

IC 13-26-11

Chapter 11. Rates and Charges

IC 13-26-11-1

Waterworks

Sec. 1. The rates and charges for a waterworks may be determined based on the following:

- (1) A flat charge for each connection.
- (2) The amount of water consumed.
- (3) The size of the meter or connection.
- (4) Whether the property served has been or will be required to pay separately for the cost of any of the facilities of the works.
- (5) A combination of these or other factors that the board determines is necessary to establish just and equitable rates and charges.

As added by P.L.1-1996, SEC.16.

IC 13-26-11-2

Sewage works; campgrounds

Sec. 2. (a) Except as provided in subsection (b), the rates or charges for a sewage works may be determined based on the following:

- (1) A flat charge for each connection.
- (2) The amount of water used on the premises.
- (3) The number and size of water outlets on the premises.
- (4) The amount, strength, or character of sewage discharged into the sewers.
- (5) The size of sewer connections.
- (6) Whether the property served has been or will be required to pay separately for the cost of any of the facilities of the works.
- (7) A combination of these or other factors that the board determines is necessary to establish nondiscriminatory, just, and equitable rates or charges.

(b) If a campground is billed for sewage service at a flat rate under subsection (a), the campground may instead elect to be billed for the sewage service under this subsection by installing, at the campground's expense, a meter to measure the actual amount of sewage discharged by the campground into the sewers. If a campground elects to be billed by use of a meter:

- (1) the rate charged by a board for the metered sewage service may not exceed the rate charged to residential customers for equivalent usage; and
- (2) the amount charged by a board for the campground's monthly sewage service for the period beginning September 1 and ending May 31 must be equal to the greater of:
 - (A) the actual amount that would be charged for the sewage discharged during the month by the campground as measured by the meter; or
 - (B) the lowest monthly charge paid by the campground for sewage service during the previous period beginning June 1

and ending August 31.

(c) If a campground does not install a meter under subsection (b) and is billed for sewage service at a flat rate under subsection (a), for a calendar year beginning after December 31, 2004, each campsite at the campground may not equal more than one-third (1/3) of one (1) resident equivalent unit. The basic monthly charge for the campground's sewage service must be equal to the number of the campground's resident equivalent units multiplied by the rate charged by the board for a resident unit.

(d) The board may impose additional charges on a campground under subsections (b) and (c) if the board incurs additional costs that are caused by any unique factors that apply to providing sewage service for the campground, including, but not limited to:

(1) the installation of:

(A) oversized pipe; or

(B) any other unique equipment;

necessary to provide sewage service for the campground; and

(2) concentrations of biochemical oxygen demand (BOD) that exceed federal pollutant standards.

As added by P.L.1-1996, SEC.16. Amended by P.L.239-2003, SEC.1; P.L.189-2005, SEC.5.

IC 13-26-11-2.1

Campground rates; appeal to utility regulatory commission

Sec. 2.1. (a) As used in this section, "commission" refers to the Indiana utility regulatory commission created by IC 8-1-1-2.

(b) This section applies to an owner or operator of a campground described in section 2(b) or 2(c) of this chapter who disputes:

(1) that the campground is being billed at rates charged to residential customers for equivalent usage as required by section 2(b)(1) of this chapter;

(2) the number of resident equivalent units determined for the campground under section 2(c) of this chapter; or

(3) that any additional charges imposed on the campground under section 2(d) of this chapter are reasonable or nondiscriminatory.

(c) If an owner or operator:

(1) makes a good faith attempt to resolve a disputed matter described in subsection (b)(1) through (b)(3) through:

(A) any grievance or complaint procedure prescribed by the board; or

(B) other negotiations with the board; and

(2) is dissatisfied with the board's proposed disposition of the matter;

the owner or operator may file with the commission a written request for review of the disputed matter and the board's proposed disposition of the matter to be conducted by the commission's appeals division established under IC 8-1-2-34.5(b). The owner or operator must file a request under this section with the commission and the board not later than seven (7) days after receiving notice of

the board's proposed disposition of the matter.

(d) The commission's appeals division shall provide an informal review of the disputed matter. The review must include a prompt and thorough investigation of the dispute. Upon request by either party, or on the division's own motion, the division shall require the parties to attend a conference on the matter at a date, time, and place determined by the division.

(e) In any case in which the basic monthly charge for a campground's sewage service is in dispute, the owner or operator shall pay, on any disputed bill issued while a review under this section is pending, the basic monthly charge billed during the year immediately preceding the year in which the first disputed bill is issued. If the basic monthly charge paid while the review is pending exceeds any monthly charge determined by the commission in a decision issued under subsection (f), the board shall refund or credit the excess amount paid to the owner or operator. If the basic monthly charge paid while the review is pending is less than any monthly charge determined by the appeals division or commission in a decision issued under subsection (f), the owner or operator shall pay the board the difference owed.

(f) After conducting the review required under subsection (d), the appeals division shall issue a written decision resolving the disputed matter. The division shall send a copy of the decision to:

- (1) the owner or operator of the campground; and
- (2) the board;

by United States mail. Not later than seven (7) days after receiving the written decision of the appeals division, either party may make a written request for the dispute to be formally docketed as a proceeding before the commission. Subject to the right of either party to an appeal under IC 8-1-3, the decision of the commission is final.

(g) The commission shall maintain a record of all requests for a review made under this section. The record must include:

- (1) a copy of the appeals division's and commission's decision under subsection (f) for each dispute filed; and
- (2) any other documents filed with the appeals division or commission under this section.

The record must be made available for public inspection and copying in the office of the commission during regular business hours under IC 5-14-3.

(h) The right of a campground owner or operator to request a review under this section is in addition to the right of the campground owner or operator to file a petition under section 15 of this chapter as a freeholder of the district.

(i) The commission may adopt rules under IC 4-22-2 to implement this section.

As added by P.L.189-2005, SEC.6.

IC 13-26-11-3

Solid waste disposal

Sec. 3. The rates or charges for solid waste disposal and recovery

systems may be determined based on the following:

- (1) A flat charge for each residence or building in use in the district.
- (2) On the weight of the refuse received.
- (3) On the hazardous character of the waste received.
- (4) On a combination of the weight and hazardous character of the waste received.

As added by P.L.1-1996, SEC.16.

IC 13-26-11-4

Services of water, sewer, or solid waste disposal

Sec. 4. The rates and charges for services of a water, sewer, or solid waste disposal or recovery system do not have to be uniform throughout the district or for all users. The board may exercise reasonable discretion in:

- (1) adopting different schedules of rates and charges; or
- (2) making classifications in schedules of rates and charges:
 - (A) based upon variations in the costs of furnishing the services, including capital expenditures required, to various classes of users or to various locations in the district; or
 - (B) where there are variations in the number of users in various locations in the district.

As added by P.L.1-1996, SEC.16.

IC 13-26-11-5

Billing and collection

Sec. 5. A district may bill and collect rates and charges for the services to be provided after the contract for construction of a sewage works has been let and actual work commenced in an amount sufficient to meet the interest on the revenue bonds and other expenses payable before the completion of the works.

As added by P.L.1-1996, SEC.16.

IC 13-26-11-6

Sewage works beneficial to lots, land, or buildings

Sec. 6. Unless the board finds and directs otherwise, the sewage works are considered to benefit every:

- (1) lot;
- (2) parcel of land; or
- (3) building;

connected or to be connected under the terms of an ordinance requiring connections with the sewer system of the district as a result of construction work under the contract. The rates or charges shall be billed and collected accordingly.

As added by P.L.1-1996, SEC.16.

IC 13-26-11-7

Connection charges; liens

Sec. 7. (a) If a district constructs sewers or water mains as a part of the construction of the works that are suitable for use as a local or

lateral sewer or main by abutting or adjoining property, the district may charge for the connection on the basis of the pro rata cost of construction of a local or lateral sewer or water main sufficient to serve the property.

(b) Each property owner must agree to pay for the connection in making an application for service. If payment is not made as agreed, the payment constitutes a lien on the property for which the connection is made.

(c) The proceeds of the connection charges may be handled as:

- (1) net revenues of the works; or
- (2) payments toward the cost of construction or future improvements.

As added by P.L.1-1996, SEC.16.

IC 13-26-11-8

Rates and charges

Sec. 8. (a) The board shall, by ordinance, establish just and equitable rates or charges for the use of and the service provided by a works. The rates or charges are payable by the owner of each lot, parcel of land, or building that:

- (1) is connected with and uses a works; or
- (2) in any way uses or is served by a works.

(b) Subject to section 15 of this chapter, the board may periodically change and readjust the rates or charges as provided in this article.

As added by P.L.1-1996, SEC.16. Amended by P.L.221-2007, SEC.19.

IC 13-26-11-9

Equitable rates; determination

Sec. 9. (a) Just and equitable rates and charges are those that produce sufficient revenue to:

- (1) pay all expenses incident to the operation of the works, including maintenance cost, operating charges, upkeep, repairs, and interest charges on bonds or other obligations;
- (2) provide the sinking fund for the liquidation of bonds or other evidence of indebtedness and reserves against default in the payment of interest and principal of bonds; and
- (3) provide adequate money to be used as working capital, as well as money for making improvements, additions, extensions, and replacements.

(b) Rates and charges too low to meet the financial requirements described in subsection (a) are unlawful. The initial rates and charges established after notice and hearing under this article are prima facie just and equitable.

As added by P.L.1-1996, SEC.16.

IC 13-26-11-10

Revenue of works

Sec. 10. Revenue collected under sections 8 through 14 of this

chapter is revenue of the works.
As added by P.L.1-1996, SEC.16.

IC 13-26-11-11

Public hearing

Sec. 11. The initial rates or charges may be established only after a public hearing at which all:

- (1) the users of the works and owners of property served or to be served; and
- (2) others interested;

have an opportunity to be heard concerning the proposed rates or charges.

As added by P.L.1-1996, SEC.16.

IC 13-26-11-12

Notice

Sec. 12. After introduction of the ordinance initially fixing rates or charges but before the ordinance is finally adopted, notice of the hearing setting forth the proposed schedule of the rates or charges must be given by publication one (1) time each week for two (2) weeks in a newspaper of general circulation in each of the counties with territory in the district. The last publication must be at least seven (7) days before the date fixed in the notice for the hearing. The hearing may be adjourned as necessary.

As added by P.L.1-1996, SEC.16.

IC 13-26-11-13

Effective date of ordinance establishing initial rates or charges; schedule of rates open to public; notice of new rates and charges

Sec. 13. (a) The ordinance establishing the initial rates or charges, either as:

- (1) originally introduced; or
- (2) modified and amended;

shall be passed and put into effect after the hearing.

(b) A copy of the schedule of the rates and charges established must be:

- (1) kept on file in the office of the district; and
- (2) open to public inspection.

(c) Whenever the board acts under section 8(b) of this chapter, to change or readjust the rates and charges, the board shall mail, either separately or along with a periodic billing statement, a notice of the new rates and charges to each user affected by the change or readjustment. In the case of a sewage district, if the change or readjustment increases the rates and charges by the amount specified in section 15(c) of this chapter, the notice required by this subsection:

- (1) must include a statement of a freeholder's rights under section 15 of this chapter; and
- (2) shall be mailed within the time specified in section 15(c) of this chapter.

As added by P.L.1-1996, SEC.16. Amended by P.L.123-2011, SEC.4.

IC 13-26-11-14

Extension of rates and charges to cover additional premises; changes or readjustments

Sec. 14. (a) The rates or charges established for a class of users of property served shall be extended to cover any additional premises served after the rates or charges are established that are in the same class, without the necessity of hearing or notice.

(b) Subject to section 15 of this chapter, a change or readjustment of the rates or charges may be made in the same manner as the rates or charges were originally established.

As added by P.L.1-1996, SEC.16. Amended by P.L.221-2007, SEC.20.

IC 13-26-11-15

Regional sewage district authority; membership; notice of rate increase; objecting petition; public hearing; order and appeal

Sec. 15. (a) A district authority is established in each regional sewage district established under this article. A district authority:

- (1) must consist of an odd number of members;
- (2) must consist of at least three (3) members; and
- (3) may not include as a member any person who serves on the board of trustees of the district.

(b) The district authority of a regional sewage district consists of the following members:

- (1) In the case of a regional sewage district located in one (1) county, the following members:

(A) If no members of the county executive are trustees of the regional sewage district, the county executive of the county.

(B) If:

- (i) one (1) or more members of the county executive are trustees of the regional sewage district; and
- (ii) no members of the county fiscal body are trustees of the regional sewage district;

the members of the county fiscal body.

(C) If the regional sewage district's board of trustees consists of one (1) or more members of the county executive and one (1) or more members of the county fiscal body, three (3) members appointed as follows:

- (i) Two (2) members appointed by the county executive. If not all of the members of the county executive are trustees of the district, the county executive may appoint either or both of the two (2) members required by this item from among the county executive's own membership, subject to subsection (a)(3).

- (ii) One (1) member appointed by the county fiscal body. If not all of the members of the county fiscal body are trustees of the district, the county fiscal body may appoint the member required by this item from among the county

fiscal body's own membership, subject to subsection (a)(3).

(2) In the case of a regional sewage district located in more than one (1) county, the following members:

(A) If:

(i) an odd number of counties are part of the regional sewage district; and

(ii) each county in the district has at least one (1) county executive member who is not a trustee of the regional sewage district;

one (1) county executive member, appointed by that member's county executive, from each county in which the district is located, subject to subsection (a)(3).

(B) If an even number of counties are part of the regional sewage district, the following members:

(i) Two (2) county executive members, appointed by those members' county executive, from the county that has the largest number of customers served by the district's sewer system. However, if the county that has the largest number of customers served by the district's sewer system does not have at least two (2) members of its executive who are not also trustees of the district, the county executive of that county may appoint one (1) or more of the members required by this item from outside the county executive's own membership in order to comply with subsection (a)(3).

(ii) One (1) county executive member, appointed by that member's county executive, from each county, other than the county described in item (i), in which the district is located. However, if a county described in this item does not have at least one (1) member of its executive who is not also a trustee of the district, the county executive of that county may appoint the member required by this item from outside the county executive's own membership in order to comply with subsection (a)(3).

(C) If an odd number of counties are part of the regional sewage district and an odd number of those counties in the district do not have at least one (1) county executive member who is not also a trustee of the district, the following members:

(i) One (1) county executive member, appointed by that member's county executive, from each county that has at least one (1) county executive member who is not also a trustee of the district, subject to subsection (a)(3).

(ii) One (1) member appointed by the county executive of each county that does not have at least one (1) county executive member who is not also a trustee of the district. A member appointed under this item must be appointed from outside the appointing county executive's own membership, subject to subsection (a)(3).

(c) If a district adopts an ordinance increasing sewer rates and charges at a rate that is greater than five percent (5%) per year, as calculated from the rates and charges in effect from the date of the district's last rate increase, the district shall mail, either separately or along with a periodic billing statement, a notice of the new rates and charges to each user of the sewer system who is affected by the increase. The notice:

(1) shall be mailed not later than seven (7) days after the district adopts the ordinance increasing the rates and charges; and

(2) must include a statement of a freeholder's rights under this section.

(d) If subsection (c) applies, fifty (50) freeholders of the district or ten percent (10%) of the district's freeholders, whichever is fewer, may file a written petition objecting to the rates and charges of the district. A petition filed under this subsection must:

(1) contain the name and address of each petitioner;

(2) be filed with a member of the district authority, in the county where at least one (1) petitioner resides, not later than thirty (30) days after the district adopts the ordinance establishing the rates and charges; and

(3) set forth the grounds for the freeholders' objection.

If a petition meeting the requirements of this subsection is filed, the district authority shall investigate and conduct a public hearing on the petition. If more than one (1) petition concerning a particular increase in rates and charges is filed, the district authority shall consider the objections set forth in all the petitions at the same public hearing.

(e) The district authority shall set the matter for public hearing not less than ten (10) business days but not later than twenty (20) business days after the petition has been filed. The district authority shall send notice of the hearing by certified mail to the district and the first listed petitioner and publish the notice of the hearing in a newspaper of general circulation in each county in the district.

(f) Upon the date fixed in the notice, the district authority shall hear the evidence produced and determine the following:

(1) Whether the board of trustees of the district, in adopting the ordinance increasing sewer rates and charges, followed the procedure required by this chapter.

(2) Whether the increased sewer rates and charges established by the board by ordinance are just and equitable rates and charges, according to the standards set forth in section 9 of this chapter.

(g) After the district authority hears the evidence produced and makes the determinations set forth in subsection (f), the district authority, by a majority vote, shall:

(1) sustain the ordinance establishing the rates and charges;

(2) sustain the petition; or

(3) make any other ruling appropriate in the matter, subject to the standards set forth in section 9 of this chapter.

(h) The order of the district authority may be appealed by the

district or a petitioner to the circuit court of the county in which the district is located. The court shall try the appeal without a jury and shall determine one (1) or both of the following:

(1) Whether the board of trustees of the district, in adopting the ordinance increasing sewer rates and charges, followed the procedure required by this chapter.

(2) Whether the increased sewer rates and charges established by the board by ordinance are just and equitable rates and charges, according to the standards set forth in section 9 of this chapter.

Either party may appeal the circuit court's decision in the same manner that other civil cases may be appealed.

As added by P.L.193-2001, SEC.4. Amended by P.L.1-2002, SEC.68; P.L.221-2007, SEC.21; P.L.71-2011, SEC.2.