cesspools, septic tanks, and similar structures if:

(A) there is an available sanitary sewer within three hundred (300) feet of the property line;

(B) the district has given written notice by certified mail to the property owner at the address of the property at least ninety (90) days before a date for connection to be stated in the notice; and

(C) if the property is located outside the district's territory:

(i) the district has obtained and provided to the property owner (along with the notice required by clause (B)) a letter of recommendation from the local health department that there is a possible threat to the public's health; and

(ii) if the property is also located within the extraterritorial jurisdiction of a municipal sewage works under IC 36-9-23 or a public sanitation department under IC 36-9-25, the municipal works board or department of public sanitation has acknowledged in writing that the property is within the municipal sewage works or department of public sanitation's extraterritorial jurisdiction, but the municipal works board or department of public sanitation is unable to provide sewer service.

However, a district may not require the owner of a property described in this subdivision to connect to the district's sewer system if the property is already connected to a sewer system that has received an NPDES permit and has been determined to be functioning satisfactorily.

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

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

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

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

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

(A) the location or protection of works;

(B) the relocation of buildings, structures, and improvements situated on land required by the district or for any other necessary purpose; or

(C) obtaining or storing material to be used in constructing and maintaining the works.

(14) Upon consent of two-thirds (2/3) of the members of the board, merge or combine with another district into a single district on terms so that the surviving district:

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

(B) is subject to all the liabilities, obligations, and duties of each of the constituent districts, with all rights of creditors of the constituent districts being preserved unimpaired.

(15) Provide by agreement with another eligible entity for the joint construction of works the district is authorized to construct if the construction is for the district's own benefit and that of the other entity. For this purpose the cooperating entities may jointly appropriate land either within or outside their respective borders if all subsequent proceedings, actions, powers, liabilities, rights, and duties are those set forth by statute.

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(16) Enter into contracts with a person, an eligible entity, the state, or the United States to provide services to the contracting party for any of the following:

(A) The distribution or purification of water.

(B) The collection or treatment of sanitary sewage.

(C) The collection, disposal, or recovery of solid waste.

(17) Make provision for, contract for, or sell the district's byproducts or waste.

(18) Exercise the power of eminent domain, **including for purposes of siting sewer or water utility infrastructure, but only after the district attempts to use existing public rights-of-way or easements.**

(19) Remove or change the location of a fence, building, railroad, canal, or other structure or improvement located within or outside the district. If:

(A) it is not feasible or economical to move the building, structure, or improvement situated in or upon land acquired; and

(B) the cost is determined by the board to be less than that of purchase or condemnation;

the district may acquire land and construct, acquire, or install buildings, structures, or improvements similar in purpose to be exchanged for the buildings, structures, or improvements under contracts entered into between the owner and the district.

(20) Employ consulting engineers, superintendents, managers, and other engineering, construction, and accounting experts, attorneys, bond counsel, employees, and agents that are necessary for the accomplishment of the district's purpose and fix their compensation.

(21) Procure insurance against loss to the district by reason of damages to the district's properties, works, or improvements resulting from fire, theft, accident, or other casualty or because of the liability of the district for damages to persons or property occurring in the operations of the district's works and improvements or the conduct of the district's activities.

(22) Exercise the powers of the district without obtaining the consent of other eligible entities. However, the district shall:

(A) restore or repair all public or private property damaged in carrying out the powers of the district and place the property in the property's original condition as nearly as practicable; or

(B) pay adequate compensation for the property.

(23) Dispose of, by public or private sale or lease, real or personal

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property determined by the board to be no longer necessary or needed for the operation or purposes of the district.

SECTION 9. IC 13-26-5-2.5, AS AMENDED BY P.L.123-2011, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: 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 (c),~~ 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 new at the time of installation and was approved in writing by the local health department.

(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.

(3) The property owner provides the district with:

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

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

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

(c) If a property owner, within the time allowed under subsection ~~(g),~~ **(f),** 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 under this section may not be required to connect to the district's sewer system for a period of ten (10) years beginning on the date the new septic tank soil absorption system was installed. **A property owner may apply for two (2) five (5) year extensions of the exemption provided under this section by following the procedures set forth in subsections (b) and (c).** If ownership of ~~the~~ **an exempt** property ~~passes from the owner who qualified for the exemption to another person~~ **is transferred** during ~~the~~ **a valid** exemption period, **including**

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during an extension of an initial exemption:

(1) the exemption ~~does not apply~~ **applies** to the subsequent owner of the property **for the remainder of the exemption period during which the transfer occurred; and**

(2) the subsequent owner may apply for any remaining extensions.

However, the total period during which a property may be exempt from the requirement to connect to a district's sewer system under this section may not exceed twenty (20) years, regardless of ownership 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)~~ **(e)** 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)~~ **(f)** 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),~~ **(e),** notify the district

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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)(2).

~~(h)~~ **(g)** 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.

(h) A property owner who connects to a district's sewer system may provide, at the owner's expense, labor, equipment, materials, or any combination of labor, equipment, and materials from any source to accomplish the connection to the sewer system, subject to inspection and approval by the board or a designee of the board.

(i) This section does not prohibit the state department of health, a local health department, or a county health officer from proceeding under IC 16-41-20 to declare a dwelling served by a septic tank soil absorption system a public nuisance and pursuing all available remedies.

SECTION 10. IC 13-26-5-2.6 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: **Sec. 2.6. A district may not require the owner of a property described in section 2(8) of this chapter to connect to the district's sewer system if:**

(1) the property is located on at least ten (10) acres;

(2) the owner can demonstrate the availability of at least two (2) areas on the property for the collection and treatment of sewage that will protect human health and the environment;

(3) the waste stream from the property is limited to domestic sewage from a residence or business;

(4) the system used to collect and treat the domestic sewage has a maximum design flow of seven hundred fifty (750) gallons per day; and

(5) the owner, at the owner's expense, obtains and provides to

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the district a certification from the local health department or the department's designee that the system is functioning satisfactorily.

SECTION 11. IC 13-26-11-2, AS AMENDED BY P.L.189-2005, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 2. (a) Except as provided in subsection (b), the rates or charges for a sewage works may be determined based on **a combination of** the following **factors:**

(1) A flat charge for each connection. **If a board uses a flat charge as a factor to determine a rate or charge for a sewage works, the board must:**

(A) prepare a concise written statement that summarizes the calculations and processes used to determine the amount of the flat charge; and

(B) provide a copy of the written statement to each person who:

(i) is required to pay the rate or charge; and

(ii) requests a paper copy of the summary.

(2) The amount of water used on the premises.

(3) The number and size of water outlets on the premises.

(4) The amount, strength, or character of sewage discharged into the sewers.

(5) The size of sewer connections.

(6) 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 other factors 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,~~ **A campground or youth camp may be billed for sewage service at a flat rate or by installing,** at the campground's **or youth camp's** expense, a meter to measure the actual amount of sewage discharged by the campground **or youth camp** into the sewers. If a campground **or youth camp** elects to be billed by use of a meter:

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

(2) the amount charged by a board for the campground's **or youth camp's** monthly sewage service for the period beginning September 1 and ending May 31 must be equal to ~~the greater of:~~

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~~(A)~~ the actual amount that would be charged for the sewage discharged during the month by the campground **or youth camp** as measured by the meter. ~~or~~

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

(c) If a campground **or youth camp** does not install a meter under subsection (b) and is billed for sewage service at a flat rate, ~~under subsection (a),~~ for a calendar year beginning after December 31, 2004:

(1) each campsite at the campground may not equal more than one-third (1/3) of one (1) resident equivalent unit; **and**

(2) each bed at the youth camp may not equal more than one-eighth (1/8) of one (1) residential equivalent unit.

The basic monthly charge for the campground's **or youth camp's** sewage service must be equal to the number of the campground's **or youth camp's** resident equivalent units multiplied by the rate charged by the board for a resident unit.

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

(1) the installation of:

(A) oversized pipe; or

(B) any other unique equipment;

necessary to provide sewage service for the campground **or youth camp;** and

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

SECTION 12. IC 13-26-11-13, AS AMENDED BY P.L.123-2011, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 13. (a) The ordinance establishing the initial rates or charges, either as:

(1) originally introduced; or

(2) modified and amended;

shall be passed and put into effect after the hearing.

(b) A copy of the schedule of the rates and charges established must be:

(1) kept on file in the office of the district; and

(2) open to public inspection.

(c) Whenever the board acts under section 8(b) of this chapter, to change or readjust the rates and charges, the board shall mail, either

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separately or along with a periodic billing statement, a notice of the new rates and charges to each user affected by the change or readjustment. In the case of a sewage district, if the change or readjustment increases the rates and charges by the amount specified in section 15(c) of this chapter, the notice required by this subsection:

(1) must include a statement of a ~~freeholder's~~ **ratepayer's** rights under section 15 of this chapter; and

(2) shall be mailed within the time specified in section 15(c) of this chapter.

(d) Following the passage of an ordinance under subsection (a), the lesser of fifty (50) or ten percent (10%) of the ratepayers of the district may file a written petition objecting to the initial rates and charges of the district. A petition filed under this subsection must:

(1) contain the name and address of each petitioner;

(2) be filed with a member of the district authority, in the county where at least one (1) petitioner resides, not later than thirty (30) days after the district adopts the ordinance; and

(3) set forth the grounds for the ratepayers' objection.

(e) The district authority shall set the matter for public hearing not less than ten (10) business days but not later than twenty (20) business days after the petition has been filed. The district authority shall send notice of the hearing by certified mail to the district and the first listed petitioner and publish the notice of the hearing in a newspaper of general circulation in each county in the district.

(f) Upon the date fixed in the notice, the district authority shall hear the evidence produced and determine the following:

(1) Whether the board of trustees of the district, in adopting the ordinance establishing sewer rates and charges, followed the procedure required by this chapter.

(2) Whether the sewer rates and charges established by the board by ordinance are just and equitable rates and charges, according to the standards set forth in section 9 of this chapter.

(g) After the district authority hears the evidence produced and makes the determinations set forth in subsection (f), the district authority, by a majority vote, shall:

(1) sustain the ordinance establishing the rates and charges;

(2) sustain the petition; or

(3) make any other ruling appropriate in the matter, subject to the standards set forth in section 9 of this chapter.

(h) The order of the district authority may be appealed by the

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district or a petitioner to the circuit court of the county in which the district is located. The court shall try the appeal without a jury and shall determine one (1) or both of the following:

(1) Whether the board of trustees of the district, in adopting the ordinance establishing sewer rates and charges, followed the procedure required by this chapter.

(2) Whether the sewer rates and charges established by the board by ordinance are just and equitable rates and charges, according to the standards set forth in section 9 of this chapter.

Either party may appeal the circuit court's decision in the same manner that other civil cases may be appealed.

SECTION 13. IC 13-26-11-15, AS AMENDED BY P.L.71-2011, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 15. (a) A district authority is established in each regional sewage district established under this article. A district authority:

(1) must consist of an odd number of members;

(2) must consist of at least three (3) members; and

(3) may not include as a member any person who serves on the board of trustees of the district.

(b) The district authority of a regional sewage district consists of the following members:

(1) In the case of a regional sewage district located in one (1) county, the following members:

(A) If no members of the county executive are trustees of the regional sewage district, the county executive of the county.

(B) If:

(i) one (1) or more members of the county executive are trustees of the regional sewage district; and

(ii) no members of the county fiscal body are trustees of the regional sewage district;

the members of the county fiscal body.

(C) If the regional sewage district's board of trustees consists of one (1) or more members of the county executive and one (1) or more members of the county fiscal body, three (3) members appointed as follows:

(i) Two (2) members appointed by the county executive. If not all of the members of the county executive are trustees of the district, the county executive may appoint either or both of the two (2) members required by this item from among the county executive's own membership, subject to

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subsection (a)(3).

(ii) One (1) member appointed by the county fiscal body. If not all of the members of the county fiscal body are trustees of the district, the county fiscal body may appoint the member required by this item from among the county fiscal body's own membership, subject to subsection (a)(3).

(2) In the case of a regional sewage district located in more than one (1) county, the following members:

(A) If:

(i) an odd number of counties are part of the regional sewage district; and

(ii) each county in the district has at least one (1) county executive member who is not a trustee of the regional sewage district;

one (1) county executive member, appointed by that member's county executive, from each county in which the district is located, subject to subsection (a)(3).

(B) If an even number of counties are part of the regional sewage district, the following members:

(i) Two (2) county executive members, appointed by those members' county executive, from the county that has the largest number of customers served by the district's sewer system. However, if the county that has the largest number of customers served by the district's sewer system does not have at least two (2) members of its executive who are not also trustees of the district, the county executive of that county may appoint one (1) or more of the members required by this item from outside the county executive's own membership in order to comply with subsection (a)(3).

(ii) One (1) county executive member, appointed by that member's county executive, from each county, other than the county described in item (i), in which the district is located. However, if a county described in this item does not have at least one (1) member of its executive who is not also a trustee of the district, the county executive of that county may appoint the member required by this item from outside the county executive's own membership in order to comply with subsection (a)(3).

(C) If an odd number of counties are part of the regional sewage district and an odd number of those counties in the district do not have at least one (1) county executive member who is not also a trustee of the district, the following members:

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(i) One (1) county executive member, appointed by that member's county executive, from each county that has at least one (1) county executive member who is not also a trustee of the district, subject to subsection (a)(3).

(ii) One (1) member appointed by the county executive of each county that does not have at least one (1) county executive member who is not also a trustee of the district. A member appointed under this item must be appointed from outside the appointing county executive's own membership, subject to subsection (a)(3).

(c) If a district adopts an ordinance increasing sewer rates and charges at a rate that is greater than five percent (5%) per year, as calculated from the rates and charges in effect from the date of the district's last rate increase, the district shall mail, either separately or along with a periodic billing statement, a notice of the new rates and charges to each user of the sewer system who is affected by the increase. The notice:

(1) shall be mailed not later than seven (7) days after the district adopts the ordinance increasing the rates and charges; and

(2) must include a statement of a ~~freeholder's~~ **ratepayer's** rights under this section.

(d) If subsection (c) applies, fifty (50) ~~freeholders~~ **ratepayers** of the district or ten percent (10%) of the district's ~~freeholders,~~ **ratepayers,** whichever is fewer, may file a written petition objecting to the rates and charges of the district. A petition filed under this subsection must:

(1) contain the name and address of each petitioner;

(2) be filed with a member of the district authority, in the county where at least one (1) petitioner resides, not later than thirty (30) days after the district adopts the ordinance establishing the rates and charges; and

(3) set forth the grounds for the ~~freeholders'~~ **ratepayers'** objection.

If a petition meeting the requirements of this subsection is filed, the district authority shall investigate and conduct a public hearing on the petition. If more than one (1) petition concerning a particular increase in rates and charges is filed, the district authority shall consider the objections set forth in all the petitions at the same public hearing.

(e) The district authority shall set the matter for public hearing not less than ten (10) business days but not later than twenty (20) business days after the petition has been filed. The district authority shall send notice of the hearing by certified mail to the district and the first listed petitioner and publish the notice of the hearing in a newspaper of

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general circulation in each county in the district.

(f) Upon the date fixed in the notice, the district authority shall hear the evidence produced and determine the following:

(1) Whether the board of trustees of the district, in adopting the ordinance increasing sewer rates and charges, followed the procedure required by this chapter.

(2) Whether the increased sewer rates and charges established by the board by ordinance are just and equitable rates and charges, according to the standards set forth in section 9 of this chapter.

(g) After the district authority hears the evidence produced and makes the determinations set forth in subsection (f), the district authority, by a majority vote, shall:

(1) sustain the ordinance establishing the rates and charges;

(2) sustain the petition; or

(3) make any other ruling appropriate in the matter, subject to the standards set forth in section 9 of this chapter.

(h) The order of the district authority may be appealed by the district or a petitioner to the circuit court of the county in which the district is located. The court shall try the appeal without a jury and shall determine one (1) or both of the following:

(1) Whether the board of trustees of the district, in adopting the ordinance increasing sewer rates and charges, followed the procedure required by this chapter.

(2) Whether the increased sewer rates and charges established by the board by ordinance are just and equitable rates and charges, according to the standards set forth in section 9 of this chapter.

Either party may appeal the circuit court's decision in the same manner that other civil cases may be appealed.

SECTION 14. IC 16-20-1-25 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: 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 of~~ **receiving a complaint asserting** the existence of ~~such~~ unlawful conditions **described in subsection (a)** within the officer's jurisdiction, shall **document the complaint as provided in subsection (d). Upon verifying the information contained in the complaint, the health officer 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

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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.

(d) A complaint made under subsection (b) must include adequate details to allow the health officer to verify the existence of the unlawful conditions that are the subject of the complaint. A health officer shall provide a copy of a complaint upon request to the person who is the subject of the complaint.

(e) A person who provides false information upon which a health officer relies in issuing an order under this section commits a Class C infraction.

SECTION 15. IC 16-41-25-4 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: **Sec. 4. Before a local health department may act on an application for a residential septic system permit, the local health department shall inform the applicant for a residential septic system permit if the property is located in the service district of a regional sewage district.**

SECTION 16. IC 32-21-5-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 8. An owner may prepare or use a disclosure form that contains the information required in the disclosure form under section 7 of this chapter and any other information the owner determines is appropriate, **including whether the subject property is located in a regional sewage district.**

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Environmental Affairs, to which was referred House Bill 1117, 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 8-1-8-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 1. (a) A public utility, except in cities of the third class, engaged in the production, transmission, delivery, or furnishing of heat, light, water, or power or for the collection, treatment, purification, and disposal in a sanitary manner of liquid and solid sewage or furnishing facilities for transmission of intelligence by electricity to towns and cities and to the public in general or for the furnishing of elevator or warehouse service, either directly or indirectly, to or for the public, for the purpose of enabling it to perform its functions, may appropriate and condemn lands of individuals and private corporations, or any easement in any lands, necessary to the carrying out of its objects, whether the same be for its building, structures, dams, line of poles, wires, mains, conduits, and pipelines, or right-of-way to accommodate railway siding or switch tracks connecting its plant or plants with the tracks of any common carrier, overflowage by backwater from its dams, waste, or sluiceways.

(b) However, within the limits of any incorporated town or city, the authority to appropriate does not:

(1) extend to lands situated in any city block in which more than fifty percent (50%) of the frontage is devoted to residence purposes;

(2) extend to common carriers engaged in the transportation of freight or passengers; or

(3) give to any public utility any right or authority to:

(A) appropriate any land or easement within the corporate limits of any city for overflowage by backwater from any dam;

(B) appropriate or acquire any dam, race, or sluiceway existing on May 31, 1921, or any interest in either, except to use water for condensation purposes;

(C) appropriate or acquire any pipeline laid or contained within the limits of private property; or

(D) authorize any corporation developing hydroelectric power to unreasonably interfere with or disturb the natural flow of the stream from which power may be derived. Lands or easements

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in lands acquired by appropriation and condemnation shall be held and enjoyed by the company for those purposes as though the land or easement had been acquired by purchase.

(c) If a not-for-profit sewer utility (as described in IC 8-1-2-125(a)) appropriates or condemns land to acquire an easement or right-of-way necessary to carry out the not-for-profit sewer utility's objectives, the easement or right-of-way may not exceed fifty (50) feet in width.

~~(c)~~ **(d)** The appropriation and condemnation of lands and easements in lands authorized by this section must be done under the terms and conditions and in the manner prescribed by IC 32-24-1.

SECTION 2. IC 13-11-2-270 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: **Sec. 270. "Youth camp", for purposes of IC 13-26-11-2, means an area or a tract of land established, operated, or maintained to provide more than seventy-two (72) continuous hours of outdoor group living experiences:**

(1) away from established residences; and

(2) for educational, recreational, sectarian, or health purposes;

for at least ten (10) children who are less than eighteen (18) years of age and not accompanied by a parent or guardian.".

Page 2, line 4, after "on" delete "each" and insert "**at least two (2) radio stations**".

Page 2, line 5, delete "radio station".

Page 3, line 18, delete "." and insert "**based on the most recent federal decennial census.**".

Page 7, delete lines 17 through 42.

Delete page 8.

Page 9, delete lines 1 through 34, begin a new paragraph and insert:

"SECTION 7. IC 13-26-5-2.5, AS AMENDED BY P.L.123-2011, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: 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.~~ **For purposes of this section, a sewage disposal system is "failing" if one (1) or more of the following apply:**

(1) The system refuses to accept sewage at the rate of design application and interferes with the normal use of plumbing fixtures.

(2) Effluent discharge exceeds the absorptive capacity of the soil into which the system discharges, resulting in ponding, seepage, or other discharge of the effluent to the ground

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surface or to surface waters.

(3) Effluent discharged from the system contaminates a potable water supply, ground water, or surface waters.

(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~~ **sewage disposal** system ~~if the following conditions are met:~~

~~(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.~~

~~(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.~~

~~(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 (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 under this section may not be required to connect to the district's sewer system for a period of ten (10) years beginning on the 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~~

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~~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.~~ **if the sewage disposal system is not failing.**

~~(f)~~ **(c)** 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~~ **sewage disposal** system;

(2) that the property owner may qualify for an exemption from the requirement to discontinue the use of the ~~septic tank soil absorption~~ **sewage disposal** system; and

(3) of the procedures to claim an exemption.

~~(g)~~ **(d)** To qualify for an exemption under this section, a property owner must, ~~(1)~~ within ~~sixty (60)~~ **twenty (20)** days after the date of the written notice given to the property owner under subsection ~~(f),~~ **(c),** 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)(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.~~ **because the sewage disposal system is not failing or because the**

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property owner intends to repair or replace the sewage disposal system, as applicable. Upon receipt of notice under this subsection, the district shall suspend the requirement to discontinue use of the sewage disposal system for one hundred eighty (180) days, during which the property owner shall repair or replace the sewage disposal system as needed. Before the expiration of the one hundred eighty (180) days, the property owner shall notify the district in writing that:

(1) the sewage disposal system has been repaired or replaced, as applicable, and is not failing; or

(2) the property owner requires additional time to repair or replace the system.

A district that receives notice under subdivision (2) may grant the property owner additional time as it determines proper.

(e) A property owner who qualifies for an exemption under this section:

(1) may not be required to:

(A) connect to a district's sewer system; and

(B) discontinue use of a sewage disposal system;

for five (5) years beginning on the date the exemption begins; and

(2) may apply for additional and unlimited five (5) year extensions of the exemption if the owner obtains and provides to the district, at the owner's expense, a certification from the local health department or the department's designee that the sewage disposal system is not failing.

(f) A property owner who connects to a district's sewer system may provide, at the owner's expense, labor, equipment, materials, or any combination of labor, equipment, and materials from any source to accomplish the connection to the sewer system, subject to inspection and approval by the board or a designee of the board.

(g) This section does not prohibit the state department of health, a local health department, or a county health officer from proceeding under IC 16-41-20 to declare a dwelling served by a sewage disposal system a public nuisance and pursuing all available remedies.

SECTION 8. IC 13-26-5-2.6 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: **Sec. 2.6. A district may not require the owner of a property described in section 2(8) of this chapter to connect to the district's sewer system if:**

(1) the property is located on at least ten (10) acres;

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(2) the owner can demonstrate the availability of at least two (2) areas on the property for the collection and treatment of sewage that will protect human health and the environment;

(3) the waste stream from the property is limited to domestic sewage from a residence or business;

(4) the system used to collect and treat the domestic sewage has a maximum design flow of seven hundred fifty (750) gallons per day; and

(5) the owner, at the owner's own expense, obtains and provides to the district a certification from the local health department or the department's designee that the system is functioning satisfactorily.

SECTION 9. IC 13-26-11-2, AS AMENDED BY P.L.189-2005, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: 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. **If a board uses a flat charge as a factor to determine a rate or charge for a sewage works, the board must:**

(A) prepare a written statement of not more than one (1) page in length that summarizes the calculations and processes used to determine the amount of the flat charge; and

(B) provide a copy of the written statement to each person who:

(i) is required to pay the rate or charge; and

(ii) requests a paper copy of the summary.

(2) The amount of water used on the premises.

(3) The number and size of water outlets on the premises.

(4) The amount, strength, or character of sewage discharged into the sewers.

(5) The size of sewer connections.

(6) 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 other factors 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.~~ **A campground or youth camp may be billed for sewage service at a flat rate or by**

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installing, at the campground's **or youth camp's** expense, a meter to measure the actual amount of sewage discharged by the campground **or youth camp** into the sewers. If a campground **or youth camp** elects to be billed by use of a meter:

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

(2) the amount charged by a board for the campground's **or youth camp's** monthly sewage service for the period beginning September 1 and ending May 31 must be equal to ~~the greater of:~~

~~(A)~~ the actual amount that would be charged for the sewage discharged during the month by the campground **or youth camp** as measured by the meter. ~~or~~

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

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

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

(1) the installation of:

(A) oversized pipe; or

(B) any other unique equipment;

necessary to provide sewage service for the campground **or youth camp;** and

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

Page 14, line 39, delete "a regional sewage district provides sewer service" and insert **"the property is located in the service district of a regional sewage district.**".

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Page 14, delete lines 40 through 41.
Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1117 as introduced.)

WOLKINS, Chair

Committee Vote: yeas 6, nays 2.

HOUSE MOTION

Mr. Speaker: I move that House Bill 1117 be amended to read as follows:

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

"SECTION 1. IC 8-1-2-125 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 125. (a) As used in this section, "not-for-profit utility" means a public water or sewer utility that:

(1) does not have shareholders;
(2) does not engage in any activities for the profit of its trustees, directors, incorporators, or members; and
(3) is organized and conducts its affairs for purposes other than the pecuniary gain of its trustees, directors, incorporators, or members.

The term does not include a conservancy district established under IC 14-33.

(b) As used in this section, "sewage disposal system" means all equipment and devices necessary for proper conduction, collection, storage, treatment, and onsite disposal of sewage or other similar waste. The term includes septic tanks, soil absorption systems, holding tanks, cesspools, and privies. The term does not include a sewer system operated by a not-for-profit public sewer utility.

(c) For purposes of this section, a sewage disposal system is "failing" if one (1) or more of the following apply:

(1) The system refuses to accept sewage at the rate of design application and interferes with the normal use of plumbing fixtures.
(2) Effluent discharge exceeds the absorptive capacity of the soil into which the system discharges, resulting in ponding, seepage, or other discharge of the effluent to the ground

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surface or to surface waters.

(3) Effluent discharged from the system contaminates a potable water supply, ground water, or surface waters.

~~(b)~~ **(d)** A not-for-profit utility shall be required to furnish reasonably adequate services and facilities. The charge made by any not-for-profit utility for any service rendered or to be rendered, either directly or in connection with the service, must be nondiscriminatory, reasonable, and just. Each discriminatory, unjust, or unreasonable charge for the service is prohibited and unlawful.

~~(c)~~ **(e)** A reasonable and just charge for water or sewer service within the meaning of this section is a charge that will produce sufficient revenue to pay all legal and other necessary expense incident to the operation of the not-for-profit utility's system, including the following:

(1) Maintenance and repair costs.

(2) Operating charges.

(3) Interest charges on bonds or other obligations.

(4) Provision for a sinking fund for the liquidation of bonds or other evidences of indebtedness.

(5) Provision for a debt service reserve for bonds or other obligations in an amount not to exceed the maximum annual debt service on the bonds or obligations.

(6) Provision of adequate funds to be used as working capital.

(7) Provision for making extensions and replacements.

(8) The payment of any taxes that may be assessed against the not-for-profit utility or its property.

The charges must produce an income sufficient to maintain the not-for-profit utility's property in sound physical and financial condition to render adequate and efficient service. A rate too low to meet these requirements is unlawful.

~~(d)~~ **(f)** Except as provided in ~~subsection (e),~~ **subsections (g) and (i),** a not-for-profit public sewer utility may require connection to its sewer system of property producing sewage or similar waste and require the discontinuance of use of ~~privies, cesspools, septic tanks, and similar structures,~~ **a sewage disposal system** if:

(1) there is an available sanitary sewer within three hundred (300) feet of the property line; and

(2) the utility has given written notice by certified mail to the property owner at the address of the property at least ninety (90) days before the date for connection stated in the notice.

The notice given under subdivision (2) must also inform the property owner that the property owner may qualify for an

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exemption as set forth in subsection (g).

~~(e) A not-for profit sewer utility may not require connection to its sewer system of property producing sewage or similar waste and require the discontinuance of use of privies, cesspools, septic tanks, and similar structures if the source of the waste is more than five hundred (500) feet from the point of connection to its sewer system.~~

(g) A property owner is exempt from the requirement to connect to a sewer system of a not-for-profit public sewer utility and to discontinue use of a sewage disposal system if the sewage disposal system is not failing. To qualify for an exemption under this subsection, a property owner must, within twenty (20) days after the date of the written notice given to the property owner under subsection (f), notify the not-for-profit public sewer utility that the property owner qualifies for the exemption under this subsection because the sewage disposal system is not failing or because the property owner intends to repair or replace the sewage disposal system, as applicable. Upon receipt of notice under this subsection, the not-for-profit public sewer utility shall suspend the requirement to discontinue use of the sewage disposal system for one hundred eighty (180) days, during which the property owner shall repair or replace the sewage disposal system as needed. Before the expiration of the one hundred eighty (180) days, the property owner shall notify the not-for-profit public sewer utility in writing that:

(1) the sewage disposal system has been repaired or replaced, as applicable, and is not failing; or

(2) the property owner requires additional time to repair or replace the system.

A not-for-profit public sewer utility that receives notice under subdivision (2) may grant the property owner additional time as it determines proper.

(h) A property owner who qualifies for an exemption under subsection (g):

(1) may not be required to:

(A) connect to a not-for-profit public sewer utility's sewer system; and

(B) discontinue use of a sewage disposal system;

for five (5) years beginning on the date the exemption begins; and

(2) may apply for additional and unlimited five (5) year extensions of the exemption if the owner obtains and provides to the not-for-profit public sewer utility, at the owner's

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expense, a certification from the local health department or the department's designee that the sewage disposal system is not failing.

(i) A not-for-profit public sewer utility may not require a property owner to connect to the not-for-profit public sewer utility's sewer system if:

(1) the property is located on at least ten (10) acres;

(2) the owner can demonstrate the availability of at least two

(2) areas on the property for the collection and treatment of sewage that will protect human health and the environment;

(3) the waste stream from the property is limited to domestic sewage from a residence or business;

(4) the system used to collect and treat the domestic sewage has a maximum design flow of seven hundred fifty (750) gallons per day; and

(5) the owner, at the owner's expense, obtains and provides to the district a certification from the local health department or the department's designee that the system is functioning satisfactorily.

(j) A property owner who connects to a not-for-profit public sewer utility's sewer system may provide, at the owner's expense, labor, equipment, materials, or any combination of labor, equipment, and materials from any source to accomplish the connection to the sewer system, subject to inspection and approval by the not-for-profit public sewer utility.

(k) This section does not prohibit the state department of health, a local health department, or a county health officer from proceeding under IC 16-41-20 to declare a dwelling served by a sewage disposal system a public nuisance and pursuing all available remedies.".

Page 2, between lines 28 and 29, begin a new paragraph and insert:

"SECTION 3. IC 13-11-2-199.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 199.5. "Septic tank soil absorption system", for purposes of **this chapter and** IC 13-18-12, ~~and IC 13-26-5-2.5,~~ means pipes laid in a system of trenches or elevated beds, into which the effluent from the septic tank is discharged for soil absorption, or similar structures.

SECTION 4. IC 13-11-2-201, AS AMENDED BY P.L.159-2011, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 201. "Sewage disposal system", for purposes of this chapter, IC 13-18-12, ~~and~~ IC 13-20-17.5, **and IC 13-26-5,** means septic tanks, **septic tank soil absorption systems,** septage holding

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tanks, seepage pits, cesspools, privies, composting toilets, interceptors or grease traps, portable sanitary units, and other equipment, facilities, or devices used to:

(1) store;
(2) treat;
(3) make inoffensive; or
(4) dispose of;

human excrement or liquid carrying wastes of a domestic nature.".

Page 13, line 19, delete "2004," and insert "2004:".

Page 13, line 20, beginning with "each" begin a new line block indented and insert:

"**(1)**".

Page 13, line 20, delete "or youth camp".

Page 13, line 21, delete "unit." and insert "unit; **and**

(2) each bed at the youth camp may not equal more than one-eighth (1/8) of one (1) residential equivalent unit.".

Page 13, line 21, beginning with "The" begin a new line blocked left.

Renumber all SECTIONS consecutively.

(Reference is to HB 1117 as printed January 25, 2012.)

WOLKINS

COMMITTEE REPORT

Madam President: The Senate Committee on Utilities and Technology, to which was referred House Bill No. 1117, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Delete everything after the enacting clause and insert the following:

(SEE TEXT OF BILL)

and when so amended that said bill do pass.

(Reference is to HB 1117 as reprinted January 31, 2012.)

MERRITT, Chairperson

Committee Vote: Yeas 10, Nays 0.

C o p y