
HOUSE BILL No. 1496

DIGEST OF INTRODUCED BILL

Citations Affected: IC 8-1-2-125; IC 13-26.

Synopsis: Sewer connection matters. Provides that a not-for-profit public sewer utility or a regional sewage district may not require a property owner to connect to the utility's or district's sewer system if certain conditions are met. Requires a not-for-profit public sewer utility or regional sewage district to: (1) provide property owners with a form for use in applying for an exemption under those certain conditions; (2) respond in writing to each exemption application; (3) if denying an application, explain to the applicant why the application is denied and what steps the applicant must take to qualify for the exemption; and (4) allow an applicant 270 days after receiving a response within which to qualify for the exemption by taking those steps. Prohibits a local health department from denying a property owner's application for the installation of a residential onsite sewage system if the property owner demonstrates to the local health department that the property, with the installation of the proposed residential onsite sewage system, will meet the conditions for an exemption from the requirement to connect to the sewer system of a not-for-profit public sewer utility or a regional sewage district. Provides for the members of the board of trustees of a regional water, sewage, or solid waste district to be elected at an annual meeting of the owners of property located in the district. Eliminates provisions concerning the appointment of board members. Provides for the filling of a vacancy on a board. Requires that the terms of the members of a board be staggered so that no more than 1/3 of the members are elected in any year. Provides that, for purposes of rates and charges for the sewage works of a regional district, the sewage works are to be considered as benefiting only properties connected to
(Continued next page)

Effective: July 1, 2005 (retroactive); July 1, 2012 (retroactive); July 1, 2015.

Beumer

January 14, 2015, read first time and referred to Committee on Environmental Affairs.



Digest Continued

the sewer system, not properties that are not yet connected. Provides that if a lien for rates or charges assessed by a regional sewage district is the only lien being collected on a property, the lien may not be foreclosed at a tax sale or otherwise.



First Regular Session of the 119th General Assembly (2015)

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 2014 Regular Session and 2014 Second Regular Technical Session of the General Assembly.

HOUSE BILL No. 1496



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

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.292-2013,
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2005 (RETROACTIVE)]: Sec. 125. (a) ~~As used in The~~
4 **following definitions apply throughout** this section:
5 (1) **"Local health department" has the meaning set forth in**
6 **IC 16-18-2-211.**
7 (2) "Not-for-profit utility" means a public water or sewer utility
8 that:
9 (†) (A) does not have shareholders;
10 (‡) (B) does not engage in any activities for the profit of its
11 trustees, directors, incorporators, or members; and
12 (⊖) (C) is organized and conducts its affairs for purposes other
13 than the pecuniary gain of its trustees, directors, incorporators,
14 or members.



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

5 **(3) "Qualified inspector" means any of the following:**

6 **(A) An employee of a local health department who is**
 7 **designated by the local health department as having**
 8 **sufficient knowledge of onsite sewage systems to determine**
 9 **whether an onsite sewage system is failing.**

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

13 **(C) An individual listed by the state department of health**
 14 **or the local health department with jurisdiction over the**
 15 **service area of the property inspected as having sufficient**
 16 **knowledge of onsite sewage systems to determine if an**
 17 **onsite sewage system is failing.**

18 **(4) "Residential onsite sewage system" means all equipment**
 19 **and devices necessary for proper conduction, collection,**
 20 **storage, treatment, and onsite disposal of sewage from:**

21 **(1) a one (1) or two (2) family dwelling;**

22 **(2) a residential outbuilding; or**

23 **(3) two (2) single-family dwellings on the same property**
 24 **with a combined DDF of less than or equal to seven**
 25 **hundred fifty (750) gallons per day.**

26 **The term includes, but is not limited to, residential sewers,**
 27 **septic tanks, soil absorption systems, temporary sewage**
 28 **holding tanks, and sanitary vault privies.**

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

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

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

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



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

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:
 35 (A) the property line, if the property is:
 36 (i) located in a consolidated city;
 37 (ii) adjacent to a body of water, including a lake, river, or
 38 reservoir; or
 39 (iii) any part of a subdivision, or land that is divided or
 40 proposed to be divided into lots, whether contiguous or
 41 subject to zoning requirements, for the purpose of sale or
 42 lease as part of a larger common plan of development or



- 1 sale; or
 2 (B) for all other properties, the improvement or other structure
 3 from which the sewage or similar waste is discharged; and
 4 (2) the utility has given written notice by certified mail to the
 5 property owner at the address of the property at least ninety (90)
 6 days before the date for connection stated in the notice.
- 7 The notice given under subdivision (2) must also inform the property
 8 owner, other than an owner of property located in a consolidated city,
 9 that the property owner may qualify for an exemption as set forth in
 10 subsection (f).
- 11 (f) Subject to subsection (h), a property owner is exempt from the
 12 requirement to connect to a not-for-profit public sewer utility's sewer
 13 system and to discontinue use of a sewage disposal system if the
 14 following conditions are met:
- 15 (1) The property owner's sewage disposal system is a septic tank
 16 soil absorption system that was new at the time of installation and
 17 approved in writing by the local health department.
- 18 (2) The property owner, at the property owner's expense, obtains
 19 a written determination from the local health department or the
 20 department's designee that the septic tank soil absorption system
 21 is not failing. The local health department or the department's
 22 designee shall provide the owner with a written determination not
 23 later than sixty (60) days after receipt of the owner's request. If the
 24 local health department or the department's designee fails to
 25 provide a written determination within the time established in this
 26 subdivision, the owner, at the owner's expense, may obtain a
 27 written determination from a qualified inspector. If the local
 28 health department or the department's designee determines that a
 29 septic tank soil absorption system is failing, the property owner
 30 may appeal the determination to the board of the local health
 31 department. The decision of the board is final and binding.
- 32 (3) The property owner provides the not-for-profit public sewer
 33 utility with:
- 34 (A) the written notification of potential qualification for the
 35 exemption described in subsection (i); and
 36 (B) the written determination described in subdivision (2);
 37 within the time limits set forth in subsection (i).
- 38 (g) If a property owner, within the time allowed under subsection
 39 (i), notifies a not-for-profit public sewer utility in writing that the
 40 property owner qualifies for the exemption under this section, the
 41 not-for-profit public sewer utility shall, until the property owner's
 42 eligibility for an exemption under this section is determined, suspend



1 the requirement that the property owner discontinue use of a sewage
2 disposal system and connect to the not-for-profit public sewer utility's
3 sewer system.

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

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

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

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

22 (i) 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
26 not-for-profit public sewer utility in writing that the property
27 owner qualifies for the exemption under this section; and

28 (2) within one hundred twenty (120) days after the not-for-profit
29 public sewer utility receives the written notice provided under
30 subdivision (1), provide the not-for-profit public sewer utility with
31 the written determination required under subsection (f)(2).

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



- 1 the not-for-profit public sewer utility.
- 2 (k) A not-for-profit public sewer utility may not require a property
- 3 owner to connect to the not-for-profit public sewer utility's sewer
- 4 system if:
- 5 (1) the property is located on at least:
- 6 (A) ~~ten (10)~~ **five (5)** acres; or
- 7 **(B) the minimum acreage required in the county in which**
- 8 **the property is located for the installation of a residential**
- 9 **onsite sewage system;**
- 10 **whichever is less.**
- 11 (2) the owner can demonstrate the availability of at least two (2)
- 12 areas on the property for the collection and treatment of sewage
- 13 that will protect human health and the environment;
- 14 (3) the waste stream from the property is limited to domestic
- 15 sewage from a residence or business;
- 16 (4) the system used to collect and treat the domestic sewage has
- 17 a maximum design flow of seven hundred fifty (750) gallons per
- 18 day; and
- 19 (5) the owner, at the owner's expense, obtains and provides to the
- 20 district a ~~certification~~ **written determination** from the local
- 21 health department or ~~the department's designee~~ **a qualified**
- 22 **inspector** that the system **referred to in subdivision (4)** is not
- 23 failing.
- 24 **(l) A not-for-profit public sewer utility shall do the following:**
- 25 **(1) Provide property owners with a form for use in applying**
- 26 **for an exemption under subsection (k) from the requirement**
- 27 **to connect to the not-for-profit public sewer utility's sewer**
- 28 **system.**
- 29 **(2) Respond in writing to each exemption application**
- 30 **submitted under this subsection.**
- 31 **(3) If denying an exemption application, explain in writing to**
- 32 **the applicant:**
- 33 **(A) why the application is denied; and**
- 34 **(B) what steps the applicant must take to qualify for the**
- 35 **exemption under subsection (k).**
- 36 **(4) Allow an applicant two hundred seventy (270) days after**
- 37 **the applicant receives a written response described in**
- 38 **subdivision (3) within which the applicant, without submitting**
- 39 **a new application, may qualify for the exemption under**
- 40 **subsection (k) by taking the steps disclosed under subdivision**
- 41 **(3)(B).**
- 42 **A not-for-profit public sewer utility may allow an applicant an**



1 extension of the period described in subdivision (4) for good cause.

2 (m) A local health department shall not deny a property owner's
3 application for the installation of a residential onsite sewage system
4 if the property owner demonstrates to the local health department
5 that the property, with the installation of the proposed residential
6 onsite sewage system, will meet the requirements set forth in
7 subsection (k)(1) through (k)(5).

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

14 (‡) (o) This section does not affect the authority of:

- 15 (1) the state department of health;
- 16 (2) a local health department, **except as provided in subsection**
17 **(m)**; or
- 18 (3) a county health officer;

19 with respect to a sewage disposal system.

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

- 22 (1) The system refuses to accept sewage at the rate of design
23 application and interferes with the normal use of plumbing
24 fixtures;
- 25 (2) Effluent discharge exceeds the absorptive capacity of the soil
26 into which the system discharges, resulting in ponding, seepage,
27 or other discharge of the effluent to the ground surface or to
28 surface waters;
- 29 (3) Effluent discharged from the system contaminates a potable
30 water supply, ground water, or surface waters.

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

- 33 (1) An employee of a local health department who is designated
34 by the local health department as having sufficient knowledge of
35 onsite sewage systems to determine if an onsite sewage system is
36 failing;
- 37 (2) An individual who is certified by the Indiana Onsite
38 Wastewater Professionals Association as an onsite sewage system
39 installer or inspector;
- 40 (3) An individual listed by the state department of health or the
41 local health department with jurisdiction over the service area of
42 the property inspected as having sufficient knowledge of onsite



1 ~~sewage systems to determine if an onsite sewage system is failing.~~
 2 SECTION 2. IC 13-26-2-3, AS AMENDED BY P.L.97-2012,
 3 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 4 JULY 1, 2015]: Sec. 3. A petition to establish a district under this
 5 chapter must state the following:

- 6 (1) The proposed name of the district.
 7 (2) The place in which the district's principal office is to be
 8 located.
 9 (3) The following information:
 10 (A) The need for the proposed district.
 11 (B) The purpose to be accomplished.
 12 (C) How the district will be conducive to the public health,
 13 safety, convenience, or welfare, including a specific statement
 14 of how:
 15 (i) water supply, for a water district;
 16 (ii) sewage collection, disposal, and treatment, for a sewage
 17 district; or
 18 (iii) solid waste disposal, recovery, or treatment, for a solid
 19 waste district;
 20 is currently being provided.
 21 (D) Whether there is any outstanding indebtedness for the
 22 purpose proposed in the proposed district, including a
 23 statement as to how the current situation creates or adds to
 24 pollution or health hazards or impedes development in the
 25 area.
 26 (4) An accurate description of the territory to be included in the
 27 district, which does not have to be given by metes and bounds or
 28 by legal subdivisions. The territory does not have to be
 29 contiguous, but the territory must be so situated that the public
 30 health, safety, convenience, or welfare will be promoted by the
 31 establishment as a single district of the territory described.
 32 (5) The petitioner's recommendations on:
 33 ~~(A) the manner of selection;~~
 34 ~~(B)~~ (A) the number; and
 35 ~~(C)~~ (B) the term, not exceeding four (4) years;
 36 of the members of the board of trustees.
 37 (6) The plan for financing the cost of the operations of the district
 38 until the district is in receipt of revenue from the district's
 39 operations or proceeds from the sale of bonds.
 40 (7) Estimates of the following:
 41 (A) The costs of accomplishing the purpose of the district.
 42 (B) The costs of operating and maintaining the works.



1 (C) The sources of the funding of these costs.

2 (D) The rates and charges that will be required.

3 (E) The median income for households in the proposed district
4 based on the most recent federal decennial census.

5 (8) A summary of alternatives to creating the district.

6 SECTION 3. IC 13-26-2-10 IS AMENDED TO READ AS
7 FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 10. (a) If the
8 commissioner determines that the findings show that the establishment
9 of a recommended district:

10 (1) complies with the conditions of this chapter for establishment
11 of a district; and

12 (2) appears capable of accomplishing the purpose or purposes in
13 an economically feasible manner;

14 the commissioner shall issue an order directing that the district be
15 established as an independent municipal corporation with a name and
16 for the purposes designated in the order.

17 (b) An order must do the following:

18 (1) Provide for the ~~selection or appointment~~ **election** and terms of
19 offices, not to exceed four (4) years, of the board.

20 (2) Provide requirements for sufficient bond for all officers,
21 trustees, or employees having power to dispense money of the
22 district.

23 (3) If an eligible entity with territory in the district has a public
24 water or solid waste sewer system, contain provisions protecting
25 the investments of the entities and protecting the rights of the
26 holders of bonds or other obligations issued to provide money for
27 the system.

28 (4) Direct the district to file a detailed plan for the initial project
29 of the district not later than nine (9) months after the date of the
30 preliminary order or within a further time that the department
31 from time to time orders.

32 SECTION 4. IC 13-26-4-2 IS AMENDED TO READ AS
33 FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 2. (a) An order
34 establishing a district may provide for the board to be elected by the
35 ~~voters~~ **owners of property** in the district from districts or wards or
36 from the district at large. ~~Elections and provisions for filling vacancies~~
37 ~~must be in accordance with IC 3; with the commissioner or the~~
38 ~~commissioner's designees performing the functions of the election~~
39 ~~officials.~~

40 (b) **Members of the board of trustees of a district shall be elected**
41 **at an annual meeting of the owners of property located in the**
42 **district.**



1 (c) All owners of all property located in the district shall be
 2 notified of an annual meeting of property owners of the district.
 3 Each property owner shall be notified in advance of the meeting:

4 (1) by first class mail; or

5 (2) by electronic mail;

6 at the address provided to the district by the property owner for
 7 the purpose of notification.

8 (d) A vacancy on the board of a district shall be filled by
 9 appointment by the board at the first regularly scheduled board
 10 meeting after the vacancy occurs. A replacement member
 11 appointed under this subsection serves for the remainder of the
 12 vacating member's term.

13 (e) The terms of the members of the board of a district shall be
 14 staggered so that no more than one-third (1/3) of the members of
 15 the board are elected in any year.

16 SECTION 5. IC 13-26-4-3 IS REPEALED [EFFECTIVE JULY 1,
 17 2015]. Sec. 3: Instead of electing the board, an order establishing a
 18 district may provide for appointments to the board by the elected
 19 executive or legislative officers of the eligible entities having territory
 20 in the district.

21 SECTION 6. IC 13-26-4-4 IS REPEALED [EFFECTIVE JULY 1,
 22 2015]. Sec. 4: (a) If:

23 (1) a district will include territory in more than one (1) county;

24 (2) a county executive has filed a petition for a district including
 25 territory owned, leased, or controlled by the department of natural
 26 resources; or

27 (3) the department of natural resources has filed a petition;

28 the order establishing the district may provide that the governor
 29 appoints any number of trustees, but less than one-half (1/2) of the
 30 total.

31 (b) If a district contains or a proposed district will contain a state
 32 correctional facility, the department, when:

33 (1) issuing an order establishing the district under IC 13-26-2-10;

34 or

35 (2) approving or modifying a petition filed by the district's board
 36 of trustees under IC 13-26-1-2;

37 may allow for the appointment of one (1) member of the board of
 38 trustees of the district by the commissioner of the department of
 39 correction.

40 SECTION 7. IC 13-26-4-5 IS REPEALED [EFFECTIVE JULY 1,
 41 2015]. Sec. 5: If a plan also contemplates that sewage treatment for the
 42 district will be provided in cooperation with a municipality, the order



- 1 must provide that:
- 2 (1) at least one (1) trustee shall be appointed by the executive of
- 3 the municipality; and
- 4 (2) at least:
- 5 (A) one (1) trustee shall be appointed by the fiscal body; and
- 6 (B) one (1) trustee shall be appointed by the executive;
- 7 of the county having the largest amount of territory in the district.
- 8 SECTION 8. IC 13-26-4-6, AS AMENDED BY P.L.211-2014,
- 9 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 10 JULY 1, 2015]: Sec. 6. (a) This section does not apply to a district
- 11 described in section 6.1 of this chapter.
- 12 (b) (a) Except as provided in subsection (c)(5); an appointed (b)(3),
- 13 a trustee does not have to be a resident of the district.
- 14 (c) An appointed (b) A trustee must:
- 15 (1) own real property within the district;
- 16 (2) be a trustee appointed under section 4 or 5 of this chapter;
- 17 (3) be an elected official who represents a political subdivision
- 18 that has territory in the district;
- 19 (4) (2) be a ratepayer of the district; or
- 20 (5) (3) with respect to a district in which a majority of ratepayers
- 21 and property owners are not individuals, be an individual who is
- 22 registered to vote at an address that is located in the district.
- 23 SECTION 9. IC 13-26-4-6.1 IS REPEALED [EFFECTIVE JULY
- 24 1, 2015]. Sec. 6.1. (a) This section applies to a district that is:
- 25 (1) a countywide district; and
- 26 (2) established in response to an agreed order entered into after
- 27 December 31, 1982, by the department and the executive and
- 28 fiscal bodies of the county.
- 29 (b) Not later than December 31, 2012, the parties to an agreed order
- 30 described in subsection (a)(2) shall amend the agreed order to provide
- 31 for the appointment of trustees as follows:
- 32 (1) Beginning July 1, 2013, at least one (1) appointed trustee must
- 33 reside in the geographic area that is the subject of the department
- 34 investigation resulting in the agreed order.
- 35 (2) Beginning July 1, 2013, an appointed trustee may not be
- 36 served by a municipal sewer system.
- 37 (3) Beginning July 1, 2013, at least one (1) appointed trustee must
- 38 be an elected official who represents a political subdivision that
- 39 has territory in the district.
- 40 SECTION 10. IC 13-26-5-2.6, AS ADDED BY P.L.97-2012,
- 41 SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 42 JULY 1, 2012 (RETROACTIVE)]: Sec. 2.6. (a) For purposes of this



1 section, a sewage disposal system is "failing" if one (1) or more of
2 the following apply:

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

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

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

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

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

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

21 (3) An individual listed by the state department of health or
22 the local health department with jurisdiction over the service
23 area of the property inspected as having sufficient knowledge
24 of onsite sewage systems to determine whether an onsite
25 sewage system is failing.

26 (c) A district may not require the owner of a property described in
27 section 2(8) of this chapter to connect to the district's sewer system if:

28 (1) the property is located on at least:

29 (A) ~~ten (10)~~ five (5) acres; or

30 (B) the minimum acreage required in the county in which
31 the property is located for the installation of a residential
32 onsite sewage system;

33 whichever is less.

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

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

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

42 (5) the owner, at the owner's expense, obtains and provides to the



1 district a ~~certification~~ **written determination** from the local
 2 health department or the department's designee **a qualified**
 3 **inspector** that the system is functioning satisfactorily. **not failing.**

4 **(d) A district shall do the following:**

5 **(1) Provide property owners with a form for use in applying**
 6 **for an exemption under subsection (c) from the requirement**
 7 **to connect to the district's sewer system.**

8 **(2) Respond in writing to each exemption application**
 9 **submitted under this subsection.**

10 **(3) If denying an exemption application, explain in writing to**
 11 **the applicant:**

12 **(A) why the application is denied; and**

13 **(B) what steps the applicant must take to qualify for the**
 14 **exemption under subsection (c).**

15 **(4) Allow an applicant two hundred seventy (270) days after**
 16 **the applicant receives a written response described in**
 17 **subdivision (3) within which the applicant, without submitting**
 18 **a new application, may qualify for the exemption under**
 19 **subsection (c) by taking the steps disclosed under subdivision**
 20 **(3)(B).**

21 **A district may allow an applicant an extension of the period**
 22 **described in subdivision (4) for good cause.**

23 **(e) A local health department shall not deny a property owner's**
 24 **application for the installation of a residential onsite sewage system**
 25 **if the property owner demonstrates to the local health department**
 26 **that the property, with the installation of the proposed residential**
 27 **onsite sewage system, will meet the requirements set forth in**
 28 **subsection (c)(1) through (c)(4).**

29 **(f) A property owner who connects to district's sewer system**
 30 **may provide, at the owner's own expense:**

31 **(1) labor;**

32 **(2) equipment;**

33 **(3) materials; or**

34 **(4) any combination of these inputs;**

35 **from any source to accomplish the connection to the sewer system,**
 36 **subject to inspection and approval by the district.**

37 **(g) This section does not affect the authority of:**

38 **(1) the state department of health;**

39 **(2) a local health department, except as provided in subsection**

40 **(e); or**

41 **(3) a county health officer;**

42 **with respect to a sewage disposal system.**



1 SECTION 11. IC 13-26-5-6.5, AS ADDED BY P.L.292-2013,
 2 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 3 JULY 1, 2015]: Sec. 6.5. **(a)** A district that intends to extend service
 4 within its territory shall provide notice to all owners of property to be
 5 served by the proposed extension of service, ~~in the following manner~~
 6 not later than sixty (60) days from the date of the decision to extend
 7 service, **by both of the following means:**

8 (1) By publication of notice:

9 **(A)** one (1) time each week for three (3) consecutive weeks in
 10 at least two (2) newspapers of general circulation in each of
 11 ~~the counties; county in the district that is affected,~~ in whole
 12 or in part, ~~of the district affected~~ by the proposed extension of
 13 service; **or**

14 **(B)** if there is only one (1) newspaper of general circulation in
 15 a county, a ~~single publication~~ **one (1) time** each week for three
 16 (3) consecutive weeks. ~~satisfies the requirement of this~~
 17 ~~subdivision.~~

18 (2) By United States mail, postage prepaid, mailed to each
 19 freeholder within the territory to which the district proposes to
 20 extend service.

21 **(b) If a petition that:**

22 **(1) opposes the extension of service; and**

23 **(2) is signed by more than fifty percent (50%) of the owners**
 24 **of property that would be served by the proposed extension of**
 25 **service;**

26 **is presented to the district not more than ninety (90) days after the**
 27 **mailing of the last notice mailed under subsection (a)(2) concerning**
 28 **the extension of service, the proposed extension of service shall not**
 29 **proceed.**

30 SECTION 12. IC 13-26-11-6 IS AMENDED TO READ AS
 31 FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 6. Unless the board
 32 finds and directs otherwise, the sewage works are considered to benefit
 33 every:

- 34 (1) lot;
- 35 (2) parcel of land; or
- 36 (3) building;

37 ~~connected or to be connected under the terms of an ordinance requiring~~
 38 ~~connections~~ with the sewer system of the district. ~~as a result of~~
 39 ~~construction work under the contract.~~ The rates or charges shall be
 40 billed and collected accordingly.

41 SECTION 13. IC 13-26-14-4, AS AMENDED BY P.L.97-2012,
 42 SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE



1 JULY 1, 2005 (RETROACTIVE)]: Sec. 4. Rates, fees, or charges
2 made, assessed, or established by the district are a lien, in the same
3 manner established under IC 36-9-23 for municipal sewage works, on
4 a lot, parcel of land, or building that is connected with or uses the
5 works of the district. Liens under this chapter:
6 (1) attach;
7 (2) are recorded;
8 (3) are subject to the same penalties, interest, and reasonable
9 attorney's fees on recovery; and
10 (4) shall be collected and enforced;
11 in substantially the same manner as provided in IC 36-9-23-31 through
12 IC 36-9-23-34. **If a lien under this chapter ~~that~~ is the only lien **being****
13 **collected** on a property, **the lien** may not be foreclosed **at a tax sale or**
14 **otherwise.**
15 SECTION 14. **An emergency is declared for this act.**

