

HOUSE BILL No. 1075

DIGEST OF INTRODUCED BILL

Citations Affected: IC 35-44.1-2-3; IC 36-9-23.

Synopsis: Connection to municipal sanitary sewer. Exempts a property owner from being required by a municipality to connect to the municipality's sewer system and discontinue the use of the property owner's own sewage disposal system if: (1) the property is located outside the boundaries of the municipality; (2) the property owner's sewage disposal system is a septic tank soil absorption system or a constructed wetland septic system that was new at the time of installation and was approved in writing by the local health department; and (3) the property owner obtains a written determination from the local health department that the septic tank soil absorption system or constructed wetland septic system is not failing. Establishes a procedure and deadlines for applying for the exemption. Provides that the exemption is for a period of 10 years beginning on the date on which the property owner's septic tank soil absorption system or constructed wetland septic system was installed. Provides that a property owner's exemption may be renewed for successive 10 year periods as long as the conditions for the exemption continue to be met. Provides that if ownership of the property is transferred during an exemption period, the exemption continues to apply to the property for the remainder of the exemption period and the transferee may apply for any exemption renewals for which the previous property owner would have been entitled to apply. Limits the amount that a property owner may be required to pay for connecting to a municipality's sewer system if the property owner, during an exemption period, consents to the connection of the property to the municipality's sewer system. Provides that a person who gives a false report concerning a septic tank soil
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Effective: January 1, 2016 (retroactive).

Beumer, Bacon

January 5, 2016, read first time and referred to Committee on Environmental Affairs.



Digest Continued

absorption system or constructed wetland septic system in order to qualify for the exemption from connecting to a municipality's sewer system, knowing the report to be false, commits false informing, a Class B misdemeanor.



Second Regular Session of the 119th General Assembly (2016)

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 2015 Regular Session of the General Assembly.

HOUSE BILL No. 1075



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

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

1 SECTION 1. IC 35-44.1-2-3, AS AMENDED BY P.L.168-2014,
2 SECTION 79, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JANUARY 1, 2016 (RETROACTIVE)]: Sec. 3. (a) As used in this
4 section, "consumer product" has the meaning set forth in IC 35-45-8-1.
5 (b) As used in this section, "misconduct" means a violation of a
6 departmental rule or procedure of a law enforcement agency.
7 (c) A person who reports, by telephone, telegraph, mail, or other
8 written or oral communication, that:
9 (1) the person or another person has placed or intends to place an
10 explosive, a destructive device, or other destructive substance in
11 a building or transportation facility;
12 (2) there has been or there will be tampering with a consumer
13 product introduced into commerce; or
14 (3) there has been or will be placed or introduced a weapon of



1 mass destruction in a building or a place of assembly;
 2 knowing the report to be false, commits false reporting, a Level 6
 3 felony.

4 (d) A person who:

5 (1) gives a false report of the commission of a crime or gives false
 6 information in the official investigation of the commission of a
 7 crime, knowing the report or information to be false;

8 (2) gives a false alarm of fire to the fire department of a
 9 governmental entity, knowing the alarm to be false;

10 (3) makes a false request for ambulance service to an ambulance
 11 service provider, knowing the request to be false;

12 (4) gives a false report concerning a missing child (as defined in
 13 IC 10-13-5-4) or missing endangered adult (as defined in
 14 IC 12-7-2-131.3) or gives false information in the official
 15 investigation of a missing child or missing endangered adult
 16 knowing the report or information to be false;

17 (5) makes a complaint against a law enforcement officer to the
 18 state or municipality (as defined in IC 8-1-13-3(b)) that employs
 19 the officer:

20 (A) alleging the officer engaged in misconduct while
 21 performing the officer's duties; and

22 (B) knowing the complaint to be false;

23 (6) makes a false report of a missing person, knowing the report
 24 or information is false; or

25 (7) gives a false report of actions, behavior, or conditions
 26 concerning:

27 (A) a septic tank soil absorption system under IC 8-1-2-125 or
 28 IC 13-26-5-2.5; or

29 (B) a septic tank soil absorption system or constructed
 30 wetland septic system under IC 36-9-23-30.1;

31 knowing the report or information to be false;

32 commits false informing, a Class B misdemeanor. However, the offense
 33 is a Class A misdemeanor if it substantially hinders any law
 34 enforcement process or if it results in harm to another person.

35 SECTION 2. IC 36-9-23-30 IS AMENDED TO READ AS
 36 FOLLOWS [EFFECTIVE JANUARY 1, 2016 (RETROACTIVE)]:
 37 Sec. 30. (a) Subject to subsection (b) **and section 30.1 of this chapter**,
 38 a municipality that operates sewage works under this chapter or under
 39 any statute repealed by IC 19-2-5-30 (repealed September 1, 1981) may
 40 require:

41 (1) connection to its sewer system of any property producing
 42 sewage or similar waste; and



- 1 (2) discontinuance of the use of privies, cesspools, septic tanks,
2 and similar structures.
- 3 (b) A municipality may exercise the powers granted by subsection
4 (a) only if:
- 5 (1) there is an available sanitary sewer within three hundred (300)
6 feet of the property line of the affected property; and
7 (2) it has given notice by certified mail to the property owner at
8 the address of the property, at least ninety (90) days before the
9 date specified for connection in the notice.
- 10 (c) A municipality may establish, enforce, and collect reasonable
11 penalties for failure to make a connection under this section.
- 12 (d) A municipality may apply to the circuit or superior court for the
13 county in which it is located for an order to require a connection under
14 this section. The court shall assess the cost of the action and reasonable
15 attorney's fees of the municipality against the property owner in such
16 an action.
- 17 SECTION 3. IC 36-9-23-30.1 IS ADDED TO THE INDIANA
18 CODE AS A NEW SECTION TO READ AS FOLLOWS
19 [EFFECTIVE JANUARY 1, 2016 (RETROACTIVE)]: **Sec. 30.1. (a)**
20 **As used in this section, "constructed wetland septic system" means**
21 **a residential sewage disposal system that includes:**
- 22 (1) a septic tank or other type of primary wastewater
23 treatment system; and
24 (2) a constructed wetland cell in which:
- 25 (A) effluent flows on top of soil or through a porous
26 medium such as pea gravel;
27 (B) wetland plants are growing, and their roots and stems
28 form a dense mat;
29 (C) suspended solids and trace metals in the effluent settle
30 and are filtered; and
31 (D) organisms living in the water, on the soil or gravel, and
32 on the stems and roots of the wetland plants feed on the
33 organic materials and nutrients in the effluent.
- 34 (b) For purposes of this section, a sewage disposal system is
35 "failing" if one (1) or more of the following apply:
- 36 (1) The system refuses to accept sewage at the rate of design
37 application and interferes with the normal use of plumbing
38 fixtures.
39 (2) Effluent discharge exceeds the absorptive capacity of the
40 soil into which the system discharges, resulting in ponding,
41 seepage, or other discharge of the effluent to the ground
42 surface or to surface waters.



- 1 (3) Effluent discharged from the system contaminates a
2 potable water supply, ground water, or surface waters.
- 3 (c) As used in this section, "qualified inspector" means any of
4 the following:
- 5 (1) An employee of a local health department who is
6 designated by the local health department as having
7 knowledge of onsite sewage systems sufficient to determine
8 whether an onsite sewage system is failing.
- 9 (2) An individual who is certified by the Indiana Onsite
10 Wastewater Professionals Association as an onsite sewage
11 system installer or inspector.
- 12 (3) An individual listed by:
- 13 (A) the state department of health; or
14 (B) the local health department with jurisdiction over the
15 service area of the property inspected;
16 as having sufficient knowledge of onsite sewage systems to
17 determine whether an onsite sewage system is failing.
- 18 (d) Subject to subsections (e) through (k), a property owner is
19 exempt from the requirement to connect to a municipality's sewer
20 system and to discontinue use of the property owner's sewage
21 disposal system if all of the following conditions are met:
- 22 (1) The property of the property owner is located outside the
23 boundaries of the municipality.
- 24 (2) The property owner's sewage disposal system on the
25 property is a septic tank soil absorption system or constructed
26 wetland septic system that:
- 27 (A) was new at the time of installation; and
28 (B) was approved in writing by the local health
29 department.
- 30 (3) Within sixty (60) days after the property owner is notified
31 under section 30 of this chapter that the municipality is
32 requiring connection to its sewer system and discontinuance
33 of use of the property owner's sewage disposal system, the
34 property owner notifies the municipality in writing that the
35 property owner is claiming the exemption provided by this
36 section.
- 37 (4) The property owner, at the property owner's expense,
38 obtains a written determination from:
- 39 (A) the local health department;
40 (B) the local health department's designee;
41 (C) if subsection (f) applies, a qualified inspector; or
42 (D) if subsection (g) applies, the board of the local health



- 1 department;
 2 that the septic tank soil absorption system or constructed
 3 wetland septic system is not failing.
- 4 **(5) The property owner provides to the municipality a copy of**
 5 **the written determination described in subdivision (4) within**
 6 **one hundred twenty (120) days after the property owner is**
 7 **notified under section 30 of this chapter that the municipality**
 8 **is requiring connection to its sewer system and discontinuance**
 9 **of use of the property owner's sewage disposal system.**
- 10 **(e) If a property owner, within the time allowed under**
 11 **subsection (d)(3), notifies the municipality in writing that the**
 12 **property owner is claiming the exemption provided by this section,**
 13 **the municipality shall suspend the requirement that the property**
 14 **owner discontinue use of the property owner's sewage disposal**
 15 **system and connect to the municipality's sewer system until the**
 16 **property owner's eligibility for the exemption under this section is**
 17 **determined.**
- 18 **(f) The local health department or the designee of the local**
 19 **health department shall provide the property owner with a written**
 20 **determination under subsection (d)(4) within sixty (60) days after**
 21 **receiving the property owner's request for the determination. If the**
 22 **local health department or its designee fails to provide a written**
 23 **determination in response to a property owner's request under**
 24 **subsection (d)(4) within sixty (60) days after receiving the request,**
 25 **the property owner, at the property owner's expense, may obtain**
 26 **a written determination from a qualified inspector.**
- 27 **(g) If the local health department or the department's designee,**
 28 **in response to a property owner's request under subsection (d)(4),**
 29 **determines that a septic tank soil absorption system or constructed**
 30 **wetland septic system is failing, the property owner may appeal the**
 31 **determination to the board of the local health department. The**
 32 **decision of the board as to whether the septic tank soil absorption**
 33 **system or constructed wetland septic system is failing is final and**
 34 **binding for purposes of this section.**
- 35 **(h) If a property qualifies under subsections (d) through (g) for**
 36 **the exemption provided by this section:**
- 37 **(1) the property owner is exempt from the requirement to**
 38 **connect to the municipality's sewer system for a period of ten**
 39 **(10) years beginning on the date on which the property**
 40 **owner's septic tank soil absorption system or constructed**
 41 **wetland septic system described in subsection (d)(2) was**
 42 **installed; and**



1 **(2) the property owner, under subsection (i):**

2 **(A) may seek the renewal of an initial exemption described**
 3 **in subdivision (1) for a period of ten (10) years beginning**
 4 **on the date on which the initial exemption would otherwise**
 5 **expire; and**

6 **(B) if granted a renewal described in clause (A), may seek**
 7 **the ongoing renewal of the property owner's exemption for**
 8 **successive ten (10) year periods, each of which begins on**
 9 **the date on which the previous ten (10) year renewal**
 10 **period would otherwise expire.**

11 **A property owner seeking the renewal of an exemption under**
 12 **subdivision (2)(A) or (2)(B) must meet the conditions set forth in**
 13 **subsection (i) for each renewal. There is no limit on the number of**
 14 **exemption renewals a property owner may seek under subdivision**
 15 **(2)(B).**

16 **(i) A property owner qualifies for an exemption renewal as**
 17 **described in subsection (h)(2) if all of the following conditions are**
 18 **met:**

19 **(1) The property continues to meet the conditions set forth in**
 20 **subsection (d)(1) through (d)(2).**

21 **(2) Not less than one hundred twenty (120) days before the**
 22 **expiration of:**

23 **(A) the property owner's initial exemption described in**
 24 **subsection (h)(1); or**

25 **(B) the property owner's previous renewal of an exemption**
 26 **described in subsection (h)(2)(A) or (h)(2)(B);**

27 **the property owner notifies the municipality in writing that**
 28 **the property owner is seeking the renewal of an exemption**
 29 **under this section.**

30 **(3) The property owner, at the property owner's expense,**
 31 **obtains another written determination from:**

32 **(A) the local health department;**

33 **(B) the local health department's designee;**

34 **(C) a qualified inspector; or**

35 **(D) the board of the local health department;**

36 **as applicable, that the septic tank soil absorption system or**
 37 **constructed wetland septic system is not failing.**

38 **(4) The property owner provides to the municipality a copy of**
 39 **the written determination described in subdivision (3) not less**
 40 **than thirty (30) days before the expiration of the property**
 41 **owner's:**

42 **(A) initial exemption described in subsection (h)(1); or**



- 1 **(B) previous exemption renewal period described in**
 2 **subsection (h)(2)(A) or (h)(2)(B).**
 3 **The local health department or the designee of the local health**
 4 **department shall provide the property owner with a written**
 5 **determination under subdivision (3)(A) or (3)(B) within sixty (60)**
 6 **days after receiving the property owner's request for the**
 7 **determination. If the local health department or its designee fails**
 8 **to provide a written determination under subdivision (3)(A) or**
 9 **(3)(B) within sixty (60) days after receiving a property owner's**
 10 **request, the property owner, at the property owner's expense, may**
 11 **obtain a written determination from a qualified inspector under**
 12 **subdivision (3)(C). If the local health department or the**
 13 **department's designee determines that a septic tank soil absorption**
 14 **system or constructed wetland septic system is failing, the property**
 15 **owner may appeal the determination to the board of the local**
 16 **health department under subdivision (3)(D), but the decision of the**
 17 **board as to whether the septic tank soil absorption system or**
 18 **constructed wetland septic system is failing is final and binding for**
 19 **purposes of this section.**
- 20 **(j) If a property qualifies for the exemption provided by this**
 21 **section and ownership of the property is transferred during a valid**
 22 **exemption period, including an exemption renewal period**
 23 **described in subsection (h)(2)(A) or (h)(2)(B):**
- 24 **(1) the exemption continues to apply to the property for the**
 25 **remainder of the exemption period during which the transfer**
 26 **occurs; and**
- 27 **(2) the transferee may apply for any exemption renewals**
 28 **under subsection (h)(2)(A) or (h)(2)(B) that the previous**
 29 **property owner would have been entitled to apply for under**
 30 **this section.**
- 31 **(k) If a property owner whose property qualifies for an**
 32 **exemption under this section, including a transferee described in**
 33 **subsection (j), discontinues use of the property owner's septic tank**
 34 **soil absorption system or constructed wetland septic system and**
 35 **consents to the connection of the property to the municipality's**
 36 **sewer system, the property owner may not be required to pay more**
 37 **than the following to connect to the municipality's sewer system:**
- 38 **(1) The connection fee the property owner would have paid if**
 39 **the property owner had connected to the municipality's sewer**
 40 **system on the first date on which the property owner could**
 41 **have connected to the sewer system.**
 42 **(2) Any additional costs:**



1 **(A) considered necessary by; and**
2 **(B) supported by documentary evidence provided by;**
3 **the municipality.**
4 **SECTION 4. An emergency is declared for this act.**

