

# SENATE BILL No. 401

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 14-33.

**Synopsis:** Conservancy districts providing sewer service. Provides that a tract of land may be removed from a conservancy district if: (1) the conservancy district was established for sewage collection purposes; (2) the tract of land is located partly or completely within the boundaries of the conservancy district; (3) no structure on the tract of land is served by the conservancy district's sewage service; and (4) the tract of land has been annexed by a municipality that will provide sewer service to the tract of land. Specifies that the setting or changing of the rates and charges for sewer service provided by a conservancy district must include a public hearing with notice, the right of property owners to file a written petition objecting to the rates and charges, and a possible hearing and decision by the circuit or superior court on the objectors' petition. Requires the board of a conservancy district established for sewage system purposes to discontinue the collection of any special benefits tax after construction of the sewage system is completed and becomes operational. Provides that if: (1) a conservancy district is established for sewage system purposes; (2) a tract of land is located partly inside and partly outside the boundaries of the conservancy district; and (3) no structure on the tract of land is connected to the conservancy district's sewage service; the tract of land and all improvements located on the tract of land are exempt from the special benefits tax that may be imposed by the conservancy district.

**Effective:** July 1, 2021.

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## Garten, Houchin

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January 14, 2021, read first time and referred to Committee on Utilities.

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First Regular Session of the 122nd General Assembly (2021)

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 2020 Regular Session of the General Assembly.

# SENATE BILL No. 401



A BILL FOR AN ACT to amend the Indiana Code concerning natural and cultural resources.

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

1 SECTION 1. IC 14-33-2-4 IS AMENDED TO READ AS  
2 FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 4. A petition must  
3 contain the following:

4 (1) The name for the proposed district, which should be in the  
5 form of "\_\_\_\_\_ Conservancy District".

6 (2) A description of the territory to be included, not necessarily by  
7 metes and bounds, but sufficiently accurate to inform the court  
8 and apprise the landowners of the possibility of the inclusion of  
9 their land in the district.

10 (3) A statement of each specific purpose for which the district is  
11 to be established.

12 (4) A statement of the necessity of accomplishing each purpose.

13 (5) A statement that the creation of the district will be conducive  
14 to the public health, safety, or welfare.

15 (6) A statement that the costs and damages of and to be paid  
16 solely by the district will probably be less than the benefits  
17 received in the district. If the purpose is declared to be water



1 supply or sewage disposal, this statement need not be included.

2 (7) Whether the petition is conditioned upon a grant of federal or  
3 state money, or both, identifying the money upon which the  
4 petition is conditioned.

5 (8) Whether conditions attached to federal or state aid, or both,  
6 are acceptable if the federal or state government, or both, offer a  
7 grant of money.

8 (9) **Subject to IC 14-33-5-21.5**, whether maintenance and  
9 operation of the works of improvement necessary to accomplish  
10 any or all of the purposes will be paid for:

11 (A) solely by annual levy of the special benefits tax;

12 (B) by both annual levy of the special benefits tax and an  
13 annual assessment on land found to be exceptionally benefited  
14 if exceptional benefits are expected to exist; or

15 (C) by use of any other method provided by statute as long as  
16 the proportion between the tax and assessment is in  
17 approximately the same ratio as used to pay the cost of  
18 establishing the district and placing the district plan into  
19 operation.

20 (10) The number of directors to serve on the board, which must  
21 be three (3), five (5), seven (7), or nine (9).

22 (11) A statement of the division of the proposed district into  
23 areas, which must be equal in number to the number of directors.

24 SECTION 2. IC 14-33-3-4 IS ADDED TO THE INDIANA CODE  
25 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
26 1, 2021]: **Sec. 4. (a) This section applies if:**

27 (1) **a conservancy district is established under**  
28 **IC 14-33-1-1(a)(5) for the purpose of providing for the**  
29 **collection, treatment, and disposal of sewage and other liquid**  
30 **wastes;**

31 (2) **a tract of land is located partly or completely within the**  
32 **boundaries of the conservancy district as initially established**  
33 **under this chapter;**

34 (3) **no residence or other structure located on the tract of land**  
35 **is connected to or served by the conservancy district's sewage**  
36 **service; and**

37 (4) **the tract of land has been annexed by a municipality that**  
38 **will provide or is providing sewer service to the tract of land.**

39 (b) **The owner of a tract of land described in subsection (a)(2)**  
40 **through (a)(4) may petition the court that established the**  
41 **conservancy district for the removal of the tract of land from the**  
42 **conservancy district.**



1           (c) Upon receiving a petition under subsection (b), the court  
2 shall set a date for a hearing on the petition.

3           (d) If the court determines that:

4               (1) subsection (a) applies to the tract of land; and

5               (2) the petition is proper;

6 the court shall order that the boundaries of the conservancy  
7 district be altered by the removal of the tract of land from the area  
8 within the boundaries of the conservancy district.

9           (e) After a tract of land has been removed from a conservancy  
10 district under this section, the tract of land and all improvements  
11 located on the tract of land are exempt from any:

12               (1) special benefits tax;

13               (2) assessments for exceptional benefits from the operation of  
14 the conservancy district plan; or

15               (3) assessments for maintenance and operation of the  
16 conservancy district's works of improvement;

17 that may be imposed under this chapter by the conservancy  
18 district.

19           SECTION 3. IC 14-33-5-21, AS AMENDED BY P.L.168-2009,  
20 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
21 JULY 1, 2021]: Sec. 21. (a) If the board issues revenue bonds for the  
22 collection, treatment, and disposal of sewage and liquid waste, the  
23 board may do the following:

24               (1) Subject to sections 21.1 and 21.2 of this chapter, establish just  
25 and equitable rates and charges, and, ~~use when necessary,~~  
26 **change the rates and charges, using:**

27                   (A) the same procedure, including:

28                       (i) a public hearing with notice provided under  
29 IC 36-9-23-26(a);

30                       (ii) the right of property owners to file a written petition  
31 objecting to the rates and charges as provided in  
32 IC 36-9-23-26.1; and

33                       (iii) a hearing and decision by the circuit or superior  
34 court on the petition as provided in IC 36-9-23-26.1; and

35                   (B) the same basis for the rates;

36 as provided in IC 36-9-23-25 through IC 36-9-23-29.

37               (2) Collect and enforce the rates, beginning with the  
38 commencement of construction as provided in IC 36-9-23.

39               (3) Establish rules and regulations.

40               (4) Require connection to the board's sewer system of any  
41 property producing sewage or similar waste and require  
42 discontinuance of use of privies, cesspools, septic tanks, and



- 1 similar structures. The board may enforce this requirement by  
 2 civil action in circuit or superior court as provided in  
 3 IC 36-9-23-30.
- 4 (5) Provide for and collect a connection charge to the board's  
 5 sewer system as provided in IC 36-9-23-25 through  
 6 IC 36-9-23-29.
- 7 (6) Contract for treatment of the board's sewage and pay a fair and  
 8 reasonable connection fee or rate for treatment, or a combination  
 9 of both, as provided in IC 36-9-23-16.
- 10 (7) Secure the bonds by a trust indenture as provided in  
 11 IC 36-9-23-22.
- 12 (8) Create a sinking fund for the payment of principal and interest  
 13 and accumulate reasonable reserves as provided in IC 36-9-23-21.
- 14 (9) Issue temporary revenue bonds to be exchanged for definite  
 15 revenue bonds as provided in IC 36-9-23-17 through  
 16 IC 36-9-23-20.
- 17 (10) Issue additional revenue bonds as part of the same issue if  
 18 the issue does not meet the full cost of the project for which the  
 19 bonds were issued as provided in IC 36-9-23-17 through  
 20 IC 36-9-23-20.
- 21 (11) Issue additional revenue bonds for improvements,  
 22 enlargements, and extensions as provided in IC 36-9-23-18.
- 23 (12) Covenant with the holders of the revenue bonds for the  
 24 following:
- 25 (A) Protection of the holders concerning the use of money  
 26 derived from the sale of bonds.
- 27 (B) The collection of necessary rates and charges and  
 28 segregation of the rates and charges for payment of principal  
 29 and interest.
- 30 (C) Remedy if a default occurs.
- 31 The covenants may extend to both repayment from revenues and  
 32 other money available to the district by other statute as provided  
 33 in IC 36-9-23.
- 34 (b) In the same manner as provided by IC 36-9-23, the rates or  
 35 charges made, assessed, or established by the district are a lien on a lot,  
 36 parcel of land, or building that is connected with or uses the works by  
 37 or through any part of the sewage system of the district. The liens:
- 38 (1) attach;
- 39 (2) are recorded;
- 40 (3) are subject to the same penalties, interest, and reasonable  
 41 attorney's fees on recovery; and
- 42 (4) shall be collected and enforced;



1 in substantially the same manner as provided in IC 36-9-23-31 through  
2 IC 36-9-23-32.

3 SECTION 4. IC 14-33-5-21.5 IS ADDED TO THE INDIANA  
4 CODE AS A **NEW** SECTION TO READ AS FOLLOWS  
5 [EFFECTIVE JULY 1, 2021]: **Sec. 21.5. The board of a conservancy**  
6 **district established under IC 14-33-1-1(a)(5) for the purpose of**  
7 **providing for the collection, treatment, and disposal of sewage and**  
8 **other liquid wastes shall:**

9 (1) **discontinue the collection of any special benefits tax levied**  
10 **under:**

11 (A) **IC 14-33-6-13 and IC 14-33-7-1; or**

12 (B) **IC 14-33-21-5; and**

13 (2) **use only revenue from fees and charges collected under**  
14 **section 21 of this chapter for:**

15 (A) **the payment of principal and interest on bonds issued**  
16 **under section 21 of this chapter;**

17 (B) **the accumulation of reasonable reserves; and**

18 (C) **the payment of the expenses of maintaining and**  
19 **operating the conservancy district's sewage system;**

20 **beginning January 1 after construction of the conservancy**  
21 **district's sewage system is completed and the sewage system**  
22 **becomes operational.**

23 SECTION 5. IC 14-33-7-1 IS AMENDED TO READ AS  
24 FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 1. (a) All the real  
25 property in the district, except ~~the~~ property that is exempt under section  
26 **2.5 or 4** of this chapter, constitutes a taxing district for the purpose of  
27 levying special benefit taxes to pay for the following:

28 (1) The expenses of establishing the district.

29 (2) General preliminary and administrative expenses.

30 (3) The expenses of preparing the district plan.

31 (4) The expenses of putting the district plan into operation by  
32 constructing the necessary works.

33 (5) The expenses of operating and maintaining the district.

34 (b) The special tax:

35 (1) equals the amount of benefits received; and

36 (2) must be based on return for the benefits.

37 SECTION 6. IC 14-33-7-2.5 IS ADDED TO THE INDIANA CODE  
38 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
39 1, 2021]: **Sec. 2.5. (a) This section applies if:**

40 (1) **a conservancy district is established under**  
41 **IC 14-33-1-1(a)(5) for the purpose of providing for the**  
42 **collection, treatment, and disposal of sewage and other liquid**



1           wastes;  
2           **(2) a tract of land is located partly within the boundaries of**  
3           **the conservancy district and partly outside the boundaries of**  
4           **the conservancy district; and**  
5           **(3) no residence or other structure located on the tract of land**  
6           **is connected to or served by the conservancy district's sewage**  
7           **service.**  
8           **(b) A tract of land described in subsection (a)(2) and (a)(3) and**  
9           **all improvements located on the tract of land are exempt from the**  
10          **special benefits tax that may be imposed under:**  
11           **(1) IC 14-33-6-13 and section 1 of this chapter; or**  
12           **(2) IC 14-33-21-5;**  
13          **by a conservancy district described in subsection (a).**

