

CHAPTER 3

REGIONAL WATER, SEWAGE AND SOLID WASTE DISTRICTS

This chapter is designed to summarize certain laws, regulations and uniform compliance guidelines relevant to regional water, sewage and solid waste districts. Please refer to the Indiana Code and other related documents for a complete listing of laws and regulations governing regional water, sewage and solid waste districts. See chapters 10 through 23 of this manual for additional Accounting and Uniform Compliance Guidelines.

ORGANIZATION

IC 13-26-1-1 states:

“Any area may be established as a regional water, sewage, or solid waste district under this article for one (1) or more of the following purposes:

- (1) To provide a water supply for domestic, industrial, and public use to users inside and outside the district.
- (2) To provide for the collection, treatment, and disposal of sewage inside and outside the district.
- (3) To provide for the collection, treatment, and disposal of solid waste and refuse inside and outside the district.”

IC 13-26-4-1 states:

“The board of trustees of a district is the governing body of the district. A board may consist of: (1) three (3); (2) five (5); (3) seven (7); (4) nine (9); (5) eleven (11); or (6) thirteen (13); trustees.”

IC 13-26-4-2 through IC 13-26-4-6.1 provide for methods of electing and/or appointing the members of the board.

IC 13-26-4-7(a) states:

“The board of a district may provide for the payment of not more than fifty dollars (\$50) per day to members of the board for each day or major part of a day devoted to the work of the district.” Further, IC 13-26-4-7(b) states: “Members of the board are entitled to receive an amount for travel expenses equal to the amount paid to state employees for expenses incurred in the performance of their duties.”

The current mileage rate allowed for state employees is forty-four cents (44¢) per mile.

PUBLIC MEETINGS OR HEARINGS

When the board of a district conducts a public hearing or meeting, the board shall allow any person an opportunity to be heard:

1. in the presence of others who are present to testify; and
2. in accordance with subsection (b).

The board may limit testimony at a public hearing or meeting to a reasonable time stated at the opening of the public hearing or meeting. [IC 13-26-4-8]

DISTRICT POWERS

A district may do the following:

1. Sue or be sued.
2. Make contracts in the exercise of the rights, powers, and duties conferred upon the district.
3. Adopt and alter a seal and use the seal by causing the seal to be impressed, affixed, reproduced, or otherwise used. However, the failure to affix a seal does not affect the validity of an instrument.
4. Adopt, amend, and repeal the following:
 - A. Bylaws for the administration of the district's affairs.
 - B. Rules and regulations for the following:
 - i. The control of the administration and operation of the district's service and facilities.
 - ii. The exercise of all of the district's rights of ownership.
5. Construct, acquire, lease, operate, or manage works and obtain rights, easements, licenses, money, contracts, accounts, liens, books, records, maps, or other property, whether real, personal, or mixed, of a person or an eligible entity.
6. Assume in whole or in part any liability or obligation of:
 - A. a person;
 - B. a nonprofit water, sewage, or solid waste project system; or
 - C. an eligible entity;

including a pledge of part or all of the net revenues of a works to the debt service on outstanding bonds of an entity in whole or in part in the district and including a right on the part of the district to indemnify and protect a contracting party from loss or liability by reason of the failure of the district to perform an agreement assumed by the district or to act or discharge an obligation.
7. Fix, alter, charge, and collect reasonable rates and other charges in the area served by the district's facilities to every person whose premises are, whether directly or indirectly, supplied with water or provided with sewage or solid waste services by the facilities for the purpose or providing for the following:
 - A. The payment of the expenses of the district.
 - B. The construction, acquisition, improvement, extension, repair, maintenance, and operation of the district's facilities and properties.
 - C. The payment of principal or interest on the district's obligations.

- D. To fulfill the terms of agreements made with:
- i. the purchasers or holders of any obligations; or
 - ii. a person or an eligible entity.
8. Except as provided in IC 13-26-5-2.5 and IC 13-26-5-2.6, require connection to the district's sewer system of property producing sewage or similar waste and require the discontinuance of use of privies, cesspools, septic tanks, and similar structures if:
- A. there is an available sanitary sewer within three hundred (300) feet of the property line; and
 - B. the district has given written notice by certified mail to the property owner at the address of the property at least ninety (90) days before a date for connection to be stated in the notice; and
 - C. if the property is located outside the district's territory:
 - i. the district has obtained and provided to the property owner (along with the notice required by clause (B)) a letter of recommendation from the local health department that there is a possible threat to the public's health; and
 - ii. if the property is also located within the extraterritorial jurisdiction of a municipal sewage works under IC 36-9-23 or a public sanitation department under IC 36-9-25, the municipal works board or department of public sanitation has acknowledged in writing that the property is within the municipal sewage works or department of public sanitation's extraterritorial jurisdiction, but the municipal works board or department of public sanitation is unable to provide sewer service.
- However, a district may not require the owner of a property described in this subdivision to connect to the district's sewer system if the property is already connected to a sewer system that has received an NPDES permit and has been determined to be functioning satisfactorily.
9. Provide by ordinance for a reasonable penalty, not to exceed one hundred dollars (\$100) per day, for failure to connect and also apply to the circuit or superior court of the county in which the property is located for an order to force connection, with the cost of the action, including reasonable attorney's fees of the district, to be assessed by the court against the property owner in the action.
 10. Refuse the services of the district's facilities if the rates or other charges are not paid by the user.
 11. Control and supervise all property, works, easements, licenses, money, contracts, accounts, liens, books, records, maps, or other property rights and interests conveyed, delivered, transferred, or assigned to the district.
 12. Construct, acquire by purchase or otherwise, operate, lease, preserve, and maintain works considered necessary to accomplish the purposes of the district's establishment within or outside the district and enter into contracts for the operation of works owned, leased, or held by another entity, whether public or private.
 13. Hold, encumber, control, acquire by donation, purchase, or condemnation, construct, own, lease as lessee or lessor, use, and sell interests in real and personal property or franchises within or outside the district for:

- A. the location or protection of works;
 - B. the relocation of buildings, structures, and improvements situated on land required by the district or for any other necessary purpose; or
 - C. obtaining or storing material to be used in constructing and maintaining the works.
14. Upon consent of two-thirds (2/3) of the members of the board, merge or combine with another district into a single district on terms so that the surviving district:
- A. is possessed of all rights, franchises, and authority of the constituent districts; and
 - B. is subject to all the liabilities, obligations, and duties of each of the constituent districts, with all rights of creditors of the constituent districts being preserved unimpaired.
15. Provide by agreement with another eligible entity for the joint construction of works the district is authorized to construct if the construction is for the district's own benefit and that of the other entity. For this purpose the cooperating entities may jointly appropriate land either within or outside their respective borders if all subsequent proceedings, actions, powers, liabilities, rights, and duties are those set forth by statute.
16. Enter into contracts with a person, an eligible entity, the state, or the United States to provide services to the contracting party for any of the following:
- A. The distribution or purification of water.
 - B. The collection or treatment of sanitary sewage.
 - C. The collection, disposal, or recovery of solid waste.
17. Make provisions for, contract for, or sell the district's byproducts or waste.
18. Exercise the power of eminent domain, including for purposes of siting sewer or water utility infrastructure, but only after the district's attempts to use existing public rights-of-way or easements.
19. Remove or change the location of a fence, building, railroad, canal, or other structure or improvement located within or outside the district. If:
- A. it is not feasible or economical to move the building, structure, or improvement situated in or upon land acquired; and
 - B. the cost is determined by the board to be less than that of purchase or condemnation;
- the district may acquire land and construct, acquire, or install buildings, structures, or improvements similar in purpose to be exchanged for the buildings, structures, or improvements under contracts entered into between the owner and the district.
20. Employ consulting engineers, superintendents, managers, and other engineering, construction, and accounting experts, attorneys, bond counsel, employees, and agents that are necessary for the accomplishment of the district's purpose and fix their compensation.
21. Procure insurance against loss to the district by reason of damages to the district's properties, works, or improvements resulting from fire, theft, accident, or other casualty or

because of the liability of the district for damages to persons or property occurring in the operations of the district's works and improvements or the conduct of the district's activities.

22. Exercise the powers of the district without obtaining the consent of other eligible entities. However, the district shall:
- A. restore or repair all public or private property damaged in carrying out the powers of the district and place the property in the property's original condition as nearly as practicable; or
 - B. pay adequate compensation for the property.
23. Dispose of, by public or private sale or lease, real or personal property determined by the board to be no longer necessary or needed for the operation or purposes of the district. [IC 13-26-5-2]

EXEMPTION FROM REQUIREMENT TO CONNECT TO SEWER SYSTEM

IC 13-26-5-2.5 states:

“(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 from the local health department or the department's designee that the septic tank soil absorption system is functioning satisfactorily. If the local health department or the department's designee denies the issuance of a certificate to the property owner, the property owner may appeal the denial 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.

(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) 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."

RULES, RESOLUTIONS AND ORDINANCES

The board may by rules and resolutions provide the following:

1. The procedure for the board's actions.
2. The manner of selection of the board's president, treasurer, and secretary and other officers or employees of the district, including the titles, terms of office, compensation, duties, number, and qualifications.
3. Any other lawful subject necessary to the operation of the district and the exercise of the power granted.

The board must adopt an ordinance by a majority vote to take action of a legislative nature. Proposed ordinances may be read by title only unless a trustee requests a reading in full.

A majority of the board or the officers of the board or employees of the district that are authorized by the board may take action of an administrative or executive nature. [IC 13-26-5-3]

ADOPTION AND ENFORCEMENT OF RULES

The board may adopt and enforce rules for the following purposes:

1. To accomplish the purpose of a district.
2. To protect the works, improvements, and properties, both real and personal, that the district owns.
3. To secure the best results from the construction, operation, and maintenance of works, improvements, and properties.
4. To prevent damage by the misuse of the works, improvements, or properties by:
 - A. the pollution or misuse of the waters in the district or of the sewerage system; or
 - B. the improper disposal of solid waste.

The board may adopt and enforce rules under IC 13-26-5-4(a) that are necessary and advisable to do the following:

1. Protect and preserve the works, improvements, and properties owned or controlled by the district, prescribe the manner of use by any person, and preserve order in and adjacent to the works.
2. Prescribe the manner:

- A. in which ditches, sewers, pipelines, or other works should be adjusted to or connected with the works of the district; and
 - B. of waste disposal in the district.
3. Prescribe the permissible uses of the water supply and the manner of distribution and prevent the pollution or unnecessary waste of the water supply.
 4. Prohibit or regulate the discharge into the sewers of the district of liquid or solid waste detrimental to the works and improvements.

Rules must be:

1. consistent with:
 - A. statutes; and
 - B. the rules of the solid waste management board or the water pollution control board; and
2. maintained and open to inspection in the office of the district.

The board may enforce by injunction or other legal remedy rules adopted under IC 13-26-5-4. The board may remove a harmful or improper construction or obstruction or may close an opening or connection made improperly or in violation of the rules. A person that willfully fails to comply with the rules is liable for damage caused by the failure and for the cost of restoring or replacing construction damaged. [IC 13-26-5-4]

ELECTRONIC FUNDS TRANSFER

IC 13-26-5-9 states in part:

“(a) As used in this section, “electronic funds transfer” means a transfer of funds, other than a transaction originated by check, draft, or similar paper instrument, that is initiated through an electronic terminal, a telephone, a computer, magnetic tape, or other electronic means to order, instruct, or authorize a financial institution to debit or credit an account.

(b) A board may adopt an ordinance allowing money to be disbursed for lawful district purposes under this section.

(c) As part of an ordinance adopted under subsection (b), or by a separate ordinance adopted by the board, the board may authorize the district to do one (1) or both of the following through an electronic funds transfer method of payment:

- (1) Pay claims owed by the district.
- (2) Receive payments owed to the district.

If the board adopts an ordinance to grant the district the authority described in subdivision (1), the district may pay money from its funds by electronic funds transfer. However, the authority granted to a district by this subsection does not affect the rights, liabilities, or responsibilities of participants in an electronic fund transfer under the federal Electronic Fund Transfer Act (15 U.S.C. 1693 et seq.), and a regional district that pays a claim by electronic funds transfer shall comply with all other requirements for the payment of claims by the regional district.”

PAYMENT OF CLAIMS IN ADVANCE OF BOARD ALLOWANCE

With the prior written approval of the board, the fiscal officer of the district may make claim payments in advance of board allowance for the following kinds of expenses if the board has adopted an ordinance under IC 13-26-5-9(b):

1. Property or services purchased or leased from the United States government, its agencies, or its political subdivisions.
2. License or permit fees.
3. Insurance premiums.
4. Utility payments or utility connection charges.
5. General grant programs for which advance funding is not prohibited and the contracting party posts sufficient security to cover the amount advanced.
6. Grants of state funds authorized by statute.
7. Maintenance or service agreements.
8. Leases or rental agreements.
9. Bond or coupon payments.
10. Payroll.
11. State or federal taxes.
12. Expenses that must be paid because of emergency circumstances.
13. Expenses described in an ordinance.

Each payment of expenses must be supported by a fully itemized invoice or bill and certification by the fiscal officer of the district.

The board shall review and allow a claim paid in advance of board allowance at the board's next regular or special meeting following the preapproved payment of the expense. [IC 13-26-5-9(d)]

RECORDS

IC 13-26-7-1 states:

“Each district must keep proper records showing the district's finances.”

The district is encouraged to use the chart of accounts and accounting system prescribed by the State Board of Accounts for use by municipal utilities as outlined in Chapter 23 of this manual.

ADVANCEMENT OF MONEY AND REPAYMENT OF MONEY ADVANCED

A local, state, or federal agency or person may advance or give a district money to be used by the district for the following purposes:

1. The preparation of a plan for the operation of the district.
2. Other purposes of the district until the district is in receipt of revenue from its operations or proceeds from the sale of bonds. [IC 13-26-7-2]

When a district receives revenue for its operations or proceeds from the sale of bonds, the district shall repay any money advanced to the advancing agency in the manner agreed. [IC 13-26-7-3]

ISSUANCE OF BONDS

A district may obtain money for the payment of the costs of the works or an improvement, enlargement, or extension of the works by the issuance of revenue bonds of the district. The principal and interest of the revenue bonds must be paid solely from the net revenues of the works. [IC 13-26-10-1]

WATERWORKS RATES AND CHARGES

The rates and charges for a waterworks may be determined based on the following:

1. A flat charge for each connection.
2. The amount of water consumed.
3. The size of the meter or connection.
4. Whether the property served has been or will be required to pay separately for the cost of any of the facilities of the works.
5. A combination of these or other factors that the board determines is necessary to establish just and equitable rates and charges. [IC 13-26-11-1]

SEWAGE WORKS RATES AND CHARGES

IC 13-26-11-2 states:

“(a) Except as provided in subsection (b), the rates or charges for a sewage works may be determined based on a combination of the following factors:

- (1) A flat charge for each connection. If a board uses a flat charge as a factor to determine a rate or charge for a sewage works, the board must:
 - (A) prepare a concise written statement that summarizes the calculations and processes used to determine the amount of the flat charge; and
 - (B) provide a copy of the written statement to each person who:
 - (i) is required to pay the rate or charge; and
 - (ii) requests a paper copy of the summary.

- (2) The amount of water used on the premises.
 - (3) The number and size of water outlets on the premises.
 - (4) The amount, strength, or character of sewage discharged into the sewers.
 - (5) The size of sewer connections.
 - (6) Whether the property served has been or will be required to pay separately for the cost of any of the facilities of the works.
 - (7) A combination of these or other factors that the board determines is necessary to establish nondiscriminatory, just, and equitable rates or charges.
- (b) A campground or youth camp may be billed for sewage service at a flat rate or by installing, at the campground's or youth camp's expense, a meter to measure the actual amount of sewage discharged by the campground or youth camp into the sewers. If a campground or youth camp elects to be billed by use of a meter:
- (1) the rate charged by a board for the metered sewage service may not exceed the rate charged to residential customers for equivalent usage; and
 - (2) the amount charged by a board for the campground's or youth camp's monthly sewage service for the period beginning September 1 and ending May 31 must be equal to the actual amount that would be charged for the sewage discharged during the month by the campground or youth camp as measured by the meter.
- (c) If a campground or youth camp does not install a meter under subsection (b) and is billed for sewage service at a flat rate, for a calendar year beginning after December 31, 2004:
- (1) each campsite at the campground may not equal more than one-third (1/3) of one (1) residential equivalent unit; and
 - (2) each bed at the youth camp may not equal more than one-eighth (1/8) of one (1) residential equivalent unit.

The basic monthly charge for the campground's or youth camp's sewage service must be equal to the number of the campground's or youth camp's resident equivalent units multiplied by the rate charged by the board for a resident unit.

- (d) The board may impose additional charges on a campground or youth camp under subsections (b) and (c) if the board incurs additional costs that are caused by any unique factors that apply to providing sewage service for the campground or youth camp, including, but not limited to:
- (1) the installation of:
 - (A) oversized pipe; or
 - (B) any other unique equipment;
 necessary to provide sewage service for the campground or youth camp; and
 - (2) concentrations of biochemical oxygen demand (BOD) that exceed federal pollutant standards."

A district may bill and collect rates and charges for the services to be provided after the contract for construction of a sewage works has been let and actual work commenced in an amount sufficient to meet the interest on the revenue bonds and other expenses payable before the completion of the works. [IC 13-26-11-5]

Unless the board finds and directs otherwise, the sewage works are considered to benefit every:

1. lot;
2. parcel of land; or
3. building;

connected or to be connected under the terms of an ordinance requiring connections with the sewer system of the district as a result of construction work under the contract. The rates or charges shall be billed and collected accordingly. [IC 13-26-11-6]

CAMPGROUNDS – RATE DISPUTES

IC 13-26-11-2.1 establishes the process by which the owner or operator of a campground may file a request for a review of rates charged with the Indiana Utility Regulatory Commission.

SOLID WASTE DISPOSAL – RATES AND CHARGES

The rates or charges for solid waste disposal and recovery systems may be determined based on the following:

1. A flat charge for each residence or building in use in the district.
2. On the weight of the refuse received.
3. On the hazardous character of the waste received.
4. On a combination of the weight and hazardous character of the waste received. [IC 13-26-11-4]

RATES AND CHARGES – UNIFORMITY NOT REQUIRED

The rates and charges for services of a water, sewer, or solid waste disposal or recovery system do not have to be uniform throughout the district or for all users. The board may exercise reasonable discretion in:

1. adopting different schedules of rates and charges; or
2. making classifications in schedules of rates and charges:
 - A. based upon variations in the costs of furnishing the services, including capital expenditures required, to various classes of users or to various locations in the district; or
 - B. where there are variations in the number of users in various locations in the district. [IC 13-26-11-4]

CONNECTION CHARGES

If a district constructs sewers or water mains as a part of the construction of the works that are suitable for use as a local or lateral sewer or main by abutting or adjoining property, the district may charge for the connection on the basis of the pro rata cost of construction of a local or lateral sewer or water main sufficient to serve the property.

Each property owner must agree to pay for the connection in making an application for service. If payment is not made as agreed, the payment constitutes a lien on the property for which the connection is made.

The proceeds of the connection charges may be handled as:

1. net revenues of the works; or
2. payments toward the cost of construction or future improvements. [IC 13-26-11-7]

JUST AND EQUITABLE RATES AND CHARGES

The board shall, by ordinance, establish just and equitable rates or charges for the use of and the service provided by a works. The rates or charges are payable by the owner of each lot, parcel of land, or building that:

1. is connected with and uses a works; or
2. in any way uses or is served by a works.

Subject to section 15 of this chapter, the board may periodically change and readjust the rates or charges as provided in this article. [IC 13-26-11-8]

Just and equitable rates and charges are those that produce sufficient revenue to:

1. pay all expenses incident to the operation of the works, including maintenance cost, operating charges, upkeep, repairs, and interest charges on bonds or other obligations;
2. provide the sinking fund for the liquidation of bonds or other evidence of indebtedness and reserves against default in the payment of interest and principal of bonds; and
3. provide adequate money to be used as working capital, as well as money for making improvements, additions, extensions, and replacements.

Rates and charges too low to meet these financial requirements are unlawful. The initial rates and charges established after notice and hearing under this article are prima facie just and equitable. [IC 13-26-11-9]

Revenue collected under IC 13-26-11-8 through IC 13-26-11-14 is revenue of the works. [IC 13-26-11-10]

ESTABLISHMENT OF RATES AND CHARGES

The initial rates or charges may be established only after a public hearing at which all:

1. the users of the works and owners of property served or to be served; and

2. others interested;

have an opportunity to be heard concerning the proposed rates or charges. [IC 13-26-11-11]

After introduction of the ordinance initially fixing rates or charges but before the ordinance is finally adopted, notice of the hearing setting forth the proposed schedule of the rates or charges must be given by publication one (1) time each week for two (2) weeks in a newspaper of general circulation in each of the counties with territory in the district. The last publication must be at least seven (7) days before the date fixed in the notice for the hearing. The hearing may be adjourned as necessary. [IC 13-26-11-12]

The ordinance establishing the initial rates or charges, either as:

1. originally introduced; or
2. modified and amended;

shall be passed and put into effect after the hearing

A copy of the schedule of the rates and charges established must be:

1. kept on file in the office of the district; and
2. open to public inspection.

Whenever the board acts under IC 13-26-11-8(b) to change or readjust the rates and charges, the board shall mail, either separately or along with a periodic billing statement, a notice of the new rates and charges to each user affected by the change or readjustment. In the case of a sewage district, if the change or readjustment increases the rates and charges by the amount specified in section 15(c) of this chapter, the notice required by this subsection:

1. must include a statement of a ratepayer's rights under section 15 of this chapter; and
2. shall be mailed within the time specified in section 15(c) of this chapter.

Following the passage of an ordinance under subsection (a), the lesser of fifty (50) or ten percent (10%) of the ratepayers of the district may file a written petition objecting to the initial rates and charges of the district. A petition filed under this subsection must:

1. contain the name and address of each petitioner;
2. be filed with a member of the district authority, in the county where at least one (1) petitioner resides, not later than thirty (30) days after the district adopts the ordinance; and (3) set forth the grounds for the ratepayers' objection.

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

Upon the date fixed in the notice, the district authority shall hear the evidence produced and determine the following:

1. Whether the board of trustees of the district, in adopting the ordinance establishing sewer rates and charges, followed the procedure required by this chapter.

Whether the sewer rates and charges established by the board by ordinance are just and equitable rates and charges, according to the standards set forth in section 9 of this chapter. After the district authority hears the evidence produced and makes the determinations set forth in subsection (f), the district authority, by a majority vote, shall:

1. sustain the ordinance establishing the rates and charges;
2. sustain the petition; or
3. make any other ruling appropriate in the matter, subject to the standards set forth in section 9 of this chapter.

The order of the district authority may be appealed by the district or a petitioner to the circuit court of the county in which the district is located. The court shall try the appeal without a jury and shall determine one (1) or both of the following:

1. Whether the board of trustees of the district, in adopting the ordinance establishing sewer rates and charges, followed the procedure required by this chapter.
2. Whether the sewer rates and charges established by the board by ordinance are just and equitable rates and charges, according to the standards set forth in section 9 of this chapter.

Either party may appeal the circuit court's decision in the same manner that other civil cases may be appealed. [IC 13-26-11-13]

The rates or charges established for a class of users of property served shall be extended to cover any additional premises served after the rates or charges are established that are in the same class, without the necessity of hearing or notice.

Subject to IC 13-26-11-15, a change or readjustment of the rates or charges may be made in the same manner as the rates or charges were originally established. [IC 13-26-11-14]

REGIONAL SEWAGE DISTRICT AUTHORITY

IC 13-26-11-15 states:

“(a) A district authority is established in each regional sewage district established under this article. A district authority:

- (1) must consist of an odd number of members;
 - (2) must consist of at least three (3) members; and
 - (3) may not include as a member any person who serves on the board of trustees of the district.
- (b) The district authority of a regional sewage district consists of the following members:
- (1) In the case of a regional sewage district located in one (1) county, the following members:
 - (A) If no members of the county executive are trustees of the regional sewage district, the county executive of the county.

- (B) If:
- (i) one (1) or more members of the county executive are trustees of the regional sewage district; and
 - (ii) no members of the county fiscal body are trustees of the regional sewage district;

the members of the county fiscal body.

- (C) If the regional sewage district's board of trustees consists of one (1) or more members of the county executive and one (1) or more members of the county fiscal body, three (3) members appointed as follows:

- (i) Two (2) members appointed by the county executive. If not all of the members of the county executive are trustees of the district, the county executive may appoint either or both of the two (2) members required by this item from among the county executive's own membership, subject to subsection (a)(3).
- (ii) One (1) member appointed by the county fiscal body.

If not all of the members of the county fiscal body are trustees of the district, the county fiscal body may appoint the member required by this item from among the county fiscal body's own membership, subject to subsection (a)(3).

- (2) In the case of a regional sewage district located in more than one (1) county, the following members:

- (A) If:

- (i) an odd number of counties are part of the regional sewage district; and
- (ii) each county in the district has at least one (1) county executive member who is not a trustee of the regional sewage district;

one (1) county executive member, appointed by that member's county executive, from each county in which the district is located, subject to subsection (a)(3).

- (B) If an even number of counties are part of the regional sewage district, the following members:

- (i) Two (2) county executive members, appointed by those members' county executive, from the county that has the largest number of customers served by the district's sewer system. However, if the county that has the largest number of customers served by the district's sewer system does not have at least two (2) members of its executive who are not also trustees of the district, the county executive of that county may appoint one (1) or more of the members required by this item from outside the county executive's own membership in order to comply with subsection (a)(3).
- (ii) One (1) county executive member, appointed by that member's county executive, from each county, other than the county described in item (i), in which the district is located. However, if a county described in this item does not have at least one (1) member of its executive who is not also a trustee of the district, the county executive of that county may appoint the member required by this item from outside the county executive's own membership in order to comply with subsection (a)(3).

- (C) If an odd number of counties are part of the regional sewage district and an odd number of those counties in the district do not have at least one (1) county executive member who is not also a trustee of the district, the following members:
- (i) One (1) county executive member, appointed by that member's county executive, from each county that has at least one (1) county executive member who is not also a trustee of the district, subject to subsection (a)(3).
 - (ii) One (1) member appointed by the county executive of each county that does not have at least one (1) county executive member who is not also a trustee of the district.

A member appointed under this item must be appointed from outside the appointing county executive's own membership, subject to subsection (a)(3).

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

- (1) shall be mailed not later than seven (7) days after the district adopts the ordinance increasing the rates and charges; and
 - (2) must include a statement of a ratepayer's rights under this section.
- (d) If subsection (c) applies, fifty (50) ratepayers of the district or ten percent (10%) of the district's ratepayers, whichever is fewer, may file a written petition objecting to the rates and charges of the district. A petition filed under this subsection must:

- (1) contain the name and address of each petitioner;
- (2) be filed with a member of the district authority, in the county where at least one (1) petitioner resides, not later than thirty (30) days after the district adopts the ordinance establishing the rates and charges; and
- (3) set forth the grounds for the ratepayers' objection.

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

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

(f) Upon the date fixed in the notice, the district authority shall hear the evidence produced and determine the following:

- (1) Whether the board of trustees of the district, in adopting the ordinance increasing sewer rates and charges, followed the procedure required by this chapter.
- (2) Whether the increased sewer rates and charges established by the board by ordinance

are just and equitable rates and charges, according to the standards set forth in section 9 of this chapter.

(g) After the district authority hears the evidence produced and makes the determinations set forth in subsection (f), the district authority, by a majority vote, shall:

- (1) sustain the ordinance establishing the rates and charges;
- (2) sustain the petition; or
- (3) make any other ruling appropriate in the matter, subject to the standards set forth in section 9 of this chapter.

(h) The order of the district authority may be appealed by the district or a petitioner to the circuit court of the county in which the district is located. The court shall try the appeal without a jury and shall determine one (1) or both of the following:

- (1) Whether the board of trustees of the district, in adopting the ordinance increasing sewer rates and charges, followed the procedure required by this chapter.
- (2) Whether the increased sewer rates and charges established by the board by ordinance are just and equitable rates and charges, according to the standards set forth in section 9 of this chapter.

Either party may appeal the circuit court's decision in the same manner that other civil cases may be appealed."

FORECLOSURE OF LIENS

A district may, as an additional or alternative remedy, foreclose a lien established by this article as a means of collection of rates or charges, including the penalty on the rates or charges. [IC 13-26-14-1]

In all actions brought to foreclose the liens, the district is entitled to recover the following:

1. The amount of the rates or charges.
2. The penalty on the rates or charges.
3. A reasonable attorney's fee.

The court shall order that the sale be made without relief from valuation or appraisal statutes. [IC 13-26-14-2]

Except as otherwise provided by this article, in all actions to foreclose the liens:

1. the laws concerning municipal public improvement assessments; and
2. the rights, remedies, procedure, and relief granted the parties to the action;

apply. [IC 13-26-14-3]

Rates, fees, or charges made, assessed, or established by the district are a lien, in the same manner established under IC 36-9-23 for municipal sewage works, on a lot, parcel of land, or building that is connected with or uses the works of the district. Liens under this chapter:

1. attach;

2. are recorded;
3. are subject to the same penalties, interest, and reasonable attorney's fees on recovery;
and
4. shall be collected and enforced;

in substantially the same manner as provided in IC 36-9-23-31 through IC 36-9-23-34. A lien under this chapter that is the only lien on a property may not be foreclosed. [IC 13-26-14-4]

ANNUAL REPORTS

A district shall file an annual financial report with the State Examiner, not later than 60 days after the close of each fiscal year. The report is to be filed electronically in the manner prescribed under IC 5-14-3.8-7. [IC 5-11-1-4]

A district shall file a personnel report, as required by IC 5-11-13, in the office of the State Examiner during the month of January of each year. The report must be filed electronically in the manner prescribed under IC 5-14-3.8-7. [5-11-13]

OFFICIAL BOND REQUIREMENTS

The order establishing the district, issued by the Commissioner of the Department of Environmental Management, must provide the requirements for sufficient bond for all officers, trustees, or employees having power to dispense money of the district. [IC 13-26-2-10]