

SENATE BILL No. 269

DIGEST OF INTRODUCED BILL

Citations Affected: IC 8-23-31; IC 13-11-2-90; IC 13-26.

Synopsis: Road and utility repair. Defines "department action" as one or more of the following: (1) Detour creation or implementation. (2) Planned bridge repair. (3) Planned road repair. Requires the department of transportation (department) to consult with the appropriate: (1) county commissioner; (2) county executive; (3) mayor; or (4) town executive; whenever a proposed department action adversely affects certain local interests. Requires the department to: (1) consult with an appropriate local representative; and (2) memorialize; the substance of any consultation involving a local representative. Requires the commissioner of the department to review the substance of all consultations involving a local representative. Requires the commissioner to either: (1) approve a proposed department action subject to the concerns of the appropriate local representative; or (2) remand a proposed department action to appropriate department personnel for the purpose of devising a revised department action that is less destructive to certain local interests. Provides the department with rulemaking authority. Allows the department to contract with third party agencies approved of by the commissioner of the department. Provides that the hearing officer appointed to conduct a hearing concerning a petition to establish a regional water, sewage, or solid waste district is required to provide notice of the hearing to the executive of a city or town that has a municipal sewage works or public sanitation department having extraterritorial jurisdiction within the boundaries of the area to be included in the proposed district. Requires the board of trustees of a regional sewage district, when seeking to add territory to the district, to file a copy of its motion for the addition of

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Effective: July 1, 2018.

Koch

January 3, 2018, read first time and referred to Committee on Homeland Security and Transportation.



Digest Continued

territory in the office of: (1) the executive of each governmental entity having territory within the territory proposed to be added to the regional sewage district; and (2) the executive of a city or town that has a municipal sewage works or public sanitation department if the territory proposed to be added to the regional sewage district includes territory within the extraterritorial jurisdiction of the municipal sewage works or public sanitation department. Defines "governmental entity", for purpose of the law concerning regional water, sewage, and solid waste districts, as a municipal corporation or a special taxing district. Defines certain terms.



Introduced

Second Regular Session 120th General Assembly (2018)

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 2017 Regular Session of the General Assembly.

SENATE BILL No. 269

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 8-23-31 IS ADDED TO THE INDIANA CODE AS
2 A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2018]:
4 **Chapter 31. Consultation With Local Municipalities**
5 **Sec. 1. "Department action" means one (1) or more of the**
6 **following:**
7 (1) **Detour creation or implementation.**
8 (2) **Planned bridge repair.**
9 (3) **Planned road repair.**
10 **Sec. 2. "Municipality" means a city or town.**
11 **Sec. 3. "Public highway" means a:**
12 (1) **street;**
13 (2) **road; or**
14 (3) **highway;**
15 **that is used by the public or is open to use by the public.**



1 **Sec. 4. Notwithstanding any other law or provision, the**
 2 **department shall consult with the appropriate:**

3 **(1) county commissioner or county executive if a proposed**
 4 **department action impacts a public highway belonging to a**
 5 **county; or**

6 **(2) mayor or town executive if a proposed department action**
 7 **impacts a public highway belonging to a city or town.**

8 **Sec. 5. (a) A consultation described in section 4 of this chapter**
 9 **must devise ways to eliminate or minimize any adverse impact**
 10 **created by a proposed department action on:**

11 **(1) local commerce;**

12 **(2) local residents;**

13 **(3) local tourism; or**

14 **(4) any other demographic, issue, or topic deemed relevant by**
 15 **the applicable county commissioner, county executive, mayor,**
 16 **or town executive.**

17 **(b) Notwithstanding any other law or provision, the department**
 18 **must memorialize, in writing, the substance of any consultation**
 19 **described in subsection (a). The writing described in this subsection**
 20 **shall take a form prescribed by the department.**

21 **(c) In addition to the requirements described by subsections (a)**
 22 **and (b), the writing described by this section must certify:**

23 **(1) department compliance with section 4 of this chapter; and**

24 **(2) the accurate memorializing of any:**

25 **(A) concern;**

26 **(B) preferred action; or**

27 **(C) proposed remedy;**

28 **presented to the department by the appropriate city, county,**
 29 **or town executive.**

30 **Sec. 6. A writing described in section 5 of this chapter must be**
 31 **presented to the commissioner for review. After completing the**
 32 **review described in this section, the commissioner shall:**

33 **(1) approve, notwithstanding the concerns, preferred actions,**
 34 **and proposed remedies of the appropriate city, county, or**
 35 **town executive, the proposed department action; or**

36 **(2) remand to appropriate department personnel the**
 37 **proposed department action for the purpose of devising a**
 38 **revised department action that is less destructive to the local**
 39 **interests described in section 5(a) of this chapter.**

40 **Sec. 7. (a) The department may adopt emergency rules under**
 41 **IC 4-22-2-37.1 to implement this chapter.**

42 **(b) An emergency rule described in subsection (a) expires on the**



1 earlier of the following dates:

2 (1) The expiration date stated in the emergency rule.

3 (2) The date the emergency rule is amended or repealed by a
4 later rule adopted under IC 4-22-2-24 through IC 4-22-2-36
5 or under IC 4-22-2-37.1.

6 **Sec. 8. The department may enter into contracts with third**
7 **party agencies approved of by the commissioner in order to**
8 **implement this chapter.**

9 SECTION 2. IC 13-11-2-90, AS AMENDED BY P.L.78-2009,
10 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
11 JULY 1, 2018]: Sec. 90. (a) "Governmental entity", for purposes of
12 IC 13-18-3 and IC 13-25-6, means the state or a political subdivision.

13 (b) **"Governmental entity", as used in IC 13-26, means a**
14 **political subdivision (as defined in IC 36-1-2-13).**

15 SECTION 3. IC 13-26-2-6, AS AMENDED BY P.L.263-2013,
16 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
17 JULY 1, 2018]: Sec. 6. (a) Except as provided in section 9 of this
18 chapter, the hearing officer shall fix a time and place inside or within
19 ten (10) miles of the proposed district for the hearing on any matter for
20 which a hearing is authorized under this chapter.

21 (b) The hearing officer shall make a reasonable effort to provide
22 notice of the hearing as follows:

23 (1) By publication of notice two (2) times each week for two (2)
24 consecutive weeks in at least two (2) newspapers of general
25 circulation in each of the counties, in whole or in part, in the
26 district. The publication of notice must, at a minimum, include a
27 legal notice and a prominently displayed three (3) inches by five
28 (5) inches advertisement.

29 (2) By United States mail sent at least two (2) weeks before the
30 hearing to the following:

31 (A) The fiscal and executive bodies of each county with
32 territory in the proposed district.

33 (B) The executive of all other eligible entities with territory in
34 the proposed district, **including the executive of a city or**
35 **town that has:**

36 (i) **a municipal sewage works under IC 36-9-23; or**

37 (ii) **a public sanitation department under IC 36-9-25;**

38 **having extraterritorial jurisdiction within the boundaries**
39 **of the area to be included in the proposed district.**

40 (C) The state and any of its agencies owning, controlling, or
41 leasing land within the proposed district, excluding highways
42 and public thoroughfares owned or controlled by the Indiana



- 1 department of transportation.
- 2 (D) Each sewage disposal company holding a certificate of
- 3 territorial authority under IC 8-1-2-89 respecting territory in
- 4 the proposed district.
- 5 (3) By making a reasonable effort to provide notice of the hearing
- 6 by regular United States mail, postage prepaid, mailed at least two
- 7 (2) weeks before the hearing to each freeholder within the
- 8 proposed district.
- 9 (4) By including the date on which the hearing is to be held and
- 10 a brief description of:
- 11 (A) the subject of the petition, including a description of the
- 12 general boundaries of the area to be included in the proposed
- 13 district; and
- 14 (B) the locations where copies of the petition are available for
- 15 viewing.
- 16 SECTION 4. IC 13-26-8-4, AS AMENDED BY P.L.292-2013,
- 17 SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 18 JULY 1, 2018]: Sec. 4. (a) This section applies to the addition of
- 19 territory to a regional sewage or solid waste district other than at the
- 20 request of an eligible entity described in section 1 of this chapter. This
- 21 section does not apply to a regional water district.
- 22 (b) To add territory to a district already established, the board **of the**
- 23 **district** must file with the department a motion adopted by the board
- 24 requesting the addition of territory to the district. **If the motion is for**
- 25 **the addition of territory to a regional sewage district, the board,**
- 26 **not later than ten (10) days after filing the motion with the**
- 27 **department, must also file a copy of the motion in the office of:**
- 28 (1) the executive of each governmental entity having territory
- 29 within the territory proposed to be added to the regional
- 30 sewage district; and
- 31 (2) the executive of a city or town having:
- 32 (A) a municipal sewage works under IC 36-9-23; or
- 33 (B) a public sanitation department under IC 36-9-25;
- 34 if the territory proposed to be added to the regional sewage
- 35 district includes territory within the extraterritorial
- 36 jurisdiction of the municipal sewage works or public
- 37 sanitation department.
- 38 (c) Except as provided under subsections (d) and (e), if a motion is
- 39 filed with the department under subsection (b):
- 40 (1) the same procedure must be used to add territory to the district
- 41 as is provided for the establishment of a district under IC 13-26-2;
- 42 and



- 1 (2) the department shall proceed in the same manner that is set
2 forth in IC 13-26-2, IC 13-26-4, IC 13-26-6, and IC 13-26-7.
- 3 (d) Not more than one hundred eighty (180) days after the date a
4 motion is filed with the department under subsection (b) to add
5 territory to a district already established, if a petition is filed with the
6 department that is signed by a majority of the freeholders within the
7 area proposed to be added and indicating that the freeholders are
8 opposed to the addition of the area by the district:
- 9 (1) the department may not proceed under subsection (c); and
10 (2) the territory may not be added to the district.
- 11 (e) For purposes of subsection (c):
- 12 (1) the commissioner is not required to appoint a hearing officer
13 under IC 13-26-2-5;
- 14 (2) the board shall:
- 15 (A) provide the notice of; and
16 (B) conduct;
17 the hearing required under IC 13-26-2-6; and
- 18 (3) instead of making findings and recommendations under
19 IC 13-26-2-8, the board shall submit documentary evidence to the
20 commissioner to prove the:
- 21 (A) notice was provided; and
22 (B) hearing was conducted;
23 by the board as required under subdivision (2).

