

# COMMITTEE REPORT

Mr. Speaker: Pursuant to Joint Rule 20, your Committee on Rules and Legislative Procedures, to which was referred Engrossed Senate Bill 285 because it conflicts with SEA 385-2013 without properly recognizing the existence of SEA 385-2013, has had Engrossed Senate Bill 285 under consideration and begs leave to report back to the House with the recommendation that Engrossed Senate Bill 285 be corrected as follows:

- 1           In the Conference Committee Report for ESB 285-2013, page 2,  
2           delete lines 47 through 51, begin a new paragraph and insert:  
3           "SECTION 3. IC 36-9-22-2, AS AMENDED BY SEA 385-2013,  
4           SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
5           JULY 1, 2013]: Sec. 2. (a) The power of the municipal works board to  
6           fix the terms of a contract under this section applies to contracts for the  
7           installation of sewage works that have not been finally approved or  
8           accepted for full maintenance and operation by the municipality on July  
9           1, 1979.  
10          (b) The works board of a municipality may contract with owners of  
11          real property for the construction of sewage works within the  
12          municipality or within four (4) miles outside its corporate boundaries  
13          in order to provide service for the area in which the real property of the  
14          owners is located. The contract must provide, for a period of not to  
15          exceed fifteen (15) years, for the payment to the owners and their  
16          assigns by any owner of real property who:  
17               (1) did not contribute to the original cost of the sewage works;  
18               and  
19               (2) subsequently taps into, uses, or deposits sewage or storm  
20               waters in the sewage works or any lateral sewers connected to  
21               them;  
22          of a fair pro rata share of the cost of the construction of the sewage  
23          works, subject to the rules of the board and notwithstanding any other  
24          law relating to the functions of local governmental entities. However,  
25          the contract does not apply to any owner of real property who is not a

1 party to ~~it~~ **the contract** unless ~~it~~ **the contract or (after June 30, 2013)**  
 2 **a signed memorandum of the contract** has been recorded in the  
 3 office of the recorder of the county in which the real property of the  
 4 owner is located before the owner taps into or connects to the sewers  
 5 and facilities. The board may provide that the fair pro rata share of the  
 6 cost of construction includes interest at a rate not exceeding the amount  
 7 of interest allowed on judgments, and the interest shall be computed  
 8 from the date the sewage works are approved until the date payment is  
 9 made to the municipality.

10 (c) The contract must include, as part of the consideration running  
 11 to the municipality, the release of the right of the parties to the contract  
 12 and their successors in title to remonstrate against pending or future  
 13 annexations by the municipality of the area served by the sewage  
 14 works. Any person tapping into or connecting to the sewage works  
 15 contracted for is considered to waive the person's rights to remonstrate  
 16 against the annexation of the area served by the sewage works.

17 **(d) This subsection does not affect any rights or liabilities**  
 18 **accrued, or proceedings begun before July 1, 2013. Those rights,**  
 19 **liabilities, and proceedings continue and shall be imposed and**  
 20 **enforced under prior law as if this subsection had not been enacted.**  
 21 **For contracts executed after June 30, 2013, the release of the right**  
 22 **to remonstrate is binding on a successor in title to a party to the**  
 23 **contract only if the successor in title:**

24 **(1) has actual notice of the release; or**

25 **(2) has constructive notice of the release because the contract,**  
 26 **or a signed memorandum of the contract stating the release,**  
 27 **has been recorded in the chain of title of the property.**

28 ~~(d)~~ **(e)** Subsection (c) does not apply to a landowner if all of the  
 29 following conditions apply:

30 (1) The landowner is required to connect to the sewage works  
 31 because a person other than the landowner has polluted or  
 32 contaminated the area.

33 (2) The costs of extension of or connection to the sewage works  
 34 are paid by a person other than the landowner or the municipality.

35 ~~(e)~~ **(f)** Subsection (c) does not apply to a landowner who taps into,  
 36 connects to, or is required to tap into or connect to the sewage works  
 37 of a municipality only because the municipality provides wholesale  
 38 sewage service (as defined in IC 8-1-2-61.7) to another municipality  
 39 that provides sewage service to the landowner."

40 In the Conference Committee Report for ESB 285-2013, delete page

- 1 3.
- 2 In the Conference Committee Report for ESB 285-2013, page 4,
- 3 delete line 1.  
(Reference is to ESB 285-2013, as amended by the Conference  
Committee Report for ESB 285-2013.)

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Representative Torr, Chairperson

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Representative Pierce, R.M.M.

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Representative Karickhoff, Sponsor