

## Water and Wastewater Departments Need to Be Aware of New Law – SEA 362

Senate Enrolled Act 362 – Public Law 126 took effect on July 1, 2018. This law contains a few important provisions of which water and waste water departments should be aware.

- 1) Any new water or waste water utility that is organized as a legal entity after June 30, 2018 is subject to the jurisdiction of the Indiana Utility Regulatory Commission (IURC) for ten years with respect to rates and charges, indebtedness, rules, and annual reporting. (see IC 8-1-1.9)
- 2) For the state's Waste Water and Drinking Water Revolving Loan Programs that are governed by the Indiana Finance Authority (IFA), there will be new requirements in applying for a loan (see IC 13-18-13-11 and IC 13-18-21-11):
  - a. Documentation must be shown that the participant in the loan program has the financial, managerial, technical and legal capability of operating and maintaining its waste water/drinking water system.
  - b. The participant must demonstrate that it has developed or is in the process of developing an asset management program as defined in the guidelines provided by the IFA. (Note: The IFA will require cybersecurity protections to be a part of the asset management plan).
- 3) There are now additional requirements for Indiana Department of Environmental Management (IDEM) permits for the operation of a newly constructed or newly acquired water or waste water treatment plant or a permit for the *expansion* of an existing treatment plant. The applicant of such permits will be required to certify that the following documents have been prepared and are complete: a life cycle cost-benefit analysis, a capital asset management plan, and a cybersecurity plan. (see IC 13-18-26)

NOTE: Aim received the following update from Paul Higginbotham at IDEM on June 6, 2018 regarding the timing and implementation of IC 13-18-16:

*SEA 362 (specifically IC 13-18-26) becomes effective for some drinking water and wastewater permitting activities issued after June 30, 2018. Due to the fact that IDEM is in the process of developing protocols for implementing SEA 362, IDEM will continue to process and issue permits during the protocol development phase as normal (pre-SEA 362). Once IDEM has developed the implementation protocol, we will engage in education/outreach to assist potential applicants moving forward. With that being said, IDEM encourages applicants to address the requirements of SEA 362 to the best of their ability in the interim.*

Do you have questions or comments about new laws? Contact Rhonda Cook, Aim's Deputy Director – Chief Federal and State Policy Officer at [cook@aimindiana.org](mailto:cook@aimindiana.org).