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# HOUSE BILL No. 1262

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 8-1.5-5-33; IC 14-27-8-1; IC 36-9-27.

**Synopsis:** Municipal drainage and utilities. Provides that a municipality may acquire exclusive authority over storm water collection and disposal systems within its jurisdictional boundaries through the adoption of an ordinance. Requires a municipality to provide advance notice of the meeting at which the final vote on the ordinance will be taken to: (1) owners of lots and parcels within the municipality who are subject to storm water user fees; and (2) certain boards. Provides that a municipality adopting an ordinance is liable for outstanding bonds issued and indebtedness incurred on the storm water collection and disposal systems located within its jurisdictional boundaries over which it is acquiring exclusive authority. Requires a municipality acquiring exclusive authority to pay any amounts related to outstanding unpaid bonds and obligations until the indebtedness is fully paid. Requires a political subdivision ceding authority over storm water collection and disposal systems to transfer to the municipality acquiring the authority any unencumbered balances accrued before the effective date of the ordinance. Provides a municipality acquiring authority over the systems with the same duties, right of entry, and right-of-way powers upon private land that are given to county surveyors. Excludes a municipality establishing exclusive authority over storm water collection and disposal systems from certain drainage laws. Requires the drainage board of a county to relinquish jurisdiction over ditches and drains located in a municipality that is acquiring exclusive authority over storm water collection and disposal systems within the municipality.

**Effective:** July 1, 2012.

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January 9, 2012, read first time and referred to Committee on Environmental Affairs.

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Second Regular Session 117th General Assembly (2012)

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 *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2011 Regular Session of the General Assembly.

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# HOUSE BILL No. 1262



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 8-1.5-5-33 IS ADDED TO THE INDIANA CODE  
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
3 1, 2012]: **Sec. 33. (a) This section applies to all municipalities except  
4 a consolidated city.**  
5 **(b) The legislative body of a municipality that has adopted the  
6 provisions of this chapter may adopt an ordinance to assume  
7 exclusive authority over storm water collection and disposal  
8 systems within the boundaries of the municipality. The exclusive  
9 authority includes:**  
10 **(1) fee determination and collection;**  
11 **(2) construction and maintenance;**  
12 **(3) planning; and**  
13 **(4) regulations.**  
14 **(c) Before the meeting scheduled for a final vote on the adoption  
15 of an ordinance under subsection (b), the legislative body of the  
16 municipality must provide notice of the time, place, and purpose of  
17 the meeting to the following:**



1 (1) All owners of lots and parcels within the municipality that  
 2 are subject to storm water fees imposed currently by a  
 3 political subdivision.

4 (2) A board created under section 4 or 5 of this chapter or  
 5 IC 36-9-27-4, and any other board that exercises jurisdiction  
 6 over the storm water collection and disposal systems within  
 7 the boundaries of the municipality seeking to establish  
 8 exclusive authority.

9 (d) Unless otherwise agreed in writing, a municipality that has  
 10 adopted an ordinance under subsection (b) is liable for and shall  
 11 pay any outstanding unpaid bonds and other obligations for storm  
 12 water collection and disposal systems that are located within the  
 13 boundaries of the municipality as of the effective date of the  
 14 ordinance.

15 (e) Unless otherwise agreed in writing, as of the effective date of  
 16 an ordinance adopted under subsection (b), any obligations related  
 17 to indebtedness and services for storm water collection and  
 18 disposal systems located within the boundaries of the municipality  
 19 shall be satisfied as follows:

20 (1) A municipality that has adopted an ordinance under  
 21 subsection (b) shall pay to the executive of the political  
 22 subdivision ceding authority over storm water collection and  
 23 disposal systems or to the political subdivision's designee any  
 24 amounts related to outstanding unpaid bonds and obligations,  
 25 until the indebtedness is fully paid. The payments shall be  
 26 made as the principal or interest on the bonds and other  
 27 obligations become due.

28 (2) A political subdivision ceding authority over storm water  
 29 collection and disposal systems shall transfer to the  
 30 municipality any unencumbered balances accrued before the  
 31 effective date of the ordinance, including:

- 32 (A) reserves;  
 33 (B) fees collected; and  
 34 (C) accounts receivable.

35 (f) A municipality that has adopted an ordinance under  
 36 subsection (b) shall have, with respect to storm water collection  
 37 and disposal systems located within its boundaries, the same right  
 38 of entry, right-of-way powers, and duties upon private land as are  
 39 conferred upon the county surveyor and drainage board of a  
 40 county under IC 36-9-27-33.

41 SECTION 2. IC 14-27-8-1 IS AMENDED TO READ AS  
 42 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 1. (a) This chapter

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1 applies if a public ditch or drain is established and constructed under  
2 the order of any of the following:

- 3 (1) A circuit or superior court.
- 4 (2) A county executive.
- 5 **(3) A municipality that assumes exclusive authority over**
- 6 **storm water collections and disposal systems within its**
- 7 **boundaries under IC 8-1.5-5-33.**

8 SECTION 3. IC 36-9-27-1 IS AMENDED TO READ AS  
9 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 1. **(a)** This chapter  
10 applies to all counties. However, sections 6, 7, 9, 10, 30, 31, and 32 of  
11 this chapter do not apply to a county having a consolidated city.

12 **(b) This chapter does not apply to a municipality that has**  
13 **assumed exclusive authority over drains and ditches within its**  
14 **boundaries under IC 8-1.5-5-33.**

15 SECTION 4. IC 36-9-27-20 IS AMENDED TO READ AS  
16 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 20. **(a)** A board may,  
17 by resolution, relinquish its jurisdiction over ditches and drains located  
18 in a municipality or a sanitary district if that jurisdiction is accepted by  
19 the municipality or sanitary district.

20 **(b) A board shall relinquish its jurisdiction and any other**  
21 **authority over ditches and drains located in a municipality as of**  
22 **the effective date of an ordinance adopted by the legislative body**  
23 **of the municipality under IC 8-1.5-5-33.**

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