PROPOSED AMENDMENT
ES 472 # 12

DIGEST

Utility matters. Provides that an order affecting rates of service may be entered by the utility regulatory commission (IURC) without a formal public hearing in the case of any public or municipally owned utility that either: (1) serves less than 8,000 customers; or (2) has initiated a rate case on behalf of a single division of the utility and that division: (A) serves less than 5,000 customers; and (B) has an IURC-approved schedule of rates and charges that is separate and independent from that of any other division of the utility. (Current law permits the IURC to enter a service rate order without a public hearing only in the case of a utility that itself serves less than 5,000 customers.) Changes the term "distressed utility" to "offered utility" for purposes of provisions regarding acquisition of water or wastewater utilities. Makes the following changes for purposes of provisions under which a utility that acquires property from another utility at a cost differential may petition the IURC to include the cost differential in the acquiring utility's rate base: (1) Provides conditions for applicability of the rebuttable presumption that the cost differential is reasonable. (2) Amends the findings the IURC must make in order to approve the petition. (3) Provides that notice of the filing of the petition may be provided to customers of the acquiring utility company in a billing insert. (4) Requires the acquiring utility company to submit with its petition to the IURC a written description of how the acquiring utility will identify and make reasonable and prudent improvements necessary to provide safe and reliable service to customers of the offered utility. Provides, for purposes of the requirement that a municipality that plans to sell or dispose of nonsurplus municipally owned utility property must appoint appraisers in a writing that is a public record, that a written contract with the appraisers or the appraisers' firms satisfies this requirement. Provides that the municipality must hold a public hearing regarding the appraisal and proposed sale not later than 180 days (rather than 90 days, under current law) after the appraisal is complete. Amends the factors the IURC must consider in deciding whether the sale or disposition is in the public interest. Provides that: (1) a main sewer line is extended for the purpose of connecting one or more residential or commercial properties to a sanitary sewer system; and (2) the extension, when completed, will be located within a certain distance of a residential property served by a septic system; neither a not-for-profit utility, a regional sewage district, a conservancy district, the Health and Hospital Corporation of Marion County, nor a municipality that operates sewage works may order that the residential property served by a septic system be connected to the extension. Provides, however, that the extension of a residential property served by a septic system to such an extension may be ordered if the connection is considered necessary to address an imminent danger to human health. Urges the legislative council to assign to an appropriate interim study committee the task of studying the connection of unserved properties to sanitary sewer systems. (This conference committee report does the following: (1) Deletes from the April 12, 2019, reprinting of ESB 472 provisions that establish the 21st century energy policy development task force. (2) Deletes provisions that require the IURC to conduct a study of the statewide impacts of (A) transitions in the fuel sources and other resources used to generate electricity; and (B) new and emerging technologies for electricity generation; on electric generation capacity, system reliability, system resilience, and the cost of electric utility service. (3) Amends the statute that permits the IURC to issue without a formal public hearing a rate order for a public or municipally owned utility, to provide that the IURC has such authority in the case of a utility serving less than 8,000 customers (versus 5,000 customers in current law). (4) Amends the provisions concerning an acquiring water or wastewater utility's petition to include in its rate base a cost differential at which an offered utility is acquired, to provide that the acquiring utility must submit to the IURC a statement of certain issues affecting the offered utility, and the process for determining reasonable and prudent improvements upon completing the acquisition. (6)
Delete everything after the enacting clause and insert the following:

SECTION 1. IC 8-1-2-61.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 61.5. (a) An order affecting rates of service may be entered by the commission without a formal public hearing in the case of any public or municipally owned utility that:

(1) either:

(A) serves less than five eight thousand (5,800) (8,000) customers; or

(B) has initiated a rate case on behalf of a single division of the utility and that division:

(i) serves less than five thousand (5,000) customers;

(ii) has a commission-approved schedule of rates and charges that is separate and independent from that of any other division of the utility; and

(iii) itself satisfies subdivisions (2) and (3);

(2) primarily provides retail service to customers; and

(3) does not serve extensively another utility.

(b) The commission may require a formal public hearing on any petition or complaint filed under this section concerning a rate change request by a utility upon the commission's own motion or upon motion of any of the following:

(1) The utility consumer counselor.

(2) A public or municipal corporation.

(3) Ten (10) individuals, firms, limited liability companies, corporations, or associations.

(4) Ten (10) complainants of any class described in this subsection.

(c) A not-for-profit water utility or a not-for-profit sewer utility must include in its petition a statement as to whether it has an outstanding indebtedness to the federal government. When an indebtedness is shown to exist, the commission shall require a formal hearing, unless the utility also has included in its filing written consent from the agency of the federal government with which the utility has outstanding
indebtedness for the utility to obtain an order affecting its rates from
the commission without a formal hearing.
(d) Notwithstanding any other provision of this chapter, the
commission may:
(1) on its\textsc{the commission's own motion}; or
(2) at the request of:
(A) the utility consumer counselor;
(B) a water or sewer utility described in subsection (a);
(C) ten (10) individuals, firms, limited liability companies,
corporations, or associations; or
(D) ten (10) complainants of any class described in this
subsection;
adopt a rule under IC 4-22-2, or issue an order in a specific proceeding,
providing for the development, investigation, testing, and use of
regulatory procedures or generic standards with respect to water or
sewer utilities described in subsection (a) or their services.
(e) The commission may adopt a rule or enter an order under
subsection (d) only if it finds, after notice and hearing, that the
proposed regulatory procedures or standards are in the public interest
and promote at least one (1) of the following:
(1) Utility cost minimalization to the extent that a utility's quality
of service or facilities are not diminished.
(2) A more accurate evaluation by the commission of a utility's
physical or financial conditions or needs.
(3) A less costly regulatory procedure for a utility, its consumers,
or the commission.
(4) Increased utility management efficiency that is beneficial to
consumers.

SECTION 2. IC 8-1-2-125, AS AMENDED BY P.L.292-2013,
SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
JULY 1, 2019]: Sec. 125. (a) As used in this section, "not-for-profit
utility" means a public water or sewer utility that:
(1) does not have shareholders,
(2) does not engage in any activities for the profit of its trustees,
directors, incorporators, or members; and
(3) is organized and conducts its affairs for purposes other than
the pecuniary gain of its trustees, directors, incorporators, or
members.
The term does not include a regional district established under
IC 13-26, a conservancy district established under IC 14-33, or, for
purposes of subsections (f), (g), (h), (i), (j), and (k), a utility company
owned, operated, or held in trust by a consolidated city.
(b) As used in this section, "sewage disposal system" means a privy,
cesspool, septic tank, or other similar structure. The term includes a
septic tank soil absorption system (as defined in IC 13-11-2-199.5).
The term does not include a sewer system operated by a not-for-profit
public sewer utility.
(c) A not-for-profit utility shall be required to furnish reasonably
adequate services and facilities. The charge made by any not-for-profit
utility for any service rendered or to be rendered, either directly or in
connection with the service, must be nondiscriminatory, reasonable,
and just. Each discriminatory, unjust, or unreasonable charge for the
service is prohibited and unlawful.
(d) A reasonable and just charge for water or sewer service within
the meaning of this section is a charge that will produce sufficient
revenue to pay all legal and other necessary expense incident to the
operation of the not-for-profit utility's system, including the following:
(1) Maintenance and repair costs.
(2) Operating charges.
(3) Interest charges on bonds or other obligations.
(4) Provision for a sinking fund for the liquidation of bonds or
other evidences of indebtedness.
(5) Provision for a debt service reserve for bonds or other
obligations in an amount not to exceed the maximum annual debt
service on the bonds or obligations.
(6) Provision of adequate funds to be used as working capital.
(7) Provision for making extensions and replacements.
(8) The payment of any taxes that may be assessed against the
not-for-profit utility or its property.
The charges must produce an income sufficient to maintain the
not-for-profit utility's property in sound physical and financial
condition to render adequate and efficient service. A rate too low to
meet these requirements is unlawful.
(e) Except as provided in subsections (f), and (h), and (p), a
not-for-profit public sewer utility may require connection to its sewer
system of property producing sewage or similar waste and require the
discontinuance of use of a sewage disposal system if:
(1) there is an available sanitary sewer within three hundred (300)
feet of:
(A) the property line, if the property is:
(i) located in a consolidated city;
(ii) adjacent to a body of water, including a lake, river, or reservoir; or
(iii) any part of a subdivision, or land that is divided or proposed to be divided into lots, whether contiguous or subject to zoning requirements, for the purpose of sale or lease as part of a larger common plan of development or sale; or

(B) for all other properties, the improvement or other structure from which the sewage or similar waste is discharged; and

(2) the utility has given written notice by certified mail to the property owner at the address of the property at least ninety (90) days before the date for connection stated in the notice.

The notice given under subdivision (2) must also inform the property owner, other than an owner of property located in a consolidated city, that the property owner may qualify for an exemption as set forth in subsection (f).

(f) Subject to subsection (h), a property owner is exempt from the requirement to connect to a not-for-profit public sewer utility’s sewer system and to discontinue use of a sewage disposal system if the following conditions are met:

(1) The property owner’s sewage disposal system is a septic tank soil absorption system that was new at the time of installation and approved in writing by the local health department.

(2) The property owner, at the property owner’s expense, obtains a written determination from the local health department or the department’s designee that the septic tank soil absorption system is not failing. The local health department or the department’s designee shall provide the owner with a written determination not later than sixty (60) days after receipt of the owner’s request. If the local health department or the department’s designee fails to provide a written determination within the time established in this subdivision, the owner, at the owner’s expense, may obtain a written determination from a qualified inspector. If the local health department or the department’s designee determines that a septic tank soil absorption system is failing, the property owner may appeal the determination to the board of the local health department. The decision of the board is final and binding.

(3) The property owner provides the not-for-profit public sewer utility with:
(A) the written notification of potential qualification for the
exemption described in subsection (i); and
(B) the written determination described in subdivision (2);
within the time limits set forth in subsection (i).

(g) If a property owner, within the time allowed under subsection
(i), notifies a not-for-profit public sewer utility in writing that the
property owner qualifies for the exemption under this section, the
not-for-profit public sewer utility shall, until the property owner's
eligibility for an exemption under this section is determined, suspend
the requirement that the property owner discontinue use of a sewage
disposal system and connect to the not-for-profit public sewer utility's
sewer system.

(h) A property owner who qualifies for the exemption provided
under this section may not be required to connect to the not-for-profit
public sewer utility's sewer system for a period of ten (10) years
beginning on the date the new sewage disposal system was installed.
A property owner may apply for two (2) five (5) year extensions of the
exemption provided under this section by following the procedures set
forth in subsections (f) and (g). If ownership of an exempt property is
transferred during a valid exemption period, including during an
extension of an initial exemption:

(1) the exemption applies to the subsequent owner of the property
for the remainder of the exemption period during which the
transfer occurred; and

(2) the subsequent owner may apply for any remaining
extensions.

However, the total period during which a property may be exempt from
the requirement to connect to a district's sewer system under this
section may not exceed twenty (20) years, regardless of ownership of
the property.

(i) To qualify for an exemption under this section, a property owner
must:

(1) within sixty (60) days after the date of the written notice given
to the property owner under subsection (e), notify the
not-for-profit public sewer utility in writing that the property
owner qualifies for the exemption under this section; and

(2) within one hundred twenty (120) days after the not-for-profit
public sewer utility receives the written notice provided under
subdivision (1), provide the not-for-profit public sewer utility with
the written determination required under subsection (f)(2).
(j) When a property owner who qualifies for an exemption under this section subsequently discontinues use of the property owner's sewage disposal system and connects to the not-for-profit public sewer utility's sewer system, the property owner may be required to pay only the following to connect to the sewer system:

(1) The connection fee the property owner would have paid if the property owner connected to the sewer system on the first date the property owner would have connected to the sewer system.

(2) Any additional costs:
   (A) considered necessary by; and
   (B) supported by documentary evidence provided by;
   the not-for-profit public sewer utility.

(c) A not-for-profit public sewer utility may not require a property owner to connect to the not-for-profit public sewer utility's sewer system if:

(1) the property is located on at least ten (10) acres;
(2) the owner can demonstrate the availability of at least two (2) areas on the property for the collection and treatment of sewage that will protect human health and the environment;
(3) the waste stream from the property is limited to domestic sewage from a residence or business;
(4) the system used to collect and treat the domestic sewage has a maximum design flow of seven hundred fifty (750) gallons per day; and
(5) the owner, at the owner's expense, obtains and provides to the district a certification from the local health department or the department's designee that the system is not failing.

(l) A property owner who connects to a not-for-profit public sewer utility's sewer system may provide, at the owner's expense, labor, equipment, materials, or any combination of labor, equipment, and materials from any source to accomplish the connection to the sewer system, subject to inspection and approval by the not-for-profit public sewer utility.

(m) This section does not affect the authority of the state department of health, a local health department, or a county health officer with respect to a sewage disposal system.

(n) For purposes of this section, a sewage disposal system is "failing" if one (1) or more of the following apply:

(1) The system refuses to accept sewage at the rate of design application and interferes with the normal use of plumbing
fixtures.

(2) Effluent discharge exceeds the absorptive capacity of the soil into which the system discharges, resulting in ponding, seepage, or other discharge of the effluent to the ground surface or to surface waters.

(3) Effluent discharged from the system contaminates a potable water supply, ground water, or surface waters.

(o) As used in this section, "qualified inspector" means any of the following:

(1) An employee of a local health department who is designated by the local health department as having sufficient knowledge of onsite sewage systems to determine if an onsite sewage system is failing.

(2) An individual who is certified by the Indiana Onsite Wastewater Professionals Association as an onsite sewage system installer or inspector.

(3) An individual listed by the state department of health or the local health department with jurisdiction over the service area of the property inspected as having sufficient knowledge of onsite sewage systems to determine if an onsite sewage system is failing.

(p) Except as provided in subsection (q), if:

(1) a not-for-profit public sewer utility's main sewer line is extended for the purpose of connecting one (1) or more residential or commercial properties to a sanitary sewer system; and

(2) the extension connecting the residential or commercial property or properties referred to in subdivision (1) to the sanitary sewer system, when completed, will be located within three hundred (300) feet of:

(A) a residential property served by a septic system; or

(B) in a consolidated city, the property line of a residential property served by a septic system;

the not-for-profit public sewer utility may not exercise its power under subsection (e) to require the residential property served by the septic system to be connected to the extension referred to in subdivision (1).

(q) A not-for-profit public sewer utility may exercise its power under subsection (e) to require a residential property served by a septic system to be connected to an extension described in subsection (p) if the trustees, directors, or members of the
not-for-profit public sewer utility consider the exercise of the not-for-profit public sewer utility’s power under subsection (e) necessary to address an imminent danger to human health.

SECTION 3. IC 8-1-30.3-1, AS ADDED BY P.L.189-2015, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. As used in this chapter, "cost differential" means the difference between:

(1) the cost to a utility company that acquires utility property from a distressed and offered utility, including the purchase price, incidental expenses, and other costs of acquisition; minus

(2) the difference between:

(A) the cost of the utility property when originally put into service by the distressed and offered utility; minus

(B) contributions or advances in aid of construction plus applicable accrued depreciation.

SECTION 4. IC 8-1-30.3-2 IS REPEALED [EFFECTIVE UPON PASSAGE]. Sec. 2. As used in this chapter, "distressed utility" refers to a utility company whose property is the subject of an acquisition described in section 5(a) of this chapter.

SECTION 5. IC 8-1-30.3-2.6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2.6. As used in this chapter, "offered utility" means a utility company whose property is the subject of an acquisition described in section 5(a) of this chapter.

SECTION 6. IC 8-1-30.3-5, AS AMENDED BY P.L.64-2018, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) This section applies if:

(1) a utility company acquires property from another an offered utility company at a cost differential in a transaction involving a willing buyer and a willing seller; and

(2) at least one (1) utility company described in subdivision (1) is subject to the jurisdiction of the commission under this article.

(b) Subject to subsection (c), there is a rebuttable presumption that a cost differential is reasonable.

(c) If the acquisition is made under IC 8-1.5-2-6.1, and to the extent the purchase price does not exceed the appraised value as determined under IC 8-1.5-2-5, the purchase price is considered reasonable for purposes of subsection (d) and any resulting cost differential is considered reasonable.

(d) Before closing on the acquisition, the utility company that
acquires the utility property may petition the commission to include the
any cost differentials differential as part of its rate base in future rate
cases. The commission shall approve the petition if the commission
finds the following:

(1) The utility property is used and useful to the offered utility
in providing water service, wastewater service, or both water and
wastewater service.

(2) The distressed offered utility is too small to capture
economies of scale or has failed to furnish or maintain adequate,
efficient, safe, and reasonable service and facilities.

(3) The utility company will improve economies of scale or, if
otherwise needed, make reasonable and prudent improvements
to ensure the offered utility's plant, the offered utility's
operations, or both, so that customers of the distressed offered
utility will receive adequate, efficient, safe, and reasonable
service.

(4) The acquisition of the utility property is the result of a mutual
agreement made at arms length.

(5) The actual purchase price of the utility property is reasonable.

(6) The utility company and the distressed offered utility are not
affiliated and share no ownership interests.

(7) The rates charged by the utility company before acquiring the
utility property of the distressed utility will not increase
unreasonably in future general rate cases solely as a result of
acquiring the utility property from the offered utility. For
purposes of this subdivision, the rates and charges will not
increase unreasonably in future general rate cases so long as
the net original cost proposed to be recorded under subsection
(f) is not greater than two percent (2%) of the acquiring
utility's net original cost rate base as determined in the
acquiring utility's most recent general rate case. If the amount
proposed to be recorded under subsection (f) is greater than
two percent (2%) of the acquiring utility's net original cost
rate base as determined in the acquiring utility's most recent
general rate case, the commission shall proceed to determine
whether the rates charged by the utility company will increase
unreasonably in future general rate cases solely as a result of
acquiring the utility property from the offered utility and, in
making the determination, may consider evidence of:

(A) the anticipated dollar value increase; and
(B) the increase as a percentage of the average bill.

(8) The cost differential will be added to the utility company's rate base to be amortized as an addition to expense over a reasonable time with corresponding reductions in the rate base.

(4) (e) A utility company may petition the commission in an independent proceeding to approve a petition under subsection (e) before the financial close of the transaction if the utility company provides for In connection with its petition under subsection (d), the acquiring utility company shall provide the following:

(1) Notice of the proposed acquisition and any proposed changes in rates or charges to customers of the distressed utility.

(2) (1) Notice to customers of the acquiring utility company that a petition has been filed with the commission under this chapter. The notice provided under this subdivision must include the cause number assigned to the petition. Notice under this subdivision may be provided to customers in a billing insert.

(3) (2) Notice to the office of the utility consumer counselor.

(4) A plan for reasonable and prudent improvements to provide adequate, efficient, safe, and reasonable service to customers of the distressed utility.

(3) A statement of known infrastructure, environmental, or other issues affecting the offered utility, and the process for determining reasonable and prudent improvements upon completing the acquisition.

(5) (f) In a proceeding under subsection (d), the commission shall issue its final order not later than two hundred ten (210) days after the filing of the petitioner's case in chief. If the commission grants the petition, the commission's order shall authorize the acquiring utility company to make accounting entries recording the acquisition and that reflect:

(1) the full purchase price;

(2) incidental expenses; and

(3) other costs of acquisition;

as the net original cost of the utility plant in service assets being acquired, allocated in a reasonable manner among appropriate utility plant in service accounts.

SECTION 7. IC 8-1-30.3-6, AS AMENDED BY P.L.85-2017, SECTION 37, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. For purposes of section 5(e)(2) 5(d)(2) of this chapter, a distressed an offered utility is too small to capture
economies of scale or is not furnishing or maintaining adequate, efficient, safe, and reasonable service and facilities if the commission finds one (1) or more of the following:

(1) The distressed offered utility violated one (1) or more state or federal statutory or regulatory requirements in a manner that the commission determines affects the safety, adequacy, efficiency, or reasonableness of its services or facilities.

(2) The distressed offered utility has inadequate financial, managerial, or technical ability or expertise.

(3) The distressed offered utility fails to provide water in sufficient amounts, that is palatable, or at adequate volume or pressure.

(4) The distressed offered utility, due to necessary improvements to its plant or distribution or collection system or operations, is unable to furnish and maintain adequate service to its customers at rates equal to or less than those of the acquiring utility company.

(5) The distressed offered utility

(A) is municipally owned utility property of a municipally owned utility that serves fewer than five thousand (5,000) customers, and

(B) is being sold under IC 8-1.5-2-61.

(6) Any other facts that the commission determines demonstrate the distressed offered utility's inability to capture economies of scale or to furnish or maintain adequate, efficient, safe, or reasonable service or facilities.

SECTION 8. IC 8-1.5-2-4, AS AMENDED BY P.L.98-2016, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. Whenever the municipal legislative body or the municipal executive determines to sell or otherwise dispose of nonsurplus municipally owned utility property, it shall provide for the following in a written document writing that shall be made available, upon request, for inspection and copying at the offices of the municipality's municipally owned utility in accordance with IC 5-14-3:

(1) The appointment, as follows, of three (3) residents of Indiana to serve as appraisers:

(A) One (1) disinterested person who is an engineer licensed under IC 25-31-1.

(B) One (1) disinterested appraiser licensed under IC 25-34.1.

(C) One disinterested person who is either:
(i) an engineer licensed under IC 25-31-1; or
(ii) an appraiser licensed under IC 25-34.1.

(2) The appraisal of the property.
(3) The time that the appraisal is due.

It is sufficient for purposes of this section that the municipal legislative body or municipal executive provides for the appointment in written contracts with the appraisers or the firms with whom the appraisers are employed.

SECTION 9. IC 8-1.5-2-5, AS AMENDED BY P.L.98-2016, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) Each appraiser appointed as provided by section 4 of this chapter must:

(1) by education and experience, have such expert and technical knowledge and qualifications as to make a proper appraisal and valuation of the property of the type and nature involved in the sale;

(2) be a disinterested person; and

(3) not be a resident or taxpayer of the municipality.

(b) The appraisers shall:

(1) be sworn to make a just and true valuation of the property; and
(2) return their appraisal, in writing, to the:

(A) municipal legislative body; or
(B) municipal executive;

that appointed them within the time fixed in the written document writing appointing them under section 4 of this chapter.

(c) If all three (3) appraisers cannot agree as to the appraised value, the appraisal, when signed by two (2) of the appraisers, constitutes a good and valid appraisal.

(d) If, after the return of the appraisal by the appraisers, the legislative body and the municipal executive decide to proceed with the sale or disposition of the nonsurplus municipally owned utility property, the legislative body shall, not earlier than the thirty (30) day period described in subsection (c) and not later than ninety (90) one hundred eighty (180) days after the return of the appraisal, hold a public hearing to do the following:

(1) Review and explain the appraisal.
(2) Receive public comment on the proposed sale or disposition of the nonsurplus municipally owned utility property.

Not less than thirty (30) days or more than sixty (60) days after the date of a hearing under this section, the legislative body may adopt an
ordinance providing for the sale or disposition of the nonsurplus municipally owned utility property, subject to subsections (f) and (g) and, in the case of an ordinance adopted under this subsection after March 28, 2016, subject to section 6.1 of this chapter. The legislative body is not required to adopt an ordinance providing for the sale or disposition of the nonsurplus municipally owned utility property if, after the hearing, the legislative body determines it is not in the interest of the municipality to proceed with the sale or disposition. Notice of a hearing under this section shall be published in the manner prescribed by IC 5-3-1.

(e) The hearing on the proposed sale or disposition of the nonsurplus municipally owned utility property may not be held less than thirty (30) days after notice of the hearing is given as required by subsection (d).

(f) Subject to subsection (j), an ordinance adopted under subsection (d) does not take effect until the latest of the following:

(1) The expiration of the thirty (30) day period described in subsection (g), if the question as to whether the sale or disposition should be made is not submitted to the voters of the municipality under subsection (g).

(2) If:

(A) the question as to whether the sale or disposition shall be made is submitted to the voters of the municipality under subsection (g); and

(B) a majority of the voters voting on the question vote for the sale or disposition;

at such time that the vote is determined to be final.

(3) The effective date specified by the legislative body in the ordinance.

(g) Subject to subsection (m) and to section 6.1 of this chapter in the case of an ordinance adopted under subsection (d) after March 28, 2016, if:

(1) the legislative body adopts an ordinance under subsection (d); and

(2) not later than thirty (30) days after the date the ordinance is adopted at least the number of the registered voters of the municipality set forth in subsection (h) sign and present a petition to the legislative body opposing the sale or disposition;

the legislative body shall submit the question as to whether the sale or disposition shall be made to the voters of the municipality at a special
or general election. In submitting the public question to the voters, the legislative body shall certify within the time set forth in IC 3-10-9-3, if applicable, the question to the county election board of the county containing the greatest percentage of population of the municipality. The county election board shall adopt a resolution setting forth the text of the public question and shall submit the question as to whether the sale or disposition shall be made to the voters of the municipality at a special or general election on a date specified by the municipal legislative body. Pending the results of an election under this subsection, the municipality may not take further action to sell or dispose of the property as provided in the ordinance.

(h) Subject to subsection (m) and to section 6.1 of this chapter in the case of an ordinance adopted under subsection (d) after March 28, 2016, the number of signatures required on a petition opposing the sale or disposition under subsection (g) is as follows:

(1) In a municipality with not more than one thousand (1,000) registered voters, thirty percent (30%) of the registered voters.

(2) In a municipality with at least one thousand one (1,001) registered voters and not more than five thousand (5,000) registered voters, fifteen percent (15%) of the registered voters.

(3) In a municipality with at least five thousand one (5,001) registered voters and not more than twenty-five thousand (25,000) registered voters, ten percent (10%) of the registered voters.

(4) In a municipality with at least twenty-five thousand one (25,001) registered voters, five percent (5%) of the registered voters.

(i) If a majority of the voters voting on the question vote for the sale or disposition, the legislative body shall proceed to sell or dispose of the property as provided in the ordinance, subject to subsection (m) and to section 6.1 of this chapter in the case of an ordinance adopted under subsection (d) after March 28, 2016.

(j) If a majority of the voters voting on the question vote against the sale or disposition, the ordinance adopted under subsection (d) does not take effect and the sale or disposition may not be made, subject to subsection (m) and to section 6.1 of this chapter in the case of an ordinance adopted under subsection (d) after March 28, 2016.

(k) If:

(1) the legislative body adopts an ordinance under subsection (d);

and

(2) after the expiration of the thirty (30) day period described in
subsection (g), a petition is not filed; the municipal legislative body may proceed to sell the property as provided in the ordinance, subject to subsection (m) and to section 6.1 of this chapter in the case of an ordinance adopted under subsection (d) after March 28, 2016.

(I) Notwithstanding the procedures set forth in this section, if:

(1) before July 1, 2015, a municipality adopts an ordinance under this section for the sale or disposition of nonsurplus municipally owned utility property in accordance with the procedures set forth in this section before its amendment on July 1, 2015; and

(2) the ordinance adopted takes effect before July 1, 2015, in accordance with the procedures set forth in this section before its amendment on July 1, 2015;

the ordinance is not subject to challenge under subsection (g) after June 30, 2015, regardless of whether the thirty (30) day period described in subsection (g) expires after June 30, 2015. An ordinance described in this subsection is effective for all purposes and is legalized and validated.

(m) Subsections (g) through (k) do not apply to an ordinance adopted under subsection (d) after March 28, 2016, if the commission determines, in reviewing the proposed sale or disposition under section 6.1(h) of this chapter, that the factors set forth in IC 8-1-30.3-5(c) IC 8-1-30.3-5(d) are satisfied as applied to the proposed sale or disposition.

SECTION 10. IC 8-1.5-2-6.1, AS AMENDED BY P.L.64-2018, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6.1. (a) This section applies to a municipality that adopts an ordinance under section 5(d) of this chapter after March 28, 2016.

(b) Before a municipality may proceed to sell or otherwise dispose of all or part of its nonsurplus utility property under an ordinance adopted under section 5(d) of this chapter, the municipality and the prospective purchaser must obtain the approval of the commission under this section.

(c) As part of the sale or disposition of the property, the municipality and the prospective purchaser may include terms and conditions that the municipality and the prospective purchaser consider to be equitable to the existing utility customers of:

(1) the municipality's municipally owned utility; and

(2) the prospective purchaser;
as applicable.

(d) The commission shall approve the sale or disposition of the
property according to the terms and conditions proposed by the
municipality and the prospective purchaser if the commission finds that
the sale or disposition according to the terms and conditions proposed
is in the public interest. For purposes of this section, the purchase price
of the municipality's non-surplus utility property shall be considered
reasonable if it does not exceed the appraised value set forth in the
appraisal required under section 5 of this chapter.

(e) The following apply to the commission's determination under
subsection (d) as to whether the proposed sale or disposition according
to the proposed terms and conditions is in the public interest:

(1) If:
(A) the municipality's municipally owned utility prospective
    purchaser petitions the commission under IC 8-1-30.3-5(d);
    and
(B) the commission approves the municipality's municipally
    owned utility's prospective purchaser's petition; under
    IC 8-1-30.3-5(c);
the proposed sale or disposition is considered to be in the public
interest.

(2) If subdivision (1) does not apply and subject to subsection (h),
the commission shall consider the extent to which the proposed
terms and conditions of the proposed sale or disposition would
require the existing utility customers of either the prospective
purchaser or the municipality's municipally owned utility, as
applicable, to pay rates that would subsidize utility service to the
other party's existing customers. For purposes of this
subdivision, the proposed terms and conditions will not result
in rates that would subsidize service to other customers if the
amount to be recorded as net original cost under subsection
(f) is not greater than two percent (2%) of the prospective
purchaser's net original cost rate base as determined in the
prospective purchaser's most recent general rate case. If the
amount to be recorded is greater than two percent (2%), the
commission determines that: shall proceed to determine
whether:
(A) the proposed terms and conditions would result in a
    subsidy described in this subdivision; and
(B) the subsidy would cause the proposed terms and
conditions of the proposed sale or disposition not to be in the public interest.

The commission shall calculate the amount of the subsidy that would result and shall set forth in an order under this section such changes to the proposed terms and conditions as the commission considers appropriate to address the subsidy. The prospective purchaser and the municipality shall each have thirty (30) days from the date of the commission's order setting forth the commission's changes to either accept or reject the changes. If either party rejects the commission's changes, the proposed sale or disposition is considered not to be in the public interest.

(3) In reviewing the proposed terms and conditions of the proposed sale or disposition under either subdivision (1) or (2), the commission shall consider the financial, managerial, and technical ability of the prospective purchaser to provide the utility service required after the proposed sale or disposition.

(4) In reviewing the proposed terms and conditions of the proposed sale or disposition under either subdivision (1) or (2), the commission shall accept as reasonable the valuation of the nonsurplus utility property determined through an appraisal and review under section 5 of this chapter.

(f) As part of an order approving a sale or disposition of property under this section, the commission shall, without regard to amounts that may be recorded on the books and records of the municipality and without regard to any grants or contributions previously received by the municipality, provide that for ratemaking purposes, the prospective purchaser shall record as the net original cost rate base an amount equal to:

1. the full purchase price;
2. incidental expenses; and
3. other costs of acquisition;

allocated in a reasonable manner among appropriate utility plant in service accounts.

(g) The commission shall issue a final order under this section not later than two hundred ten (210) days after the filing of the parties' case in chief.

(h) In reviewing a proposed sale or disposition under subsection (e), the commission shall determine whether the factors set forth in §8-1-30.3-5(c) IC 8-1-30.3-5(d) are satisfied as applied to the proposed sale or disposition of the municipality's nonsurplus
municipally owned utility property for purposes of section 5(m) of this
chapter. If the commission determines that the factors set forth in
IC 8-1-30.3-5(c); IC 8-1-30.3-5(d):
(1) are satisfied as applied to the proposed sale or disposition,
section 5(g) through 5(k) of this chapter does not apply to the
municipality's ordinance adopted under section 5(d) of this
chapter; or
(2) are not satisfied as applied to the proposed sale or disposition:
(A) section 5(g) through 5(k) of this chapter applies to the
municipality's ordinance adopted under section 5(d) of this
chapter; and
(B) the question as to whether the sale or disposition should be
made must be submitted to the voters of the municipality at a
special or general election if at least the number of the
registered voters of the municipality set forth in section 5(h) of
this chapter sign and present a petition to the legislative body
opposing the sale or disposition, in accordance with section
5(g) through 5(k) of this chapter.
However, notwithstanding this subsection, in reviewing a proposed sale
or disposition under subsection (e)(2), the commission may not
condition its approval of the proposed sale or disposition on whether
the factors set forth in IC 8-1-30.3-5(c) IC 8-1-30.3-5(d) are satisfied
or on any other factors except those provided for in subsection (e)(2),
(e)(3), and (e)(4).
SECTION 13. IC 13-26-5-2, AS AMENDED BY P.L.178-2013,
SECTION 2, IS AMENDED TO READ AS FollowS [EFFECTIVE
JULY 1, 2019]: Sec. 2. A district may do the following:
(1) Sue or be sued.
(2) Make contracts in the exercise of the rights, powers, and
duties conferred upon the district.
(3) Adopt and alter a seal and use the seal by causing the seal to
be impressed, affixed, reproduced, or otherwise used. However,
the failure to affix a seal does not affect the validity of an
instrument.
(4) Adopt, amend, and repeal the following:
(A) Bylaws for the administration of the district's affairs.
(B) Rules and regulations for the following:
(i) The control of the administration and operation of the
district's service and facilities.
(ii) The exercise of all of the district's rights of ownership.
(5) Construct, acquire, lease, operate, or manage works and obtain rights, easements, licenses, money, contracts, accounts, liens, books, records, maps, or other property, whether real, personal, or mixed, of a person or an eligible entity.

(6) Assume in whole or in part any liability or obligation of:

(A) a person;

(B) a nonprofit water, sewage, or solid waste project system;

or

(C) an eligible entity;

including a pledge of part or all of the net revenues of a works to the debt service on outstanding bonds of an entity in whole or in part in the district and including a right on the part of the district to indemnify and protect a contracting party from loss or liability by reason of the failure of the district to perform an agreement assumed by the district or to act or discharge an obligation.

(7) Fix, alter, charge, and collect reasonable rates and other charges in the area served by the district's facilities to every person whose premises are, whether directly or indirectly, supplied with water or provided with sewage or solid waste services by the facilities for the purpose of providing for the following:

(A) The payment of the expenses of the district.

(B) The construction, acquisition, improvement, extension, repair, maintenance, and operation of the district's facilities and properties.

(C) The payment of principal or interest on the district's obligations.

(D) To fulfill the terms of agreements made with:

(i) the purchasers or holders of any obligations; or

(ii) a person or an eligible entity.

(8) Except as provided in sections 2.5, and 2.6, and 2.7 of this chapter, require connection to the district's sewer system of property producing sewage or similar waste, and require the discontinuance of use of privies, cesspools, septic tanks, and similar structures if:

(A) there is an available sanitary sewer within three hundred (300) feet of:

(i) the property line, if the property is adjacent to a body of water, including a lake, river, or reservoir;

(ii) any part of a subdivision, or land that is divided or
proposed to be divided into lots, whether contiguous or
subject to zoning requirements, for the purpose of sale or
lease as part of a larger common plan of development or
sale; or
(iii) for all other properties, the improvement or other
structure from which the sewage or similar waste is
discharged;
(B) the district has given written notice by certified mail to the
property owner at the address of the property at least ninety
(90) days before a date for connection to be stated in the
notice; and
(C) if the property is located outside the district's territory:
(i) the district has obtained and provided to the property
owner (along with the notice required by clause (B)) a letter
of recommendation from the local health department that
there is a possible threat to the public's health; and
(ii) if the property is also located within the extraterritorial
jurisdiction of a municipal sewage works under IC 36-9-23
or a public sanitation department under IC 36-9-25, the
municipal works board or department of public sanitation
has acknowledged in writing that the property is within the
municipal sewage works or department of public sanitation's
extraterritorial jurisdiction, but the municipal works board
or department of public sanitation is unable to provide sewer
service.

However, a district may not require the owner of a property
described in this subdivision to connect to the district's sewer
system if the property is already connected to a sewer system that
has received an NPDES permit and has been determined to be
functioning satisfactorily.

(9) Provide by ordinance for a reasonable penalty, not to exceed
one hundred dollars ($100) per day, for failure to connect and also
apply to the circuit or superior court of the county in which the
property is located for an order to force connection, with the cost
of the action, including reasonable attorney's fees of the district,
to be assessed by the court against the property owner in the
action.

(10) Refuse the services of the district's facilities if the rates or
other charges are not paid by the user.

(11) Control and supervise all property, works, easements,
licenses, money, contracts, accounts, liens, books, records, maps,
or other property rights and interests conveyed, delivered,
transferred, or assigned to the district.
(12) Construct, acquire by purchase or otherwise, operate, lease,
preserve, and maintain works considered necessary to accomplish
the purposes of the district’s establishment within or outside the
district and enter into contracts for the operation of works owned,
leased, or held by another entity, whether public or private.
(13) Hold, encumber, control, acquire by donation, purchase, or
condemnation, construct, own, lease as lessee or lessor, use, and
sell interests in real and personal property or franchises within or
outside the district for:
  (A) the location or protection of works;
  (B) the relocation of buildings, structures, and improvements
      situated on land required by the district or for any other
      necessary purpose; or
  (C) obtaining or storing material to be used in constructing and
      maintaining the works.
(14) Upon consent of two-thirds (2/3) of the members of the
board, merge or combine with another district into a single district
on terms so that the surviving district:
  (A) is possessed of all rights, franchises, and authority of the
      constituent districts; and
  (B) is subject to all the liabilities, obligations, and duties of
      each of the constituent districts, with all rights of creditors of
      the constituent districts being preserved unimpaired.
(15) Provide by agreement with another eligible entity for the
joint construction of works the district is authorized to construct
if the construction is for the district’s own benefit and that of the
other entity. For this purpose the cooperating entities may jointly
appropriate land either within or outside their respective borders
if all subsequent proceedings, actions, powers, liabilities, rights,
and duties are those set forth by statute.
(16) Enter into contracts with a person, an eligible entity, the
state, or the United States to provide services to the contracting
party for any of the following:
  (A) The distribution or purification of water.
  (B) The collection or treatment of sanitary sewage.
  (C) The collection, disposal, or recovery of solid waste.
(17) Make provision for, contract for, or sell the district’s
byproducts or waste.

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

(19) Remove or change the location of a fence, building, railroad, canal, or other structure or improvement located within or outside the district. If:

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

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

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

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

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

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

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

(B) pay adequate compensation for the property.

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

SECTION 11. IC 13-26-5-2.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 2.7. (a) Except as provided in
subsection (b), if:

(1) a regional sewage district's main sewer line is extended for the purpose of connecting one (1) or more residential or commercial properties to a sanitary sewer system; and

(2) the extension connecting the residential or commercial property or properties referred to in subdivision (1) to the sanitary sewer system, when completed, will be located within three hundred (300) feet of a residential property served by a septic system;

the regional sewage district may not exercise its power under section 2(8) of this chapter to require the residential property served by the septic system to be connected to the extension referred to in subdivision (1).

(b) Notwithstanding subsection (a), a regional sewage district may exercise its power under section 2(8) of this chapter to require a residential property served by a septic system to be connected to an extension described in subsection (a) if the board of trustees of the regional sewage district considers the exercise of the regional sewage district's power under section 2(8) of this chapter necessary to address an imminent danger to human health.

SECTION 12. IC 14-33-5-21, AS AMENDED BY P.L.168-2009, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 21. (a) If the board issues revenue bonds for the collection, treatment, and disposal of sewage and liquid waste, the board may do the following:

(1) Subject to sections 21.1 and 21.2 of this chapter, establish just and equitable rates and charges and use the same basis for the rates as provided in IC 36-9-23-25 through IC 36-9-23-29.

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

(3) Establish rules and regulations.

(4) Except as provided in section 21.3 of this chapter, require connection to the board's sewer system of any property producing sewage or similar waste and require discontinuance of use of privies, cesspools, septic tanks, and similar structures. The board may enforce this requirement by civil action in circuit or superior court as provided in IC 36-9-23-30.

(5) Provide for and collect a connection charge to the board's sewer system as provided in IC 36-9-23-25 through IC 36-9-23-29.
(6) Contract for treatment of the board's sewage and pay a fair and reasonable connection fee or rate for treatment, or a combination of both, as provided in IC 36-9-23-16.

(7) Secure the bonds by a trust indenture as provided in IC 36-9-23-22.

(8) Create a sinking fund for the payment of principal and interest and accumulate reasonable reserves as provided in IC 36-9-23-21.

(9) Issue temporary revenue bonds to be exchanged for definite revenue bonds as provided in IC 36-9-23-17 through IC 36-9-23-20.

(10) Issue additional revenue bonds as part of the same issue if the issue does not meet the full cost of the project for which the bonds were issued as provided in IC 36-9-23-17 through IC 36-9-23-20.

(11) Issue additional revenue bonds for improvements, enlargements, and extensions as provided in IC 36-9-23-18.

(12) Covenant with the holders of the revenue bonds for the following:

(A) Protection of the holders concerning the use of money derived from the sale of bonds.

(B) The collection of necessary rates and charges and segregation of the rates and charges for payment of principal and interest.

(C) Remedy if a default occurs.

The covenants may extend to both repayment from revenues and other money available to the district by other statute as provided in IC 36-9-23.

(b) In the same manner as provided by IC 36-9-23, the rates or charges made, assessed, or established by the district are a lien on a lot, parcel of land, or building that is connected with or uses the works by or through any part of the sewage system of the district. The liens:

(1) attach;

(2) are recorded;

(3) are subject to the same penalties, interest, and reasonable attorney's fees on recovery; and

(4) shall be collected and enforced;

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

SECTION 13. IC 14-33-5-21.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS Follows
[EFFECTIVE JULY 1, 2019]: Sec. 21.3. (a) Except as provided in subsection (b), if:

(1) a conservancy district's main sewer line is extended for the purpose of connecting one (1) or more residential or commercial properties to a sanitary sewer system; and

(2) the extension connecting the residential or commercial property or properties referred to in subdivision (1) to the sanitary sewer system, when completed, will be located within three hundred (300) feet of the property line of a residential property served by a septic system;

the conservancy district may not exercise its power under section 21(a)(4) of this chapter and IC 36-9-23-30 to require the residential property served by the septic system to be connected to the extension referred to in subdivision (1).

(b) Notwithstanding subsection (a), a conservancy district may exercise its power under section 21(a)(4) of this chapter and IC 36-9-23-30 to require a residential property served by a septic system to be connected to an extension described in subsection (a) if the board of directors of the conservancy district considers the exercise of the conservancy district's power under section 21(a)(4) of this chapter and IC 36-9-23-30 necessary to address an imminent danger to human health.

SECTION 14. IC 15-22-8-34, AS AMENDED BY P.L.134-2008, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPCN PASSAGE]: Sec. 34. (a) The board or corporation may do all acts necessary or reasonably incident to carrying out the purposes of this chapter, including the following:

(1) As a municipal corporation, sue and be sued in any court with jurisdiction.

(2) To serve as the exclusive local board of health and local department of health within the county with the powers and duties conferred by law upon local boards of health and local departments of health.

(3) To adopt and enforce ordinances consistent with Indiana law and administrative rules for the following purposes:

(A) To protect property owned or managed by the corporation.

(B) To determine, prevent, and abate public health nuisances.

(C) To establish isolation and quarantine regulations in accordance with IC 16-41-9.

(D) To license, regulate, and establish minimum sanitary
standards for the operation of a business handling, producing,
processing, preparing, manufacturing, packing, storing,
selling, distributing, or transporting articles used for food,
drink, confectionery, or condiment in the interest of the public
health.
(E) To control:
   (i) rodents, mosquitoes, and other animals, including insects,
capable of transmitting microorganisms and disease to
humans and other animals; and
   (ii) the animals' breeding places.
(F) Subject to subsection (e), to require persons to connect to
available sewer systems and to regulate the disposal of
domestic or sanitary sewage by private methods. However, the
board and corporation have no jurisdiction over publicly
owned or financed sewer systems or sanitation and disposal
plants.
(G) To control rabies.
(H) For the sanitary regulation of water supplies for domestic
use.
(I) To protect, promote, or improve public health. For public
health activities and to enforce public health laws, the state
health data center described in IC 16-19-10 shall provide
health data, medical information, and epidemiological
information to the corporation.
(J) To detect, report, prevent, and control disease affecting
public health.
(K) To investigate and diagnose health problems and health
hazards.
(L) To regulate the sanitary and structural conditions of
residential and nonresidential buildings and unsafe premises.
(M) To regulate the remediation of lead hazards.
(N) To license and regulate the design, construction, and
operation of public pools, spas, and beaches.
(O) To regulate the storage, containment, handling, use, and
disposal of hazardous materials.
(P) To license and regulate tattoo and body piercing facilities.
(Q) To regulate the storage and disposal of waste tires.
(4) To manage the corporation's hospitals, medical facilities, and
mental health facilities.
(5) To furnish health and nursing services to elementary and
secondary schools within the county.

(6) To furnish medical care to insured and uninsured residents of
the county.

(7) To furnish dental services to the insured and uninsured
residents of the county.

(8) To establish public health programs.

(9) To adopt an annual budget ordinance and levy taxes.

(10) To incur indebtedness in the name of the corporation.

(11) To organize the corporation into divisions.

(12) To acquire and dispose of property.

(13) To receive charitable contributions and gifts as provided in

(14) To make charitable contributions and gifts.

(15) To establish a charitable foundation as provided in 26 U.S.C.
501.

(16) To receive and distribute federal, state, local, or private
grants.

(17) To receive and distribute grants from charitable foundations.

(18) To establish corporations and enter into partnerships and
joint ventures to carry out the purposes of the corporation. This
subdivision does not authorize the merger of the corporation with
a hospital licensed under IC 16-21.

(19) To erect, improve, remodel, or repair corporation buildings.

(20) To determine operating procedures.

(21) To do the following:

(A) Adopt a schedule of reasonable charges for nonresidents
of the county for medical and mental health services.

(B) Collect the charges from the patient, the patient's insurance
company, or a government program.

(C) Require security for the payment of the charges.

(22) To adopt a schedule of and to collect reasonable charges for
medical and mental health services.

(23) To enforce Indiana laws, administrative rules, ordinances,
and the code of the health and hospital corporation of the county.

(24) To purchase supplies, materials, and equipment.

(25) To employ personnel and establish personnel policies.

(26) To employ attorneys admitted to practice law in Indiana.

(27) To acquire, erect, equip, and operate the corporation's
hospitals, medical facilities, and mental health facilities.

(28) To dispose of surplus property in accordance with a policy by
the board.

(29) To determine the duties of officers and division directors.

(30) To fix the compensation of the officers and division directors.

(31) To carry out the purposes and object of the corporation.

(32) To obtain loans for hospital expenses in amounts and upon terms agreeable to the board. The board may secure the loans by pledging accounts receivable or other security in hospital funds.

(33) To establish fees for licenses, services, and records. The corporation may accept payment by credit card for fees.

IC 5-14-3-8(d) does not apply to fees established under this subdivision for certificates of birth, death, or stillbirth registration.

(34) To use levied taxes or other funds to make intergovernmental transfers to the state to fund governmental health care programs, including Medicaid and Medicaid supplemental programs.

(b) The board shall exercise the board's powers and duties in a manner consistent with Indiana law, administrative rules, and the code of the health and hospital corporation of the county.

(c) Except as provided in subsection (d), if, within a county containing a consolidated city:

(1) a main sewer line is extended for the purpose of connecting one (1) or more residential or commercial properties to a sanitary sewer system; and

(2) the extension connecting the residential or commercial property or properties referred to in subdivision (1) to the sanitary sewer system, when completed, will be located close enough to the property line of a residential property served by a septic system to authorize the board or corporation to order the connection of the residential property to the extension under the ordinances adopted under section 6(b)(4) of this chapter;

the board or corporation may not exercise its power under subsection (a)(3)(F) to require the residential property served by the septic system to be connected to the extension referred to in subdivision (1).

(d) Notwithstanding subsection (c), the board or corporation may exercise its power under subsection (a)(3)(F) to require a residential property served by a septic system to be connected to an extension described in subsection (c) if the board considers the
exercise of the power under subsection (a)(3)(F) necessary to address an imminent danger to human health.

SECTION 15. IC 36-1-3-8, AS AMENDED BY P.L.189-2016, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 8. (a) Subject to subsection (b), a unit does not have the following:

1. The power to condition or limit its civil liability, except as expressly granted by statute.
2. The power to prescribe the law governing civil actions between private persons.
3. The power to impose duties on another political subdivision, except as expressly granted by statute.
4. The power to impose a tax, except as expressly granted by statute.
5. The power to impose a license fee greater than that reasonably related to the administrative cost of exercising a regulatory power.
6. The power to impose a service charge or user fee greater than that reasonably related to reasonable and just rates and charges for services.
7. The power to regulate conduct that is regulated by a state agency, except as expressly granted by statute.
8. The power to prescribe a penalty for conduct constituting a crime or infraction under statute.
9. The power to prescribe a penalty of imprisonment for an ordinance violation.
10. The power to prescribe a penalty of a fine as follows:
   A. More than ten thousand dollars ($10,000) for the violation of an ordinance or a regulation concerning air emissions adopted by a county that has received approval to establish an air permit program under IC 13-17-12-6.
   B. For a violation of any other ordinance:
      i. more than two thousand five hundred dollars ($2,500) for a first violation of the ordinance; and
      ii. except as provided in subsection (c), more than seven thousand five hundred dollars ($7,500) for a second or subsequent violation of the ordinance.
11. The power to invest money, except as expressly granted by statute.
12. The power to order or conduct an election, except as expressly granted by statute.
(13) The power to adopt or enforce an ordinance described in section 8.5 of this chapter.

(14) The power to take any action prohibited by section 8.6 of this chapter.

(15) The power to dissolve a political subdivision, except:

(A) as expressly granted by statute; or

(B) if IC 36-1-8-17.7 applies to the political subdivision, in accordance with the procedure set forth in IC 36-1-8-17.7.

(16) The power to require the connection of a residential property to a main sewer line if requiring the connection is contrary to 8.4(a) of this chapter.

(b) A township does not have the following, except as expressly granted by statute:

(1) The power to require a license or impose a license fee.

(2) The power to impose a service charge or user fee.

(3) The power to prescribe a penalty.

(c) Subsection (a)(10)(B)(ii) does not apply to the violation of an ordinance that regulates traffic or parking.

SECTION 16. IC 36-1-3-8.4 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 8.4. (a) Subject to subsection (b), a unit may not adopt or enforce an ordinance under which, when:

(1) a main sewer line is extended for the purpose of connecting one (1) or more residential or commercial properties to a sanitary sewer system; and

(2) the extension connecting the residential or commercial property or properties referred to in subdivision (1) to the sanitary sewer system, when completed, will be located within three hundred (300) feet of:

(A) a residential property served by a septic system; or

(B) in a consolidated city, the property line of a residential property served by a septic system;

the unit would be authorized to require the connection of the residential property served by the septic system to the extension referred to in subdivision (1).

(b) Subsection (a) does not preclude a unit from requiring the connection of a residential property served by a septic system to an extension described in subsection (a) if the executive of the unit considers requiring the connection of the residential property to 

the extension necessary to address an imminent danger to human
SECTION 17. IC 36-9-23-30, AS AMENDED BY P.L.107-2016, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 30. (a) Subject to subsection (b) and section sections 30.1 and 30.2 of this chapter, a municipality that operates sewage works under this chapter or under any statute repealed by IC 19-2-5-30 (repealed September 1, 1981) may require:

(1) connection to its sewer system of any property producing sewage or similar waste; and
(2) discontinuance of the use of privies, cesspools, septic tanks, and similar structures.

(b) A municipality may exercise the powers granted by subsection (a) only if:

(1) there is an available sanitary sewer within three hundred (300) feet of the property line of the affected property; and
(2) it has given notice by certified mail to the property owner at the address of the property, at least ninety (90) days before the date specified for connection in the notice.

(c) A municipality may establish, enforce, and collect reasonable penalties for failure to make a connection under this section.

(d) A municipality may apply to the circuit or superior court for the county in which it is located for an order to require a connection under this section. The court shall assess the cost of the action and reasonable attorney's fees of the municipality against the property owner in such an action.

SECTION 18. IC 36-9-23-30.2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 30.2. (a) Except as provided in subsection (b), if:

(1) the main sewer line of a municipality that operates sewage works is extended for the purpose of connecting one (1) or more residential or commercial properties to a sanitary sewer system; and
(2) the extension connecting the residential or commercial property or properties referred to in subdivision (1) to the sanitary sewer system, when completed, will be located within three hundred (300) feet of the property line of a residential property served by a septic system;

the municipality may not exercise its power under section 30 of this chapter to require the residential property served by the septic
system to be connected to the extension referred to in subdivision (1).

(b) Notwithstanding subsection (a), a municipality that operates sewage works may exercise its power under section 30 of this chapter to require a residential property served by a septic system to be connected to an extension described in subsection (a) if the executive of the municipality considers the exercise of the municipality's power under section 30 of this chapter necessary to address an imminent danger to human health.

SECTION 19. [EFFECTIVE UPON PASSAGE] (a) The legislative council is urged to assign to an appropriate interim study committee the task of studying the connection of unserved properties to sanitary sewer systems.

(b) This SECTION expires January 1, 2020.

SECTION 20. An emergency is declared for this act.
(Reference is to ESB 472 as reprinted April 12, 2019.)