



February 17, 2015

SENATE BILL No. 128

DIGEST OF SB 128 (Updated February 16, 2015 11:22 am - DI 55)

Citations Affected: IC 13-18; IC 13-26; IC 36-11.

Synopsis: Sewage and waste management districts. Provides that the county executive of a county in which a regional sewage district was formed in response to an agreed order entered into after August 31, 2005, may elect to transform the regional sewage district into a county onsite waste management district. Establishes a procedure under which the regional sewage district may be transformed into a county onsite waste management district if the county executive decides to make that transformation. Provides that the primary purpose of the county onsite waste management district, if formed, will be resolving the environmental problems described in the agreed order. Amends the Indiana Code section under which point source discharges of treated sewage from an onsite residential sewage system are allowed if certain conditions are met to make that Indiana Code section apply to the county in which the regional sewage district was formed in response to an agreed order if the county executive of the county elects to transform the regional sewage district into an onsite waste management district. (That Indiana Code section presently applies only to Allen County.) Amends an Indiana Code provision prohibiting a regional sewage district from requiring a homeowner to connect to the district sewer system if the homeowner's property exceeds a certain area so that, in the county in which the regional sewage district was formed in response to an agreed order, the prohibition against requiring a homeowner to connect applies if the area of the homeowner's property is at least one-half acre.

Effective: July 1, 2015.

Holdman

January 6, 2015, read first time and referred to Committee on Environmental Affairs.
February 16, 2015, amended, reported favorably — Do Pass.

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February 17, 2015

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 13-18-12-9 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 9. (a) This section
3 applies only **to the following:**

4 (1) ~~in~~ A county having a population of more than three hundred
5 thousand (300,000) but less than four hundred thousand
6 (400,000).

7 (2) **A county in which a regional sewage district was formed**
8 **under IC 13-26 in response to an agreed order entered into**
9 **after August 31, 2005, by the department and the executive**
10 **and fiscal bodies of the county, if the executive of the county**
11 **elects under section 10 of this chapter to transform the**
12 **regional sewage district into an onsite waste management**
13 **district subject to IC 36-11.**

14 (b) Except as provided in subsection (c), the point source discharge
15 of sewage, treated or untreated, from a dwelling or its associated
16 residential sewage disposal system to waters is prohibited.

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1 (c) The point source discharge of treated sewage from an onsite
 2 residential sewage discharging disposal system to waters is permitted
 3 if:

4 (1) the local health department for the jurisdiction in which the
 5 system is located issues an operating permit for the system under
 6 subsection (d); and

7 (2) the discharge is authorized under a general permit issued
 8 under 40 CFR 122.28.

9 (d) In a county onsite waste management district established under
 10 IC 36-11 that performs all the functions related to onsite waste
 11 management listed in IC 36-11-2-1, the local health department for the
 12 jurisdiction in which the system is located may issue an operating
 13 permit for an onsite residential sewage discharging disposal system if
 14 the system is installed to repair a sewage disposal system that fails to
 15 meet public health and environmental standards and if:

16 (1) the local health department adopts procedural rules for
 17 monitoring onsite residential sewage discharging disposal systems
 18 in the jurisdiction, including fines or penalties, or both, for
 19 noncompliance, to ensure that:

20 (A) required maintenance is performed on the systems; and

21 (B) the systems do not discharge effluent that violates water
 22 quality standards;

23 (2) the local health department certifies, with respect to the
 24 system for which the permit is issued, that:

25 (A) the system is capable of operating properly;

26 (B) the system does not discharge effluent that violates water
 27 quality standards;

28 (C) an acceptable septic tank soil absorption system cannot be
 29 located on the property served by the system because of:

30 (i) soil characteristics;

31 (ii) size; or

32 (iii) topographical conditions;

33 of the property;

34 (D) the system:

35 (i) was properly installed by a qualified installer; and

36 (ii) provides the best available technology for residential
 37 discharging onsite sewage disposal systems; and

38 (E) the local health department has:

39 (i) investigated all technologies available for repair of the
 40 sewage disposal system that fails to meet public health and
 41 environmental standards other than the use of an onsite
 42 residential sewage discharging disposal system; and



- 1 (ii) determined that an onsite residential sewage discharging
 2 disposal system is the only possible technology that can be
 3 used to effect a repair of the sewage disposal system that
 4 fails to meet public health and environmental standards
 5 without causing unreasonable economic hardship to the
 6 system owner; and
- 7 (3) the system for which the permit is issued cannot be connected
 8 to a sanitary sewer because:
- 9 (A) there is not a sanitary sewer connection available;
 10 (B) the sanitary sewer operator refuses connection; or
 11 (C) unreasonable economic hardship would result to the
 12 system owner because of:
- 13 (i) the connection requirements of the sanitary sewer
 14 operator; or
 15 (ii) the distance to the sanitary sewer.
- 16 SECTION 2. IC 13-18-12-10 IS ADDED TO THE INDIANA
 17 CODE AS A NEW SECTION TO READ AS FOLLOWS
 18 [EFFECTIVE JULY 1, 2015]: **Sec. 10. (a) In a county described in**
 19 **section 9(a)(2) of this chapter, the executive of the county may, by**
 20 **adopting an ordinance, elect to transform the regional sewage**
 21 **district established in the county into a county onsite waste**
 22 **management district subject to IC 36-11.**
- 23 **(b) If an ordinance is adopted under subsection (a), the**
 24 **ordinance must do the following:**
- 25 **(1) Provide that, as of a certain date, the regional sewage**
 26 **district ceases to exist as a regional sewage district and**
 27 **becomes instead a county onsite waste management district**
 28 **subject to IC 36-11.**
- 29 **(2) Provide for the orderly winding up of the affairs of the**
 30 **regional sewage district, including:**
- 31 **(A) the assumption by the onsite waste management**
 32 **district of the obligations, if any, of the regional sewage**
 33 **district; and**
- 34 **(B) the transfer to the onsite waste management district of**
 35 **any assets of the regional sewage district.**
- 36 **(3) Meet the other requirements set forth in IC 36-11-3-13 for**
 37 **an ordinance establishing a county onsite waste management**
 38 **district.**
- 39 **(c) If making the election described in subsection (a), the**
 40 **executive of the county, before the date provided in the ordinance**
 41 **under subsection (b)(1), must file a notice of intent to establish the**
 42 **county onsite waste management district. The notice of intent must**



1 include the contents required under IC 36-11-3-2, including an
 2 accurate description of the territory to be included in the county
 3 onsite waste management district. The territory to be included in
 4 the county onsite waste management district:

5 (1) must conform to IC 36-11-3; and

6 (2) may be less than the entire area of the county.

7 (d) If the requirements of subsections (b) and (c) have been met,
 8 on the date provided in the ordinance under subsection (b)(1) the
 9 board of the regional sewage district is dissolved and the executive
 10 of the county becomes the governing body of the county onsite
 11 waste management district under IC 36-11-1-3.

12 (e) A county onsite waste management district that is formed
 13 under this section:

14 (1) has all the powers of; and

15 (2) is subject to same requirements and restrictions as;

16 a county onsite waste management district not established under
 17 this section, except that IC 36-11-3-6 through IC 36-11-3-10
 18 (concerning the appointment of a hearing officer, a public hearing,
 19 and findings and recommendations as to whether the county onsite
 20 waste management district should be established) do not apply to
 21 the formation of a county onsite waste management district under
 22 this section.

23 (f) A county onsite waste management district that is formed
 24 under this section shall adopt a district plan for the operation of
 25 the district under IC 36-11-6-1 not more than one (1) year after the
 26 date referred to in subsection (b)(1).

27 SECTION 3. IC 13-26-5-2.6, AS ADDED BY P.L.97-2012,
 28 SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 29 JULY 1, 2015]: Sec. 2.6. A district may not require the owner of a
 30 property described in section 2(8) of this chapter to connect to the
 31 district's sewer system if:

32 (1) the property is located on:

33 (A) at least ten (10) acres, in the case of a county not
 34 described in clause (B); or

35 (B) at least one-half (1/2) acre, in the case of a county in
 36 which a regional sewage district was formed under this
 37 article in response to an agreed order entered into after
 38 August 31, 2005, by the department and the executive and
 39 fiscal bodies of the county;

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



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

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

6 (5) the owner, at the owner's expense, obtains and provides to the
7 district a certification from the local health department or the
8 department's designee that the system is functioning satisfactorily.

9 SECTION 4. IC 36-11-5-2 IS AMENDED TO READ AS
10 FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 2. **(a)** A district may do
11 the following:

12 (1) Make contracts for the services necessary for the operations
13 of the district, including management of the district by any public
14 or private entity.

15 (2) Adopt, amend, and repeal bylaws for the administration of the
16 district's affairs.

17 (3) Fix, alter, charge, and collect reasonable rates and other
18 charges, to be imposed by the governing body, in the area served
19 by the district with respect to every person whose premises are,
20 whether directly or indirectly, served by the district, for the
21 following purposes:

22 (A) To fulfill the terms of contracts made by the district.

23 (B) To pay the other expenses of the district.

24 (4) Refuse the services of the district if the rates and other charges
25 are not paid by the user.

26 (5) Control and supervise all licenses, money, contracts, accounts,
27 books, records, maps, or other property rights and interests
28 conveyed, delivered, transferred, or assigned to the district.

29 (6) Make provision for, contract for, or sell the district's
30 byproducts or waste.

31 (7) Adopt and enforce rules:

32 (A) to establish procedures for the governing body's actions;

33 or

34 (B) for any other lawful subject necessary to the operation of
35 the district and the exercise of the power granted.

36 **(b) If a district is formed under IC 13-18-12-10, the district has**
37 **as its primary purpose the resolution of the environmental**
38 **problems described in the agreed order entered into after August**
39 **31, 2005, by the department of environmental management and the**
40 **executive and fiscal bodies of the county. In fulfilling this purpose,**
41 **the district shall explore every potentially effective and**
42 **economically feasible solution to the environmental problems,**



- 1 including the following:
- 2 (1) Assisting the owners of residential waste treatment
- 3 systems in upgrading their systems to the extent necessary to
- 4 resolve the environmental problems, as by:
- 5 (A) retrofitting systems with dual chamber septic tanks
- 6 and effluent filters; and
- 7 (B) employing secondary treatment of effluent, as by sand
- 8 filters or recirculating media filters, before the effluent
- 9 reaches a system's soil absorption field.
- 10 (2) Considering alternatives to conventional wastewater
- 11 treatment plants, such as:
- 12 (A) small community wastewater cluster systems, as
- 13 described in the Purdue University Cooperative Extension
- 14 Service publication ID-265, "Small Community
- 15 Wastewater Cluster Systems";
- 16 (B) package plants (small, premanufactured wastewater
- 17 treatment facilities that can be used to treat wastewater in
- 18 small communities); and
- 19 (C) constructed wetlands.
- 20 (c) Notwithstanding any other provision of this article, if a
- 21 district is formed under IC 13-18-12-10, the governing body of the
- 22 district may, as the county executive of the county, exercise its
- 23 powers under this title to provide for sewage originating within the
- 24 district to be collected and transported to a municipality for
- 25 treatment and disposal in a municipal wastewater treatment
- 26 facility if the governing body considers this an effective and
- 27 economically feasible solution to the environmental problems
- 28 described in the agreed order referred to in subsection (b).



COMMITTEE REPORT

Madam President: The Senate Committee on Environmental Affairs, to which was referred Senate Bill No. 128, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Delete everything after the enacting clause and insert the following:

(SEE TEXT OF BILL)

and when so amended that said bill do pass.

(Reference is to SB 128 as introduced.)

CHARBONNEAU, Chairperson

Committee Vote: Yeas 8, Nays 0.

