

PREVAILED	Roll Call No. _____
FAILED	Ayes _____
WITHDRAWN	Noes _____
RULED OUT OF ORDER	

HOUSE MOTION _____

MR. SPEAKER:

I move that House Bill 1497 be amended to read as follows:

- 1 Page 8, between lines 11 and 12, begin a new paragraph and insert:
2 "SECTION 7. IC 13-26-2-3, AS AMENDED BY P.L.97-2012,
3 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
4 JULY 1, 2013]: Sec. 3. A petition to establish a district under this
5 chapter must state the following:
6 (1) The proposed name of the district.
7 (2) The place in which the district's principal office is to be
8 located.
9 (3) The following information:
10 (A) The need for the proposed district.
11 (B) The purpose to be accomplished.
12 (C) How the district will be conducive to the public health,
13 safety, convenience, or welfare, including a specific statement
14 of how:
15 (i) water supply, for a water district;
16 (ii) sewage collection, disposal, and treatment, for a sewage
17 district; or
18 (iii) solid waste disposal, recovery, or treatment, for a solid
19 waste district;
20 is currently being provided.
21 (D) Whether there is any outstanding indebtedness for the
22 purpose proposed in the proposed district, including a
23 statement as to how the current situation creates or adds to
24 pollution or health hazards or impedes development in the

- 1 area.
- 2 (4) An accurate description of the territory to be included in the
- 3 district, which does not have to be given by metes and bounds or
- 4 by legal subdivisions. The territory does not have to be
- 5 contiguous, but the territory must be so situated that the public
- 6 health, safety, convenience, or welfare will be promoted by the
- 7 establishment as a single district of the territory described.
- 8 (5) **Except for a petition to establish a regional sewage district,**
- 9 the petitioner's recommendations on:
- 10 (A) the manner of selection;
- 11 (B) the number; and
- 12 (C) the term, not exceeding four (4) years;
- 13 of the members of the board of trustees.
- 14 (6) The plan for financing the cost of the operations of the district
- 15 until the district is in receipt of revenue from the district's
- 16 operations or proceeds from the sale of bonds.
- 17 (7) Estimates of the following:
- 18 (A) The costs of accomplishing the purpose of the district.
- 19 (B) The costs of operating and maintaining the works.
- 20 (C) The sources of the funding of these costs.
- 21 (D) The rates and charges that will be required.
- 22 (E) The median income for households in the proposed district
- 23 based on the most recent federal decennial census.
- 24 (8) A summary of alternatives to creating the district."
- 25 Page 8, between lines 25 and 26, begin a new paragraph and insert:
- 26 "SECTION 9. IC 13-26-2-8 IS AMENDED TO READ AS
- 27 FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 8. (a) After the hearing
- 28 on the petition for the establishment of the proposed district, which
- 29 may be adjourned periodically, the hearing officer shall make findings
- 30 on the petition and other relevant facts and recommendations as to
- 31 whether:
- 32 (1) the petition should be:
- 33 (A) approved;
- 34 (B) approved with modifications; or
- 35 (C) denied; and
- 36 (2) a district should be established.
- 37 (b) **Except for the establishment of a proposed regional sewage**
- 38 **district,** if the recommendation is in the affirmative, the
- 39 recommendation must also include recommendations on:
- 40 (1) the manner of the selection or appointment;
- 41 (2) the number; and
- 42 (3) the terms;
- 43 of the board.
- 44 (c) The description of the territory to be included in a district may
- 45 not include territory in a municipality that has, by ordinance or
- 46 resolution filed with the department, exercised the option not to be

1 included in the district.
2 SECTION 10. IC 13-26-2-10 IS AMENDED TO READ AS
3 FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 10. (a) If the
4 commissioner determines that the findings show that the establishment
5 of a recommended district:
6 (1) complies with the conditions of this chapter for establishment
7 of a district; and
8 (2) appears capable of accomplishing the purpose or purposes in
9 an economically feasible manner;
10 the commissioner shall issue an order directing that the district be
11 established as an independent municipal corporation with a name and
12 for the purposes designated in the order.
13 (b) An order must do the following:
14 (1) **Except for an order concerning the establishment of a**
15 **regional sewage district**, provide for the selection or
16 appointment and terms of offices, not to exceed four (4) years, of
17 the board.
18 (2) Provide requirements for sufficient bond for all officers,
19 trustees, or employees having power to dispense money of the
20 district.
21 (3) If an eligible entity with territory in the district has a public
22 water or solid waste sewer system, contain provisions protecting
23 the investments of the entities and protecting the rights of the
24 holders of bonds or other obligations issued to provide money for
25 the system.
26 (4) Direct the district to file a detailed plan for the initial project
27 of the district not later than nine (9) months after the date of the
28 preliminary order or within a further time that the department
29 from time to time orders.
30 SECTION 11. IC 13-26-4-0.5 IS ADDED TO THE INDIANA
31 CODE AS A **NEW SECTION TO READ AS FOLLOWS**
32 **[EFFECTIVE JULY 1, 2013]: Sec. 0.5. This chapter:**
33 **(1) applies only to a regional water or solid waste district; and**
34 **(2) does not apply to a regional sewage district.**
35 SECTION 12. IC 13-26-4-5 IS REPEALED [EFFECTIVE JULY 1,
36 2013]. ~~Sec. 5: If a plan also contemplates that sewage treatment for the~~
37 ~~district will be provided in cooperation with a municipality, the order~~
38 ~~must provide that:~~
39 ~~(1) at least one (1) trustee shall be appointed by the executive of~~
40 ~~the municipality; and~~
41 ~~(2) at least:~~
42 ~~(A) one (1) trustee shall be appointed by the fiscal body; and~~
43 ~~(B) one (1) trustee shall be appointed by the executive;~~
44 ~~of the county having the largest amount of territory in the~~
45 ~~district."~~
46 Page 8, line 34, strike "or 5".

1 Page 8, between lines 37 and 38, begin a new paragraph and insert:
 2 "SECTION 14. IC 13-26-4-6.1, AS ADDED BY P.L.139-2012,
 3 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 4 JULY 1, 2013]: Sec. 6.1. (a) **Subject to IC 13-26-4.5-2 and**
 5 **IC 13-26-4.5-3**, this section applies to a district that is:

- 6 (1) a countywide district; and
 7 (2) established in response to an agreed order entered into after
 8 December 31, 1982, by the department and the executive and
 9 fiscal bodies of the county.

10 (b) Not later than December 31, 2012, the parties to an agreed order
 11 described in subsection (a)(2) shall amend the agreed order to provide
 12 for the appointment of trustees as follows:

- 13 (1) Beginning July 1, 2013, at least one (1) appointed trustee must
 14 reside in the geographic area that is the subject of the department
 15 investigation resulting in the agreed order.
 16 (2) Beginning July 1, 2013, an appointed trustee may not be
 17 served by a municipal sewer system.
 18 (3) Beginning July 1, 2013, at least one (1) appointed trustee must
 19 be an elected official who represents a political subdivision that
 20 has territory in the district.

21 SECTION 15. IC 13-26-4.5 IS ADDED TO THE INDIANA CODE
 22 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
 23 JULY 1, 2013]:

24 **Chapter 4.5. Board of Trustees of Regional Sewage Districts**

25 **Sec. 1. This chapter:**

- 26 (1) **applies only to a regional sewage district; and**
 27 (2) **does not apply to a regional water or solid waste district.**

28 **Sec. 2. (a) This section applies only to a regional sewage district**
 29 **that is not located in whole or in part in a county having a**
 30 **consolidated city.**

31 (b) **As of July 1, 2013, the board of trustees of a regional sewage**
 32 **district is a county executive of a county as follows:**

- 33 (1) **If all of the territory of a regional sewage district is located**
 34 **within one (1) county, the county executive of the county is the**
 35 **board of trustees of the regional sewage district.**
 36 (2) **If the territory of a regional sewage district is located**
 37 **within more than one (1) county, the county executive of the**
 38 **county that contains the greatest number of freeholders**
 39 **within the regional sewage district is the board of trustees of**
 40 **the regional sewage district.**

41 **Sec. 3. (a) This section applies only to a regional sewage district**
 42 **that is located in whole or in part in a county having a consolidated**
 43 **city.**

44 (b) **As of July 1, 2013:**

- 45 (1) **if all of the territory of a regional sewage district is located**
 46 **within a county having a consolidated city, the board of public**

- 1 works established under IC 36-3-5-6 is the board of trustees
- 2 of the regional sewage district; and
- 3 **(2) if only part of the territory of a regional sewage district is**
- 4 **located within a county having a consolidated city:**
- 5 **(A) the board of public works established under**
- 6 **IC 36-3-5-6 is the board of trustees of the regional sewage**
- 7 **district if the county having the consolidated city contains**
- 8 **the greatest number of freeholders within the regional**
- 9 **sewage district; and**
- 10 **(B) the county executive of the county that contains the**
- 11 **greatest number of freeholders within the regional sewage**
- 12 **district is the board of trustees of the regional sewage**
- 13 **district if the county having the consolidated city does not**
- 14 **contain the greatest number of freeholders within the**
- 15 **regional sewage district.**

16 **Sec. 4. (a) When the board of a regional sewage district conducts**
 17 **a public hearing or meeting, the board shall allow any person an**
 18 **opportunity to be heard:**

- 19 **(1) in the presence of others who are present to testify; and**
- 20 **(2) in accordance with subsection (b).**
- 21 **(b) The board may limit testimony at a public hearing or**
- 22 **meeting to a reasonable time stated at the opening of the public**
- 23 **hearing or meeting.**

24 SECTION 16. IC 13-26-5-1 IS AMENDED TO READ AS
 25 FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 1. (a) Upon:

- 26 (1) the declaration of the commissioner organizing a **regional**
- 27 **water or solid waste** district;
- 28 (2) the qualification of the board; and
- 29 (3) the election of a president, a treasurer, and a secretary;
- 30 the **regional water or solid waste** district may exercise in the district's
- 31 own name, as a municipal corporation, all the rights, powers, and duties
- 32 conferred upon the district by this article.

33 **(b) Upon:**

- 34 **(1) the declaration of the commissioner organizing a regional**
- 35 **sewage district; and**
- 36 **(2) the election of a president, a treasurer, and a secretary;**
- 37 **the regional sewage district may exercise in the district's own**
- 38 **name, as a municipal corporation, all the rights, powers, and duties**
- 39 **conferred upon the district by this article."**

40 Page 12, between lines 34 and 35, begin a new paragraph and insert:
 41 "SECTION 19. IC 13-26-11-13, AS AMENDED BY P.L.97-2012,
 42 SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 43 JULY 1, 2013]: Sec. 13. (a) The ordinance establishing the initial rates
 44 or charges, either as:

- 45 (1) originally introduced; or
- 46 (2) modified and amended;

- 1 shall be passed and put into effect after the hearing.
- 2 (b) A copy of the schedule of the rates and charges established must
3 be:
- 4 (1) kept on file in the office of the district; and
5 (2) open to public inspection.
- 6 (c) Whenever the board acts under section 8(b) of this chapter, to
7 change or readjust the rates and charges, the board shall mail, either
8 separately or along with a periodic billing statement, a notice of the
9 new rates and charges to each user affected by the change or
10 readjustment. In the case of a sewage district, if the change or
11 readjustment increases the rates and charges by the amount specified
12 in section ~~15(c)~~ **15(a)** of this chapter, the notice required by this
13 subsection:
- 14 (1) must include a statement of a ratepayer's rights under section
15 15 of this chapter; and
16 (2) shall be mailed within the time specified in section ~~15(c)~~
17 **(15)(a)** of this chapter.
- 18 (d) Following the passage of an ordinance under subsection (a), the
19 lesser of fifty (50) or ten percent (10%) of the ratepayers of the district
20 may file a written petition objecting to the initial rates and charges of
21 the district. A petition filed under this subsection must:
- 22 (1) contain the name and address of each petitioner;
23 (2) be filed with a member of the district authority, in the county
24 where at least one (1) petitioner resides, not later than thirty (30)
25 days after the district adopts the ordinance; and
26 (3) set forth the grounds for the ratepayers' objection.
- 27 (e) The district authority shall set the matter for public hearing not
28 less than ten (10) business days but not later than twenty (20) business
29 days after the petition has been filed. The district authority shall send
30 notice of the hearing by certified mail to the district and the first listed
31 petitioner and publish the notice of the hearing in a newspaper of
32 general circulation in each county in the district.
- 33 (f) Upon the date fixed in the notice, the district authority shall hear
34 the evidence produced and determine the following:
- 35 (1) Whether the board of trustees of the district, in adopting the
36 ordinance establishing sewer rates and charges, followed the
37 procedure required by this chapter.
38 (2) Whether the sewer rates and charges established by the board
39 by ordinance are just and equitable rates and charges, according
40 to the standards set forth in section 9 of this chapter.
- 41 (g) After the district authority hears the evidence produced and
42 makes the determinations set forth in subsection (f), the district
43 authority, by a majority vote, shall:
- 44 (1) sustain the ordinance establishing the rates and charges;
45 (2) sustain the petition; or
46 (3) make any other ruling appropriate in the matter, subject to the

- 1 standards set forth in section 9 of this chapter.
- 2 (h) The order of the district authority may be appealed by the district
3 or a petitioner to the circuit court of the county in which the district is
4 located. The court shall try the appeal without a jury and shall
5 determine one (1) or both of the following:
- 6 (1) Whether the board of trustees of the district, in adopting the
7 ordinance establishing sewer rates and charges, followed the
8 procedure required by this chapter.
- 9 (2) Whether the sewer rates and charges established by the board
10 by ordinance are just and equitable rates and charges, according
11 to the standards set forth in section 9 of this chapter.
- 12 Either party may appeal the circuit court's decision in the same manner
13 that other civil cases may be appealed.
- 14 SECTION 20. IC 13-26-11-15, AS AMENDED BY P.L.97-2012,
15 SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
16 JULY 1, 2013]: Sec. 15. (a) A district authority is established in each
17 regional sewage district established under this article. A district
18 authority:
- 19 (1) must consist of an odd number of members;
20 (2) must consist of at least three (3) members; and
21 (3) may not include as a member any person who serves on the
22 board of trustees of the district.
- 23 (b) The district authority of a regional sewage district consists of the
24 following members:
- 25 (1) In the case of a regional sewage district located in one (1)
26 county, the following members:
- 27 (A) If no members of the county executive are trustees of the
28 regional sewage district, the county executive of the county;
- 29 (B) If:
- 30 (i) one (1) or more members of the county executive are
31 trustees of the regional sewage district; and
32 (ii) no members of the county fiscal body are trustees of the
33 regional sewage district;
- 34 the members of the county fiscal body;
- 35 (C) If the regional sewage district's board of trustees consists
36 of one (1) or more members of the county executive and one
37 (1) or more members of the county fiscal body, three (3)
38 members appointed as follows:
- 39 (i) Two (2) members appointed by the county executive. If
40 not all of the members of the county executive are trustees
41 of the district, the county executive may appoint either or
42 both of the two (2) members required by this item from
43 among the county executive's own membership, subject to
44 subsection (a)(3);
- 45 (ii) One (1) member appointed by the county fiscal body. If
46 not all of the members of the county fiscal body are trustees

- 1 of the district; the county fiscal body may appoint the
 2 member required by this item from among the county fiscal
 3 body's own membership; subject to subsection (a)(3).
 4 (2) In the case of a regional sewage district located in more than
 5 one (1) county; the following members:
 6 (A) If:
 7 (i) an odd number of counties are part of the regional sewage
 8 district; and
 9 (ii) each county in the district has at least one (1) county
 10 executive member who is not a trustee of the regional
 11 sewage district;
 12 one (1) county executive member; appointed by that member's
 13 county executive; from each county in which the district is
 14 located; subject to subsection (a)(3).
 15 (B) If an even number of counties are part of the regional
 16 sewage district; the following members:
 17 (i) Two (2) county executive members; appointed by those
 18 members' county executive; from the county that has the
 19 largest number of customers served by the district's sewer
 20 system. However; if the county that has the largest number
 21 of customers served by the district's sewer system does not
 22 have at least two (2) members of its executive who are not
 23 also trustees of the district; the county executive of that
 24 county may appoint one (1) or more of the members
 25 required by this item from outside the county executive's
 26 own membership in order to comply with subsection (a)(3).
 27 (ii) One (1) county executive member; appointed by that
 28 member's county executive; from each county; other than the
 29 county described in item (i); in which the district is located.
 30 However; if a county described in this item does not have at
 31 least one (1) member of its executive who is not also a
 32 trustee of the district; the county executive of that county
 33 may appoint the member required by this item from outside
 34 the county executive's own membership in order to comply
 35 with subsection (a)(3).
 36 (C) If an odd number of counties are part of the regional
 37 sewage district and an odd number of those counties in the
 38 district do not have at least one (1) county executive member
 39 who is not also a trustee of the district; the following members:
 40 (i) One (1) county executive member; appointed by that
 41 member's county executive; from each county that has at
 42 least one (1) county executive member who is not also a
 43 trustee of the district; subject to subsection (a)(3).
 44 (ii) One (1) member appointed by the county executive of
 45 each county that does not have at least one (1) county
 46 executive member who is not also a trustee of the district. A

1 member appointed under this item must be appointed from
 2 outside the appointing county executive's own membership;
 3 subject to subsection (a)(3):

4 ~~(c)~~ (a) If a district adopts an ordinance increasing sewer rates and
 5 charges at a rate that is greater than five percent (5%) per year, as
 6 calculated from the rates and charges in effect from the date of the
 7 district's last rate increase, the district shall mail, either separately or
 8 along with a periodic billing statement, a notice of the new rates and
 9 charges to each user of the sewer system who is affected by the
 10 increase. The notice:

11 (1) shall be mailed not later than seven (7) days after the district
 12 adopts the ordinance increasing the rates and charges; and

13 (2) must include a statement of a ratepayer's rights under this
 14 section.

15 ~~(d)~~ (b) If subsection ~~(c)~~ (a) applies, fifty (50) ratepayers of the
 16 district or ten percent (10%) of the district's ratepayers, whichever is
 17 fewer, may file a written petition objecting to the rates and charges of
 18 the district. A petition filed under this subsection must:

19 (1) contain the name and address of each petitioner;

20 (2) be filed with a ~~member of the board of trustees of the district~~
 21 ~~authority, in the county where at least one (1) petitioner resides;~~
 22 not later than thirty (30) days after the district adopts the
 23 ordinance establishing the rates and charges; and

24 (3) set forth the grounds for the ratepayers' objection.

25 If a petition meeting the requirements of this subsection is filed, the
 26 ~~board of trustees of the district authority~~ shall investigate and conduct
 27 a public hearing on the petition. If more than one (1) petition
 28 concerning a particular increase in rates and charges is filed, the
 29 ~~district authority board~~ shall consider the objections set forth in all the
 30 petitions at the same public hearing.

31 ~~(e)~~ (c) The ~~board of trustees of the district authority~~ shall set the
 32 matter for public hearing not less than ten (10) business days but not
 33 later than twenty (20) business days after the petition has been filed.
 34 The ~~district authority board~~ shall send notice of the hearing by
 35 certified mail to the district and the first listed petitioner and publish
 36 the notice of the hearing in a newspaper of general circulation in each
 37 county in the district.

38 ~~(f)~~ (d) Upon the date fixed in the notice, the ~~board of trustees of~~
 39 ~~the district authority~~ shall hear the evidence produced and determine
 40 the following:

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

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

1 ~~(g)~~ **(e)** After the **board of trustees of the** district authority hears the
2 evidence produced and makes the determinations set forth in
3 subsection ~~(f)~~, **(d)**, the ~~district authority~~, **board**, by a majority vote,
4 shall:
5 (1) sustain the ordinance establishing the rates and charges;
6 (2) sustain the petition; or
7 (3) make any other ruling appropriate in the matter, subject to the
8 standards set forth in section 9 of this chapter.
9 ~~(h)~~ **(f)** The order of the **board of trustees of the** district authority
10 may be appealed by ~~the district~~ or a petitioner to the circuit court of ~~the~~
11 **a** county in which the district is located. The court shall try the appeal
12 without a jury and shall determine one (1) or both of the following:
13 (1) Whether the board of trustees of the district, in adopting the
14 ordinance increasing sewer rates and charges, followed the
15 procedure required by this chapter.
16 (2) Whether the increased sewer rates and charges established by
17 the board by ordinance are just and equitable rates and charges,
18 according to the standards set forth in section 9 of this chapter.
19 Either party may appeal the circuit court's decision in the same manner
20 that other civil cases may be appealed."
21 Renumber all SECTIONS consecutively.
 (Reference is to HB 1497 as printed February 15, 2013.)

Representative Davis