

# HOUSE BILL No. 1350

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 8-1-2-125; IC 13-26-5; IC 16-41-25-5.

**Synopsis:** Connection of certain properties to sewer systems. Amends the law under which a property of at least 10 acres may be exempt from mandatory connection to the sewer system of a not-for-profit utility to provide that: (1) a property owner seeking the exemption may provide to the utility a written determination from a qualified inspector that the system is not failing; and (2) the utility shall provide a property owner with any forms needed, shall promptly respond in writing to any application, shall explain in writing any rejection of a property owner's application, and shall allow a property owner at least 270 days after a rejection to revise the property owner's application or otherwise attempt to prove that the property owner is entitled to the exemption. Amends the law under which a property of at least 10 acres may be exempt from mandatory connection to the sewer system of a regional sewage district to provide that: (1) the minimum area of a property qualifying for the exemption is the lesser of: (A) five acres; or (B) the minimum acreage required in the county in which the property is located for the installation of an onsite septic system; (2) a property owner seeking the exemption may provide to the district a written determination from a qualified inspector that the system is not failing; and (3) the district must provide a property owner with any forms needed, shall promptly respond in writing to any application, shall explain in writing any rejection of a property owner's application, and shall allow a property owner at least 270 days after a rejection to revise the property owner's application or otherwise attempt to prove that the property owner is entitled to the exemption. Allows a property owner who connects to the sewer system of a regional sewage district to provide, at the owner's  
(Continued next page)

**Effective:** Upon passage.

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January 12, 2016, read first time and referred to Committee on Environmental Affairs.

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expense, labor, equipment, materials, or any combination of labor, equipment, and materials to accomplish the connection, subject to inspection and approval by the district. Prohibits a local health department from denying an application for a residential septic system installation permit if the applicant demonstrates that: (1) the area of the property on which the residential septic system will be installed is at least 10 acres; (2) there are on the property at least two areas that may be used for the collection and treatment of sewage and that, if used, will protect human health and the environment; (3) the waste stream from the property is limited to domestic sewage from a residence or business; and (4) the residential septic system will have a maximum design flow of at least 750 gallons per day.



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. 1350

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

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

- 1 SECTION 1. IC 8-1-2-125, AS AMENDED BY P.L.292-2013,  
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 UPON PASSAGE]: Sec. 125. (a) As used in this section, "not-for-profit  
4 utility" means a public water or sewer utility that:  
5 (1) does not have shareholders;  
6 (2) does not engage in any activities for the profit of its trustees,  
7 directors, incorporators, or members; and  
8 (3) is organized and conducts its affairs for purposes other than  
9 the pecuniary gain of its trustees, directors, incorporators, or  
10 members.  
11 The term does not include a regional district established under  
12 IC 13-26, a conservancy district established under IC 14-33, or, for  
13 purposes of subsections (f), (g), (h), (i), (j), ~~and~~ (k), **(l)**, and **(m)**, a  
14 utility company owned, operated, or held in trust by a consolidated city.  
15 (b) As used in this section, "sewage disposal system" means a privy,



1 cesspool, septic tank, or other similar structure. The term includes a  
 2 septic tank soil absorption system (as defined in IC 13-11-2-199.5).  
 3 The term does not include a sewer system operated by a not-for-profit  
 4 public sewer utility.

5 (c) A not-for-profit utility shall be required to furnish reasonably  
 6 adequate services and facilities. The charge made by any not-for-profit  
 7 utility for any service rendered or to be rendered, either directly or in  
 8 connection with the service, must be nondiscriminatory, reasonable,  
 9 and just. Each discriminatory, unjust, or unreasonable charge for the  
 10 service is prohibited and unlawful.

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

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

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

32 (e) Except as provided in subsections (f) ~~and (h)~~, **through (i) and**  
 33 **subsections (k) through (l)**, a not-for-profit public sewer utility may  
 34 require connection to its sewer system of property producing sewage  
 35 or similar waste and require the discontinuance of use of a sewage  
 36 disposal system if:

- 37 (1) there is an available sanitary sewer within three hundred (300)  
 38 feet of:
  - 39 (A) the property line, if the property is:
    - 40 (i) located in a consolidated city;
    - 41 (ii) adjacent to a body of water, including a lake, river, or  
 42 reservoir; or



1 (iii) any part of a subdivision, or land that is divided or  
 2 proposed to be divided into lots, whether contiguous or  
 3 subject to zoning requirements, for the purpose of sale or  
 4 lease as part of a larger common plan of development or  
 5 sale; or

6 (B) for all other properties, the improvement or other structure  
 7 from which the sewage or similar waste is discharged; and

8 (2) the utility has given written notice by certified mail to the  
 9 property owner at the address of the property at least ninety (90)  
 10 days before the date for connection stated in the notice.

11 The notice given under subdivision (2) must also inform the property  
 12 owner, other than an owner of property located in a consolidated city,  
 13 that the property owner may qualify for an exemption as set forth in  
 14 subsection (f).

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

19 (1) The property owner's sewage disposal system is a septic tank  
 20 soil absorption system that was new at the time of installation and  
 21 approved in writing by the local health department.

22 (2) The property owner, at the property owner's expense, obtains  
 23 a written determination from the local health department or the  
 24 department's designee that the septic tank soil absorption system  
 25 is not failing. The local health department or the department's  
 26 designee shall provide the owner with a written determination not  
 27 later than sixty (60) days after receipt of the owner's request. If the  
 28 local health department or the department's designee fails to  
 29 provide a written determination within the time established in this  
 30 subdivision, the owner, at the owner's expense, may obtain a  
 31 written determination from a qualified inspector. If the local  
 32 health department or the department's designee determines that a  
 33 septic tank soil absorption system is failing, the property owner  
 34 may appeal the determination to the board of the local health  
 35 department. The decision of the board is final and binding.

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

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

40 (B) the written determination described in subdivision (2);  
 41 within the time limits set forth in subsection (i).

42 (g) If a property owner, within the time allowed under subsection



1 (i), notifies a not-for-profit public sewer utility in writing that the  
 2 property owner qualifies for the exemption ~~under this section;~~  
 3 **provided by subsection (f)**, the not-for-profit public sewer utility shall,  
 4 until the property owner's eligibility for an exemption under ~~this section~~  
 5 **subsection (f)** is determined, suspend the requirement that the property  
 6 owner discontinue use of a sewage disposal system and connect to the  
 7 not-for-profit public sewer utility's sewer system.

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

17 (1) the exemption applies to the subsequent owner of the property  
 18 for the remainder of the exemption period during which the  
 19 transfer occurred; and

20 (2) the subsequent owner may apply for any remaining  
 21 extensions.

22 However, the total period during which a property may be exempt from  
 23 the requirement to connect to a district's sewer system under ~~this~~  
 24 **section subsection (f)** may not exceed twenty (20) years, regardless of  
 25 ownership of the property.

26 (i) To qualify for an exemption under ~~this section;~~ **subsection (f)**, a  
 27 property owner must:

28 (1) within sixty (60) days after the date of the written notice given  
 29 to the property owner under subsection (e), notify the  
 30 not-for-profit public sewer utility in writing that the property  
 31 owner qualifies for the exemption under this section; and

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

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

41 (1) The connection fee the property owner would have paid if the  
 42 property owner connected to the sewer system on the first date the



1 property owner could have connected to the sewer system.

2 (2) Any additional costs:

3 (A) considered necessary by; and

4 (B) supported by documentary evidence provided by;

5 the not-for-profit public sewer utility.

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

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

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

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

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

18 (5) the owner, at the owner's expense, obtains and provides to the  
19 ~~district utility~~ a ~~certification~~ **written determination** from the  
20 local health department or ~~the department's designee~~ a **qualified**  
21 **inspector** that the system is not failing.

22 **(l) A not-for-profit utility:**

23 **(1) shall provide a property owner with any forms needed to**  
24 **comply with the requirements of subsection (k);**

25 **(2) shall promptly respond in writing to any application for**  
26 **the exemption provided by subsection (k);**

27 **(3) if the utility rejects the application of a property owner for**  
28 **the exemption provided by subsection (k), shall explain in**  
29 **writing to the property owner:**

30 **(A) why the property owner's application was rejected;**  
31 **and**

32 **(B) what steps, if any, the property owner could take to**  
33 **qualify for the exemption; and**

34 **(4) after rejecting a property owner's application for the**  
35 **exemption provided by subsection (k):**

36 **(A) may not require the property owner to connect to the**  
37 **not-for-profit utility's sewer system; and**

38 **(B) shall allow the property owner to revise the property**  
39 **owner's application or otherwise attempt to prove that the**  
40 **property owner is entitled to the exemption provided by**  
41 **subsection (k);**

42 **for a period of two hundred seventy (270) days after the**



1           **property owner receives the not-for-profit utility's written**  
 2           **rejection under subdivision (3) or for a longer period if the**  
 3           **property owner requests an extension of the period for good**  
 4           **cause.**

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

11           (†) (n) This section does not affect the authority of the state  
 12 department of health, a local health department, or a county health  
 13 officer with respect to a sewage disposal system.

14           (†) (o) For purposes of this section, a sewage disposal system is  
 15 "failing" if one (1) or more of the following apply:

16           (1) The system refuses to accept sewage at the rate of design  
 17 application and interferes with the normal use of plumbing  
 18 fixtures.

19           (2) Effluent discharge exceeds the absorptive capacity of the soil  
 20 into which the system discharges, resulting in ponding, seepage,  
 21 or other discharge of the effluent to the ground surface or to  
 22 surface waters.

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

25           (†) (p) As used in this section, "qualified inspector" means any of  
 26 the following:

27           (1) An employee of a local health department who is designated  
 28 by the local health department as having sufficient knowledge of  
 29 onsite sewage systems to determine if an onsite sewage system is  
 30 failing.

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

34           (3) An individual listed by the state department of health or the  
 35 local health department with jurisdiction over the service area of  
 36 the property inspected as having sufficient knowledge of onsite  
 37 sewage systems to determine if an onsite sewage system is failing.

38           SECTION 2. IC 13-26-5-2.6, AS ADDED BY P.L.97-2012,  
 39 SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 40 UPON PASSAGE]: Sec. 2.6. (a) A district may not require the owner  
 41 of a property described in section 2(8) of this chapter to connect to the  
 42 district's sewer system if:





- 1 (1) the property is located on at least:  
 2 (A) ~~ten (10)~~ **five (5)** acres; or  
 3 (B) **the minimum acreage required in the county in which**  
 4 **the property is located for the installation of an onsite**  
 5 **septic system;**  
 6 **whichever is less;**  
 7 (2) the owner can demonstrate the availability of at least two (2)  
 8 areas on the property for the collection and treatment of sewage  
 9 that will protect human health and the environment;  
 10 (3) the waste stream from the property is limited to domestic  
 11 sewage from a residence or business;  
 12 (4) the system **on the property** used to collect and treat the  
 13 domestic sewage has a maximum design flow of seven hundred  
 14 fifty (750) gallons per day; and  
 15 (5) the owner, at the owner's expense, obtains and provides to the  
 16 district a ~~certification~~ **written determination** from the local  
 17 health department or the department's designee a **qualified**  
 18 **inspector** that the system is ~~functioning satisfactorily~~ **not failing**.  
 19 **(b) A district:**  
 20 **(1) shall provide a property owner with any forms needed to**  
 21 **comply with the requirements of subsection (a);**  
 22 **(2) shall promptly respond in writing to any application for**  
 23 **the exemption provided by subsection (a);**  
 24 **(3) if it rejects the application of a property owner for the**  
 25 **exemption provided by subsection (a), shall explain in writing**  
 26 **to the property owner:**  
 27 (A) **why the property owner's application was rejected;**  
 28 **and**  
 29 (B) **what steps, if any, the property owner could take to**  
 30 **qualify for the exemption; and**  
 31 **(4) after rejecting a property owner's application for the**  
 32 **exemption provided by subsection (a):**  
 33 (A) **may not require the property owner to connect to the**  
 34 **not-for-profit utility's sewer system; and**  
 35 (B) **shall allow the property owner to revise the property**  
 36 **owner's application or otherwise attempt to prove that the**  
 37 **property owner is entitled to the exemption provided by**  
 38 **subsection (a);**  
 39 **for a period of two hundred seventy (270) days after the**  
 40 **property owner receives the not-for-profit utility's written**  
 41 **rejection under subdivision (3) or for a longer period if the**  
 42 **property owner requests an extension of the period for good**



- 1           **cause.**
- 2           **(c) For purposes of this section, a sewage disposal system is**
- 3 **"failing" if one (1) or more of the following apply:**
- 4           **(1) The system refuses to accept sewage at the rate of design**
- 5 **application and interferes with the normal use of plumbing**
- 6 **fixtures.**
- 7           **(2) Effluent discharge exceeds the absorptive capacity of the**
- 8 **soil into which the system discharges, resulting in ponding,**
- 9 **seepage, or other discharge of the effluent to the ground**
- 10 **surface or to surface waters.**
- 11           **(3) Effluent discharged from the system contaminates a**
- 12 **potable water supply, ground water, or surface waters.**
- 13           **(d) As used in this section, "qualified inspector" means any of**
- 14 **the following:**
- 15           **(1) An employee of a local health department who is**
- 16 **designated by the local health department as having sufficient**
- 17 **knowledge of onsite sewage systems to determine whether an**
- 18 **onsite sewage system is failing.**
- 19           **(2) An individual who is certified by the Indiana Onsite**
- 20 **Wastewater Professionals Association as an onsite sewage**
- 21 **system installer or inspector.**
- 22           **(3) An individual listed by the state department of health or**
- 23 **the local health department with jurisdiction over the service**
- 24 **area of the property inspected as having sufficient knowledge**
- 25 **of onsite sewage systems to determine whether an onsite**
- 26 **sewage system is failing.**
- 27           **(e) This section does not affect the authority of the state**
- 28 **department of health, a local health department, or a county health**
- 29 **officer with respect to a sewage disposal system.**
- 30           **SECTION 3. IC 13-26-5-2.7 IS ADDED TO THE INDIANA CODE**
- 31 **AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE**
- 32 **UPON PASSAGE]: Sec. 2.7. A property owner who connects to the**
- 33 **sewer system of a regional sewage district may provide, at the**
- 34 **owner's expense:**
- 35           **(1) labor;**
- 36           **(2) equipment;**
- 37           **(3) materials; or**
- 38           **(4) any combination of labor, equipment, and materials;**
- 39 **from any source to accomplish the connection to the sewer system,**
- 40 **subject to inspection and approval by the district.**
- 41           **SECTION 4. IC 16-41-25-5 IS ADDED TO THE INDIANA CODE**
- 42 **AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE**



1 UPON PASSAGE]: **Sec. 5. A local health department may not deny**  
2 **an application for a residential septic system installation permit if**  
3 **the applicant demonstrates that:**  
4 (1) **the property on which the residential septic system will be**  
5 **installed has an area of at least ten (10) acres;**  
6 (2) **there are on the property at least two (2) areas that may be**  
7 **used for the collection and treatment of sewage and that, if**  
8 **used, will protect human health and the environment;**  
9 (3) **the waste stream from the property is limited to domestic**  
10 **sewage from a residence or business; and**  
11 (4) **the residential septic system that will collect and treat the**  
12 **domestic sewage from the property has a maximum design**  
13 **flow of at least seven hundred fifty (750) gallons per day.**  
14 **SECTION 5. An emergency is declared for this act.**

