

IRSDA
2018 Indiana General Assembly
Enacted Legislation

Below is a summary of enacted legislation from the 2018 legislative session that may be of interest to RSDs. Not all bills will have a direct affect but we feel RSDs should at least be aware of them. The list represents only enacted legislation that the IRSDA was more involved with. It may not be all inclusive for some districts. We encourage you to familiarize yourself with each enrolled act in its entirety. As always we suggest that each district seek legal advice to assist you in interpreting what changes, if any, may need to be made as a result of the legislation. A complete listing of all enacted legislation and details can be found using the following link: https://iga.in.gov/legislative/2018/session/enrolled_act_summary/

SENATE BILL No. 269

Citations Affected: IC 8-23-31; IC 13-11-2-90; IC 13-26.

Road and utility repair. Road and utility repair. Requires the department of transportation (department) to schedule an appeal of a local unit's denial of a petition to close a railroad crossing within 60 days after the denial of the petition. Defines "department action" as one or more of the following: (1) Detour creation or implementation. (2) Planned bridge repair. (3) Planned road repair. Requires the department to consider the following when determining when to let a contract involving certain construction, maintenance, and repair projects: (1) Impact on local commerce. (2) Impact on local residents. (3) Impact on local tourism. Requires the department to make a good faith effort to use: (1) the least disruptive timing when determining when to let a contract involving certain construction, maintenance, and repair projects; and (2) the least restrictive means when implementing or performing certain construction, maintenance, and repair projects. Requires the department to release a contract let list: (1) every 180 days; and (2) to at least 1 news media entity. Provides that the hearing officer appointed to conduct a hearing concerning a petition to establish a regional water, sewage, or solid waste district is required to provide notice of the hearing to the executive of a city or town that has a municipal sewage works or public sanitation department having extraterritorial jurisdiction within the boundaries of the area to be included in the proposed district. Requires the board of trustees of a regional sewage district, when seeking to add territory to the district, to file a copy of its motion for the addition of territory in the office of: (1) the executive of each governmental entity having territory within the territory proposed to be added to the regional sewage district; and (2) the executive of a city or town that has a municipal sewage works or public sanitation department if the territory proposed to be added to the regional sewage district includes territory within the extraterritorial jurisdiction of the municipal sewage works or public sanitation department. Defines "governmental entity", for purpose of the law concerning regional water, sewage, and solid waste districts, as a municipal corporation or a special taxing district. Defines certain terms. **Effective:** July 1, 2018.

SENATE BILL No. 362

Citations Affected: IC 8-1-1.9; IC 13-11-2; IC 13-18, 13-26

Regulation of water and wastewater systems. Provides that a water or wastewater utility, that is organized as a legal entity after June 30, 2018, to provide water or wastewater service to the public is subject to the jurisdiction of the Indiana Utility Regulatory Commission for a period of 10 years beginning on the day on which it is organized as a legal entity. Amends the laws concerning the wastewater revolving loan program and the drinking water revolving loan program to require a demonstration that each participant to which a loan would be made has the financial, managerial, technical, and legal capability of operating and maintaining its system and has developed or is in the process of developing an asset management program. Establishes new requirements for water treatment plants and wastewater treatment plants applying to the department of environmental management for the issuance or amendment of a permit, including a cost-benefit analysis, a capital asset management plan, and a cyber security program.

Effective: July 1, 2018.

The bill states “water and wastewater utility” in the summary but the body of the bill further defines it as a “public utility” and references that meaning as defined by IC 8-1-2-1(a). While an argument might be made that RSDs fall in this definition, the intent of the bill was to remove CDs and RSDs from the IURC portion of the bill.

SENATE BILL No. 411

Citations Affected: IC 8-1-30.3-5; IC 8-1.5-2-6.1.

Distressed utilities. Amends a provision in the statute concerning the acquisition of distressed water or wastewater utilities to require that, upon filing a petition with the utility regulatory commission (IURC) to include the cost differentials of the transaction as part of the acquiring utility company's rate base, the acquiring utility company must provide notice to its customers that the petition has been filed. (Current law requires the acquiring utility company to provide notice to its customers if the proposed acquisition will increase the utility company's rates by an amount that is greater than 1% of the utility company's base annual revenue.) Amends a provision in the statute concerning the sale or disposition of nonsurplus municipally owned utility property to provide that in determining whether the sale or disposition according to the parties' proposed terms and conditions is in the public interest, the IURC shall accept as reasonable the valuation of the property as determined through an appraisal and review made under the procedures set forth in the statute. **Effective:** July 1, 2018.

HOUSE BILL No. 1233

Citations Affected: IC 13-11-2-144.8; IC 13-17; IC 13-18-11; IC 16-18-2; IC 16-41.

Environmental management matters. Provides that the term "onsite sewage system" applies to systems that treat sewage from municipalities or publicly owned treatment works. Strikes an

incorrect statutory reference in the section defining that term. Amends the air pollution control law to add a reference to the law establishing the procedure for environmental rule making. Authorizes the use of certain regulated combustion facilities to dispose of drugs confiscated or collected as evidence by law enforcement agencies. Provides for the renewal of the certificate of a wastewater treatment plant operator, water treatment plant operator, or water distribution system operator after three years (instead of two years). Authorizes the environmental rules board to establish: (1) continuing education requirements; and (2) dates by which fees must be paid and proof of compliance with continuing education requirements must be submitted; as a condition of certificate renewal for wastewater treatment plant operators, water treatment plant operators, and water distribution system operators. Provides that, after a solid waste management district (SWMD) is dissolved, an employee of the SWMD who is also a member of the county executive, county legislative body, or county fiscal body: (1) may continue to hold the employee's elected office; (2) is neither required to resign nor considered to have resigned as a county employee; and (3) may not cast a vote on any matter concerning solid waste management as a member of the county executive, legislative body, or fiscal body. Repeals a section providing that a countywide regional water, sewage, or solid waste district established in response to an agreed order must have one appointed trustee who resides in the area that was the subject of the investigation resulting in the agreed order and one appointed trustee who is an elected official representing a political subdivision that has territory in the district. Makes it a Class B misdemeanor: (1) to make a false material statement or representation in a form, notice, or report required under an air pollution control permit or water pollution control permit; (2) to tamper with or falsify data from an air or water pollution monitoring device; or (3) to make a false material statement or representation in a label, manifest, record, report, or other document required under a hazardous waste permit. Makes it a Class B misdemeanor to transport regulated used oil without a manifest. Makes it a Class C misdemeanor to knowingly violate certain air pollution control rules, permit conditions, or fee or filing requirements. Makes it a Class A misdemeanor to willfully or negligently violate certain water pollution control rules, permit conditions, or fee or filing requirements. Defines "negligently." Provides for potential fines for environmental Class A misdemeanors and Class B misdemeanors in an amount exceeding the ordinary statutory limit on fines for Class A and Class B misdemeanors. Provides that certain violations of water pollution standards or limitations may be Class B or Class C misdemeanors. Provides that it is a felony for a person to knowingly commit any of certain offenses involving hazardous waste, air pollution, or water pollution if the person knows that the person's act places another person in imminent danger of death or serious bodily injury. Requires the state department of health to adopt rules concerning: (1) the disposal of sewage through the use of onsite sewage systems for municipalities and publicly owned treatment works; and (2) sewage disposal in agricultural labor camps through methods other than septic tank absorption fields. Provides, for purposes of the statute defining the offense of criminal trespass as knowingly or intentionally entering real property after having been denied entry, that a property owner may "deny entry" to property by placing purple marks on trees or posts around the property. Urges the legislative council to assign an interim committee to study research and outreach efforts to reduce non-point source impacts on water quality conducted through government supported programs and by universities. **Effective:** July 1, 2018.

HOUSE BILL No. 1267

Citations Affected: IC 2-5-41.

Water infrastructure task force. Establishes a water infrastructure task force (task force) consisting of: (1) two members of the senate; (2) two members of the house of representatives; and (3) the following individuals appointed by the governor: (A) Officers or employees of the state. (B) Individuals representing operators of drinking water, wastewater management, or storm water management systems. (C) Engineers or professionals experienced in the design and construction of such systems. (D) Individuals representing ratepayers and others constituting the funding sources for such systems. (E) Members of the general public. Requires the task force to comply with the public meetings and public records laws. Requires the task force to: (1) study specified issues concerning drinking water systems, wastewater management systems, and storm water management systems; (2) create an empirical decision making tool that will allow policymakers to prioritize water infrastructure projects; and (3) develop a long term plan for addressing drinking water, wastewater, and storm water management needs in Indiana. Requires the task force to submit a report containing certain recommendations to the general assembly and the governor not later than December 1, 2018. Provides that the legislative services agency shall provide staff support to the task force. Requires the Indiana finance authority (IFA) to contract with an entity of its choosing to study the needs of the state, political subdivisions, and other public and private entities arising from the National Pollutant Discharge Elimination System (NPDES) stormwater program. Provides that IFA must require the contractor to complete and submit a written report setting forth the results of the study not later than December 1, 2019. Urges the legislative council to assign to an appropriate interim study committee the task of studying research and outreach efforts to reduce non-point source impacts on water quality.

Effective: Upon passage.