Adopted	Rejected

COMMITTEE REPORT

YES: 6
NO: 3

MR. SPEAKER:

Your Committee on ***Environmental Affairs****, to which was referred House Bill 1126, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill* ***be amended*** *as follows:*

Page 1, line 7, delete "has".
Page 1, line 7, strike "been taken out of" and insert "**is not under**".
Page 4, line 39, delete "until the commission:" and insert "**until:**
(1) the commission approves or disapproves the petition, or the petition is considered approved under subsection (e); and
(2) if applicable, the commission adjusts the rates and charges imposed by the ordinance on users whose property is located outside the corporate boundaries of the municipality.".
Page 4, delete lines 40 through 42.
Page 5, delete lines 1 through 2.
Page 5, line 27, after "return" insert "**or subject**".
Page 5, after line 30, begin a new paragraph and insert:
"SECTION 4. IC 36-9-23-26, AS AMENDED BY P.L.114-2008, SECTION 30, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

JULY 1, 2012]: Sec. 26. (a) After the introduction of the ordinance establishing fees under section 25 of this chapter, but before it is finally adopted, the municipal legislative body shall hold a public hearing at which users of the sewage works, owners of property served or to be served by the works, and other interested persons may be heard concerning the proposed fees. Notice of the hearing, setting forth the proposed schedule of fees, shall be:

(1) published in accordance with IC 5-3-1;

(2) mailed to owners of vacant or unimproved property if the ordinance includes a fee for sewer availability to vacant or unimproved property; and

(3) mailed to users of the sewage works **for service to property** located outside the municipality's corporate boundaries.

The notice may be mailed in any form so long as the notice of the hearing is conspicuous. The hearing may be adjourned from time to time. **Notice mailed under subdivision (3) must include the statement required by IC 8-1.5-3-8.1(c).**

(b) After the hearing, the municipal legislative body shall adopt the ordinance establishing the fees, either as originally introduced or as modified. A copy of the schedule of fees adopted shall be kept on file and available for public inspection in the offices of the board and the municipal clerk. **The ordinance must state in plain language the percentage difference between the rates and charges imposed on:**

(1) users of the works for service to property located outside the corporate boundaries of the municipality; and

(2) users of the works for service to property located within the corporate boundaries of the municipality;

as required by IC 8-1.5-3-8.1(d).

(c) Subject to section 37 of this chapter, the fees established for any class of users or property shall be extended to cover any additional property that is subsequently served and falls within the same class, without any hearing or notice.

(d) The municipal legislative body may change or readjust the fees in the same manner by which they were established.

(e) Fees collected under this chapter are considered revenues of the sewage works.

SECTION 5. IC 36-9-23-26.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 26.1. (a) Owners of

property connected or to be connected to and served by the sewage works authorized under this chapter may file a written petition objecting to the rates and charges of the sewage works so long as:

(1) the petition contains the names and addresses of the petitioners;

(2) the petitioners attended the public hearing provided under section 26 of this chapter;

(3) the written petition is filed with the municipal legislative body within five (5) days after the ordinance establishing the rates and charges is adopted under section 26 of this chapter; ~~and~~

(4) the written petition states specifically the ground or grounds of objection; **and**

(5) the petitioners have not filed a petition with the commission under IC 8-1.5-3-8.3 appealing the same rates and charges of the utility.

(b) Unless the objecting petition is abandoned, the municipal clerk shall file in the office of the clerk of the circuit or superior court of the county a copy of the rate ordinance or ordinances together with the petition. The court shall then set the matter for hearing at the earliest date possible, which must be within twenty (20) days after the filing of the petition with the court. The court shall send notice of the hearing by certified mail to the municipality and to the first signer of the petition at the address shown on the petition. All interested parties shall appear in the court without further notice, and the municipality may not conduct any further proceedings concerning the rates and charges until the matters presented by the petition have been heard and determined by the court.

(c) At the discretion and upon direction of the court, the petitioners shall file with the petition a bond in the sum and with the security fixed by the court. The bond must be conditioned on the petitioners' payment of all or part of the costs of the hearing and any damages awarded to the municipality if the petition is denied, as ordered by the court.

(d) Upon the date fixed in the notice, the court shall, without a jury, hear the evidence produced. The court may confirm the decision of the municipal legislative body or sustain the objecting petition. The order of the court is final and conclusive upon all parties to the proceeding and parties who might have appeared at the hearing, subject only to the right of direct appeal. All questions that were presented or might have

1 been presented are considered to have been adjudicated by the order of
2 the court, and no collateral attack upon the decision of the municipal
3 legislative body or order of the court is permitted.
4 (e) If the court sustains the petition, or if it is sustained on appeal,
5 the municipal legislative body shall set the rates and charges in
6 accordance with the decision of the court.".

(Reference is to HB 1126 as introduced.)

and when so amended that said bill do pass.

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Representative Wolkins