

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.

SENATE ENROLLED ACT No. 366

AN ACT to amend the Indiana Code concerning environmental law.

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

SECTION 1. IC 13-21-3-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 1. (a) Except as provided in subsection (b), each county shall, by ordinance of the county executive:

- (1) join with one (1) or more other counties in establishing a joint solid waste management district that includes the entire area of all the acting counties; or
- (2) designate itself as a county solid waste management district.

This subsection expires July 1, 2017.

(b) After June 30, 2017, a county may, by ordinance of the county executive:

- (1) join with one (1) or more other counties in establishing a joint solid waste management district that includes the entire area of all the acting counties; or**
- (2) designate itself as a county solid waste management 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;

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after the date the ordinance is introduced.

~~(c)~~ **(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 that is consistent with IC 13-21-15 and includes the content 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 that is consistent with IC 13-21-15 and includes the content required by IC 36-1-8-17.7(b)(5); and

(C) adopting an ordinance under IC 13-21-15-2(a) 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.

(g) 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) and the taking effect of subsection (b) do 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.

(h) A person who is:

- (1) a member of:
 - (A) the county executive;
 - (B) the county legislative body; or
 - (C) the county fiscal body; and
- (2) an employee of a district;

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

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

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under this subdivision include those for the following:

- (A) The design, construction, operation, financing, ownership, 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.

(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).

SECTION 3. IC 13-21-4-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 6. (a) If a county

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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) and IC 13-21-15-2(a) 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.

SECTION 4. IC 13-21-15 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]:

Chapter 15. Dissolution of Districts

Sec. 1. (a) If a solid waste management district is a county district consisting of only one (1) county, the county may dissolve the district under IC 13-21-3-1(f)(1) and IC 36-1-8-17.7(b).

(b) The dissolution of a district through the adoption of an ordinance under IC 36-1-8-17.7(b)(7) is effective on the date specified in the ordinance.

(c) Upon the dissolution of a district, the following apply:

(1) Any legal obligations of the district that were incurred under this article before the district was dissolved, including bond obligations, loan obligations, other contractual



liabilities, and civil liabilities, are transferred to the county and become legal obligations of the county, and those legal obligations shall be satisfied from assets of the district as provided in subdivision (2).

(2) Any assets of the district that are needed to satisfy the legal obligations described in subdivision (1) shall be:

- (A) used by the district to satisfy those legal obligations; or
- (B) transferred to the county and used by the county to satisfy those legal obligations.

(3) To the extent there are assets of the district that are not needed to satisfy the legal obligations described in subdivision (1), those assets:

- (A) shall be transferred to the county and become assets of the county; and
- (B) shall be used by the county in providing services previously provided by the district.

(d) After the county district of a county is dissolved, the county is no longer subject to this article, except for this chapter, and the county is not a county district or a member of a joint district.

Sec. 2. (a) If a county is a member of a joint solid waste management district and withdraws from the joint district under IC 13-21-3-1(f)(2) and IC 13-21-4, the county executive of the county may adopt an ordinance determining that both of the following apply to the county:

- (1) The county will no longer be a member of a joint solid waste management district.
- (2) The county will not be designated as a county solid waste management district.

(b) If a county withdraws from a joint solid waste management district under IC 13-21-4 and adopts an ordinance under subsection (a):

- (1) the county is responsible for its share of legal obligations (if any) arising from its former membership in the joint district as provided under IC 13-21-4; and
- (2) any assets of the joint district that are apportioned to the county under IC 13-21-4-4 become assets of the county and:
 - (A) shall be used by the county to satisfy the legal obligations described in subdivision (1); or
 - (B) to the extent that the assets are not needed to satisfy the legal obligations described in subdivision (1), shall be used by the county in providing services previously provided by the district.



(c) If the county executive of the county adopts an ordinance under subsection (a), the county, after the date on which the withdrawal of the county from the joint solid waste management district is effective under IC 13-21-4:

(1) is no longer subject to this article, except for this chapter; and

(2) is not a county district or a member of a joint district.

Sec. 3. (a) This section applies to the imposition of property taxes in a county that:

(1) dissolves its county solid waste management district as described in section 1(a) of this chapter; or

(2) withdraws from a joint solid waste management district and determines that it will no longer be a member of a joint solid waste management district or be designated as a county district as described in section 2(a) of this chapter.

(b) The following apply to a county that dissolves its county solid waste management district as described in section 1(a) of this chapter:

(1) Subject to the limitations of this subsection, the authority of the county solid waste management district to impose property taxes for purposes of this article is transferred to the county.

(2) For property taxes first due and payable in the first year in which the county no longer has a county solid waste management district, the department of local government finance shall establish a separate solid waste management maximum permissible ad valorem property tax levy for the county that is equal to:

(A) the county solid waste management district's maximum permissible ad valorem property tax levy for the last year in which the county solid waste management district was in existence; multiplied by

(B) the assessed value growth quotient under IC 6-1.1-18.5-2 that applies to the determination of maximum permissible ad valorem property tax levies for the first year in which the county no longer has a county solid waste management district.

(3) Property taxes collected by the county under the property tax levy authorized under this subsection may be used only for those purposes for which a property tax levy imposed by a solid waste management district under this article may be used.



(c) The following apply to a county that withdraws from a joint district and determines that it will no longer be a member of a joint district or be designated as a county district as described in section 2(a) of this chapter:

(1) Subject to the limitations of this subsection, the county has the authority to impose property taxes for purposes of this article.

(2) For property taxes first due and payable in the first year in which the county is no longer a member of the joint district, the department of local government finance shall establish a separate solid waste management maximum permissible ad valorem property tax levy for the county that is equal to:

(A) the joint solid waste management district's maximum permissible property tax levy for the last year in which the county was a member of the joint district; multiplied by

(B) a fraction equal to:

(i) the certified assessed valuation of the county for taxes payable in the last year in which the county was a member of the joint district; divided by

(ii) the certified assessed valuation of the joint solid waste management district for taxes payable in the last year in which the county was a member of the joint district; multiplied by

(C) the assessed value growth quotient under IC 6-1.1-18.5-2 that applies to the determination of maximum permissible ad valorem property tax levies for the first year in which the county is no longer a member of the joint district.

(3) For property taxes first due and payable in the first year in which the county is no longer a member of the joint district, the department of local government finance shall reduce the joint solid waste management district's maximum permissible property tax levy that would otherwise apply by the amount determined under subdivision (2) for the withdrawing county.

(4) Property taxes collected by the county under the property tax levy authorized under this subsection may be used only for those purposes for which a property tax levy imposed by a solid waste management district under this article may be used.

Sec. 4. If:

(1) a fee on the disposal of solid waste under IC 13-21-13 or a solid waste management fee under IC 13-21-14 is in effect in



a county; and

(2) the county:

(A) dissolves the county solid waste management district as described in section 1(a) of this chapter; or

(B) withdraws from a joint solid waste management district and determines that it will no longer be a member of a joint district or be designated as a county district as described in section 2(a) of this chapter;

the county may continue collecting the fee notwithstanding the action described in subdivision (2). However, the county shall use the proceeds of the fee exclusively to provide services previously provided in the county by the solid waste management district.

SECTION 5. IC 36-1-3-8, AS AMENDED BY HEA 1053-2016, SECTION 1, 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

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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.

(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 6. 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, except as set forth in IC 13-21-3-1(f) and IC 13-21-15, 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). For a county described in



IC 36-1-2-5(1) and IC 36-1-2-9(1), the adoption under IC 13-21-3-1(f)(1)(A) by the county executive of an ordinance in favor of the dissolution of a solid waste management district satisfies this requirement.

(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 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).



President of the Senate

President Pro Tempore

Speaker of the House of Representatives

Governor of the State of Indiana

Date: _____ Time: _____

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