
HOUSE BILL No. 1855

DIGEST OF INTRODUCED BILL

Citations Affected: IC 36-9-23.

Synopsis: Municipal sewer fees. Provides that a municipal ordinance setting fees for sewer service that charges fees to real property located outside the municipality that are not charged to real property located within the municipality expires after a defined period. Provides that a municipality may not adopt another ordinance to charge different fees inside and outside the municipality except to cover real property outside the municipality to which new sewer service is extended.

Effective: July 1, 2003.

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January 23, 2003, read first time and referred to Committee on Environmental Affairs.

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First Regular Session 113th General Assembly (2003)

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 2002 Regular or Special Session of the General Assembly.

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HOUSE BILL No. 1855



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 36-9-23-25 IS AMENDED TO READ AS
- 2 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 25. (a) The municipal
- 3 legislative body shall, by ordinance, establish just and equitable fees
- 4 for the services rendered by the sewage works, and provide the dates
- 5 on which the fees are due.
- 6 (b) **Subject to section 25.5 of this chapter**, just and equitable fees
- 7 are the fees required to maintain the sewage works in the sound
- 8 physical and financial condition necessary to render adequate and
- 9 efficient service. The fees must be sufficient to **do all the following**:
- 10 (1) Pay all expenses incidental to the operation of the works,
- 11 including legal expenses, maintenance costs, operating charges,
- 12 repairs, lease rentals, and interest charges on bonds or other
- 13 obligations.
- 14 (2) Provide the sinking fund required by section 21 of this
- 15 chapter.
- 16 (3) Provide adequate money to be used as working capital. ~~and~~
- 17 (4) Provide adequate money for improving and replacing the



- 1 works.
- 2 Fees established after notice and hearing under this chapter are
- 3 presumed to be just and equitable.
- 4 (c) The fees are payable by the owner of each lot, parcel of real
- 5 property, or building that:
- 6 (1) is connected with the sewage works by or through any part of
- 7 the municipal sewer system; or
- 8 (2) uses or is served by the works.
- 9 Unless the municipal legislative body finds otherwise, the works are
- 10 considered to benefit every lot, parcel of real property, or building
- 11 connected or to be connected with the municipal sewer system as a
- 12 result of construction work under the contract, and the fees shall be
- 13 billed and collected accordingly.
- 14 (d) **Subject to section 25.5 of this chapter**, the municipal
- 15 legislative body may use one (1) or more of the following factors to
- 16 establish the fees:
- 17 (1) A flat charge for each sewer connection.
- 18 (2) The amount of water used on the property.
- 19 (3) The number and size of water outlets on the property.
- 20 (4) The amount, strength, or character of sewage discharged into
- 21 the sewers.
- 22 (5) The size of sewer connections.
- 23 (6) Whether the property has been or will be required to pay
- 24 separately for any part of the sewage works.
- 25 (7) Whether the property, although vacant or unimproved, is
- 26 benefited by a local or lateral sewer because of the availability of
- 27 that sewer. However, the owner must have been notified, by
- 28 recorded covenants and restrictions or deed restrictions in the
- 29 chain of title of ~~his~~ **the owner's** property, that a fee or assessment
- 30 for sewer availability may be charged, and the fee may reflect
- 31 only the capital cost of the sewer and not the cost of operation and
- 32 maintenance of the sewage works.
- 33 (8) The cost of collecting, treating, and disposing of garbage in a
- 34 sanitary manner, including equipment and wages.
- 35 (9) The amount of money sufficient to compensate the
- 36 municipality for the property taxes that would be paid on the
- 37 sewage works if the sewage works were privately owned.
- 38 (10) Any other factors the legislative body considers necessary.
- 39 Fees collected under subdivision (8) may be spent for that purpose only
- 40 after compliance with all provisions of the ordinance authorizing the
- 41 issuance of the revenue bonds for the sewage works. The board may
- 42 transfer fees collected in lieu of taxes under subdivision (9) to the

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1 general fund of the municipality.

2 (e) **Subject to section 25.5 of this chapter**, the municipal
3 legislative body may exercise reasonable discretion in adopting
4 different schedules of fees, or making classifications in schedules of
5 fees, based on variations in:

- 6 (1) the costs, including capital expenditures, of furnishing
7 services to various classes of users or to various locations; or
8 (2) the number of users in various locations.

9 SECTION 2. IC 36-9-23-25.5 IS ADDED TO THE INDIANA
10 CODE AS A NEW SECTION TO READ AS FOLLOWS
11 [EFFECTIVE JULY 1, 2003]: **Sec. 25.5. (a) This section applies to an
12 ordinance that charges real property located outside the
13 municipality's corporate boundaries surcharges or fees for sewer
14 service that are not charged to real property located within the
15 municipality's corporate boundaries.**

16 (b) **An ordinance described in subsection (a) adopted after
17 December 31, 2002, expires on the earlier of the following:**

- 18 (1) Any expiration date stated in the ordinance.
19 (2) Twenty (20) years after the ordinance is adopted.

20 (c) **An ordinance described in subsection (a) adopted before
21 January 1, 2003, expires on the earlier of the following:**

- 22 (1) Any expiration date stated in the ordinance.
23 (2) Ten (10) years after the ordinance is adopted.

24 (d) **A municipal legislative body may repeal an ordinance
25 described in subsection (a) before the expiration date provided in
26 subsection (b) or (c).**

27 (e) **After an ordinance described in subsection (a):**

- 28 (1) expires as provided in subsection (b) or (c); or
29 (2) is repealed as provided in subsection (d);

30 **the municipal legislative body may not adopt an ordinance that
31 charges real property located outside the municipality's corporate
32 boundaries surcharges or fees for sewer service that are not
33 charged to real property located within the municipality's
34 corporate boundaries.**

35 (f) **Notwithstanding subsection (e), a municipal legislative body
36 may adopt an ordinance described in subsection (a) to cover real
37 property located outside the municipality's corporate boundaries
38 to which sewer service is newly extended. An ordinance adopted
39 under this subsection expires as provided in subsection (b) and may
40 be repealed as provided in subsection (d).**

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