

Adopted Rejected

COMMITTEE REPORT

YES: 10
NO: 0

MR. SPEAKER:

Your Committee on Environmental Affairs, to which was referred Senate Bill 154, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill **be amended** as follows:

- 1 Page 1, between the enacting clause and line 1, begin a new
- 2 paragraph and insert:
- 3 "SECTION 1. IC 4-4-2.4-2, AS ADDED BY P.L.144-2006,
- 4 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 5 JULY 1, 2007]: Sec. 2. The office of the lieutenant governor may adopt
- 6 rules under IC 4-22-2 to carry out the duties, purposes, and functions
- 7 of the office of the lieutenant governor relating to:
- 8 (1) energy policy under section 1 of this chapter; **and**
- 9 (2) the administration of the center for coal technology research
- 10 under IC 4-4-30-5.5. **and**
- 11 ~~(3) the Indiana recycling and energy development board under~~
- 12 ~~IC 4-23-5.5-6.5."~~
- 13 Page 5, between lines 16 and 17, begin a new paragraph and insert:
- 14 "SECTION 3. IC 4-23-5.5-1, AS AMENDED BY P.L.1-2006,
- 15 SECTION 78, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 16 JULY 1, 2007]: Sec. 1. As used in this chapter:

1 (1) "board" ~~means~~ **refers to** the Indiana recycling ~~and energy~~
2 **market** development board created by this chapter; **and**

3 (2) "division" **refers to the division of pollution prevention**
4 **established by IC 13-27-2-1.**

5 SECTION 4. IC 4-23-5.5-2, AS AMENDED BY P.L.1-2006,
6 SECTION 79, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
7 JULY 1, 2007]: Sec. 2. (a) The Indiana recycling ~~and energy market~~
8 development board is created and constitutes a public instrumentality
9 of the state. The exercise by the board of the powers conferred by this
10 chapter is an essential governmental function.

11 (b) The board consists of ~~thirteen (13)~~ **nine (9)** members, one (1) of
12 whom shall be the lieutenant governor or the lieutenant governor's
13 designee and ~~twelve (12)~~ **eight (8)** of whom shall be appointed by the
14 governor for four (4) year terms. The governor's appointees shall be
15 chosen from among representatives of:

- 16 (1) the coal industry;
17 (2) ~~other regulated and nonregulated energy related industries;~~
18 (3) ~~(2)~~ **(2)** Indiana universities and colleges with expertise in:
19 (A) recycling research and development; or
20 (B) energy research and development;
21 (4) ~~agriculture;~~
22 (5) ~~(3)~~ **(3)** labor;
23 (6) ~~(4)~~ **(4)** industrial and commercial consumers **of recycled**
24 **feedstock;**
25 (7) ~~(5)~~ **(5)** environmental groups; and
26 (8) ~~(6)~~ **(6)** private citizens with a special interest in
27 (A) ~~recycling, or~~
28 (B) ~~energy resources development.~~

29 No more than ~~six (6)~~ **four (4)** appointive members shall be of the same
30 political party.

31 (c) A vacancy in the office of an appointive member, other than by
32 expiration, shall be filled in like manner as the original appointment for
33 the remainder of the term of that retiring member. Appointed members
34 may be removed by the governor for cause.

35 (d) The board shall have seven (7) ex officio advisory members as
36 follows:

- 37 (1) The governor.
38 (2) The director of the department of natural resources.

1 (3) The commissioner of the department of environmental
2 management.

3 (4) Two (2) members from the house of representatives of
4 opposite political parties appointed by the speaker of the house of
5 representatives for two (2) year terms.

6 (5) Two (2) members from the senate of opposite political parties
7 appointed by the president pro tempore of the senate for two (2)
8 year terms.

9 (e) The ~~office of the lieutenant governor~~ **division** shall serve as the
10 staff of the board.

11 SECTION 5. IC 4-23-5.5-3 IS AMENDED TO READ AS
12 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 3. (a) The governor
13 shall appoint one (1) of the appointed members as chairman. ~~Seven (7)~~
14 **Five (5)** members of the board shall constitute a quorum and the
15 affirmative vote of a majority of the membership shall be necessary for
16 any action taken by the board. A vacancy in the membership of the
17 board does not impair the right of the quorum to act.

18 (b) All the members of the board shall be reimbursed for their actual
19 expenses incurred in the performance of their duties. The appointed
20 members may also receive a per diem allowance as determined by the
21 budget agency for attendance of board meetings and activities. All
22 reimbursement for expenses shall be as provided by law.

23 SECTION 6. IC 4-23-5.5-4, AS AMENDED BY P.L.1-2006,
24 SECTION 80, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
25 JULY 1, 2007]: Sec. 4. **A representative appointed by the division,**
26 **in consultation with the** lieutenant governor or the lieutenant
27 governor's designee, shall be the chief administrative officer for the
28 board and shall direct and supervise the administrative affairs and
29 technical activities of the board in accordance with rules, regulations,
30 and policies established by the board. The ~~lieutenant governor or the~~
31 ~~lieutenant governor's designee~~ **division** may appoint the employees as
32 the board may require and the agents or consultants as may be
33 necessary for implementing this chapter. The ~~lieutenant governor or the~~
34 ~~lieutenant governor's designee~~ **division** shall prepare an annual
35 administrative budget for review by the budget agency and the budget
36 committee.

37 SECTION 7. IC 4-23-5.5-6, AS AMENDED BY P.L.1-2006,
38 SECTION 81, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

- 1 JULY 1, 2007]: Sec. 6. (a) The board shall do the following:
- 2 (1) Adopt procedures for the regulation of its affairs and the
- 3 conduct of its business.
- 4 (2) Meet at the offices of the ~~lieutenant governor~~ **division** on call
- 5 of:
- 6 (A) the lieutenant governor or the lieutenant governor's
- 7 designee; **or**
- 8 (B) **the commissioner of the department of environmental**
- 9 **management or the commissioner's designee;**
- 10 at least once each calendar quarter. The meetings shall be upon
- 11 ten (10) days written notification, shall be open to the public, and
- 12 shall have official minutes recorded for public scrutiny.
- 13 (3) Report annually in an electronic format under IC 5-14-6 to the
- 14 legislative council the projects in which it has participated and is
- 15 currently participating with a complete list of expenditures for
- 16 those projects.
- 17 (4) Annually prepare an administrative budget for review by the
- 18 budget agency and the budget committee.
- 19 (5) Keep proper records of accounts and make an annual report of
- 20 its condition to the state board of accounts.
- 21 (b) ~~The board may request that the lieutenant governor conduct~~
- 22 ~~assessments of the opportunities and constraints presented by all~~
- 23 ~~sources of energy. The board shall encourage the balanced use of all~~
- 24 ~~sources of energy with primary emphasis on:~~
- 25 (1) ~~the utilization of Indiana's high sulphur coal; and~~
- 26 (2) ~~the utilization of Indiana's agricultural and forest resources~~
- 27 ~~and products for the production of alcohol fuel.~~
- 28 ~~However, the board shall seek to avoid possible undesirable~~
- 29 ~~consequences of total reliance on a single source of energy.~~
- 30 (c) (b) The board shall consider projects involving the creation of
- 31 the following:
- 32 (1) Markets for products made from recycled materials.
- 33 (2) New products made from recycled materials.
- 34 (d) (c) The board may promote, fund, and encourage programs
- 35 facilitating the development and ~~effective use of all sources of energy~~
- 36 **implementation of waste reduction, reuse, and recycling** in Indiana.
- 37 SECTION 8. IC 4-23-5.5-6.5, AS ADDED BY P.L.144-2006,
- 38 SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

1 JULY 1, 2007]: Sec. 6.5. The ~~office of the lieutenant governor~~
 2 **department of environmental management** may adopt rules under
 3 IC 4-22-2 to carry out the duties, purposes, and functions of this
 4 chapter.

5 SECTION 9. IC 4-23-5.5-7 IS AMENDED TO READ AS
 6 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 7. The board, upon
 7 approval by the governor and the budget agency, may make the
 8 following expenditures:

9 (1) Matching grants to federal, state, and local governmental
 10 agencies for research and development of: ~~energy~~

11 (A) **recycling** resources projects; and

12 (B) recycling market development projects;
 13 in Indiana.

14 (2) Matching grants to individuals, corporations, limited liability
 15 companies, partnerships, educational institutions, and other
 16 private sector groups for ~~energy~~ **recycling** resources and recycling
 17 market research and development.

18 (3) Direct grants, loans, or loan guarantees to those individuals
 19 and organizations specified in subdivision (1) or (2) of this
 20 section.

21 (4) Contractual services for ~~energy~~ **recycling** resources and
 22 recycling market research and development programs.

23 ~~(5) Purchase or lease land for energy resources and recycling~~
 24 ~~market research and development projects.~~

25 ~~(6)~~ (5) Other projects and expenses consistent with this chapter.

26 SECTION 10. IC 4-23-5.5-9 IS AMENDED TO READ AS
 27 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 9. The board may:

28 (1) on behalf of the state, receive and accept grants, gifts, and
 29 contributions from public agencies, including the federal
 30 government, and from private agencies and private sources,
 31 including the Indiana business modernization and technology
 32 corporation, for the purpose of researching and developing ~~energy~~
 33 **recycling** resources within the state, and may administer such,
 34 including contracting with other public and private organizations,
 35 to carry out the purposes for which such grants, gifts, and
 36 contributions were made;

37 (2) establish application forms and procedures for programs
 38 consistent with this chapter;

- 1 (3) accept applications from private and public sources for
 2 funding of programs consistent with this chapter;
- 3 (4) provide funding for studies, research projects, and other
 4 activities required to assess the nature and extent of recycling
 5 markets in Indiana and the nature and extent of **energy recycling**
 6 resources to meet the needs of the state; ~~including but not limited~~
 7 ~~to coal and other fossil fuels, alcohol fuels produced from~~
 8 ~~agricultural and forest products and resources, renewable, and~~
 9 ~~other energy resources;~~
- 10 (5) deposit funds not currently needed to meet the obligations of
 11 the board with the treasurer of state to the credit of the fund, or
 12 invest in obligations as provided by IC 5-13-10.5; and
- 13 (6) participate in or sponsor programs, conferences, or seminars
 14 aimed at assisting the state in promoting recycling market
 15 development. ~~and the effective use of all sources of energy in~~
 16 ~~Indiana."~~

17 Page 8, between lines 1 and 2, begin a new paragraph and insert:

18 "SECTION 14. IC 13-20-13-8, AS AMENDED BY P.L.1-2006,
 19 SECTION 202, IS AMENDED TO READ AS FOLLOWS
 20 [EFFECTIVE JULY 1, 2007]: Sec. 8. (a) Except as provided in
 21 subsection (d)(2), (d)(3), (d)(6), and (d)(7), the waste tire management
 22 fund is established for the following purposes:

23 (1) **The department may use not more than** thirty-five percent
 24 (35%) of the money deposited in the fund each year ~~shall be used~~
 25 ~~to assist the department. for:~~

26 (A) ~~in~~ the removal and disposal of waste tires from sites where
 27 the waste tires have been disposed of improperly; **and**

28 (B) ~~in~~ operating the waste tire education program under
 29 section 15 of this chapter. ~~and~~

30 ~~(C) to pay the expenses of administering the programs~~
 31 ~~described in clause (B)-~~

32 (2) ~~Sixty-five percent (65%) of~~ **The department may use the**
 33 **remaining** money deposited in the fund each year ~~shall be used~~
 34 ~~to: assist the lieutenant governor:~~

35 (A) ~~in providing~~ **provide** grants and loans **under section 9(b)**
 36 **of this chapter** to **persons entities** involved in waste tire
 37 management activities; ~~under section 9 of this chapter;~~ and

38 (B) ~~to~~ pay the expenses of administering the programs

1 described in:

2 **(i) subdivision (1)(B); and**

3 **(ii) clause (A).**

4 (b) The expenses of administering the fund shall be paid from
5 money in the fund.

6 (c) Money in the fund at the end of a state fiscal year does not revert
7 to the state general fund.

8 (d) Sources of money for the fund are the following:

9 (1) Fees paid under section 4(a)(6) of this chapter and
10 IC 13-20-14-5(e).

11 (2) Fees collected under section 7 of this chapter. All money
12 deposited in the fund under this subdivision may be used by the
13 department for waste reduction, recycling, removal, or
14 remediation projects.

15 (3) Costs and damages recovered from a person **or other entity**
16 under section 14 of this chapter or IC 13-20-14-8. All money
17 deposited in the fund under this subdivision may be used by the
18 department for removal and remediation projects.

19 (4) Fees established by the general assembly for the purposes of
20 this chapter.

21 (5) Appropriations made by the general assembly.

22 (6) Gifts and donations intended for deposit in the fund. A gift or
23 donation deposited in the fund under this subdivision may be
24 specified to be entirely for the use of the department. ~~or the~~
25 ~~lieutenant governor.~~

26 (7) Civil penalties collected under IC 13-30-4 for violations of:

27 (A) this chapter;

28 (B) IC 13-20-14; and

29 (C) rules adopted under section 11 of this chapter and
30 IC 13-20-14-6.

31 All money deposited in the fund under this subdivision may be
32 used by the department for ~~waste tire removal and remediation~~
33 **eligible** projects.

34 SECTION 15. IC 13-20-13-9, AS AMENDED BY P.L.1-2006,
35 SECTION 203, IS AMENDED TO READ AS FOLLOWS
36 [EFFECTIVE JULY 1, 2007]: Sec. 9. (a) The department may use
37 money in the fund to assist the department in:

38 (1) removing waste tires from sites where waste tires have been

- 1 disposed of improperly;
- 2 (2) properly managing waste tires;
- 3 (3) performing surveillance and enforcement activities used to
- 4 implement proper waste tire management; and
- 5 (4) conducting the waste tire education program under section 15
- 6 of this chapter.

7 (b) The ~~lieutenant governor~~ **department** may use money in the fund

8 to provide grants and loans to ~~persons~~ **entities** to establish and operate

9 programs involving the following:

- 10 (1) Recycling or reuse of waste tires.
- 11 (2) Using waste tires as a source of fuel.
- 12 (3) Developing markets for waste tires and products containing
- 13 recycled or reused waste tires.

14 (c) The ~~lieutenant governor~~ **department** may adopt rules under

15 IC 4-22-2 necessary to implement this section.

16 SECTION 16. IC 13-26-5-2 IS AMENDED TO READ AS

17 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. A district may

18 do the following:

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

- 1 or
- 2 (C) an eligible entity;
- 3 including a pledge of part or all of the net revenues of a works to
- 4 the debt service on outstanding bonds of an entity in whole or in
- 5 part in the district and including a right on the part of the district
- 6 to indemnify and protect a contracting party from loss or liability
- 7 by reason of the failure of the district to perform an agreement
- 8 assumed by the district or to act or discharge an obligation.
- 9 (7) Fix, alter, charge, and collect reasonable rates and other
- 10 charges in the area served by the district's facilities to every
- 11 person whose premises are, whether directly or indirectly,
- 12 supplied with water or provided with sewage or solid waste
- 13 services by the facilities for the purpose of providing for the
- 14 following:
- 15 (A) The payment of the expenses of the district.
- 16 (B) The construction, acquisition, improvement, extension,
- 17 repair, maintenance, and operation of the district's facilities
- 18 and properties.
- 19 (C) The payment of principal or interest on the district's
- 20 obligations.
- 21 (D) To fulfill the terms of agreements made with:
- 22 (i) the purchasers or holders of any obligations; or
- 23 (ii) a person or an eligible entity.
- 24 (8) Except as provided in section 2.5 of this chapter, require
- 25 connection to the district's sewer system of property producing
- 26 sewage or similar waste, and require the discontinuance of use of
- 27 privies, cesspools, septic tanks, and similar structures if:
- 28 (A) there is an available sanitary sewer within three hundred
- 29 (300) feet of the property line; ~~and~~
- 30 (B) the district has given written notice by certified mail to the
- 31 property owner at the address of the property at least ninety
- 32 (90) days before a date for connection to be stated in the
- 33 notice; **and**
- 34 **(C) if the property is located outside the district's territory,**
- 35 **the district has:**
- 36 **(i) obtained; and**
- 37 **(ii) provided to the property owner;**
- 38 **a certification from the local health department that the**

1 **connection is necessary to protect the public's health. The**
2 **district shall provide the property owner the certification**
3 **required by this clause along with the notice required by**
4 **clause (B).**

5 **However, a district may not require the owner of a property**
6 **described in this subdivision to connect to the district's sewer**
7 **system if the property is already connected to a sewer system**
8 **that has received all necessary permits from and approvals by**
9 **the state, or any agency of the state, and has been determined**
10 **to be functioning satisfactorily.**

11 (9) Provide by ordinance for reasonable penalties for failure to
12 connect and also apply to the circuit or superior court of the
13 county in which the property is located for an order to force
14 connection, with the cost of the action, including reasonable
15 attorney's fees of the district, to be assessed by the court against
16 the property owner in the action.

17 (10) Refuse the services of the district's facilities if the rates or
18 other charges are not paid by the user.

19 (11) Control and supervise all property, works, easements,
20 licenses, money, contracts, accounts, liens, books, records, maps,
21 or other property rights and interests conveyed, delivered,
22 transferred, or assigned to the district.

23 (12) Construct, acquire by purchase or otherwise, operate, lease,
24 preserve, and maintain works considered necessary to accomplish
25 the purposes of the district's establishment within or outside the
26 district and enter into contracts for the operation of works owned,
27 leased, or held by another entity, whether public or private.

28 (13) Hold, encumber, control, acquire by donation, purchase, or
29 condemnation, construct, own, lease as lessee or lessor, use, and
30 sell interests in real and personal property or franchises within or
31 outside the district for:

- 32 (A) the location or protection of works;
- 33 (B) the relocation of buildings, structures, and improvements
34 situated on land required by the district or for any other
35 necessary purpose; or
- 36 (C) obtaining or storing material to be used in constructing and
37 maintaining the works.

38 (14) Upon consent of two-thirds (2/3) of the members of the

1 board, merge or combine with another district into a single district
2 on terms so that the surviving district:

3 (A) is possessed of all rights, franchises, and authority of the
4 constituent districts; and

5 (B) is subject to all the liabilities, obligations, and duties of
6 each of the constituent districts, with all rights of creditors of
7 the constituent districts being preserved unimpaired.

8 (15) Provide by agreement with another eligible entity for the
9 joint construction of works the district is authorized to construct
10 if the construction is for the district's own benefit and that of the
11 other entity. For this purpose the cooperating entities may jointly
12 appropriate land either within or outside their respective borders
13 if all subsequent proceedings, actions, powers, liabilities, rights,
14 and duties are those set forth by statute.

15 (16) Enter into contracts with a person, an eligible entity, the
16 state, or the United States to provide services to the contracting
17 party for any of the following:

18 (A) The distribution or purification of water.
19 (B) The collection or treatment of sanitary sewage.
20 (C) The collection, disposal, or recovery of solid waste.

21 (17) Make provision for, contract for, or sell the district's
22 byproducts or waste.

23 (18) Exercise the power of eminent domain.

24 (19) Remove or change the location of a fence, building, railroad,
25 canal, or other structure or improvement located within or outside
26 the district. If:

27 (A) it is not feasible or economical to move the building,
28 structure, or improvement situated in or upon land acquired;
29 and

30 (B) the cost is determined by the board to be less than that of
31 purchase or condemnation;

32 the district may acquire land and construct, acquire, or install
33 buildings, structures, or improvements similar in purpose to be
34 exchanged for the buildings, structures, or improvements under
35 contracts entered into between the owner and the district.

36 (20) Employ consulting engineers, superintendents, managers,
37 and other engineering, construction, and accounting experts,
38 attorneys, bond counsel, employees, and agents that are necessary

1 for the accomplishment of the district's purpose and fix their
2 compensation.

3 (21) Procure insurance against loss to the district by reason of
4 damages to the district's properties, works, or improvements
5 resulting from fire, theft, accident, or other casualty or because of
6 the liability of the district for damages to persons or property
7 occurring in the operations of the district's works and
8 improvements or the conduct of the district's activities.

9 (22) Exercise the powers of the district without obtaining the
10 consent of other eligible entities. However, the district shall:

11 (A) restore or repair all public or private property damaged in
12 carrying out the powers of the district and place the property
13 in the property's original condition as nearly as practicable; or

14 (B) pay adequate compensation for the property.

15 (23) Dispose of, by public or private sale or lease, real or personal
16 property determined by the board to be no longer necessary or
17 needed for the operation or purposes of the district.

18 SECTION 17. IC 13-26-8-4 IS ADDED TO THE INDIANA CODE
19 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE
20 UPON PASSAGE]: **Sec. 4. (a) This section applies to the addition of
21 territory to a district other than at the request of an eligible entity
22 described in section 1 of this chapter.**

23 **(b) To add territory to a district already established, the board
24 must do the following:**

25 **(1) Adopt an ordinance establishing the boundaries of the
26 additional territory to be included in the district.**

27 **(2) Obtain either of the following:**

28 **(A) The signed consent of more than fifty percent (50%) of
29 the freeholders within the territory proposed to be added
30 to the district.**

31 **(B) A certification from the local health department that
32 the addition of the territory to the district is needed to
33 protect the public's health.**

34 **(3) Submit to the department a petition that includes the
35 following:**

36 **(A) A description of the territory proposed to be added to
37 the district.**

38 **(B) The signed consent or the certification obtained under**

1 **subdivision (2).**
 2 **(C) A certification that the board has mailed, either**
 3 **separately or along with a periodic billing statement,**
 4 **written notice of:**
 5 **(i) the proposed addition to the district;**
 6 **(ii) any potential effect that the proposed addition will**
 7 **have on the rates and charges for the use of and services**
 8 **provided by the district's works; and**
 9 **(iii) a statement of a freeholder's rights under section 15**
 10 **of this chapter, if the proposed addition of territory will**
 11 **potentially increase the rates and charges by the amount**
 12 **specified in section 15(c) of this chapter;**
 13 **to each user of the works whose rates and charges will be**
 14 **potentially affected by the proposed addition of territory**
 15 **to the district.**

16 **(c) If the department determines that:**
 17 **(1) the board has provided a petition that meets the**
 18 **requirements set forth in subsection (b); and**
 19 **(2) the proposed addition of territory to the district is**
 20 **practical and feasible;**
 21 **the department shall approve the board's proposed addition of**
 22 **territory to the district.**

23 SECTION 18. IC 13-26-11-8 IS AMENDED TO READ AS
 24 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. (a) The board
 25 shall, by ordinance, establish just and equitable rates or charges for the
 26 use of and the service provided by a works. The rates or charges are
 27 payable by the owner of each lot, parcel of land, or building that:

- 28 (1) is connected with and uses a works; or
- 29 (2) in any way uses or is served by a works.

30 **(b) Subject to sections 13(c) and 15 of this chapter,** the board may
 31 periodically change and readjust the rates or charges as provided in this
 32 article.

33 SECTION 19. IC 13-26-11-13 IS AMENDED TO READ AS
 34 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 13. (a) The
 35 ordinance establishing the initial rates or charges, either as:

- 36 (1) originally introduced; or
- 37 (2) modified and amended;

38 shall be passed and put into effect after the hearing.

1 (b) A copy of the schedule of the rates and charges established must
2 be:

- 3 (1) kept on file in the office of the district; and
- 4 (2) open to public inspection.

5 **(c) This subsection applies to a regional sewage district.**
 6 **Whenever the board acts under section 8(b) of this chapter to**
 7 **change or readjust the rates and charges, the board shall mail,**
 8 **either separately or along with a periodic billing statement, a**
 9 **notice of the new rates and charges to each user affected by the**
 10 **change or readjustment. If the change or readjustment increases**
 11 **the rates and charges by the amount specified in section 15(c) of**
 12 **this chapter, the notice required by this subsection:**

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

17 SECTION 20. IC 13-26-11-14 IS AMENDED TO READ AS
 18 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 14. (a) The rates or
 19 charges established for a class of users of property served shall be
 20 extended to cover any additional premises served after the rates or
 21 charges are established that are in the same class, without the necessity
 22 of hearing or notice.

23 (b) **Subject to sections 13(c) and 15 of this chapter,** a change or
 24 readjustment of the rates or charges may be made in the same manner
 25 as the rates or charges were originally established.

26 SECTION 21. IC 13-26-11-15 IS AMENDED TO READ AS
 27 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 15. (a) A district
 28 authority is established in each regional sewage district established
 29 under this article.

30 (b) The district authority of a regional sewage district consists of the
 31 following:

- 32 (1) In the case of a regional sewage district located in one (1)
 33 county:
 - 34 (A) except as provided in clause (B), the county executive of
 35 that county; or
 - 36 (B) if the members of the county executive are trustees of the
 37 regional sewage district, the members of the county fiscal
 38 body.

1 (2) In the case of a regional sewage district located in more than
2 one (1) county, one (1) county executive member, appointed by
3 that member's county executive, from each county in which the
4 district is located.

5 However, a person who serves on the board of trustees of a district may
6 not be a member of the district authority.

7 (c) If a district adopts an ordinance increasing sewer rates and
8 charges at a rate that is greater than five percent (5%) per year, as
9 calculated from the rates and charges in effect from the date of the
10 district's last rate increase before January 1, 2001, **the district shall**
11 **mail a notice of the new rates and charges to each user of the sewer**
12 **system who is affected by the increase, as required by section 13(c)**
13 **of this chapter. The notice required by section 13(c) of this chapter:**

14 **(1) shall be mailed not later than seven (7) days after the**
15 **board adopts the ordinance increasing the rates and charges;**
16 **and**

17 **(2) must include a statement of a freeholder's rights under**
18 **this section.**

19 **(d) If subsection (c) applies,** fifty (50) freeholders of the district or
20 ten percent (10%) of the district's freeholders, whichever is fewer, may
21 file a written petition objecting to the rates and charges of the district.

22 A petition filed under this subsection must:

23 (1) contain the name and address of each petitioner;

24 (2) be filed with a member of the district authority, in the county
25 where at least one (1) petitioner resides, not later than thirty (30)
26 days after the district adopts the ordinance establishing the rates
27 and charges; and

28 (3) set forth the grounds for the freeholders' objection.

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

35 (e) The district authority shall set the matter for public hearing not
36 less than ten (10) business days but not later than twenty (20) business
37 days after the petition has been filed. The district authority shall send
38 notice of the hearing by certified mail to the district and the petitioner

1 and publish the notice of the hearing in a newspaper of general
2 circulation in each county in the district.

3 (f) Upon the date fixed in the notice, the district authority shall hear
4 the evidence produced and determine whether the increased sewer rates
5 and charges established by the board by ordinance are just and
6 equitable rates and charges, according to the standards set forth in
7 section 9 of this chapter. The district authority, by a majority vote,
8 shall:

- 9 (1) sustain the ordinance establishing the rates and charges;
- 10 (2) sustain the petition; or
- 11 (3) make any other ruling appropriate in the matter.

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

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

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

24 **SECTION 22. [EFFECTIVE UPON PASSAGE] (a) The terms of**
25 **the members of the Indiana recycling and energy development**
26 **board are terminated on June 30, 2007.**

1 **(b) Before July 1, 2007, the governor shall appoint the members**
2 **of the Indiana recycling market development board.**

3 **(c) This SECTION expires July 1, 2007."**

4 Renumber all SECTIONS consecutively.

(Reference is to SB 154 as printed January 19, 2007.)

and when so amended that said bill do pass.

Representative Dvorak