

HOUSE BILL No. 1136

DIGEST OF INTRODUCED BILL

Citations Affected: IC 8-1.5-4-14; IC 36-9-25-11.

Synopsis: Municipal collection of fees. 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. Provides that the amount unpaid, the late penalty, and the attorney fees that are the result of a delinquent municipal sewer bill, for certain municipalities, may be collected only from the user of the property. (Current law allows the amount to be collected from the user of the property or the owner of the property.)

Effective: July 1, 1998.

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January 8, 1998, read first time and referred to Committee on Local Government.

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Introduced

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 BILL No. 1136

A BILL FOR AN ACT to amend the Indiana Code concerning local government.

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

1 SECTION 1. IC 8-1.5-4-14, AS AMENDED BY P.L.80-1997,
2 SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 1998]: Sec. 14. (a) This subsection applies to a municipality
4 that is not subject to IC 8-1-2-103(c) or has not adopted an ordinance
5 to become subject to IC 8-1-2-103(d). The reasonable cost and value
6 of any service rendered to the municipality by the waterworks by
7 furnishing water for public purposes or by maintaining hydrants and
8 other facilities for fire protection shall be:
9 (1) charged against the municipality; and
10 (2) paid for in monthly installments as the service accrues out of
11 the current revenues of the municipality, collected or in process
12 of collection, and the tax levy of the municipality made by it to
13 raise money to meet its necessary current expenses.
14 (b) This subsection applies to a municipality that is subject to
15 IC 8-1-2-103(c), that has adopted an ordinance to become subject to
16 IC 8-1-2-103(d), or that has adopted a plan described in
17 IC 8-1-2-103(d) as prescribed in IC 8-1-2-103(e). The reasonable cost

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1 and value of any service rendered to the municipality by the
2 waterworks by furnishing water for public purposes shall be:

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

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

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

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

- 28 (1) in a county having a population of more than two hundred
29 thousand (200,000) but less than three hundred thousand
30 (300,000); and
31 (2) in a township having a population of more than six
32 thousand (6,000) but less than seven thousand (7,000) located
33 in a county having a population of more than one hundred
34 fifty thousand (150,000) but less than one hundred sixty
35 thousand (160,000);

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

39 SECTION 2. IC 36-9-25-11 IS AMENDED TO READ AS
40 FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 11. (a) In connection
41 with its duties, the board may fix fees for the treatment and disposal of
42 sewage and other waste discharged into the sewerage system, collect

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1 the fees, and establish and enforce rules governing the furnishing of
2 and payment for sewage treatment and disposal service. The fees must
3 be just and equitable and shall be paid by any user of the sewage works
4 and the owner of every lot, parcel of real property, or building that is
5 connected with and uses the sewage works of the district by or through
6 any part of the sewerage system. This section applies to owners of
7 property that is partially or wholly exempt from taxation, as well as
8 owners of property subject to full taxation.

9 (b) The board may change fees from time to time. The fees, together
10 with the taxes levied under this chapter, must at all times be sufficient
11 to produce revenues sufficient to pay operation, maintenance, and
12 administrative expenses, to pay the principal and interest on bonds as
13 they become due and payable, and to provide money for the revolving
14 fund authorized by this chapter.

15 (c) Fees may not be established until a public hearing has been held
16 at which all the users of the sewage works and owners of property
17 served or to be served by the works, including interested parties, have
18 had an opportunity to be heard concerning the proposed fees. After
19 introduction of the resolution fixing fees, and before they are finally
20 adopted, notice of the hearing setting forth the proposed schedule of
21 fees shall be given by publication in accordance with IC 5-3-1. After
22 the hearing the resolution establishing fees, either as originally
23 introduced or as amended, shall be passed and put into effect.
24 However, fees related to property that is subject to full taxation do not
25 take effect until they have been approved by ordinance of the municipal
26 legislative body.

27 (d) A copy of the schedule of the fees shall be kept on file in the
28 office of the board and must be open to inspection by all interested
29 parties. The fees established for any class of users or property served
30 shall be extended to cover any additional premises thereafter served
31 that fall within the same class, without the necessity of hearing or
32 notice.

33 (e) A change of fees may be made in the same manner as fees were
34 originally established. However, if a change is made substantially pro
35 rata for all classes of service, hearing or notice is not required, but
36 approval of the change by ordinance of the municipal legislative body
37 is required.

38 (f) If a fee established is not paid within thirty (30) days after it is
39 due, the amount, together with a penalty of ten percent (10%) and a
40 reasonable attorney's fee, may be recovered by the board from the
41 delinquent user or owner of the property served in a civil action in the
42 name of the municipality.

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1 (g) Fees assessed against real property under this section also
2 constitute a lien against the property assessed. The lien attaches at the
3 time of the filing of the notice of lien in the county recorder's office.
4 The lien is superior to all other liens except tax liens, and shall be
5 enforced and foreclosed in the same manner as is provided for liens
6 under IC 36-9-23-33 and IC 36-9-23-34.

7 (h) This subsection applies to fees due after July 1, 1988. A fee
8 assessed against real property under this section constitutes a lien
9 against the property assessed only when the fee is delinquent for no
10 more than three (3) years from the day after the fee is due.

11 (i) In addition to the penalties under subsections (f) and (g) and
12 section 11.5 of this chapter, a delinquent user may not discharge water
13 into the public sewers and may have the property disconnected from
14 the public sewers.

15 (j) The authority to establish a user fee under this section includes
16 fees to recover the cost of construction of sewage works from industrial
17 users as defined and required under federal statute or rule. Any
18 industrial users' cost recovery fees may become a lien upon the real
19 property and shall be collected in the manner provided by law. In
20 addition, the imposition of the fees, the use of the amounts collected,
21 and the criteria for the fees must be consistent with the regulations of
22 the federal Environmental Protection Agency.

23 **SECTION 3. [EFFECTIVE JULY 1, 1998] IC 36-9-25-11, as**
24 **amended by this act, applies only to civil actions filed after June 30,**
25 **1998.**

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