

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

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FISCAL IMPACT STATEMENT

LS 7191

BILL NUMBER: HB 1245

NOTE PREPARED: Feb 25, 2022

BILL AMENDED: Feb 24, 2022

SUBJECT: Connections to Water and Sewer Systems.

FIRST AUTHOR: Rep. Pressel

FIRST SPONSOR: Sen. Koch

BILL STATUS: CR Adopted - 2nd House

FUNDS AFFECTED: **GENERAL**
 X DEDICATED
 FEDERAL

IMPACT: State & Local

Summary of Legislation: (Amended) The bill prohibits: (1) a local unit; or (2) a water or wastewater utility; that is not under the jurisdiction of the Indiana Utility Regulatory Commission (IURC) for the approval of rates and charges from charging or collecting from a property owner a capacity related fee or a tap fee either of which is established after June 30, 2022, and that includes contributions in aid of construction that are first received by the utility or local unit after June 30, 2022.

The bill provides that if a local unit or a utility charges a property owner a capacity related fee or a tap fee that is established after June 30, 2022, and that is based, in whole or in part, on contributions in aid of construction, the property owner is entitled to request to meet with the local unit or the utility to review:

- (1) the engineering and financial analyses the fee was based on; and
- (2) if applicable, the ordinance adopting the fee.

It requires a local unit or a utility to meet with a property owner for such a review not later than 30 days after receipt of the property owner's request.

Rate Review: It provides that if a meeting and review does not result in a satisfactory resolution, the property owner may file with the IURC a petition challenging the fee. It provides that if the IURC determines the capacity related fee or tap fee is based in whole or in part on contributions in aid of construction, the IURC shall: (1) invalidate the fee; or (2) modify the fee to comply with these provisions.

It amends the statute that provides an exemption from the requirement to connect to a regional sewer district's sewer system to a property owner whose septic tank soil absorption system was new at the time of installation as follows:

- (1) Provides that the local health department's designee or a qualified inspector (in addition to the

local health department) may approve the property owner's septic tank soil absorption system at the time of installation.

(2) Provides that the 10 year exemption is measured from the date of the required written determination of the local health department, the department's designee, or a qualified inspector that the property owner's septic tank soil absorption system is not failing.

(Current law provides that the 10 year exemption is measured from the date the new septic tank soil absorption system was installed.)

Definition: It defines "residential onsite sewage system" as the term is defined by the State Department of Health (IDOH) in the IDOH's rule concerning residential onsite sewage systems. It changes instances of the term "residential septic system" in current law to the term "residential onsite sewage system".

Residential Onsite Sewage System Permits: It prohibits a local health department from refusing an application for a permit for a residential onsite sewage system solely because the residential onsite sewage system has not been used previously in the jurisdiction of the local health department or is unfamiliar to the local health department, if the residential onsite sewage system has been approved for general use in Indiana by the IDOH's technical review panel. It provides that if the local health department in one jurisdiction has issued a permit for a particular type of residential onsite sewage system, the local health department in another jurisdiction may not refuse to issue a permit for a residential onsite sewage system of that same type if:

- (1) a registered professional engineer;
- (2) a registered soil scientist;
- (3) a residential onsite sewage system installer; and
- (4) (if applicable) the designer of the residential onsite sewage system; approve of the use of that type of system in the second jurisdiction.

It provides that if a registered professional engineer certifies:

- (1) that the location, design, proposed construction, and proposed installation of a planned residential onsite sewage system comply with the department's rule, a local health department may not disapprove an application for a permit for the residential onsite sewage system;
- (2) that the design, construction, installation, location, maintenance, and operation of an existing residential onsite sewage system comply with the department's rule, a local health department may not issue an order on the basis that the residential onsite sewage system is a failed system; and
- (3) that an existing residential onsite sewage system is not functioning properly but can be restored to proper functioning through repair, a local health department may not issue an order requiring the replacement of or disconnection from the residential onsite sewage system.

It provides that a local health department may not deny a permit for a residential onsite sewage system in a particular location on the grounds that the soil of the location is too heavily compacted if a registered soil scientist certifies that the soil can be made suitable for the residential onsite sewage system in not more than two years through the planting of plants that loosen and aerate the soil or through other means.

It provides that a local ordinance or a local health department may not impose residential onsite sewage system requirements, restrictions, or conditions that are more stringent than those of the department's rule.

Time Limits: It requires a local health department to issue, in certain circumstances, a permit for a residential onsite sewage system not more than 30 business days after receiving the application for the permit.

IDOH's Rules Voided: It voids a provision of the IDOH's rule stating that the rule does not prohibit local ordinances from imposing requirements more stringent than the requirements of the IDOH's rule.

Population Parameters: It changes population parameters used in an Indiana Code section concerning the installation of a residential onsite sewage system in fill soil, so as to reflect the population count determined under the 2020 decennial census.

District's Sewer System: It provides that a property owner whose property is incorporated into the territory of a municipal sanitation district (regardless of whether the property owner has filed a written remonstrance or an appeal with respect to the incorporation) is exempt from a requirement to connect to the district's sewer system and to discontinue use of a sewage disposal system on the property owner's property if:

- (1) the property owner's sewage disposal system:
 - (A) was new at the time of installation; and
 - (B) was approved in writing by the local health department, the department's designee, or a qualified inspector; and
- (2) the property owner obtains a written determination from the local health department, the department's designee, or a qualified inspector that the property owner's sewage disposal system is not failing.

Exemptions: It provides that a property owner who qualifies for this exemption may not be required to connect to the district's sewer system for a period of 10 years beginning on the date of the required written determination of the local health department, the department's designee, or a qualified inspector that the property owner's septic tank soil absorption system is not failing. It provides that a property owner may apply for two five-year extensions of the exemption. It limits the total period during which a property may be exempt from the requirement to connect to a district's sewer system to not more than 20 years, regardless of ownership of the property. It also sets forth certain time frames and requirements that apply to a property owner who seeks to claim the exemption.

Indiana Finance Authority (IFA): It provides that this exemption does not apply to a property owner whose property is incorporated into a district if the district has received approval from the IFA before January 1, 2022, of a preliminary engineering report:

- (1) for a project to construct the sewer line to which the property owner's property is being required to connect; and
- (2) in connection with funding from the state wastewater or drinking water revolving loan program.

Effective Date: (Amended) Upon passage; July 1, 2022.

Explanation of State Expenditures: (Revised) *Indiana Utility Regulatory Commission (IURC):* This bill could increase the workload of the IURC to the extent that petitions are filed in accordance with the bill's provisions. The bill's requirements are within the agency's routine administrative functions and should be able to be implemented with no additional appropriations, assuming near customary agency staffing and resource levels.

According to the 2021 IURC Annual Report, there are 460 water utilities and 526 wastewater utilities not under the regulatory jurisdiction of the IURC.

(Revised) *Indiana Department of Health (IDOH):* The bill will have a slight potential workload reduction for the IDOH in overseeing local health departments issuance of permits. Any increase in complaints against local health department for exceeding permit time limits would mitigate any workload savings.

Additional Information - The operating budgets of the IURC and the Office of Utility Consumer Counselor (OUCC) are funded by regulated utilities operating in Indiana. The rate at which to bill the utilities is based on the agencies' budgets, less reversions, divided by the total amount of gross intrastate operating revenue received by the regulated utilities for the previous fiscal year. Based on this formula, utilities are currently billed approximately 0.12% of their gross intrastate operating revenues to fund the IURC and the OUCC.

Explanation of State Revenues:

Explanation of Local Expenditures: (Revised) The requirements of the bill potentially reduce the workload of local departments of health to the extent that the local health department will issue a permit in certain circumstances by function of the statute rather than independent determination. The time to issue the permit is reduced from IDOH rules 45 days to 30 days under the bill. Overall, any change in workload will depend on the projects undertaken in the county.

(Revised) *Additional Information* - The IDOH provides an Onsite Sewage Disposal Program through local health departments. IDOH reports that there are more than 800,000 sewage systems in the state and more than 15,000 permits for new systems and 6,000 permits for repairs issued each year.

Explanation of Local Revenues: Municipal water and wastewater fees may have a lower basis for rate setting when contributions in aid of construction are eliminated. Existing fees may be reviewed and reduced, if a petition is filed with the IURC. [Contributions in aid of construction include money, services, or property received at no cost to the municipality.]

The bill provides that a property owner whose property is incorporated into the territory of a municipal sanitation district is exempt from a requirement to connect to the district's sewer system if the owner's own sewage disposal system meets certain conditions, for a period of up to 20 years. This provision in the bill may result in lowering the potential number of new customers for certain municipal utilities. Any loss of new customers would result in the loss of additional revenues for a district. The potential revenue impact is indeterminable.

State Agencies Affected: Indiana Utility Regulatory Commission; Indiana Department of Health.

Local Agencies Affected: Local health departments; Municipally owned water and wastewater utilities; municipal sanitation districts.

Information Sources: Indiana Utility Regulatory Commission, 2021 Annual Reports, <https://www.in.gov/iurc/commission-reports/>; Indiana State Department of Health, <https://www.in.gov/health/eph/onsite-sewage-systems-program/>; https://www.in.gov/isdh/files/410_IAC_6-8_3.pdf.

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