

SENATE BILL No. 400

DIGEST OF INTRODUCED BILL

Citations Affected: IC 8-1-2-125.

Synopsis: Mandatory sewer connection. Provides that a not-for-profit sewer utility may not require a property owner to connect to its sewer system and discontinue use of a septic disposal system that is functioning satisfactorily as determined by a local health department.

Effective: July 1, 2012.

Waterman

January 9, 2012, read first time and referred to Committee on Utilities & Technology.

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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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SENATE BILL No. 400



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

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, "septic disposal system" means a**
12 **septic tank, cesspool, privy, or other similar structure used to**
13 **dispose of sewage or similar waste.**

14 ~~(b)~~ (c) A not-for-profit utility shall be required to furnish reasonably
15 adequate services and facilities. The charge made by any not-for-profit
16 utility for any service rendered or to be rendered, either directly or in
17 connection with the service, must be nondiscriminatory, reasonable,



1 and just. Each discriminatory, unjust, or unreasonable charge for the
2 service is prohibited and unlawful.

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

- 8 (1) Maintenance and repair costs.
- 9 (2) Operating charges.
- 10 (3) Interest charges on bonds or other obligations.
- 11 (4) Provision for a sinking fund for the liquidation of bonds or
12 other evidences of indebtedness.
- 13 (5) Provision for a debt service reserve for bonds or other
14 obligations in an amount not to exceed the maximum annual debt
15 service on the bonds or obligations.
- 16 (6) Provision of adequate funds to be used as working capital.
- 17 (7) Provision for making extensions and replacements.
- 18 (8) The payment of any taxes that may be assessed against the
19 not-for-profit utility or its property.

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

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

- 29 (1) there is an available sanitary sewer within three hundred (300)
30 feet of the property line; and
- 31 (2) the utility has given written notice by certified mail to the
32 property owner at the address of the property at least ninety (90)
33 days before the date for connection stated in the notice.

34 ~~(e)~~ **(f)** A ~~not-for profit~~ **not-for-profit** sewer utility may not require
35 connection to its sewer system of property producing sewage or similar
36 waste and require the discontinuance of use of ~~privies, cesspools, septic~~
37 ~~tanks, and similar structures~~ **septic disposal systems** if:

- 38 **(1)** the source of the waste is more than five hundred (500) feet
39 from the point of connection to its sewer system; **or**
- 40 **(2) the septic disposal system is functioning satisfactorily as**
41 **determined by the local health department. The property**
42 **owner, at the property owner's own expense, must obtain and**

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1 provide to the not-for-profit sewer utility a certification from
 2 the local health department that the septic disposal system is
 3 functioning satisfactorily. If the local health department
 4 denies the issuance of a certificate to the property owner, the
 5 property owner may appeal the denial to the board of the
 6 local health department. The decision of the board is final and
 7 binding.

8 (g) To qualify for an exemption under subsection (f)(2), a
 9 property owner must:

10 (1) within sixty (60) days after the date of the written notice
 11 given to the property owner under subsection (e)(2), notify the
 12 not-for-profit sewer utility in writing that the property owner
 13 qualifies for the exemption under subsection (f)(2); and

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

18 (h) A certification issued under subsection (f)(2) expires on the
 19 earlier of the following dates:

20 (1) The date on which the property owner to whom the
 21 certification is issued discontinues use of the septic disposal
 22 system that is the subject of the certification.

23 (2) A period determined by the local health department, but
 24 not less than two (2) years. Upon the expiration of a
 25 certification, a property owner may reapply for an exemption
 26 under subsection (f)(2).

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