



Reprinted
January 28, 2012

HOUSE BILL No. 1225

DIGEST OF HB 1225 (Updated January 27, 2012 1:41 pm - DI 69)

Citations Affected: IC 8-1; IC 13-11; IC 13-14; IC 13-26; IC 16-20.

Synopsis: Septic tanks and sewer systems. Provides that certain not-for-profit sewer utilities (sewer utility) may require a property owner to discontinue use of a sewage disposal system and connect to the sewer utility's sewer system only if the sewage disposal system is failing. Requires the sewer utility to give the property owner 180 days to repair or replace the sewage disposal system. Specifies certain membership requirements for the board of trustees of a regional sewage district (district). Requires the board of a district that conducts a public hearing to allow persons present an opportunity to be heard. Provides that a district may not require a property owner to connect to the district's sewer system under certain conditions for five years. Allows the property owner to apply for additional and unlimited five year extensions. Provides that if a district uses a flat charge to determine a rate or charge for a waterworks or 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
(Continued next page)

Effective: July 1, 2012.

**Lehman, Cheatham, Wolkins,
Yarde**

January 9, 2012, read first time and referred to Committee on Environmental Affairs.
January 25, 2012, amended, reported — Do Pass.
January 27, 2012, read second time, amended, ordered engrossed.

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a flat rate or by installing a meter to measure the actual amount of sewage. Authorizes a board to exercise reasonable discretion in temporarily adjusting fees to reflect a user's nonuse of water, sewer, or solid waste services. Provides that a board may bill and collect rates and charges only for services actually provided. Specifies that district rates, fees, and charges assessed against land or a building are liens that do not attach and must be collected by a civil action. 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. Makes technical corrections.

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January 28, 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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HOUSE BILL No. 1225

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 8-1-2-125 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 125. (a) As used in this
3 section, "not-for-profit utility" means a public water or sewer utility
4 that:
5 (1) does not have shareholders;
6 (2) does not engage in any activities for the profit of its trustees,
7 directors, incorporators, or members; and
8 (3) is organized and conducts its affairs for purposes other than
9 the pecuniary gain of its trustees, directors, incorporators, or
10 members.
11 (b) As used in this section, "sewage disposal system" means all
12 equipment and devices necessary for proper conduction, collection,
13 storage, treatment, and on-site disposal of sewage or other similar
14 waste. The term includes septic tanks, soil absorption systems,
15 holding tanks, cesspools, and privies. The term does not include a

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1 sewer system operated by a not-for-profit public sewer utility.

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

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

7 (2) Effluent discharge exceeds the absorptive capacity of the
8 soil into which the system discharges, resulting in ponding,
9 seepage, or other discharge of the effluent to the ground
10 surface or to surface waters.

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

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

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

24 (1) Maintenance and repair costs.

25 (2) Operating charges.

26 (3) Interest charges on bonds or other obligations.

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

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

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

33 (7) Provision for making extensions and replacements.

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

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

40 ~~(d)~~ Except as provided in subsection ~~(e)~~; **(f) This subsection does**
41 **not apply to property located in a county that has a consolidated**
42 **city.** A not-for-profit public sewer utility may require ~~connection~~ a

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1 **property within its service territory producing sewage or similar**
 2 **waste to be connected** to its sewer system ~~of property producing~~
 3 ~~sewage or similar waste~~ and require the discontinuance of use of
 4 ~~privies, cesspools, septic tanks, and similar structures, a sewage~~
 5 **disposal system serving the property if:**

6 (1) ~~there is an available sanitary sewer within three hundred (300)~~
 7 ~~feet of the property line; the sewage disposal system is failing;~~
 8 and

9 (2) the utility ~~has given~~ **provides** written notice by certified mail
 10 to the property owner, at the address of ~~provided by~~ the property
 11 **owner**, at least ninety (90) days before the date for connection
 12 stated in the notice.

13 **The notice must also inform the property owner that the property**
 14 **may qualify for an exemption as set forth in subsection (g).**

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

20 (g) **This subsection does not apply to a sewage disposal system**
 21 **located in a county that has a consolidated city. A property owner**
 22 **that receives a notice under subsection (f) is exempt from the**
 23 **requirement to discontinue use of a sewage disposal system and**
 24 **connect to the sewer system if, not more than twenty (20) days**
 25 **after receiving the notice under subsection (f), the property owner**
 26 **notifies the not-for-profit public sewer utility in writing that the**
 27 **sewage disposal system is not failing or that the property owner**
 28 **intends to repair or replace the sewage disposal system, as**
 29 **applicable. Upon receipt of notice under this subsection, the**
 30 **not-for-profit public sewer utility shall suspend the requirement to**
 31 **discontinue use of the sewage disposal system for one hundred**
 32 **eighty (180) days, during which the property owner shall repair or**
 33 **replace the sewage disposal system as needed. Before the expiration**
 34 **of the one hundred eighty (180) days, the property owner shall**
 35 **notify the not-for-profit public sewer utility in writing that:**

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

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

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

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1 **(h) This subsection applies only to property located in a county**
2 **that has a consolidated city. A not-for-profit public sewer utility**
3 **may require a property that is within its service territory and is**
4 **producing sewage or similar waste to be connected to its sewer**
5 **system and require the discontinuance of use of a sewage disposal**
6 **system serving the property if:**

- 7 **(1) there is an available sanitary sewer within three hundred**
- 8 **(300) feet of the property line; and**
- 9 **(2) the utility provides written notice by certified mail to the**
- 10 **property owner, at the address provided by the property**
- 11 **owner, at least ninety (90) days before the date for connection**
- 12 **stated in the notice.**

13 **(i) A property owner who connects to a not-for-profit public**
14 **sewer utility's sewer system may provide, at the owner's expense,**
15 **labor, equipment, materials, or any combination of labor,**
16 **equipment, and materials from any source to accomplish the**
17 **connection to the sewer system, subject to inspection and approval**
18 **by the governing board of the not-for-profit public sewer utility or**
19 **a designee of the board.**

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

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

31 SECTION 3. IC 13-11-2-201, AS AMENDED BY P.L.159-2011,
32 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
33 JULY 1, 2012]: Sec. 201. "Sewage disposal system", for purposes of
34 this chapter, IC 13-18-12, ~~and IC 13-20-17.5, and IC 13-26-5-2.5,~~
35 means septic tanks, **septic tank soil absorption systems**, septage
36 holding tanks, seepage pits, cesspools, privies, composting toilets,
37 interceptors or grease traps, portable sanitary units, and other
38 equipment, facilities, or devices used to:

- 39 (1) store;
- 40 (2) treat;
- 41 (3) make inoffensive; or
- 42 (4) dispose of;



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

2 SECTION 4. IC 13-11-2-270 IS ADDED TO THE INDIANA
3 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
4 [EFFECTIVE JULY 1, 2012]: **Sec. 270. "Youth camp", for purposes**
5 **of IC 13-26-11-2, means an area or a tract of land established,**
6 **operated, or maintained to provide more than seventy-two (72)**
7 **continuous hours of outdoor group living experiences:**

8 (1) away from established residences; and

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

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

13 SECTION 5. IC 13-14-3-3 IS AMENDED TO READ AS
14 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 3. (a) If the
15 commissioner finds that the local governmental units have not
16 developed plans that provide for adequate:

17 (1) water supply;

18 (2) air, water, or wastewater treatment; or

19 (3) solid waste disposal facilities;

20 the department ~~may~~ **shall** hold a public hearing.

21 (b) If the facts support the conclusion, the department may order the
22 affected local governmental units to proceed **under IC 13-26** to form
23 regional water, sewage, air, or solid waste districts that are necessary
24 under IC 13-26.

25 SECTION 6. IC 13-26-4-1.5 IS ADDED TO THE INDIANA CODE
26 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
27 1, 2012]: **Sec. 1.5. (a) The following apply to the membership of the**
28 **board of trustees of a district:**

29 (1) **At least one (1) trustee must be an elected official who**
30 **represents a political subdivision that has territory in the**
31 **district.**

32 (2) **Except for an elected official described in subdivision (1),**
33 **each trustee must be:**

34 (A) a ratepayer in the district; or

35 (B) if there are no available ratepayers in a district, a
36 resident of the district.

37 (b) **This subsection applies to a district that exists on or after**
38 **July 1, 2012. Beginning with the initial election or appointment of**
39 **a trustee to fill a vacancy that occurs on a board after June 30,**
40 **2012, or to fill the office of a trustee whose term begins after June**
41 **30, 2012, the district shall comply with the trustee requirements set**
42 **forth in subsection (a) in the following order:**



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- 1 **(1) The district shall comply with the requirement of**
 2 **subsection (a)(1) first.**
 3 **(2) After the requirement under subsection (a)(1) is fulfilled,**
 4 **the district shall use subsequent elections or appointments of**
 5 **trustees to fill vacancies to fulfill the requirement of**
 6 **subsection (a)(2).**
 7 SECTION 7. IC 13-26-4-6 IS REPEALED [EFFECTIVE JULY 1,
 8 2012]. Sec. 6: An appointed trustee does not have to be a resident of
 9 the district.
 10 SECTION 8. IC 13-26-4-8 IS ADDED TO THE INDIANA CODE
 11 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 12 1, 2012]: **Sec. 8. (a) When the board of a district conducts a public**
 13 **hearing, the board shall allow any person an opportunity to be**
 14 **heard:**
 15 **(1) in the presence of others who are present to testify; and**
 16 **(2) in accordance with subsection (b).**
 17 **(b) The board may limit testimony at a public hearing to a**
 18 **reasonable time stated at the opening of the public hearing.**
 19 SECTION 9. IC 13-26-5-2, AS AMENDED BY P.L.1-2009,
 20 SECTION 110, IS AMENDED TO READ AS FOLLOWS
 21 [EFFECTIVE JULY 1, 2012]: Sec. 2. A district may do the following:
 22 (1) Sue or be sued.
 23 (2) Make contracts in the exercise of the rights, powers, and
 24 duties conferred upon the district.
 25 (3) Adopt and alter a seal and use the seal by causing the seal to
 26 be impressed, affixed, reproduced, or otherwise used. However,
 27 the failure to affix a seal does not affect the validity of an
 28 instrument.
 29 (4) Adopt, amend, and repeal the following:
 30 (A) Bylaws for the administration of the district's affairs.
 31 (B) Rules and regulations for the following:
 32 (i) The control of the administration and operation of the
 33 district's service and facilities.
 34 (ii) The exercise of all of the district's rights of ownership.
 35 (5) Construct, acquire, lease, operate, or manage works and obtain
 36 rights, easements, licenses, money, contracts, accounts, liens,
 37 books, records, maps, or other property, whether real, personal, or
 38 mixed, of a person or an eligible entity.
 39 (6) Assume in whole or in part any liability or obligation of:
 40 (A) a person;
 41 (B) a nonprofit water, sewage, or solid waste project system;
 42 or

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- 1 (C) an eligible entity;
 2 including a pledge of part or all of the net revenues of a works to
 3 the debt service on outstanding bonds of an entity in whole or in
 4 part in the district and including a right on the part of the district
 5 to indemnify and protect a contracting party from loss or liability
 6 by reason of the failure of the district to perform an agreement
 7 assumed by the district or to act or discharge an obligation.
 8 (7) Fix, alter, charge, and collect reasonable rates and other
 9 charges in the area served by the district's facilities to every
 10 person whose premises are, whether directly or indirectly,
 11 supplied with water or provided with sewage or solid waste
 12 services by the facilities for the purpose of providing for the
 13 following:
 14 (A) The payment of the expenses of the district.
 15 (B) The construction, acquisition, improvement, extension,
 16 repair, maintenance, and operation of the district's facilities
 17 and properties.
 18 (C) The payment of principal or interest on the district's
 19 obligations.
 20 (D) To fulfill the terms of agreements made with:
 21 (i) the purchasers or holders of any obligations; or
 22 (ii) a person or an eligible entity.
 23 (8) Except as provided in ~~section~~ **sections 2.5 and 2.6** of this
 24 chapter, require connection to the district's sewer system of
 25 property producing sewage or similar waste, and require the
 26 discontinuance of use of privies, cesspools, septic tanks, and
 27 similar structures if:
 28 (A) there is an available sanitary sewer within three hundred
 29 (300) feet of the property line;
 30 (B) the district has given written notice by certified mail to the
 31 property owner at the address of the property at least ninety
 32 (90) days before a date for connection to be stated in the
 33 notice; and
 34 (C) if the property is located outside the district's territory:
 35 (i) the district has obtained and provided to the property
 36 owner (along with the notice required by clause (B)) a letter
 37 of recommendation from the local health department that
 38 there is a possible threat to the public's health; and
 39 (ii) if the property is also located within the extraterritorial
 40 jurisdiction of a municipal sewage works under IC 36-9-23
 41 or a public sanitation department under IC 36-9-25, the
 42 municipal works board or department of public sanitation

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1 has acknowledged in writing that the property is within the
2 municipal sewage works or department of public sanitation's
3 extraterritorial jurisdiction, but the municipal works board
4 or department of public sanitation is unable to provide sewer
5 service.

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

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

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

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

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

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

- 32 (A) the location or protection of works;
- 33 (B) the relocation of buildings, structures, and improvements
34 situated on land required by the district or for any other
35 necessary purpose; or
- 36 (C) obtaining or storing material to be used in constructing and
37 maintaining the works.

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

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

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- 1 (B) is subject to all the liabilities, obligations, and duties of
 2 each of the constituent districts, with all rights of creditors of
 3 the constituent districts being preserved unimpaired.
- 4 (15) Provide by agreement with another eligible entity for the
 5 joint construction of works the district is authorized to construct
 6 if the construction is for the district's own benefit and that of the
 7 other entity. For this purpose the cooperating entities may jointly
 8 appropriate land either within or outside their respective borders
 9 if all subsequent proceedings, actions, powers, liabilities, rights,
 10 and duties are those set forth by statute.
- 11 (16) Enter into contracts with a person, an eligible entity, the
 12 state, or the United States to provide services to the contracting
 13 party for any of the following:
- 14 (A) The distribution or purification of water.
 15 (B) The collection or treatment of sanitary sewage.
 16 (C) The collection, disposal, or recovery of solid waste.
- 17 (17) Make provision for, contract for, or sell the district's
 18 byproducts or waste.
- 19 (18) Exercise the power of eminent domain, **including for**
 20 **purposes of siting sewer or water utility infrastructure, but**
 21 **only after the district attempts to use existing public**
 22 **rights-of-way or easements.**
- 23 (19) Remove or change the location of a fence, building, railroad,
 24 canal, or other structure or improvement located within or outside
 25 the district. If:
- 26 (A) it is not feasible or economical to move the building,
 27 structure, or improvement situated in or upon land acquired;
 28 and
 29 (B) the cost is determined by the board to be less than that of
 30 purchase or condemnation;
- 31 the district may acquire land and construct, acquire, or install
 32 buildings, structures, or improvements similar in purpose to be
 33 exchanged for the buildings, structures, or improvements under
 34 contracts entered into between the owner and the district.
- 35 (20) Employ consulting engineers, superintendents, managers,
 36 and other engineering, construction, and accounting experts,
 37 attorneys, bond counsel, employees, and agents that are necessary
 38 for the accomplishment of the district's purpose and fix their
 39 compensation.
- 40 (21) Procure insurance against loss to the district by reason of
 41 damages to the district's properties, works, or improvements
 42 resulting from fire, theft, accident, or other casualty or because of

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1 the liability of the district for damages to persons or property
2 occurring in the operations of the district's works and
3 improvements or the conduct of the district's activities.

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

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

9 (B) pay adequate compensation for the property.

10 (23) Dispose of, by public or private sale or lease, real or personal
11 property determined by the board to be no longer necessary or
12 needed for the operation or purposes of the district.

13 SECTION 10. IC 13-26-5-2.5, AS AMENDED BY P.L.123-2011,
14 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
15 JULY 1, 2012]: Sec. 2.5. (a) ~~As used in this section, septic tank soil~~
16 ~~absorption system has the meaning set forth in IC 13-11-2-199.5. For~~
17 ~~purposes of this section, a sewage disposal system is "failing" if one~~
18 ~~(1) or more of the following apply:~~

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

22 (2) ~~Effluent discharge exceeds the absorptive capacity of the~~
23 ~~soil into which the system discharges, resulting in ponding,~~
24 ~~seepage, or other discharge of the effluent to the ground~~
25 ~~surface or to surface waters.~~

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

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

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

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

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- 1 (3) The property owner provides the district with:
 2 (A) the written notification of potential qualification for the
 3 exemption described in subsection (g); and
 4 (B) the certification described in subdivision (2);
 5 within the time limits set forth in subsection (g).

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

13 (d) A property owner who qualifies for the exemption provided
 14 under this section may not be required to connect to the district's sewer
 15 system for a period of ten (10) years beginning on the date the new
 16 septic tank soil absorption system was installed. If ownership of the
 17 property passes from the owner who qualified for the exemption to
 18 another person during the exemption period, the exemption does not
 19 apply to the subsequent owner of the property.

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

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

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

35 The district shall apportion the total credit amount as determined in
 36 STEP TWO against the debt service portion of the property owner's
 37 monthly bill over a period to be determined by the district, but not to
 38 exceed twenty (20) years, or two hundred forty (240) months. **if the
 39 sewage disposal system is not failing.**

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

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

7 ~~(g)~~ **(d)** To qualify for an exemption under this section, a property
 8 owner must, ~~(1)~~ within ~~sixty (60)~~ **twenty (20)** days after the date of the
 9 written notice given to the property owner under subsection ~~(f)~~; **(c)**,
 10 notify the district in writing that the property owner qualifies for the
 11 exemption under this section and ~~(2)~~ within ~~sixty (60)~~ days after the
 12 district receives the written notice provided under subdivision ~~(1)~~;
 13 provide the district with the certification required under subsection
 14 ~~(b)(2)~~.

15 **(h)** When a property owner who qualifies for an exemption under
 16 this section subsequently discontinues use of the property owner's
 17 septic tank soil absorption system and connects to the district's sewer
 18 system, the property owner may be required to pay only the following
 19 to connect to the sewer system: ~~(1)~~ The connection fee the property
 20 owner would have paid if the property owner connected to the sewer
 21 system on the first date the property owner could have connected to the
 22 sewer system. ~~(2)~~ Any additional costs: **(A)** considered necessary by;
 23 and **(B)** supported by documentary evidence provided by; the district.
 24 because the sewage disposal system is not failing or because the
 25 property owner intends to repair or replace the sewage disposal
 26 system, as applicable. Upon receipt of notice under this subsection,
 27 the district shall suspend the requirement to discontinue use of the
 28 sewage disposal system for one hundred eighty (180) days, during
 29 which the property owner shall repair or replace the sewage
 30 disposal system as needed. Before the expiration of the one
 31 hundred eighty (180) days, the property owner shall notify the
 32 district in writing that:

- 33 (1) the sewage disposal system has been repaired or replaced,
- 34 as applicable, and is not failing; or
- 35 (2) the property owner requires additional time to repair or
- 36 replace the system.

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

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

- 41 (1) may not be required to:
- 42 (A) connect to a district's sewer system; and



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1 **(B) discontinue use of a sewage disposal system;**
 2 **for five (5) years beginning on the date the exemption begins;**
 3 **and**
 4 **(2) may apply for additional and unlimited five (5) year**
 5 **extensions of the exemption if the owner obtains and provides**
 6 **to the district, at the owner's expense, a certification from the**
 7 **local health department or the department's designee that the**
 8 **sewage disposal system is not failing.**

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

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

19 SECTION 11. IC 13-26-5-2.6 IS ADDED TO THE INDIANA
 20 CODE AS A NEW SECTION TO READ AS FOLLOWS
 21 [EFFECTIVE JULY 1, 2012]: **Sec. 2.6. A district may not require the**
 22 **owner of a property described in section 2(8) of this chapter to**
 23 **connect to the district's sewer system if:**

- 24 **(1) the property is located on at least ten (10) acres;**
- 25 **(2) the owner can demonstrate the availability of at least two**
- 26 **(2) areas on the property for the collection and treatment of**
- 27 **sewage that will protect human health and the environment;**
- 28 **(3) the waste stream from the property is limited to domestic**
- 29 **sewage from a residence or business;**
- 30 **(4) the system used to collect and treat the domestic sewage**
- 31 **has a maximum design flow of seven hundred fifty (750)**
- 32 **gallons per day; and**
- 33 **(5) the owner, at the owner's own expense, obtains and**
- 34 **provides to the district a certification from the local health**
- 35 **department or the department's designee that the system is**
- 36 **functioning satisfactorily.**

37 SECTION 12. IC 13-26-11-1 IS AMENDED TO READ AS
 38 FOLLOWS [EFFECTIVE JULY 1, 2012]: **Sec. 1. The rates and**
 39 **charges for a waterworks may be determined based on the following:**

- 40 **(1) A flat charge for each connection. If a board uses a flat**
- 41 **charge as factor to determine a rate or charge for a**
- 42 **waterworks, the board must:**

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- 1 (A) prepare a written statement of not more than one (1)
- 2 page in length that summarizes the calculations and
- 3 processes used to determine the amount of the flat charge;
- 4 and
- 5 (B) provide a copy of the written statement to each person
- 6 who:
- 7 (i) is required to pay the rate or charge; and
- 8 (ii) requests a paper copy of the summary.
- 9 (2) The amount of water consumed.
- 10 (3) The size of the meter or connection.
- 11 (4) Whether the property served has been or will be required to
- 12 pay separately for the cost of any of the facilities of the works.
- 13 (5) A combination of these or other factors that the board
- 14 determines is necessary to establish just and equitable rates and
- 15 charges.
- 16 SECTION 13. IC 13-26-11-2, AS AMENDED BY P.L.189-2005,
- 17 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 18 JULY 1, 2012]: Sec. 2. (a) Except as provided in subsection (b), the
- 19 rates or charges for a sewage works ~~may~~ **must** be determined based on
- 20 **a combination of the following factors:**
- 21 (1) A flat charge for each connection. **If a board uses a flat**
- 22 **charge as factor to determine a rate or charge for a sewage**
- 23 **works, the board shall:**
- 24 (A) prepare a written statement of not more than one (1)
- 25 page in length that summarizes the calculations and
- 26 processes used to determine the amount of the flat charge;
- 27 and
- 28 (B) provide a copy of the written statement to each person
- 29 who:
- 30 (i) is required to pay the rate or charge; and
- 31 (ii) requests a paper copy of the summary.
- 32 (2) The amount of water used on the premises.
- 33 (3) The number and size of water outlets on the premises.
- 34 (4) The amount, strength, or character of sewage discharged into
- 35 the sewers.
- 36 (5) The size of sewer connections.
- 37 (6) Whether the property served has been or will be required to
- 38 pay separately for the cost of any of the facilities of the works.
- 39 (7) A combination of these or other factors that the board
- 40 determines is necessary to establish nondiscriminatory, just, and
- 41 equitable rates or charges.
- 42 (b) ~~If a campground is billed for sewage service at a flat rate under~~

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1 subsection (a); the campground may instead elect to be billed for the
 2 sewage service under this subsection by installing; **A campground or**
 3 **youth camp may be billed for sewage service at a flat rate or by**
 4 **installing**, at the campground's **or youth camp's** expense, a meter to
 5 measure the actual amount of sewage discharged by the campground
 6 **or youth camp** into the sewers. If a campground **or youth camp** elects
 7 to be billed by use of a meter:

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

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

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

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

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

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

34 (1) the installation of:

35 (A) oversized pipe; or

36 (B) any other unique equipment;

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

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

41 SECTION 14. IC 13-26-11-5 IS AMENDED TO READ AS
 42 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 5. **Subject to sections**

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1 **1 and 2 of this chapter**, a district may bill and collect rates and
 2 charges **only** for ~~the services to be actually provided after the contract~~
 3 ~~for construction of a sewage works has been let and actual work~~
 4 ~~commenced in an amount sufficient to meet the interest on the revenue~~
 5 ~~bonds and other expenses payable before the completion of the works:~~
 6 **during the applicable billing cycle.**

7 SECTION 15. IC 13-26-11-6 IS AMENDED TO READ AS
 8 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 6. Unless the board
 9 finds and directs otherwise, the sewage works are considered to benefit
 10 every:

- 11 (1) lot;
- 12 (2) parcel of land; or
- 13 (3) building;

14 ~~connected or to be connected~~ under the terms of an ordinance requiring
 15 connections with the sewer system of the district as a result of
 16 construction work under the contract. The rates or charges shall be
 17 billed and collected accordingly.

18 SECTION 16. IC 13-26-14-4, AS AMENDED BY P.L.71-2011,
 19 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 20 JULY 1, 2012]: Sec. 4. Rates, fees, or charges made, assessed, or
 21 established by the district are a lien ~~in the same manner established~~
 22 ~~under IC 36-9-23 for municipal sewage works~~; on a lot, parcel of land,
 23 or building that is connected with or uses the works of the district.

24 Liens under this chapter:

- 25 (1) **do not** attach; **and**
- 26 (2) are recorded;
- 27 (3) are subject to the same penalties, interest, and reasonable
- 28 attorney's fees on recovery; and
- 29 (4) (2) shall be collected **and** enforced ~~and~~; if necessary,
- 30 foreclosed;

31 ~~in substantially the same manner as provided in IC 36-9-23-31 through~~
 32 ~~IC 36-9-23-34~~; **by civil action in the name of the state of Indiana on**
 33 **the relation of the district. The party prevailing in any civil action**
 34 **filed under this section is entitled to recover the costs of the action,**
 35 **including reasonable attorney's fees as determined by the court.**

36 SECTION 17. IC 16-20-1-25 IS AMENDED TO READ AS
 37 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 25. (a) A person shall
 38 not institute, permit, or maintain any conditions that may transmit,
 39 generate, or promote disease.

40 (b) A health officer, upon ~~hearing of receiving a complaint~~
 41 **asserting** the existence of ~~such~~ unlawful conditions **described in**
 42 **subsection (a)** within the officer's jurisdiction, shall **document the**



1 **complaint as provided in subsection (d). Upon verifying the**
2 **information contained in the complaint, the health officer shall**
3 **order the abatement of those conditions. The order must:**
4 (1) be in writing; ~~if demanded;~~
5 (2) specify the conditions that may transmit disease; and
6 (3) name the shortest reasonable time for abatement.
7 (c) If a person refuses or neglects to obey an order issued under this
8 section, the attorney representing the county of the health jurisdiction
9 where the offense occurs shall, upon receiving the information from the
10 health officer, institute proceedings in the courts for enforcement. An
11 order may be enforced by injunction. If the action concerning public
12 health is a criminal offense, a law enforcement authority with
13 jurisdiction over the place where the offense occurred shall be notified.
14 **(d) A complaint made under subsection (b) must include**
15 **adequate details to allow the health officer to verify the existence**
16 **of the unlawful conditions that are the subject of the complaint. A**
17 **health officer must provide a copy of a complaint upon request to**
18 **the person who is the subject of the complaint.**
19 (e) A person who provides false information upon which a
20 health officer relies in issuing an order under this section commits
21 a Class C infraction.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Environmental Affairs, to which was referred House Bill 1225, 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 2, line 40, after "(f)" insert **"This subsection does not apply to property located in a county that has a consolidated city."**

Page 3, line 19, after "(g)" insert **"This subsection does not apply to a sewage disposal system located in a county that has a consolidated city."**

Page 3, line 41, delete "Beginning July 1, 2012, the governing board of a" and insert: **"This subsection applies only to property located in a county that has a consolidated city. A not-for-profit public sewer utility may require a property that is within its service territory and is producing sewage or similar waste to be connected to its sewer system and require the discontinuance of use of a sewage disposal system serving the property if:**

- (1) there is an available sanitary sewer within three hundred (300) feet of the property line; and**
- (2) the utility provides written notice by certified mail to the property owner, at the address provided by the property owner, at least ninety (90) days before the date for connection stated in the notice."**

Page 3, delete line 42.

Page 4, delete lines 1 through 14.

Page 5, between lines 3 and 4, begin a new paragraph and insert:

"SECTION 4. 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 5, delete lines 16 through 42.

Delete pages 6 through 15.

Page 16, delete lines 1 through 12, begin a new paragraph and insert:

"SECTION 6. IC 13-26-4-1.5 IS ADDED TO THE INDIANA

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CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: **Sec. 1.5. (a) The following apply to the membership of the board of trustees of a district:**

(1) At least one (1) trustee must be an elected official who represents a political subdivision that has territory in the district.

(2) Except for an elected official described in subdivision (1), each trustee must be:

(A) a ratepayer in the district; or

(B) if there are no available ratepayers in a district, a resident of the district.

(b) This subsection applies to a district that exists on or after July 1, 2012. Beginning with the initial election or appointment of a trustee to fill a vacancy that occurs on a board after June 30, 2012, or to fill the office of a trustee whose term begins after June 30, 2012, the district shall comply with the trustee requirements set forth in subsection (a) in the following order:

(1) The district shall comply with the requirement of subsection (a)(1) first.

(2) After the requirement under subsection (a)(1) is fulfilled, the district shall use subsequent elections or appointments of trustees to fill vacancies to fulfill the requirement of subsection (a)(2).

SECTION 7. IC 13-26-4-6 IS REPEALED [EFFECTIVE JULY 1, 2012]. **Sec. 6. An appointed trustee does not have to be a resident of the district.**

SECTION 8. IC 13-26-4-8 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: **Sec. 8. (a) When the board of a district conducts a public hearing, 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 to a reasonable time stated at the opening of the public hearing.

SECTION 9. 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

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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, 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

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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.

- (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

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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.

(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:

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

SECTION 10. 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 surface or to surface waters.



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(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 service portion of the customer's monthly bill. The amount that the

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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 property owner intends to repair or replace the sewage disposal**



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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 11. 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



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- (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 12. IC 13-26-11-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 1. The rates and charges for a waterworks may be determined based on the following:

- (1) A flat charge for each connection. **If a board uses a flat charge as factor to determine a rate or charge for a waterworks, 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 consumed.
- (3) The size of the meter or connection.
- (4) 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) A combination of these or other factors that the board determines is necessary to establish just and equitable rates and charges.

SECTION 13. 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 factor to determine a rate or charge for a sewage works, the board shall:**

- (A) prepare a written statement of not more than one (1) page in length that summarizes the calculations and

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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:~~
 - ~~(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

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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 17, line 5 after "district." insert **"The party prevailing in any civil action filed under this section is entitled to recover the costs of the action, including reasonable attorney's fees as determined by the court."**

Page 17, delete lines 26 through 37, begin a new paragraph and insert:

"(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 must 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."

Page 18, line 26, delete "residential use only." and insert **"use only in the private homes."**

Page 18, line 28, after "form." insert **"However, an ordinance adopted under this section may:**

- (A) require an individual who constructs a sewage disposal system to submit a schematic of the system to the appropriate local health department or county health officer; and**
- (B) provide that the sewage disposal system may not be placed in operation until the individual, at the individual's expense, obtains a certification from the appropriate local**

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health department or county health officer that the system is functioning satisfactorily."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1225 as introduced.)

WOLKINS, Chair

Committee Vote: yeas 7, nays 2.

HOUSE MOTION

Mr. Speaker: I move that House Bill 1225 be amended to read as follows:

Page 17, delete lines 22 through 42.

Delete page 18.

(Reference is to HB 1225 as printed January 25, 2012.)

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