



February 26, 2016

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## ENGROSSED SENATE BILL No. 366

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DIGEST OF SB 366 (Updated February 24, 2016 5:35 pm - DI 69)

**Citations Affected:** IC 13-21; IC 36-1.

**Synopsis:** Solid waste management districts. Provides that the requirement for each county to have a single-county solid waste management district or be a member of a joint solid waste management district expires July 1, 2017. Provides that after June 30, 2017: (1) a county may dissolve its single county solid waste management district if: (A) the county executive adopts an ordinance in favor of the dissolution of the district; (B) the county fiscal body adopts an ordinance in favor of the dissolution of the district; and (C) the county legislative body follows the procedure by which a political subdivision that established another political subdivision may dissolve that other political subdivision; or (2) a county, by action of the county executive, may withdraw from a joint solid waste management district, adopt a plan concerning the county's share of the legal obligations and assets of the joint solid waste management district, and adopt an ordinance exercising the county's right not to be designated as a county solid waste management district and not to join another joint solid waste management district and not to join another joint solid waste management district and not to join another joint solid waste management district  
(Continued next page)

**Effective:** July 1, 2016; July 1, 2017.

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### Brown L, Niemeyer

(HOUSE SPONSORS — LEHMAN, SLAGER, GIAQUINTA)

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January 11, 2016, read first time and referred to Committee on Environmental Affairs.  
January 25, 2016, amended, reported favorably — Do Pass.  
January 28, 2016, read second time, amended, ordered engrossed.  
January 29, 2016, engrossed.  
February 1, 2016, read third time, passed. Yeas 37, nays 13.

HOUSE ACTION

February 9, 2016, read first time and referred to Committee on Environmental Affairs.  
February 25, 2016, amended, reported — Do Pass.

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ES 366—LS 6920/DI 55



## Digest Continued

management district. Prohibits a person who is: (1) a member of the county executive; and (2) an employee of a solid waste management district; from casting a vote on an ordinance or in any other action concerning the dissolution of the solid waste management district that employs the person. Provides that a county, city, town, or township does not have the power to dissolve another political subdivision except as expressly granted by statute, but establishes a procedure, which includes public notice, a public meeting, and opportunity for public comment, by which a political subdivision that established another political subdivision may dissolve that other political subdivision. Specifies that a solid waste management district has the power to adopt resolutions. Provides that a solid waste management district resolution is not effective in a municipality unless the municipality adopts the language of the resolution by ordinance or resolution. Provides that the expiration of the provision requiring all counties to have solid waste management districts does not affect a solid waste management district established before the expiration of the provision.

**ES 366—LS 6920/DI 55**



February 26, 2016

Second Regular Session 119th General Assembly (2016)

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 2015 Regular Session of the General Assembly.

## ENGROSSED SENATE BILL No. 366

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A BILL FOR AN ACT to amend the Indiana Code concerning environmental law.

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

1 SECTION 1. IC 13-21-3-1 IS AMENDED TO READ AS  
2 FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 1. (a) Except as  
3 provided in subsection (b), each county shall, by ordinance of the  
4 county executive:  
5 (1) join with one (1) or more other counties in establishing a joint  
6 solid waste management district that includes the entire area of all  
7 the acting counties; or  
8 (2) designate itself as a county solid waste management district.  
9 **This subsection expires July 1, 2017.**  
10 (b) **After June 30, 2017, a county may, by ordinance of the**  
11 **county executive:**  
12 (1) **join with one (1) or more other counties in establishing a**  
13 **joint solid waste management district that includes the entire**  
14 **area of all the acting counties; or**  
15 (2) **designate itself as a county solid waste management**

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**district.**

~~(b)~~ (c) Notwithstanding subsection (a)(1), if a county withdraws from a joint solid waste management district under IC 13-21-4, the county executive of the county may adopt an ordinance to join another or establish another joint solid waste management district with one (1) or more other counties:

(1) not earlier than fifteen (15) days; or

(2) not later than forty-five (45) days;

after the date the ordinance is introduced.

~~(e)~~ (d) An ordinance adopted under subsection (a)(1) or ~~(b)~~ (c) must include the approval of an agreement governing the operation of the joint district.

~~(d)~~ (e) If a county fails to comply with this section, the commissioner shall designate the county as a solid waste management district. **This subsection expires July 1, 2017.**

**(f) After June 30, 2017, a county may do the following:**

**(1) Dissolve the county solid waste management district of the county through:**

**(A) the adoption by the county executive of an ordinance in favor of the dissolution of the district;**

**(B) the adoption by the county fiscal body of an ordinance in favor of the dissolution of the district; and**

**(C) the action of the county legislative body according to the procedure set forth in IC 36-1-8-17.7, including the adoption of:**

**(i) a plan concerning the dissolution of the district including the contents required by IC 36-1-8-17.7(b)(5); and**

**(ii) an ordinance dissolving the district.**

**(2) Withdraw from the joint solid waste management district to which the county belongs through the action of the county executive in:**

**(A) following the procedure set forth in IC 13-21-4;**

**(B) adopting a plan as described in subsection (g); and**

**(C) adopting an ordinance exercising the right of the county under this section:**

**(i) not to be designated as a county solid waste management district; or**

**(ii) not to be a member of another joint solid waste management district.**

**(g) The plan adopted by a county executive under subsection (f)(2) must provide for:**



1 (1) the satisfaction of the share of the legal obligations of the  
 2 joint solid waste management district for which the county is  
 3 responsible under IC 13-21-4-4; and

4 (2) the disposition of the assets of the joint solid waste  
 5 management district that are apportioned to the county under  
 6 IC 13-21-4-4.

7 (h) If a county, on June 30, 2017, is designated as a county solid  
 8 waste management district or belongs to a joint solid waste  
 9 management district, the expiration of subsection (a) does not  
 10 affect the county solid waste management district or the county's  
 11 membership in the joint solid waste management district. A solid  
 12 waste management district established under subsection (a) (or  
 13 under IC 13-9.5-2-1, before its repeal) continues in existence after  
 14 June 30, 2017, unless the county takes action under subsection (f)  
 15 concerning the solid waste management district. The expiration of  
 16 subsection (a) does not affect:

17 (1) any rights or liabilities accrued;

18 (2) any administrative or legal proceedings begun;

19 (3) any bonds, notes, loans, or other forms of indebtedness  
 20 issued, incurred, or made;

21 (4) any tax levies made or authorized;

22 (5) any fees collected;

23 (6) any funds established;

24 (7) any patents issued;

25 (8) the validity, continuation, or termination of any contracts  
 26 or leases executed; or

27 (9) the validity of court decisions entered;

28 before July 1, 2017.

29 (i) A person who is:

30 (1) a member of the county executive; and

31 (2) an employee of a district;

32 may not cast a vote on an ordinance or in any other action  
 33 concerning the dissolution of the district that employs the person.

34 SECTION 2. IC 13-21-3-12, AS AMENDED BY P.L.83-2015,  
 35 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 36 JULY 1, 2016]: Sec. 12. (a) Except as provided in section 14.5 of this  
 37 chapter and subject to subsection (b), the powers of a district include  
 38 the following:

39 (1) The power to develop and implement a district solid waste  
 40 management plan under IC 13-21-5.

41 (2) The power to impose district fees on the final disposal of solid  
 42 waste within the district under IC 13-21-13.



- 1 (3) The power to receive and disburse money, if the primary  
 2 purpose of activities undertaken under this subdivision is to carry  
 3 out the provisions of this article.  
 4 (4) The power to sue and be sued.  
 5 (5) The power to plan, design, construct, finance, manage, own,  
 6 lease, operate, and maintain facilities for solid waste  
 7 management.  
 8 (6) The power to enter with any person into a contract or an  
 9 agreement that is necessary or incidental to the management of  
 10 solid waste. Contracts or agreements that may be entered into  
 11 under this subdivision include those for the following:  
 12 (A) The design, construction, operation, financing, ownership,  
 13 or maintenance of facilities by the district or any other person.  
 14 (B) The managing or disposal of solid waste.  
 15 (C) The sale or other disposition of materials or products  
 16 generated by a facility.  
 17 Notwithstanding any other statute, the maximum term of a  
 18 contract or an agreement described in this subdivision may not  
 19 exceed forty (40) years.  
 20 (7) The power to enter into agreements for the leasing of facilities  
 21 in accordance with IC 36-1-10 or IC 36-9-30.  
 22 (8) The power to purchase, lease, or otherwise acquire real or  
 23 personal property for the management or disposal of solid waste.  
 24 (9) The power to sell or lease any facility or part of a facility to  
 25 any person.  
 26 (10) The power to make and contract for plans, surveys, studies,  
 27 and investigations necessary for the management or disposal of  
 28 solid waste.  
 29 (11) The power to enter upon property to make surveys,  
 30 soundings, borings, and examinations.  
 31 (12) The power to:  
 32 (A) accept gifts, grants, loans of money, other property, or  
 33 services from any source, public or private; and  
 34 (B) comply with the terms of the gift, grant, or loan.  
 35 (13) The power to levy a tax within the district to pay costs of  
 36 operation in connection with solid waste management, subject to  
 37 the following:  
 38 (A) Regular budget and tax levy procedures.  
 39 (B) Section 16 of this chapter.  
 40 However, except as provided in sections 15 and 15.5 of this  
 41 chapter, a property tax rate imposed under this article may not  
 42 exceed eight and thirty-three hundredths cents (\$0.0833) on each



- 1 one hundred dollars (\$100) of assessed valuation of property in  
 2 the district.
- 3 (14) The power to borrow in anticipation of taxes.
- 4 (15) The power to hire the personnel necessary for the  
 5 management or disposal of solid waste in accordance with an  
 6 approved budget and to contract for professional services.
- 7 (16) The power to otherwise do all things necessary for the:  
 8 (A) reduction, management, and disposal of solid waste; and  
 9 (B) recovery of waste products from the solid waste stream;  
 10 if the primary purpose of activities undertaken under this  
 11 subdivision is to carry out the provisions of this article.
- 12 (17) The power to adopt resolutions. ~~that have the force of law.~~  
 13 However, a resolution is not effective in a municipality unless the  
 14 municipality adopts the language of the resolution by ordinance  
 15 or resolution.
- 16 (18) The power to do the following:  
 17 (A) Implement a household hazardous waste and conditionally  
 18 exempt small quantity generator (as described in 40 CFR  
 19 261.5(a)) collection and disposal project.  
 20 (B) Apply for a household hazardous waste collection and  
 21 disposal project grant under IC 13-20-20 and carry out all  
 22 commitments contained in a grant application.  
 23 (C) Establish and maintain a program of self-insurance for a  
 24 household hazardous waste and conditionally exempt small  
 25 quantity generator (as described in 40 CFR 261.5(a))  
 26 collection and disposal project, so that at the end of the  
 27 district's fiscal year the unused and unencumbered balance of  
 28 appropriated money reverts to the district's general fund only  
 29 if the district's board specifically provides by resolution to  
 30 discontinue the self-insurance fund.  
 31 (D) Apply for a household hazardous waste project grant as  
 32 described in IC 13-20-22-2 and carry out all commitments  
 33 contained in a grant application.
- 34 (19) The power to enter into an interlocal cooperation agreement  
 35 under IC 36-1-7 to obtain:  
 36 (A) fiscal;  
 37 (B) administrative;  
 38 (C) managerial; or  
 39 (D) operational;  
 40 services from a county or municipality.
- 41 (20) The power to compensate advisory committee members for  
 42 attending meetings at a rate determined by the board.



- 1 (21) The power to reimburse board and advisory committee  
 2 members for travel and related expenses at a rate determined by  
 3 the board.
- 4 (22) The power to pay a fee from district money to:  
 5 (A) in a joint district, the county or counties in which a final  
 6 disposal facility is located; or  
 7 (B) a county that:  
 8 (i) was part of a joint district;  
 9 (ii) has withdrawn from the joint district as of January 1,  
 10 2008; and  
 11 (iii) has established its own district in which a final disposal  
 12 facility is located.
- 13 (23) The power to make grants or loans of:  
 14 (A) money;  
 15 (B) property; or  
 16 (C) services;  
 17 to public or private recycling programs, composting programs, or  
 18 any other programs that reuse any component of the waste stream  
 19 as a material component of another product, if the primary  
 20 purpose of activities undertaken under this subdivision is to carry  
 21 out the provisions of this article.
- 22 (24) The power to establish by resolution a nonreverting capital  
 23 fund. A district's board may appropriate money in the fund for:  
 24 (A) equipping;  
 25 (B) expanding;  
 26 (C) modifying; or  
 27 (D) remodeling;  
 28 an existing facility. Expenditures from a capital fund established  
 29 under this subdivision must further the goals and objectives  
 30 contained in a district's solid waste management plan. Not more  
 31 than five percent (5%) of the district's total annual budget for the  
 32 year may be transferred to the capital fund that year. The balance  
 33 in the capital fund may not exceed twenty-five percent (25%) of  
 34 the district's total annual budget. If a district's board determines  
 35 by resolution that a part of a capital fund will not be needed to  
 36 further the goals and objectives contained in the district's solid  
 37 waste management plan, that part of the capital fund may be  
 38 transferred to the district's general fund, to be used to offset  
 39 tipping fees, property tax revenues, or both tipping fees and  
 40 property tax revenues.
- 41 (25) The power to conduct promotional or educational programs  
 42 that include giving awards and incentives that further:





- 1 (A) the district's solid waste management plan; and  
 2 (B) the objectives of minimum educational standards  
 3 established by the department of environmental management.  
 4 (26) The power to conduct educational programs under  
 5 IC 13-20-17.5 to provide information to the public concerning:  
 6 (A) the reuse and recycling of mercury in:  
 7 (i) mercury commodities; and  
 8 (ii) mercury-added products; and  
 9 (B) collection programs available to the public for:  
 10 (i) mercury commodities; and  
 11 (ii) mercury-added products.  
 12 (27) The power to implement mercury collection programs under  
 13 IC 13-20-17.5 for the public and small businesses.  
 14 (28) The power to conduct educational programs under  
 15 IC 13-20.5 to provide information to the public concerning:  
 16 (A) reuse and recycling of electronic waste;  
 17 (B) collection programs available to the public for the disposal  
 18 of electronic waste; and  
 19 (C) proper disposal of electronic waste.  
 20 (b) Before the county district of a county that has a population of  
 21 more than four hundred thousand (400,000) but less than seven  
 22 hundred thousand (700,000) may exercise a power set forth in  
 23 subsection (a) to:  
 24 (1) enter into a contract or other agreement to construct a final  
 25 disposal facility;  
 26 (2) enter into an agreement for the leasing of a final disposal  
 27 facility;  
 28 (3) sell or lease a final disposal facility; or  
 29 (4) borrow in anticipation of taxes;  
 30 the county district must submit a recommendation to the county  
 31 executive of the county concerning the county district's proposed  
 32 exercise of the power, subject to subsections (c) and (d).  
 33 (c) In response to a recommendation submitted under subsection  
 34 (b), the county executive may adopt a resolution:  
 35 (1) confirming the authority of the county district to exercise the  
 36 power or powers referred to in subsection (b), as proposed in the  
 37 recommendation; or  
 38 (2) denying the county district the authority to exercise the power  
 39 or powers as proposed in the recommendation;  
 40 subject to subsection (d).  
 41 (d) The county district may exercise one (1) or more powers referred  
 42 to in subsection (b), as proposed in a recommendation submitted to the



- 1 county executive under subsection (b), if:
- 2 (1) the county executive, in response to the recommendation,
- 3 adopts a confirming resolution under subsection (c)(1)
- 4 authorizing the county district to exercise the power or powers; or
- 5 (2) the county executive adopts no resolution under subsection (c)
- 6 within forty-five (45) calendar days after the day on which the
- 7 county district submits the recommendation to the county
- 8 executive under subsection (b).
- 9 SECTION 3. IC 13-21-4-6 IS AMENDED TO READ AS
- 10 FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 6. (a) If a county
- 11 withdraws from or the county executives of a joint district remove a
- 12 county from a joint district, the county:
- 13 **(1) before July 1, 2017, must:**
- 14 ~~(1)~~ **(A)** designate itself as a new county district;
- 15 ~~(2)~~ **(B)** join one (1) or more other counties to form a new joint
- 16 district; or
- 17 ~~(3)~~ **(C)** join an existing joint district;
- 18 under the procedures set forth in IC 13-21-3; **or**
- 19 **(2) after June 30, 2017, may:**
- 20 **(A) take one (1) of the actions set forth in subdivision (1);**
- 21 **or**
- 22 **(B) adopt an ordinance under IC 13-21-3-1(f)(2)(C)**
- 23 **exercising the right of the county:**
- 24 **(i) not to be designated as a county solid waste**
- 25 **management district; and**
- 26 **(ii) not to be a member of another joint solid waste**
- 27 **management district.**
- 28 (b) If a county:
- 29 (1) designates itself as a new county district; or
- 30 (2) joins one (1) or more other counties to form a new joint
- 31 district;
- 32 the county district or new joint district shall submit a district plan to the
- 33 commissioner as provided under IC 13-21-5.
- 34 (c) If a county joins an existing joint district, the joint district shall
- 35 amend the joint district's district plan as provided under IC 13-21-5.
- 36 (d) If a county withdraws or is removed from a joint district that
- 37 consists of more than two (2) counties, the joint district shall amend the
- 38 joint district's district plan as provided under IC 13-21-5.
- 39 SECTION 4. IC 36-1-3-8, AS AMENDED BY P.L.13-2013,
- 40 SECTION 148, IS AMENDED TO READ AS FOLLOWS
- 41 [EFFECTIVE JULY 1, 2016]: Sec. 8. (a) Subject to subsection (b), a
- 42 unit does not have the following:



- 1 (1) The power to condition or limit its civil liability, except as  
2 expressly granted by statute.
- 3 (2) The power to prescribe the law governing civil actions  
4 between private persons.
- 5 (3) The power to impose duties on another political subdivision,  
6 except as expressly granted by statute.
- 7 (4) The power to impose a tax, except as expressly granted by  
8 statute.
- 9 (5) The power to impose a license fee greater than that reasonably  
10 related to the administrative cost of exercising a regulatory power.
- 11 (6) The power to impose a service charge or user fee greater than  
12 that reasonably related to reasonable and just rates and charges  
13 for services.
- 14 (7) The power to regulate conduct that is regulated by a state  
15 agency, except as expressly granted by statute.
- 16 (8) The power to prescribe a penalty for conduct constituting a  
17 crime or infraction under statute.
- 18 (9) The power to prescribe a penalty of imprisonment for an  
19 ordinance violation.
- 20 (10) The power to prescribe a penalty of a fine as follows:
- 21 (A) More than ten thousand dollars (\$10,000) for the violation  
22 of an ordinance or a regulation concerning air emissions  
23 adopted by a county that has received approval to establish an  
24 air permit program under IC 13-17-12-6.
- 25 (B) For a violation of any other ordinance:
- 26 (i) more than two thousand five hundred dollars (\$2,500) for  
27 a first violation of the ordinance; and
- 28 (ii) except as provided in subsection (c), more than seven  
29 thousand five hundred dollars (\$7,500) for a second or  
30 subsequent violation of the ordinance.
- 31 (11) The power to invest money, except as expressly granted by  
32 statute.
- 33 (12) The power to order or conduct an election, except as  
34 expressly granted by statute.
- 35 **(13) The power to dissolve a political subdivision, except:**
- 36 **(A) as expressly granted by statute; or**
- 37 **(B) if IC 36-1-8-17.7 applies to the political subdivision, in**  
38 **accordance with the procedure set forth in IC 36-1-8-17.7.**
- 39 (b) A township does not have the following, except as expressly  
40 granted by statute:
- 41 (1) The power to require a license or impose a license fee.
- 42 (2) The power to impose a service charge or user fee.



1           (3) The power to prescribe a penalty.  
2           (c) Subsection (a)(10)(B)(ii) does not apply to the violation of an  
3 ordinance that regulates traffic or parking.  
4           SECTION 5. IC 36-1-8-17.7 IS ADDED TO THE INDIANA CODE  
5 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
6 1, 2016]: **Sec. 17.7. (a) This section applies to a political subdivision:**  
7           **(1) that was established by another political subdivision; and**  
8           **(2) for which there is no process or procedure expressly**  
9           **specified by law regarding the dissolution of the political**  
10           **subdivision.**  
11           **(b) A political subdivision described in subsection (a) may be**  
12           **dissolved according to the following:**  
13           **(1) The political subdivision described in subsection (a) may**  
14           **be dissolved as provided in this section only by the political**  
15           **subdivision that established the political subdivision described**  
16           **in subsection (a).**  
17           **(2) The legislative body of the political subdivision that**  
18           **established the political subdivision described in subsection**  
19           **(a) must adopt a preliminary resolution stating the intent of**  
20           **the legislative body to dissolve the political subdivision**  
21           **described in subsection (a).**  
22           **(3) The legislative body that established the political**  
23           **subdivision described in subsection (a) must hold a separate**  
24           **public meeting regarding the proposed dissolution of the**  
25           **political subdivision described in subsection (a). Notice of the**  
26           **meeting shall be given in accordance with IC 5-3-1. The**  
27           **legislative body must hold the public meeting:**  
28           **(A) except as provided in clause (B), at least ninety (90)**  
29           **days after adopting the preliminary resolution under**  
30           **subdivision (2); or**  
31           **(B) at least one hundred eighty (180) days after adopting**  
32           **the preliminary resolution under subdivision (2), in the**  
33           **case of the proposed dissolution of a political subdivision**  
34           **described in subsection (a) that has been in existence for at**  
35           **least ten (10) years.**  
36           **(4) At least ten (10) days before the public meeting under**  
37           **subdivision (3), the legislative body that established the**  
38           **political subdivision described in subsection (a) must make**  
39           **available to the public a plan regarding the proposed**  
40           **dissolution. If the legislative body maintains an Internet web**  
41           **site or an Internet web site is maintained on behalf of the**  
42           **legislative body, a copy of the plan must be posted on the**



- 1 Internet web site at least ten (10) days before the public
- 2 meeting under subdivision (3).
- 3 **(5) The plan regarding the proposed dissolution must specify**
- 4 **the following:**
  - 5 **(A) The effective date of the dissolution.**
  - 6 **(B) A description of the assets and obligations of the**
  - 7 **political subdivision described in subsection (a) and a**
  - 8 **proposal regarding the distribution of those assets and the**
  - 9 **satisfaction of those obligations.**
  - 10 **(C) A description of the services currently provided by the**
  - 11 **political subdivision described in subsection (a) and (if**
  - 12 **applicable) an explanation of how and if those services will**
  - 13 **be provided after the dissolution of the political subdivision**
  - 14 **described in subsection (a).**
- 15 **(6) At the public meeting under subdivision (3), the legislative**
- 16 **body shall allow the public an opportunity to testify and**
- 17 **comment upon the proposed dissolution.**
- 18 **(7) At the public meeting under subdivision (3), the legislative**
- 19 **body may adopt an ordinance (in the case of the legislative**
- 20 **body of a county or municipality) or a resolution (in the case**
- 21 **of the legislative body of any other political subdivision)**
- 22 **dissolving the political subdivision described in subsection (a)**
- 23 **as provided in the plan described in subdivision (5).**



COMMITTEE REPORT

Madam President: The Senate Committee on Environmental Affairs, to which was referred Senate Bill No. 366, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Delete everything after the enacting clause and insert the following:

(SEE TEXT OF BILL)

and when so amended that said bill do pass.

(Reference is to SB 366 as introduced.)

CHARBONNEAU, Chairperson

Committee Vote: Yeas 6, Nays 3.

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SENATE MOTION

Madam President: I move that Senate Bill 366 be amended to read as follows:

Page 2, after line 29, begin a new paragraph and insert:

"SECTION 2. IC 13-21-3-12, AS AMENDED BY P.L.83-2015, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 12. (a) Except as provided in section 14.5 of this chapter and subject to subsection (b), the powers of a district include the following:

- (1) The power to develop and implement a district solid waste management plan under IC 13-21-5.
- (2) The power to impose district fees on the final disposal of solid waste within the district under IC 13-21-13.
- (3) The power to receive and disburse money, if the primary purpose of activities undertaken under this subdivision is to carry out the provisions of this article.
- (4) The power to sue and be sued.
- (5) The power to plan, design, construct, finance, manage, own, lease, operate, and maintain facilities for solid waste management.
- (6) The power to enter with any person into a contract or an agreement that is necessary or incidental to the management of solid waste. Contracts or agreements that may be entered into under this subdivision include those for the following:
  - (A) The design, construction, operation, financing, ownership,

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or maintenance of facilities by the district or any other person.

(B) The managing or disposal of solid waste.

(C) The sale or other disposition of materials or products generated by a facility.

Notwithstanding any other statute, the maximum term of a contract or an agreement described in this subdivision may not exceed forty (40) years.

(7) The power to enter into agreements for the leasing of facilities in accordance with IC 36-1-10 or IC 36-9-30.

(8) The power to purchase, lease, or otherwise acquire real or personal property for the management or disposal of solid waste.

(9) The power to sell or lease any facility or part of a facility to any person.

(10) The power to make and contract for plans, surveys, studies, and investigations necessary for the management or disposal of solid waste.

(11) The power to enter upon property to make surveys, soundings, borings, and examinations.

(12) The power to:

(A) accept gifts, grants, loans of money, other property, or services from any source, public or private; and

(B) comply with the terms of the gift, grant, or loan.

(13) The power to levy a tax within the district to pay costs of operation in connection with solid waste management, subject to the following:

(A) Regular budget and tax levy procedures.

(B) Section 16 of this chapter.

However, except as provided in sections 15 and 15.5 of this chapter, a property tax rate imposed under this article may not exceed eight and thirty-three hundredths cents (\$0.0833) on each one hundred dollars (\$100) of assessed valuation of property in the district.

(14) The power to borrow in anticipation of taxes.

(15) The power to hire the personnel necessary for the management or disposal of solid waste in accordance with an approved budget and to contract for professional services.

(16) The power to otherwise do all things necessary for the:

(A) reduction, management, and disposal of solid waste; and

(B) recovery of waste products from the solid waste stream;

if the primary purpose of activities undertaken under this subdivision is to carry out the provisions of this article.

(17) The power to ~~adopt resolutions that have the force of law.~~



However, a resolution is not effective in a municipality unless the municipality adopts the language of the resolution by ordinance or resolution: **recommend the adoption of ordinances to the county legislative body.**

(18) The power to do the following:

(A) Implement a household hazardous waste and conditionally exempt small quantity generator (as described in 40 CFR 261.5(a)) collection and disposal project.

(B) Apply for a household hazardous waste collection and disposal project grant under IC 13-20-20 and carry out all commitments contained in a grant application.

(C) Establish and maintain a program of self-insurance for a household hazardous waste and conditionally exempt small quantity generator (as described in 40 CFR 261.5(a)) collection and disposal project, so that at the end of the district's fiscal year the unused and unencumbered balance of appropriated money reverts to the district's general fund only if the district's board specifically provides by resolution to discontinue the self-insurance fund.

(D) Apply for a household hazardous waste project grant as described in IC 13-20-22-2 and carry out all commitments contained in a grant application.

(19) The power to enter into an interlocal cooperation agreement under IC 36-1-7 to obtain:

- (A) fiscal;
- (B) administrative;
- (C) managerial; or
- (D) operational;

services from a county or municipality.

(20) The power to compensate advisory committee members for attending meetings at a rate determined by the board.

(21) The power to reimburse board and advisory committee members for travel and related expenses at a rate determined by the board.

(22) The power to pay a fee from district money to:

- (A) in a joint district, the county or counties in which a final disposal facility is located; or
- (B) a county that:
  - (i) was part of a joint district;
  - (ii) has withdrawn from the joint district as of January 1, 2008; and
  - (iii) has established its own district in which a final disposal





facility is located.

(23) The power to make grants or loans of:

- (A) money;
- (B) property; or
- (C) services;

to public or private recycling programs, composting programs, or any other programs that reuse any component of the waste stream as a material component of another product, if the primary purpose of activities undertaken under this subdivision is to carry out the provisions of this article.

(24) The power to establish by resolution a nonreverting capital fund. A district's board may appropriate money in the fund for:

- (A) equipping;
- (B) expanding;
- (C) modifying; or
- (D) remodeling;

an existing facility. Expenditures from a capital fund established under this subdivision must further the goals and objectives contained in a district's solid waste management plan. Not more than five percent (5%) of the district's total annual budget for the year may be transferred to the capital fund that year. The balance in the capital fund may not exceed twenty-five percent (25%) of the district's total annual budget. If a district's board determines by resolution that a part of a capital fund will not be needed to further the goals and objectives contained in the district's solid waste management plan, that part of the capital fund may be transferred to the district's general fund, to be used to offset tipping fees, property tax revenues, or both tipping fees and property tax revenues.

(25) The power to conduct promotional or educational programs that include giving awards and incentives that further:

- (A) the district's solid waste management plan; and
- (B) the objectives of minimum educational standards established by the department of environmental management.

(26) The power to conduct educational programs under IC 13-20-17.5 to provide information to the public concerning:

- (A) the reuse and recycling of mercury in:
  - (i) mercury commodities; and
  - (ii) mercury-added products; and
- (B) collection programs available to the public for:
  - (i) mercury commodities; and
  - (ii) mercury-added products.



(27) The power to implement mercury collection programs under IC 13-20-17.5 for the public and small businesses.

(28) The power to conduct educational programs under IC 13-20.5 to provide information to the public concerning:

- (A) reuse and recycling of electronic waste;
- (B) collection programs available to the public for the disposal of electronic waste; and
- (C) proper disposal of electronic waste.

(b) Before the county district of a county that has a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000) may exercise a power set forth in subsection (a) to:

- (1) enter into a contract or other agreement to construct a final disposal facility;
- (2) enter into an agreement for the leasing of a final disposal facility;
- (3) sell or lease a final disposal facility; or
- (4) borrow in anticipation of taxes;

the county district must submit a recommendation to the county executive of the county concerning the county district's proposed exercise of the power, subject to subsections (c) and (d).

(c) In response to a recommendation submitted under subsection (b), the county executive may adopt a resolution:

- (1) confirming the authority of the county district to exercise the power or powers referred to in subsection (b), as proposed in the recommendation; or
- (2) denying the county district the authority to exercise the power or powers as proposed in the recommendation;

subject to subsection (d).

(d) The county district may exercise one (1) or more powers referred to in subsection (b), as proposed in a recommendation submitted to the county executive under subsection (b), if:

- (1) the county executive, in response to the recommendation, adopts a confirming resolution under subsection (c)(1) authorizing the county district to exercise the power or powers; or
- (2) the county executive adopts no resolution under subsection (c)



within forty-five (45) calendar days after the day on which the county district submits the recommendation to the county executive under subsection (b).".

Renumber all SECTIONS consecutively.

(Reference is to SB 366 as printed January 26, 2016.)

BROWN L

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SENATE MOTION

Madam President: I move that Senate Bill 366 be amended to read as follows:

Page 2, delete lines 16 through 29, begin a new paragraph and insert:

**"(f) After June 30, 2017, a county may do the following:**

**(1) Dissolve the county solid waste management district of the county through:**

**(A) the adoption by the county executive of an ordinance in favor of the dissolution of the district; and**

**(B) the action of the county legislative body according to the procedure set forth in IC 36-1-8-17.7, including the adoption of:**

**(i) a plan concerning the dissolution of the district including the contents required by IC 36-1-8-17.7(5); and**

**(ii) an ordinance dissolving the district.**

**(2) Withdraw from the joint solid waste management district to which the county belongs through the action of the county executive in:**

**(A) following the procedure set forth in IC 13-21-4;**

**(B) adopting a plan as described in subsection (g); and**

**(C) adopting an ordinance exercising the right of the county under this section:**

**(i) not to be designated as a county solid waste management district; or**

**(ii) not to be a member of another joint solid waste management district.**

**(g) The plan adopted by a county executive under subsection (f)(2) must provide for:**

**(1) the satisfaction of the share of the legal obligations of the joint solid waste management district for which the county is responsible under IC 13-21-4-4; and**



**(2) the disposition of the assets of the joint solid waste management district that are apportioned to the county under IC 13-21-4-4.**

SECTION 2. IC 36-1-3-8, AS AMENDED BY P.L.13-2013, SECTION 148, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: 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 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.**

(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 3. IC 36-1-8-17.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: **Sec. 17.7. (a) This section applies to a political subdivision:**

- (1) that was established by another political subdivision; and**
- (2) for which there is no process or procedure expressly specified by law regarding the dissolution of the political subdivision.**

**(b) A political subdivision described in subsection (a) may be dissolved according to the following:**

- (1) The political subdivision described in subsection (a) may be dissolved as provided in this section only by the political subdivision that established the political subdivision described in subsection (a).**
- (2) The legislative body of the political subdivision that established the political subdivision described in subsection (a) must adopt a preliminary resolution stating the intent of the legislative body to dissolve the political subdivision described in subsection (a).**
- (3) The legislative body that established the political subdivision described in subsection (a) must hold a separate public meeting regarding the proposed dissolution of the political subdivision described in subsection (a). Notice of the meeting shall be given in accordance with IC 5-3-1. The legislative body must hold the public meeting:**

- (A) except as provided in clause (B), at least ninety (90) days after adopting the preliminary resolution under subdivision (2); or**
- (B) at least one hundred eighty (180) days after adopting the preliminary resolution under subdivision (2), in the case of the proposed dissolution of a political subdivision described in subsection (a) that has been in existence for at least ten (10) years.**



**(4) At least ten (10) days before the public meeting under subdivision (3), the legislative body that established the political subdivision described in subsection (a) must make available to the public a plan regarding the proposed dissolution. If the legislative body maintains an Internet web site or an Internet web site is maintained on behalf of the legislative body, a copy of the plan must be posted on the Internet web site at least ten (10) days before the public meeting under subdivision (3).**

**(5) The plan regarding the proposed dissolution must specify the following:**

**(A) The effective date of the dissolution.**

**(B) A description of the assets and obligations of the political subdivision described in subsection (a) and a proposal regarding the distribution of those assets and the satisfaction of those obligations.**

**(C) A description of the services currently provided by the political subdivision described in subsection (a) and (if applicable) an explanation of how and if those services will be provided after the dissolution of the political subdivision described in subsection (a).**

**(6) At the public meeting under subdivision (3), the legislative body shall allow the public an opportunity to testify and comment upon the proposed dissolution.**

**(7) At the public meeting under subdivision (3), the legislative body may adopt an ordinance (in the case of the legislative body of a county or municipality) or a resolution (in the case of the legislative body of any other political subdivision) dissolving the political subdivision described in subsection (a) as provided in the plan described in subdivision (5)."**

(Reference is to SB 366 as printed January 26, 2016.)

TALLIAN

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Environmental Affairs, to which was referred Senate Bill 366, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 2, line 20, delete "and".

ES 366—LS 6920/DI 55



Page 2, between lines 20 and 21, begin a new line double block indented and insert:

**"(B) the adoption by the county fiscal body of an ordinance in favor of the dissolution of the district; and".**

Page 2, line 21, delete "(B)" and insert "(C)".

Page 2, line 25, delete "IC 36-1-8-17.7(5);" and insert **"IC 36-1-8-17.7(b)(5);"**.

Page 3, between lines 3 and 4, begin a new paragraph and insert:

**"(h) If a county, on June 30, 2017, is designated as a county solid waste management district or belongs to a joint solid waste management district, the expiration of subsection (a) does not affect the county solid waste management district or the county's membership in the joint solid waste management district. A solid waste management district established under subsection (a) (or under IC 13-9.5-2-1, before its repeal) continues in existence after June 30, 2017, unless the county takes action under subsection (f) concerning the solid waste management district. The expiration of subsection (a) does not affect:**

- (1) any rights or liabilities accrued;**
- (2) any administrative or legal proceedings begun;**
- (3) any bonds, notes, loans, or other forms of indebtedness issued, incurred, or made;**
- (4) any tax levies made or authorized;**
- (5) any fees collected;**
- (6) any funds established;**
- (7) any patents issued;**
- (8) the validity, continuation, or termination of any contracts or leases executed; or**
- (9) the validity of court decisions entered;**

**before July 1, 2017.**

**(i) A person who is:**

- (1) a member of the county executive; and**
- (2) an employee of a district;**

**may not cast a vote on an ordinance or in any other action concerning the dissolution of the district that employs the person."**

Page 4, line 24, reset in roman "adopt resolutions".

Page 4, line 24, after "resolutions" insert ".".

Page 4, reset in roman lines 25 through 26.

Page 4, line 27, reset in roman "or resolution."

Page 4, line 27, delete "recommend the adoption of ordinances to the".

Page 4, delete line 28.



Page 7, between lines 21 and 22, begin a new paragraph and insert:  
 "SECTION 3. IC 13-21-4-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 6. (a) If a county withdraws from or the county executives of a joint district remove a county from a joint district, the county:

**(1) before July 1, 2017, must:**

~~(1)~~ **(A)** designate itself as a new county district;

~~(2)~~ **(B)** join one (1) or more other counties to form a new joint district; or

~~(3)~~ **(C)** join an existing joint district;

under the procedures set forth in IC 13-21-3; **or**

**(2) after June 30, 2017, may:**

**(A) take one (1) of the actions set forth in subdivision (1);**  
**or**

**(B) adopt an ordinance under IC 13-21-3-1(f)(2)(C) exercising the right of the county:**

**(i) not to be designated as a county solid waste management district; and**

**(ii) not to be a member of another joint solid waste management district.**

(b) If a county:

(1) designates itself as a new county district; or

(2) joins one (1) or more other counties to form a new joint district;

the county district or new joint district shall submit a district plan to the commissioner as provided under IC 13-21-5.

(c) If a county joins an existing joint district, the joint district shall amend the joint district's district plan as provided under IC 13-21-5.

(d) If a county withdraws or is removed from a joint district that consists of more than two (2) counties, the joint district shall amend the joint district's district plan as provided under IC 13-21-5."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 366 as reprinted January 29, 2016.)

WOLKINS

Committee Vote: yeas 7, nays 5.

