

First Regular Session of the 121st General Assembly (2019)

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 2018 Regular and Special Session of the General Assembly.

## SENATE ENROLLED ACT No. 4

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AN ACT to amend the Indiana Code concerning environmental law.

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

SECTION 1. IC 2-5-45.4 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

**Chapter 45.4. Storm Water Management Task Force**

**Sec. 1. As used in this chapter, "task force" refers to the storm water management task force established by section 2 of this chapter.**

**Sec. 2. The storm water management task force is established.**

**Sec. 3. The task force consists of the following members:**

**(1) Two (2) members of the senate, of whom:**

**(A) one (1) shall be appointed by the president pro tempore, and shall serve as co-chair of the task force; and**

**(B) one (1) shall be appointed by the minority leader of the senate.**

**(2) Two (2) members of the house of representatives, of whom:**

**(A) one (1) shall be appointed by the speaker, and shall serve as co-chair of the task force; and**

**(B) one (1) shall be appointed by the minority leader of the house of representatives.**

**(3) One (1) or more officers or employees of the state of Indiana appointed by the governor.**

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**(4) One (1) or more individuals appointed by the governor to represent the interests of the operators of storm water management systems.**

**(5) One (1) or more engineers or other professionals who have the expertise in the design and construction of storm water management systems and who are appointed by the governor.**

**(6) One (1) or more individuals appointed by the governor to represent the interests of landowners and others who constitute the source of funding for storm water management systems.**

**(7) Two (2) individuals appointed by the governor who have expertise in storm water management in the agricultural sector.**

**(8) One (1) or more members of the general public who are not described in subdivisions (4) through (7) and who are appointed by the governor.**

**Sec. 4. (a) A majority of the members of the task force constitutes a quorum.**

**(b) The affirmative vote of at least a majority of the members of the task force is necessary for the task force to take official action other than to meet and take testimony.**

**(c) The task force shall meet at the call of the co-chairs.**

**Sec. 5. All meetings of the task force shall be open to the public in accordance with and subject to IC 5-14-1.5. All records of the task force shall be subject to the requirements of IC 5-14-3.**

**Sec. 6. The task force shall study issues related to storm water management systems.**

**Sec. 7. The task force shall:**

**(1) issue a report setting forth its findings and recommendations under this chapter; and**

**(2) not later than December 1, 2019, submit the report:**

**(A) in an electronic format under IC 5-14-6 to the executive director of the legislative services agency for distribution to the members of the general assembly; and**

**(B) to the governor.**

**Sec. 8. The legislative services agency shall provide staff support to the task force.**

**Sec. 9. This chapter expires January 1, 2020.**

**SECTION 2. IC 5-1.2-11.5-5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 5. (a) For the purposes of this chapter, the authority shall divide the state of Indiana into study**



areas.

**(b) Each study area created under this section must consist of multiple counties. In selecting the counties to comprise each study area, the authority may consider similarities among the counties in:**

- (1) the watersheds in which they are located;**
- (2) the water sources that are available in them; and**
- (3) any other factors the authority considers relevant.**

SECTION 3. IC 5-1.2-11.5-6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: **Sec. 6. (a) The authority shall hold an annual meeting with the officers and employees of the utilities located in each study area created under section 5 of this chapter to:**

- (1) set expectations for the utilities' activities under this section;**
- (2) provide training; and**
- (3) conduct communications;**

**as the authority considers appropriate.**

**(b) In addition to attending the annual meetings held under subsection (a), the utilities in each study area may meet voluntarily on a periodic basis as they consider appropriate.**

**(c) In the meetings held under subsections (a) and (b), the utilities of a study area shall determine the water and wastewater priorities of the study area, establish future meeting agendas, and consider other matters related to the function of the study area, including the following:**

- (1) Promoting cooperation among the utilities located in the study area.**
- (2) Promoting mutual assistance among utilities located in the study area.**
- (3) Facilitating needed investment in the water and wastewater infrastructure of utilities in the study area.**
- (4) Protecting public health.**
- (5) The prudent management of water resources.**
- (6) Projecting the water demand and water needs of the study area for a planning horizon of at least twenty-five (25) years.**

**(d) Not later than:**

- (1) March 1, 2021; and**
- (2) March 1 of each odd-numbered year after 2021;**

**the utilities of each study area shall file a report with the authority on a form provided by the authority summarizing the activities**



undertaken by the utilities of the study area concerning the matters set forth in subsection (c).

(e) Not later than:

(1) November 1, 2021; and

(2) November 1 of each odd-numbered year after 2021;

the authority shall compile a report summarizing the activities undertaken by the utilities of all study areas concerning the matters set forth in subsection (c).

(f) A utility may participate in activities undertaken under this section in more than one (1) study area.

SECTION 4. IC 5-1.2-11.5-7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: **Sec. 7. To apply to the authority for a loan, a grant, or other financial assistance from:**

(1) the drinking water revolving loan program established by IC 5-1.2-10; or

(2) the water infrastructure assistance program established by IC 5-1.2-14;

a utility must demonstrate to the authority that its officers and employees have participated in study area activities under section 6 of this chapter.

SECTION 5. IC 5-1.2-11.5-8 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: **Sec. 8. The authority may adopt rules under IC 4-22-2 concerning the administration of this chapter, including rules addressing the standard for a utility's minimum participation in study area activities under section 6 of this chapter.**

SECTION 6. IC 5-1.2-11.5-9 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: **Sec. 9. (a) The authority shall coordinate the executive branch activities related to the state's water programs. The authority's duties under this section include the following:**

(1) Serving as the executive branch coordinator of water related programs and activities of the state.

(2) Advising state agencies and political subdivisions, and coordinating their activities, regarding best practices concerning the best use of funding streams and incentives in the manner most likely to achieve comprehensive water related data collection and regional collaboration in water and wastewater service.



**(3) Promoting and coordinating the collection and sharing of information throughout Indiana concerning water and wastewater service.**

**(4) Providing leadership regarding investment, affordability, supply, and economic development related to water and wastewater service.**

**(b) All instrumentalities, agencies, authorities, boards, and commissions of the state, including the management performance hub established by IC 4-3-26, shall cooperate with and provide assistance to the authority in carrying out the authority's duties under this section.**

**(c) In carrying out the authority's duties under this section, the authority shall use any data the authority acquires in a manner that:**

**(1) protects the confidential information of individual water utilities and customers; and**

**(2) is consistent with IC 5-14-3-4.**

SECTION 7. IC 8-1-30.8 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]:

**Chapter 30.8. Non-Revenue Water Audits**

**Sec. 1. As used in this chapter, "authority" refers to the Indiana finance authority established by IC 5-1.2-3.**

**Sec. 2. As used in this chapter, "commission" refers to the Indiana utility regulatory commission created by IC 8-1-1-2.**

**Sec. 3. As used in this chapter, "non-revenue water" means the difference between:**

**(1) the volume of water entering a water utility's water distribution system; and**

**(2) the volume of water:**

**(A) that is received by the water utility's customers; and**

**(B) for which the water utility bills its customers.**

**Sec. 4. As used in this chapter, "water utility" means:**

**(1) a public utility (as defined in IC 8-1-2-1(a));**

**(2) a municipally owned utility (as defined in IC 8-1-2-1(h));**

**(3) a not-for-profit utility (as defined in IC 8-1-2-125(a));**

**(4) a cooperatively owned corporation;**

**(5) a conservancy district established under IC 14-33; or**

**(6) a regional water district established under IC 13-26;**

**that provides water service to the public in Indiana for a fee.**

**Sec. 5. At least once in each calendar year, a water utility shall perform an audit of its water distribution system in accordance**



with accepted industry standards as determined appropriate by the authority to determine the causes of the water utility's non-revenue water.

**Sec. 6. (a) The results of:**

- (1) the audit performed by a water utility under section 5 of this chapter during calendar year 2020; and
- (2) the audit performed by a water utility under section 5 of this chapter during each even-numbered calendar year after 2020;

must be verified by an independent evaluator who is not employed by the water utility except for purposes of the evaluation of audits under this section.

(b) The results of an audit performed by a water utility under section 5 of this chapter during an even-numbered calendar year, as verified by an independent evaluator under subsection (a), must be submitted to the authority by August 1 of the year during which the audit is performed.

**Sec. 7. Beginning in 2020, during each even-numbered year the authority shall:**

- (1) compile the verified results it receives under section 6(b) of this chapter;
- (2) before December 15, prepare a report that:
  - (A) summarizes the information contained in the verified audit results; and
  - (B) presents observations based on the information in the verified audit results that the authority decides to include; and
- (3) deliver an electronic copy of the report to the executive director of the legislative services agency under IC 5-14-6.

**Sec. 8. To apply to the authority for a loan, a grant, or other financial assistance from:**

- (1) the drinking water revolving loan program established by IC 5-1.2-10; or
- (2) the water infrastructure assistance program established by IC 5-1.2-14;

a water utility must demonstrate to the authority that it has complied with this chapter.

**Sec. 9. The authority may adopt rules under IC 4-22-2 concerning the administration of this chapter, including rules addressing the minimum qualifications of individuals who may act as independent evaluators under section 6(b) of this chapter.**

SECTION 8. IC 8-1-31.6-2, AS ADDED BY P.L.91-2017,

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SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 2. As used in this chapter, "customer lead service line improvement" means an expenditure that is:

(1) related to:

(A) a lead service line; or

(B) a galvanized steel service line;

owned by a customer of a water utility;

(2) made by a water utility; and

(3) related to a water utility's plan to replace lead service lines within or connected to the water utility's system, including lines owned by the customer and lines owned by the water utility.

SECTION 9. IC 13-11-2-140.8 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: **Sec. 140.8. (a) "Noncommunity public water system" means a public water system that:**

(1) has at least fifteen (15) service connections used by nonresidents; or

(2) regularly serves an average of at least twenty-five (25) nonresident individuals daily for at least sixty (60) days per year.

(b) The term includes:

(1) a nontransient noncommunity water system, as defined in section 142.7 of this chapter; and

(2) a transient noncommunity water system, as defined in section 237.5 of this chapter;

**that meets the description set forth in subsection (a).**

SECTION 10. IC 13-11-2-177.3, AS AMENDED BY P.L.189-2018, SECTION 116, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 177.3. "Public water system", for purposes of this chapter, IC 13-18-11, IC 13-18-16, IC 13-18-20.5, **IC 13-18-26**, and other environmental management laws, has the meaning set forth in 42 U.S.C. 300f.

SECTION 11. IC 13-11-2-258, AS AMENDED BY P.L.126-2018, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 258. (a) "Wastewater treatment plant", for purposes of IC 13-18-11 ~~IC 13-18-26~~, and IC 13-20-17.5, and environmental management laws, means the system of treatment works, regulatory devices, equipment, and other facilities and appurtenances installed to treat sewage, industrial wastes, and other wastes delivered by a system of sewers and other related facilities, whether owned or operated by the state, a municipality, or a person, firm, or corporation. The term does not include septic tank disposal



systems.

**(b) "Wastewater treatment plant", for purposes of IC 13-18-26, means the system of treatment works, regulatory devices, equipment, and other facilities and appurtenances installed to treat sewage and other wastes that are delivered by a system of sewers and other related facilities, regardless of whether the system of treatment works, regulatory devices, equipment, and other facilities and appurtenances is owned or operated by the state, a municipality, a person, a firm, or a corporation. The term does not include a system that is installed by a company or industry and used to treat industrial wastes prior to discharge of the wastewater in accordance with a permit issued by the department or another entity to which permitting authority has been delegated.**

SECTION 12. IC 13-18-26-1, AS ADDED BY P.L.126-2018, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 1. (a) **Except as provided in subsection (c), a permit required under IC 13-18-16 for the operation of a water treatment plant or a wastewater treatment plant that is:**

- (1) issued; or
- (2) amended for the purposes of:
  - (A) the inclusion of a newly constructed or newly acquired plant; or
  - (B) the expansion of an existing plant;

under this article after June 30, 2018, is subject to the requirements set forth in sections 2 through 6 of this chapter. **public water system may not be issued unless the application contains the certification of completion required under section 2 of this chapter.**

**(b) Except as provided in subsection (c), the department may not issue a permit required under environmental management laws for the discharge from a wastewater treatment plant, as defined in IC 13-11-2-258(b), unless the application contains the certification of completion required under section 2 of this chapter.**

**(c) The requirement of a certification of completion under section 2 of this chapter does not apply to the following:**

- (1) A noncommunity public water system that has fewer than fifteen (15) service connections used by year-round residents.
- (2) A noncommunity public water system that regularly serves fewer than twenty-five (25) year-round residents.
- (3) A permit for the modification or expansion of a drinking water treatment plant that does not increase system design capacity.
- (4) A permit for a wastewater treatment plant with an





average design flow of not more than one hundred thousand (100,000) gallons per day.

**(5) A permit for the modification or expansion of a wastewater treatment plant that does not increase average design flow.**

**(6) The renewal of a an NPDES permit for the operation of a water treatment plant or discharge from a wastewater treatment plant that does not include a modification or expansion as described in subdivision (5).**

SECTION 13. IC 13-18-26-2, AS ADDED BY P.L.126-2018, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 2. A permit described in section 1(a) **or 1(b)** of this chapter may not be issued unless the applicant submits, along with the permit application, a certification that all of the following documents have been prepared and are complete under the requirements of this chapter:

- (1) A life cycle cost-benefit analysis, as described in section 3 of this chapter.
- (2) A capital asset management plan, as described in section 4 of this chapter.
- (3) A cybersecurity plan, as described in section 5 of this chapter.

SECTION 14. IC 13-18-26-6, AS ADDED BY P.L.126-2018, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 6. (a) The ~~analysis~~ **analyses** and plans described in sections 3, 4, and 5 of this chapter must be:

- (1) complete under the requirements of this chapter at the time an application for a permit described in section 1(a) **or 1(b)** of this chapter is submitted;
- (2) reviewed and revised at least once every five (5) years, for as long as the permit holder operates the water treatment plant or wastewater treatment plant; and
- (3) **except for customer specific data, including information excluded from public access under IC 5-14-3-4(a), or for a cybersecurity plan required under section 5 of this chapter, made publicly available.**

(b) A certification that the ~~analysis~~ **analyses** and plans described in sections 3, 4, and 5 of this chapter are complete under the requirements of this chapter must be submitted to the department:

- (1) under section 2 of this chapter at the time an application for a permit described in section 1(a) **or 1(b)** of this chapter is submitted; and
- (2) at least once every five (5) years after an application for a



permit described in section 1(a) **or 1(b)** of this chapter is submitted, when the analysis and plans are reviewed and revised. ~~under subsection (a)(2).~~

(c) A certification submitted to the department under this chapter must be notarized.

SECTION 15. IC 13-18-26-7, AS ADDED BY P.L.126-2018, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 7. Failure to include a notarized certification with an application for a permit described in section 1(a) **or 1(b)** of this chapter constitutes grounds for denial of the permit application.

SECTION 16. **An emergency is declared for this act.**



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President of the Senate

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President Pro Tempore

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Speaker of the House of Representatives

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Governor of the State of Indiana

Date: \_\_\_\_\_ Time: \_\_\_\_\_

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