



Reprinted
January 30, 2014

HOUSE BILL No. 1187

DIGEST OF HB 1187 (Updated January 29, 2014 5:41 pm - DI 101)

Citations Affected: IC 36-9.

Synopsis: Municipal sewage works. Provides that an ordinance that reserves to a municipality the exclusive right to exercise certain powers related to sewage service in an area within four miles outside the municipality's corporate boundaries: (1) may not be enforced until May 1, 2017, if the ordinance is adopted before January 1, 2014; and (2) is void if the ordinance is adopted after December 31, 2013. For purposes of the statute governing sanitation districts in certain municipalities, provides that in establishing sewer fees, a district must provide for: (1) the apportionment or proration of fees assessed with respect to a multipurpose building in a manner that recognizes the different purposes to which the multipurpose building is put; or (2) the application of different fee schedules or classifications of fees to the individual units or parts of a multipurpose building in a manner that recognizes the primary purpose of the individual units or parts. Provides that any schedule of fees that: (1) is adopted by a district before April 1, 2014; and (2) does not comply with the requirements with respect to multipurpose buildings; shall, not later than September 30, 2014, be changed or amended to comply with the requirements.

Effective: Upon passage.

**Bacon, Wolkins, Sullivan,
Niezgodski**

January 14, 2014, read first time and referred to Committee on Local Government.
January 23, 2014, reported — Do Pass.
January 29, 2014, read second time, amended, ordered engrossed.

HB 1187—LS 6965/DI 103



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Second Regular Session 118th General Assembly (2014)

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 a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2013 Regular Session and 2013 First Regular Technical Session of the General Assembly.

HOUSE BILL No. 1187

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 36-9-2-18 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 18. (a) A
3 municipality may exercise powers granted by sections 2, 3, 14, 16, and
4 17 of this chapter in areas within four (4) miles outside its corporate
5 boundaries.

6 (b) **This subsection applies to an ordinance that reserves to a**
7 **municipality the exclusive right to exercise a power granted by**
8 **section 14, 16, or 17 of this chapter in an area within four (4) miles**
9 **outside the municipality's corporate boundaries. A municipality**
10 **that adopted an ordinance described in this subsection before**
11 **January 1, 2014, may not enforce the ordinance until May 1, 2017.**
12 **An ordinance described in this subsection that is adopted after**
13 **December 31, 2013, is void.**

14 SECTION 2. IC 36-9-25-11, AS AMENDED BY P.L.168-2009,
15 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
16 UPON PASSAGE]: Sec. 11. (a) In connection with its duties, the board

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1 may fix fees for the treatment and disposal of sewage and other waste
2 discharged into the sewerage system, collect the fees, and establish and
3 enforce rules governing the furnishing of and payment for sewage
4 treatment and disposal service. The fees must be just and equitable and
5 shall be paid by any user of the sewage works and the owner of every
6 lot, parcel of real property, or building that is connected with and uses
7 the sewage works of the district by or through any part of the sewerage
8 system. This section applies to owners of property that is partially or
9 wholly exempt from taxation, as well as owners of property subject to
10 full taxation.

11 (b) The board may change fees from time to time. The fees, together
12 with the taxes levied under this chapter, must at all times be sufficient
13 to produce revenues sufficient to pay operation, maintenance, and
14 administrative expenses, to pay the principal and interest on bonds as
15 they become due and payable, and to provide money for the revolving
16 fund authorized by this chapter.

17 (c) Fees may not be established until a public hearing has been held
18 at which all the users of the sewage works and owners of property
19 served or to be served by the works, including interested parties, have
20 had an opportunity to be heard concerning the proposed fees. After
21 introduction of the resolution fixing fees, and before they are finally
22 adopted, notice of the hearing setting forth the proposed schedule of
23 fees shall be given by publication in accordance with IC 5-3-1. After
24 the hearing the resolution establishing fees, either as originally
25 introduced or as amended, shall be passed and put into effect.
26 However, fees related to property that is subject to full taxation do not
27 take effect until they have been approved by ordinance of the municipal
28 legislative body or, in the case of a district described in section 3(b)(2)
29 of this chapter, under section 11.3 of this chapter.

30 (d) A copy of the schedule of the fees shall be kept on file in the
31 office of the board and must be open to inspection by all interested
32 parties. **Subject to section 11.6 of this chapter**, the fees established
33 for any class of users or property served shall be extended to cover any
34 additional premises thereafter served that fall within the same class,
35 without the necessity of hearing or notice.

36 (e) A change of fees may be made in the same manner as fees were
37 originally established. However, **subject to section 11.6 of this**
38 **chapter**, if a change is made substantially pro rata for all classes of
39 service, hearing or notice is not required, but approval of the change by
40 ordinance of the municipal legislative body is required, and, in the case
41 of a district described in section 3(b)(2) of this chapter, approval under
42 section 11.3 of this chapter is required.



1 (f) If a fee established is not paid within thirty (30) days after it is
 2 due, the amount, together with a penalty of ten percent (10%) and a
 3 reasonable attorney's fee, may be recovered by the board from the
 4 delinquent user or owner of the property served in a civil action in the
 5 name of the municipality.

6 (g) Fees assessed against real property under this section also
 7 constitute a lien against the property assessed. The lien attaches at the
 8 time of the filing of the notice of lien in the county recorder's office.
 9 The lien is superior to all other liens except tax liens, and shall be
 10 enforced and foreclosed in the same manner as is provided for liens
 11 under IC 36-9-23-33 and IC 36-9-23-34.

12 (h) A fee assessed against real property under this section
 13 constitutes a lien against the property assessed only when the fee is
 14 delinquent for no more than three (3) years from the day after the fee
 15 is due.

16 (i) In addition to the penalties under subsections (f) and (g) and
 17 section 11.5 of this chapter, a delinquent user may not discharge water
 18 into the public sewers and may have the property disconnected from
 19 the public sewers.

20 (j) The authority to establish a user fee under this section includes
 21 fees to recover the cost of construction of sewage works from industrial
 22 users as defined and required under federal statute or rule. Any
 23 industrial users' cost recovery fees may become a lien upon the real
 24 property and shall be collected in the manner provided by law. In
 25 addition, the imposition of the fees, the use of the amounts collected,
 26 and the criteria for the fees must be consistent with the regulations of
 27 the federal Environmental Protection Agency.

28 (k) The authority to establish a user fee under this section includes
 29 fees to recover the costs associated with providing financial assistance
 30 under section 42 of this chapter. A fee that is:

- 31 (1) established under this subsection or any other law; and
- 32 (2) used to provide financial assistance under section 42 of this
 33 chapter;

34 is considered just and equitable if the project for which the financial
 35 assistance is provided otherwise complies with the requirements of this
 36 chapter.

37 SECTION 3. IC 36-9-25-11.6 IS ADDED TO THE INDIANA
 38 CODE AS A NEW SECTION TO READ AS FOLLOWS
 39 [EFFECTIVE UPON PASSAGE]: **Sec. 11.6. (a) As used in this
 40 section, "multipurpose building" means a building that:**

- 41 (1) is connected with and uses the sewage works of a district;
- 42 and



1 (2) is used for more than one (1) purpose or has individual
2 units or parts that are used for different purposes.
3 (b) As used in this section, "purpose" means the primary use to
4 which a lot, parcel of real property, or building is put and that is
5 the basis for a particular schedule or class of fees established by a
6 district under section 11 of this chapter. The term includes any of
7 the following purposes to which a lot, parcel of real property, or
8 building is put:
9 (1) Residential purposes.
10 (2) Industrial purposes.
11 (3) Commercial purposes.
12 (4) Agricultural purposes.
13 (c) In establishing fees under section 11 of this chapter for the
14 treatment and disposal of sewage and other waste discharged into
15 the district's sewer system, a district must provide for:
16 (1) the apportionment or proration of fees assessed with
17 respect to a multipurpose building in a manner that
18 recognizes the different purposes to which the multipurpose
19 building is put; or
20 (2) the application of different fee schedules or classifications
21 of fees to the individual units or parts of a multipurpose
22 building in a manner that recognizes the primary purpose of
23 the individual units or parts.
24 (d) Any schedule of fees that:
25 (1) is adopted under this chapter before April 1, 2014; and
26 (2) does not comply with the requirements of this section with
27 respect to multipurpose buildings;
28 shall, not later than September 30, 2014, be changed or amended
29 in the manner specified in section 11(e) of this chapter to comply
30 with the requirements of this section.
31 SECTION 4. An emergency is declared for this act.
32



COMMITTEE REPORT

Mr. Speaker: Your Committee on Local Government, to which was referred House Bill 1187, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

(Reference is to HB 1187 as introduced.)

Committee Vote: Yeas 10, Nays 1

Representative Neese

 HOUSE MOTION

Mr. Speaker: I move that House Bill 1187 be amended to read as follows:

Page 1, delete lines 1 through 6.

Page 1, line 8, delete "JULY 1, 2014]:" and insert "UPON PASSAGE]:".

Page 1, line 8, after "18." insert "(a)".

Page 1, delete lines 11 through 16, begin a new paragraph and insert:

"(b) This subsection applies to an ordinance that reserves to a municipality the exclusive right to exercise a power granted by section 14, 16, or 17 of this chapter in an area within four (4) miles outside the municipality's corporate boundaries. A municipality that adopted an ordinance described in this subsection before January 1, 2014, may not enforce the ordinance until May 1, 2017. An ordinance described in this subsection that is adopted after December 31, 2013, is void.

SECTION 5. An emergency is declared for this act."

Delete page 2.

Re-number all SECTIONS consecutively.

(Reference is to HB 1187 as printed January 24, 2014.)

HEUER



HOUSE MOTION

Mr. Speaker: I move that House Bill 1187 be amended to read as follows:

Page 2, line 5, delete "the area" and insert "**an area that is**".

Page 2, line 6, after "municipality" insert "**and that is**".

Page 2, after line 28, begin a new paragraph and insert:

"SECTION 5. IC 36-9-25-11, AS AMENDED BY P.L.168-2009, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 11. (a) In connection with its duties, the board may fix fees for the treatment and disposal of sewage and other waste discharged into the sewerage system, collect the fees, and establish and enforce rules governing the furnishing of and payment for sewage treatment and disposal service. The fees must be just and equitable and shall be paid by any user of the sewage works and the owner of every lot, parcel of real property, or building that is connected with and uses the sewage works of the district by or through any part of the sewerage system. This section applies to owners of property that is partially or wholly exempt from taxation, as well as owners of property subject to full taxation.

(b) The board may change fees from time to time. The fees, together with the taxes levied under this chapter, must at all times be sufficient to produce revenues sufficient to pay operation, maintenance, and administrative expenses, to pay the principal and interest on bonds as they become due and payable, and to provide money for the revolving fund authorized by this chapter.

(c) Fees may not be established until a public hearing has been held at which all the users of the sewage works and owners of property served or to be served by the works, including interested parties, have had an opportunity to be heard concerning the proposed fees. After introduction of the resolution fixing fees, and before they are finally adopted, notice of the hearing setting forth the proposed schedule of fees shall be given by publication in accordance with IC 5-3-1. After the hearing the resolution establishing fees, either as originally introduced or as amended, shall be passed and put into effect. However, fees related to property that is subject to full taxation do not take effect until they have been approved by ordinance of the municipal legislative body or, in the case of a district described in section 3(b)(2) of this chapter, under section 11.3 of this chapter.

(d) A copy of the schedule of the fees shall be kept on file in the office of the board and must be open to inspection by all interested parties. **Subject to section 11.6 of this chapter**, the fees established



for any class of users or property served shall be extended to cover any additional premises thereafter served that fall within the same class, without the necessity of hearing or notice.

(e) A change of fees may be made in the same manner as fees were originally established. However, **subject to section 11.6 of this chapter**, if a change is made substantially pro rata for all classes of service, hearing or notice is not required, but approval of the change by ordinance of the municipal legislative body is required, and, in the case of a district described in section 3(b)(2) of this chapter, approval under section 11.3 of this chapter is required.

(f) If a fee established is not paid within thirty (30) days after it is due, the amount, together with a penalty of ten percent (10%) and a reasonable attorney's fee, may be recovered by the board from the delinquent user or owner of the property served in a civil action in the name of the municipality.

(g) Fees assessed against real property under this section also constitute a lien against the property assessed. The lien attaches at the time of the filing of the notice of lien in the county recorder's office. The lien is superior to all other liens except tax liens, and shall be enforced and foreclosed in the same manner as is provided for liens under IC 36-9-23-33 and IC 36-9-23-34.

(h) A fee assessed against real property under this section constitutes a lien against the property assessed only when the fee is delinquent for no more than three (3) years from the day after the fee is due.

(i) In addition to the penalties under subsections (f) and (g) and section 11.5 of this chapter, a delinquent user may not discharge water into the public sewers and may have the property disconnected from the public sewers.

(j) The authority to establish a user fee under this section includes fees to recover the cost of construction of sewage works from industrial users as defined and required under federal statute or rule. Any industrial users' cost recovery fees may become a lien upon the real property and shall be collected in the manner provided by law. In addition, the imposition of the fees, the use of the amounts collected, and the criteria for the fees must be consistent with the regulations of the federal Environmental Protection Agency.

(k) The authority to establish a user fee under this section includes fees to recover the costs associated with providing financial assistance under section 42 of this chapter. A fee that is:

- (1) established under this subsection or any other law; and
- (2) used to provide financial assistance under section 42 of this



chapter;
 is considered just and equitable if the project for which the financial assistance is provided otherwise complies with the requirements of this chapter.

SECTION 6. IC 36-9-25-11.6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 11.6. (a) As used in this section, "multipurpose building" means a building that:**

- (1) is connected with and uses the sewage works of a district;**
- and**
- (2) is used for more than one (1) purpose or has individual units or parts that are used for different purposes.**

(b) As used in this section, "purpose" means the primary use to which a lot, parcel of real property, or building is put and that is the basis for a particular schedule or class of fees established by a district under section 11 of this chapter. The term includes any of the following purposes to which a lot, parcel of real property, or building is put:

- (1) Residential purposes.**
- (2) Industrial purposes.**
- (3) Commercial purposes.**
- (4) Agricultural purposes.**

(c) In establishing fees under section 11 of this chapter for the treatment and disposal of sewage and other waste discharged into the district's sewer system, a district must provide for:

- (1) the apportionment or proration of fees assessed with respect to a multipurpose building in a manner that recognizes the different purposes to which the multipurpose building is put; or**
- (2) the application of different fee schedules or classifications of fees to the individual units or parts of a multipurpose building in a manner that recognizes the primary purpose of the individual units or parts.**

(d) Any schedule of fees that:

- (1) is adopted under this chapter before April 1, 2014; and**
- (2) does not comply with the requirements of this section with respect to multipurpose buildings;**

shall, not later than September 30, 2014, be changed or amended



in the manner specified in section 11(e) of this chapter to comply with the requirements of this section.

SECTION 7. An emergency is declared for this act."

Renumber all SECTIONS consecutively.

(Reference is to HB 1187 as printed January 24, 2014.)

SMITH V

