

## SENATE BILL No. 128

---

### DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 13-26.

**Synopsis:** Dissolution of certain regional sewage districts. Authorizes the dissolution of a regional sewage district that: (1) includes territory in only one county; (2) has the purpose of providing for the collection, treatment, and disposal of sewage within the district; (3) was established in response to an agreed order entered into after August 31, 2005, by the department of environmental management and the executive and fiscal bodies of the county; and (4) has not issued revenue bonds. Provides that the district may be dissolved by decision of a majority of the members of the district board of trustees. Requires the board, in dissolving the district, to pay off the debts and liabilities of the district and to remit any remaining assets of the district to the county treasurer for deposit in the county general fund.

**Effective:** July 1, 2015.

---

---

## Holdman

---

---

January 6, 2015, read first time and referred to Committee on Environmental Affairs.

---

---



First Regular Session 119th General Assembly (2015)

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 2014 Regular Session and 2014 Second Regular Technical Session of the General Assembly.

## SENATE BILL No. 128

---

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 13-26-5-2, AS AMENDED BY P.L.178-2013,  
2 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 2015]: Sec. 2. A district may do the following:  
4 (1) Sue or be sued.  
5 (2) Make contracts in the exercise of the rights, powers, and  
6 duties conferred upon the district.  
7 (3) Adopt and alter a seal and use the seal by causing the seal to  
8 be impressed, affixed, reproduced, or otherwise used. However,  
9 the failure to affix a seal does not affect the validity of an  
10 instrument.  
11 (4) Adopt, amend, and repeal the following:  
12 (A) Bylaws for the administration of the district's affairs.  
13 (B) Rules and regulations for the following:  
14 (i) The control of the administration and operation of the  
15 district's service and facilities.  
16 (ii) The exercise of all of the district's rights of ownership.



- 1 (5) Construct, acquire, lease, operate, or manage works and obtain  
 2 rights, easements, licenses, money, contracts, accounts, liens,  
 3 books, records, maps, or other property, whether real, personal, or  
 4 mixed, of a person or an eligible entity.
- 5 (6) Assume in whole or in part any liability or obligation of:  
 6 (A) a person;  
 7 (B) a nonprofit water, sewage, or solid waste project system;  
 8 or  
 9 (C) an eligible entity;
- 10 including a pledge of part or all of the net revenues of a works to  
 11 the debt service on outstanding bonds of an entity in whole or in  
 12 part in the district and including a right on the part of the district  
 13 to indemnify and protect a contracting party from loss or liability  
 14 by reason of the failure of the district to perform an agreement  
 15 assumed by the district or to act or discharge an obligation.
- 16 (7) Fix, alter, charge, and collect reasonable rates and other  
 17 charges in the area served by the district's facilities to every  
 18 person whose premises are, whether directly or indirectly,  
 19 supplied with water or provided with sewage or solid waste  
 20 services by the facilities for the purpose of providing for the  
 21 following:  
 22 (A) The payment of the expenses of the district.  
 23 (B) The construction, acquisition, improvement, extension,  
 24 repair, maintenance, and operation of the district's facilities  
 25 and properties.  
 26 (C) The payment of principal or interest on the district's  
 27 obligations.  
 28 (D) To fulfill the terms of agreements made with:  
 29 (i) the purchasers or holders of any obligations; or  
 30 (ii) a person or an eligible entity.
- 31 (8) Except as provided in sections 2.5 and 2.6 of this chapter,  
 32 require connection to the district's sewer system of property  
 33 producing sewage or similar waste, and require the  
 34 discontinuance of use of privies, cesspools, septic tanks, and  
 35 similar structures if:  
 36 (A) there is an available sanitary sewer within three hundred  
 37 (300) feet of:  
 38 (i) the property line, if the property is adjacent to a body of  
 39 water, including a lake, river, or reservoir;  
 40 (ii) any part of a subdivision, or land that is divided or  
 41 proposed to be divided into lots, whether contiguous or  
 42 subject to zoning requirements, for the purpose of sale or



- 1 lease as part of a larger common plan of development or  
 2 sale; or  
 3 (iii) for all other properties, the improvement or other  
 4 structure from which the sewage or similar waste is  
 5 discharged;  
 6 (B) the district has given written notice by certified mail to the  
 7 property owner at the address of the property at least ninety  
 8 (90) days before a date for connection to be stated in the  
 9 notice; and  
 10 (C) if the property is located outside the district's territory:  
 11 (i) the district has obtained and provided to the property  
 12 owner (along with the notice required by clause (B)) a letter  
 13 of recommendation from the local health department that  
 14 there is a possible threat to the public's health; and  
 15 (ii) if the property is also located within the extraterritorial  
 16 jurisdiction of a municipal sewage works under IC 36-9-23  
 17 or a public sanitation department under IC 36-9-25, the  
 18 municipal works board or department of public sanitation  
 19 has acknowledged in writing that the property is within the  
 20 municipal sewage works or department of public sanitation's  
 21 extraterritorial jurisdiction, but the municipal works board  
 22 or department of public sanitation is unable to provide sewer  
 23 service.
- 24 However, a district may not require the owner of a property  
 25 described in this subdivision to connect to the district's sewer  
 26 system if the property is already connected to a sewer system that  
 27 has received an NPDES permit and has been determined to be  
 28 functioning satisfactorily.
- 29 (9) Provide by ordinance for a reasonable penalty, not to exceed  
 30 one hundred dollars (\$100) per day, for failure to connect and also  
 31 apply to the circuit or superior court of the county in which the  
 32 property is located for an order to force connection, with the cost  
 33 of the action, including reasonable attorney's fees of the district,  
 34 to be assessed by the court against the property owner in the  
 35 action.
- 36 (10) Refuse the services of the district's facilities if the rates or  
 37 other charges are not paid by the user.
- 38 (11) Control and supervise all property, works, easements,  
 39 licenses, money, contracts, accounts, liens, books, records, maps,  
 40 or other property rights and interests conveyed, delivered,  
 41 transferred, or assigned to the district.
- 42 (12) Construct, acquire by purchase or otherwise, operate, lease,



1 preserve, and maintain works considered necessary to accomplish  
2 the purposes of the district's establishment within or outside the  
3 district and enter into contracts for the operation of works owned,  
4 leased, or held by another entity, whether public or private.

5 (13) Hold, encumber, control, acquire by donation, purchase, or  
6 condemnation, construct, own, lease as lessee or lessor, use, and  
7 sell interests in real and personal property or franchises within or  
8 outside the district for:

9 (A) the location or protection of works;

10 (B) the relocation of buildings, structures, and improvements  
11 situated on land required by the district or for any other  
12 necessary purpose; or

13 (C) obtaining or storing material to be used in constructing and  
14 maintaining the works.

15 (14) Upon consent of two-thirds (2/3) of the members of the  
16 board, merge or combine with another district into a single district  
17 on terms so that the surviving district:

18 (A) is possessed of all rights, franchises, and authority of the  
19 constituent districts; and

20 (B) is subject to all the liabilities, obligations, and duties of  
21 each of the constituent districts, with all rights of creditors of  
22 the constituent districts being preserved unimpaired.

23 (15) Provide by agreement with another eligible entity for the  
24 joint construction of works the district is authorized to construct  
25 if the construction is for the district's own benefit and that of the  
26 other entity. For this purpose the cooperating entities may jointly  
27 appropriate land either within or outside their respective borders  
28 if all subsequent proceedings, actions, powers, liabilities, rights,  
29 and duties are those set forth by statute.

30 (16) Enter into contracts with a person, an eligible entity, the  
31 state, or the United States to provide services to the contracting  
32 party for any of the following:

33 (A) The distribution or purification of water.

34 (B) The collection or treatment of sanitary sewage.

35 (C) The collection, disposal, or recovery of solid waste.

36 (17) Make provision for, contract for, or sell the district's  
37 byproducts or waste.

38 (18) Exercise the power of eminent domain, including for  
39 purposes of siting sewer or water utility infrastructure, but only  
40 after the district attempts to use existing public rights-of-way or  
41 easements.

42 (19) Remove or change the location of a fence, building, railroad,



1 canal, or other structure or improvement located within or outside  
2 the district. If:

3 (A) it is not feasible or economical to move the building,  
4 structure, or improvement situated in or upon land acquired;  
5 and

6 (B) the cost is determined by the board to be less than that of  
7 purchase or condemnation;

8 the district may acquire land and construct, acquire, or install  
9 buildings, structures, or improvements similar in purpose to be  
10 exchanged for the buildings, structures, or improvements under  
11 contracts entered into between the owner and the district.

12 (20) Employ consulting engineers, superintendents, managers,  
13 and other engineering, construction, and accounting experts,  
14 attorneys, bond counsel, employees, and agents that are necessary  
15 for the accomplishment of the district's purpose and fix their  
16 compensation.

17 (21) Procure insurance against loss to the district by reason of  
18 damages to the district's properties, works, or improvements  
19 resulting from fire, theft, accident, or other casualty or because of  
20 the liability of the district for damages to persons or property  
21 occurring in the operations of the district's works and  
22 improvements or the conduct of the district's activities.

23 (22) Exercise the powers of the district without obtaining the  
24 consent of other eligible entities. However, the district shall:

25 (A) restore or repair all public or private property damaged in  
26 carrying out the powers of the district and place the property  
27 in the property's original condition as nearly as practicable; or

28 (B) pay adequate compensation for the property.

29 (23) Dispose of, by public or private sale or lease, real or personal  
30 property determined by the board to be no longer necessary or  
31 needed for the operation or purposes of the district.

32 **(24) If IC 13-26-6-5 applies to the district, dissolve by decision**  
33 **of a majority of the members of the district's board.**

34 SECTION 2. IC 13-26-6-5 IS ADDED TO THE INDIANA CODE  
35 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
36 1, 2015]: **Sec. 5. (a) This section applies to a district that:**

37 **(1) includes territory in only one (1) county;**

38 **(2) has the purpose of providing for the collection, treatment,**  
39 **and disposal of sewage within the district;**

40 **(3) was established in response to an agreed order entered**  
41 **into after August 31, 2005, by the department and the**  
42 **executive and fiscal bodies of the county; and**



- 1           **(4) has not issued revenue bonds under IC 13-26-10.**
- 2           **(b) Notwithstanding an agreed order referred to in subsection**
- 3           **(a)(3), a district described in subsection (a) may be dissolved by**
- 4           **decision of a majority of the members of the board of trustees of**
- 5           **the district.**
- 6           **(c) In dissolving a district under this section, the board of**
- 7           **trustees of the district shall provide for the orderly winding up of**
- 8           **the affairs of the district, including:**
- 9               **(1) the payment of the debts and liabilities of the district; and**
- 10              **(2) the distribution of any assets of the district remaining after**
- 11              **the payment of debts and liabilities by remittance to the**
- 12              **county treasurer for deposit in the general fund of the county.**

