

COMMITTEE REPORT

MADAM PRESIDENT:

The Senate Committee on Utilities and Technology, to which was referred House Bill No. 1117, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

- 1 Delete everything after the enacting clause and insert the following:
2 SECTION 1. IC 8-1-2-125 IS AMENDED TO READ AS
3 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 125. (a) As used in this
4 section, "not-for-profit utility" means a public water or sewer utility
5 that:
6 (1) does not have shareholders;
7 (2) does not engage in any activities for the profit of its trustees,
8 directors, incorporators, or members; and
9 (3) is organized and conducts its affairs for purposes other than
10 the pecuniary gain of its trustees, directors, incorporators, or
11 members.
12 **The term does not include a conservancy district established under**
13 **IC 14-33 or, for purposes of subsections (f), (g), (h), (i), (j), and (k),**
14 **a utility company owned, operated, or held in trust by a**
15 **consolidated city.**
16 (b) As used in this section, "sewage disposal system" means a
17 privy, cesspool, septic tank, or other similar structure. The term
18 includes a septic tank soil absorption system (as defined in
19 IC 13-11-2-199.5). The term does not include a sewer system
20 operated by a not-for-profit public sewer utility.
21 ~~(b)~~ (c) A not-for-profit utility shall be required to furnish reasonably

1 adequate services and facilities. The charge made by any not-for-profit
 2 utility for any service rendered or to be rendered, either directly or in
 3 connection with the service, must be nondiscriminatory, reasonable,
 4 and just. Each discriminatory, unjust, or unreasonable charge for the
 5 service is prohibited and unlawful.

6 ~~(e)~~ **(d)** A reasonable and just charge for water or sewer service
 7 within the meaning of this section is a charge that will produce
 8 sufficient revenue to pay all legal and other necessary expense incident
 9 to the operation of the not-for-profit utility's system, including the
 10 following:

- 11 (1) Maintenance and repair costs.
- 12 (2) Operating charges.
- 13 (3) Interest charges on bonds or other obligations.
- 14 (4) Provision for a sinking fund for the liquidation of bonds or
 15 other evidences of indebtedness.
- 16 (5) Provision for a debt service reserve for bonds or other
 17 obligations in an amount not to exceed the maximum annual debt
 18 service on the bonds or obligations.
- 19 (6) Provision of adequate funds to be used as working capital.
- 20 (7) Provision for making extensions and replacements.
- 21 (8) The payment of any taxes that may be assessed against the
 22 not-for-profit utility or its property.

23 The charges must produce an income sufficient to maintain the
 24 not-for-profit utility's property in sound physical and financial
 25 condition to render adequate and efficient service. A rate too low to
 26 meet these requirements is unlawful.

27 ~~(d)~~ **(e)** Except as provided in ~~subsection (e)~~, **subsections (f) and (h)**,
 28 a not-for-profit public sewer utility may require connection to its sewer
 29 system of property producing sewage or similar waste and require the
 30 discontinuance of use of ~~privies, cesspools, septic tanks, and similar~~
 31 ~~structures~~, **a sewage disposal system** if:

- 32 (1) there is an available sanitary sewer within three hundred (300)
 33 feet of the property line; and
- 34 (2) the utility has given written notice by certified mail to the
 35 property owner at the address of the property at least ninety (90)
 36 days before the date for connection stated in the notice.

37 **The notice given under subdivision (2) must also inform the**
 38 **property owner, other than an owner of property located in a**
 39 **consolidated city, that the property owner may qualify for an**
 40 **exemption as set forth in subsection (f).**

41 ~~(e)~~ **A not-for profit sewer utility may not require connection to its**
 42 **sewer system of property producing sewage or similar waste and**

1 require the discontinuance of use of privies, cesspools, septic tanks,
2 and similar structures if the source of the waste is more than five
3 hundred (500) feet from the point of connection to its sewer system.

4 (f) Subject to subsection (h), a property owner is exempt from
5 the requirement to connect to a not-for-profit public sewer utility's
6 sewer system and to discontinue use of a sewage disposal system if
7 the following conditions are met:

8 (1) The property owner's sewage disposal system was new at
9 the time of installation and approved in writing by the local
10 health department.

11 (2) The property owner, at the property owner's expense,
12 obtains and provides to the not-for-profit public sewer utility
13 a certification from the local health department or the
14 department's designee that the sewage disposal system is
15 functioning satisfactorily. If the local health department or
16 the department's designee denies the issuance of a certificate
17 to the property owner, the property owner may appeal the
18 denial to the board of the local health department. The
19 decision of the board is final and binding.

20 (3) The property owner provides the not-for-profit public
21 sewer utility with:

22 (A) the written notification of potential qualification for
23 the exemption described in subsection (i); and

24 (B) the certification described in subdivision (2);

25 within the time limits set forth in subsection (i).

26 (g) If a property owner, within the time allowed under
27 subsection (i), notifies a not-for-profit public sewer utility in
28 writing that the property owner qualifies for the exemption under
29 this section, the not-for-profit public sewer utility shall, until the
30 property owner's eligibility for an exemption under this section is
31 determined, suspend the requirement that the property owner
32 discontinue use of a sewage disposal system and connect to the
33 not-for-profit public sewer utility's sewer system.

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

1 exemption:

2 (1) the exemption applies to the subsequent owner of the
3 property for the remainder of the exemption period during
4 which the transfer occurred; and

5 (2) the subsequent owner may apply for any remaining
6 extensions.

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

11 (i) To qualify for an exemption under this section, a property
12 owner must:

13 (1) within sixty (60) days after the date of the written notice
14 given to the property owner under subsection (h), notify the
15 not-for-profit public sewer utility in writing that the property
16 owner qualifies for the exemption under this section; and

17 (2) within sixty (60) days after the not-for-profit public sewer
18 utility receives the written notice provided under subdivision
19 (1), provide the not-for-profit public sewer utility with the
20 certification required under subsection-(f)(2).

21 (j) When a property owner who qualifies for an exemption
22 under this section subsequently discontinues use of the property
23 owner's sewage disposal system and connects to the not-for-profit
24 public sewer utility's sewer system, the property owner may be
25 required to pay only the following to connect to the sewer system:

26 (1) The connection fee the property owner would have paid if
27 the property owner connected to the sewer system on the first
28 date the property owner could have connected to the sewer
29 system.

30 (2) Any additional costs:

31 (A) considered necessary by; and

32 (B) supported by documentary evidence provided by;
33 the not-for-profit public sewer utility.

34 (k) A not-for-profit public sewer utility may not require a
35 property owner to connect to the not-for-profit public sewer
36 utility's sewer system if:

37 (1) the property is located on at least ten (10) acres;

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

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

1 **(4) the system used to collect and treat the domestic sewage**
 2 **has a maximum design flow of seven hundred fifty (750)**
 3 **gallons per day; and**

4 **(5) the owner, at the owner's expense, obtains and provides to**
 5 **the district a certification from the local health department or**
 6 **the department's designee that the system is functioning**
 7 **satisfactorily.**

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

14 **(m) This section does not prohibit the state department of**
 15 **health, a local health department, or a county health officer from**
 16 **proceeding under IC 16-41-20 to declare a dwelling served by a**
 17 **sewage disposal system a public nuisance and pursuing all**
 18 **available remedies.**

19 SECTION 2. IC 8-1-8-1 IS AMENDED TO READ AS FOLLOWS
 20 [EFFECTIVE JULY 1, 2012]: Sec. 1. (a) A public utility, except in
 21 cities of the third class, engaged in the production, transmission,
 22 delivery, or furnishing of heat, light, water, or power or for the
 23 collection, treatment, purification, and disposal in a sanitary manner of
 24 liquid and solid sewage or furnishing facilities for transmission of
 25 intelligence by electricity to towns and cities and to the public in
 26 general or for the furnishing of elevator or warehouse service, either
 27 directly or indirectly, to or for the public, for the purpose of enabling
 28 it to perform its functions, may appropriate and condemn lands of
 29 individuals and private corporations, or any easement in any lands,
 30 necessary to the carrying out of its objects, whether the same be for its
 31 building, structures, dams, line of poles, wires, mains, conduits, and
 32 pipelines, or right-of-way to accommodate railway siding or switch
 33 tracks connecting its plant or plants with the tracks of any common
 34 carrier, overflowage by backwater from its dams, waste, or sluiceways.

35 (b) However, within the limits of any incorporated town or city, the
 36 authority to appropriate does not:

37 (1) extend to lands situated in any city block in which more than
 38 fifty percent (50%) of the frontage is devoted to residence
 39 purposes;

40 (2) extend to common carriers engaged in the transportation of
 41 freight or passengers; or

42 (3) give to any public utility any right or authority to:

- 1 (A) appropriate any land or easement within the corporate
 2 limits of any city for overflowage by backwater from any dam;
 3 (B) appropriate or acquire any dam, race, or sluiceway existing
 4 on May 31, 1921, or any interest in either, except to use water
 5 for condensation purposes;
 6 (C) appropriate or acquire any pipeline laid or contained
 7 within the limits of private property; or
 8 (D) authorize any corporation developing hydroelectric power
 9 to unreasonably interfere with or disturb the natural flow of the
 10 stream from which power may be derived. Lands or easements
 11 in lands acquired by appropriation and condemnation shall be
 12 held and enjoyed by the company for those purposes as though
 13 the land or easement had been acquired by purchase.

14 **(c) If a not-for-profit sewer utility (as described in**
 15 **IC 8-1-2-125(a)) appropriates or condemns land to acquire an**
 16 **easement or right-of-way necessary to carry out the not-for-profit**
 17 **sewer utility's objectives, the easement or right-of-way may not**
 18 **exceed fifty (50) feet in width.**

19 ~~(c)~~ **(d)** The appropriation and condemnation of lands and easements
 20 in lands authorized by this section must be done under the terms and
 21 conditions and in the manner prescribed by IC 32-24-1.

22 SECTION 3. IC 13-11-2-270 IS ADDED TO THE INDIANA
 23 CODE AS A NEW SECTION TO READ AS FOLLOWS
 24 [EFFECTIVE JULY 1, 2012]: **Sec. 270. "Youth camp", for purposes**
 25 **of IC 13-26-11-2, means an area or a tract of land established,**
 26 **operated, or maintained to provide more than seventy-two (72)**
 27 **continuous hours of outdoor group living experiences:**

- 28 **(1) away from established residences; and**
 29 **(2) for educational, recreational, sectarian, or health**
 30 **purposes;**
 31 **for at least ten (10) children who are less than eighteen (18) years**
 32 **of age and not accompanied by a parent or guardian.**

33 SECTION 4. IC 13-26-2-2.5 IS ADDED TO THE INDIANA CODE
 34 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 35 1, 2012]: **Sec. 2.5. (a) Before a representative may file a petition to**
 36 **establish a district, the representative must provide notice to all**
 37 **owners of property to be served by the proposed district that is the**
 38 **subject of the petition.**

- 39 **(b) Notice under subsection (a) must be provided as follows:**
 40 **(1) Beginning at least thirty (30) days before the date on which**
 41 **a public meeting under subsection (c) is scheduled, by**
 42 **publication of notice one (1) time each week for three (3)**

1 consecutive weeks in at least two (2) newspapers of general
 2 circulation in each of the counties, in whole or in part, in the
 3 proposed district. If there is only one (1) newspaper of general
 4 circulation in a county, a single publication each week for
 5 three (3) consecutive weeks satisfies the requirement of this
 6 subdivision.

7 (2) Either:

8 (A) by United States mail, postage prepaid, mailed to each
 9 freeholder within the proposed district; or

10 (B) by broadcasting at least three (3) public service
 11 announcements each day for fourteen (14) days on at least
 12 two (2) radio stations operating in each of the counties, in
 13 whole or in part, in the proposed district;

14 beginning at least fourteen (14) days before the date on which
 15 a public meeting under subsection (c) is scheduled.

16 (c) After providing notice under subsection (b), a representative
 17 that seeks to file a petition to establish a district must conduct a
 18 public meeting to discuss and receive comments on the proposed
 19 district.

20 (d) A representative may not file a petition to establish a
 21 district:

22 (1) more than one hundred eighty (180) or less than sixty (60)
 23 days after providing notice under subsection (b); or

24 (2) less than thirty (30) days after a meeting held under
 25 subsection (c).

26 SECTION 5. IC 13-26-2-3 IS AMENDED TO READ AS
 27 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 3. A petition to
 28 establish a district under this chapter must state the following:

29 (1) The proposed name of the district.

30 (2) The place in which the district's principal office is to be
 31 located.

32 (3) The following information:

33 (A) The need for the proposed district.

34 (B) The purpose to be accomplished.

35 (C) How the district will be conducive to the public health,
 36 safety, convenience, or welfare, including a specific statement
 37 of how:

38 (i) water supply, for a water district;

39 (ii) sewage collection, disposal, and treatment, for a sewage
 40 district; or

41 (iii) solid waste disposal, recovery, or treatment, for a solid
 42 waste district;

- 1 is currently being provided.
- 2 (D) Whether there is any outstanding indebtedness for the
- 3 purpose proposed in the proposed district, including a
- 4 statement as to how the current situation creates or adds to
- 5 pollution or health hazards or impedes development in the
- 6 area.
- 7 (4) An accurate description of the territory to be included in the
- 8 district, which does not have to be given by metes and bounds or
- 9 by legal subdivisions. The territory does not have to be
- 10 contiguous, but the territory must be so situated that the public
- 11 health, safety, convenience, or welfare will be promoted by the
- 12 establishment as a single district of the territory described.
- 13 (5) The petitioner's recommendations on:
- 14 (A) the manner of selection;
- 15 (B) the number; and
- 16 (C) the term, not exceeding four (4) years;
- 17 of the members of the board of trustees.
- 18 (6) The plan for financing the cost of the operations of the district
- 19 until the district is in receipt of revenue from the district's
- 20 operations or proceeds from the sale of bonds.
- 21 (7) Estimates of the following:
- 22 (A) The costs of accomplishing the purpose of the district.
- 23 (B) The costs of operating and maintaining the works.
- 24 (C) The sources of the funding of these costs.
- 25 (D) The rates and charges that will be required.
- 26 **(E) The median income for households in the proposed**
- 27 **district based on the most recent federal decennial census.**
- 28 **(8) A summary of alternatives to creating the district.**
- 29 SECTION 6. IC 13-26-4-6 IS AMENDED TO READ AS
- 30 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 6. **(a)** An appointed
- 31 trustee does not have to be a resident of the district.
- 32 **(b) An appointed trustee must:**
- 33 **(1) own real property within the district;**
- 34 **(2) be a trustee appointed under section 4 or 5 of this chapter;**
- 35 **or**
- 36 **(3) be an elected official who represents a political subdivision**
- 37 **that has territory in the district.**
- 38 SECTION 7. IC 13-26-4-8 IS ADDED TO THE INDIANA CODE
- 39 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
- 40 1, 2012]: **Sec. 8. (a) When the board of a district conducts a public**
- 41 **hearing or meeting, the board shall allow any person an**
- 42 **opportunity to be heard:**

- 1 **(1) in the presence of others who are present to testify; and**
 2 **(2) in accordance with subsection (b).**
 3 **(b) The board may limit testimony at a public hearing or**
 4 **meeting to a reasonable time stated at the opening of the public**
 5 **hearing or meeting.**
 6 SECTION 8. IC 13-26-5-2, AS AMENDED BY P.L.1-2009,
 7 SECTION 110, IS AMENDED TO READ AS FOLLOWS
 8 [EFFECTIVE JULY 1, 2012]: Sec. 2. A district may do the following:
 9 (1) Sue or be sued.
 10 (2) Make contracts in the exercise of the rights, powers, and
 11 duties conferred upon the district.
 12 (3) Adopt and alter a seal and use the seal by causing the seal to
 13 be impressed, affixed, reproduced, or otherwise used. However,
 14 the failure to affix a seal does not affect the validity of an
 15 instrument.
 16 (4) Adopt, amend, and repeal the following:
 17 (A) Bylaws for the administration of the district's affairs.
 18 (B) Rules and regulations for the following:
 19 (i) The control of the administration and operation of the
 20 district's service and facilities.
 21 (ii) The exercise of all of the district's rights of ownership.
 22 (5) Construct, acquire, lease, operate, or manage works and obtain
 23 rights, easements, licenses, money, contracts, accounts, liens,
 24 books, records, maps, or other property, whether real, personal, or
 25 mixed, of a person or an eligible entity.
 26 (6) Assume in whole or in part any liability or obligation of:
 27 (A) a person;
 28 (B) a nonprofit water, sewage, or solid waste project system;
 29 or
 30 (C) an eligible entity;
 31 including a pledge of part or all of the net revenues of a works to
 32 the debt service on outstanding bonds of an entity in whole or in
 33 part in the district and including a right on the part of the district
 34 to indemnify and protect a contracting party from loss or liability
 35 by reason of the failure of the district to perform an agreement
 36 assumed by the district or to act or discharge an obligation.
 37 (7) Fix, alter, charge, and collect reasonable rates and other
 38 charges in the area served by the district's facilities to every
 39 person whose premises are, whether directly or indirectly,
 40 supplied with water or provided with sewage or solid waste
 41 services by the facilities for the purpose of providing for the
 42 following:

- 1 (A) The payment of the expenses of the district.
- 2 (B) The construction, acquisition, improvement, extension,
3 repair, maintenance, and operation of the district's facilities
4 and properties.
- 5 (C) The payment of principal or interest on the district's
6 obligations.
- 7 (D) To fulfill the terms of agreements made with:
8 (i) the purchasers or holders of any obligations; or
9 (ii) a person or an eligible entity.
- 10 (8) Except as provided in ~~section~~ **sections 2.5 and 2.6** of this
11 chapter, require connection to the district's sewer system of
12 property producing sewage or similar waste, and require the
13 discontinuance of use of privies, cesspools, septic tanks, and
14 similar structures if:
- 15 (A) there is an available sanitary sewer within three hundred
16 (300) feet of the property line;
- 17 (B) the district has given written notice by certified mail to the
18 property owner at the address of the property at least ninety
19 (90) days before a date for connection to be stated in the
20 notice; and
- 21 (C) if the property is located outside the district's territory:
22 (i) the district has obtained and provided to the property
23 owner (along with the notice required by clause (B)) a letter
24 of recommendation from the local health department that
25 there is a possible threat to the public's health; and
26 (ii) if the property is also located within the extraterritorial
27 jurisdiction of a municipal sewage works under IC 36-9-23
28 or a public sanitation department under IC 36-9-25, the
29 municipal works board or department of public sanitation
30 has acknowledged in writing that the property is within the
31 municipal sewage works or department of public sanitation's
32 extraterritorial jurisdiction, but the municipal works board
33 or department of public sanitation is unable to provide sewer
34 service.
- 35 However, a district may not require the owner of a property
36 described in this subdivision to connect to the district's sewer
37 system if the property is already connected to a sewer system that
38 has received an NPDES permit and has been determined to be
39 functioning satisfactorily.
- 40 (9) Provide by ordinance for reasonable penalties for failure to
41 connect and also apply to the circuit or superior court of the
42 county in which the property is located for an order to force

- 1 connection, with the cost of the action, including reasonable
2 attorney's fees of the district, to be assessed by the court against
3 the property owner in the action.
- 4 (10) Refuse the services of the district's facilities if the rates or
5 other charges are not paid by the user.
- 6 (11) Control and supervise all property, works, easements,
7 licenses, money, contracts, accounts, liens, books, records, maps,
8 or other property rights and interests conveyed, delivered,
9 transferred, or assigned to the district.
- 10 (12) Construct, acquire by purchase or otherwise, operate, lease,
11 preserve, and maintain works considered necessary to accomplish
12 the purposes of the district's establishment within or outside the
13 district and enter into contracts for the operation of works owned,
14 leased, or held by another entity, whether public or private.
- 15 (13) Hold, encumber, control, acquire by donation, purchase, or
16 condemnation, construct, own, lease as lessee or lessor, use, and
17 sell interests in real and personal property or franchises within or
18 outside the district for:
- 19 (A) the location or protection of works;
- 20 (B) the relocation of buildings, structures, and improvements
21 situated on land required by the district or for any other
22 necessary purpose; or
- 23 (C) obtaining or storing material to be used in constructing and
24 maintaining the works.
- 25 (14) Upon consent of two-thirds (2/3) of the members of the
26 board, merge or combine with another district into a single district
27 on terms so that the surviving district:
- 28 (A) is possessed of all rights, franchises, and authority of the
29 constituent districts; and
- 30 (B) is subject to all the liabilities, obligations, and duties of
31 each of the constituent districts, with all rights of creditors of
32 the constituent districts being preserved unimpaired.
- 33 (15) Provide by agreement with another eligible entity for the
34 joint construction of works the district is authorized to construct
35 if the construction is for the district's own benefit and that of the
36 other entity. For this purpose the cooperating entities may jointly
37 appropriate land either within or outside their respective borders
38 if all subsequent proceedings, actions, powers, liabilities, rights,
39 and duties are those set forth by statute.
- 40 (16) Enter into contracts with a person, an eligible entity, the
41 state, or the United States to provide services to the contracting
42 party for any of the following:

- 1 (A) The distribution or purification of water.
- 2 (B) The collection or treatment of sanitary sewage.
- 3 (C) The collection, disposal, or recovery of solid waste.
- 4 (17) Make provision for, contract for, or sell the district's
- 5 byproducts or waste.
- 6 (18) Exercise the power of eminent domain, **including for**
- 7 **purposes of siting sewer or water utility infrastructure, but**
- 8 **only after the district attempts to use existing public**
- 9 **rights-of-way or easements.**
- 10 (19) Remove or change the location of a fence, building, railroad,
- 11 canal, or other structure or improvement located within or outside
- 12 the district. If:
- 13 (A) it is not feasible or economical to move the building,
- 14 structure, or improvement situated in or upon land acquired;
- 15 and
- 16 (B) the cost is determined by the board to be less than that of
- 17 purchase or condemnation;
- 18 the district may acquire land and construct, acquire, or install
- 19 buildings, structures, or improvements similar in purpose to be
- 20 exchanged for the buildings, structures, or improvements under
- 21 contracts entered into between the owner and the district.
- 22 (20) Employ consulting engineers, superintendents, managers,
- 23 and other engineering, construction, and accounting experts,
- 24 attorneys, bond counsel, employees, and agents that are necessary
- 25 for the accomplishment of the district's purpose and fix their
- 26 compensation.
- 27 (21) Procure insurance against loss to the district by reason of
- 28 damages to the district's properties, works, or improvements
- 29 resulting from fire, theft, accident, or other casualty or because of
- 30 the liability of the district for damages to persons or property
- 31 occurring in the operations of the district's works and
- 32 improvements or the conduct of the district's activities.
- 33 (22) Exercise the powers of the district without obtaining the
- 34 consent of other eligible entities. However, the district shall:
- 35 (A) restore or repair all public or private property damaged in
- 36 carrying out the powers of the district and place the property
- 37 in the property's original condition as nearly as practicable; or
- 38 (B) pay adequate compensation for the property.
- 39 (23) Dispose of, by public or private sale or lease, real or personal
- 40 property determined by the board to be no longer necessary or
- 41 needed for the operation or purposes of the district.
- 42 SECTION 9. IC 13-26-5-2.5, AS AMENDED BY P.L.123-2011,

1 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
2 JULY 1, 2012]: Sec. 2.5. (a) As used in this section, "septic tank soil
3 absorption system" has the meaning set forth in IC 13-11-2-199.5.

4 (b) Subject to subsection (d), ~~and except as provided in subsection~~
5 ~~(e)~~; a property owner is exempt from the requirement to connect to a
6 district's sewer system and to discontinue use of a septic tank soil
7 absorption system if the following conditions are met:

8 (1) The property owner's septic tank soil absorption system was
9 new at the time of installation and was approved in writing by the
10 local health department.

11 (2) The property owner, at the property owner's own expense,
12 obtains and provides to the district a certification from the local
13 health department or the department's designee that the septic
14 tank soil absorption system is functioning satisfactorily. If the
15 local health department or the department's designee denies the
16 issuance of a certificate to the property owner, the property owner
17 may appeal the denial to the board of the local health department.
18 The decision of the board is final and binding.

19 (3) The property owner provides the district with:

20 (A) the written notification of potential qualification for the
21 exemption described in subsection ~~(g)~~; ~~(f)~~; and

22 (B) the certification described in subdivision (2);
23 within the time limits set forth in subsection ~~(g)~~; ~~(f)~~.

24 (c) If a property owner, within the time allowed under subsection
25 ~~(g)~~; ~~(f)~~, notifies a district in writing that the property owner qualifies for
26 the exemption under this section, the district shall, until the property
27 owner's eligibility for an exemption under this section is determined,
28 suspend the requirement that the property owner discontinue use of a
29 septic tank soil absorption system and connect to the district's sewer
30 system.

31 (d) A property owner who qualifies for the exemption provided
32 under this section may not be required to connect to the district's sewer
33 system for a period of ten (10) years beginning on the date the new
34 septic tank soil absorption system was installed. **A property owner**
35 **may apply for two (2) five (5) year extensions of the exemption**
36 **provided under this section by following the procedures set forth**
37 **in subsections (b) and (c).** If ownership of ~~the an exempt~~ property
38 ~~passes from the owner who qualified for the exemption to another~~
39 ~~person is transferred~~ during ~~the a valid~~ exemption period, **including**
40 **during an extension of an initial exemption:**

41 (1) the exemption ~~does not apply~~ **applies** to the subsequent owner
42 of the property **for the remainder of the exemption period**

1 **during which the transfer occurred; and**
 2 **(2) the subsequent owner may apply for any remaining**
 3 **extensions.**

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

8 (e) The district may require a property owner who qualifies for the
 9 exemption under this section to discontinue use of a septic tank soil
 10 absorption system and connect to the district's sewer system if the
 11 district credits the unamortized portion of the original cost of the
 12 property owner's septic tank soil absorption system against the debt
 13 service portion of the customer's monthly bill. The amount that the
 14 district must credit under this subsection is determined in ~~STEP TWO~~
 15 of the following formula:

16 ~~STEP ONE:~~ Multiply the original cost of the property owner's
 17 septic tank soil absorption system by a fraction, the numerator of
 18 which is ~~ninety-six (96) months~~ minus the age in months of the
 19 property owner's septic system, and the denominator of which is
 20 ~~ninety-six (96) months.~~

21 ~~STEP TWO:~~ Determine the lesser of four thousand eight hundred
 22 dollars (~~\$4,800~~) or the result of ~~STEP ONE.~~

23 The district shall apportion the total credit amount as determined in
 24 ~~STEP TWO~~ against the debt service portion of the property owner's
 25 monthly bill over a period to be determined by the district, but not to
 26 exceed ~~twenty (20) years, or two hundred forty (240) months.~~

27 ~~(f)~~ (e) A district that has filed plans with the department to create or
 28 expand a sewage district shall, within ten (10) days after filing the
 29 plans, provide written notice to affected property owners:

30 (1) that the property owner may be required to discontinue the use
 31 of a septic tank soil absorption system;

32 (2) that the property owner may qualify for an exemption from the
 33 requirement to discontinue the use of the septic tank soil
 34 absorption system; and

35 (3) of the procedures to claim an exemption.

36 ~~(g)~~ (f) To qualify for an exemption under this section, a property
 37 owner must:

38 (1) within sixty (60) days after the date of the written notice given
 39 to the property owner under subsection ~~(f)~~; (e), notify the district
 40 in writing that the property owner qualifies for the exemption
 41 under this section; and

42 (2) within sixty (60) days after the district receives the written

1 notice provided under subdivision (1), provide the district with
2 the certification required under subsection (b)(2).

3 ~~(f)~~ (g) When a property owner who qualifies for an exemption
4 under this section subsequently discontinues use of the property
5 owner's septic tank soil absorption system and connects to the district's
6 sewer system, the property owner may be required to pay only the
7 following to connect to the sewer system:

8 (1) The connection fee the property owner would have paid if the
9 property owner connected to the sewer system on the first date the
10 property owner could have connected to the sewer system.

11 (2) Any additional costs:

12 (A) considered necessary by; and

13 (B) supported by documentary evidence provided by;
14 the district.

15 **(h) A property owner who connects to a district's sewer system**
16 **may provide, at the owner's expense, labor, equipment, materials,**
17 **or any combination of labor, equipment, and materials from any**
18 **source to accomplish the connection to the sewer system, subject to**
19 **inspection and approval by the board or a designee of the board.**

20 **(i) This section does not prohibit the state department of health,**
21 **a local health department, or a county health officer from**
22 **proceeding under IC 16-41-20 to declare a dwelling served by a**
23 **septic tank soil absorption system a public nuisance and pursuing**
24 **all available remedies.**

25 SECTION 10. IC 13-26-5-2.6 IS ADDED TO THE INDIANA
26 CODE AS A NEW SECTION TO READ AS FOLLOWS
27 [EFFECTIVE JULY 1, 2012]: **Sec. 2.6. A district may not require the**
28 **owner of a property described in section 2(8) of this chapter to**
29 **connect to the district's sewer system if:**

30 **(1) the property is located on at least ten (10) acres;**

31 **(2) the owner can demonstrate the availability of at least two**
32 **(2) areas on the property for the collection and treatment of**
33 **sewage that will protect human health and the environment;**
34 **(3) the waste stream from the property is limited to domestic**
35 **sewage from a residence or business;**

36 **(4) the system used to collect and treat the domestic sewage**
37 **has a maximum design flow of seven hundred fifty (750)**
38 **gallons per day; and**

39 **(5) the owner, at the owner's expense, obtains and provides to**
40 **the district a certification from the local health department or**
41 **the department's designee that the system is functioning**
42 **satisfactorily.**

1 SECTION 11. IC 13-26-11-2, AS AMENDED BY P.L.189-2005,
 2 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 3 JULY 1, 2012]: Sec. 2. (a) Except as provided in subsection (b), the
 4 rates or charges for a sewage works may be determined based on a
 5 **combination of the following factors:**

6 (1) A flat charge for each connection. **If a board uses a flat**
 7 **charge as a factor to determine a rate or charge for a sewage**
 8 **works, the board must:**

9 **(A) prepare a concise written statement that summarizes**
 10 **the calculations and processes used to determine the**
 11 **amount of the flat charge; and**

12 **(B) provide a copy of the written statement to each person**
 13 **who:**

14 **(i) is required to pay the rate or charge; and**

15 **(ii) requests a paper copy of the summary.**

16 (2) The amount of water used on the premises.

17 (3) The number and size of water outlets on the premises.

18 (4) The amount, strength, or character of sewage discharged into
 19 the sewers.

20 (5) The size of sewer connections.

21 (6) Whether the property served has been or will be required to
 22 pay separately for the cost of any of the facilities of the works.

23 (7) A combination of these or other factors that the board
 24 determines is necessary to establish nondiscriminatory, just, and
 25 equitable rates or charges.

26 (b) ~~If a campground is billed for sewage service at a flat rate under~~
 27 ~~subsection (a); the campground may instead elect to be billed for the~~
 28 ~~sewage service under this subsection by installing; **A campground or**~~
 29 ~~**youth camp may be billed for sewage service at a flat rate or by**~~
 30 ~~**installing**, at the campground's **or youth camp's** expense, a meter to~~
 31 ~~measure the actual amount of sewage discharged by the campground~~
 32 ~~**or youth camp** into the sewers. If a campground **or youth camp** elects~~
 33 ~~to be billed by use of a meter:~~

34 (1) the rate charged by a board for the metered sewage service
 35 may not exceed the rate charged to residential customers for
 36 equivalent usage; and

37 (2) the amount charged by a board for the campground's **or youth**
 38 **camp's** monthly sewage service for the period beginning
 39 September 1 and ending May 31 must be equal to ~~the greater of:~~

40 ~~(A) the actual amount that would be charged for the sewage~~
 41 ~~discharged during the month by the campground **or youth**~~
 42 ~~**camp** as measured by the meter. ~~or~~~~

1 ~~(B) the lowest monthly charge paid by the campground for~~
 2 ~~sewage service during the previous period beginning June 1~~
 3 ~~and ending August 31.~~

4 (c) If a campground **or youth camp** does not install a meter under
 5 subsection (b) and is billed for sewage service at a flat rate, ~~under~~
 6 ~~subsection (a)~~, for a calendar year beginning after December 31, 2004:

- 7 (1) each campsite at the campground may not equal more than
 8 one-third (1/3) of one (1) resident equivalent unit; **and**
 9 (2) **each bed at the youth camp may not equal more than**
 10 **one-eighth (1/8) of one (1) residential equivalent unit.**

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

15 (d) The board may impose additional charges on a campground **or**
 16 **youth camp** under subsections (b) and (c) if the board incurs
 17 additional costs that are caused by any unique factors that apply to
 18 providing sewage service for the campground **or youth camp**,
 19 including, but not limited to:

- 20 (1) the installation of:
 21 (A) oversized pipe; or
 22 (B) any other unique equipment;
 23 necessary to provide sewage service for the campground **or youth**
 24 **camp**; and
 25 (2) concentrations of biochemical oxygen demand (BOD) that
 26 exceed federal pollutant standards.

27 SECTION 12. IC 13-26-11-13, AS AMENDED BY P.L.123-2011,
 28 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 29 JULY 1, 2012]: Sec. 13. (a) The ordinance establishing the initial rates
 30 or charges, either as:

- 31 (1) originally introduced; or
 32 (2) modified and amended;
 33 shall be passed and put into effect after the hearing.

34 (b) A copy of the schedule of the rates and charges established must
 35 be:

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

38 (c) Whenever the board acts under section 8(b) of this chapter, to
 39 change or readjust the rates and charges, the board shall mail, either
 40 separately or along with a periodic billing statement, a notice of the
 41 new rates and charges to each user affected by the change or
 42 readjustment. In the case of a sewage district, if the change or

1 readjustment increases the rates and charges by the amount specified
2 in section 15(c) of this chapter, the notice required by this subsection:

3 (1) must include a statement of a ~~freholder's~~ **ratepayer's** rights
4 under section 15 of this chapter; and

5 (2) shall be mailed within the time specified in section 15(c) of
6 this chapter.

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

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

12 **(2) be filed with a member of the district authority, in the
13 county where at least one (1) petitioner resides, not later than
14 thirty (30) days after the district adopts the ordinance; and**

15 **(3) set forth the grounds for the ratepayers' objection.**

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

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

25 **(1) Whether the board of trustees of the district, in adopting
26 the ordinance establishing sewer rates and charges, followed
27 the procedure required by this chapter.**

28 **(2) Whether the sewer rates and charges established by the
29 board by ordinance are just and equitable rates and charges,
30 according to the standards set forth in section 9 of this
31 chapter.**

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

35 **(1) sustain the ordinance establishing the rates and charges;**

36 **(2) sustain the petition; or**

37 **(3) make any other ruling appropriate in the matter, subject
38 to the standards set forth in section 9 of this chapter.**

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

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

4 **(2) Whether the sewer rates and charges established by the**
 5 **board by ordinance are just and equitable rates and charges,**
 6 **according to the standards set forth in section 9 of this**
 7 **chapter.**

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

10 SECTION 13. IC 13-26-11-15, AS AMENDED BY P.L.71-2011,
 11 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 12 JULY 1, 2012]: Sec. 15. (a) A district authority is established in each
 13 regional sewage district established under this article. A district
 14 authority:

- 15 (1) must consist of an odd number of members;
- 16 (2) must consist of at least three (3) members; and
- 17 (3) may not include as a member any person who serves on the
 18 board of trustees of the district.

19 (b) The district authority of a regional sewage district consists of the
 20 following members:

21 (1) In the case of a regional sewage district located in one (1)
 22 county, the following members:

23 (A) If no members of the county executive are trustees of the
 24 regional sewage district, the county executive of the county.

25 (B) If:

26 (i) one (1) or more members of the county executive are
 27 trustees of the regional sewage district; and

28 (ii) no members of the county fiscal body are trustees of the
 29 regional sewage district;

30 the members of the county fiscal body.

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

35 (i) Two (2) members appointed by the county executive. If
 36 not all of the members of the county executive are trustees
 37 of the district, the county executive may appoint either or
 38 both of the two (2) members required by this item from
 39 among the county executive's own membership, subject to
 40 subsection (a)(3).

41 (ii) One (1) member appointed by the county fiscal body. If
 42 not all of the members of the county fiscal body are trustees

- 1 of the district, the county fiscal body may appoint the
2 member required by this item from among the county fiscal
3 body's own membership, subject to subsection (a)(3).
- 4 (2) In the case of a regional sewage district located in more than
5 one (1) county, the following members:
- 6 (A) If:
- 7 (i) an odd number of counties are part of the regional sewage
8 district; and
9 (ii) each county in the district has at least one (1) county
10 executive member who is not a trustee of the regional
11 sewage district;
12 one (1) county executive member, appointed by that member's
13 county executive, from each county in which the district is
14 located, subject to subsection (a)(3).
- 15 (B) If an even number of counties are part of the regional
16 sewage district, the following members:
- 17 (i) Two (2) county executive members, appointed by those
18 members' county executive, from the county that has the
19 largest number of customers served by the district's sewer
20 system. However, if the county that has the largest number
21 of customers served by the district's sewer system does not
22 have at least two (2) members of its executive who are not
23 also trustees of the district, the county executive of that
24 county may appoint one (1) or more of the members
25 required by this item from outside the county executive's
26 own membership in order to comply with subsection (a)(3).
- 27 (ii) One (1) county executive member, appointed by that
28 member's county executive, from each county, other than the
29 county described in item (i), in which the district is located.
30 However, if a county described in this item does not have at
31 least one (1) member of its executive who is not also a
32 trustee of the district, the county executive of that county
33 may appoint the member required by this item from outside
34 the county executive's own membership in order to comply
35 with subsection (a)(3).
- 36 (C) If an odd number of counties are part of the regional
37 sewage district and an odd number of those counties in the
38 district do not have at least one (1) county executive member
39 who is not also a trustee of the district, the following members:
- 40 (i) One (1) county executive member, appointed by that
41 member's county executive, from each county that has at
42 least one (1) county executive member who is not also a

- 1 trustee of the district, subject to subsection (a)(3).
- 2 (ii) One (1) member appointed by the county executive of
3 each county that does not have at least one (1) county
4 executive member who is not also a trustee of the district. A
5 member appointed under this item must be appointed from
6 outside the appointing county executive's own membership,
7 subject to subsection (a)(3).
- 8 (c) If a district adopts an ordinance increasing sewer rates and
9 charges at a rate that is greater than five percent (5%) per year, as
10 calculated from the rates and charges in effect from the date of the
11 district's last rate increase, the district shall mail, either separately or
12 along with a periodic billing statement, a notice of the new rates and
13 charges to each user of the sewer system who is affected by the
14 increase. The notice:
- 15 (1) shall be mailed not later than seven (7) days after the district
16 adopts the ordinance increasing the rates and charges; and
17 (2) must include a statement of a ~~freholder's~~ **ratepayer's** rights
18 under this section.
- 19 (d) If subsection (c) applies, fifty (50) ~~freeholders~~ **ratepayers** of the
20 district or ten percent (10%) of the district's ~~freeholders,~~ **ratepayers,**
21 whichever is fewer, may file a written petition objecting to the rates
22 and charges of the district. 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'~~ **ratepayers'**
29 objection.
- 30 If a petition meeting the requirements of this subsection is filed, the
31 district authority shall investigate and conduct a public hearing on the
32 petition. If more than one (1) petition concerning a particular increase
33 in rates and charges is filed, the district authority shall consider the
34 objections set forth in all the petitions at the same public 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 first listed
39 petitioner and publish the notice of the hearing in a newspaper of
40 general circulation in each county in the district.
- 41 (f) Upon the date fixed in the notice, the district authority shall hear
42 the evidence produced and determine the following:

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

4 (2) Whether the increased sewer rates and charges established by
5 the board by ordinance are just and equitable rates and charges,
6 according to the standards set forth in section 9 of this chapter.

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

10 (1) sustain the ordinance establishing the rates and charges;

11 (2) sustain the petition; or

12 (3) make any other ruling appropriate in the matter, subject to the
13 standards set forth in section 9 of this chapter.

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

18 (1) Whether the board of trustees of the district, in adopting the
19 ordinance increasing sewer rates and charges, followed the
20 procedure required by this chapter.

21 (2) Whether the increased sewer rates and charges established by
22 the board by ordinance are just and equitable rates and charges,
23 according to the standards set forth in section 9 of this chapter.

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

26 SECTION 14. IC 16-20-1-25 IS AMENDED TO READ AS
27 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 25. (a) A person shall
28 not institute, permit, or maintain any conditions that may transmit,
29 generate, or promote disease.

30 (b) A health officer, upon ~~hearing of receiving a complaint~~
31 **asserting** the existence of ~~such~~ unlawful conditions **described in**
32 **subsection (a)** within the officer's jurisdiction, shall **document the**
33 **complaint as provided in subsection (d). Upon verifying the**
34 **information contained in the complaint, the health officer shall**
35 order the abatement of those conditions. The order must:

36 (1) be in writing; ~~if demanded;~~

37 (2) specify the conditions that may transmit disease; and

38 (3) name the shortest reasonable time for abatement.

39 (c) If a person refuses or neglects to obey an order issued under this
40 section, the attorney representing the county of the health jurisdiction
41 where the offense occurs shall, upon receiving the information from the
42 health officer, institute proceedings in the courts for enforcement. An

1 order may be enforced by injunction. If the action concerning public
 2 health is a criminal offense, a law enforcement authority with
 3 jurisdiction over the place where the offense occurred shall be notified.

4 **(d) A complaint made under subsection (b) must include**
 5 **adequate details to allow the health officer to verify the existence**
 6 **of the unlawful conditions that are the subject of the complaint. A**
 7 **health officer shall provide a copy of a complaint upon request to**
 8 **the person who is the subject of the complaint.**

9 **(e) A person who provides false information upon which a**
 10 **health officer relies in issuing an order under this section commits**
 11 **a Class C infraction.**

12 SECTION 15. IC 16-41-25-4 IS ADDED TO THE INDIANA
 13 CODE AS A NEW SECTION TO READ AS FOLLOWS
 14 [EFFECTIVE JULY 1, 2012]: **Sec. 4. Before a local health**
 15 **department may act on an application for a residential septic**
 16 **system permit, the local health department shall inform the**
 17 **applicant for a residential septic system permit if the property is**
 18 **located in the service district of a regional sewage district.**

19 SECTION 16. IC 32-21-5-8 IS AMENDED TO READ AS
 20 FOLLOWS [EFFECTIVE JULY 1, 2012]: **Sec. 8. An owner may**
 21 **prepare or use a disclosure form that contains the information required**
 22 **in the disclosure form under section 7 of this chapter and any other**
 23 **information the owner determines is appropriate, including whether**
 24 **the subject property is located in a regional sewage district.**

(Reference is to HB 1117 as reprinted January 31, 2012.)

and when so amended that said bill do pass .

Committee Vote: Yeas 10, Nays 0.

Senator Merritt, Chairperson