

IC 13-21-3

Chapter 3. Solid Waste Management Districts

IC 13-21-3-0.2

Application of certain amendments to prior law

Sec. 0.2. (a) The amendments made to IC 13-9.5-2-2 and IC 13-9.5-2-11 (before their repeal, now codified in this chapter) by P.L.96-1995 apply to property taxes first due and payable after December 31, 1995, and to taxable years that begin after December 31, 1995.

(b) The addition of IC 13-9.5-2-11.1 and IC 13-9.5-2-15 (before their repeal) by P.L.96-1995 applies to property taxes first due and payable after December 31, 1995, and to taxable years that begin after December 31, 1995.

As added by P.L.220-2011, SEC.283.

IC 13-21-3-1

Solid waste management district not mandatory after June 30, 2017; option to dissolve or withdraw and have no district

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.

(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.

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

(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.

As added by P.L.1-1996, SEC.11. Amended by P.L.74-2002, SEC.2; P.L.189-2016, SEC.1.

IC 13-21-3-2

Territory included in designated district

Sec. 2. All of the incorporated and unincorporated territory of a county must be included in the designated county solid waste management district or the joint solid waste management district to which the county belongs.

As added by P.L.1-1996, SEC.11.

IC 13-21-3-3

Copy of agreement to commissioner

Sec. 3. Within thirty (30) days after adopting an ordinance establishing a joint district and approving an agreement governing the operation of the joint district, a county shall provide the commissioner with a copy of the agreement.

As added by P.L.1-1996, SEC.11.

IC 13-21-3-4

Board of directors; appointment

Sec. 4. After a county has been designated as a county district or has joined with at least one (1) other county in a joint district, a board of directors shall be appointed.

As added by P.L.1-1996, SEC.11.

IC 13-21-3-5

Board of directors; membership

Sec. 5. (a) Except as provided in subsections (b) through (e), the board of a county district consists of the following members:

- (1) Two (2) members appointed by the county executive from the membership of the county executive.
- (2) One (1) member appointed by the county fiscal body from the membership of the fiscal body.
- (3) One (1) member:
 - (A) who is the executive of the municipality having the largest population in the county if that municipality is a city; or
 - (B) appointed from the membership of the legislative body of a town if the town is the municipality having the largest

population in the county.

(4) One (1) member of the legislative body of the municipality with the largest population in the county appointed by the legislative body of that municipality.

(5) One (1) member:

(A) who is the executive of a city in the county that is not the municipality having the largest population in the county;
or

(B) who is a member of the legislative body of a town that is not the municipality having the largest population in the county;

and who is appointed by the executive of that county to represent the municipalities in the county other than the municipality having the largest population.

(6) One (1) additional member appointed by the county executive from the membership of the county executive.

(b) If a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000) is designated as a county district, the executives of the three (3) cities in the county having the largest populations each serve as a member of the board or may appoint a member of the legislative body of their city to serve as a member of the board. If a county having a population of more than two hundred fifty thousand (250,000) but less than two hundred seventy thousand (270,000) is designated as a county district, the executives of the two (2) cities in the county having the largest populations each serve as a member of the board. If a county having a population of more than two hundred fifty thousand (250,000) but less than two hundred seventy thousand (270,000) is designated as a county district, the board of that county district must include the following:

(1) One (1) member of the legislative body of the city having the second largest population in the county, appointed by the president of the city legislative body.

(2) One (1) member of the legislative body of a town located in the county, appointed by the judge of the circuit court in the county.

(c) If a county having a consolidated city is designated a county district, the board of public works established under IC 36-3-5-6 constitutes the board of the county district.

(d) If a county designated as a county district has a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000), the board of the district consists of the following members:

(1) One (1) member appointed by the county executive from the membership of the county executive.

(2) Two (2) members appointed from the county fiscal body appointed from the membership of the county fiscal body.

(3) The executive of each second or third class city or a member

of the legislative body of their city appointed by the executive.

(4) One (1) member of the legislative body of each town appointed by the legislative body.

(5) One (1) member of the legislative body of the municipality with the largest population in the county appointed by the legislative body of that municipality.

(6) If a local government unit in the county has an operating final disposal facility located within the unit's jurisdiction, one (1) member of the unit's board of public works appointed by the board of public works.

(e) This subsection applies only to a county that does not contain a city. If the county executive and the county fiscal body of a county designated as a county district agree, the board of the district shall consist of the following nine (9) or ten (10) members:

(1) The three (3) members of the county executive.

(2) Two (2) members of the county fiscal body, chosen by the county fiscal body.

(3) One (1) member of each of the town legislative bodies of the four (4) or five (5) towns in the county having the largest population, chosen by each town legislative body.

As added by P.L.1-1996, SEC.11. Amended by P.L.110-1998, SEC.1; P.L.189-2005, SEC.3; P.L.119-2012, SEC.113.

IC 13-21-3-6

Board of joint district; membership

Sec. 6. (a) Except as provided in subsections (b) through (d), the board of a joint district consists of the following:

(1) One (1) member of the county executive of each participating county.

(2) One (1) member of the county fiscal body of each participating county.

(3) One (1) member:

(A) who is the executive of the municipality having the largest population in the county if that municipality is a city; or

(B) if a town is the municipality having the largest population in the county, who is appointed from the membership of the fiscal body of that town.

(4) One (1) member of the legislative body of the municipality having the largest population in each participating county, appointed by the legislative body of that municipality.

(5) One (1) or more members who are the executives of cities under subsection (b), if applicable.

(6) Additional members appointed by the executive of each participating county from the membership of the executive, as permitted under subsection (c).

(7) One (1) additional member appointed by the executive of the participating county having the largest population from the

membership of the executive if the appointments made under subdivisions (1) through (6) result in an even number of members.

(b) If a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000) has joined in a joint district, the executive of the three (3) cities in the county having the largest populations each serve as a member of the board. If a county having a population of more than two hundred fifty thousand (250,000) but less than two hundred seventy thousand (270,000) has joined in a joint district, the executive of the two (2) cities in the county having the largest populations each serve as a member of the board.

(c) An agreement between two (2) or more counties establishing a joint district may allow the executive of each county to appoint a certain number of additional members from the membership of the executive based upon the proportion of each county's population to the population of the entire district.

(d) An agreement among three (3) or more counties establishing a joint district may provide that:

- (1) the membership; and
- (2) the terms of office of members;

of the board will be determined by the terms of an agreement entered into by the executive of each county governing the operation of the district. All members of a board appointed under this subsection must be elected officials of a county or a municipality.

(e) The board of a joint district established under subsection (d) or IC 13-9.5-2-6(d) (before its repeal) after March 1, 1991:

- (1) must include representation from the largest municipality in each county included in the joint district as recommended by the executive of the largest municipality and approved by the legislative body of the largest municipality; and
- (2) may include representation from other municipalities in each county included in the joint district as recommended by the executive of a municipality and approved by the legislative body of the municipality.

(f) The board of a joint district may allow a member who is appointed from:

- (1) the county executive;
- (2) a county fiscal body; or
- (3) a municipal legislative body;

to have the body on which the member serves designate an alternate member from that body to participate and exercise the right to vote with the board if the member is unable to attend a meeting.

As added by P.L.1-1996, SEC.11. Amended by P.L.119-2012, SEC.114.

IC 13-21-3-7

Joint districts; executive committees; powers

Sec. 7. (a) In:

- (1) a joint district; or
- (2) a single district having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000);

the board appointed under section 5 of this chapter may elect from the board's membership an executive committee having an odd number of members.

(b) An executive committee elected under subsection (a) for a joint district has only the powers invested in the committee by resolution of the board. An executive committee may exercise any powers of the board under this article that are delegated to the executive committee by resolution of the board.

(c) The board of the joint district may appoint one (1) or more alternates from among the membership of the board to:

- (1) participate; and
- (2) exercise the power to vote;

with the executive committee if a member of the executive committee is absent.

(d) A meeting of an executive committee may serve as the regularly scheduled monthly meeting of a board as required under IC 13-21-5-2.

As added by P.L.1-1996, SEC.11.

IC 13-21-3-8

Board of directors of district; term

Sec. 8. (a) This section does not apply to the members of a board of public works that constitutes the board of a county district under section 5(c) of this chapter.

(b) The term of office of a member of the board of a district who is appointed from the membership of an executive, legislative, or fiscal body under this chapter is coextensive with the member's term of office on that body. The term of office of other appointed members of the board is two (2) years.

(c) All members of the board serve at the pleasure of the appointing authority.

As added by P.L.1-1996, SEC.11.

IC 13-21-3-9

Officers

Sec. 9. (a) This section does not apply to a board of public works that constitutes the board of a county district under section 5(c) of this chapter.

(b) The board shall select the following:

- (1) A chairperson and vice chairperson from the board's membership.
- (2) A controller who is not a member of the board.

(c) If a controller selected by a board under this section is the

fiscal officer of a county or municipality, the duties of the controller under a statute or an ordinance are in addition to the duties the controller has while serving as the fiscal officer of the county or municipality.

As added by P.L.1-1996, SEC.11.

IC 13-21-3-10

Controllers; powers and duties

Sec. 10. (a) A controller selected under section 9 of this chapter shall do the following:

- (1) Be the official custodian of all district money and, subject to the terms of any resolution or trust indenture under which bonds are issued under this article, deposit and invest all district money in the same manner as other county money is deposited and invested under IC 5-13.
- (2) Be responsible to the board for the fiscal management of the district.
- (3) Be responsible for the proper safeguarding and accounting of the district's money.
- (4) Subject to subsection (c), issue warrants approved by the board after a properly itemized and verified claim has been presented to the board on a claim docket.
- (5) Make financial reports of district money and present the reports to the board for the board's approval.
- (6) Prepare the district's annual budget.
- (7) Perform any other duties:
 - (A) prescribed by the board; and
 - (B) consistent with this chapter.

(b) A controller selected under section 9 of this chapter:

- (1) does not exercise any sovereign authority of the state; and
- (2) does not hold a lucrative office for purposes of Article 2, Section 9 of the Constitution of the State of Indiana.

(c) The board may, by resolution, authorize the controller to make claim payments for:

- (1) payroll;
- (2) the state solid waste management fee imposed by IC 13-20-22-1; and
- (3) certain specific vendors identified in the resolution;

without the claims being first approved by the board if before payment the claims are approved in writing by the chairperson of the board or in the absence of the chairperson another member of the board designated by the chairperson. The claims shall be reviewed and allowed by the board at the board's next regular or special meeting.

As added by P.L.1-1996, SEC.11. Amended by P.L.214-2005, SEC.58.

IC 13-21-3-11

Citizen solid waste management advisory committee; membership; functions

Sec. 11. (a) The board of each district shall appoint and convene a solid waste management advisory committee of citizens not later than thirty (30) days after the board has been established. The committee must include the following:

- (1) Representatives of the solid waste management industry operating in the district.
- (2) Representatives of the environmental community and other citizens who are:
 - (A) knowledgeable about and interested in environmental issues; and
 - (B) not employed directly or indirectly by the solid waste management industry.

(b) At least fifty percent (50%) of the members of an advisory committee must be made up of the representatives of the environmental community and other citizens. All members of the committee must be residents of the district.

(c) In the resolution establishing an advisory committee, the board shall specify the terms of the members and the purposes of the committee. Each advisory committee shall do the following:

- (1) Study the subjects and problems specified by the board and recommend to the board additional problems in need of study and discussion.
- (2) If invited by the board to do so, participate, without the right to vote, in the deliberations of the board.

(d) An advisory committee shall report only to the board. Reports of the committee must:

- (1) accompany a final district plan when the plan is submitted to the commissioner under IC 13-21-5; and
- (2) be made available to members of the public.

(e) An advisory committee may choose to study and report on matters that are not specified by the board if the committee determines a study is warranted.

(f) An advisory committee and board shall conduct at least two (2) joint meetings each year to discuss current and future issues. The advisory committee shall submit into the record at the next meeting of the board advice on the topics discussed at the joint meeting.

(g) An advisory committee shall do the following:

- (1) Meet after the first publication of the district's proposed annual budget.
- (2) Submit written comments concerning the proposed budget at a public hearing that is held to review the proposed budget.

As added by P.L.1-1996, SEC.11.

IC 13-21-3-12

Powers of district; exercise of powers in Lake County

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, 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. 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).

As added by P.L.1-1996, SEC.11. Amended by P.L.125-1996, SEC.5; P.L.45-1997, SEC.13; P.L.6-1997, SEC.155; P.L.2-1998, SEC.52; P.L.225-2001, SEC.16; P.L.178-2002, SEC.87; P.L.114-2008, SEC.22; P.L.159-2011, SEC.36; P.L.37-2012, SEC.51; P.L.83-2015, SEC.1; P.L.189-2016, SEC.2.

IC 13-21-3-12.2

Additional powers of certain counties

Sec. 12.2. (a) This section applies to a county having a population of more than one hundred seventy-five thousand (175,000) but less than one hundred eighty-five thousand (185,000).

(b) In addition to the powers granted to a district under section 12 of this chapter, a district may make grants or loans of money, property, or services to a public or private program to plant or maintain trees in an area of the district that is a right-of-way, public property, or vacant property.

As added by P.L.98-2000, SEC.6. Amended by P.L.170-2002, SEC.89; P.L.119-2012, SEC.115.

IC 13-21-3-13

Powers of board

Sec. 13. (a) A board may do the following:

(1) Enter into agreements concerning and acquire by any lawful means real property or interests in real and personal property needed for the purposes of this section or IC 13-21-9.

(2) Enter into financing agreements to purchase, lease as lessee, construct, remodel, rebuild, enlarge, or substantially improve facilities.

(3) Lease facilities to users or developers with or without an option to purchase.

(4) Sell facilities to users or developers for consideration, which may be paid in installments or otherwise.

(5) Make direct loans to users or developers for the cost of acquisition, construction, or installation of facilities, including real property, machinery, or equipment. If loans are made, the development bonds must be secured by the pledge of one (1) or more bonds or other secured or unsecured debt obligations of the users or developers.

(6) Enter into agreements with users or developers to allow the users or developers to wholly or partially acquire, construct, or modify facilities to be acquired by the district.

(7) Issue waste management development bonds under IC 13-21-9 to do the following:

(A) Accomplish the purposes of this section and IC 13-21-9.

(B) Secure payment of the development bonds as provided in IC 13-21-9.

(b) This section or IC 13-21-9 does not authorize the district's financing of facilities for a developer unless any agreement that exists between a developer and a user is fully disclosed to and approved by the board.

As added by P.L.1-1996, SEC.11.

IC 13-21-3-13.5

Reports on funds

Sec. 13.5. (a) At the end of each year the district shall prepare, on

a form designed by the department of local government finance, a report that is accessible through the computer gateway administered by the office of technology established by IC 4-13.1-2-1 and that provides the following information:

- (1) For each fund that contains district money:
 - (A) the cash balance at the end of the year;
 - (B) a list of all encumbrances on the fund that the district is legally obligated to pay;
 - (C) a copy of documentation that supports each encumbrance listed in clause (B);
 - (D) the fund balance obtained by subtracting the amount under clause (B) from the amount under clause (A);
 - (E) the total expenditures from the fund for the year; and
 - (F) any other financial information required by the department.
 - (2) The total of all fund balances calculated under subdivision (1)(D).
 - (3) The total of all fund expenditures reported under subdivision (1)(E).
 - (4) Any programmatic information required by the department.
 - (5) The total amount of expenditures by the district for the year.
 - (6) The per capita expenditures by the district for the year.
 - (7) The amount of expenditures by the district for the year for personnel costs.
 - (8) The amount of expenditures by the district for the year for program costs (excluding personnel costs).
 - (9) The total amount of solid waste (in tons) disposed of in the district for the year for which the district is directly responsible.
 - (10) The total amount of recycling (in tons) carried out in the district in the year for which the district is directly responsible.
- (b) The district shall provide the report prepared under subsection (a):
- (1) to the department and to the department of local government finance in a format prescribed by the department; and
 - (2) to the legislative council in an electronic format under IC 5-14-6;

by March 1 of the year following the year for which the report is made.

(c) The district shall publish the annual report prepared under subsection (a) on an Internet web site maintained by the district or on the Internet web sites maintained by the counties that are members of the district.

As added by P.L.45-1997, SEC.14. Amended by P.L.90-2002, SEC.368; P.L.37-2012, SEC.52; P.L.257-2013, SEC.35.

IC 13-21-3-14

Powers of district; exclusions

Sec. 14. (a) This section does not apply to a contract executed

before April 1, 1998.

(b) Except as provided in subsection (d) and section 14.5 of this chapter, the powers of a district do not include the following:

- (1) The power of eminent domain.
- (2) Except as provided in subsection (c), the power to exclusively control the collection or disposal of any solid waste or recyclables within the district by means that include the following:
 - (A) Franchising.
 - (B) Establishing a territory or territories within the district in which a person may provide service.
- (3) The power to establish the type of service that a person must provide for the collection or disposal of solid waste or recyclables within the district.
- (4) The power to establish fees that a person must charge for the collection or disposal of solid waste or recyclables within the district.
- (5) The power to issue permits for an activity that is already permitted by a state agency, except as expressly granted by statute.
- (6) Except as provided in subsection (e), the power to:
 - (A) register;
 - (B) issue a permit for; or
 - (C) license;

a vehicle as a condition of allowing a solid waste hauler to render services within the district.

(c) If one (1) or more of the governmental entities in a district, at the time of the formation of the district, is a party to a contract providing that the persons contracted with have the exclusive right to collect or dispose of solid waste within the jurisdiction of the governmental entity, the district may enter into an extension of that contract.

(d) Subsection (b) does not apply to activities conducted as part of a household hazardous waste collection and disposal project.

(e) A district that was:

- (1) registering, issuing a permit for, or licensing vehicles as a condition of allowing a solid waste hauler to render services within the district on January 1, 2013:
 - (A) may continue to register, issue a permit for, or license the vehicles until January 1, 2015; and
 - (B) may not register, issue a permit for, or license the vehicles after December 31, 2014; and
- (2) levying a charge or fee on January 1, 2013, for registering, issuing a permit for, or licensing vehicles as a condition of allowing a solid waste hauler to render services within the district:
 - (A) may continue to levy the charge or fee until January 1, 2015; and

(B) may not levy the charge or fee after December 31, 2014.
*As added by P.L.1-1996, SEC.11. Amended by P.L.125-1996, SEC.6;
P.L.110-1998, SEC.2; P.L.231-2003, SEC.3; P.L.220-2011,
SEC.284; P.L.116-2013, SEC.1.*

IC 13-21-3-14.5

Conditions for provision of waste management services by district; evaluation of cost

Sec. 14.5. (a) This section does not apply to the following:

(1) The continuation of waste management services that a solid waste district provides with its facilities or work force before March 15, 1996.

(2) Waste management services provided to the district under an agreement entered into by the district before March 15, 1996, with another person until the agreement terminates by its terms or is terminated for cause.

(3) The development, operation, and contracting for the development or operation of a publicly owned solid waste landfill in a county having a population of more than one hundred eleven thousand (111,000) but less than one hundred fifteen thousand (115,000). The operation of the landfill must have begun before July 1, 2001.

(4) A contract entered into between the board and a third party before May 1, 1997, for the development or operation of a solid waste landfill in a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000). The third party is limited to those parties that submitted proposals to the board under a formal request for proposals that were selected by the board, before December 1, 1995, as finalists in the contract negotiations.

(5) A contract between a board and a third party to operate a facility that is owned by the district and for which construction was substantially complete before March 1, 1996.

(6) Activities conducted as part of household hazardous waste (as defined in IC 13-11-2-104) collection and disposal projects.

(7) A contract executed before April 1, 1998.

(b) Except as provided in subsection (c), a district may not:

(1) undertake to provide waste management services by means of its own work force; or

(2) contract with any person to provide waste management services.

(c) A district may perform the activities described in subsection (b):

(1) if:

(A) the board is able to adopt a resolution under subsection (d); and

(B) a private sector entity is not willing or able to provide waste management services at a reasonable cost to the

district; or

(2) if the district is requested to do so by a unit of government that performs the activities with the unit's work force.

(d) The board may adopt a resolution determining that the district must either provide waste management services by means of its own work force or contract with a person to provide waste management services, only if the board finds that:

(1) the waste management service is not currently available in the district at a reasonable cost; and

(2) providing the waste management service by means of its own work force or by contract will benefit the public health, welfare, and safety of residents of the district.

The board's determination must be supported with findings of fact.

(e) A district shall provide notice by publication under IC 5-3-1 and at the time of publication serve by first class mail to any person that delivers to the district an annual written request for notices before January 1 of any meeting to consider adoption of a resolution making a preliminary determination that it is necessary for the district to undertake to provide waste management services by means of its own work force or contract with any person to provide waste management services.

(f) Whenever a district evaluates the reasonableness of cost under this section, it shall:

(1) compare the cost of the same level of service provided in the district or in similar demographic areas within Indiana; and

(2) if the district wishes to provide waste management services with its own facilities or work force, the district must disclose the entire cost of providing the service by the district, including the following:

(A) Subsidies arising from taxes, fees, grants, or intergovernmental transfers.

(B) In-kind contributions of real estate, interests in real estate, equipment, personnel, or other assets.

(C) Discounts.

(D) Tax exemptions.

(g) A resolution adopted under subsection (d) may authorize a district to perform more than one (1) solid waste recycling, collection, or disposal event in the manner described in subsection (b) if:

(1) the duration of each event authorized by the resolution is not more than one (1) day; and

(2) all events authorized by the resolution will take place in one (1) calendar year.

As added by P.L.125-1996, SEC.7. Amended by P.L.110-1998, SEC.3; P.L.70-2001, SEC.3; P.L.170-2002, SEC.90; P.L.220-2011, SEC.285; P.L.119-2012, SEC.116.

IC 13-21-3-15

Appeals

Sec. 15. (a) A district located in a county having a population of more than thirty-three thousand five hundred (33,500) but less than thirty-four thousand (34,000) may appeal to the department of local government finance to have a property tax rate in excess of the rate permitted by section 12 of this chapter. The appeal may be granted if the district establishes that all of the following conditions exist:

- (1) The district is in the process of constructing a landfill.
- (2) A higher property tax rate is necessary to pay the fees charged by out of county landfills to dispose of solid waste generated in the district during the design and construction phases of the landfill being established by the district.

(b) The procedure applicable to maximum levy appeals under IC 6-1.1-18.5 applies to an appeal under this section. Any additional levy granted under this section may not exceed seven and thirty-three hundredths cents (\$0.0733) on each one hundred dollars (\$100) of assessed valuation of property in the district.

(c) The department of local government finance shall establish the tax rate if a higher tax rate is permitted.

(d) A property tax rate imposed under this section expires not later than December 31, 1997.

As added by P.L.1-1996, SEC.11. Amended by P.L.6-1997, SEC.156; P.L.90-2002, SEC.369; P.L.146-2008, SEC.422; P.L.119-2012, SEC.117.

IC 13-21-3-15.5

Appeal for additional levy

Sec. 15.5. (a) A district may appeal to the department of local government finance to have a property tax rate in excess of the rate permitted by section 12 of this chapter. The appeal may be granted if the district with respect to 2001 property taxes payable in 2002:

- (1) imposed the maximum property tax rate established under section 12 of this chapter; and
- (2) collected property tax revenue in an amount less than the maximum permissible ad valorem property tax levy determined for the district under IC 6-1.1-18.5.

(b) The procedure applicable to maximum levy appeals under IC 6-1.1-18.5 applies to an appeal under this section.

(c) An additional levy granted under this section may not exceed the rate calculated to result in a property tax levy equal to the maximum permissible ad valorem property tax levy determined for the district under IC 6-1.1-18.5.

(d) The department of local government finance shall establish the tax rate if a higher tax rate is permitted.

As added by P.L.178-2002, SEC.88. Amended by P.L.146-2008, SEC.423.

IC 13-21-3-16

Eligibility to include in budget revenue from imposed property tax

Sec. 16. (a) The requirements of this section:

- (1) are in addition to the requirements set forth in IC 6-1.1-18.5-7(b); and
- (2) do not apply to a district that:
 - (A) owns a landfill;
 - (B) will use property tax revenue to:
 - (i) construct a new landfill cell; or
 - (ii) close a landfill cell;at the landfill; and
 - (C) has received approval from the county fiscal body of the county in which the landfill is located to construct or close the landfill cell.

(b) To be eligible to include within the district's budget for the following year tax revenue derived from the imposition of a property tax, the first year that a property tax will be imposed and any subsequent year in which the proposed tax levy will increase by five percent (5%) or more, a board must present identical resolutions to each of the county fiscal bodies within the district seeking approval for the use of property tax revenue within the district. The resolution must state the proposed property tax levy and the proposed use of the revenue. The resolution must be stated so that:

- (1) a "yes" vote indicates approval of the levy and the proposed use of property tax revenue within the district; and
- (2) a "no" vote indicates disapproval of the levy and the proposed use of property tax revenue within the district.

(c) For a resolution described in subsection (b) to be approved by the county fiscal body:

- (1) the county fiscal body must record the vote taken on the resolution under subsection (b) before May 1 of the year in which the vote was taken; and
- (2) the recorded vote must indicate approval of the use of property tax revenue within the district.

(d) If all of the county fiscal bodies within a district do not record the approval described in subsection (c) before May 1 of the year in which the vote under subsection (b) was taken, the board may not:

- (1) impose; or
- (2) include within the budget of the board;

a property tax for the year following the year in which the vote was taken.

(e) Notwithstanding subsection (d), after the first year a tax is imposed under this section, the resolution required by subsection (b) for a district that is located in more than two (2) counties need only be approved by a majority of the county fiscal bodies for the counties in which the district is located.

(f) A district may not issue bonds to be repaid, directly or indirectly, with money or property tax revenue of the district until a majority of the members of each of the county fiscal bodies within

a district passes a resolution approving the bond issue.
*As added by P.L.1-1996, SEC.11. Amended by P.L.129-1996, SEC.1;
P.L.189-2005, SEC.4.*

IC 13-21-3-17

Conferences, seminars, and training sessions; membership in planning and practice improvement organizations

Sec. 17. (a) If a board determines that it is desirable or necessary for employees or members of the board or advisory committee to attend a conference, seminar, or training session that concerns solid waste management or related issues, the board may pay:

- (1) applicable registration fees; and
- (2) all actual expenses;

of the employees or members who attend the conference, seminar, or training session.

(b) A board may appropriate money necessary to provide membership for the district in state and national:

- (1) civic;
- (2) educational;
- (3) professional; or
- (4) governmental;

organizations that are concerned with the betterment and improvement of solid waste management planning and practices.

As added by P.L.1-1996, SEC.11.

IC 13-21-3-18

Grants and loans from counties and municipalities

Sec. 18. The executive of a county or municipality located in a district may, with the approval of the fiscal body of the county or municipality:

- (1) grant or loan public money to the district; and
- (2) establish procedures:
 - (A) for awarding grants; and
 - (B) for the repayment of loans.

As added by P.L.1-1996, SEC.11.

IC 13-21-3-19

Delegation of board's authority; limitations

Sec. 19. (a) The board of a district may delegate any of the board's authority to any board or legislative body of a municipality by resolution. However:

- (1) an exercise by a municipality of the taxing power of the district must be ratified by the board of the district; and
- (2) if the board of a municipality has been delegated authority under this subsection, the legislative body of the municipality must approve an action of the board of the municipality that involves:

- (A) an exercise of the taxing power of the district;

(B) the issuance of bonds under this article or IC 13-9.5 (before its repeal); or

(C) the setting of fees, rates, and charges under this article or IC 13-9.5 (before its repeal).

(b) The board may delegate authority to the board's officers to carry out the directions of the board.

(c) A resolution delegating powers of the board under this section must contain reasonable standards and parameters within which the delegated powers may be exercised.

As added by P.L.1-1996, SEC.11.

IC 13-21-3-20

Failure of county with consolidated city to elect to participate; exemption from regulation and control of article

Sec. 20. (a) Notwithstanding this chapter, IC 13-21-5, and IC 13-21-13, and except as provided in subsection (b), unless the legislative body of a county having a consolidated city elects by ordinance to participate in the rules, ordinances, and governmental structures enacted or created under this article, the management of solid waste activities and the collection of fees on the disposal of solid waste in a final disposal facility located in that county are exempt from regulation or control under this article.

(b) The exemption under subsection (a) does not apply to IC 13-20-22-1.

As added by P.L.1-1996, SEC.11. Amended by P.L.113-2010, SEC.94.

IC 13-21-3-21

Approval and delivery of budget

Sec. 21. Before the board of a district may adopt an annual budget, the budget must be:

(1) approved by the department of local government finance; and

(2) sent to:

(A) the executive; and

(B) the fiscal body;

of each county and municipality located within the district as a matter of record.

As added by P.L.1-1996, SEC.11. Amended by P.L.90-2002, SEC.370.

IC 13-21-3-22

Contract with county to collect fees and revenue; delinquent payments

Sec. 22. (a) This subsection does not apply to the collection of property taxes. The board of a district may contract with a county to collect fees and revenue for a board.

(b) A contract under this section must do all of the following:

- (1) Describe the fees and revenue that will be collected.
- (2) Describe the responsibilities of the district and the county.
- (3) Describe any collection charges that a county will impose to reimburse the county for the administrative expenses of collecting fees and revenue.
- (4) Establish the date or conditions under which the agreement expires.
- (5) Be in writing.

A contract may include other necessary or appropriate terms.

(c) Before a contract under this section becomes effective:

- (1) the county auditor and the county treasurer must consent to the terms of the contract; and
- (2) the board of the district and the executive body for the county must approve the contract by resolution in a public meeting.

The written consent of the county auditor and county treasurer must be incorporated by reference into the resolution adopted by the county executive body.

(d) To carry out a contract under this section, a county executive body may establish a collection charge. The charge may not exceed the direct costs of collecting fees and revenue, including an allowance for computer reprogramming and other costs incurred to establish and maintain the collection program. Collection charges received by a county shall be deposited in the county general fund.

(e) Revenue and fees collected by a county shall be deposited in a separate fund and distributed to the district, without an appropriation or a claim, under the terms of the contract.

(f) A county may include a notice of the amount of fees, charges, or other revenue subject to this section in a property tax notice sent to a taxpayer.

(g) A county or the district may collect a delinquent payment subject to this section in the same manner as any general debt may be collected.

As added by P.L.1-1996, SEC.11.