

PROPOSED AMENDMENT

SB 414 # 1

DIGEST

Sewage matters. Amends the definition of "onsite residential sewage discharging disposal system" to provide that the term includes a system that employs advanced treatment components not used in standard septic systems to reduce the concentration of the pathogenic constituents of the effluent to an acceptable level before the effluent is discharged. Amends the law allowing the point source discharge of treated sewage from an onsite residential sewage discharging disposal system to provide that the law applies to any county onsite waste management district instead of applying only to one particular county. Amends the law concerning county onsite waste management districts, which allows a local health department to issue an operating permit for an onsite residential sewage discharging disposal system within a county onsite waste management district: (1) to authorize the technical review panel, the Indiana department of health, or the environmental rules board to adopt guidelines for purposes of guiding local health departments in taking the actions and making the determinations required when issuing an operating permit for an onsite residential sewage discharging disposal system; (2) to provide that, if the amendment of the National Pollutant Discharge Elimination System (NPDES) general permit issued by the department of environmental management for the purposes of the county onsite waste management district law is necessary or advisable to enable onsite waste management districts established after June 30, 2023, to function properly and effectively, the department shall amend the general permit as soon as reasonably possible after June 30, 2023; and (3) to authorize the county executives of two or more counties to establish a single county onsite waste management district by entering into an interlocal cooperation agreement.

1 Page 1, delete lines 1 through 10, begin a new paragraph and insert:
2 "SECTION 1. IC 13-11-2-144.7 IS AMENDED TO READ AS
3 FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 144.7. **(a)** For purposes
4 of IC 13-18-12, "onsite residential sewage discharging disposal system"
5 means a sewage disposal system that:
6 (1) is located on a site with and serves a one (1) or two (2) family
7 residence; and
8 (2) discharges effluent offsite.
9 **(b) The term includes a system that employs advanced**
10 **treatment components not used in standard septic systems, such as**
11 **a disinfection component that uses chlorine, ultraviolet light, or**
12 **ozone, to reduce the concentration of the pathogenic constituents**
13 **of the effluent to an acceptable level before the effluent is**
14 **discharged."**
15 Page 2, delete lines 14 through 42, begin a new paragraph and
16 insert:

1 "SECTION 3. IC 13-18-12-9, AS AMENDED BY P.L.104-2022,
 2 SECTION 83, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 3 JULY 1, 2023]: Sec. 9. (a) This section applies only in a county ~~having~~
 4 ~~a population of more than three hundred fifty thousand (350,000) and~~
 5 ~~less than four hundred thousand (400,000)-~~ **onsite waste management**
 6 **district established under IC 36-11.**

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

10 (c) The point source discharge of treated sewage from an onsite
 11 residential sewage discharging disposal system to waters is permitted
 12 if:

- 13 (1) the local health department for the jurisdiction in which the
 14 system is located issues an operating permit for the system under
 15 subsection (d); and
- 16 (2) the discharge is authorized under a general permit issued
 17 under 40 CFR 122.28.

18 (d) In a county onsite waste management district established under
 19 IC 36-11 that performs all the functions related to onsite waste
 20 management listed in IC 36-11-2-1, the local health department for the
 21 jurisdiction in which the system is located may issue an operating
 22 permit for an onsite residential sewage discharging disposal system if
 23 the system is installed to repair **or replace** a sewage disposal system
 24 that fails to meet public health and environmental standards and if:

- 25 (1) the local health department adopts procedural rules for
 26 monitoring onsite residential sewage discharging disposal systems
 27 in the jurisdiction, including fines or penalties, or both, for
 28 noncompliance, to ensure that:
 - 29 (A) required maintenance is performed on the systems; and
 - 30 (B) the systems do not discharge effluent that violates water
 31 quality standards;
- 32 (2) the local health department certifies, with respect to the
 33 system for which the permit is issued, that:
 - 34 (A) the system is capable of operating properly;
 - 35 (B) the system does not discharge effluent that violates water
 36 quality standards;
 - 37 (C) an acceptable septic tank soil absorption system cannot be
 38 located on the property served by the system because of:
 - 39 (i) soil characteristics;
 - 40 (ii) size; or

- 1 (iii) topographical conditions;
- 2 of the property;
- 3 (D) the system:
 - 4 (i) was properly installed by a qualified installer; and
 - 5 (ii) provides the best available technology for residential
 - 6 discharging onsite sewage disposal systems; and
- 7 (E) the local health department has:
 - 8 (i) investigated all technologies available for repair of the
 - 9 sewage disposal system that fails to meet public health and
 - 10 environmental standards other than the use of an onsite
 - 11 residential sewage discharging disposal system; and
 - 12 (ii) determined that an onsite residential sewage discharging
 - 13 disposal system is the only possible technology that can be
 - 14 used to effect a repair of the sewage disposal system that
 - 15 fails to meet public health and environmental standards
 - 16 without causing unreasonable economic hardship to the
 - 17 system owner; and
- 18 (3) the system for which the permit is issued cannot be connected
- 19 to a sanitary sewer because:
 - 20 (A) there is not a **local, municipal, or regional** sanitary sewer
 - 21 connection available;
 - 22 (B) the sanitary sewer operator refuses connection; or
 - 23 (C) unreasonable economic hardship would result to the
 - 24 system owner because of:
 - 25 (i) the connection requirements of the sanitary sewer
 - 26 operator; or
 - 27 (ii) the distance to the sanitary sewer.
- 28 **(e) For purposes of providing guidance to local health**
- 29 **departments in taking the actions and making the determinations**
- 30 **described in subsection (d):**
 - 31 **(1) the technical review panel established under**
 - 32 **IC 16-19-3-27.5 may adopt guidelines;**
 - 33 **(2) the Indiana department of health, with guidance provided**
 - 34 **by the technical review panel established under**
 - 35 **IC 16-19-3-27.5, may issue rules under IC 4-22-2 or adopt**
 - 36 **guidelines; or**
 - 37 **(3) the environmental rules board may adopt rules under**
 - 38 **IC 4-22-2 and IC 13-14-9 or adopt guidelines;**
 - 39 **concerning onsite residential sewage discharging disposal systems.**
 - 40 **SECTION 4. IC 13-18-12-9.5 IS ADDED TO THE INDIANA**

1 CODE AS A NEW SECTION TO READ AS FOLLOWS
 2 [EFFECTIVE UPON PASSAGE]: **Sec. 9.5. If the amendment of the**
 3 **National Pollutant Discharge Elimination System (NPDES) general**
 4 **permit issued by the department for the purposes of IC 36-11 is**
 5 **necessary or advisable to enable county onsite waste management**
 6 **districts established under IC 36-11 after June 30, 2023, to function**
 7 **properly and effectively, the department shall amend the general**
 8 **permit as soon as reasonably possible after June 30, 2023."**

9 Delete pages 3 through 8.

10 Page 10, between lines 27 and 28, begin a new paragraph and insert:

11 "SECTION 6. IC 36-11-1-3 IS AMENDED TO READ AS
 12 FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 3. "Governing body"
 13 means:

14 (1) the county executive of the county in which the district is
 15 located or proposed to be located; or

16 (2) **the county executive of a county that enters into an**
 17 **interlocal cooperation agreement under IC 36-11-3-1(d) to**
 18 **establish a district containing territory located in two (2) or**
 19 **more counties.**

20 SECTION 7. IC 36-11-3-1 IS AMENDED TO READ AS
 21 FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 1. (a) The
 22 establishment of a district may be initiated only by the governing body.

23 (b) The dissolution of a district may be initiated only by the
 24 governing body.

25 (c) A notice of intent to establish or dissolve a district must be filed
 26 in:

27 (1) the office of the executive of each governmental entity having
 28 territory within the proposed district or the district proposed for
 29 dissolution;

30 (2) the department of environmental management; and

31 (3) the state department of health.

32 (d) **The governing bodies of two (2) or more counties may**
 33 **establish a single district containing territory located in both or all**
 34 **of the counties by entering into an interlocal cooperation**
 35 **agreement."**

36 Renumber all SECTIONS consecutively.

(Reference is to SB 414 as printed January 31, 2023.)