

SENATE BILL No. 71

DIGEST OF INTRODUCED BILL

Citations Affected: IC 13-26.

Synopsis: Regional sewer districts. Requires that the board of trustees (board) of a regional sewer district (district) must be elected. Provides for the transition from an appointed to an elected board. Provides that a district may not foreclose a sewer lien or enforce the collection of unpaid sewer fees under certain circumstances.

Effective: July 1, 2014.

Kruse

January 6, 2014, read first time and referred to Committee on Environmental Affairs.



Second Regular Session 118th General Assembly (2014)

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 2013 Regular Session and 2013 First Regular Technical Session of the General Assembly.

SENATE BILL No. 71



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 13-26-2-8 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 8. (a) After the hearing
3 on the petition for the establishment of the proposed district, which
4 may be adjourned periodically, the hearing officer shall make findings
5 on the petition and other relevant facts and recommendations as to
6 whether:
7 (1) the petition should be:
8 (A) approved;
9 (B) approved with modifications; or
10 (C) denied; and
11 (2) a district should be established.
12 (b) If the recommendation is in the affirmative, the recommendation
13 must also include recommendations on:
14 (1) the manner of the selection or appointment;
15 (2) the number; and
16 (3) the terms;



1 of the board.

2 (c) The description of the territory to be included in a district may
3 not include territory in a municipality that has, by ordinance or
4 resolution filed with the department, exercised the option not to be
5 included in the district.

6 SECTION 2. IC 13-26-2-10 IS AMENDED TO READ AS
7 FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 10. (a) If the
8 commissioner determines that the findings show that the establishment
9 of a recommended district:

10 (1) complies with the conditions of this chapter for establishment
11 of a district; and

12 (2) appears capable of accomplishing the purpose or purposes in
13 an economically feasible manner;

14 the commissioner shall issue an order directing that the district be
15 established as an independent municipal corporation with a name and
16 for the purposes designated in the order.

17 (b) An order must do the following:

18 (1) Provide for the selection ~~or appointment~~ and terms of offices,
19 not to exceed four (4) years, of the board **as follows:**

20 **(A) For an order issued before July 1, 2014, by election or**
21 **appointment.**

22 **(B) For an order issued after June 30, 2014, by election as**
23 **provided in IC 13-26-4-2.**

24 (2) Provide requirements for sufficient bond for all officers,
25 trustees, or employees having power to dispense money of the
26 district.

27 (3) If an eligible entity with territory in the district has a public
28 water or solid waste sewer system, contain provisions protecting
29 the investments of the entities and protecting the rights of the
30 holders of bonds or other obligations issued to provide money for
31 the system.

32 (4) Direct the district to file a detailed plan for the initial project
33 of the district not later than nine (9) months after the date of the
34 preliminary order or within a further time that the department
35 from time to time orders.

36 **(c) An order issued before July 1, 2014, is subject to amendment**
37 **under IC 13-26-4-9.**

38 SECTION 3. IC 13-26-4-2 IS AMENDED TO READ AS
39 FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 2. **(a) An order issued**
40 **before July 1, 2014, establishing a district may provide for the board**
41 **to be elected by the voters in the district from districts or wards or from**
42 **the district at large. Elections and provisions for filling vacancies must**



1 be in accordance with IC 3; with the commissioner or the
 2 commissioner's designees performing the functions of the election
 3 officials.

4 **(b) An order issued after June 30, 2014, establishing a district**
 5 **must provide for the board to be elected by property owners in the**
 6 **district. The order must do the following:**

7 **(1) Require the election to take place at a public meeting.**

8 **(2) Require notice of the meeting to be given to all property**
 9 **owners in the district:**

10 **(A) by first class United States mail, postage prepaid,**
 11 **mailed to each freeholder within the proposed district; or**

12 **(B) by electronic mail at an address provided by a property**
 13 **owner to the commissioner.**

14 **(3) Provide for staggered initial terms such that no more than**
 15 **one-third (1/3) of the trustees may be eligible for election in**
 16 **any year.**

17 **(4) Allow the board to appoint an individual to fill a vacancy**
 18 **for the remainder of the term of the member the individual is**
 19 **appointed to succeed.**

20 SECTION 4. IC 13-26-4-3 IS AMENDED TO READ AS
 21 FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 3. **(a) This section**
 22 **does not apply to orders issued after June 30, 2014.**

23 **(b) Instead of electing the board, an order establishing a district may**
 24 **provide for appointments to the board by the elected executive or**
 25 **legislative officers of the eligible entities having territory in the district.**

26 SECTION 5. IC 13-26-4-4 IS AMENDED TO READ AS
 27 FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 4. **(a) This section**
 28 **does not apply to orders issued after June 30, 2014.**

29 ~~(a)~~ **(b) If:**

30 **(1) a district will include territory in more than one (1) county;**

31 **(2) a county executive has filed a petition for a district including**
 32 **territory owned, leased, or controlled by the department of natural**
 33 **resources; or**

34 **(3) the department of natural resources has filed a petition;**

35 the order establishing the district may provide that the governor
 36 appoints any number of trustees, but less than one-half (1/2) of the
 37 total.

38 ~~(b)~~ **(c) If a district contains or a proposed district will contain a state**
 39 **correctional facility, the department, when:**

40 **(1) issuing an order establishing the district under IC 13-26-2-10;**

41 **or**

42 **(2) approving or modifying a petition filed by the district's board**



1 of trustees under IC 13-26-1-2;
 2 may allow for the appointment of one (1) member of the board of
 3 trustees of the district by the commissioner of the department of
 4 correction.

5 SECTION 6. IC 13-26-4-5 IS AMENDED TO READ AS
 6 FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 5. **(a) This section
 7 does not apply to an order issued after June 30, 2014.**

8 **(b)** If a plan also contemplates that sewage treatment for the district
 9 will be provided in cooperation with a municipality, the order must
 10 provide that:

11 (1) at least one (1) trustee shall be appointed by the executive of
 12 the municipality; and

13 (2) at least:

14 (A) one (1) trustee shall be appointed by the fiscal body; and

15 (B) one (1) trustee shall be appointed by the executive;

16 of the county having the largest amount of territory in the district.

17 SECTION 7. IC 13-26-4-9 IS ADDED TO THE INDIANA CODE
 18 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 19 1, 2014]: Sec. 9. **(a) This section applies to an order that:**

20 **(1) is issued before July 1, 2014; and**

21 **(2) provides for appointment of at least one (1) trustee.**

22 **(b) Not later than January 1, 2015, an order must be amended
 23 to provide for:**

24 **(1) the election of all trustees in accordance with section 2 of
 25 this chapter; and**

26 **(2) the transition from appointed to elected trustees.**

27 SECTION 8. IC 13-26-14-4, AS AMENDED BY P.L.97-2012,
 28 SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 29 JULY 1, 2014]: Sec. 4. **(a)** Rates, fees, or charges made, assessed, or
 30 established by the district are a lien, in the same manner established
 31 under IC 36-9-23 for municipal sewage works, on a lot, parcel of land,
 32 or building that is connected with or uses the works of the district.
 33 Liens under this chapter:

34 (1) attach;

35 (2) are recorded;

36 (3) are subject to the same penalties, interest, and reasonable
 37 attorney's fees on recovery; and

38 (4) shall be collected and enforced;

39 in substantially the same manner as provided in IC 36-9-23-31 through
 40 IC 36-9-23-34. ~~A lien under this chapter that is the only lien on a
 41 property may not be foreclosed.~~

42 **(b) A district may not do the following:**



- 1 **(1) Foreclose a lien on a property in the manner provided in**
- 2 **IC 36-9-23-34 if the lien is the only lien on the property.**
- 3 **(2) Enforce the collection of delinquent rates, fees, or charges**
- 4 **in the manner provided in IC 36-9-23-33 if the delinquent**
- 5 **items are the only delinquent items being collected.**

