

Adopted	Rejected
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# COMMITTEE REPORT

<b>YES:</b>	<b>10</b>
<b>NO:</b>	<b>2</b>

## 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:*

- 1 Page 1, delete lines 1 through 17, begin a new paragraph and insert:
- 2 "SECTION 1. IC 8-1-2-125, AS AMENDED BY P.L.97-2012,
- 3 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 4 JULY 1, 2013]: Sec. 125. (a) As used in this section, "not-for-profit
- 5 utility" means a public water or sewer utility that:
- 6 (1) does not have shareholders;
- 7 (2) does not engage in any activities for the profit of its trustees,
- 8 directors, incorporators, or members; and
- 9 (3) is organized and conducts its affairs for purposes other than
- 10 the pecuniary gain of its trustees, directors, incorporators, or
- 11 members.
- 12 The term does not include a regional district established under
- 13 IC 13-26, a conservancy district established under IC 14-33, or, for
- 14 purposes of subsections (f), (g), (h), (i), (j), and (k), a utility company

1 owned, operated, or held in trust by a consolidated city.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

34 (2) within ~~sixty (60)~~ **one hundred twenty (120)** days after the  
35 not-for-profit public sewer utility receives the written notice  
36 provided under subdivision (1), provide the not-for-profit public  
37 sewer utility with the certification required under subsection  
38 (f)(2).

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

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

9 (2) Any additional costs:

10 (A) considered necessary by; and

11 (B) supported by documentary evidence provided by;

12 the not-for-profit public sewer utility.

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

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

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

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

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

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

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

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

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

- 1           **(1) The system refuses to accept sewage at the rate of design**  
 2           **application and interferes with the normal use of plumbing**  
 3           **fixtures.**  
 4           **(2) Effluent discharge exceeds the absorptive capacity of the**  
 5           **soil into which the system discharges, resulting in ponding,**  
 6           **seepage, or other discharge of the effluent to the ground**  
 7           **surface or to surface waters.**  
 8           **(3) Effluent discharged from the system contaminates a**  
 9           **potable water supply, ground water, or surface waters.**

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

- 12           **(1) An employee of a local health department who is**  
 13           **designated by the local health department as having sufficient**  
 14           **knowledge of onsite sewage systems to determine if an onsite**  
 15           **sewage system is failing.**  
 16           **(2) An individual who is certified by the Indiana Onsite**  
 17           **Wastewater Professionals Association as an onsite sewage**  
 18           **system installer or inspector.**  
 19           **(3) An individual listed by the state department of health or**  
 20           **a local health department as having sufficient knowledge of**  
 21           **onsite sewage systems to determine if an onsite sewage system**  
 22           **is failing.**

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

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

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

- 1 (3) make inoffensive; ~~or~~  
 2 ~~(4) dispose of;~~  
 3 human excrement or liquid carrying wastes of a domestic nature."  
 4 Delete pages 2 through 5.  
 5 Page 6, delete lines 1 through 35.  
 6 Page 7, delete lines 34 through 42, begin a new paragraph and  
 7 insert:  
 8 "SECTION 5. IC 13-26-2-2.5, AS ADDED BY P.L.97-2012,  
 9 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 10 JULY 1, 2013]: Sec. 2.5. (a) Before a representative may file a petition  
 11 to establish a district, the representative must provide notice to all  
 12 owners of property to be served by the proposed district that is the  
 13 subject of the petition.  
 14 (b) Notice under subsection (a) must be provided as follows:  
 15 (1) Beginning at least thirty (30) days before the date on which a  
 16 public meeting under subsection (c) is scheduled, by publication  
 17 of notice one (1) time each week for three (3) consecutive weeks  
 18 in at least two (2) newspapers of general circulation in each of the  
 19 counties, in whole or in part, in the proposed district. If there is  
 20 only one (1) newspaper of general circulation in a county, a single  
 21 publication each week for three (3) consecutive weeks satisfies  
 22 the requirement of this subdivision.  
 23 (2) ~~Either:~~ **Beginning at least fourteen (14) days before the**  
 24 **date on which a public meeting under subsection (c) is**  
 25 **scheduled, by:**  
 26 (A) **by first class** United States mail, postage prepaid, mailed  
 27 to each freeholder within the proposed district; ~~or and~~  
 28 (B) ~~by~~ broadcasting at least three (3) public service  
 29 announcements each day for fourteen (14) days on at least two  
 30 (2) radio stations operating in each of the counties, in whole or  
 31 in part, in the proposed district.  
 32 ~~beginning at least fourteen (14) days before the date on which a~~  
 33 ~~public meeting under subsection (c) is scheduled.~~  
 34 (c) After providing notice under subsection (b), a representative that  
 35 seeks to file a petition to establish a district must conduct a public  
 36 meeting to discuss and receive comments on the proposed district.  
 37 (d) A representative may not file a petition to establish a district:  
 38 (1) more than one hundred eighty (180) or less than sixty (60)

- 1 days after providing notice under subsection (b); or
- 2 (2) less than thirty (30) days after a meeting held under subsection
- 3 (c).

4 SECTION 6. IC 13-26-2-3.5 IS ADDED TO THE INDIANA CODE  
 5 AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY  
 6 1, 2013]: **Sec. 3.5. Not more than one hundred eighty (180) days**  
 7 **after the date a petition is filed with the department under section**  
 8 **1 of this chapter to establish a regional district, if another petition**  
 9 **is filed with the department that is signed by a majority of the**  
 10 **owners of property that would be served by the proposed district**  
 11 **and indicating that the owners of the property are opposed to the**  
 12 **establishment of the proposed district, the department shall declare**  
 13 **that the petition filed under section 1 of this chapter to establish**  
 14 **the regional district:**

- 15 (1) is void; and
- 16 (2) is not a sufficient petition for purposes of section 5 of this
- 17 chapter.

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

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

- 24 (c) An appointed trustee must:
- 25 (1) own real property within the district;
  - 26 (2) be a trustee appointed under section 4 or 5 of this chapter; **or**
  - 27 (3) be an elected official who represents a political subdivision
  - 28 that has territory in the district; **or**
  - 29 (4) **be a ratepayer of the district.**

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

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

- 38 (1) The property owner's septic tank soil absorption system was

1 new at the time of installation and was approved in writing by the  
2 local health department.

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

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

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

24 (B) the certification described in subdivision (2);

25 within the time limits set forth in subsection (f).

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

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

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

- 1 property owner could have connected to the sewer system.
- 2 (2) Any additional costs:
- 3 (A) considered necessary by; and
- 4 (B) supported by documentary evidence provided by;
- 5 the district.
- 6 (h) A property owner who connects to a district's sewer system may
- 7 provide, at the owner's expense, labor, equipment, materials, or any
- 8 combination of labor, equipment, and materials from any source to
- 9 accomplish the connection to the sewer system, subject to inspection
- 10 and approval by the board or a designee of the board.
- 11 (i) This section does not affect the authority of the state department
- 12 of health, a local health department, or a county health officer with
- 13 respect to a septic tank soil absorption system.
- 14 **(j) For purposes of this section, a septic tank soil absorption**
- 15 **system is "failing" if one (1) or more of the following apply:**
- 16 **(1) The system refuses to accept sewage at the rate of design**
- 17 **application and interferes with the normal use of plumbing**
- 18 **fixtures.**
- 19 **(2) Effluent discharge exceeds the absorptive capacity of the**
- 20 **soil into which the system discharges, resulting in ponding,**
- 21 **seepage, or other discharge of the effluent to the ground**
- 22 **surface or to surface waters.**
- 23 **(3) Effluent discharged from the system contaminates a**
- 24 **potable water supply, ground water, or surface waters.**
- 25 **(k) As used in this section, "qualified inspector" means any of**
- 26 **the following:**
- 27 **(1) An employee of a local health department who is**
- 28 **designated by the local health department as having sufficient**
- 29 **knowledge of onsite sewage systems to determine if an onsite**
- 30 **sewage system is failing.**
- 31 **(2) An individual who is certified by the Indiana Onsite**
- 32 **Wastewater Professionals Association as an onsite sewage**
- 33 **system installer or inspector.**
- 34 **(3) An individual listed by the state department of health or**
- 35 **a local health department as having sufficient knowledge of**
- 36 **onsite sewage systems to determine if an onsite sewage system**
- 37 **is failing.**
- 38 SECTION 9. IC 13-26-8-4, AS ADDED BY P.L.123-2011,

1 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
2 JULY 1, 2013]: Sec. 4. (a) This section applies to the addition of  
3 territory to a regional sewage or solid waste district other than at the  
4 request of an eligible entity described in section 1 of this chapter. This  
5 section does not apply to a regional water district.

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

8 ~~(1) a motion adopted by the board requesting the addition of~~  
9 ~~territory to the district.~~

10 ~~(2) A petition that:~~

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

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

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

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

20 (2) the department shall proceed in the same manner that is set  
21 forth in IC 13-26-2, IC 13-26-4, IC 13-26-6, and IC 13-26-7.

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

28 **(1) the department may not proceed under subsection (c); and**

29 **(2) the territory may not be added to the district.**

30 ~~(d)~~ **(e)** For purposes of subsection (c):

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

33 (2) the board shall:

34 (A) provide the notice of; and

35 (B) conduct;

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

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

- 1 commissioner to prove the:
- 2 (A) notice was provided; and
- 3 (B) hearing was conducted;
- 4 by the board as required under subdivision (2)."
- 5 Delete pages 8 through 21.
- 6 Page 22, delete lines 1 through 4.
- 7 Page 23, line 30, delete "that" and insert "**concerning a septic tank**
- 8 **soil absorption system under**".
- 9 Page 23, line 31, delete "violate".
- 10 Page 23, line 31, delete ", IC 13-26-5-2.7, or IC 36-9-23-30.1;" and
- 11 insert "**or IC 13-26-5-2.5**";
- 12 Page 26, delete lines 15 through 42.
- 13 Delete pages 27 through 30.
- 14 Renumber all SECTIONS consecutively.  
(Reference is to HB 1497 as introduced.)

**and when so amended that said bill do pass.**

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Representative Wolkins