
HOUSE BILL No. 1117

DIGEST OF INTRODUCED BILL

Citations Affected: IC 13-26; IC 16-41-25-4; IC 32-21-5-8.

Synopsis: Regional water, sewage, or waste districts. 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. Authorizes a property owner to apply for two 5-year extensions to an exemption from connecting to a district's sewer system. Provides that a district may not require a property owner to connect to the district's sewer under certain conditions. Establishes a procedure by which a ratepayer may object to initial rates and charges established by a district. 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.

Effective: July 1, 2012.

Wolkins, Lehe

January 9, 2012, read first time and referred to Committee on Environmental Affairs.

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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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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:

- 1 SECTION 1. IC 13-26-2-2.5 IS ADDED TO THE INDIANA CODE
- 2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
- 3 1, 2012]: **Sec. 2.5. (a) Before a representative may file a petition to**
- 4 **establish a district, the representative must provide notice to all**
- 5 **owners of property to be served by the proposed district that is the**
- 6 **subject of the petition.**
- 7 **(b) Notice under subsection (a) must be provided as follows:**
- 8 **(1) Beginning at least thirty (30) days before the date on which**
- 9 **a public meeting under subsection (c) is scheduled, by**
- 10 **publication of notice one (1) time each week for three (3)**
- 11 **consecutive weeks in at least two (2) newspapers of general**
- 12 **circulation in each of the counties, in whole or in part, in the**
- 13 **proposed district. If there is only one (1) newspaper of general**
- 14 **circulation in a county, a single publication each week for**
- 15 **three (3) consecutive weeks satisfies the requirement of this**
- 16 **subdivision.**
- 17 **(2) Either:**



- 1 **(A) by United States mail, postage prepaid, mailed to each**
- 2 **freeholder within the proposed district; or**
- 3 **(B) by broadcasting at least three (3) public service**
- 4 **announcements each day for fourteen (14) days on each**
- 5 **radio station operating in each of the counties, in whole or**
- 6 **in part, in the proposed district;**
- 7 **beginning at least fourteen (14) days before the date on which**
- 8 **a public meeting under subsection (c) is scheduled.**
- 9 **(c) After providing notice under subsection (b), a representative**
- 10 **that seeks to file a petition must conduct a public meeting to discuss**
- 11 **and receive comments on the proposed district.**
- 12 **(d) A representative may not file a petition:**
- 13 **(1) more than one hundred eighty (180) or less than sixty (60)**
- 14 **days after providing notice under subsection (b); or**
- 15 **(2) less than thirty (30) days after a meeting held under**
- 16 **subsection (c).**
- 17 SECTION 2. IC 13-26-2-3 IS AMENDED TO READ AS
- 18 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 3. A petition to
- 19 establish a district under this chapter must state the following:
- 20 (1) The proposed name of the district.
- 21 (2) The place in which the district's principal office is to be
- 22 located.
- 23 (3) The following information:
- 24 (A) The need for the proposed district.
- 25 (B) The purpose to be accomplished.
- 26 (C) How the district will be conducive to the public health,
- 27 safety, convenience, or welfare, including a specific statement
- 28 of how:
- 29 (i) water supply, for a water district;
- 30 (ii) sewage collection, disposal, and treatment, for a sewage
- 31 district; or
- 32 (iii) solid waste disposal, recovery, or treatment, for a solid
- 33 waste district;
- 34 is currently being provided.
- 35 (D) Whether there is any outstanding indebtedness for the
- 36 purpose proposed in the proposed district, including a
- 37 statement as to how the current situation creates or adds to
- 38 pollution or health hazards or impedes development in the
- 39 area.
- 40 (4) An accurate description of the territory to be included in the
- 41 district, which does not have to be given by metes and bounds or
- 42 by legal subdivisions. The territory does not have to be

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1 contiguous, but the territory must be so situated that the public
 2 health, safety, convenience, or welfare will be promoted by the
 3 establishment as a single district of the territory described.

4 (5) The petitioner's recommendations on:

5 (A) the manner of selection;

6 (B) the number; and

7 (C) the term, not exceeding four (4) years;
 8 of the members of the board of trustees.

9 (6) The plan for financing the cost of the operations of the district
 10 until the district is in receipt of revenue from the district's
 11 operations or proceeds from the sale of bonds.

12 (7) Estimates of the following:

13 (A) The costs of accomplishing the purpose of the district.

14 (B) The costs of operating and maintaining the works.

15 (C) The sources of the funding of these costs.

16 (D) The rates and charges that will be required.

17 **(E) The median income for households in the proposed**
 18 **district.**

19 **(8) A summary of alternatives to creating the district.**

20 SECTION 3. IC 13-26-4-6 IS AMENDED TO READ AS
 21 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 6. **(a)** An appointed
 22 trustee does not have to be a resident of the district.

23 **(b) An appointed trustee must:**

24 **(1) own real property within the district; or**

25 **(2) be a trustee appointed under section 4 or 5 of this chapter.**

26 SECTION 4. IC 13-26-5-2, AS AMENDED BY P.L.1-2009,
 27 SECTION 110, IS AMENDED TO READ AS FOLLOWS
 28 [EFFECTIVE JULY 1, 2012]: Sec. 2. A district may do the following:

29 (1) Sue or be sued.

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

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

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

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

38 (B) Rules and regulations for the following:

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

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

42 (5) Construct, acquire, lease, operate, or manage works and obtain

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1 rights, easements, licenses, money, contracts, accounts, liens,
 2 books, records, maps, or other property, whether real, personal, or
 3 mixed, of a person or an eligible entity.

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

5 (A) a person;

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

7 or

8 (C) an eligible entity;

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

15 (7) Fix, alter, charge, and collect reasonable rates and other
 16 charges in the area served by the district's facilities to every
 17 person whose premises are, whether directly or indirectly,
 18 supplied with water or provided with sewage or solid waste
 19 services by the facilities for the purpose of providing for the
 20 following:

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

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

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

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

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

29 (ii) a person or an eligible entity.

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

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

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

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

42 (i) the district has obtained and provided to the property

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1 owner (along with the notice required by clause (B)) a letter
 2 of recommendation from the local health department that
 3 there is a possible threat to the public's health; and
 4 (ii) if the property is also located within the extraterritorial
 5 jurisdiction of a municipal sewage works under IC 36-9-23
 6 or a public sanitation department under IC 36-9-25, the
 7 municipal works board or department of public sanitation
 8 has acknowledged in writing that the property is within the
 9 municipal sewage works or department of public sanitation's
 10 extraterritorial jurisdiction, but the municipal works board
 11 or department of public sanitation is unable to provide sewer
 12 service.

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

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

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

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

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

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

- 39 (A) the location or protection of works;
- 40 (B) the relocation of buildings, structures, and improvements
- 41 situated on land required by the district or for any other
- 42 necessary purpose; or

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- 1 (C) obtaining or storing material to be used in constructing and
- 2 maintaining the works.
- 3 (14) Upon consent of two-thirds (2/3) of the members of the
- 4 board, merge or combine with another district into a single district
- 5 on terms so that the surviving district:
- 6 (A) is possessed of all rights, franchises, and authority of the
- 7 constituent districts; and
- 8 (B) is subject to all the liabilities, obligations, and duties of
- 9 each of the constituent districts, with all rights of creditors of
- 10 the constituent districts being preserved unimpaired.
- 11 (15) Provide by agreement with another eligible entity for the
- 12 joint construction of works the district is authorized to construct
- 13 if the construction is for the district's own benefit and that of the
- 14 other entity. For this purpose the cooperating entities may jointly
- 15 appropriate land either within or outside their respective borders
- 16 if all subsequent proceedings, actions, powers, liabilities, rights,
- 17 and duties are those set forth by statute.
- 18 (16) Enter into contracts with a person, an eligible entity, the
- 19 state, or the United States to provide services to the contracting
- 20 party for any of the following:
- 21 (A) The distribution or purification of water.
- 22 (B) The collection or treatment of sanitary sewage.
- 23 (C) The collection, disposal, or recovery of solid waste.
- 24 (17) Make provision for, contract for, or sell the district's
- 25 byproducts or waste.
- 26 (18) Exercise the power of eminent domain.
- 27 (19) Remove or change the location of a fence, building, railroad,
- 28 canal, or other structure or improvement located within or outside
- 29 the district. If:
- 30 (A) it is not feasible or economical to move the building,
- 31 structure, or improvement situated in or upon land acquired;
- 32 and
- 33 (B) the cost is determined by the board to be less than that of
- 34 purchase or condemnation;
- 35 the district may acquire land and construct, acquire, or install
- 36 buildings, structures, or improvements similar in purpose to be
- 37 exchanged for the buildings, structures, or improvements under
- 38 contracts entered into between the owner and the district.
- 39 (20) Employ consulting engineers, superintendents, managers,
- 40 and other engineering, construction, and accounting experts,
- 41 attorneys, bond counsel, employees, and agents that are necessary
- 42 for the accomplishment of the district's purpose and fix their

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- 1 compensation.
- 2 (21) Procure insurance against loss to the district by reason of
- 3 damages to the district's properties, works, or improvements
- 4 resulting from fire, theft, accident, or other casualty or because of
- 5 the liability of the district for damages to persons or property
- 6 occurring in the operations of the district's works and
- 7 improvements or the conduct of the district's activities.
- 8 (22) Exercise the powers of the district without obtaining the
- 9 consent of other eligible entities. However, the district shall:
- 10 (A) restore or repair all public or private property damaged in
- 11 carrying out the powers of the district and place the property
- 12 in the property's original condition as nearly as practicable; or
- 13 (B) pay adequate compensation for the property.
- 14 (23) Dispose of, by public or private sale or lease, real or personal
- 15 property determined by the board to be no longer necessary or
- 16 needed for the operation or purposes of the district.
- 17 SECTION 5. IC 13-26-5-2.5, AS AMENDED BY P.L.123-2011,
- 18 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 19 JULY 1, 2012]: Sec. 2.5. (a) As used in this section, "septic tank soil
- 20 absorption system" has the meaning set forth in IC 13-11-2-199.5.
- 21 (b) Subject to subsection (d) and except as provided in subsection
- 22 (e), a property owner is exempt from the requirement to connect to a
- 23 district's sewer system and to discontinue use of a septic tank soil
- 24 absorption system if the following conditions are met:
- 25 (1) The property owner's septic tank soil absorption system was
- 26 new at the time of installation and was approved in writing by the
- 27 local health department.
- 28 (2) The property owner, at the property owner's own expense,
- 29 obtains and provides to the district a certification from the local
- 30 health department or the department's designee that the septic
- 31 tank soil absorption system is functioning satisfactorily. If the
- 32 local health department or the department's designee denies the
- 33 issuance of a certificate to the property owner, the property owner
- 34 may appeal the denial to the board of the local health department.
- 35 The decision of the board is final and binding.
- 36 (3) The property owner provides the district with:
- 37 (A) the written notification of potential qualification for the
- 38 exemption described in subsection (g); and
- 39 (B) the certification described in subdivision (2);
- 40 within the time limits set forth in subsection (g).
- 41 (c) If a property owner, within the time allowed under subsection
- 42 (g), notifies a district in writing that the property owner qualifies for the

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

6 (d) A property owner who qualifies for the exemption provided
 7 under this section may not be required to connect to the district's sewer
 8 system for a period of ten (10) years beginning on the date the new
 9 septic tank soil absorption system was installed. If ownership of the
 10 property passes from the owner who qualified for the exemption to
 11 another person during the exemption period, the exemption ~~does not~~
 12 **apply** applies to the subsequent owner of the property. **A property**
 13 **owner may apply for two (2) five (5) year extensions of the**
 14 **exemption provided under this section by following the procedures**
 15 **set forth in subsections (b) and (c).**

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

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

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

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

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

38 (1) that the property owner may be required to discontinue the use
 39 of a septic tank soil absorption system;

40 (2) that the property owner may qualify for an exemption from the
 41 requirement to discontinue the use of the septic tank soil
 42 absorption system; and

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- 1 (3) of the procedures to claim an exemption.
 2 (g) To qualify for an exemption under this section, a property owner
 3 must:
 4 (1) within sixty (60) days after the date of the written notice given
 5 to the property owner under subsection (f), notify the district in
 6 writing that the property owner qualifies for the exemption under
 7 this section; and
 8 (2) within sixty (60) days after the district receives the written
 9 notice provided under subdivision (1), provide the district with
 10 the certification required under subsection (b)(2).
 11 (h) When a property owner who qualifies for an exemption under
 12 this section subsequently discontinues use of the property owner's
 13 septic tank soil absorption system and connects to the district's sewer
 14 system, the property owner may be required to pay only the following
 15 to connect to the sewer system:
 16 (1) The connection fee the property owner would have paid if the
 17 property owner connected to the sewer system on the first date the
 18 property owner could have connected to the sewer system.
 19 (2) Any additional costs:
 20 (A) considered necessary by; and
 21 (B) supported by documentary evidence provided by;
 22 the district.
 23 SECTION 6. IC 13-26-5-2.6 IS ADDED TO THE INDIANA CODE
 24 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 25 1, 2012]: **Sec. 2.6. A district may not require the owner of a
 26 property described in section 2(8) of this chapter to connect to the
 27 district's sewer system if:**
 28 **(1) the property is located on at least twenty-five (25) acres;**
 29 **(2) the owner can demonstrate the availability of at least two**
 30 **(2) areas on the property for the collection and treatment of**
 31 **sewage that will protect human health and the environment;**
 32 **and**
 33 **(3) the waste stream from the property is limited to domestic**
 34 **sewage from a residence or business.**
 35 SECTION 7. IC 13-26-11-13, AS AMENDED BY P.L.123-2011,
 36 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 37 JULY 1, 2012]: Sec. 13. (a) The ordinance establishing the initial rates
 38 or charges, either as:
 39 (1) originally introduced; or
 40 (2) modified and amended;
 41 shall be passed and put into effect after the hearing.
 42 (b) A copy of the schedule of the rates and charges established must

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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 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 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:

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- 1 (1) sustain the ordinance establishing the rates and charges;
- 2 (2) sustain the petition; or
- 3 (3) make any other ruling appropriate in the matter, subject
- 4 to the standards set forth in section 9 of this chapter.

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

- 9 (1) Whether the board of trustees of the district, in adopting
- 10 the ordinance establishing sewer rates and charges, followed
- 11 the procedure required by this chapter.
- 12 (2) Whether the sewer rates and charges established by the
- 13 board by ordinance are just and equitable rates and charges,
- 14 according to the standards set forth in section 9 of this
- 15 chapter.

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

18 SECTION 8. IC 13-26-11-15, AS AMENDED BY P.L.71-2011,
 19 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 20 JULY 1, 2012]: Sec. 15. (a) A district authority is established in each
 21 regional sewage district established under this article. A district
 22 authority:

- 23 (1) must consist of an odd number of members;
- 24 (2) must consist of at least three (3) members; and
- 25 (3) may not include as a member any person who serves on the
- 26 board of trustees of the district.

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

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

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

33 (B) If:
 34 (i) one (1) or more members of the county executive are
 35 trustees of the regional sewage district; and
 36 (ii) no members of the county fiscal body are trustees of the
 37 regional sewage district;

38 the members of the county fiscal body.

39 (C) If the regional sewage district's board of trustees consists
 40 of one (1) or more members of the county executive and one

41 (1) or more members of the county fiscal body, three (3)
 42 members appointed as follows:

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- (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 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

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1 with subsection (a)(3).
 2 (C) If an odd number of counties are part of the regional
 3 sewage district and an odd number of those counties in the
 4 district do not have at least one (1) county executive member
 5 who is not also a trustee of the district, the following members:
 6 (i) One (1) county executive member, appointed by that
 7 member's county executive, from each county that has at
 8 least one (1) county executive member who is not also a
 9 trustee of the district, subject to subsection (a)(3).
 10 (ii) One (1) member appointed by the county executive of
 11 each county that does not have at least one (1) county
 12 executive member who is not also a trustee of the district. A
 13 member appointed under this item must be appointed from
 14 outside the appointing county executive's own membership,
 15 subject to subsection (a)(3).
 16 (c) If a district adopts an ordinance increasing sewer rates and
 17 charges at a rate that is greater than five percent (5%) per year, as
 18 calculated from the rates and charges in effect from the date of the
 19 district's last rate increase, the district shall mail, either separately or
 20 along with a periodic billing statement, a notice of the new rates and
 21 charges to each user of the sewer system who is affected by the
 22 increase. The notice:
 23 (1) shall be mailed not later than seven (7) days after the district
 24 adopts the ordinance increasing the rates and charges; and
 25 (2) must include a statement of a ~~freholder's~~ **ratepayer's** rights
 26 under this section.
 27 (d) If subsection (c) applies, fifty (50) ~~freeholders~~ **ratepayers** of the
 28 district or ten percent (10%) of the district's ~~freeholders~~, **ratepayers**,
 29 whichever is fewer, may file a written petition objecting to the rates
 30 and charges of the district. A petition filed under this subsection must:
 31 (1) contain the name and address of each petitioner;
 32 (2) be filed with a member of the district authority, in the county
 33 where at least one (1) petitioner resides, not later than thirty (30)
 34 days after the district adopts the ordinance establishing the rates
 35 and charges; and
 36 (3) set forth the grounds for the ~~freeholders'~~ **ratepayers'**
 37 objection.
 38 If a petition meeting the requirements of this subsection is filed, the
 39 district authority shall investigate and conduct a public hearing on the
 40 petition. If more than one (1) petition concerning a particular increase
 41 in rates and charges is filed, the district authority shall consider the
 42 objections set forth in all the petitions at the same public hearing.

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

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

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

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

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

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

19 (2) sustain the petition; or

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

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

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

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

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

34 SECTION 9. IC 16-41-25-4 IS ADDED TO THE INDIANA CODE
35 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
36 1, 2012]: **Sec. 4. Before a local health department may act on an
37 application for a residential septic system permit, the local health
38 department shall inform the applicant for a residential septic
39 system permit if a regional sewage district provides sewer service
40 to the property for which the residential septic system permit is
41 sought.**

42 SECTION 10. IC 32-21-5-8 IS AMENDED TO READ AS

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1 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 8. An owner may
2 prepare or use a disclosure form that contains the information required
3 in the disclosure form under section 7 of this chapter and any other
4 information the owner determines is appropriate, **including whether**
5 **the subject property is located in a regional sewage district.**

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