

SENATE BILL No. 385

DIGEST OF INTRODUCED BILL

Citations Affected: IC 36-9.

Synopsis: Regional sewage districts. Imposes certain requirements on regional sewage treatment providers and certain customers. Provides that the utility regulatory commission (IURC) may resolve disputes over rates and charges between a regional sewage treatment provider (provider) and a customer without otherwise making the provider subject to the jurisdiction of the IURC. Provides that the provision and receipt of sewage treatment service may not be conditioned on a customer's waiver of the right to remonstrate against annexation.

Effective: July 1, 2013.

Charbonneau

January 10, 2013, read first time and referred to Committee on Environmental Affairs.

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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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SENATE BILL No. 385



A BILL FOR AN ACT to amend the Indiana Code concerning local government.

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

1 SECTION 1. IC 36-9-22-2 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 2. (a) The power of the
3 municipal works board to fix the terms of a contract under this section
4 applies to contracts for the installation of sewage works that have not
5 been finally approved or accepted for full maintenance and operation
6 by the municipality on July 1, 1979.

7 (b) The works board of a municipality may contract with owners of
8 real property for the construction of sewage works within the
9 municipality or within four (4) miles outside its corporate boundaries
10 in order to provide service for the area in which the real property of the
11 owners is located. The contract must provide, for a period of not to
12 exceed fifteen (15) years, for the payment to the owners and their
13 assigns by any owner of real property who:

- 14 (1) did not contribute to the original cost of the sewage works;
- 15 and
- 16 (2) subsequently taps into, uses, or deposits sewage or storm
- 17 waters in the sewage works or any lateral sewers connected to



1 them;
 2 of a fair pro rata share of the cost of the construction of the sewage
 3 works, subject to the rules of the board and notwithstanding any other
 4 law relating to the functions of local governmental entities. However,
 5 the contract does not apply to any owner of real property who is not a
 6 party to it unless it has been recorded in the office of the recorder of the
 7 county in which the real property of the owner is located before the
 8 owner taps into or connects to the sewers and facilities. The board may
 9 provide that the fair pro rata share of the cost of construction includes
 10 interest at a rate not exceeding the amount of interest allowed on
 11 judgments, and the interest shall be computed from the date the sewage
 12 works are approved until the date payment is made to the municipality.

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

21 (d) Subsection (c) does not apply to a landowner if all of the
 22 following conditions apply:

23 (1) The landowner is required to connect to the sewage works
 24 because a person other than the landowner has polluted or
 25 contaminated the area.

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

28 **(e) Subsection (c) does not apply to a landowner who taps into**
 29 **or connects to the sewage works of a municipality only because the**
 30 **municipality provides sewage treatment service to the regional**
 31 **sewage district established under IC 13-26-2 that provides sewage**
 32 **service to the landowner.**

33 SECTION 2. IC 36-9-42 IS ADDED TO THE INDIANA CODE AS
 34 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
 35 1, 2013]:

36 **Chapter 42. Regional Sewage Treatment Providers**

37 **Sec. 1. As used in this chapter, "commission" refers to the**
 38 **Indiana utility regulatory commission established by IC 8-1-1-2.**

39 **Sec. 2. As used in this chapter, "customer" refers to a district or**
 40 **political subdivision that receives sewage treatment service from**
 41 **a provider.**

42 **Sec. 3. As used in this chapter, "district" refers to a regional**

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1 sewage district established under IC 13-26-2.

2 Sec. 4. As used in this chapter, "regional sewage treatment
3 provider" or "provider" means a political subdivision that:

- 4 (1) provides sewage treatment service to a customer; and
 - 5 (2) establishes rates and charges for sewage treatment service
- 6 by:

- 7 (A) adopting an ordinance; or
- 8 (B) entering into a contract or other agreement with a
- 9 customer.

10 The term does not include an investor owned utility.

11 Sec. 5. As used in this chapter, "retail service" means sewage
12 treatment service provided by a regional sewage treatment
13 provider directly to a customer for ultimate consumption.

14 Sec. 6. As used in this chapter, "wholesale service" means
15 sewage treatment service provided by a regional sewage treatment
16 provider to a customer for resale by the customer. The term
17 includes the use of all or part of a provider's sewage transmission
18 system to convey sewage to or otherwise access the provider's
19 sewage treatment plant.

20 Sec. 7. Upon ninety (90) days notice to a provider, a customer
21 may do the following:

- 22 (1) Require the provider to convert an existing retail rate
- 23 arrangement with the customer to a reasonable wholesale rate
- 24 arrangement.
- 25 (2) Opt to use and pay for only wholesale service.

26 Sec. 8. (a) A provider:

- 27 (1) shall provide wholesale service to a customer to the extent
- 28 of available treatment capacity; and
- 29 (2) may not charge a customer retail rates for sewage
- 30 treatment service unless:

- 31 (A) the provider provides the customer with the same
- 32 services the provider provides other retail ratepayers; and
- 33 (B) the provider owns:
 - 34 (i) the local collection system used by the customer to
 - 35 convey the customer's sewage; and
 - 36 (ii) the sewage treatment plant that the provider uses to
 - 37 provide the sewage treatment service.

38 (b) A provider that requires a customer to connect to the
39 provider's sewer system under IC 13-26-5-2.5 or IC 36-9-22-2, may
40 not, as a condition of providing sewer service to the customer,
41 require the customer to waive the customer's right to remonstrate
42 against annexation by the provider.

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1 **Sec. 9. (a) The commission may establish uniform rates and**
 2 **charges for all wholesale ratepayers of the same class of a regional**
 3 **sewage treatment provider only for the following purposes:**
 4 **(1) To expedite the determination of wholesale rate cases**
 5 **involving customers.**
 6 **(2) To avoid unnecessary and unreasonable expense involved**
 7 **in litigating rate cases between customers and providers.**
 8 **(3) To serve the public interest with regard to establishing**
 9 **rates and accounting.**
 10 **(b) This section does not:**
 11 **(1) authorize the commission to review or revise rates and**
 12 **charges imposed:**
 13 **(A) on other classes of customers of; or**
 14 **(B) for other types of service provided by;**
 15 **the provider; or**
 16 **(2) otherwise subject the provider to the jurisdiction of the**
 17 **commission for the approval of rates and charges or any other**
 18 **purpose.**
 19 **(c) The commission may adopt rules under IC 4-22-2 to**
 20 **implement this section.**
 21 **Sec. 10. A regional sewage treatment provider may not cancel**
 22 **or refuse to provide wholesale service to an existing customer:**
 23 **(1) if the existing customer objects to the cancellation or**
 24 **refusal; and**
 25 **(2) unless the commission approves the cancellation or refusal**
 26 **following hearing and notice.**
 27 **Sec. 11. A regional sewage treatment provider may not refuse**
 28 **to provide additional or expanded service, including additional or**
 29 **expanded wholesale service, to a customer that receives wholesale**
 30 **service without:**
 31 **(1) the consent of the customer; or**
 32 **(2) the approval of the commission.**
 33 **Sec. 12. Upon the request of an existing customer, a regional**
 34 **sewage treatment provider shall amend its sewage treatment**
 35 **service contract with the customer to comply with this chapter.**

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