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# SENATE BILL No. 302

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 13-26.

**Synopsis:** Regional sewer districts. Requires board members of regional sewer districts appointed by the county executive to have certain qualifications. Requires a regional sewer district board to consider the past performance of each potential contractor and the ability of the contractor to design the project or perform the work to maximize the long term effectiveness of the project. Prohibits a person who provides legal services to the board from also providing legal services to a person awarded a design or construction contract by the board. Requires the board to hire an engineer who has expertise in wastewater treatment technology. Requires the board to seek advice on technical matters from certified system operators. Establishes an appeals board to hear appeals from regional sewer district board decisions and make recommendations to the district board on those decisions.

**Effective:** July 1, 2004.

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January 8, 2004, read first time and referred to Committee on Environmental Affairs.

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Second Regular Session 113th General Assembly (2004)

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 2003 Regular Session of the General Assembly.

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**SENATE BILL No. 302**



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

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

1 SECTION 1. IC 13-26-4-8 IS ADDED TO THE INDIANA CODE  
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
3 1, 2004]: **Sec. 8. (a) This section applies to a regional sewer district  
4 board.**

5 **(b) An individual appointed after July 1, 2004, by a county  
6 executive to be a board member must satisfy at least one (1) of the  
7 following:**

8 **(1) The individual must have experience managing a business  
9 or a farm.**

10 **(2) The individual must have:**  
11 **(A) at least a bachelor's degree in a discipline; and**  
12 **(B) experience;**  
13 **relating to the purposes of the district.**

14 **(3) The individual must be a member of the county executive  
15 or the county fiscal body.**

16 SECTION 2. IC 13-26-5-9 IS ADDED TO THE INDIANA CODE  
17 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY



1 1, 2004]: **Sec. 9. (a) This section applies to a regional sewer district**  
2 **board.**

3 **(b) In awarding a design or construction contract, the board**  
4 **shall consider the following in addition to other factors the board**  
5 **is required to or may consider:**

- 6 **(1) The past performance of each potential contractor.**
- 7 **(2) The ability of the contractor to design the project or**  
8 **perform the work so as to maximize the long term**  
9 **effectiveness of the project.**

10 SECTION 3. IC 13-26-5-10 IS ADDED TO THE INDIANA CODE  
11 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
12 1, 2004]: **Sec. 10. (a) This section applies to a regional sewer district**  
13 **board.**

14 **(b) A person who provides legal services to the board may not**  
15 **also provide legal services to a person awarded a design or**  
16 **construction contract by the board.**

17 SECTION 4. IC 13-26-5-11 IS ADDED TO THE INDIANA CODE  
18 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
19 1, 2004]: **Sec. 11. (a) This section applies to a regional sewer district**  
20 **board.**

21 **(b) The board shall employ a professional engineer registered**  
22 **under IC 25-31.**

23 **(c) An individual employed under this section must have**  
24 **demonstrated:**

- 25 **(1) expertise in wastewater treatment technology; and**
- 26 **(2) knowledge regarding laws and regulations relating to**  
27 **wastewater treatment.**

28 **(d) The engineer employed by the board may not have a**  
29 **financial interest in a design engineering firm or construction firm**  
30 **that carries out projects for the district.**

31 SECTION 5. IC 13-26-5-12 IS ADDED TO THE INDIANA CODE  
32 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
33 1, 2004]: **Sec. 12. (a) This section applies to a regional sewer district**  
34 **board.**

35 **(b) The board shall seek advice on technical matters from**  
36 **certified system operators.**

37 SECTION 6. IC 13-26-15 IS ADDED TO THE INDIANA CODE  
38 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE  
39 JULY 1, 2004]:

40 **Chapter 15. Sewer District Appeals Board**

41 **Sec. 1. This chapter applies to a regional sewer district.**

42 **Sec. 2. An appeals board is established for each district.**

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**Sec. 3. The appeals board of a district consists of the following:**

- (1) A member of the county executive of a county that contains territory of the district. The county executives of all counties that contain territory of the district shall jointly appoint the member under this subdivision.**
- (2) A member of the county fiscal body of a county that contains territory of the district. The fiscal bodies of all counties that contain territory of the district shall jointly appoint the member under this subdivision.**
- (3) An individual who has knowledge of county planning matters. The county executives of all counties that contain territory of the district shall jointly appoint the member under this subdivision.**
- (4) An individual employed by a county health department of a county that contains territory of the district. The county executives of all counties that contain territory of the district shall jointly appoint the member under this subdivision.**
- (5) A professional engineer who has knowledge of wastewater treatment matters. The county executives of all counties that contain territory of the district shall jointly appoint the member under this subdivision.**

**Sec. 4. (a) The term of an individual serving as a member of the appeals board of a district begins on the later of the following:**

- (1) The day the term of the member whom the individual is appointed to succeed expires.**
- (2) The day the individual is appointed.**

**(b) Except as provided in subsection (c), the term of a member expires January 1 of the fourth year after the member's current term begins.**

**(c) The terms of the members of the first appeals board of a district appointed under section 3 of this chapter expire as follows:**

- (1) The term of the member appointed under section 3(1) of this chapter expires January 1 of the fourth year after the member's term begins.**
- (2) The term of the member appointed under section 3(2) of this chapter expires January 1 of the third year after the member's term begins.**
- (3) The term of the member appointed under section 3(3) of this chapter expires January 1 of the second year after the member's term begins.**
- (4) The term of the member appointed under section 3(4) of this chapter expires January 1 of the fourth year after the**

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member's term begins.

(5) The term of the member appointed under section 3(5) of this chapter expires January 1 of the third year after the member's term begins.

(d) A member may be reappointed to the appeals board. A member reappointed to the appeals board is the member's own successor for purposes of subsection (a).

Sec. 5. (a) A vacancy on the appeals board of a district shall be filled by the appointing authority that appointed the member whose position is vacant.

(b) An individual appointed to fill a vacancy on the appeals board serves for the remainder of the term of the board member whom the individual is appointed to replace.

Sec. 6. An appeals board member is not entitled to payment for serving as a member but is entitled to be reimbursed for any actual expenses incurred in serving as a member.

Sec. 7. (a) A district shall pay all expenses of its appeals board.

(b) The district shall provide all supplies and support services for the appeals board's operation.

Sec. 8. (a) During its final meeting of each year, the appeals board of a district shall elect a member to be the chair.

(b) The member elected as chair serves as chair until the earlier of the following:

- (1) The member's term as an appeals board member expires.
- (2) The member's successor as chair is elected.

(c) A member who serves as chair may be reelected for successive terms.

(d) If the position of chair becomes vacant, the appeals board shall elect a remaining member as chair.

Sec. 9. The appeals board of a district shall meet:

- (1) at the call of the chair; or
- (2) if the position of chair is vacant, upon the call of three (3) appeals board members.

Sec. 10. (a) Three (3) members of the appeals board of a district constitute a quorum.

(b) The affirmative votes of three (3) appeals board members are required for the appeals board to take official action other than to do the following:

- (1) Adjourn.
- (2) Meet to hear reports or testimony.

Sec. 11. The appeals board of a district:

- (1) shall adopt rules of procedure; and

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(2) may adopt other rules it considers appropriate.

**Sec. 12. (a) This section does not apply to matters relating to an ordinance concerning sewer rates and charges subject to a district authority under IC 13-26-11-15.**

**(b) A person aggrieved by an action of the district board may not maintain an action in a court or before any administrative body to challenge the action until after:**

- (1) the person files an appeal with the appeals board; and**
- (2) the appeals board makes a final determination on the matter.**

**Sec. 13. A person aggrieved by an action of a district board must file an appeal as provided by the appeals board's rules.**

**Sec. 14. After concluding hearings on an appeal, the appeals board of a district may do either of the following:**

- (1) Affirm the district board's action.**
- (2) Recommend to the district board that its action be modified or vacated.**

**Sec. 15. An aggrieved person may file an action in a court or before an administrative body that has jurisdiction to challenge the action of the district board not earlier than forty-five (45) days after the appeals board of the district takes final action on the person's appeal.**

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