

COMMITTEE REPORT

MADAM PRESIDENT:

The Senate Committee on Utilities and Technology, to which was referred House Bill No. 1126, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

- 1 Page 1, between the enacting clause and line 1, begin a new
2 paragraph and insert:
3 "SECTION 1. IC 8-1.5-3-8, AS AMENDED BY P.L.172-2009,
4 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
5 JULY 1, 2012]: Sec. 8. (a) A municipality owning a utility under this
6 chapter shall furnish reasonably adequate services and facilities.
7 (b) The rates and charges made by a municipality for a service
8 rendered or to be rendered, either directly or in connection therewith,
9 must be nondiscriminatory, reasonable, and just.
10 (c) "Reasonable and just rates and charges for services" means rates
11 and charges that produce sufficient revenue to:
12 (1) pay all the legal and other necessary expenses incident to the
13 operation of the utility, including:
14 (A) maintenance costs;
15 (B) operating charges;
16 (C) upkeep;
17 (D) repairs;
18 (E) depreciation;
19 (F) interest charges on bonds or other obligations, including
20 leases; and
21 (G) costs associated with the acquisition of utility property

- 1 under IC 8-1.5-2;
- 2 (2) provide a sinking fund for the liquidation of bonds or other
- 3 obligations, including leases;
- 4 (3) provide a debt service reserve for bonds or other obligations,
- 5 including leases, in an amount established by the municipality,
- 6 not to exceed the maximum annual debt service on the bonds or
- 7 obligations or the maximum annual lease rentals;
- 8 (4) provide adequate money for working capital;
- 9 (5) provide adequate money for making extensions and
- 10 replacements to the extent not provided for through depreciation
- 11 in subdivision (1); and
- 12 (6) provide money for the payment of any taxes that may be
- 13 assessed against the utility.
- 14 (d) It is the intent of this section that the rates and charges produce
- 15 an income sufficient to maintain the utility property in a sound physical
- 16 and financial condition to render adequate and efficient service. Rates
- 17 and charges too low to meet these requirements are unlawful.
- 18 (e) The board may recommend to the municipal legislative body
- 19 rates and charges sufficient to include a reasonable return on the utility
- 20 plant of the municipality.
- 21 (f) Rates and charges established under this section are subject to
- 22 the approval of:
- 23 (1) the municipal legislative body by ordinance; and
- 24 (2) the commission, in accordance with the procedures set forth
- 25 in IC 8-1-2.
- 26 The commission shall approve rates and charges that are sufficient, in
- 27 addition to the cash revenue requirements set forth in subsection (c), to
- 28 include a reasonable return on the utility plant of the municipality if the
- 29 legislative body so elects.
- 30 (g) Except for a municipally owned utility taxed under IC 6-1.1-8-3,
- 31 the commission shall approve rates and charges sufficient to
- 32 compensate the municipality for taxes that would be due the
- 33 municipality on the utility property were it privately owned. These rates
- 34 and charges in lieu of taxes may be transferred to the municipal general
- 35 fund, if the legislative body so elects.
- 36 (h) The commission shall grant a request that an increase in rates
- 37 and charges not be effective until after the occurrence of a future event
- 38 if the legislative body so requests.
- 39 (i) A municipality that acquires and operates a utility under
- 40 IC 8-1.5-2 by exercising the power of eminent domain may not impose
- 41 a special rate, charge, surcharge, or other fee, other than rates and
- 42 charges approved under this section or otherwise authorized by law, on

1 the customers of the utility in order to pay for the costs associated with
 2 acquiring the utility through the exercise of the power of eminent
 3 domain.

4 **(j) As used in this subsection, "works" has the meaning set forth**
 5 **in section 8.1(b) of this chapter. For purposes of determining**
 6 **whether the percentage difference between the rates and charges**
 7 **imposed on:**

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

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

12 **are nondiscriminatory, reasonable, and just, the commission may**
 13 **consider the benefit and expense to all users of the works of**
 14 **extending the works outside the corporate boundaries of the**
 15 **municipality, including the rates and charges that users outside the**
 16 **corporate boundaries of the municipality would incur to establish**
 17 **a separate works."**

18 Page 2, line 16, delete "the users described in subdivision".

19 Page 2, line 17, delete "(3) do not file".

20 Page 2, line 18, delete "ordinance." and insert "**ordinance has not**
 21 **been filed.**".

22 Page 3, line 18, delete "the petitioners have not filed".

23 Page 3, line 18, after "petition" insert "**has not been filed**".

24 Page 4, line 21, delete "ten" and insert "**fifteen percent (15%)**".

25 Page 4, line 22, delete "percent (10%)".

26 Page 4, line 35, after "adopted." insert "**A petition may not be filed**
 27 **under this section if a petition has already been filed under section**
 28 **8.2 of this chapter appealing the same rates and charges.**".

29 Page 5, line 10, delete "considered approved." and insert
 30 "**dismissed, and the ordinance adopted under section 8.1 of this**
 31 **chapter takes effect.**".

32 Page 5, line 14, after "that" insert "**the difference between**".

33 Page 5, line 16, delete "are not reasonable" and insert "**and the**
 34 **rates and charges imposed on users for service to property located**
 35 **within the corporate boundaries of the municipality is not**
 36 **nondiscriminatory, reasonable,**".

37 Page 5, line 17, delete "just," and insert "**just under section 8 of**
 38 **this chapter,**".

39 Page 5, between lines 30 and 31, begin a new paragraph and insert:

- 1 **"(i) The commission may not impose a fee with respect to**
- 2 **proceedings under this section."**
- 3 Renumber all SECTIONS consecutively.
 (Reference is to HB 1126 as printed January 25, 2012.)

and when so amended that said bill do pass .

Committee Vote: Yeas 8, Nays 0.

Senator Merritt, Chairperson