

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

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2020 Regular Session of the General Assembly.

HOUSE ENROLLED ACT No. 1287

AN ACT to amend the Indiana Code concerning utilities.

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

SECTION 1. IC 8-1-2-46.2, AS AMENDED BY P.L.160-2020, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 46.2. (a) ~~As used in~~ **The following definitions apply throughout** this section:

(1) **"Developed but underserved area" means an area in which the prospective service would be provided predominantly to existing and occupied structures:**

(A) **that receive water from private wells; or**

(B) **from which wastewater is disposed of through onsite private systems such as septic tanks.**

(2) **"Water or wastewater utility" means a public utility, other than a not-for-profit utility, as defined in section 125(a) of this chapter, that provides water or wastewater service to the public.**

(b) Notwithstanding any law or rule governing extension of service, a water or wastewater utility may, on a nondiscriminatory basis, extend service:

(1) for economic development purposes; ~~or~~

(2) to rural areas; ~~or~~

(3) **to developed but underserved areas;**

without a deposit or other adequate assurance of performance from the customer, to the extent that the extension of service results in a positive contribution to the utility's overall cost of service over a twenty (20) year period. **For the purposes of this subsection, a water or**

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wastewater utility's extension of service to a developed but underserved area will be considered as resulting in a positive contribution to the utility's overall cost of service over a twenty (20) year period to the extent that rates to be paid by fifty percent (50%) or more of the customers who could be served by the extension of service would enable the utility to fully recover the weighted cost of debt and depreciation expense attributable to the cost of the main extension for the extension of service.

~~(c)~~ However, If ~~the~~ a water or wastewater utility determines that ~~the~~ an extension of service **described in subsection (b)** will not result in a positive contribution to the utility's overall cost of service over a twenty (20) year period, the water or wastewater utility, **in extending service**, may require a deposit or other adequate assurance of performance from:

- (1) the developer of the project; ~~or~~
- (2) a local, regional, or state economic development organization;
- or**
- (3) the customers to be served by the extension of service.**

~~(c)~~ **(d)** Subsection ~~(d)~~ **(e)** applies if:

- (1) a county executive, a municipal legislative body, or, in Marion County, the county fiscal body, establishes an infrastructure development zone under IC 6-1.1-12.5-4; and
- (2) the county executive, municipal legislative body, or county fiscal body requests a public utility to extend water or wastewater utility service to the geographic territory established as the infrastructure development zone.

~~(d)~~ **(e)** A water or wastewater utility that receives a request described in subsection ~~(c)~~~~(2)~~ **(d)****(2)** may file a petition with the commission seeking approval of the requested extension of service. If the commission approves the petition, in future general rate cases, the commission shall approve rate schedules that include a surcharge payable only by customers located in the geographic area within the jurisdiction of the governmental entity described in subsection ~~(c)~~; **(d)**, or, if requested by the governmental entity, only within the geographic area established as an infrastructure development zone. The surcharge shall recover depreciation expense, weighted cost of capital, and federal and state income tax applicable to the extension of water or wastewater utility service.

SECTION 2. IC 8-1-2-46.3 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE JULY 1, 2021]: **Sec. 46.3. (a) The following definitions apply throughout this section:**

- (1) "Bedroom" has the meaning set forth in 410 IAC 6-8.3-6.**
- (2) "Bedroom equivalent" has the meaning set forth in 410**



IAC 6-8.3-7.

(3) "Septic tank soil absorption system" has the meaning set forth in IC 13-11-2-199.5.

(b) Subject to the rules provided under IC 13-26-5-2.5 and IC 36-9-23-30.1, if a property owner makes an improvement to the property owner's dwelling, the property owner is not required to upgrade the property's septic tank soil absorption system or to connect to a sewer system, and to discontinue use of a septic tank soil absorption system if:

- (1) the improvement does not include the addition of a bedroom or bedroom equivalent; and
- (2) the property owner has a written determination as required by section 125(f)(2) of this chapter provided by a qualified inspector (as defined in IC 36-9-23-30.1) that the septic tank soil absorption system is not failing.

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

- (1) a conservancy district is established under IC 14-33-1-1(a)(5) for purposes that include providing for the collection, treatment, and disposal of sewage and other liquid wastes;
- (2) a tract of land is located partly or completely within the boundaries of the conservancy district;
- (3) no residence or other structure located on the tract of land is connected to or served by the conservancy district's sewage service;
- (4) the tract of land has been annexed by a municipality that will provide or is providing sewer service to the tract of land;
- (5) the conservancy district has assessed a special benefits tax to provide revenues to operate the district's sewer facilities and does not collect monthly rates and charges for sewer service;
- (6) the conservancy district did not, within three (3) years after the effective date of the municipal annexation referred to in subdivision (4), extend to within three hundred (300) feet of the tract of land sanitary sewer facilities to which the owner of the tract of land referred to in subdivisions (2) and (3) could connect; and
- (7) the tract of land is being served or could be served by the annexing municipality referred to in subdivision (4).

(b) In a situation described in subsection (a)(1) through (a)(7), the owner of a tract of land may petition the court that established the conservancy district for the removal of the tract of land from the boundaries of the conservancy district.



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

(d) If the court determines that subsection (a)(1) through (a)(7) apply to:

- (1) the tract of land owned by the petitioner; and
- (2) the conservancy district within the boundaries of which the tract of land is partly or completely located;

the court shall order that the boundaries of the conservancy district be altered to remove the tract of land from the conservancy district.

(e) If a tract of land is removed from a conservancy district under this section, the tract of land and all improvements located on the tract of land are, as of the filing of the petition under subsection (b), exempt from any:

- (1) special benefits tax or assessment;
- (2) assessments for exceptional benefits from the operation of the conservancy district plan; or
- (3) assessments for maintenance and operation of the conservancy district's works or improvements;

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

(f) If any special benefits taxes or assessments for exceptional benefits have been assessed as a lien on a tract of land removed from a conservancy district under this section, the liability for the taxes or assessments is discharged and the lien is extinguished upon the owner's filing of the court order issued under subsection (d) with the recorder of the county in which the tract is located.

(g) A sewer lien imposed on a tract of land before the tract of land is removed from a conservancy district under this section shall be released if the owner of the tract of land files the court order issued under subsection (d) with the recorder of the county in which the tract is located.



Speaker of the House of Representatives

President of the Senate

President Pro Tempore

Governor of the State of Indiana

Date: _____ Time: _____

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