



February 15, 2013

# HOUSE BILL No. 1497

DIGEST OF HB 1497 (Updated February 13, 2013 3:29 pm - DI 69)

**Citations Affected:** IC 8-1; IC 13-11; IC 13-15; IC 13-26; IC 16-20; IC 35-44.1; IC 35-51.

**Synopsis:** Regional water, sewage, and solid waste districts. Amends the requirements that a property owner must meet to discontinue use of a sewage disposal system and connect to a sewer system operated by a not-for-profit sewer utility or a regional sewage district. Amends the type of notice that must be provided to property owners that would be served by a proposed regional water, sewage, or solid waste district before the district is established. Provides that a proposed regional water, sewage, or solid waste district may not be established if a majority of property owners that would be served by the district submit a petition to the department of environmental management (department) that indicates the owners are opposed to the establishment of the district. Provides that an existing regional sewage or solid waste district may not add territory to the district if a majority of the freeholders within the proposed territory to be added submit a petition to the department that indicates the freeholders are opposed to the addition of the territory by the district. Allows a ratepayer of a regional water, sewage, or solid waste district to serve on the board of trustees for the district. Provides that notice requirements for certain construction permit applications apply to sewer and water system construction. (Current law exempts sewer and water system construction permit applications from the notice requirements.) Makes it a Class C misdemeanor instead of a Class C infraction for a person to provide false information to a health officer. Makes it false informing, a Class B misdemeanor, for a person to give a false report related to sewage disposal systems and sewer connections.

**Effective:** July 1, 2013.

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**Zent, Ober, Smaltz, Errington**

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January 22, 2013, read first time and referred to Committee on Environmental Affairs.  
February 14, 2013, amended, reported — Do Pass.

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HB 1497—LS 7394/DI 103+



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February 15, 2013

First Regular Session 118th General Assembly (2013)

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 2012 Regular Session of the General Assembly.

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## HOUSE BILL No. 1497

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

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 8-1-2-125, AS AMENDED BY P.L.97-2012,  
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 2013]: Sec. 125. (a) As used in this section, "not-for-profit  
4 utility" means a public water or sewer utility that:  
5 (1) does not have shareholders;  
6 (2) does not engage in any activities for the profit of its trustees,  
7 directors, incorporators, or members; and  
8 (3) is organized and conducts its affairs for purposes other than  
9 the pecuniary gain of its trustees, directors, incorporators, or  
10 members.  
11 The term does not include a regional district established under  
12 IC 13-26, a conservancy district established under IC 14-33, or, for  
13 purposes of subsections (f), (g), (h), (i), (j), and (k), a utility company  
14 owned, operated, or held in trust by a consolidated city.  
15 (b) As used in this section, "sewage disposal system" means a privy,  
16 cesspool, septic tank, or other similar structure. The term includes a  
17 septic tank soil absorption system (as defined in IC 13-11-2-199.5).

HB 1497—LS 7394/DI 103+



1 The term does not include a sewer system operated by a not-for-profit  
2 public sewer utility.

3 (c) A not-for-profit utility shall be required to furnish reasonably  
4 adequate services and facilities. The charge made by any not-for-profit  
5 utility for any service rendered or to be rendered, either directly or in  
6 connection with the service, must be nondiscriminatory, reasonable,  
7 and just. Each discriminatory, unjust, or unreasonable charge for the  
8 service is prohibited and unlawful.

9 (d) A reasonable and just charge for water or sewer service within  
10 the meaning of this section is a charge that will produce sufficient  
11 revenue to pay all legal and other necessary expense incident to the  
12 operation of the not-for-profit utility's system, including the following:

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

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

29 (e) Except as provided in subsections (f) and (h), a not-for-profit  
30 public sewer utility may require connection to its sewer system of  
31 property producing sewage or similar waste and require the  
32 discontinuance of use of a sewage disposal system if:

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

38 The notice given under subdivision (2) must also inform the property  
39 owner, other than an owner of property located in a consolidated city,  
40 that the property owner may qualify for an exemption as set forth in  
41 subsection (f).

42 (f) Subject to subsection (h), a property owner is exempt from the

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1 requirement to connect to a not-for-profit public sewer utility's sewer  
 2 system and to discontinue use of a sewage disposal system if the  
 3 following conditions are met:

4 (1) The property owner's sewage disposal system is a septic tank  
 5 soil absorption system that was new at the time of installation and  
 6 approved in writing by the local health department.

7 (2) The property owner, at the property owner's **own** expense,  
 8 obtains ~~and provides to the not-for-profit public sewer utility a~~  
 9 ~~certification~~ **a written determination** from the local health  
 10 department or the department's designee that the ~~sewage disposal~~  
 11 ~~septic tank soil absorption~~ system is ~~functioning satisfactorily~~  
 12 **not failing. The local health department or the department's**  
 13 **designee shall provide the owner with a written determination**  
 14 **not later than sixty (60) days after receipt of the owner's**  
 15 **request. If the local health department or the department's**  
 16 **designee fails to provide a written determination within the**  
 17 **time established in this subdivision, the owner, at the owner's**  
 18 **expense, may obtain a written determination from a qualified**  
 19 **inspector.** If the local health department or the department's  
 20 designee ~~denies the issuance of a certificate to the property owner;~~  
 21 **determines that a septic tank soil absorption system is failing,**  
 22 the property owner may appeal the ~~denial~~ **determination** to the  
 23 board of the local health department. The decision of the board is  
 24 final and binding.

25 (3) The property owner provides the not-for-profit public sewer  
 26 utility with:

27 (A) the written notification of potential qualification for the  
 28 exemption described in subsection (i); and

29 (B) the ~~certification~~ **written determination** described in  
 30 subdivision (2);

31 within the time limits set forth in subsection (i).

32 (g) If a property owner, within the time allowed under subsection  
 33 (i), notifies a not-for-profit public sewer utility in writing that the  
 34 property owner qualifies for the exemption under this section, the  
 35 not-for-profit public sewer utility shall, until the property owner's  
 36 eligibility for an exemption under this section is determined, suspend  
 37 the requirement that the property owner discontinue use of a sewage  
 38 disposal system and connect to the not-for-profit public sewer utility's  
 39 sewer system.

40 (h) A property owner who qualifies for the exemption provided  
 41 under this section may not be required to connect to the not-for-profit  
 42 public sewer utility's sewer system for a period of ten (10) years

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1 beginning on the date the new sewage disposal system was installed.  
 2 A property owner may apply for two (2) five (5) year extensions of the  
 3 exemption provided under this section by following the procedures set  
 4 forth in subsections (f) and (g). If ownership of an exempt property is  
 5 transferred during a valid exemption period, including during an  
 6 extension of an initial exemption:

7 (1) the exemption applies to the subsequent owner of the property  
 8 for the remainder of the exemption period during which the  
 9 transfer occurred; and

10 (2) the subsequent owner may apply for any remaining  
 11 extensions.

12 However, the total period during which a property may be exempt from  
 13 the requirement to connect to a district's sewer system under this  
 14 section may not exceed twenty (20) years, regardless of ownership of  
 15 the property.

16 (i) To qualify for an exemption under this section, a property owner  
 17 must:

18 (1) within sixty (60) days after the date of the written notice given  
 19 to the property owner under subsection (e), notify the  
 20 not-for-profit public sewer utility in writing that the property  
 21 owner qualifies for the exemption under this section; and

22 (2) within ~~sixty (60)~~ **one hundred twenty (120)** days after the  
 23 not-for-profit public sewer utility receives the written notice  
 24 provided under subdivision (1), provide the not-for-profit public  
 25 sewer utility with the certification required under subsection  
 26 (f)(2).

27 (j) When a property owner who qualifies for an exemption under  
 28 this section subsequently discontinues use of the property owner's  
 29 sewage disposal system and connects to the not-for-profit public sewer  
 30 utility's sewer system, the property owner may be required to pay only  
 31 the following to connect to the sewer system:

32 (1) The connection fee the property owner would have paid if the  
 33 property owner connected to the sewer system on the first date the  
 34 property owner could have connected to the sewer system.

35 (2) Any additional costs:

36 (A) considered necessary by; and

37 (B) supported by documentary evidence provided by;  
 38 the not-for-profit public sewer utility.

39 (k) A not-for-profit public sewer utility may not require a property  
 40 owner to connect to the not-for-profit public sewer utility's sewer  
 41 system if:

42 (1) the property is located on at least ten (10) acres;



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- 1 (2) the owner can demonstrate the availability of at least two (2)  
 2 areas on the property for the collection and treatment of sewage  
 3 that will protect human health and the environment;  
 4 (3) the waste stream from the property is limited to domestic  
 5 sewage from a residence or business;  
 6 (4) the system used to collect and treat the domestic sewage has  
 7 a maximum design flow of seven hundred fifty (750) gallons per  
 8 day; and  
 9 (5) the owner, at the owner's expense, obtains and provides to the  
 10 district a certification from the local health department or the  
 11 department's designee that the system is functioning satisfactorily.

12 (l) A property owner who connects to a not-for-profit public sewer  
 13 utility's sewer system may provide, at the owner's expense, labor,  
 14 equipment, materials, or any combination of labor, equipment, and  
 15 materials from any source to accomplish the connection to the sewer  
 16 system, subject to inspection and approval by the not-for-profit public  
 17 sewer utility.

18 (m) This section does not affect the authority of the state department  
 19 of health, a local health department, or a county health officer with  
 20 respect to a sewage disposal system.

21 (n) **For purposes of this section, a sewage disposal system is**  
 22 **"failing" if one (1) or more of the following apply:**

23 (1) **The system refuses to accept sewage at the rate of design**  
 24 **application and interferes with the normal use of plumbing**  
 25 **fixtures.**

26 (2) **Effluent discharge exceeds the absorptive capacity of the**  
 27 **soil into which the system discharges, resulting in ponding,**  
 28 **seepage, or other discharge of the effluent to the ground**  
 29 **surface or to surface waters.**

30 (3) **Effluent discharged from the system contaminates a**  
 31 **potable water supply, ground water, or surface waters.**

32 (o) **As used in this section, "qualified inspector" means any of**  
 33 **the following:**

34 (1) **An employee of a local health department who is**  
 35 **designated by the local health department as having sufficient**  
 36 **knowledge of onsite sewage systems to determine if an onsite**  
 37 **sewage system is failing.**

38 (2) **An individual who is certified by the Indiana Onsite**  
 39 **Wastewater Professionals Association as an onsite sewage**  
 40 **system installer or inspector.**

41 (3) **An individual listed by the state department of health or**  
 42 **a local health department as having sufficient knowledge of**

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1           **onsite sewage systems to determine if an onsite sewage system**  
2           **is failing.**

3           SECTION 2. IC 13-11-2-199.5 IS AMENDED TO READ AS  
4 FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 199.5. "Septic tank soil  
5 absorption system", for purposes of **this chapter**, IC 13-18-12, and  
6 IC 13-26-5-2.5, means pipes laid in a system of trenches or elevated  
7 beds, into which the effluent from the septic tank is discharged for soil  
8 absorption, or similar structures.

9           SECTION 3. IC 13-11-2-201, AS AMENDED BY P.L.159-2011,  
10 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
11 JULY 1, 2013]: Sec. 201. "Sewage disposal system", for purposes of  
12 this chapter, IC 13-18-12, and IC 13-20-17.5, means septic tanks,  
13 **septic tank soil absorption systems**, septage holding tanks, ~~seepage~~  
14 ~~pits~~, ~~cesspools~~, privies, composting toilets, ~~interceptors~~ or ~~grease traps~~;  
15 portable sanitary units, and other equipment, facilities, or devices used  
16 to:

- 17           (1) store;
- 18           (2) treat; **or**
- 19           (3) make inoffensive; ~~or~~
- 20           ~~(4) dispose of;~~

21 human excrement or liquid carrying wastes of a domestic nature.

22           SECTION 4. IC 13-15-3-5, AS AMENDED BY P.L.133-2012,  
23 SECTION 100, IS AMENDED TO READ AS FOLLOWS  
24 [EFFECTIVE JULY 1, 2013]: Sec. 5. (a) Whenever a permit is  
25 required by any rule of the board under IC 13-15-1 for the construction,  
26 installation, operation, or modification of any facility, equipment, or  
27 device, the permit may be issued only after the department staff has:

- 28           (1) approved the plans and specifications; and
- 29           (2) determined that the facility, equipment, or device meets the  
30 requirement of the rule.

31           (b) Notwithstanding subsection (a) and subject to subsection (c), a  
32 person to whom a permit has been issued may not start the  
33 construction, installation, operation, or modification of a facility,  
34 equipment, or a device until the person has obtained any approval  
35 required by any:

- 36           (1) county;
- 37           (2) city; or
- 38           (3) town;

39 in which the facility, equipment, or device is located.

40           (c) Subsection (b) applies only to an approval required in an  
41 applicable ordinance, rule, or regulation in effect at the time the person  
42 submits the permit application to the issuing state agency.

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1           **(d) In addition to any requirements for a permit imposed under**  
 2 **IC 13-15, including under rules adopted under IC 13-15, a district**  
 3 **must provide notice in the manner provided under IC 13-15-8**  
 4 **before applying for a permit to undertake a construction project**  
 5 **within the district.**

6           SECTION 5. IC 13-15-8-1 IS AMENDED TO READ AS  
 7 FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 1. ~~(a)~~ This chapter  
 8 applies to an application for a permit issued under IC 13-15-1 upon  
 9 property:

10           (1) that is undeveloped; or

11           (2) for which a valid existing permit has not been issued.

12           ~~(b) This chapter does not apply to an application for a permit issued~~  
 13 ~~under IC 13-15-1 if the permit is for the construction, installation, or~~  
 14 ~~modification of any of the following:~~

15           ~~(1) A combined sewer.~~

16           ~~(2) A sanitary sewer.~~

17           ~~(3) A storm sewer.~~

18           ~~(4) A public water system.~~

19           ~~(5) A water main extension.~~

20           SECTION 6. IC 13-26-2-2.5, AS ADDED BY P.L.97-2012,  
 21 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 22 JULY 1, 2013]: Sec. 2.5. (a) Before a representative may file a petition  
 23 to establish a district, the representative must provide notice to all  
 24 owners of property to be served by the proposed district that is the  
 25 subject of the petition.

26           (b) Notice under subsection (a) must be provided as follows:

27           (1) Beginning at least thirty (30) days before the date on which a  
 28 public meeting under subsection (c) is scheduled, by publication  
 29 of notice one (1) time each week for three (3) consecutive weeks  
 30 in at least two (2) newspapers of general circulation in each of the  
 31 counties, in whole or in part, in the proposed district. If there is  
 32 only one (1) newspaper of general circulation in a county, a single  
 33 publication each week for three (3) consecutive weeks satisfies  
 34 the requirement of this subdivision.

35           ~~(2) Either:~~ **Beginning at least fourteen (14) days before the**  
 36 **date on which a public meeting under subsection (c) is**  
 37 **scheduled, by:**

38           (A) **by first class** United States mail, postage prepaid, mailed  
 39 to each freeholder within the proposed district; ~~or and~~

40           (B) **by** broadcasting at least three (3) public service  
 41 announcements each day for fourteen (14) days on at least two

42           (2) radio stations operating in each of the counties, in whole or

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1 in part, in the proposed district.  
 2 beginning at least fourteen (14) days before the date on which a  
 3 public meeting under subsection (c) is scheduled:

4 (c) After providing notice under subsection (b), a representative that  
 5 seeks to file a petition to establish a district must conduct a public  
 6 meeting to discuss and receive comments on the proposed district.

7 (d) A representative may not file a petition to establish a district:  
 8 (1) more than one hundred eighty (180) or less than sixty (60)  
 9 days after providing notice under subsection (b); or  
 10 (2) less than thirty (30) days after a meeting held under subsection  
 11 (c).

12 SECTION 7. IC 13-26-2-3.5 IS ADDED TO THE INDIANA CODE  
 13 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
 14 1, 2013]: **Sec. 3.5. Not more than one hundred eighty (180) days**  
 15 **after the date a petition is filed with the department under section**  
 16 **1 of this chapter to establish a regional district, if another petition**  
 17 **is filed with the department that is signed by a majority of the**  
 18 **owners of property that would be served by the proposed district**  
 19 **and indicating that the owners of the property are opposed to the**  
 20 **establishment of the proposed district, the department shall declare**  
 21 **that the petition filed under section 1 of this chapter to establish**  
 22 **the regional district:**

23 (1) is void; and  
 24 (2) is not a sufficient petition for purposes of section 5 of this  
 25 chapter.

26 SECTION 8. IC 13-26-4-6, AS AMENDED BY P.L.97-2012,  
 27 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 28 JULY 1, 2013]: Sec. 6. (a) This section does not apply to a district  
 29 described in section 6.1 of this chapter.

30 (b) An appointed trustee does not have to be a resident of the  
 31 district.

32 (c) An appointed trustee must:  
 33 (1) own real property within the district;  
 34 (2) be a trustee appointed under section 4 or 5 of this chapter; **or**  
 35 (3) be an elected official who represents a political subdivision  
 36 that has territory in the district; **or**  
 37 (4) be a ratepayer of the district.

38 SECTION 9. IC 13-26-5-2.5, AS AMENDED BY P.L.97-2012,  
 39 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 40 JULY 1, 2013]: Sec. 2.5. (a) As used in this section, "septic tank soil  
 41 absorption system" has the meaning set forth in IC 13-11-2-199.5.

42 (b) Subject to subsection (d), a property owner is exempt from the

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1 requirement to connect to a district's sewer system and to discontinue  
 2 use of a septic tank soil absorption system if the following conditions  
 3 are met:

4 (1) The property owner's septic tank soil absorption system was  
 5 new at the time of installation and was approved in writing by the  
 6 local health department.

7 (2) The property owner, at the property owner's own expense,  
 8 obtains ~~and provides to the district a certification a written~~  
 9 **determination** from the local health department or the  
 10 department's designee that the septic tank soil absorption system  
 11 is ~~functioning satisfactorily. not failing. The local health~~  
 12 **department or the department's designee shall provide the**  
 13 **owner with a written determination not later than sixty (60)**  
 14 **days after receipt of the owner's request. If the local health**  
 15 **department or the department's designee fails to provide a**  
 16 **written determination within the time established in this**  
 17 **subdivision, the owner, at the owner's expense, may obtain a**  
 18 **written determination from a qualified inspector.** If the local  
 19 health department or the department's designee ~~denies the~~  
 20 ~~issuance of a certificate to the property owner, determines that~~  
 21 **a septic tank soil absorption system is failing,** the property  
 22 owner may appeal the ~~denial determination~~ to the board of the  
 23 local health department. The decision of the board is final and  
 24 binding.

25 (3) The property owner provides the district with:

26 (A) the written notification of potential qualification for the  
 27 exemption described in subsection (f); and

28 (B) the certification described in subdivision (2);  
 29 within the time limits set forth in subsection (f).

30 (c) If a property owner, within the time allowed under subsection  
 31 (f), notifies a district in writing that the property owner qualifies for the  
 32 exemption under this section, the district shall, until the property  
 33 owner's eligibility for an exemption under this section is determined,  
 34 suspend the requirement that the property owner discontinue use of a  
 35 septic tank soil absorption system and connect to the district's sewer  
 36 system.

37 (d) A property owner who qualifies for the exemption provided  
 38 under this section may not be required to connect to the district's sewer  
 39 system for a period of ten (10) years beginning on the date the new  
 40 septic tank soil absorption system was installed. A property owner may  
 41 apply for two (2) five (5) year extensions of the exemption provided  
 42 under this section by following the procedures set forth in subsections



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1 (b) and (c). If ownership of an exempt property is transferred during a  
2 valid exemption period, including during an extension of an initial  
3 exemption:

4 (1) the exemption applies to the subsequent owner of the property  
5 for the remainder of the exemption period during which the  
6 transfer occurred; and

7 (2) the subsequent owner may apply for any remaining  
8 extensions.

9 However, the total period during which a property may be exempt from  
10 the requirement to connect to a district's sewer system under this  
11 section may not exceed twenty (20) years, regardless of ownership of  
12 the property.

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

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

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

21 (3) of the procedures to claim an exemption.

22 (f) To qualify for an exemption under this section, a property owner  
23 must:

24 (1) within sixty (60) days after the date of the written notice given  
25 to the property owner under subsection (e), notify the district in  
26 writing that the property owner qualifies for the exemption under  
27 this section; and

28 (2) within ~~sixty (60)~~ **one hundred twenty (120)** days after the  
29 district receives the written notice provided under subdivision (1),  
30 provide the district with the certification required under  
31 subsection (b)(2).

32 (g) When a property owner who qualifies for an exemption under  
33 this section subsequently discontinues use of the property owner's  
34 septic tank soil absorption system and connects to the district's sewer  
35 system, the property owner may be required to pay only the following  
36 to connect to the sewer system:

37 (1) The connection fee the property owner would have paid if the  
38 property owner connected to the sewer system on the first date the  
39 property owner could have connected to the sewer system.

40 (2) Any additional costs:

41 (A) considered necessary by; and

42 (B) supported by documentary evidence provided by;

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

(i) This section does not affect the authority of the state department of health, a local health department, or a county health officer with respect to a septic tank soil absorption system.

**(j) For purposes of this section, a septic tank soil absorption system is "failing" if one (1) or more of the following apply:**

**(1) The system refuses to accept sewage at the rate of design application and interferes with the normal use of plumbing fixtures.**

**(2) Effluent discharge exceeds the absorptive capacity of the soil into which the system discharges, resulting in ponding, seepage, or other discharge of the effluent to the ground surface or to surface waters.**

**(3) Effluent discharged from the system contaminates a potable water supply, ground water, or surface waters.**

**(k) As used in this section, "qualified inspector" means any of the following:**

**(1) An employee of a local health department who is designated by the local health department as having sufficient knowledge of onsite sewage systems to determine if an onsite sewage system is failing.**

**(2) An individual who is certified by the Indiana Onsite Wastewater Professionals Association as an onsite sewage system installer or inspector.**

**(3) An individual listed by the state department of health or a local health department as having sufficient knowledge of onsite sewage systems to determine if an onsite sewage system is failing.**

SECTION 10. IC 13-26-8-4, AS ADDED BY P.L.123-2011, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 4. (a) This section applies to the addition of territory to a regional sewage or solid waste district other than at the request of an eligible entity described in section 1 of this chapter. This section does not apply to a regional water district.

(b) To add territory to a district already established, the board must file ~~both of the following~~ with the department

(+) a motion adopted by the board requesting the addition of

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1 territory to the district.  
 2 ~~(2) A petition that:~~  
 3 (A) is signed by the majority of freeholders within the area  
 4 proposed to be added; and  
 5 (B) requests the addition of the area to the district.  
 6 (c) Except as provided under ~~subsection~~ **subsections (d) and (e)**, if  
 7 **both petitions are a motion** is filed with the department under  
 8 subsection (b):  
 9 (1) the same procedure must be used to add territory to the district  
 10 as is provided for the establishment of a district under IC 13-26-2;  
 11 and  
 12 (2) the department shall proceed in the same manner that is set  
 13 forth in IC 13-26-2, IC 13-26-4, IC 13-26-6, and IC 13-26-7.  
 14 **(d) Not more than one hundred eighty (180) days after the date**  
 15 **a motion is filed with the department under subsection (b) to add**  
 16 **territory to a district already established, if a petition is filed with**  
 17 **the department that is signed by a majority of the freeholders**  
 18 **within the area proposed to be added and indicating that the**  
 19 **freeholders are opposed to the addition of the area by the district:**  
 20 **(1) the department may not proceed under subsection (c); and**  
 21 **(2) the territory may not be added to the district.**  
 22 ~~(d)~~ **(e)** For purposes of subsection (c):  
 23 (1) the commissioner is not required to appoint a hearing officer  
 24 under IC 13-26-2-5;  
 25 (2) the board shall:  
 26 (A) provide the notice of; and  
 27 (B) conduct;  
 28 the hearing required under IC 13-26-2-6; and  
 29 (3) instead of making findings and recommendations under  
 30 IC 13-26-2-8, the board shall submit documentary evidence to the  
 31 commissioner to prove the:  
 32 (A) notice was provided; and  
 33 (B) hearing was conducted;  
 34 by the board as required under subdivision (2).  
 35 SECTION 11. IC 16-20-1-25, AS AMENDED BY P.L.97-2012,  
 36 SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 37 JULY 1, 2013]: Sec. 25. (a) A person shall not institute, permit, or  
 38 maintain any conditions that may transmit, generate, or promote  
 39 disease.  
 40 (b) A health officer, upon receiving a complaint asserting the  
 41 existence of unlawful conditions described in subsection (a) within the  
 42 officer's jurisdiction, shall document the complaint as provided in

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1 subsection (d). Upon verifying the information contained in the  
 2 complaint, the health officer shall order the abatement of those  
 3 conditions. The order must:

- 4 (1) be in writing;  
 5 (2) specify the conditions that may transmit disease; and  
 6 (3) name the shortest reasonable time for abatement.

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

14 (d) A complaint made under subsection (b) must include adequate  
 15 details to allow the health officer to verify the existence of the unlawful  
 16 conditions that are the subject of the complaint. A health officer shall  
 17 provide a copy of a complaint upon request to the person who is the  
 18 subject of the complaint.

19 (e) A person who provides false information upon which a health  
 20 officer relies in issuing an order under this section commits a Class C  
 21 ~~infraction~~ **misdemeanor**.

22 SECTION 12. IC 35-44.1-2-3, AS ADDED BY P.L.126-2012,  
 23 SECTION 54, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 24 JULY 1, 2013]: Sec. 3. (a) As used in this section, "consumer product"  
 25 has the meaning set forth in IC 35-45-8-1.

26 (b) As used in this section, "misconduct" means a violation of a  
 27 departmental rule or procedure of a law enforcement agency.

28 (c) A person who reports, by telephone, telegraph, mail, or other  
 29 written or oral communication, that:

- 30 (1) the person or another person has placed or intends to place an  
 31 explosive, a destructive device, or other destructive substance in  
 32 a building or transportation facility;  
 33 (2) there has been or there will be tampering with a consumer  
 34 product introduced into commerce; or  
 35 (3) there has been or will be placed or introduced a weapon of  
 36 mass destruction in a building or a place of assembly;

37 knowing the report to be false, commits false reporting, a Class D  
 38 felony.

39 (d) A person who:

- 40 (1) gives a false report of the commission of a crime or gives false  
 41 information in the official investigation of the commission of a  
 42 crime, knowing the report or information to be false;

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- 1 (2) gives a false alarm of fire to the fire department of a
- 2 governmental entity, knowing the alarm to be false;
- 3 (3) makes a false request for ambulance service to an ambulance
- 4 service provider, knowing the request to be false;
- 5 (4) gives a false report concerning a missing child (as defined in
- 6 IC 10-13-5-4) or missing endangered adult (as defined in
- 7 IC 12-7-2-131.3) or gives false information in the official
- 8 investigation of a missing child or missing endangered adult
- 9 knowing the report or information to be false;
- 10 (5) makes a complaint against a law enforcement officer to the
- 11 state or municipality (as defined in IC 8-1-13-3(b)) that employs
- 12 the officer:
- 13 (A) alleging the officer engaged in misconduct while
- 14 performing the officer's duties; and
- 15 (B) knowing the complaint to be false; **or**
- 16 (6) makes a false report of a missing person, knowing the report
- 17 or information is false; **or**
- 18 **(7) gives a false report of actions, behavior, or conditions**
- 19 **concerning a septic tank soil absorption system under**
- 20 **IC 8-1-2-125 or IC 13-26-5-2.5;**
- 21 commits false informing, a Class B misdemeanor. However, the offense
- 22 is a Class A misdemeanor if it substantially hinders any law
- 23 enforcement process or if it results in harm to an innocent person.
- 24 SECTION 13. IC 35-51-16-1, AS ADDED BY P.L.70-2011,
- 25 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 26 JULY 1, 2013]: Sec. 1. The following statutes define crimes in IC 16:
- 27 IC 16-19-12-1 (Concerning the state department of health).
- 28 **IC 16-20-1-25 (Concerning local health departments).**
- 29 IC 16-20-9-1 (Concerning local health departments).
- 30 IC 16-21-2-2.5 (Concerning licensure of hospitals).
- 31 IC 16-21-5-3 (Concerning licensure of hospitals).
- 32 IC 16-21-6-12 (Concerning hospital financial disclosure law).
- 33 IC 16-21-7-5 (Concerning hospitals).
- 34 IC 16-25-5-8 (Concerning hospices).
- 35 IC 16-25-6-1 (Concerning hospices).
- 36 IC 16-27-1-15 (Concerning home health agencies).
- 37 IC 16-27-2-3 (Concerning home health agencies).
- 38 IC 16-27-4-23 (Concerning home health agencies).
- 39 IC 16-28-7-5 (Concerning monitors).
- 40 IC 16-28-9-3 (Concerning monitors).
- 41 IC 16-28-9-4 (Concerning monitors).
- 42 IC 16-28-9-5 (Concerning monitors).

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- 1 IC 16-30-5-1 (Concerning health planning).
- 2 IC 16-31-3-16 (Concerning emergency medical services).
- 3 IC 16-31-3-22 (Concerning emergency medical services).
- 4 IC 16-31-10-2 (Concerning emergency medical services).
- 5 IC 16-34-2-5 (Concerning abortion).
- 6 IC 16-34-2-6 (Concerning abortion).
- 7 IC 16-34-2-7 (Concerning abortion).
- 8 IC 16-36-4-15 (Concerning medical consent).
- 9 IC 16-36-4-16 (Concerning medical consent).
- 10 IC 16-36-5-27 (Concerning medical consent).
- 11 IC 16-36-5-28 (Concerning medical consent).
- 12 IC 16-37-1-12 (Concerning vital statistics).
- 13 IC 16-37-1-13 (Concerning vital statistics).
- 14 IC 16-37-2-2.1 (Concerning vital statistics).
- 15 IC 16-37-2-19 (Concerning vital statistics).
- 16 IC 16-37-3-16 (Concerning vital statistics).
- 17 IC 16-38-5-4 (Concerning health registries).
- 18 IC 16-39-7.1-3 (Concerning health records).
- 19 IC 16-39-7.1-6 (Concerning health records).
- 20 IC 16-41-1-3 (Concerning communicable diseases).
- 21 IC 16-41-2-9 (Concerning communicable diseases).
- 22 IC 16-41-3-3 (Concerning communicable diseases).
- 23 IC 16-41-4-3 (Concerning communicable diseases).
- 24 IC 16-41-5-3 (Concerning communicable diseases).
- 25 IC 16-41-6-3 (Concerning communicable diseases).
- 26 IC 16-41-7-5 (Concerning communicable diseases).
- 27 IC 16-41-8-1 (Concerning communicable diseases).
- 28 IC 16-41-8-3 (Concerning communicable diseases).
- 29 IC 16-41-8-5 (Concerning communicable diseases).
- 30 IC 16-41-9-1.5 (Concerning communicable diseases).
- 31 IC 16-41-10-5 (Concerning communicable diseases).
- 32 IC 16-41-10-7 (Concerning communicable diseases).
- 33 IC 16-41-12-13 (Concerning communicable diseases).
- 34 IC 16-41-12-14 (Concerning communicable diseases).
- 35 IC 16-41-12-15 (Concerning communicable diseases).
- 36 IC 16-41-13-3 (Concerning communicable diseases).
- 37 IC 16-41-13-4 (Concerning communicable diseases).
- 38 IC 16-41-13-6 (Concerning communicable diseases).
- 39 IC 16-41-14-13 (Concerning communicable diseases).
- 40 IC 16-41-14-15 (Concerning communicable diseases).
- 41 IC 16-41-14-16 (Concerning communicable diseases).
- 42 IC 16-41-14-17 (Concerning communicable diseases).

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- 1 IC 16-41-14-20 (Concerning communicable diseases).  
 2 IC 16-41-15-18 (Concerning communicable diseases).  
 3 IC 16-41-16-11 (Concerning communicable diseases).  
 4 IC 16-41-18-6 (Concerning prevention and treatment programs).  
 5 IC 16-41-19-10 (Concerning prevention and treatment programs).  
 6 IC 16-41-20-13 (Concerning health, sanitation, and safety).  
 7 IC 16-41-21-18 (Concerning health, sanitation, and safety).  
 8 IC 16-41-21-19 (Concerning health, sanitation, and safety).  
 9 IC 16-41-22-21 (Concerning health, sanitation, and safety).  
 10 IC 16-41-22-22 (Concerning health, sanitation, and safety).  
 11 IC 16-41-23-4 (Concerning health, sanitation, and safety).  
 12 IC 16-41-24-11 (Concerning health, sanitation, and safety).  
 13 IC 16-41-25-2 (Concerning health, sanitation, and safety).  
 14 IC 16-41-27-34 (Concerning health, sanitation, and safety).  
 15 IC 16-41-29-5 (Concerning regulation of lodging facilities and  
 16 bedding materials).  
 17 IC 16-41-32-30 (Concerning regulation of lodging facilities and  
 18 bedding materials).  
 19 IC 16-41-33-9 (Concerning pest control).  
 20 IC 16-41-34-8 (Concerning pest control).  
 21 IC 16-41-35-40 (Concerning radiation).  
 22 IC 16-41-38-10 (Concerning radon gas).  
 23 IC 16-42-1-16 (Concerning Uniform Food, Drug, and Cosmetic  
 24 Act).  
 25 IC 16-42-1-34 (Concerning Uniform Food, Drug, and Cosmetic  
 26 Act).  
 27 IC 16-42-2-8 (Concerning Uniform Food, Drug, and Cosmetic  
 28 Act).  
 29 IC 16-42-2-9 (Concerning Uniform Food, Drug, and Cosmetic  
 30 Act).  
 31 IC 16-42-3-12 (Concerning Uniform Food, Drug, and Cosmetic  
 32 Act).  
 33 IC 16-42-4-5 (Concerning Uniform Food, Drug, and Cosmetic  
 34 Act).  
 35 IC 16-42-5-26 (Concerning sanitary requirements for food  
 36 establishments).  
 37 IC 16-42-5-27 (Concerning sanitary requirements for food  
 38 establishments).  
 39 IC 16-42-10-13 (Concerning food).  
 40 IC 16-42-18-7 (Concerning food).  
 41 IC 16-42-19-27 (Concerning the Indiana Legend Drug Act).  
 42 IC 16-42-21-4 (Concerning the Indiana Legend Drug Act).

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- 1 IC 16-44-1-1 (Concerning product labeling and inspection).
- 2 IC 16-44-2-22 (Concerning product labeling and inspection).
- 3 IC 16-46-6-12 (Concerning state health grants and programs).

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## COMMITTEE REPORT

Mr. Speaker: Your Committee on Environmental Affairs, to which was referred House Bill 1497, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, delete lines 1 through 17, begin a new paragraph and insert:

"SECTION 1. IC 8-1-2-125, AS AMENDED BY P.L.97-2012, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 125. (a) As used in this section, "not-for-profit utility" means a public water or sewer utility that:

- (1) does not have shareholders;
- (2) does not engage in any activities for the profit of its trustees, directors, incorporators, or members; and
- (3) is organized and conducts its affairs for purposes other than the pecuniary gain of its trustees, directors, incorporators, or members.

The term does not include a regional district established under IC 13-26, a conservancy district established under IC 14-33, or, for purposes of subsections (f), (g), (h), (i), (j), and (k), a utility company owned, operated, or held in trust by a consolidated city.

(b) As used in this section, "sewage disposal system" means a privy, cesspool, septic tank, or other similar structure. The term includes a septic tank soil absorption system (as defined in IC 13-11-2-199.5). The term does not include a sewer system operated by a not-for-profit public sewer utility.

(c) A not-for-profit utility shall be required to furnish reasonably adequate services and facilities. The charge made by any not-for-profit utility for any service rendered or to be rendered, either directly or in connection with the service, must be nondiscriminatory, reasonable, and just. Each discriminatory, unjust, or unreasonable charge for the service is prohibited and unlawful.

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

- (1) Maintenance and repair costs.
- (2) Operating charges.
- (3) Interest charges on bonds or other obligations.
- (4) Provision for a sinking fund for the liquidation of bonds or other evidences of indebtedness.
- (5) Provision for a debt service reserve for bonds or other

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obligations in an amount not to exceed the maximum annual debt service on the bonds or obligations.

(6) Provision of adequate funds to be used as working capital.

(7) Provision for making extensions and replacements.

(8) The payment of any taxes that may be assessed against the not-for-profit utility or its property.

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

(e) Except as provided in subsections (f) and (h), a not-for-profit public sewer utility may require connection to its sewer system of property producing sewage or similar waste and require the discontinuance of use of a sewage disposal system if:

(1) there is an available sanitary sewer within three hundred (300) feet of the property line; and

(2) the utility has given written notice by certified mail to the property owner at the address of the property at least ninety (90) days before the date for connection stated in the notice.

The notice given under subdivision (2) must also inform the property owner, other than an owner of property located in a consolidated city, that the property owner may qualify for an exemption as set forth in subsection (f).

(f) Subject to subsection (h), a property owner is exempt from the requirement to connect to a not-for-profit public sewer utility's sewer system and to discontinue use of a sewage disposal system if the following conditions are met:

(1) The property owner's sewage disposal system is a septic tank soil absorption system that was new at the time of installation and approved in writing by the local health department.

(2) The property owner, at the property owner's **own** expense, obtains and provides to the not-for-profit public sewer utility a **certification a written determination** from the local health department or the department's designee that the ~~sewage disposal~~ **septic tank soil absorption** system is ~~functioning satisfactorily~~ **not failing**. **The local health department or the department's designee shall provide the owner with a written determination not later than sixty (60) days after receipt of the owner's request. If the local health department or the department's designee fails to provide a written determination within the time established in this subdivision, the owner, at the owner's expense, may obtain a written determination from a qualified**

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**inspector.** If the local health department or the department's designee ~~denies the issuance of a certificate to the property owner,~~ **determines that a septic tank soil absorption system is failing,** the property owner may appeal the ~~denial~~ **determination** to the board of the local health department. The decision of the board is final and binding.

(3) The property owner provides the not-for-profit public sewer utility with:

(A) the written notification of potential qualification for the exemption described in subsection (i); and

(B) the ~~certification~~ **written determination** described in subdivision (2);

within the time limits set forth in subsection (i).

(g) If a property owner, within the time allowed under subsection (i), notifies a not-for-profit public sewer utility in writing that the property owner qualifies for the exemption under this section, the not-for-profit public sewer utility shall, until the property owner's eligibility for an exemption under this section is determined, suspend the requirement that the property owner discontinue use of a sewage disposal system and connect to the not-for-profit public sewer utility's sewer system.

(h) A property owner who qualifies for the exemption provided under this section may not be required to connect to the not-for-profit public sewer utility's sewer system for a period of ten (10) years beginning on the date the new sewage disposal system was installed. A property owner may apply for two (2) five (5) year extensions of the exemption provided under this section by following the procedures set forth in subsections (f) and (g). If ownership of an exempt property is transferred during a valid exemption period, including during an extension of an initial exemption:

(1) the exemption applies to the subsequent owner of the property for the remainder of the exemption period during which the transfer occurred; and

(2) the subsequent owner may apply for any remaining extensions.

However, the total period during which a property may be exempt from the requirement to connect to a district's sewer system under this section may not exceed twenty (20) years, regardless of ownership of the property.

(i) To qualify for an exemption under this section, a property owner must:

(1) within sixty (60) days after the date of the written notice given

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to the property owner under subsection (e), notify the not-for-profit public sewer utility in writing that the property owner qualifies for the exemption under this section; and  
 (2) within ~~sixty (60)~~ **one hundred twenty (120)** days after the not-for-profit public sewer utility receives the written notice provided under subdivision (1), provide the not-for-profit public sewer utility with the certification required under subsection (f)(2).

(j) When a property owner who qualifies for an exemption under this section subsequently discontinues use of the property owner's sewage disposal system and connects to the not-for-profit public sewer utility's sewer system, the property owner may be required to pay only the following to connect to the sewer system:

(1) The connection fee the property owner would have paid if the property owner connected to the sewer system on the first date the property owner could have connected to the sewer system.

(2) Any additional costs:

(A) considered necessary by; and

(B) supported by documentary evidence provided by; the not-for-profit public sewer utility.

(k) A not-for-profit public sewer utility may not require a property owner to connect to the not-for-profit public sewer utility's sewer system if:

(1) the property is located on at least ten (10) acres;

(2) the owner can demonstrate the availability of at least two (2) areas on the property for the collection and treatment of sewage that will protect human health and the environment;

(3) the waste stream from the property is limited to domestic sewage from a residence or business;

(4) the system used to collect and treat the domestic sewage has a maximum design flow of seven hundred fifty (750) gallons per day; and

(5) the owner, at the owner's expense, obtains and provides to the district a certification from the local health department or the department's designee that the system is functioning satisfactorily.

(l) A property owner who connects to a not-for-profit public sewer utility's sewer system may provide, at the owner's expense, labor, equipment, materials, or any combination of labor, equipment, and materials from any source to accomplish the connection to the sewer system, subject to inspection and approval by the not-for-profit public sewer utility.

(m) This section does not affect the authority of the state department

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of health, a local health department, or a county health officer with respect to a sewage disposal system.

**(n) For purposes of this section, a sewage disposal system is "failing" if one (1) or more of the following apply:**

**(1) The system refuses to accept sewage at the rate of design application and interferes with the normal use of plumbing fixtures.**

**(2) Effluent discharge exceeds the absorptive capacity of the soil into which the system discharges, resulting in ponding, seepage, or other discharge of the effluent to the ground surface or to surface waters.**

**(3) Effluent discharged from the system contaminates a potable water supply, ground water, or surface waters.**

**(o) As used in this section, "qualified inspector" means any of the following:**

**(1) An employee of a local health department who is designated by the local health department as having sufficient knowledge of onsite sewage systems to determine if an onsite sewage system is failing.**

**(2) An individual who is certified by the Indiana Onsite Wastewater Professionals Association as an onsite sewage system installer or inspector.**

**(3) An individual listed by the state department of health or a local health department as having sufficient knowledge of onsite sewage systems to determine if an onsite sewage system is failing.**

SECTION 2. IC 13-11-2-199.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 199.5. "Septic tank soil absorption system", for purposes of **this chapter**, IC 13-18-12, and IC 13-26-5-2.5, means pipes laid in a system of trenches or elevated beds, into which the effluent from the septic tank is discharged for soil absorption, or similar structures.

SECTION 3. IC 13-11-2-201, AS AMENDED BY P.L.159-2011, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 201. "Sewage disposal system", for purposes of this chapter, IC 13-18-12, and IC 13-20-17.5, means septic tanks, **septic tank soil absorption systems**, seepage holding tanks, ~~seepage pits, cesspools, privies, composting toilets, interceptors or grease traps,~~ portable sanitary units, and other equipment, facilities, or devices used to:

- (1) store;
- (2) treat; **or**

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(3) make inoffensive; ~~or~~

~~(4) dispose of;~~

human excrement or liquid carrying wastes of a domestic nature."

Delete pages 2 through 5.

Page 6, delete lines 1 through 35.

Page 7, delete lines 34 through 42, begin a new paragraph and insert:

"SECTION 5. IC 13-26-2-2.5, AS ADDED BY P.L.97-2012, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 2.5. (a) Before a representative may file a petition to establish a district, the representative must provide notice to all owners of property to be served by the proposed district that is the subject of the petition.

(b) Notice under subsection (a) must be provided as follows:

(1) Beginning at least thirty (30) days before the date on which a public meeting under subsection (c) is scheduled, by publication of notice one (1) time each week for three (3) consecutive weeks in at least two (2) newspapers of general circulation in each of the counties, in whole or in part, in the proposed district. If there is only one (1) newspaper of general circulation in a county, a single publication each week for three (3) consecutive weeks satisfies the requirement of this subdivision.

(2) ~~Either:~~ **Beginning at least fourteen (14) days before the date on which a public meeting under subsection (c) is scheduled, by:**

(A) **by first class** United States mail, postage prepaid, mailed to each freeholder within the proposed district; ~~or and~~

(B) ~~by~~ broadcasting at least three (3) public service announcements each day for fourteen (14) days on at least two (2) radio stations operating in each of the counties, in whole or in part, in the proposed district.

~~beginning at least fourteen (14) days before the date on which a public meeting under subsection (c) is scheduled:~~

(c) After providing notice under subsection (b), a representative that seeks to file a petition to establish a district must conduct a public meeting to discuss and receive comments on the proposed district.

(d) A representative may not file a petition to establish a district:

(1) more than one hundred eighty (180) or less than sixty (60) days after providing notice under subsection (b); or

(2) less than thirty (30) days after a meeting held under subsection (c).

SECTION 6. IC 13-26-2-3.5 IS ADDED TO THE INDIANA CODE

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AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: **Sec. 3.5. Not more than one hundred eighty (180) days after the date a petition is filed with the department under section 1 of this chapter to establish a regional district, if another petition is filed with the department that is signed by a majority of the owners of property that would be served by the proposed district and indicating that the owners of the property are opposed to the establishment of the proposed district, the department shall declare that the petition filed under section 1 of this chapter to establish the regional district:**

**(1) is void; and**

**(2) is not a sufficient petition for purposes of section 5 of this chapter.**

SECTION 7. IC 13-26-4-6, AS AMENDED BY P.L.97-2012, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 6. (a) This section does not apply to a district described in section 6.1 of this chapter.

(b) An appointed trustee does not have to be a resident of the district.

(c) An appointed trustee must:

(1) own real property within the district;

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

(3) be an elected official who represents a political subdivision that has territory in the district; **or**

**(4) be a ratepayer of the district.**

SECTION 8. IC 13-26-5-2.5, AS AMENDED BY P.L.97-2012, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 2.5. (a) As used in this section, "septic tank soil absorption system" has the meaning set forth in IC 13-11-2-199.5.

(b) Subject to subsection (d), a property owner is exempt from the requirement to connect to a district's sewer system and to discontinue use of a septic tank soil absorption system if the following conditions are met:

(1) The property owner's septic tank soil absorption system was new at the time of installation and was approved in writing by the local health department.

(2) The property owner, at the property owner's own expense, obtains ~~and provides to the district a certification a written determination~~ from the local health department or the department's designee that the septic tank soil absorption system is ~~functioning satisfactorily.~~ **not failing. The local health department or the department's designee shall provide the**

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**owner with a written determination not later than sixty (60) days after receipt of the owner's request. If the local health department or the department's designee fails to provide a written determination within the time established in this subdivision, the owner, at the owner's expense, may obtain a written determination from a qualified inspector.** If the local health department or the department's designee ~~denies the issuance of a certificate to the property owner,~~ **determines that a septic tank soil absorption system is failing,** the property owner may appeal the ~~denial~~ **determination** to the board of the local health department. The decision of the board is final and binding.

- (3) The property owner provides the district with:
- (A) the written notification of potential qualification for the exemption described in subsection (f); and
  - (B) the certification described in subdivision (2);
- within the time limits set forth in subsection (f).

(c) If a property owner, within the time allowed under subsection (f), notifies a district in writing that the property owner qualifies for the exemption under this section, the district shall, until the property owner's eligibility for an exemption under this section is determined, suspend the requirement that the property owner discontinue use of a septic tank soil absorption system and connect to the district's sewer system.

(d) A property owner who qualifies for the exemption provided under this section may not be required to connect to the district's sewer system for a period of ten (10) years beginning on the date the new septic tank soil absorption system was installed. A property owner may apply for two (2) five (5) year extensions of the exemption provided under this section by following the procedures set forth in subsections (b) and (c). If ownership of an exempt property is transferred during a valid exemption period, including during an extension of an initial exemption:

- (1) the exemption applies to the subsequent owner of the property for the remainder of the exemption period during which the transfer occurred; and
- (2) the subsequent owner may apply for any remaining extensions.

However, the total period during which a property may be exempt from the requirement to connect to a district's sewer system under this section may not exceed twenty (20) years, regardless of ownership of the property.

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

- (1) that the property owner may be required to discontinue the use of a septic tank soil absorption system;
- (2) that the property owner may qualify for an exemption from the requirement to discontinue the use of the septic tank soil absorption system; and
- (3) of the procedures to claim an exemption.

(f) To qualify for an exemption under this section, a property owner must:

- (1) within sixty (60) days after the date of the written notice given to the property owner under subsection (e), notify the district in writing that the property owner qualifies for the exemption under this section; and
- (2) within ~~sixty (60)~~ **one hundred twenty (120)** days after the district receives the written notice provided under subdivision (1), provide the district with the certification required under subsection (b)(2).

(g) When a property owner who qualifies for an exemption under this section subsequently discontinues use of the property owner's septic tank soil absorption system and connects to the district's sewer system, the property owner may be required to pay only the following to connect to the sewer system:

- (1) The connection fee the property owner would have paid if the property owner connected to the sewer system on the first date the property owner could have connected to the sewer system.
- (2) Any additional costs:
  - (A) considered necessary by; and
  - (B) supported by documentary evidence provided by; the district.

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

(i) This section does not affect the authority of the state department of health, a local health department, or a county health officer with respect to a septic tank soil absorption system.

**(j) For purposes of this section, a septic tank soil absorption system is "failing" if one (1) or more of the following apply:**

- (1) The system refuses to accept sewage at the rate of design**

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application and interferes with the normal use of plumbing fixtures.

(2) Effluent discharge exceeds the absorptive capacity of the soil into which the system discharges, resulting in ponding, seepage, or other discharge of the effluent to the ground surface or to surface waters.

(3) Effluent discharged from the system contaminates a potable water supply, ground water, or surface waters.

(k) As used in this section, "qualified inspector" means any of the following:

(1) An employee of a local health department who is designated by the local health department as having sufficient knowledge of onsite sewage systems to determine if an onsite sewage system is failing.

(2) An individual who is certified by the Indiana Onsite Wastewater Professionals Association as an onsite sewage system installer or inspector.

(3) An individual listed by the state department of health or a local health department as having sufficient knowledge of onsite sewage systems to determine if an onsite sewage system is failing.

SECTION 9. IC 13-26-8-4, AS ADDED BY P.L.123-2011, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 4. (a) This section applies to the addition of territory to a regional sewage or solid waste district other than at the request of an eligible entity described in section 1 of this chapter. This section does not apply to a regional water district.

(b) To add territory to a district already established, the board must file both of the following with the department

(+) a motion adopted by the board requesting the addition of territory to the district.

(-) A petition that:

(A) is signed by the majority of freeholders within the area proposed to be added; and

(B) requests the addition of the area to the district.

(c) Except as provided under ~~subsection~~ **subsections (d) and (e)**, if ~~both petitions are a motion is~~ filed with the department under subsection (b):

(1) the same procedure must be used to add territory to the district as is provided for the establishment of a district under IC 13-26-2; and

(2) the department shall proceed in the same manner that is set

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forth in IC 13-26-2, IC 13-26-4, IC 13-26-6, and IC 13-26-7.

**(d) Not more than one hundred eighty (180) days after the date a motion is filed with the department under subsection (b) to add territory to a district already established, if a petition is filed with the department that is signed by a majority of the freeholders within the area proposed to be added and indicating that the freeholders are opposed to the addition of the area by the district:**

- (1) the department may not proceed under subsection (c); and**
- (2) the territory may not be added to the district.**

**(e)** For purposes of subsection (c):

(1) the commissioner is not required to appoint a hearing officer under IC 13-26-2-5;

(2) the board shall:

(A) provide the notice of; and

(B) conduct;

the hearing required under IC 13-26-2-6; and

(3) instead of making findings and recommendations under IC 13-26-2-8, the board shall submit documentary evidence to the commissioner to prove the:

(A) notice was provided; and

(B) hearing was conducted;

by the board as required under subdivision (2)."

Delete pages 8 through 21.

Page 22, delete lines 1 through 4.

Page 23, line 30, delete "that" and insert "**concerning a septic tank soil absorption system under**".

Page 23, line 31, delete "violate".

Page 23, line 31, delete ", IC 13-26-5-2.7, or IC 36-9-23-30.1;" and insert "**or IC 13-26-5-2.5**";.

Page 26, delete lines 15 through 42.

Delete pages 27 through 30.

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1497 as introduced.)

WOLKINS, Chair

Committee Vote: yeas 10, nays 2.

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