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# ENGROSSED HOUSE BILL No. 1136

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DIGEST OF HB 1136 (Updated February 16, 1998 2:49 pm - DI 94)

**Citations Affected:** IC 8-1.5; IC 13-11; IC 13-20.

**Synopsis:** Municipal fees. Establishes the conditions under which a township in St. Joseph County may receive a specified percentage of landfill disposal fees: (1) paid to the county under a host agreement; and (2) to be used by the township to provide fire services within the township. Allows the city of Elkhart to recover costs related to furnishing water for fire protection by including the expenses in the basic rates of township customers of the city's water utility by filing a schedule of rates with the Indiana utility regulatory commission.

**Effective:** July 1, 1998.

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(SENATE SPONSORS — K. ADAMS, RIEGSECKER)

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January 8, 1998, read first time and referred to Committee on Local Government.  
January 21, 1998, amended, reported — Do Pass.  
January 27, 1998, read second time, ordered engrossed. Engrossed.  
January 28, 1998, read third time, passed. Yeas 97, nays 0.  
SENATE ACTION  
January 30, 1998, read first time and referred to Committee on Commerce and Consumer Affairs.  
February 12, 1998, reported favorably — Do Pass.  
February 16, 1998, read second time, amended, ordered engrossed.

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Second Regular Session 110th General Assembly (1998)

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 1997 General Assembly.

## HOUSE ENROLLED ACT No. 1136

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AN ACT to amend the Indiana Code concerning local government.

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

SECTION 1. IC 8-1.5-4-14, AS AMENDED BY P.L.80-1997, SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 14. (a) This subsection applies to a municipality that is not subject to IC 8-1-2-103(c) or has not adopted an ordinance to become subject to IC 8-1-2-103(d). The reasonable cost and value of any service rendered to the municipality by the waterworks by furnishing water for public purposes or by maintaining hydrants and other facilities for fire protection shall be:

- (1) charged against the municipality; and
- (2) paid for in monthly installments as the service accrues out of the current revenues of the municipality, collected or in process of collection, and the tax levy of the municipality made by it to raise money to meet its necessary current expenses.

(b) This subsection applies to a municipality that is subject to IC 8-1-2-103(c), that has adopted an ordinance to become subject to IC 8-1-2-103(d), or that has adopted a plan described in IC 8-1-2-103(d) as prescribed in IC 8-1-2-103(e). The reasonable cost and value of any service rendered to the municipality by the waterworks by furnishing water for public purposes shall be:

- (1) charged against the municipality; and

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(2) paid for in monthly installments as the service accrues out of the current revenues of the municipality, collected or in process of collection, and the tax levy of the municipality made by it to raise money to meet its necessary current expenses.

Except as provided in subsection (d), the cost and value of maintaining hydrants and other facilities for fire protection shall be excluded from the charges against the municipality and shall be recovered from the other customers of the waterworks beginning on January 1, 1994, in a municipality subject to IC 8-1-2-103(c) and beginning on a date provided in the ordinance for a municipality that adopts an ordinance under IC 8-1-2-103(d). The change in the recovery of current revenue authorized by this section shall be reflected in a schedule of new rates to be filed with the commission at least thirty (30) days before the time the schedule of new rates is to take effect.

(c) The compensation for the service provided to the municipality shall, in the manner prescribed by this chapter, be paid into the separate and special fund created by setting aside the income and revenues of the waterworks and is subject to apportionment to the operating, maintenance, depreciation, and bond and interest redemption accounts.

(d) This subsection applies to a city having a population of more than forty-three thousand (43,000) but less than forty-three thousand seven hundred (43,700). The cost and value of maintaining hydrants and other facilities for fire protection may be recovered from customers of the waterworks residing:

(1) in a county having a population of more than two hundred thousand (200,000) but less than three hundred thousand (300,000); **and**

**(2) in a township having a population of more than six thousand (6,000) but less than seven thousand (7,000) located in a county having a population of more than one hundred fifty thousand (150,000) but less than one hundred sixty thousand (160,000);**

beginning on a date determined by the city. The city shall file a new schedule of rates with the commission as set forth in subsection (b), but is not subject to commission approval of the rates.

SECTION 2. IC 13-11-2-57.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: **Sec. 57.1. "Disposal fee", for purposes of IC 13-20-23, means a fee levied on the disposal of municipal waste in exchange for permission to construct or operate a landfill under a host agreement.**

SECTION 3. IC 13-11-2-102.6 IS ADDED TO THE INDIANA



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CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: **Sec. 102.6. "Host agreement", for purposes of IC 13-20-23, means a valid and enforceable agreement entered into between a county and another person for the payment of a disposal fee in exchange for the county's permission to construct or operate a landfill.**

SECTION 4. IC 13-11-2-116, AS AMENDED BY SEA 101-1998, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 116. (a) "Landfill", for purposes of IC 13-20-2, means a solid waste disposal facility at which solid waste is deposited on or beneath the surface of the ground as an intended place of final location.

(b) "Landfill", for purposes of IC 13-20-11 **and IC 13-20-23**, means a facility operated under a permit issued under IC 13-15-3 or IC 13-7-10 (before its repeal) at which solid waste is disposed of by placement on or under the surface of the ground.

(c) "Landfill", for purposes of IC 13-11-2-82 and IC 13-21, means a solid waste management disposal facility at which solid waste is deposited on or in the ground as an intended place of final location. The term does not include the following:

- (1) A site that is devoted solely to receiving one (1) or more of the following:
  - (A) Fill dirt.
  - (B) Vegetative matter subject to disposal as a result of:
    - (i) landscaping;
    - (ii) yard maintenance;
    - (iii) land clearing; or
    - (iv) any combination of activities referred to in this clause.
- (2) A facility receiving waste that is regulated under the following:
  - (A) IC 13-22-1 through IC 13-22-8.
  - (B) IC 13-22-13 through IC 13-22-14.

SECTION 5. IC 13-11-2-133, AS ADDED BY P.L.1-1996, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 133. (a) "Municipal waste", for purposes of:

- (1) IC 13-20-4;
- (2) IC 13-20-6;
- (3) IC 13-20-21;
- (4) IC 13-20-23;**
- ~~(4)~~ **(5)** IC 13-22-1 through IC 13-22-8; and
- ~~(5)~~ **(6)** IC 13-22-13 through IC 13-22-14;

means any garbage, refuse, industrial lunchroom or office waste, and other material resulting from the operation of residential, municipal,

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commercial, or institutional establishments and community activities.

(b) The term does not include the following:

- (1) Special waste (as defined in 329 IAC 2-21-1, as in effect on January 1, 1990).
- (2) Hazardous waste regulated under:
  - (A) IC 13-22-1 through IC 13-22-8 and IC 13-22-13 through IC 13-22-14; or
  - (B) the federal Solid Waste Disposal Act (42 U.S.C. 6901 et seq.), as in effect on January 1, 1990.
- (3) Infectious waste (as defined in IC 16-41-16-4).
- (4) Wastes that result from the combustion of coal and that are referred to in IC 13-19-3-3.
- (5) Materials that are being transported to a facility for reprocessing or reuse.

(c) As used in subsection (b)(5), "reprocessing or reuse" does not include either of the following:

- (1) Incineration.
- (2) Placement in a landfill.

SECTION 6. IC 13-20-23 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]:

**Chapter 23. Municipal Waste Disposal Fees**

**Sec. 1. This chapter applies to townships located in a county having a population of more than two hundred thousand (200,000) but less than three hundred thousand (300,000).**

**Sec. 2. A township that has one (1) of the following populations and meets the requirements of section 3 of this chapter is entitled to receive the following percentage of disposal fees paid to the county in which the township is located:**

<b>Township Population</b>	<b>Percentage</b>
<b>More than 1,700 but less than 1,800</b>	<b>8%</b>
<b>More than 3,300 but less than 3,500</b>	<b>6%</b>
<b>More than 59,000 but less than 63,000</b>	<b>6%</b>

**Sec. 3. To receive funds under section 2 of this chapter, the fiscal body of a township must do both of the following:**

- (1) Adopt a resolution that:
  - (A) identifies the host agreement that is the subject of the resolution;
  - (B) states that the township has elected to exercise its entitlement under section 2 of this chapter;
  - (C) states the percentage of the disposal fees the township elects to receive; and



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**(D) specifies that the disposal fees will be used to provide fire services within the township.**

**(2) File the resolution with the county auditor.**

**Sec. 4. (a) Not more than thirty (30) days after the date a county auditor receives a resolution filed under section 3(2) of this chapter, the county auditor shall review the resolution for compliance with the requirements of sections 2 and 3 of this chapter. If the resolution meets all of the requirements, the county auditor shall:**

**(1) inform the county fiscal body and the township fiscal body;**

**(2) accrue disposal fees from the date the resolution is determined to be in compliance with sections 2 and 3 of this chapter under this subsection or subsection (b); and**

**(3) disburse the accrued disposal fees to the township, in the amount requested, on a quarterly basis.**

**(b) If the county auditor fails to make a determination concerning a resolution within the time allotted under subsection (a):**

**(1) the resolution is deemed to be in compliance with the requirements of sections 2 and 3 of this chapter; and**

**(2) the county auditor shall comply with subsection (a).**

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