



January 27, 2012

SENATE BILL No. 210

DIGEST OF SB 210 (Updated January 26, 2012 9:50 am - DI 58)

Citations Affected: IC 6-1.1; IC 13-20; IC 13-20.5; IC 13-21.

Synopsis: Solid waste management district matters. Provides that for property taxes first due and payable in 2013, the department of local government finance (DLGF) shall increase the maximum property tax levy of each county that is a member of a solid waste management district by that part of the district's maximum property tax levy for 2012 that was imposed in the county, multiplied by the assessed value growth quotient for 2013. Provides that in the case of a solid waste management district: (1) the district shall submit the district's proposed budget for the 2013 budget year and thereafter to each county that is a member of the district; (2) each county that is a member of the district shall for the 2013 budget year and thereafter determine the amount of funding from all sources that the county will provide to the district for that budget year; (3) a district may not levy a property tax that is first due and payable after 2012 (other than a property tax for pre-existing debt); and (4) a district may not impose a fee or charge that is first due and payable after 2012 and that is a flat charge for each residence or building in use in the county or that is otherwise imposed on a uniform basis on all residents or property owners. Permits a county to impose solid waste management fees after 2012 that are a flat charge or that are otherwise imposed on a uniform basis. Provides that after June 30, 2012: (1) the authority of a district board to finance the cost of facilities by borrowing money and issuing revenue bonds is transferred to each county that is a member of the district; and (2) the authority of a district board to issue waste management development bonds is transferred to each county that is a member of the district. Requires the department

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Effective: Upon passage; July 1, 2012; January 1, 2013.

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January 4, 2012, read first time and referred to Committee on Appropriations.
January 26, 2012, amended, reported favorably — Do Pass.

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of education, with assistance from the department of environmental management (IDEM), to provide solid waste management districts (districts) with a curriculum model that includes educational core principles. Provides that districts shall implement educational programs that meet the minimum standards established by the department of education in a curriculum model. Provides that in 2013 and every fifth year thereafter, the legislative council shall assign to an interim study committee or a statutory study committee the topics of: (1) assessing the continued need for districts; and (2) determining whether any changes should be made to the statutes governing districts. The committee to which the study topics are assigned shall issue a final report to the legislative council containing the committee's findings and recommendations (including any recommended legislation concerning the topics). Specifies additional information that a district must include in the annual report prepared by the district and provided to IDEM, the DLGF, and the legislative council. Requires a district to publish the report on an Internet web site maintained by the district or on the Internet web sites maintained by the counties that are members of the district. Provides that, except as expressly granted by statute, a district does not have the power to do the following: (1) Issue permits for a solid waste management activity that is already permitted by a state or federal agency or is not regulated by any state or federal agency. (2) Require the payment of a fee for a solid waste management activity that is already permitted by a state or federal agency or that is not regulated by a state or federal agency. Specifies that this provision does not prohibit a district from imposing a user fee or charge to reimburse the district for the cost of service provided by the district to the payer of the user fee or charge. Requires IDEM to adopt rules to establish a minimum service level for: (1) recycling; and (2) the collection of household hazardous waste, electronic waste, tires, and white goods; that must be provided in each district. Provides that the minimum service levels may be met by a district and a county through any combination of public or private recycling programs. Specifies that the rules must include a process through which a district may apply to IDEM for a waiver of the minimum service levels. Provides that each county is responsible for providing the level of funding sufficient for the county and the district to achieve the minimum service levels.

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January 27, 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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SENATE BILL No. 210

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 6-1.1-17-3, AS AMENDED BY P.L.182-2009(ss),
2 SECTION 114, IS AMENDED TO READ AS FOLLOWS
3 [EFFECTIVE JULY 1, 2012]: Sec. 3. (a) The proper officers of a
4 political subdivision shall formulate its estimated budget and its
5 proposed tax rate and tax levy on the form prescribed by the
6 department of local government finance and approved by the state
7 board of accounts. The political subdivision shall give notice by
8 publication to taxpayers of:
9 (1) the estimated budget;
10 (2) the estimated maximum permissible levy;
11 (3) the current and proposed tax levies of each fund; and
12 (4) the amounts of excessive levy appeals to be requested.
13 In the notice, the political subdivision shall also state the time and
14 place at which a public hearing will be held on these items. The notice
15 shall be published twice in accordance with IC 5-3-1 with the first
16 publication at least ten (10) days before the date fixed for the public
17 hearing. Beginning in 2009, the duties required by this subsection must

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1 be completed before September 10 of the calendar year.

2 (b) The board of directors of a solid waste management district
3 established under IC 13-21 or IC 13-9.5-2 (before its repeal) may
4 conduct the public hearing required under subsection (a):

- 5 (1) in any county of the solid waste management district; and
6 (2) in accordance with the annual notice of meetings published
7 under IC 13-21-5-2.

8 **In formulating the budget of a solid waste management district**
9 **under this section for 2013 and thereafter, the board of directors**
10 **of the solid waste management district shall consider that the**
11 **district may not levy a property tax, except as provided in**
12 **IC 13-21-7-1(d).**

13 (c) The trustee of each township in the county shall estimate the
14 amount necessary to meet the cost of township assistance in the
15 township for the ensuing calendar year. The township board shall adopt
16 with the township budget a tax rate sufficient to meet the estimated cost
17 of township assistance. The taxes collected as a result of the tax rate
18 adopted under this subsection are credited to the township assistance
19 fund.

20 (d) ~~This subsection expires January 1, 2009. A county shall adopt~~
21 ~~with the county budget and the department of local government finance~~
22 ~~shall certify under section 16 of this chapter a tax rate sufficient to raise~~
23 ~~the levy necessary to pay the following:~~

24 (1) ~~The cost of child services (as defined in IC 12-19-7-1 of the~~
25 ~~county payable from the family and children's fund.~~

26 (2) ~~The cost of children's psychiatric residential treatment~~
27 ~~services (as defined in IC 12-19-7.5-1 of the county payable from~~
28 ~~the children's psychiatric residential treatment services fund.~~

29 ~~A budget, tax rate, or tax levy adopted by a county fiscal body or~~
30 ~~approved or modified by a county board of tax adjustment that is less~~
31 ~~than the levy necessary to pay the costs described in subdivision (1) or~~
32 ~~(2) shall not be treated as a final budget, tax rate, or tax levy under~~
33 ~~section 11 of this chapter.~~

34 SECTION 2. IC 6-1.1-17-20, AS AMENDED BY P.L.113-2010,
35 SECTION 29, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
36 JULY 1, 2012]: Sec. 20. (a) This section applies to each governing
37 body of a taxing unit that:

38 (1) is not comprised of a majority of officials who are elected to
39 serve on the governing body; and

40 (2) either:

41 (A) is:

42 (i) a conservancy district subject to IC 14-33-9;

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- 1 (ii) a solid waste management district subject to IC 13-21;
- 2 or
- 3 (iii) a fire protection district subject to IC 36-8-11-18; or
- 4 (B) has a percentage increase in the proposed budget for the
- 5 taxing unit for the ensuing calendar year that is more than the
- 6 result of:
- 7 (i) the assessed value growth quotient determined under
- 8 IC 6-1.1-18.5-2 for the ensuing calendar year; minus
- 9 (ii) one (1).

10 For purposes of this section, an individual who qualifies to be
 11 appointed to a governing body or serves on a governing body because
 12 of the individual's status as an elected official of another taxing unit
 13 shall be treated as an official who was not elected to serve on the
 14 governing body.

15 (b) As used in this section, "taxing unit" has the meaning set forth
 16 in IC 6-1.1-1-21, except that the term does not include:

- 17 (1) a school corporation; or
- 18 (2) an entity whose tax levies are subject to review and
- 19 modification by a city-county legislative body under IC 36-3-6-9.

- 20 (c) If:
- 21 (1) the assessed valuation of a taxing unit is entirely contained
- 22 within a city or town; or
- 23 (2) the assessed valuation of a taxing unit is not entirely contained
- 24 within a city or town but the taxing unit was originally established
- 25 by the city or town;

26 the governing body shall submit its proposed budget and property tax
 27 levy to the city or town fiscal body. The proposed budget and levy shall
 28 be submitted at least thirty (30) days before the city or town fiscal body
 29 is required to hold budget approval hearings under this chapter.
 30 However, in the case of a public library that is subject to this section
 31 and is described in subdivision (2), the public library shall submit its
 32 proposed budget and property tax levy to the county fiscal body in the
 33 manner provided in subsection (d), rather than to the city or town fiscal
 34 body, if more than fifty percent (50%) of the parcels of real property
 35 within the jurisdiction of the public library are located outside the city
 36 or town.

37 (d) If subsection (c) does not apply, the governing body of the taxing
 38 unit shall submit its proposed budget and property tax levy to the
 39 county fiscal body in the county where the taxing unit has the most
 40 assessed valuation. The proposed budget and levy shall be submitted
 41 at least thirty (30) days before the county fiscal body is required to hold
 42 budget approval hearings under this chapter.

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1 (e) The fiscal body of the city, town, or county (whichever applies)
 2 shall review each budget and proposed tax levy and adopt a final
 3 budget and tax levy for the taxing unit. The fiscal body may reduce or
 4 modify but not increase the proposed budget or tax levy.

5 (f) If a taxing unit fails to file the information required in subsection
 6 (c) or (d), whichever applies, with the appropriate fiscal body by the
 7 time prescribed by this section, the most recent annual appropriations
 8 and annual tax levy of that taxing unit are continued for the ensuing
 9 budget year.

10 (g) If the appropriate fiscal body fails to complete the requirements
 11 of subsection (e) before the adoption deadline in section 5 of this
 12 chapter for any taxing unit subject to this section, the most recent
 13 annual appropriations and annual tax levy of the city, town, or county,
 14 whichever applies, are continued for the ensuing budget year.

15 **(h) In the case of a solid waste management district subject to**
 16 **IC 13-21:**

17 **(1) the district shall submit the district's proposed budget for**
 18 **the 2013 budget year and thereafter to:**

19 **(A) the executive; and**

20 **(B) the fiscal body;**

21 **of each county and municipality located within the district;**

22 **(2) each county that is a member of the district shall for the**
 23 **2013 budget year and thereafter determine the amount of**
 24 **funding from all sources that the county will provide to the**
 25 **district for that budget year;**

26 **(3) except as provided in IC 13-21-7-1(d), a district may not**
 27 **levy a property tax that is first due and payable after 2012;**
 28 **and**

29 **(4) after 2012, a district may not impose a fee or charge:**

30 **(A) that is a flat charge for each residence or building in**
 31 **use in the county; or**

32 **(B) that is otherwise imposed on a uniform basis on all**
 33 **residents or property owners.**

34 SECTION 3. IC 6-1.1-18-12, AS AMENDED BY P.L.172-2011,
 35 SECTION 34, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 36 JULY 1, 2012]: Sec. 12. (a) For purposes of this section, "maximum
 37 rate" refers to the maximum:

38 (1) property tax rate or rates; or

39 (2) special benefits tax rate or rates;

40 referred to in the statutes listed in subsection (d).

41 (b) The maximum rate for taxes first due and payable after 2003 is
 42 the maximum rate that would have been determined under subsection

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1 (e) for taxes first due and payable in 2003 if subsection (e) had applied
 2 for taxes first due and payable in 2003.

3 (c) The maximum rate must be adjusted each year to account for the
 4 change in assessed value of real property that results from:

5 (1) an annual adjustment of the assessed value of real property
 6 under IC 6-1.1-4-4.5; or

7 (2) a general reassessment of real property under IC 6-1.1-4-4.

8 (d) The statutes to which subsection (a) refers are:

9 (1) IC 8-10-5-17;

10 (2) IC 8-22-3-11;

11 (3) IC 8-22-3-25;

12 (4) IC 12-29-1-1;

13 (5) IC 12-29-1-2;

14 (6) IC 12-29-1-3;

15 (7) IC 12-29-3-6;

16 ~~(8) IC 13-21-3-12;~~

17 ~~(9) IC 13-21-3-15;~~

18 ~~(10)~~ **(8)** IC 14-27-6-30;

19 ~~(11)~~ **(9)** IC 14-33-7-3;

20 ~~(12)~~ **(10)** IC 14-33-21-5;

21 ~~(13)~~ **(11)** IC 15-14-7-4;

22 ~~(14)~~ **(12)** IC 15-14-9-1;

23 ~~(15)~~ **(13)** IC 15-14-9-2;

24 ~~(16)~~ **(14)** IC 16-20-2-18;

25 ~~(17)~~ **(15)** IC 16-20-4-27;

26 ~~(18)~~ **(16)** IC 16-20-7-2;

27 ~~(19)~~ **(17)** IC 16-22-14;

28 ~~(20)~~ **(18)** IC 16-23-1-29;

29 ~~(21)~~ **(19)** IC 16-23-3-6;

30 ~~(22)~~ **(20)** IC 16-23-4-2;

31 ~~(23)~~ **(21)** IC 16-23-5-6;

32 ~~(24)~~ **(22)** IC 16-23-7-2;

33 ~~(25)~~ **(23)** IC 16-23-8-2;

34 ~~(26)~~ **(24)** IC 16-23-9-2;

35 ~~(27)~~ **(25)** IC 16-41-15-5;

36 ~~(28)~~ **(26)** IC 16-41-33-4;

37 ~~(29) IC 20-46-2-3 (before its repeal on January 1, 2009);~~

38 ~~(30)~~ **(27)** IC 20-46-6-5;

39 ~~(31)~~ **(28)** IC 20-49-2-10;

40 ~~(32)~~ **(29)** IC 36-1-19-1;

41 ~~(33)~~ **(30)** IC 23-14-66-2;

42 ~~(34)~~ **(31)** IC 23-14-67-3;

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1 ~~(35)~~ **(32)** IC 36-7-13-4;
2 ~~(36)~~ **(33)** IC 36-7-14-28;
3 ~~(37)~~ **(34)** IC 36-7-15.1-16;
4 ~~(38)~~ **(35)** IC 36-8-19-8.5;
5 ~~(39)~~ **(36)** IC 36-9-6.1-2;
6 ~~(40)~~ **(37)** IC 36-9-17.5-4;
7 ~~(41)~~ **(38)** IC 36-9-27-73;
8 ~~(42)~~ **(39)** IC 36-9-29-31;
9 ~~(43)~~ **(40)** IC 36-9-29.1-15;
10 ~~(44)~~ **(41)** IC 36-10-6-2;
11 ~~(45)~~ **(42)** IC 36-10-7-7;
12 ~~(46)~~ **(43)** IC 36-10-7-8;
13 ~~(47)~~ **(44)** IC 36-10-7.5-19;
14 ~~(48)~~ **(45)** IC 36-10-13-5;
15 ~~(49)~~ **(46)** IC 36-10-13-7;
16 ~~(50)~~ **(47)** IC 36-10-14-4;
17 ~~(51)~~ **(48)** IC 36-12-7-7;
18 ~~(52)~~ **(49)** IC 36-12-7-8;
19 ~~(53)~~ **(50)** IC 36-12-12-10; and
20 ~~(54)~~ **(51)** any statute enacted after December 31, 2003, that:
21 (A) establishes a maximum rate for any part of the:
22 (i) property taxes; or
23 (ii) special benefits taxes;
24 imposed by a political subdivision; and
25 (B) does not exempt the maximum rate from the adjustment
26 under this section.
27 (e) The new maximum rate under a statute listed in subsection (d)
28 is the tax rate determined under STEP SEVEN of the following STEPS:
29 STEP ONE: Determine the maximum rate for the political
30 subdivision levying a property tax or special benefits tax under
31 the statute for the year preceding the year in which the annual
32 adjustment or general reassessment takes effect.
33 STEP TWO: Except as provided in subsection (g), determine the
34 actual percentage change (rounded to the nearest one-hundredth
35 percent (0.01%)) in the assessed value (before the adjustment, if
36 any, under IC 6-1.1-4-4.5) of the taxable property from the year
37 preceding the year the annual adjustment or general reassessment
38 takes effect to the year that the annual adjustment or general
39 reassessment takes effect.
40 STEP THREE: Determine the three (3) calendar years that
41 immediately precede the ensuing calendar year and in which a
42 statewide general reassessment of real property does not first take

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- 1 effect.
- 2 STEP FOUR: Except as provided in subsection (g), compute
- 3 separately, for each of the calendar years determined in STEP
- 4 THREE, the actual percentage change (rounded to the nearest
- 5 one-hundredth percent (0.01%)) in the assessed value (before the
- 6 adjustment, if any, under IC 6-1.1-4-4.5) of the taxable property
- 7 from the preceding year.
- 8 STEP FIVE: Divide the sum of the three (3) quotients computed
- 9 in STEP FOUR by three (3).
- 10 STEP SIX: Determine the greater of the following:
- 11 (A) Zero (0).
- 12 (B) The result of the STEP TWO percentage minus the STEP
- 13 FIVE percentage.
- 14 STEP SEVEN: Determine the quotient of the STEP ONE tax rate
- 15 divided by the sum of one (1) plus the STEP SIX percentage
- 16 increase.
- 17 (f) The department of local government finance shall compute the
- 18 maximum rate allowed under subsection (e) and provide the rate to
- 19 each political subdivision with authority to levy a tax under a statute
- 20 listed in subsection (d).
- 21 (g) This subsection applies to STEP TWO and STEP FOUR of
- 22 subsection (e) for taxes first due and payable after 2011. If the assessed
- 23 value change used in the STEPS was not an increase, the STEPS are
- 24 applied using instead:
- 25 (1) the actual percentage decrease (rounded to the nearest
- 26 one-hundredth percent (0.01%)) in the assessed value (before the
- 27 adjustment, if any, under IC 6-1.1-4-4.5) of the taxable property;
- 28 or
- 29 (2) zero (0) if the assessed value did not increase or decrease.
- 30 SECTION 4. IC 6-1.1-18.5-22 IS ADDED TO THE INDIANA
- 31 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
- 32 [EFFECTIVE JULY 1, 2012]: **Sec. 22. (a) For property taxes first**
- 33 **due and payable in 2013, the department of local government**
- 34 **finance shall increase the maximum permissible ad valorem**
- 35 **property tax levy of each county that is a member of a solid waste**
- 36 **management district under IC 13-21 by an amount equal to:**
- 37 **(1) the part of the district's maximum permissible ad valorem**
- 38 **property tax levy for 2012 that was imposed in the county;**
- 39 **multiplied by**
- 40 **(2) the assessed value growth quotient under IC 6-1.1-18.5-2**
- 41 **for 2013.**
- 42 **(b) Each maximum permissible ad valorem property tax levy,**

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1 after the adjustments made under subsection (a), becomes the
 2 maximum permissible ad valorem property tax levy for the county
 3 for purposes of determining the county's maximum permissible ad
 4 valorem property tax levy after 2013.

5 SECTION 5. IC 13-20-17.5-6 IS AMENDED TO READ AS
 6 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 6. (a) ~~The department,~~
 7 ~~and Districts in cooperation and with the support of the department,~~
 8 shall implement ~~education~~ **educational** programs to provide
 9 information to the public concerning:

- 10 (1) the reuse and recycling of mercury in:
 11 (A) mercury commodities; and
 12 (B) mercury-added products; and
 13 (2) collection programs available to the public for:
 14 (A) mercury commodities; and
 15 (B) mercury-added products.

16 **(b) The department of education, with assistance from the**
 17 **department of environmental management, shall develop and**
 18 **provide districts with a curriculum model that includes educational**
 19 **core principles. Districts shall implement educational programs**
 20 **that meet the minimum standards established by the department**
 21 **of education in the curriculum model.**

22 ~~(b)~~ **(c)** Units, in cooperation and with the support of the department,
 23 may implement ~~education~~ **educational** programs to provide
 24 information to the public concerning:

- 25 (1) the reuse and recycling of mercury in:
 26 (A) mercury commodities; and
 27 (B) mercury-added products; and
 28 (2) collection programs available to the public for:
 29 (A) mercury commodities; and
 30 (B) mercury-added products.

31 SECTION 6. IC 13-20.5-7-10, AS ADDED BY P.L.159-2011,
 32 SECTION 35, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 33 JULY 1, 2012]: Sec. 10. **(a)** Solid waste management districts shall
 34 conduct educational programs ~~under IC 13-21-3-12~~ to provide
 35 information to the public concerning:

- 36 (1) reuse and recycling of electronic waste;
 37 (2) collection programs available to the public for the disposal of
 38 electronic waste; and
 39 (3) proper disposal of electronic waste.

40 **(b) The department of education, with assistance from the**
 41 **department of environmental management, shall provide solid**
 42 **waste management districts with a curriculum model that includes**

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1 **educational core principles. Solid waste management districts shall**
 2 **implement educational programs that meet the minimum**
 3 **standards established by the department of education in a**
 4 **curriculum model.**

5 SECTION 7. IC 13-21-1-4 IS ADDED TO THE INDIANA CODE
 6 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 7 1, 2012] Sec. 4. (a) **In 2013 and every fifth year thereafter, the**
 8 **legislative council shall assign to an interim study committee or a**
 9 **statutory study committee the topics of:**

10 (1) **assessing the continued need for solid waste management**
 11 **districts; and**

12 (2) **determining whether any changes should be made to the**
 13 **statutes governing solid waste management districts.**

14 (b) **The interim study committee or statutory study committee**
 15 **to which the study topics described in subsection (a) are assigned**
 16 **shall issue a final report, in an electronic format under IC 5-14-6,**
 17 **to the legislative council containing the committee's findings and**
 18 **recommendations, including any recommended legislation**
 19 **concerning the topics, not later than November 1 of the year in**
 20 **which the topics are assigned.**

21 SECTION 8. IC 13-21-3-10, AS AMENDED BY P.L.214-2005,
 22 SECTION 58, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 23 JULY 1, 2012]: Sec. 10. (a) A controller selected under section 9 of
 24 this chapter shall do the following:

25 (1) Be the official custodian of all district money and, subject to
 26 the terms of any resolution or trust indenture under which bonds
 27 are issued under this article, deposit and invest all district money
 28 in the same manner as other county money is deposited and
 29 invested under IC 5-13.

30 (2) Be responsible to the board for the fiscal management of the
 31 district.

32 (3) Be responsible for the proper safeguarding and accounting of
 33 the district's money.

34 (4) Subject to subsection (c), issue warrants approved by the
 35 board after a properly itemized and verified claim has been
 36 presented to the board on a claim docket.

37 (5) Make financial reports of district money and present the
 38 reports to the board for the board's approval.

39 (6) Prepare the district's **proposed** annual budget **that will be**
 40 **submitted to each county that is a member of the district.**

41 (7) Perform any other duties:

42 (A) prescribed by the board; and

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- 1 (B) consistent with this chapter.
- 2 (b) A controller selected under section 9 of this chapter:
- 3 (1) does not exercise any sovereign authority of the state; and
- 4 (2) does not hold a lucrative office for purposes of Article 2,
- 5 Section 9 of the Constitution of the State of Indiana.
- 6 (c) The board may, by resolution, authorize the controller to make
- 7 claim payments for:
- 8 (1) payroll;
- 9 (2) the state solid waste management fee imposed by
- 10 IC 13-20-22-1; and
- 11 (3) certain specific vendors identified in the resolution;
- 12 without the claims being first approved by the board if before payment
- 13 the claims are approved in writing by the chairperson of the board or
- 14 in the absence of the chairperson another member of the board
- 15 designated by the chairperson. The claims shall be reviewed and
- 16 allowed by the board at the board's next regular or special meeting.
- 17 SECTION 9. IC 13-21-3-11 IS AMENDED TO READ AS
- 18 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 11. (a) The board of
- 19 each district shall appoint and convene a solid waste management
- 20 advisory committee of citizens not later than thirty (30) days after the
- 21 board has been established. The committee must include the following:
- 22 (1) Representatives of the solid waste management industry
- 23 operating in the district.
- 24 (2) Representatives of the environmental community and other
- 25 citizens who are:
- 26 (A) knowledgeable about and interested in environmental
- 27 issues; and
- 28 (B) not employed directly or indirectly by the solid waste
- 29 management industry.
- 30 (b) At least fifty percent (50%) of the members of an advisory
- 31 committee must be made up of the representatives of the environmental
- 32 community and other citizens. All members of the committee must be
- 33 residents of the district.
- 34 (c) In the resolution establishing an advisory committee, the board
- 35 shall specify the terms of the members and the purposes of the
- 36 committee. Each advisory committee shall do the following:
- 37 (1) Study the subjects and problems specified by the board and
- 38 recommend to the board additional problems in need of study and
- 39 discussion.
- 40 (2) If invited by the board to do so, participate, without the right
- 41 to vote, in the deliberations of the board.
- 42 (d) An advisory committee shall report only to the board. Reports of

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the committee must:

- (1) accompany a final district plan when the plan is submitted to the commissioner under IC 13-21-5; and
- (2) be made available to members of the public.

(e) An advisory committee may choose to study and report on matters that are not specified by the board if the committee determines a study is warranted.

(f) An advisory committee and board shall conduct at least two (2) joint meetings each year to discuss current and future issues. The advisory committee shall submit into the record at the next meeting of the board advice on the topics discussed at the joint meeting.

(g) An advisory committee shall do the following:

- (1) Meet after the first publication of the district's proposed annual budget **that will be submitted to each county that is a member of the district.**
- (2) Submit written comments concerning the proposed budget at a public hearing that is held to review the proposed budget.

SECTION 10. IC 13-21-3-12, AS AMENDED BY P.L.159-2011, SECTION 36, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 12. (a) Except as provided in section 14.5 of this chapter, the powers of a district include the following:

- (1) The power to develop and implement a district solid waste management plan under IC 13-21-5.
- (2) The power to impose district fees on the final disposal of solid waste within the district under IC 13-21-13.
- (3) The power to receive and disburse money, if the primary purpose of activities undertaken under this subdivision is to carry out the provisions of this article.
- (4) The power to sue and be sued.
- (5) The power to plan, design, construct, finance, manage, own, lease, operate, and maintain facilities for solid waste management.
- (6) The power to enter with any person into a contract or an agreement that is necessary or incidental to the management of solid waste. Contracts or agreements that may be entered into under this subdivision include those for the following:
 - (A) The design, construction, operation, financing, ownership, or maintenance of facilities by the district or any other person.
 - (B) The managing or disposal of solid waste.
 - (C) The sale or other disposition of materials or products generated by a facility.

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- 1 contract or an agreement described in this subdivision may not
- 2 exceed forty (40) years.
- 3 (7) The power to enter into agreements for the leasing of facilities
- 4 in accordance with IC 36-1-10 or IC 36-9-30.
- 5 (8) The power to purchase, lease, or otherwise acquire real or
- 6 personal property for the management or disposal of solid waste.
- 7 (9) The power to sell or lease any facility or part of a facility to
- 8 any person.
- 9 (10) The power to make and contract for plans, surveys, studies,
- 10 and investigations necessary for the management or disposal of
- 11 solid waste.
- 12 (11) The power to enter upon property to make surveys,
- 13 soundings, borings, and examinations.
- 14 (12) The power to:
- 15 (A) accept gifts, grants, loans of money, other property, or
- 16 services from any source, public or private; and
- 17 (B) comply with the terms of the gift, grant, or loan.
- 18 (13) **For property taxes first due and payable before 2013**, the
- 19 power to levy a tax within the district to pay costs of operation in
- 20 connection with solid waste management, subject to the
- 21 following:
- 22 (A) Regular budget and tax levy procedures.
- 23 (B) Section 16 of this chapter **(before its repeal)**.
- 24 However, ~~except as provided in sections 15 and 15.5 of this~~
- 25 ~~chapter~~, a property tax rate imposed under this article may not
- 26 exceed eight and thirty-three hundredths cents (\$0.0833) on each
- 27 one hundred dollars (\$100) of assessed valuation of property in
- 28 the district.
- 29 (14) The power to borrow in anticipation of ~~taxes~~ **revenue**.
- 30 (15) The power to hire the personnel necessary for the
- 31 management or disposal of solid waste in accordance with an
- 32 approved budget and to contract for professional services.
- 33 (16) The power to otherwise do all things necessary for the:
- 34 (A) reduction, management, and disposal of solid waste; and
- 35 (B) recovery of waste products from the solid waste stream;
- 36 if the primary purpose of activities undertaken under this
- 37 subdivision is to carry out the provisions of this article.
- 38 (17) The power to adopt resolutions that have the force of law.
- 39 **The power to adopt a resolution under this subdivision does**
- 40 **not authorize a district to require a permit prohibited by**
- 41 **section 14(b)(5) of this chapter or to impose a fee prohibited**
- 42 **by section 14(b)(5) of this chapter.** However, a resolution is not

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1 effective in a municipality unless the municipality adopts the
2 language of the resolution by ordinance or resolution.

3 (18) The power to do the following:

4 (A) Implement a household hazardous waste and conditionally
5 exempt small quantity generator (as described in 40 CFR
6 261.5(a)) collection and disposal project.

7 (B) Apply for a household hazardous waste collection and
8 disposal project grant under IC 13-20-20 and carry out all
9 commitments contained in a grant application.

10 (C) Establish and maintain a program of self-insurance for a
11 household hazardous waste and conditionally exempt small
12 quantity generator (as described in 40 CFR 261.5(a))
13 collection and disposal project, so that at the end of the
14 district's fiscal year the unused and unencumbered balance of
15 appropriated money reverts to the district's general fund only
16 if the district's board specifically provides by resolution to
17 discontinue the self-insurance fund.

18 (D) Apply for a household hazardous waste project grant as
19 described in IC 13-20-22-2 and carry out all commitments
20 contained in a grant application.

21 (19) The power to enter into an interlocal cooperation agreement
22 under IC 36-1-7 to obtain:

- 23 (A) fiscal;
- 24 (B) administrative;
- 25 (C) managerial; or
- 26 (D) operational;

27 services from a county or municipality.

28 (20) The power to compensate advisory committee members for
29 attending meetings at a rate determined by the board.

30 (21) The power to reimburse board and advisory committee
31 members for travel and related expenses at a rate determined by
32 the board.

33 (22) The power to pay a fee from district money to:

- 34 (A) in a joint district, the county or counties in which a final
35 disposal facility is located; or
- 36 (B) a county that:
 - 37 (i) was part of a joint district;
 - 38 (ii) has withdrawn from the joint district as of January 1,
39 2008; and
 - 40 (iii) has established its own district in which a final disposal
41 facility is located.

42 (23) The power to make grants or loans of:

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- 1 (A) money;
- 2 (B) property; or
- 3 (C) services;
- 4 to public or private recycling programs, composting programs, or
- 5 any other programs that reuse any component of the waste stream
- 6 as a material component of another product, if the primary
- 7 purpose of activities undertaken under this subdivision is to carry
- 8 out the provisions of this article.
- 9 (24) The power to establish by resolution a nonreverting capital
- 10 fund. A district's board may appropriate money in the fund for:
- 11 (A) equipping;
- 12 (B) expanding;
- 13 (C) modifying; or
- 14 (D) remodeling;
- 15 an existing facility. Expenditures from a capital fund established
- 16 under this subdivision must further the goals and objectives
- 17 contained in a district's solid waste management plan. Not more
- 18 than five percent (5%) of the district's total annual budget for the
- 19 year may be transferred to the capital fund that year. The balance
- 20 in the capital fund may not exceed twenty-five percent (25%) of
- 21 the district's total annual budget. If a district's board determines
- 22 by resolution that a part of a capital fund will not be needed to
- 23 further the goals and objectives contained in the district's solid
- 24 waste management plan, that part of the capital fund may be
- 25 transferred to the district's general fund, to be used to offset
- 26 tipping fees, property tax revenues **that are imposed to pay**
- 27 **bonds described in IC 13-21-7-9(b)**, or both tipping fees and
- 28 property tax revenues **that are imposed to pay bonds described**
- 29 **in IC 13-21-7-9(b)**.
- 30 (25) The power to conduct promotional or educational programs
- 31 that include giving awards and incentives that further:
- 32 (A) the district's solid waste management plan; **and**
- 33 (B) **the objectives of minimum educational standards**
- 34 **established by the department of education.**
- 35 (26) The power to conduct educational programs under
- 36 IC 13-20-17.5 to provide information to the public concerning:
- 37 (A) the reuse and recycling of mercury in:
- 38 (i) mercury commodities; and
- 39 (ii) mercury-added products; and
- 40 (B) collection programs available to the public for:
- 41 (i) mercury commodities; and
- 42 (ii) mercury-added products.

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- 1 (27) The power to implement mercury collection programs under
- 2 IC 13-20-17.5 for the public and small businesses.
- 3 (28) The power to conduct educational programs under
- 4 IC 13-20.5 to provide information to the public concerning:
- 5 (A) reuse and recycling of electronic waste;
- 6 (B) collection programs available to the public for the disposal
- 7 of electronic waste; and
- 8 (C) proper disposal of electronic waste.
- 9 **(b) Except as provided in IC 13-21-7-1(d), a district may not**
- 10 **levy a property tax that is first due and payable after 2012 or**
- 11 **impose a fee or charge that is first due and payable after 2012 and**
- 12 **that:**
- 13 **(1) is a flat charge for each residence or building in use in the**
- 14 **county; or**
- 15 **(2) is otherwise imposed on a uniform basis on all residents or**
- 16 **property owners.**
- 17 SECTION 11. IC 13-21-3-13 IS AMENDED TO READ AS
- 18 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 13. (a) A board
- 19 may do the following:
- 20 (1) Enter into agreements concerning and acquire by any lawful
- 21 means real property or interests in real and personal property
- 22 needed for the purposes of this section or IC 13-21-9.
- 23 (2) Enter into financing agreements to purchase, lease as lessee,
- 24 construct, remodel, rebuild, enlarge, or substantially improve
- 25 facilities.
- 26 (3) Lease facilities to users or developers with or without an
- 27 option to purchase.
- 28 (4) Sell facilities to users or developers for consideration, which
- 29 may be paid in installments or otherwise.
- 30 (5) Make direct loans to users or developers for the cost of
- 31 acquisition, construction, or installation of facilities, including
- 32 real property, machinery, or equipment. If loans are made, the
- 33 development bonds must be secured by the pledge of one (1) or
- 34 more bonds or other secured or unsecured debt obligations of the
- 35 users or developers.
- 36 (6) Enter into agreements with users or developers to allow the
- 37 users or developers to wholly or partially acquire, construct, or
- 38 modify facilities to be acquired by the district.
- 39 (7) **Before July 1, 2012**, issue waste management development
- 40 bonds under IC 13-21-9 to do the following:
- 41 (A) Accomplish the purposes of this section and IC 13-21-9.
- 42 (B) Secure payment of the development bonds as provided in

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IC 13-21-9.

(b) This section or IC 13-21-9 does not authorize the district's financing of facilities for a developer unless any agreement that exists between a developer and a user is fully disclosed to and approved by the board.

SECTION 12. IC 13-21-3-13.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 13.5. (a) ~~This section does not apply to the following:~~

~~(1) A nonreverting capital fund established under section 12(24) of this chapter.~~

~~(2) A fund established under IC 13-21-7-8.~~

~~(3) The waste management district bond fund established under IC 13-21-7-10.~~

~~(4) A fund established to secure the payment of principal and interest under IC 13-21-12-1(12).~~

~~(b)~~ At the end of each year the district shall prepare a report that provides the following information:

- (1) For each fund that contains district money:
 - (A) the cash balance at the end of the year;
 - (B) a list of all encumbrances on the fund that the district is legally obligated to pay;
 - (C) a copy of documentation that supports each encumbrance listed in clause (B);
 - (D) the fund balance obtained by subtracting the amount under clause (B) from the amount under clause (A); ~~and~~
 - (E) the total expenditures from the fund for the year; **and**
 - (F) any other financial information required by the department.**
- (2) The total of all fund balances calculated under subdivision (1)(D).
- (3) The total of all fund expenditures reported under subdivision (1)(E).
- (4) Any programmatic information required by the department.**
- (5) The total amount of expenditures by the district for the year.**
- (6) The per capita expenditures by the district for the year.**
- (7) The amount of expenditures by the district for the year for personnel costs.**
- (8) The amount of expenditures by the district for the year for program costs (excluding personnel costs).**
- (9) The total amount of solid waste (in tons) disposed of in the**

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- 1 **district for the year.**
- 2 **(10) The total amount of expenditures by the district for the**
- 3 **year, divided by the total amount of solid waste (in tons)**
- 4 **disposed of in the district for the year.**
- 5 **(11) The total amount of recycling (in tons) carried out in the**
- 6 **district in the year.**
- 7 **(12) The total amount of expenditures by the district for the**
- 8 **year, divided by the total amount of recycling (in tons) carried**
- 9 **out in the district in the year.**
- 10 ~~(c)~~ **(b) The district shall provide the report developed prepared**
- 11 under subsection ~~(b)~~ **(a):**
- 12 **(1) to the department, the department of local government finance**
- 13 **in a format prescribed by the department; and the**
- 14 **environmental quality service**
- 15 **(2) to the legislative council in an electronic format under**
- 16 **IC 5-14-6;**
- 17 by February 1 of the year following the year for which the report is
- 18 made.
- 19 **(c) The district shall publish the report prepared under**
- 20 **subsection (a) on an Internet web site maintained by the district or**
- 21 **on the Internet web sites maintained by the counties that are**
- 22 **members of the district.**
- 23 SECTION 13. IC 13-21-3-14, AS AMENDED BY P.L.220-2011,
- 24 SECTION 284, IS AMENDED TO READ AS FOLLOWS
- 25 [EFFECTIVE JULY 1, 2012]: Sec. 14. (a) This section does not apply
- 26 to a contract executed before April 1, 1998.
- 27 (b) Except as provided in subsection (d) and section 14.5 of this
- 28 chapter, the powers of a district do not include the following:
- 29 (1) The power of eminent domain.
- 30 (2) Except as provided in subsection (c), the power to exclusively
- 31 control the collection or disposal of any solid waste or recyclables
- 32 within the district by means that include the following:
- 33 (A) Franchising.
- 34 (B) Establishing a territory or territories within the district in
- 35 which a person may provide service.
- 36 (3) The power to establish the type of service that a person must
- 37 provide for the collection or disposal of solid waste or recyclables
- 38 within the district.
- 39 (4) The power to establish fees that a person must charge for the
- 40 collection or disposal of solid waste or recyclables within the
- 41 district.
- 42 (5) **Except as expressly granted by statute, the power to:**

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1 (A) issue permits for ~~an~~ a solid waste management activity
2 that:
3 (i) is already permitted by a state or federal agency; ~~except~~
4 as expressly granted by statute. or
5 (ii) is not regulated by any state or federal agency; or
6 (B) require the payment of a fee for a solid waste
7 management activity that:
8 (i) is already permitted by a state or federal agency; or
9 (ii) is not regulated by a state or federal agency.
10 This subdivision does not prohibit a district from imposing a
11 user fee or charge to reimburse the district for the cost of
12 service provided by the district to the payer of the user fee or
13 charge.
14 (6) The power to impose a fee or charge that is first due and
15 payable after 2012 and that:
16 (A) is a flat charge for each residence or building in use in
17 the county; or
18 (B) is otherwise imposed on a uniform basis on all residents
19 or property owners.
20 (c) If one (1) or more of the governmental entities in a district, at the
21 time of the formation of the district, is a party to a contract providing
22 that the persons contracted with have the exclusive right to collect or
23 dispose of solid waste within the jurisdiction of the governmental
24 entity, the district may enter into an extension of that contract.
25 (d) Subsection ~~(b)~~ ~~does~~ (b)(1) through (b)(4) does not apply to
26 activities conducted as part of a household hazardous waste collection
27 and disposal project.
28 SECTION 14. IC 13-21-3-14.5, AS AMENDED BY P.L.220-2011,
29 SECTION 285, IS AMENDED TO READ AS FOLLOWS
30 [EFFECTIVE JULY 1, 2012]: Sec. 14.5. (a) This section does not
31 apply to the following:
32 (1) The continuation of waste management services that a solid
33 waste district provides with its facilities or work force before
34 March 15, 1996.
35 (2) Waste management services provided to the district under an
36 agreement entered into by the district before March 15, 1996,
37 with another person until the agreement terminates by its terms or
38 is terminated for cause.
39 (3) The development, operation, and contracting for the
40 development or operation of a publicly owned solid waste landfill
41 in a county having a population of more than one hundred ~~ten~~
42 eleven thousand ~~(110,000)~~ (111,000) but less than one hundred

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- 1 fifteen thousand (115,000). The operation of the landfill must
- 2 have begun before July 1, 2001.
- 3 (4) A contract entered into between the board and a third party
- 4 before May 1, 1997, for the development or operation of a solid
- 5 waste landfill in a county having a population of more than four
- 6 hundred thousand (400,000) but less than seven hundred thousand
- 7 (700,000). The third party is limited to those parties that
- 8 submitted proposals to the board under a formal request for
- 9 proposals that were selected by the board, before December 1,
- 10 1995, as finalists in the contract negotiations.
- 11 (5) A contract between a board and a third party to operate a
- 12 facility that is owned by the district and for which construction
- 13 was substantially complete before March 1, 1996.
- 14 (6) Activities conducted as part of household hazardous waste (as
- 15 defined in IC 13-11-2-104) collection and disposal projects.
- 16 (7) A contract executed before April 1, 1998.
- 17 (b) Except as provided in subsection (c), a district may not:
- 18 (1) undertake to provide waste management services by means of
- 19 its own work force; or
- 20 (2) contract with any person to provide waste management
- 21 services.
- 22 (c) A district may perform the activities described in subsection (b):
- 23 (1) if:
- 24 (A) the board is able to adopt a resolution under subsection
- 25 (d); and
- 26 (B) a private sector entity is not willing or able to provide
- 27 waste management services at a reasonable cost to the district;
- 28 or
- 29 (2) if the district is requested to do so by a unit of government that
- 30 performs the activities with the unit's work force.
- 31 (d) The board may adopt a resolution determining that the district
- 32 must either provide waste management services by means of its own
- 33 work force or contract with a person to provide waste management
- 34 services, only if the board finds that:
- 35 (1) the waste management service is not currently available in the
- 36 district at a reasonable cost; and
- 37 (2) providing the waste management service by means of its own
- 38 work force or by contract will benefit the public health, welfare,
- 39 and safety of residents of the district.
- 40 The board's determination must be supported with findings of fact.
- 41 (e) A district shall provide notice by publication under IC 5-3-1 and
- 42 at the time of publication serve by first class mail to any person that

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1 delivers to the district an annual written request for notices before
2 January 1 of any meeting to consider adoption of a resolution making
3 a preliminary determination that it is necessary for the district to
4 undertake to provide waste management services by means of its own
5 work force or contract with any person to provide waste management
6 services.

7 (f) Whenever a district evaluates the reasonableness of cost under
8 this section, it shall:

9 (1) compare the cost of the same level of service provided in the
10 district or in similar demographic areas within Indiana; and

11 (2) if the district wishes to provide waste management services
12 with its own facilities or work force, the district must disclose the
13 entire cost of providing the service by the district, including the
14 following:

15 (A) Subsidies arising from taxes, fees, grants, or
16 intergovernmental transfers.

17 (B) In-kind contributions of real estate, interests in real estate,
18 equipment, personnel, or other assets.

19 (C) Discounts.

20 (D) Tax exemptions.

21 (g) A resolution adopted under subsection (d) may authorize a
22 district to perform more than one (1) solid waste recycling, collection,
23 or disposal event in the manner described in subsection (b) if:

24 (1) the duration of each event authorized by the resolution is not
25 more than one (1) day; and

26 (2) all events authorized by the resolution will take place in one
27 (1) calendar year.

28 SECTION 15. IC 13-21-3-15 IS REPEALED [EFFECTIVE JULY
29 1, 2012]. Sec. 15. (a) A district located in a county having a population
30 of more than thirty-two thousand (32,000) but less than thirty-three
31 thousand (33,000) may appeal to the department of local government
32 finance to have a property tax rate in excess of the rate permitted by
33 section 12 of this chapter. The appeal may be granted if the district
34 establishes that all of the following conditions exist:

35 (1) The district is in the process of constructing a landfill.

36 (2) A higher property tax rate is necessary to pay the fees charged
37 by out of county landfills to dispose of solid waste generated in
38 the district during the design and construction phases of the
39 landfill being established by the district.

40 (b) The procedure applicable to maximum levy appeals under
41 IC 6-1.1-18.5 applies to an appeal under this section. Any additional
42 levy granted under this section may not exceed seven and thirty-three

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1 hundredths cents (~~\$0.0733~~) on each one hundred dollars (\$100) of
2 assessed valuation of property in the district.

3 (c) The department of local government finance shall establish the
4 tax rate if a higher tax rate is permitted:

5 (d) A property tax rate imposed under this section expires not later
6 than December 31, 1997.

7 SECTION 16. IC 13-21-3-15.5 IS REPEALED [EFFECTIVE JULY
8 1, 2012]. Sec. 15.5: (a) A district may appeal to the department of local
9 government finance to have a property tax rate in excess of the rate
10 permitted by section 12 of this chapter. The appeal may be granted if
11 the district with respect to 2001 property taxes payable in 2002:

12 (1) imposed the maximum property tax rate established under
13 section 12 of this chapter; and

14 (2) collected property tax revenue in an amount less than the
15 maximum permissible ad valorem property tax levy determined
16 for the district under IC 6-1.1-18.5.

17 (b) The procedure applicable to maximum levy appeals under
18 IC 6-1.1-18.5 applies to an appeal under this section.

19 (c) An additional levy granted under this section may not exceed the
20 rate calculated to result in a property tax levy equal to the maximum
21 permissible ad valorem property tax levy determined for the district
22 under IC 6-1.1-18.5.

23 (d) The department of local government finance shall establish the
24 tax rate if a higher tax rate is permitted:

25 SECTION 17. IC 13-21-3-16 IS REPEALED [EFFECTIVE JULY
26 1, 2012]. Sec. 16: (a) The requirements of this section:

27 (1) are in addition to the requirements set forth in
28 IC 6-1.1-18.5-7(b); and

29 (2) do not apply to a district that:

30 (A) owns a landfill;

31 (B) will use property tax revenue to:

32 (i) construct a new landfill cell; or

33 (ii) close a landfill cell;

34 at the landfill; and

35 (C) has received approval from the county fiscal body of the
36 county in which the landfill is located to construct or close the
37 landfill cell.

38 (b) To be eligible to include within the district's budget for the
39 following year tax revenue derived from the imposition of a property
40 tax, the first year that a property tax will be imposed and any
41 subsequent year in which the proposed tax levy will increase by five
42 percent (5%) or more, a board must present identical resolutions to

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1 each of the county fiscal bodies within the district seeking approval for
 2 the use of property tax revenue within the district. The resolution must
 3 state the proposed property tax levy and the proposed use of the
 4 revenue. The resolution must be stated so that:

5 (1) a "yes" vote indicates approval of the levy and the proposed
 6 use of property tax revenue within the district; and

7 (2) a "no" vote indicates disapproval of the levy and the proposed
 8 use of property tax revenue within the district.

9 (c) For a resolution described in subsection (b) to be approved by
 10 the county fiscal body:

11 (1) the county fiscal body must record the vote taken on the
 12 resolution under subsection (b) before May 1 of the year in which
 13 the vote was taken; and

14 (2) the recorded vote must indicate approval of the use of property
 15 tax revenue within the district.

16 (d) If all of the county fiscal bodies within a district do not record
 17 the approval described in subsection (c) before May 1 of the year in
 18 which the vote under subsection (b) was taken, the board may not:

19 (1) impose; or

20 (2) include within the budget of the board;

21 a property tax for the year following the year in which the vote was
 22 taken.

23 (e) Notwithstanding subsection (d), after the first year a tax is
 24 imposed under this section, the resolution required by subsection (b)
 25 for a district that is located in more than two (2) counties need only be
 26 approved by a majority of the county fiscal bodies for the counties in
 27 which the district is located.

28 (f) A district may not issue bonds to be repaid, directly or indirectly,
 29 with money or property tax revenue of the district until a majority of
 30 the members of each of the county fiscal bodies within a district passes
 31 a resolution approving the bond issue.

32 SECTION 18. IC 13-21-3-21 IS AMENDED TO READ AS
 33 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 21. (a) Before the
 34 board of a district may adopt an annual budget, the budget must be:

35 (1) approved by the department of local government finance; and

36 (2) sent to:

37 (A) the executive; and

38 (B) the fiscal body;

39 of each county and municipality located within the district as a
 40 matter of record.

41 **The district's budget is subject to the amount of funding provided**
 42 **by the counties that are located within the district.**

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1 **(b) Each county that is located within the district shall, for the**
 2 **2013 budget year and thereafter, determine the amount of funding**
 3 **from all sources that the county will provide to the district for that**
 4 **budget year.**

5 SECTION 19. IC 13-21-3-23 IS ADDED TO THE INDIANA
 6 CODE AS A NEW SECTION TO READ AS FOLLOWS
 7 [EFFECTIVE JULY 1, 2012]: **Sec. 23. (a) The department shall**
 8 **adopt rules to establish minimum service levels for:**

9 **(1) recycling; and**

10 **(2) the collection of household hazardous waste, electronic**
 11 **waste, tires, and white goods;**

12 **that must be provided in each district. In setting the minimum**
 13 **service levels, the department shall consider the population of a**
 14 **district, the population density of a district, the availability of**
 15 **public and private programs to achieve the minimum service**
 16 **levels, and other factors considered appropriate by the district. The**
 17 **minimum service levels may be met by a district through any**
 18 **combination of public or private programs.**

19 **(b) The rules adopted by the department must include a process**
 20 **through which:**

21 **(1) a district may apply to the department for a waiver of the**
 22 **minimum service levels; and**

23 **(2) the department may grant such a waiver.**

24 **(c) A district is responsible for ensuring that the minimum**
 25 **service levels under this section are satisfied through any**
 26 **combination of public or private programs. Each county is**
 27 **responsible for providing the county's proportionate share of the**
 28 **level of funding sufficient for the district to achieve the minimum**
 29 **service levels.**

30 SECTION 20. IC 13-21-7-1 IS AMENDED TO READ AS
 31 FOLLOWS [EFFECTIVE JULY 1, 2012]: **Sec. 1. (a) A special taxing**
 32 **district is established in each solid waste management district**
 33 **established under IC 13-21-3 or IC 13-9.5-2 (before its repeal) for the**
 34 **purpose of providing persons within the district with solid waste**
 35 **management service.**

36 **(b) The special taxing district is coterminous with the territory of the**
 37 **district.**

38 **(c) Except as provided in subsection (d), a solid waste**
 39 **management district may not levy a property tax that is first due**
 40 **and payable after 2012.**

41 **(d) A solid waste district may levy a property tax that is first**
 42 **due and payable after 2012 for the purpose of paying bonds**

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1 **described in IC 13-21-7-9(b).**

2 SECTION 21. IC 13-21-7-2 IS AMENDED TO READ AS
3 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 2. (a) The board may
4 **before July 1, 2012**, issue waste management district bonds under this
5 chapter for the payment of the cost of the facility. Before authorizing
6 the waste management district bonds, the board may:

- 7 (1) accept public bids for the facility; or
8 (2) adopt a resolution approving a request for proposals under
9 IC 13-21-6.

10 (b) **Except as provided in subsection (c), a board may not issue**
11 **bonds under this chapter after June 30, 2012.**

12 (c) **Bonds issued under this chapter may be refunded as**
13 **provided in IC 13-21-10-1 if the maturity date of the refunding**
14 **bonds is not later than the maturity of the bonds issued under this**
15 **chapter.**

16 SECTION 22. IC 13-21-7-4 IS REPEALED [EFFECTIVE
17 JANUARY 1, 2013]. Sec. 4: (a) At:

- 18 (1) the time fixed for the hearing; or
19 (2) any time before that;

20 any person owning real or personal property within the district may file
21 a written remonstrance with the board:

22 (b) At the hearing, which may be adjourned as necessary, the board
23 shall hear all persons interested in the proceedings and all
24 remonstrances filed:

25 (c) After considering the remonstrances, the board shall:

- 26 (1) take final action determining the public utility and benefit of
27 the proposed proceedings; and
28 (2) either:

- 29 (A) confirm;
30 (B) modify and confirm; or
31 (C) rescind;

32 the resolution.

33 (d) The final action of the board shall be recorded.

34 (e) The action of the board is final and conclusive upon all persons:
35 However, any person who:

- 36 (1) has remonstrated in writing; and
37 (2) is aggrieved by the decision of the board;

38 may take an appeal as provided in section 5 of this chapter.

39 SECTION 23. IC 13-21-7-5 IS REPEALED [EFFECTIVE
40 JANUARY 1, 2013]. Sec. 5: (a) If the board takes final action
41 confirming the resolution in an original or modified form, a person who
42 has filed a written remonstrance with the board as provided in section

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1 4 of this chapter may appeal to the circuit or superior court of the
2 county in which the person resides:

3 (b) Within ten (10) days after the final action of the board, the
4 remonstrator must file in the office of the clerk of the court the
5 following:

6 (1) A copy of the resolution of the board;

7 (2) The remonstrance;

8 (3) A surety bond conditioned to pay the costs of the appeal if the
9 appeal is determined against the remonstrator.

10 (c) The only ground of remonstrance of which the court has
11 jurisdiction on appeal is the question of whether it will be of public
12 utility and benefit to construct, modify, or acquire the proposed facility.
13 The burden of proof is upon the remonstrator. The cause shall be
14 summarily tried by the court without a jury.

15 (d) The court shall do the following:

16 (1) Consolidate and hear all remonstrances upon which an appeal
17 are taken as one (1) cause of action.

18 (2) Hear and determine the cause within thirty (30) days after the
19 time of filing the appeal:

20 (3) Upon the date fixed for hearing:

21 (A) hear evidence upon the remonstrances; and

22 (B) confirm the final action of the board on the resolution or
23 sustain the remonstrance.

24 SECTION 24. IC 13-21-7-6 IS REPEALED [EFFECTIVE
25 JANUARY 1, 2013]. Sec. 6: On adopting a resolution ordering the
26 issuance of waste management district bonds, the board shall certify a
27 copy of:

28 (1) the resolution; and

29 (2) the approval;

30 to the controller of the district, who shall prepare the bonds.

31 SECTION 25. IC 13-21-7-7 IS REPEALED [EFFECTIVE
32 JANUARY 1, 2013]. Sec. 7: (a) The waste management district bonds:

33 (1) are special obligations of the district; and

34 (2) are not, in any respect, a corporate obligation or indebtedness
35 of the units that comprise the district.

36 (b) The waste management district bonds issued under this chapter
37 or IC 13-9.5-9-3 (before its repeal) and the interest on the bonds are
38 payable out of a special tax levied upon all of the property of the
39 district and any other revenues made available for that purpose under
40 this article. The waste management district bonds must recite these
41 terms on the face of the bonds together with the purpose for which the
42 bonds are issued:

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1 SECTION 26. IC 13-21-7-9 IS AMENDED TO READ AS
 2 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 9. (a) **Subject to**
 3 **subsection (b)**, for the purpose of raising money to pay waste
 4 management district bonds issued under this chapter or IC 13-9.5-9-3
 5 (before its repeal), the board shall levy each year a special tax upon all
 6 the real property of the district in the amount and the manner necessary
 7 to meet and pay the following:

8 (1) The principal of the waste management district bonds as the
 9 bonds severally mature.

10 (2) All accruing interest on the bonds.

11 **(b) A tax may be levied under this section only to pay:**

12 **(1) waste management district bonds issued before February**
 13 **1, 2012, under this chapter or IC 13-9.5-9-3 (before its**
 14 **repeal); or**

15 **(2) subject to section 2(c) of this chapter, bonds issued as**
 16 **provided in IC 13-21-10-1 to refund bonds described in**
 17 **subdivision (1).**

18 ~~(b)~~ (c) The tax constitutes the amount of benefits resulting to all of
 19 the property in the district.

20 SECTION 27. IC 13-21-7-10 IS AMENDED TO READ AS
 21 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 10. (a) The tax levied
 22 **each year to pay bonds described in section 9(b) of this chapter** shall
 23 be certified to the following:

24 (1) The controller of the district.

25 (2) The county auditor of each county within the district.

26 (b) The:

27 (1) county auditor shall estimate and enter the tax levied and
 28 certified upon the tax duplicate; and

29 (2) county treasurer shall collect and enforce the tax;

30 in the same manner as county taxes are estimated, entered, collected,
 31 and enforced.

32 (c) As the county treasurer collects the tax, the tax shall be:

33 (1) transferred to the controller of the district;

34 (2) kept in a separate fund to be known as the waste management
 35 district bond fund; and

36 (3) applied to the payment of the principal of and interest on the
 37 waste management district bonds as the bonds become due and to
 38 no other purpose, except as provided in IC 5-1-13 and IC 5-1-14.

39 SECTION 28. IC 13-21-7-11 IS AMENDED TO READ AS
 40 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 11. (a) In fixing the
 41 amount of the necessary levy **to pay bonds described in section 9(b)**
 42 **of this chapter**, the board shall consider:

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- 1 (1) the amount of net revenues, if any, to be derived from the
 2 collection of fees under this article; or
 3 (2) any other net revenues collected under the following:
 4 (A) IC 13-21-3-13.
 5 (B) This chapter.
 6 (C) IC 13-21-8 through IC 13-21-12.
 7 (D) IC 13-21-14.
- 8 (b) Instead of making the levy or to reduce the amount of the levy,
 9 the board shall annually set aside by resolution the amount of the net
 10 revenues to be collected before maturity of the principal and interest of
 11 the waste management district bonds payable in the following year.
- 12 (c) If the board adopts this resolution under subsection (b), the
 13 board may not use any part of the amount set aside out of the net
 14 revenues for any purpose other than the payment of waste management
 15 district bonds and the interest on the bonds. A proportionate payment
 16 of this amount shall be made monthly to the fund.
- 17 SECTION 29. IC 13-21-8-1 IS AMENDED TO READ AS
 18 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. **(a)** A board may
 19 finance the cost of facilities by borrowing money and issuing revenue
 20 bonds under this chapter **before July 1, 2012.**
- 21 **(b) After June 30, 2012, the authority of a board to finance the**
 22 **cost of facilities by borrowing money and issuing revenue bonds**
 23 **under this chapter is transferred to each county that is a member**
 24 **of the district.**
- 25 SECTION 30. IC 13-21-9-3 IS AMENDED TO READ AS
 26 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) The
 27 resolution adopted under section 2 of this chapter may also **before July**
 28 **1, 2012,** authorize the issuance of waste management development
 29 bonds payable solely from:
- 30 (1) revenues and receipts derived from a financing agreement; or
 31 (2) payments made under a guaranty agreement by a developer,
 32 user, or any other person.
- 33 (b) The waste management development bonds are not in any
 34 respect a general obligation of the district.
- 35 **(c) After June 30, 2012, the authority of a board to issue waste**
 36 **management development bonds under this chapter is transferred**
 37 **to each county that is a member of the district.**
- 38 SECTION 31. IC 13-21-14-0.5 IS ADDED TO THE INDIANA
 39 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
 40 [EFFECTIVE JULY 1, 2012]: **Sec. 0.5. A district may not impose a**
 41 **fee under this chapter that is first due and payable after 2012 and**
 42 **that:**

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- 1 **(1) is a flat charge for each residence or building in use in the**
- 2 **county; or**
- 3 **(2) is otherwise imposed on a uniform basis on all residents or**
- 4 **property owners.**

5 SECTION 32. IC 13-21-14-2 IS AMENDED TO READ AS
 6 FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 2. The board may
 7 fix the solid waste management fees on the basis of the following:

- 8 ~~(1) A flat charge for each residence or building in use in the waste~~
- 9 ~~management district.~~
- 10 ~~(2) (1) The weight or volume of the refuse received.~~
- 11 ~~(3) (2) The average number of containers or bags of refuse~~
- 12 ~~received.~~
- 13 ~~(4) (3) The relative difficulty associated with the collection or~~
- 14 ~~management of the solid waste received.~~
- 15 ~~(5) (4) Any other criteria that the board determines to be logically~~
- 16 ~~related to the service.~~
- 17 ~~(6) (5) Any combination of these criteria.~~

18 SECTION 33. IC 13-21-16 IS ADDED TO THE INDIANA CODE
 19 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
 20 JANUARY 1, 2013]:

21 **Chapter 16. County Solid Waste Management Fees**

22 **Sec. 1. (a) A county fiscal body may establish solid waste**
 23 **management fees that apply to all persons owning real property or**
 24 **generating solid waste within the county who are benefited by solid**
 25 **waste management, solid waste collection, a facility for solid waste**
 26 **disposal, or a facility for solid waste processing.**

27 **(b) The county fiscal body may change and readjust fees as**
 28 **necessary.**

29 **Sec. 2. A fee imposed by a county fiscal body under this chapter**
 30 **may be imposed only as:**

- 31 **(1) a flat charge for each residence or building in use in the**
- 32 **county; or**
- 33 **(2) otherwise imposed on a uniform basis on all residents or**
- 34 **property owners.**

35 **Sec. 3. The collection of the fees authorized by this chapter may**
 36 **be effectuated through a periodic billing system.**

37 **Sec. 4. (a) Fees shall be established only by the adoption of an**
 38 **ordinance by the county fiscal body after public notice and a public**
 39 **hearing before the county fiscal body at which:**

- 40 **(1) all persons using facilities, owning property, or generating**
- 41 **solid waste within the district who are benefited by solid waste**
- 42 **management; and**

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- (2) other interested persons; have an opportunity to be heard concerning the proposed fees.
 - (b) After the introduction of an ordinance fixing fees and before the ordinance is adopted, public notice of the hearing, setting forth the schedule of fees, shall be given. The hearing may be adjourned as necessary.
 - (c) After the hearing, the ordinance establishing fees, either as originally introduced or as amended, shall be passed and put into effect.
 - (d) A copy of the schedule of fees established shall be kept:
 - (1) on file in the office of the county executive; and
 - (2) open to inspection by all interested persons.
 - (e) The fees established extend to cover any additional territory later served that falls within the same class without the necessity of a hearing or notice.
 - (f) A change or readjustment of fees may be made in the same manner as the fees were originally established.
- Sec. 5. An action to contest:**
- (1) the validity of the fees adopted; or
 - (2) the procedure by which the fees were adopted;
- must be brought within thirty (30) days following the adoption of the fees under section 4 of this chapter.
- Sec. 6. Fees imposed under this chapter may be used only, together with any other revenues, to pay any of the following:**
- (1) The cost of facilities for solid waste management.
 - (2) The operation and maintenance of facilities, including making grants to a solid waste management district serving the county.
 - (3) The charges that may be pledged to the payment of principal of and interest on waste management facility or revenue bonds.
- Sec. 7. (a) If a fee established is not paid within the time fixed by the county, the amount, together with:**
- (1) a penalty of twenty-five dollars (\$25); and
 - (2) reasonable attorney's fees;
- may be recovered in a civil action in the name of the county.
- (b) If a fee that is imposed on a lot, parcel of land, or building is not paid within the time fixed by the county, the amount of the fee, together with a penalty of twenty-five dollars (\$25) and reasonable attorney's fees, is a lien on the lot, parcel of land, or building. The liens:
- (1) attach;

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1 (2) are recorded; and
2 (3) shall be collected and enforced;
3 **in substantially the same manner as provided in IC 36-9-23-31**
4 **through IC 36-9-23-32.**
5 **Sec. 8. A county may not exercise its authority under this**
6 **chapter to impose a fee on the:**
7 (1) owner of real or personal property that is used solely as a
8 transfer station; or
9 (2) operation of a transfer station.
10 **SECTION 34. An emergency is declared for this act.**

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COMMITTEE REPORT

Madam President: The Senate Committee on Appropriations, to which was referred Senate Bill No. 210, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 2, between lines 33 and 34, begin a new paragraph and insert:

"SECTION 2. IC 6-1.1-17-20, AS AMENDED BY P.L.113-2010, SECTION 29, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 20. (a) This section applies to each governing body of a taxing unit that:

(1) is not comprised of a majority of officials who are elected to serve on the governing body; and

(2) either:

(A) is:

(i) a conservancy district subject to IC 14-33-9;

(ii) a solid waste management district subject to IC 13-21;

or

(iii) a fire protection district subject to IC 36-8-11-18; or

(B) has a percentage increase in the proposed budget for the taxing unit for the ensuing calendar year that is more than the result of:

(i) the assessed value growth quotient determined under IC 6-1.1-18.5-2 for the ensuing calendar year; minus

(ii) one (1).

For purposes of this section, an individual who qualifies to be appointed to a governing body or serves on a governing body because of the individual's status as an elected official of another taxing unit shall be treated as an official who was not elected to serve on the governing body.

(b) As used in this section, "taxing unit" has the meaning set forth in IC 6-1.1-1-21, except that the term does not include:

(1) a school corporation; or

(2) an entity whose tax levies are subject to review and modification by a city-county legislative body under IC 36-3-6-9.

(c) If:

(1) the assessed valuation of a taxing unit is entirely contained within a city or town; or

(2) the assessed valuation of a taxing unit is not entirely contained within a city or town but the taxing unit was originally established by the city or town;

the governing body shall submit its proposed budget and property tax

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levy to the city or town fiscal body. The proposed budget and levy shall be submitted at least thirty (30) days before the city or town fiscal body is required to hold budget approval hearings under this chapter. However, in the case of a public library that is subject to this section and is described in subdivision (2), the public library shall submit its proposed budget and property tax levy to the county fiscal body in the manner provided in subsection (d), rather than to the city or town fiscal body, if more than fifty percent (50%) of the parcels of real property within the jurisdiction of the public library are located outside the city or town.

(d) If subsection (c) does not apply, the governing body of the taxing unit shall submit its proposed budget and property tax levy to the county fiscal body in the county where the taxing unit has the most assessed valuation. The proposed budget and levy shall be submitted at least thirty (30) days before the county fiscal body is required to hold budget approval hearings under this chapter.

(e) The fiscal body of the city, town, or county (whichever applies) shall review each budget and proposed tax levy and adopt a final budget and tax levy for the taxing unit. The fiscal body may reduce or modify but not increase the proposed budget or tax levy.

(f) If a taxing unit fails to file the information required in subsection (c) or (d), whichever applies, with the appropriate fiscal body by the time prescribed by this section, the most recent annual appropriations and annual tax levy of that taxing unit are continued for the ensuing budget year.

(g) If the appropriate fiscal body fails to complete the requirements of subsection (e) before the adoption deadline in section 5 of this chapter for any taxing unit subject to this section, the most recent annual appropriations and annual tax levy of the city, town, or county, whichever applies, are continued for the ensuing budget year.

(h) In the case of a solid waste management district subject to IC 13-21:

(1) the district shall submit the district's proposed budget for the 2013 budget year and thereafter to:

(A) the executive; and

(B) the fiscal body;

of each county and municipality located within the district;

(2) each county that is a member of the district shall for the 2013 budget year and thereafter determine the amount of funding from all sources that the county will provide to the district for that budget year;

(3) except as provided in IC 13-21-7-1(d), a district may not

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levy a property tax that is first due and payable after 2012;
and

(4) after 2012, a district may not impose a fee or charge:

(A) that is a flat charge for each residence or building in use in the county; or

(B) that is otherwise imposed on a uniform basis on all residents or property owners."

Page 5, between lines 29 and 30, begin a new paragraph and insert:

"SECTION 4. IC 6-1.1-18.5-22 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: **Sec. 22. (a) For property taxes first due and payable in 2013, the department of local government finance shall increase the maximum permissible ad valorem property tax levy of each county that is a member of a solid waste management district under IC 13-21 by an amount equal to:**

(1) the part of the district's maximum permissible ad valorem property tax levy for 2012 that was imposed in the county; multiplied by

(2) the assessed value growth quotient under IC 6-1.1-18.5-2 for 2013.

(b) Each maximum permissible ad valorem property tax levy, after the adjustments made under subsection (a), becomes the maximum permissible ad valorem property tax levy for the county for purposes of determining the county's maximum permissible ad valorem property tax levy after 2013."

Page 5, line 41, after "department" insert "of education, with assistance from the department of environmental management,".

Page 6, line 2, after "department" insert "of education".

Page 6, line 22, after "department" insert "of education, with assistance from the department of environmental management,".

Page 6, line 26, after "department" insert "of education".

Page 6, delete lines 27 through 42, begin a new paragraph and insert:

"SECTION 7. IC 13-21-1-4 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012] **Sec. 4. (a) In 2013 and every fifth year thereafter, the legislative council shall assign to an interim study committee or a statutory study committee the topics of:**

(1) assessing the continued need for solid waste management districts; and

(2) determining whether any changes should be made to the statutes governing solid waste management districts.



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(b) The interim study committee or statutory study committee to which the study topics described in subsection (a) are assigned shall issue a final report, in an electronic format under IC 5-14-6, to the legislative council containing the committee's findings and recommendations, including any recommended legislation concerning the topics, not later than November 1 of the year in which the topics are assigned.

SECTION 8. IC 13-21-3-10, AS AMENDED BY P.L.214-2005, SECTION 58, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 10. (a) A controller selected under section 9 of this chapter shall do the following:

- (1) Be the official custodian of all district money and, subject to the terms of any resolution or trust indenture under which bonds are issued under this article, deposit and invest all district money in the same manner as other county money is deposited and invested under IC 5-13.
 - (2) Be responsible to the board for the fiscal management of the district.
 - (3) Be responsible for the proper safeguarding and accounting of the district's money.
 - (4) Subject to subsection (c), issue warrants approved by the board after a properly itemized and verified claim has been presented to the board on a claim docket.
 - (5) Make financial reports of district money and present the reports to the board for the board's approval.
 - (6) Prepare the district's **proposed** annual budget **that will be submitted to each county that is a member of the district.**
 - (7) Perform any other duties:
 - (A) prescribed by the board; and
 - (B) consistent with this chapter.
- (b) A controller selected under section 9 of this chapter:
- (1) does not exercise any sovereign authority of the state; and
 - (2) does not hold a lucrative office for purposes of Article 2, Section 9 of the Constitution of the State of Indiana.
- (c) The board may, by resolution, authorize the controller to make claim payments for:
- (1) payroll;
 - (2) the state solid waste management fee imposed by IC 13-20-22-1; and
 - (3) certain specific vendors identified in the resolution;
- without the claims being first approved by the board if before payment the claims are approved in writing by the chairperson of the board or

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in the absence of the chairperson another member of the board designated by the chairperson. The claims shall be reviewed and allowed by the board at the board's next regular or special meeting.

SECTION 9. IC 13-21-3-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 11. (a) The board of each district shall appoint and convene a solid waste management advisory committee of citizens not later than thirty (30) days after the board has been established. The committee must include the following:

- (1) Representatives of the solid waste management industry operating in the district.
- (2) Representatives of the environmental community and other citizens who are:
 - (A) knowledgeable about and interested in environmental issues; and
 - (B) not employed directly or indirectly by the solid waste management industry.

(b) At least fifty percent (50%) of the members of an advisory committee must be made up of the representatives of the environmental community and other citizens. All members of the committee must be residents of the district.

(c) In the resolution establishing an advisory committee, the board shall specify the terms of the members and the purposes of the committee. Each advisory committee shall do the following:

- (1) Study the subjects and problems specified by the board and recommend to the board additional problems in need of study and discussion.
- (2) If invited by the board to do so, participate, without the right to vote, in the deliberations of the board.

(d) An advisory committee shall report only to the board. Reports of the committee must:

- (1) accompany a final district plan when the plan is submitted to the commissioner under IC 13-21-5; and
- (2) be made available to members of the public.

(e) An advisory committee may choose to study and report on matters that are not specified by the board if the committee determines a study is warranted.

(f) An advisory committee and board shall conduct at least two (2) joint meetings each year to discuss current and future issues. The advisory committee shall submit into the record at the next meeting of the board advice on the topics discussed at the joint meeting.

(g) An advisory committee shall do the following:

- (1) Meet after the first publication of the district's proposed

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annual budget **that will be submitted to each county that is a member of the district.**

(2) Submit written comments concerning the proposed budget at a public hearing that is held to review the proposed budget."

Delete page 7.

Page 8, delete lines 1 through 14.

Page 9, line 35, after "law." insert **"The power to adopt a resolution under this subdivision does not authorize a district to require a permit prohibited by section 14(b)(5) of this chapter or to impose a fee prohibited by section 14(b)(5) of this chapter."**

Page 11, line 28, after "department" delete "." and insert **"of education."**

Page 12, line 4, delete "." and insert **"or impose a fee or charge that is first due and payable after 2012 and that:**

(1) is a flat charge for each residence or building in use in the county; or

(2) is otherwise imposed on a uniform basis on all residents or property owners."

Page 12, delete lines 5 through 42, begin a new paragraph and insert:

"SECTION 11. IC 13-21-3-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 13. (a) A board may do the following:

(1) Enter into agreements concerning and acquire by any lawful means real property or interests in real and personal property needed for the purposes of this section or IC 13-21-9.

(2) Enter into financing agreements to purchase, lease as lessee, construct, remodel, rebuild, enlarge, or substantially improve facilities.

(3) Lease facilities to users or developers with or without an option to purchase.

(4) Sell facilities to users or developers for consideration, which may be paid in installments or otherwise.

(5) Make direct loans to users or developers for the cost of acquisition, construction, or installation of facilities, including real property, machinery, or equipment. If loans are made, the development bonds must be secured by the pledge of one (1) or more bonds or other secured or unsecured debt obligations of the users or developers.

(6) Enter into agreements with users or developers to allow the users or developers to wholly or partially acquire, construct, or modify facilities to be acquired by the district.

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(7) **Before July 1, 2012**, issue waste management development bonds under IC 13-21-9 to do the following:

- (A) Accomplish the purposes of this section and IC 13-21-9.
- (B) Secure payment of the development bonds as provided in IC 13-21-9.

(b) This section or IC 13-21-9 does not authorize the district's financing of facilities for a developer unless any agreement that exists between a developer and a user is fully disclosed to and approved by the board.

SECTION 12. IC 13-21-3-13.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 13.5. (a) ~~This section does not apply to the following:~~

- ~~(1) A nonreverting capital fund established under section 12(24) of this chapter.~~
- ~~(2) A fund established under IC 13-21-7-8.~~
- ~~(3) The waste management district bond fund established under IC 13-21-7-10.~~
- ~~(4) A fund established to secure the payment of principal and interest under IC 13-21-12-1(12).~~

~~(b) At the end of each year the district shall prepare a report that provides the following information:~~

- ~~(1) For each fund that contains district money:

 - (A) the cash balance at the end of the year;
 - (B) a list of all encumbrances on the fund that the district is legally obligated to pay;
 - (C) a copy of documentation that supports each encumbrance listed in clause (B);
 - (D) the fund balance obtained by subtracting the amount under clause (B) from the amount under clause (A); ~~and~~
 - (E) the total expenditures from the fund for the year; **and**
 - (F) any other financial information required by the department.**~~
- ~~(2) The total of all fund balances calculated under subdivision (1)(D).~~
- ~~(3) The total of all fund expenditures reported under subdivision (1)(E).~~
- ~~**(4) Any programmatic information required by the department.**~~
- ~~**(5) The total amount of expenditures by the district for the year.**~~
- ~~**(6) The per capita expenditures by the district for the year.**~~
- ~~**(7) The amount of expenditures by the district for the year for**~~



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personnel costs.

(8) The amount of expenditures by the district for the year for program costs (excluding personnel costs).

(9) The total amount of solid waste (in tons) disposed of in the district for the year.

(10) The total amount of expenditures by the district for the year, divided by the total amount of solid waste (in tons) disposed of in the district for the year.

(11) The total amount of recycling (in tons) carried out in the district in the year.

(12) The total amount of expenditures by the district for the year, divided by the total amount of recycling (in tons) carried out in the district in the year.

~~(c)~~ **(b)** The district shall provide the report ~~developed~~ **prepared** under subsection ~~(b)~~ **(a)**:

~~(1) to the department, the department of local government finance in a format prescribed by the department; and the environmental quality service~~

(2) to the legislative council in an electronic format under IC 5-14-6;

by February 1 of the year following the year for which the report is made.

(c) The district shall publish the report prepared under subsection (a) on an Internet web site maintained by the district or on the Internet web sites maintained by the counties that are members of the district.

SECTION 13. IC 13-21-3-14, AS AMENDED BY P.L.220-2011, SECTION 284, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 14. (a) This section does not apply to a contract executed before April 1, 1998.

(b) Except as provided in subsection (d) and section 14.5 of this chapter, the powers of a district do not include the following:

(1) The power of eminent domain.

(2) Except as provided in subsection (c), the power to exclusively control the collection or disposal of any solid waste or recyclables within the district by means that include the following:

(A) Franchising.

(B) Establishing a territory or territories within the district in which a person may provide service.

(3) The power to establish the type of service that a person must provide for the collection or disposal of solid waste or recyclables within the district.



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(4) The power to establish fees that a person must charge for the collection or disposal of solid waste or recyclables within the district.

(5) **Except as expressly granted by statute**, the power to:

(A) issue permits for ~~an~~ **a solid waste management** activity that:

(i) is already permitted by a state **or federal** agency; ~~except as expressly granted by statute~~; or

(ii) **is not regulated by any state or federal agency; or**

(B) **require the payment of a fee for a solid waste management activity that:**

(i) **is already permitted by a state or federal agency; or**

(ii) **is not regulated by a state or federal agency.**

This subdivision does not prohibit a district from imposing a user fee or charge to reimburse the district for the cost of service provided by the district to the payer of the user fee or charge.

(6) **The power to impose a fee or charge that is first due and payable after 2012 and that:**

(A) **is a flat charge for each residence or building in use in the county; or**

(B) **is otherwise imposed on a uniform basis on all residents or property owners.**

(c) If one (1) or more of the governmental entities in a district, at the time of the formation of the district, is a party to a contract providing that the persons contracted with have the exclusive right to collect or dispose of solid waste within the jurisdiction of the governmental entity, the district may enter into an extension of that contract.

(d) Subsection ~~(b)~~ **does (b)(1) through (b)(4) does** not apply to activities conducted as part of a household hazardous waste collection and disposal project."

Page 13, delete lines 1 through 31.

Page 17, delete lines 36 through 42, begin a new paragraph and insert:

"SECTION 18. IC 13-21-3-21 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 21. **(a)** Before the board of a district may adopt an annual budget, the budget must be:

(1) approved by the department of local government finance; and

(2) sent to:

(A) the executive; and

(B) the fiscal body;

of each county and municipality located within the district as a

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matter of record.

The district's budget is subject to the amount of funding provided by the counties that are located within the district.

(b) Each county that is located within the district shall, for the 2013 budget year and thereafter, determine the amount of funding from all sources that the county will provide to the district for that budget year.

SECTION 19. IC 13-21-3-23 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: **Sec. 23. (a) The department shall adopt rules to establish minimum service levels for:**

- (1) recycling; and**
- (2) the collection of household hazardous waste, electronic waste, tires, and white goods;**

that must be provided in each district. In setting the minimum service levels, the department shall consider the population of a district, the population density of a district, the availability of public and private programs to achieve the minimum service levels, and other factors considered appropriate by the district. The minimum service levels may be met by a district through any combination of public or private programs.

(b) The rules adopted by the department must include a process through which:

- (1) a district may apply to the department for a waiver of the minimum service levels; and**
- (2) the department may grant such a waiver.**

(c) A district is responsible for ensuring that the minimum service levels under this section are satisfied through any combination of public or private programs. Each county is responsible for providing the county's proportionate share of the level of funding sufficient for the district to achieve the minimum service levels."

Page 18, delete lines 1 through 40.

Page 19, between lines 26 and 27, begin a new paragraph and insert:

"SECTION 22. IC 13-21-7-4 IS REPEALED [EFFECTIVE JANUARY 1, 2013]. **Sec. 4: (a) At:**

- (1) the time fixed for the hearing; or**
- (2) any time before that;**

any person owning real or personal property within the district may file a written remonstrance with the board:

(b) At the hearing, which may be adjourned as necessary, the board shall hear all persons interested in the proceedings and all

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remonstrances filed:

(c) After considering the remonstrances, the board shall:

(1) take final action determining the public utility and benefit of the proposed proceedings; and

(2) either:

(A) confirm;

(B) modify and confirm; or

(C) rescind;

the resolution.

(d) The final action of the board shall be recorded.

(e) The action of the board is final and conclusive upon all persons.

However, any person who:

(1) has remonstrated in writing; and

(2) is aggrieved by the decision of the board;

may take an appeal as provided in section 5 of this chapter.

SECTION 23. IC 13-21-7-5 IS REPEALED [EFFECTIVE JANUARY 1, 2013]. Sec. 5. (a) If the board takes final action confirming the resolution in an original or modified form, a person who has filed a written remonstrance with the board as provided in section 4 of this chapter may appeal to the circuit or superior court of the county in which the person resides:

(b) Within ten (10) days after the final action of the board, the remonstrator must file in the office of the clerk of the court the following:

(1) A copy of the resolution of the board;

(2) The remonstrance;

(3) A surety bond conditioned to pay the costs of the appeal if the appeal is determined against the remonstrator.

(c) The only ground of remonstrance of which the court has jurisdiction on appeal is the question of whether it will be of public utility and benefit to construct, modify, or acquire the proposed facility. The burden of proof is upon the remonstrator. The cause shall be summarily tried by the court without a jury.

(d) The court shall do the following:

(1) Consolidate and hear all remonstrances upon which an appeal are taken as one (1) cause of action.

(2) Hear and determine the cause within thirty (30) days after the time of filing the appeal.

(3) Upon the date fixed for hearing:

(A) hear evidence upon the remonstrances; and

(B) confirm the final action of the board on the resolution or sustain the remonstrance.

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SECTION 24. IC 13-21-7-6 IS REPEALED [EFFECTIVE JANUARY 1, 2013]. Sec. 6: On adopting a resolution ordering the issuance of waste management district bonds, the board shall certify a copy of:

- (1) the resolution; and
- (2) the approval;

to the controller of the district, who shall prepare the bonds.

SECTION 25. IC 13-21-7-7 IS REPEALED [EFFECTIVE JANUARY 1, 2013]. Sec. 7: (a) The waste management district bonds:

- (1) are special obligations of the district; and
- (2) are not, in any respect, a corporate obligation or indebtedness of the units that comprise the district.

(b) The waste management district bonds issued under this chapter or IC 13-9-5-9-3 (before its repeal) and the interest on the bonds are payable out of a special tax levied upon all of the property of the district and any other revenues made available for that purpose under this article. The waste management district bonds must recite these terms on the face of the bonds together with the purpose for which the bonds are issued:"

Page 19, line 38, delete "July 1," and insert "**February 1, 2012,**".

Page 19, line 39, delete "2012,".

Page 20, after line 42, begin a new paragraph and insert:

"SECTION 29. IC 13-21-8-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) A board may finance the cost of facilities by borrowing money and issuing revenue bonds under this chapter **before July 1, 2012.**

(b) **After June 30, 2012, the authority of a board to finance the cost of facilities by borrowing money and issuing revenue bonds under this chapter is transferred to each county that is a member of the district.**

SECTION 30. IC 13-21-9-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) The resolution adopted under section 2 of this chapter may also **before July 1, 2012,** authorize the issuance of waste management development bonds payable solely from:

- (1) revenues and receipts derived from a financing agreement; or
- (2) payments made under a guaranty agreement by a developer, user, or any other person.

(b) The waste management development bonds are not in any respect a general obligation of the district.

(c) **After June 30, 2012, the authority of a board to issue waste management development bonds under this chapter is transferred**



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to each county that is a member of the district.

SECTION 31. IC 13-21-14-0.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: **Sec. 0.5. A district may not impose a fee under this chapter that is first due and payable after 2012 and that:**

- (1) is a flat charge for each residence or building in use in the county; or**
- (2) is otherwise imposed on a uniform basis on all residents or property owners.**

SECTION 32. IC 13-21-14-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2013]: **Sec. 2. The board may fix the solid waste management fees on the basis of the following:**

- ~~(1)~~ **A flat charge for each residence or building in use in the waste management district.**
- ~~(2)~~ **(1) The weight or volume of the refuse received.**
- ~~(3)~~ **(2) The average number of containers or bags of refuse received.**
- ~~(4)~~ **(3) The relative difficulty associated with the collection or management of the solid waste received.**
- ~~(5)~~ **(4) Any other criteria that the board determines to be logically related to the service.**
- ~~(6)~~ **(5) Any combination of these criteria.**

SECTION 33. IC 13-21-16 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2013]:

Chapter 16. County Solid Waste Management Fees

Sec. 1. (a) A county fiscal body may establish solid waste management fees that apply to all persons owning real property or generating solid waste within the county who are benefited by solid waste management, solid waste collection, a facility for solid waste disposal, or a facility for solid waste processing.

(b) The county fiscal body may change and readjust fees as necessary.

Sec. 2. A fee imposed by a county fiscal body under this chapter may be imposed only as:

- (1) a flat charge for each residence or building in use in the county; or**
- (2) otherwise imposed on a uniform basis on all residents or property owners.**

Sec. 3. The collection of the fees authorized by this chapter may be effectuated through a periodic billing system.



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Sec. 4. (a) Fees shall be established only by the adoption of an ordinance by the county fiscal body after public notice and a public hearing before the county fiscal body at which:

- (1) all persons using facilities, owning property, or generating solid waste within the district who are benefited by solid waste management; and**
- (2) other interested persons;**

have an opportunity to be heard concerning the proposed fees.

(b) After the introduction of an ordinance fixing fees and before the ordinance is adopted, public notice of the hearing, setting forth the schedule of fees, shall be given. The hearing may be adjourned as necessary.

(c) After the hearing, the ordinance establishing fees, either as originally introduced or as amended, shall be passed and put into effect.

(d) A copy of the schedule of fees established shall be kept:

- (1) on file in the office of the county executive; and**
- (2) open to inspection by all interested persons.**

(e) The fees established extend to cover any additional territory later served that falls within the same class without the necessity of a hearing or notice.

(f) A change or readjustment of fees may be made in the same manner as the fees were originally established.

Sec. 5. An action to contest:

- (1) the validity of the fees adopted; or**
- (2) the procedure by which the fees were adopted;**

must be brought within thirty (30) days following the adoption of the fees under section 4 of this chapter.

Sec. 6. Fees imposed under this chapter may be used only, together with any other revenues, to pay any of the following:

- (1) The cost of facilities for solid waste management.**
- (2) The operation and maintenance of facilities, including making grants to a solid waste management district serving the county.**
- (3) The charges that may be pledged to the payment of principal of and interest on waste management facility or revenue bonds.**

Sec. 7. (a) If a fee established is not paid within the time fixed by the county, the amount, together with:

- (1) a penalty of twenty-five dollars (\$25); and**
- (2) reasonable attorney's fees;**

may be recovered in a civil action in the name of the county.

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(b) If a fee that is imposed on a lot, parcel of land, or building is not paid within the time fixed by the county, the amount of the fee, together with a penalty of twenty-five dollars (\$25) and reasonable attorney's fees, is a lien on the lot, parcel of land, or building. The liens:

- (1) attach;**
- (2) are recorded; and**
- (3) shall be collected and enforced;**

in substantially the same manner as provided in IC 36-9-23-31 through IC 36-9-23-32.

Sec. 8. A county may not exercise its authority under this chapter to impose a fee on the:

- (1) owner of real or personal property that is used solely as a transfer station; or**
- (2) operation of a transfer station.**

SECTION 34. An emergency is declared for this act."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 210 as introduced.)

KENLEY, Chairperson

Committee Vote: Yeas 7, Nays 6.

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