

# SENATE MOTION

**MADAM PRESIDENT:**

**I move** that Engrossed House Bill 1307 be amended to read as follows:

- 1           Replace the effective date in SECTION 7 with "[EFFECTIVE
- 2           UPON PASSAGE]".
- 3           Page 4, between lines 16 and 17, begin a new paragraph and insert:
- 4           "SECTION 7. IC 8-1.5-3-8, AS AMENDED BY P.L.172-2009,
- 5           SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 6           UPON PASSAGE]: Sec. 8. (a) A municipality owning a utility under
- 7           this chapter shall furnish reasonably adequate services and facilities.
- 8           (b) The rates and charges made by a municipality for a service
- 9           rendered or to be rendered, either directly or in connection therewith,
- 10          must be nondiscriminatory, reasonable, and just.
- 11          (c) "Reasonable and just rates and charges for services" means rates
- 12          and charges that produce sufficient revenue to:
- 13           (1) pay all the legal and other necessary expenses incident to the
- 14           operation of the utility, including:
- 15           (A) maintenance costs;
- 16           (B) operating charges;
- 17           (C) upkeep;
- 18           (D) repairs;
- 19           (E) depreciation;
- 20           (F) interest charges on bonds or other obligations, including
- 21           leases; and
- 22           (G) costs associated with the acquisition of utility property
- 23           under IC 8-1.5-2;
- 24          (2) provide a sinking fund for the liquidation of bonds or other
- 25          obligations, including leases;
- 26          (3) provide a debt service reserve for bonds or other obligations,
- 27          including leases, in an amount established by the municipality,
- 28          not to exceed the maximum annual debt service on the bonds or
- 29          obligations or the maximum annual lease rentals;
- 30          (4) provide adequate money for working capital;

- 1 (5) provide adequate money for making extensions and  
 2 replacements to the extent not provided for through depreciation  
 3 in subdivision (1); and  
 4 (6) provide money for the payment of any taxes that may be  
 5 assessed against the utility.
- 6 (d) It is the intent of this section that the rates and charges produce  
 7 an income sufficient to maintain the utility property in a sound physical  
 8 and financial condition to render adequate and efficient service. Rates  
 9 and charges too low to meet these requirements are unlawful.
- 10 (e) The board may recommend to the municipal legislative body  
 11 rates and charges sufficient to include a reasonable return on the utility  
 12 plant of the municipality.
- 13 (f) Rates and charges established under this section are subject to  
 14 the approval of:  
 15 (1) the municipal legislative body by ordinance; and  
 16 (2) the commission, in accordance with the procedures set forth  
 17 in IC 8-1-2.
- 18 The commission shall approve rates and charges that are sufficient, in  
 19 addition to the cash revenue requirements set forth in subsection (c), to  
 20 include a reasonable return on the utility plant of the municipality if the  
 21 legislative body so elects.
- 22 (g) Except for a municipally owned utility taxed under IC 6-1.1-8-3,  
 23 **and subject to section 8.3(q) of this chapter**, the commission shall  
 24 approve rates and charges sufficient to compensate the municipality for  
 25 taxes that would be due the municipality on the utility property were it  
 26 privately owned. These rates and charges in lieu of taxes may be  
 27 transferred to the municipal general fund, if the legislative body so  
 28 elects.
- 29 (h) The commission shall grant a request that an increase in rates  
 30 and charges not be effective until after the occurrence of a future event  
 31 if the legislative body so requests.
- 32 (i) A municipality that acquires and operates a utility under  
 33 IC 8-1.5-2 by exercising the power of eminent domain may not impose  
 34 a special rate, charge, surcharge, or other fee, other than rates and  
 35 charges approved under this section or otherwise authorized by law, on  
 36 the customers of the utility in order to pay for the costs associated with  
 37 acquiring the utility through the exercise of the power of eminent  
 38 domain."
- 39 Page 6, line 16, strike "fourteen (14)" and insert "**forty-five (45)**".  
 40 Page 9, between lines 3 and 4, begin a new paragraph and insert:  
 41 "**(p) Subject to subsection (h)(2), for purposes of this section,**  
 42 **"rates and charges" are those charges made by a municipality for**  
 43 **a service rendered or to be rendered by the municipality's utility,**  
 44 **either directly or in connection with that service, as described in**  
 45 **section 8(b) of this chapter, regardless of whether the rates and**  
 46 **charges:**

- 1           **(1) are:**
- 2               **(A) imposed through a compact fee or any similar**
- 3               **arrangement; or**
- 4               **(B) referred to as a compact fee or by any other term;**
- 5               **by the municipality or the utility; or**
- 6               **(2) are based, in whole or in part, on the assessed value of the**
- 7               **property served by the utility.**
- 8           **(q) A municipality may not require a user of the works to enter**
- 9           **into an agreement that:**
- 10               **(1) is for service to the user's property located outside the**
- 11               **corporate boundaries of the municipality; and**
- 12               **(2) implements a payment in lieu of taxes as a condition for**
- 13               **the continuation of service to the property, regardless of**
- 14               **whether the payment in lieu of taxes is based on the assessed**
- 15               **value of the property."**
- 16           Renumber all SECTIONS consecutively.  
              (Reference is to EHB 1307 as printed April 2, 2013.)

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Senator YODER