
HOUSE BILL No. 1225

DIGEST OF INTRODUCED BILL

Citations Affected: IC 8-1-2-125; IC 13-11-2; IC 13-14-3-3; IC 13-26; IC 16-20-1-25; IC 36-7-8-3.

Synopsis: Septic tanks and sewer systems. Provides that a not-for-profit sewer utility (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. (Under current law, a property owner is exempt from connecting to a sewer system if the source of the sewage is more than 500 feet from the connection point.) Requires the sewer utility to give the property owner 180 days to repair or replace the sewage disposal system. Provides that the governing board of a sewer utility or a regional sewage district (district) must be elected. Provides for the transition from an appointed to an elected governing board. Provides that a district may require a property owner to discontinue use of a sewage disposal system and connect to the district's sewer system only if the sewage disposal system is failing. (Under current law, a property owner is exempt from connecting to a sewer system if the property owner's septic tank soil absorption system is less than ten years old and satisfies other conditions.) Requires the district to give the property owner 180 days to repair or replace the sewage disposal system. Permits a property owner who connects to a sewer system to provide labor and materials to accomplish the connection. Provides that a district board may consider the need for a minimum service charge, rather than a flat connection charge, when determining rates and charges. Authorizes a board to exercise reasonable discretion in temporarily adjusting fees to reflect a user's nonuse of water, sewer, or solid waste services. Provides that a board may bill and collect rates and charges only for services actually provided. Requires a health
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Effective: July 1, 2012.

Lehman, Cheatham, Wolkins

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



Digest Continued

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 B misdemeanor. Specifies certain systems appurtenant to private residences to which a county ordinance imposing building standards does not apply. Makes technical corrections.

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Introduced

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**



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) A not-for-profit public
41 sewer utility may require ~~connection~~ a property within its service
42 territory producing sewage or similar waste to be connected to its

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1 sewer system of property producing sewage or similar waste and
 2 require the discontinuance of use of privies, cesspools, septic tanks,
 3 and similar structures; **a sewage disposal system serving the property**
 4 if:

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

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

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

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

19 (g) A property owner that receives a notice under subsection (f)
 20 is exempt from the requirement to discontinue use of a sewage
 21 disposal system and connect to the sewer system if, not more than
 22 twenty (20) days after receiving the notice under subsection (f), the
 23 property owner notifies the not-for-profit public sewer utility in
 24 writing that the sewage disposal system is not failing or that 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 not-for-profit public sewer utility shall suspend the
 28 requirement to discontinue use of the sewage disposal system for
 29 one hundred eighty (180) days, during which the property owner
 30 shall repair or replace the sewage disposal system as needed.
 31 Before the expiration of the one hundred eighty (180) days, the
 32 property owner shall notify the not-for-profit public sewer utility
 33 in writing that:

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

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

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

41 (h) Beginning July 1, 2012, the governing board of a
 42 not-for-profit public sewer utility must be elected by the voters

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1 who receive sewer service from the not-for-profit public sewer
 2 utility within the service territory of the not-for-profit public sewer
 3 utility. If a member of the governing board of a not-for-profit
 4 public sewer utility on July 1, 2012, was not elected to the board,
 5 not later than January 1, 2013, the governing board shall amend its
 6 bylaws to provide for:

7 (1) the election of all members of the governing board in
 8 accordance with IC 3; and

9 (2) the transition from a nonelected to an elected governing
 10 board.

11 For purposes of an election under subdivision (1), the county
 12 legislative officers that represent all or part of a district located
 13 within the service territory of the not-for-profit public sewer utility
 14 shall perform the functions of the election officials.

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

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

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

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

41 (1) store;

42 (2) treat;



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- 1 (3) make inoffensive; or
 2 (4) dispose of;
 3 human excrement or liquid carrying wastes of a domestic nature.
 4 SECTION 4. IC 13-14-3-3 IS AMENDED TO READ AS
 5 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 3. (a) If the
 6 commissioner finds that the local governmental units have not
 7 developed plans that provide for adequate:
 8 (1) water supply;
 9 (2) air, water, or wastewater treatment; or
 10 (3) solid waste disposal facilities;
 11 the department ~~may~~ **shall** hold a public hearing.
 12 (b) If the facts support the conclusion, the department may order the
 13 affected local governmental units to proceed **under IC 13-26** to form
 14 regional water, sewage, air, or solid waste districts that are necessary
 15 under IC 13-26.
 16 SECTION 5. IC 13-26-2-8 IS AMENDED TO READ AS
 17 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 8. (a) After the hearing
 18 on the petition for the establishment of the proposed district, which
 19 may be adjourned periodically, the hearing officer shall make findings
 20 on the petition and other relevant facts and recommendations as to
 21 whether:
 22 (1) the petition should be:
 23 (A) approved;
 24 (B) approved with modifications; or
 25 (C) denied; and
 26 (2) a district should be established.
 27 (b) If the recommendation is in the affirmative, the recommendation
 28 must also include recommendations on ~~(1) the manner of the selection~~
 29 ~~or appointment;~~ ~~(2) the number and~~ ~~(3) the terms of the board~~
 30 **members.**
 31 (c) The description of the territory to be included in a district may
 32 not include territory in a municipality that has, by ordinance or
 33 resolution filed with the department, exercised the option not to be
 34 included in the district.
 35 SECTION 6. IC 13-26-2-10 IS AMENDED TO READ AS
 36 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 10. (a) If the
 37 commissioner determines that the findings show that the establishment
 38 of a recommended district:
 39 (1) complies with the conditions of this chapter for establishment
 40 of a district; and
 41 (2) appears capable of accomplishing the purpose or purposes in
 42 an economically feasible manner;

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

4 (b) An order must do the following:

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

7 **(A) For an order issued before July 1, 2012, by election or**
8 **appointment.**

9 **(B) For an order issued after June 30, 2012, by election.**

10 (2) Provide requirements for sufficient bond for all officers,
11 trustees, or employees having power to dispense money of the
12 district.

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

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

22 **(c) An order issued before July 1, 2012, is subject to amendment**
23 **under IC 13-26-4-8.**

24 SECTION 7. IC 13-26-4-2 IS AMENDED TO READ AS
25 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 2. **(a) An order issued**
26 **before July 1, 2012, establishing a district:**

27 **(1) may provide for the board to be elected by the voters in the**
28 **district from districts or wards or from the district at large; and**

29 **(2) is subject to amendment under section 8 of this chapter.**

30 **(b) An order issued after June 30, 2012, establishing a district**
31 **must provide for the board to be elected by the voters in the**
32 **district from districts or wards or from the district at large.**

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

36 SECTION 8. IC 13-26-4-3 IS AMENDED TO READ AS
37 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 3. **(a) This section**
38 **does not apply to orders issued after June 30, 2012.**

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

42 SECTION 9. IC 13-26-4-4 IS AMENDED TO READ AS

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1 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 4. **(a) This section**
 2 **does not apply to orders issued after June 30, 2012.**

3 ~~(a)~~ **(b)** If:

- 4 (1) a district will include territory in more than one (1) county;
 5 (2) a county executive has filed a petition for a district including
 6 territory owned, leased, or controlled by the department of natural
 7 resources; or
 8 (3) the department of natural resources has filed a petition;

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

12 ~~(b)~~ **(c)** If a district contains or a proposed district will contain a state
 13 correctional facility, the department, when:

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

18 may allow for the appointment of one (1) member of the board of
 19 trustees of the district by the commissioner of the department of
 20 correction.

21 SECTION 10. IC 13-26-4-5 IS AMENDED TO READ AS
 22 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 5. **(a) This section**
 23 **does not apply to an order issued after June 30, 2012.**

24 **(b)** If a plan also contemplates that sewage treatment for the district
 25 will be provided in cooperation with a municipality, the order must
 26 provide that:

- 27 (1) at least one (1) trustee shall be appointed by the executive of
 28 the municipality; and
 29 (2) at least:
 30 (A) one (1) trustee shall be appointed by the fiscal body; and
 31 (B) one (1) trustee shall be appointed by the executive;
 32 of the county having the largest amount of territory in the district.

33 SECTION 11. IC 13-26-4-8 IS ADDED TO THE INDIANA CODE
 34 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 35 1, 2012]: **Sec. 8. (a) This section applies to an order that:**

- 36 **(1) is issued before July 1, 2012; and**
 37 **(2) provides for appointment of at least one (1) trustee.**

38 **(b) Not later than June 30, 2014, an order must be amended to**
 39 **provide for:**

- 40 **(1) the election of all trustees in accordance with IC 3, with**
 41 **the commissioner or the commissioner's designees performing**
 42 **the functions of the election officials; and**

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(2) the transition from appointed to elected trustees.
SECTION 12. IC 13-26-5-2, AS AMENDED BY P.L.1-2009,
SECTION 110, IS AMENDED TO READ AS FOLLOWS
[EFFECTIVE JULY 1, 2012]: Sec. 2. A district may do the following:

- (1) Sue or be sued.
- (2) Make contracts in the exercise of the rights, powers, and duties conferred upon the district.
- (3) Adopt and alter a seal and use the seal by causing the seal to be impressed, affixed, reproduced, or otherwise used. However, the failure to affix a seal does not affect the validity of an instrument.
- (4) Adopt, amend, and repeal the following:
 - (A) Bylaws for the administration of the district's affairs.
 - (B) Rules and regulations for the following:
 - (i) The control of the administration and operation of the district's service and facilities.
 - (ii) The exercise of all of the district's rights of ownership.
- (5) Construct, acquire, lease, operate, or manage works and obtain rights, easements, licenses, money, contracts, accounts, liens, books, records, maps, or other property, whether real, personal, or mixed, of a person or an eligible entity.
- (6) Assume in whole or in part any liability or obligation of:
 - (A) a person;
 - (B) a nonprofit water, sewage, or solid waste project system;
 - or
 - (C) an eligible entity;
including a pledge of part or all of the net revenues of a works to the debt service on outstanding bonds of an entity in whole or in part in the district and including a right on the part of the district to indemnify and protect a contracting party from loss or liability by reason of the failure of the district to perform an agreement assumed by the district or to act or discharge an obligation.
- (7) Fix, alter, charge, and collect reasonable rates and other charges in the area served by the district's facilities to every person whose premises are, whether directly or indirectly, 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.

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- 1 (C) The payment of principal or interest on the district's
- 2 obligations.
- 3 (D) To fulfill the terms of agreements made with:
- 4 (i) the purchasers or holders of any obligations; or
- 5 (ii) a person or an eligible entity.
- 6 (8) Except as provided in **Subject to** section 2.5 of this chapter,
- 7 require connection to the district's sewer system of property
- 8 producing sewage or similar waste, and require the
- 9 discontinuance of use of privies, cesspools, septic tanks, and
- 10 similar structures. if:
- 11 (A) there is an available sanitary sewer within three hundred
- 12 (300) feet of the property line;
- 13 (B) the district has given written notice by certified mail to the
- 14 property owner at the address of the property at least ninety
- 15 (90) days before a date for connection to be stated in the
- 16 notice; and
- 17 (C) if the property is located outside the district's territory:
- 18 (i) the district has obtained and provided to the property
- 19 owner (along with the notice required by clause (B)) a letter
- 20 of recommendation from the local health department that
- 21 there is a possible threat to the public's health; and
- 22 (ii) if the property is also located within the extraterritorial
- 23 jurisdiction of a municipal sewage works under IC 36-9-23
- 24 or a public sanitation department under IC 36-9-25; the
- 25 municipal works board or department of public sanitation
- 26 has acknowledged in writing that the property is within the
- 27 municipal sewage works or department of public sanitation's
- 28 extraterritorial jurisdiction, but the municipal works board
- 29 or department of public sanitation is unable to provide sewer
- 30 service.
- 31 However, a district may not require the owner of a property
- 32 described in this subdivision to connect to the district's sewer
- 33 system if the property is already connected to a sewer system that
- 34 has received an NPDES permit and has been determined to be
- 35 functioning satisfactorily.
- 36 (9) Provide by ordinance for reasonable penalties for failure to
- 37 connect **when connection is required** and also apply to the
- 38 circuit or superior court of the county in which the property is
- 39 located for an order to force connection, with the cost of the
- 40 action, including reasonable attorney's fees of the district, to be
- 41 assessed by the court against the property owner in the action.
- 42 (10) Refuse the services of the district's facilities if the rates or

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- 1 other charges are not paid by the user.
- 2 (11) Control and supervise all property, works, easements,
- 3 licenses, money, contracts, accounts, liens, books, records, maps,
- 4 or other property rights and interests conveyed, delivered,
- 5 transferred, or assigned to the district.
- 6 (12) Construct, acquire by purchase or otherwise, operate, lease,
- 7 preserve, and maintain works considered necessary to accomplish
- 8 the purposes of the district's establishment within or outside the
- 9 district and enter into contracts for the operation of works owned,
- 10 leased, or held by another entity, whether public or private.
- 11 (13) Hold, encumber, control, acquire by donation, purchase, or
- 12 condemnation, construct, own, lease as lessee or lessor, use, and
- 13 sell interests in real and personal property or franchises within or
- 14 outside the district for:
- 15 (A) the location or protection of works;
- 16 (B) the relocation of buildings, structures, and improvements
- 17 situated on land required by the district or for any other
- 18 necessary purpose; or
- 19 (C) obtaining or storing material to be used in constructing and
- 20 maintaining the works.
- 21 (14) Upon consent of two-thirds (2/3) of the members of the
- 22 board, merge or combine with another district into a single district
- 23 on terms so that the surviving district:
- 24 (A) is possessed of all rights, franchises, and authority of the
- 25 constituent districts; and
- 26 (B) is subject to all the liabilities, obligations, and duties of
- 27 each of the constituent districts, with all rights of creditors of
- 28 the constituent districts being preserved unimpaired.
- 29 (15) Provide by agreement with another eligible entity for the
- 30 joint construction of works the district is authorized to construct
- 31 if the construction is for the district's own benefit and that of the
- 32 other entity. For this purpose the cooperating entities may jointly
- 33 appropriate land either within or outside their respective borders
- 34 if all subsequent proceedings, actions, powers, liabilities, rights,
- 35 and duties are those set forth by statute.
- 36 (16) Enter into contracts with a person, an eligible entity, the
- 37 state, or the United States to provide services to the contracting
- 38 party for any of the following:
- 39 (A) The distribution or purification of water.
- 40 (B) The collection or treatment of sanitary sewage.
- 41 (C) The collection, disposal, or recovery of solid waste.
- 42 (17) Make provision for, contract for, or sell the district's

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- 1 byproducts or waste.
- 2 (18) Exercise the power of eminent domain, **including for**
- 3 **purposes of siting sewer or water utility infrastructure, but**
- 4 **only after the district attempts to use existing public**
- 5 **rights-of-way or easements.**
- 6 (19) Remove or change the location of a fence, building, railroad,
- 7 canal, or other structure or improvement located within or outside
- 8 the district. If:
- 9 (A) it is not feasible or economical to move the building,
- 10 structure, or improvement situated in or upon land acquired;
- 11 and
- 12 (B) the cost is determined by the board to be less than that of
- 13 purchase or condemnation;
- 14 the district may acquire land and construct, acquire, or install
- 15 buildings, structures, or improvements similar in purpose to be
- 16 exchanged for the buildings, structures, or improvements under
- 17 contracts entered into between the owner and the district.
- 18 (20) Employ consulting engineers, superintendents, managers,
- 19 and other engineering, construction, and accounting experts,
- 20 attorneys, bond counsel, employees, and agents that are necessary
- 21 for the accomplishment of the district's purpose and fix their
- 22 compensation.
- 23 (21) Procure insurance against loss to the district by reason of
- 24 damages to the district's properties, works, or improvements
- 25 resulting from fire, theft, accident, or other casualty or because of
- 26 the liability of the district for damages to persons or property
- 27 occurring in the operations of the district's works and
- 28 improvements or the conduct of the district's activities.
- 29 (22) Exercise the powers of the district without obtaining the
- 30 consent of other eligible entities. However, the district shall:
- 31 (A) restore or repair all public or private property damaged in
- 32 carrying out the powers of the district and place the property
- 33 in the property's original condition as nearly as practicable; or
- 34 (B) pay adequate compensation for the property.
- 35 (23) Dispose of, by public or private sale or lease, real or personal
- 36 property determined by the board to be no longer necessary or
- 37 needed for the operation or purposes of the district.
- 38 SECTION 13. IC 13-26-5-2.5, AS AMENDED BY P.L.123-2011,
- 39 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 40 JULY 1, 2012]: Sec. 2.5. (a) ~~As used in this section, septic tank soil~~
- 41 ~~absorption system has the meaning set forth in IC 13-11-2-199.5. For~~
- 42 **purposes of this section, a sewage disposal system is "failing" if one**

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- (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.**
 - (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**

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1 another person during the exemption period; the exemption does not
2 apply to the subsequent owner of the property.

3 (e) The district may require a property owner who qualifies for the
4 exemption under this section to discontinue use of a septic tank soil
5 absorption system and connect to the district's sewer system if the
6 district credits the unamortized portion of the original cost of the
7 property owner's septic tank soil absorption system against the debt
8 service portion of the customer's monthly bill. The amount that the
9 district must credit under this subsection is determined in STEP TWO
10 of the following formula:

11 STEP ONE: Multiply the original cost of the property owner's
12 septic tank soil absorption system by a fraction; the numerator of
13 which is ninety-six (96) months minus the age in months of the
14 property owner's septic system; and the denominator of which is
15 ninety-six (96) months.

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

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

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

- 26 (1) that the property owner may be required to discontinue the use
27 of a septic tank soil absorption **sewage disposal** system;
- 28 (2) that the property owner may qualify for an exemption from the
29 requirement to discontinue the use of the septic tank soil
30 absorption **sewage disposal** system; and
- 31 (3) of the procedures to claim an exemption.

32 (g) (d) To qualify for an exemption under this section, a property
33 owner must, (1) within sixty (60) **twenty (20)** days after the date of the
34 written notice given to the property owner under subsection (f); (c),
35 notify the district in writing that the property owner qualifies for the
36 exemption under this section and (2) within sixty (60) days after the
37 district receives the written notice provided under subdivision (1);
38 provide the district with the certification required under subsection
39 (b)(2).

40 (h) When a property owner who qualifies for an exemption under
41 this section subsequently discontinues use of the property owner's
42 septic tank soil absorption system and connects to the district's sewer

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1 system; the property owner may be required to pay only the following
 2 to connect to the sewer system: (1) The connection fee the property
 3 owner would have paid if the property owner connected to the sewer
 4 system on the first date the property owner could have connected to the
 5 sewer system. (2) Any additional costs: (A) considered necessary by;
 6 and (B) supported by documentary evidence provided by; the district.
 7 because the sewage disposal system is not failing or because the
 8 property owner intends to repair or replace the sewage disposal
 9 system, as applicable. Upon receipt of notice under this subsection,
 10 the district shall suspend the requirement to discontinue use of the
 11 sewage disposal system for one hundred eighty (180) days, during
 12 which the property owner shall repair or replace the sewage
 13 disposal system as needed. Before the expiration of the one
 14 hundred eighty (180) days, the property owner shall notify the
 15 district in writing that:

- 16 (1) the sewage disposal system has been repaired or replaced,
 17 as applicable, and is not failing; or
 18 (2) the property owner requires additional time to repair or
 19 replace the system.

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

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

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

32 SECTION 14. IC 13-26-11-1 IS AMENDED TO READ AS
 33 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 1. The rates and
 34 charges for a waterworks may be determined based on the following:

- 35 (1) A flat charge for each connection:
 36 (2) (1) The amount of water consumed.
 37 (3) (2) The size of the meter or connection.
 38 (4) (3) Whether the property served has been or will be required
 39 to pay separately for the cost of any of the facilities of the works.
 40 (5) (4) A combination of these or other factors, **including the**
 41 **need for a minimum service charge**, that the board determines
 42 is necessary to establish just and equitable rates and charges.

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1 SECTION 15. IC 13-26-11-2, AS AMENDED BY P.L.189-2005,
 2 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 3 JULY 1, 2012]: Sec. 2. (a) Except as provided in subsection (b), the
 4 rates or charges for a sewage works ~~may~~ **must** be determined based on
 5 **a combination of the following factors:**

- 6 ~~(1) A flat charge for each connection.~~
- 7 ~~(2) (1) The amount of water used on the premises.~~
- 8 ~~(3) (2) The number and size of water outlets on the premises.~~
- 9 ~~(4) (3) The amount, strength, or character of sewage discharged~~
 10 ~~into the sewers.~~
- 11 ~~(5) (4) The size of sewer connections.~~
- 12 ~~(6) (5) Whether the property served has been or will be required~~
 13 ~~to pay separately for the cost of any of the facilities of the works.~~
- 14 ~~(7) A combination of these or (6) Other factors, including the~~
 15 ~~need for a minimum service charge, that the board determines~~
 16 ~~is necessary to establish nondiscriminatory, just, and equitable~~
 17 ~~rates or charges.~~

18 (b) ~~If a campground is billed for sewage service at a flat rate under~~
 19 ~~subsection (a); the campground may instead elect to be billed for the~~
 20 ~~sewage service under this subsection by installing; A campground~~
 21 ~~may be billed for sewage service at a flat rate or by installing, at the~~
 22 ~~campground's expense, a meter to measure the actual amount of sewage~~
 23 ~~discharged by the campground into the sewers. If a campground elects~~
 24 ~~to be billed by use of a meter:~~

- 25 (1) the rate charged by a board for the metered sewage service
 26 may not exceed the rate charged to residential customers for
 27 equivalent usage; and
- 28 (2) the amount charged by a board for the campground's monthly
 29 sewage service for the period beginning September 1 and ending
 30 May 31 must be equal to the greater of:
 - 31 (A) the actual amount that would be charged for the sewage
 32 discharged during the month by the campground as measured
 33 by the meter; or
 - 34 (B) the lowest monthly charge paid by the campground for
 35 sewage service during the previous period beginning June 1
 36 and ending August 31.

37 (c) If a campground does not install a meter under subsection (b)
 38 and is billed for sewage service at a flat rate, ~~under subsection (a);~~ for
 39 a calendar year beginning after December 31, 2004, each campsite at
 40 the campground may not equal more than one-third (1/3) of one (1)
 41 resident equivalent unit. The basic monthly charge for the
 42 campground's sewage service must be equal to the number of the

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1 campground's resident equivalent units multiplied by the rate charged
2 by the board for a resident unit.

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

7 (1) the installation of:

8 (A) oversized pipe; or

9 (B) any other unique equipment;

10 necessary to provide sewage service for the campground; and

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

13 SECTION 16. IC 13-26-11-5 IS AMENDED TO READ AS
14 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 5. **Subject to sections**
15 **1 and 2 of this chapter**, a district may bill and collect rates and
16 charges **only for the services to be actually provided after the contract**
17 **for construction of a sewage works has been let and actual work**
18 **commenced in an amount sufficient to meet the interest on the revenue**
19 **bonds and other expenses payable before the completion of the works:**
20 **during the applicable billing cycle.**

21 SECTION 17. IC 13-26-11-6 IS AMENDED TO READ AS
22 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 6. Unless the board
23 finds and directs otherwise, the sewage works are considered to benefit
24 every:

25 (1) lot;

26 (2) parcel of land; or

27 (3) building;

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

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

39 (1) ~~do not attach; and~~

40 (2) ~~are recorded;~~

41 (3) ~~are subject to the same penalties, interest, and reasonable~~
42 ~~attorney's fees on recovery; and~~

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1 ~~(4) (2)~~ shall be collected **and** enforced ~~and, if necessary,~~
 2 ~~foreclosed;~~
 3 in substantially the same manner as provided in ~~IC 36-9-23-31 through~~
 4 ~~IC 36-9-23-34.~~ **by civil action in the name of the state of Indiana on**
 5 **the relation of the district.**

6 SECTION 19. IC 16-20-1-25 IS AMENDED TO READ AS
 7 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 25. (a) A person shall
 8 not institute, permit, or maintain any conditions that may transmit,
 9 generate, or promote disease.

10 (b) A health officer, upon ~~hearing of~~ **receiving a complaint**
 11 **asserting** the existence of ~~such~~ unlawful conditions **described in**
 12 **subsection (a)** within the officer's jurisdiction, shall **document the**
 13 **complaint as provided in subsection (d).** **Upon verifying the**
 14 **information contained in the complaint, the health officer shall**
 15 order the abatement of those conditions. The order must:

- 16 (1) be in writing; ~~if demanded;~~
- 17 (2) specify the conditions that may transmit disease; and
- 18 (3) name the shortest reasonable time for abatement.

19 (c) If a person refuses or neglects to obey an order issued under this
 20 section, the attorney representing the county of the health jurisdiction
 21 where the offense occurs shall, upon receiving the information from the
 22 health officer, institute proceedings in the courts for enforcement. An
 23 order may be enforced by injunction. If the action concerning public
 24 health is a criminal offense, a law enforcement authority with
 25 jurisdiction over the place where the offense occurred shall be notified.

26 **(d) A complaint made under subsection (b) must include the**
 27 **following information:**

- 28 **(1) The name, address, and telephone number of the person**
 29 **making the complaint.**
- 30 **(2) Adequate details to allow the health officer to verify the**
 31 **existence of the unlawful conditions that are the subject of the**
 32 **complaint.**

33 **A health officer must provide a copy of a complaint upon request**
 34 **to the person who is the subject of the complaint.**

35 **(e) A person who knowingly or intentionally provides false**
 36 **information upon which a health officer relies in issuing an order**
 37 **under this section commits a Class B misdemeanor.**

38 SECTION 20. IC 36-7-8-3 IS AMENDED TO READ AS
 39 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 3. (a) The legislative
 40 body of a county having a county department of buildings or joint
 41 city-county building department may, by ordinance, adopt building,
 42 **energy,** heating, ventilating, air conditioning, electrical, plumbing, and

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1 sanitation standards for unincorporated areas of the county. These
 2 standards take effect only on the legislative body's receipt of written
 3 approval from the fire prevention and building safety commission.
 4 (b) An ordinance adopted under this section must be based on
 5 occupancy, and it applies to:
 6 (1) the construction, alteration, equipment, use, occupancy,
 7 location, and maintenance of buildings, structures, and
 8 appurtenances that are on land or over water and are:
 9 (A) erected after the ordinance takes effect; and
 10 (B) if expressly provided by the ordinance, existing when the
 11 ordinance takes effect;
 12 (2) conversions of buildings and structures, or parts of them, from
 13 one **(1)** occupancy classification to another; and
 14 (3) the movement or demolition of buildings, structures, and
 15 equipment for the operation of buildings and structures.
 16 (c) The rules of the fire prevention and building safety commission
 17 are the minimum standards upon which ordinances adopted under this
 18 section must be based.
 19 (d) An ordinance adopted under this section does not apply to
 20 private homes that are built by individuals and used for their own
 21 occupancy, **including the following systems appurtenant to the**
 22 **homes:**
 23 **(1) Air conditioning.**
 24 **(2) Ventilation.**
 25 **(3) Heating.**
 26 **(4) Energy for residential use only.**
 27 **(5) Plumbing.**
 28 **(6) Sanitation, including sewage disposal in any form.**

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