

PREVAILED	Roll Call No. _____
FAILED	Ayes _____
WITHDRAWN	Noes _____
RULED OUT OF ORDER	

HOUSE MOTION _____

MR. SPEAKER:

I move that Engrossed Senate Bill 209 be amended to read as follows:

- 1 Page 34, between lines 41 and 42, begin a new paragraph and insert:
2 "SECTION 38. IC 36-9-23-14 IS AMENDED TO READ AS
3 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 14. (a) A municipality
4 may, in the manner prescribed by IC 32-24, condemn:
5 (1) sewage works; and
6 (2) any land, easements, franchises, and other property it
7 considers necessary for the construction of sewage works or for
8 improvements to sewage works.
9 However, the municipality may pay for any property condemned or
10 purchased only from money provided under this chapter.
11 (b) In any proceedings to condemn, orders that are just to the
12 municipality and to the owners of the property to be condemned may
13 be made. An undertaking or other security securing the property
14 owners against any loss or damage resulting from the failure of the
15 municipality to accept and pay for the property may be required, but the
16 undertaking or security imposes liability upon the municipality only in
17 the amount that may be paid from money provided under this chapter.
18 (c) If the board wants to purchase sewage works, it may obtain and
19 exercise an option for the purchase of the works, or may enter into a
20 contract for the purchase in the manner and under the terms and
21 conditions that it considers proper.
22 (d) If the board wants to purchase or condemn sewage works already
23 constructed, it must, at or before the time of adoption of the ordinance
24 authorizing the acquisition, determine what repairs, replacements,

1 additions, and other actions are required to make the works effective
 2 for their purpose. An estimate of the cost of these actions shall be
 3 included in the estimate of cost made under section 11 of this chapter.
 4 These actions shall be taken upon the acquisition of the works, as a part
 5 of the cost of the acquisition.

6 **(e) An easement acquired under this section after June 30, 2009,**
 7 **must be limited to property the municipality considers necessary**
 8 **for the construction of sewage works or for improvements to**
 9 **sewage works.**

10 SECTION 39. IC 36-9-23-29 IS AMENDED TO READ AS
 11 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 29. (a) If, as part of the
 12 construction of sewage works under this chapter, a municipality
 13 constructs a sewer suitable for use as a local or lateral sewer by
 14 abutting or adjoining property, it may charge a fee for connections to
 15 the sewer. The fee must be based on the pro rata cost of constructing
 16 a local or lateral sewer sufficient to serve the property.

17 (b) The board may approve or disapprove applications for
 18 connections and may fix the amount of the connection fee.

19 (c) A person who applies for a connection shall agree to pay the
 20 connection fee. **The person and the board may enter into an**
 21 **agreement to amortize the connection fee over a period determined**
 22 **by the board.** If payment is not made as agreed, the fee constitutes a
 23 lien on the property for which the connection is made. Such a lien may
 24 be enforced in the manner prescribed by section 34 of this chapter.

25 (d) The municipal legislative body shall determine by ordinance
 26 whether the proceeds of connection fees collected under this section
 27 and other laws are to be used as:

- 28 (1) net revenues of the sewage works;
- 29 (2) payment toward the cost of construction of the works; or
- 30 (3) payment toward the cost of improving the works in the future.

31 SECTION 40. IC 36-9-23-31 IS AMENDED TO READ AS
 32 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 31. **(a)** If fees assessed
 33 against real property under this chapter or any statute repealed by
 34 IC 19-2-5-30 (repealed September 1, 1981) are not paid within the time
 35 fixed by the municipal legislative body, they are delinquent. A penalty
 36 of ten percent (10%) of the amount of the fees attaches to the
 37 delinquent fees. The amount of the fee, the penalty, and a reasonable
 38 attorney's fee may be recovered by the board in a civil action in the
 39 name of the municipality.

40 **(b) A fee or a part of a fee that:**

- 41 **(1) is amortized under an agreement under section 29(c) of**
 42 **this chapter; and**
 - 43 **(2) has not come due under the terms of the amortization**
 44 **agreement;**
- 45 **is not considered delinquent for purposes of subsection (a)."**

46 Renumber all SECTIONS consecutively.

(Reference is to ESB 209 as printed February 19, 2010.)

Representative Lehe