

HOUSE BILL No. 1272

DIGEST OF INTRODUCED BILL

Citations Affected: IC 5-3-1-2; IC 36-9.

Synopsis: Local government matters. Provides that if a newspaper or locality newspaper does not refuse to publish a timely notice, but subsequently fails to publish it, notice is nonetheless sufficient if the notice is timely posted: (1) in printed form, in three prominent places in the political subdivision; or (2) on the political subdivision's Internet web site. Increases the amount of debt that a municipal sewage works or sanitation department can write off as uncollectable.

Effective: July 1, 2017.

Negele

January 10, 2017, read first time and referred to Committee on Government and Regulatory Reform.



First Regular Session of the 120th General Assembly (2017)

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 2016 Regular Session of the General Assembly.

HOUSE BILL No. 1272

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 5-3-1-2, AS AMENDED BY P.L.147-2016,
2 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2017]: Sec. 2. (a) This section applies only when notice of an
4 event is required to be given by publication in accordance with this
5 chapter.
6 (b) If the event is a public hearing or meeting concerning any matter
7 not specifically mentioned in subsection (c), (d), (e), (f), (g), (h), or (i),
8 notice shall be published one (1) time, at least ten (10) days before the
9 date of the hearing or meeting.
10 (c) If the event is an election, notice shall be published one (1) time,
11 at least ten (10) days before the date of the election.
12 (d) If the event is a sale of bonds, notes, or warrants, notice shall be
13 published two (2) times, at least one (1) week apart, with:
14 (1) the first publication made at least fifteen (15) days before the
15 date of the sale; and
16 (2) the second publication made at least three (3) days before the
17 date of the sale.



1 (e) If the event is the receiving of bids, notice shall be published two
 2 (2) times, at least one (1) week apart, with the second publication made
 3 at least seven (7) days before the date the bids will be received.

4 (f) If the event is the establishment of a cumulative or sinking fund,
 5 notice of the proposal and of the public hearing that is required to be
 6 held by the political subdivision shall be published two (2) times, at
 7 least one (1) week apart, with the second publication made at least
 8 three (3) days before the date of the hearing.

9 (g) If the event is the submission of a proposal adopted by a political
 10 subdivision for a cumulative or sinking fund for the approval of the
 11 department of local government finance, the notice of the submission
 12 shall be published one (1) time. The political subdivision shall publish
 13 the notice when directed to do so by the department of local
 14 government finance.

15 (h) If the event is the required publication of an ordinance, notice of
 16 the passage of the ordinance shall be published one (1) time within
 17 thirty (30) days after the passage of the ordinance.

18 (i) If the event is one about which notice is required to be published
 19 after the event, notice shall be published one (1) time within thirty (30)
 20 days after the date of the event.

21 (j) If any officer charged with the duty of publishing any notice
 22 required by law is unable to procure publication of notice:

23 (1) at the price fixed by law;

24 (2) because all newspapers or locality newspapers that are
 25 qualified to publish the notice refuse to publish the notice; or

26 (3) because the newspapers or locality newspapers referred to in
 27 subdivision (2) refuse to post the notice on the newspapers' or
 28 locality newspapers' Internet web sites (if required under section
 29 1.5 of this chapter);

30 it is sufficient for the officer to post printed notices in three (3)
 31 prominent places in the political subdivision, instead of publication of
 32 the notice in newspapers or locality newspapers and on an Internet web
 33 site (if required under section 1.5 of this chapter).

34 **(k) This subsection applies if an officer described in subsection**
 35 **(j) or the officer's designee submits a notice to a newspaper or**
 36 **locality newspaper in a timely manner and the newspaper or**
 37 **locality newspaper does not refuse to publish the notice but**
 38 **subsequently fails to publish the notice. If, within the same period**
 39 **required for publishing notice under this section, the officer or**
 40 **officer's designee posts:**

41 **(1) printed notices in three (3) prominent places in the**
 42 **political subdivision; or**



1 **(2) notice on the political subdivision's Internet web site in a**
 2 **location where the notice is easily accessible and identifiable;**
 3 **the notice is sufficient, and publication of the notice in newspapers**
 4 **or locality newspapers and on the newspapers' Internet web sites**
 5 **(if required under section 1.5 of this chapter) is not required.**

6 SECTION 2. IC 36-9-23-33, AS AMENDED BY P.L.196-2014,
 7 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 8 JULY 1, 2017]: Sec. 33. (a) Subsections (c) through (l) do not apply to
 9 unpaid fees and penalties assessed against property occupied by
 10 someone other than the property owner if:

11 (1) the municipal legislative body has adopted an ordinance
 12 provision described in section 25(f) of this chapter concerning
 13 property occupied by someone other than the property owner;

14 (2) the ordinance provision described in section 25(f) of this
 15 chapter provides that fees assessed against the property for
 16 services rendered by the sewage works to the property do not
 17 constitute a lien against the property, as described in section
 18 25(f)(3) of this chapter; and

19 (3) any requirements or conditions:

20 (A) described in section 25(f)(1) or 25(f)(2) of this chapter;
 21 and

22 (B) included in the ordinance;
 23 have been satisfied.

24 (b) An officer described in subsection (c) may defer enforcing the
 25 collection of unpaid fees and penalties assessed under this chapter until
 26 the unpaid fees and penalties have been due and unpaid for at least
 27 ninety (90) days. However, in the case of property that is occupied by
 28 someone other than the owner, this subsection does not relieve the
 29 utility of its duty under section 32(c) of this chapter to notify the owner
 30 not later than twenty (20) days after the time user fees become sixty
 31 (60) days delinquent.

32 (c) Except as provided in subsection (m), the officer charged with
 33 the collection of fees and penalties assessed under this chapter shall
 34 enforce their payment. As often as the officer determines is necessary
 35 in a calendar year, the officer shall prepare either of the following:

36 (1) A list of the delinquent fees and penalties that are enforceable
 37 under this section, which must include the following:

38 (A) The name or names of the owner or owners of each lot or
 39 parcel of real property on which fees are delinquent.

40 (B) A description of the premises, as shown by the records of
 41 the county auditor.

42 (C) The amount of the delinquent fees, together with the



- 1 penalty.
- 2 (2) An individual instrument for each lot or parcel of real property
- 3 on which the fees are delinquent.
- 4 (d) The officer shall record a copy of each list or each individual
- 5 instrument with the county recorder who shall charge a fee for
- 6 recording the list or each individual instrument in accordance with the
- 7 fee schedule established in IC 36-2-7-10. The officer shall then mail to
- 8 each property owner on the list or on an individual instrument a notice
- 9 stating that a lien against the owner's property has been recorded.
- 10 Except for a county having a consolidated city, a service charge of five
- 11 dollars (\$5), which is in addition to the recording fee charged under
- 12 this subsection and under subsection (g), shall be added to each
- 13 delinquent fee that is recorded.
- 14 (e) This subsection applies only to a county containing a
- 15 consolidated city. Using the lists and instruments prepared under
- 16 subsection (c) and recorded under subsection (d), the officer shall
- 17 certify to the county auditor, according to a schedule agreed upon by
- 18 the county treasurer and the officer, a list of the unpaid liens for
- 19 collection with the next cycle's property tax installment. The county
- 20 and its officers and employees are not liable for any material error in
- 21 the information on the list.
- 22 (f) This subsection applies to a county not described in subsection
- 23 (e). Using the lists and instruments prepared under subsection (c) and
- 24 recorded under subsection (d), the officer shall, not later than ten (10)
- 25 days after the list or each individual instrument is recorded under
- 26 subsection (d), certify to the county auditor a list of the unpaid liens for
- 27 collection with the next May installment of property taxes. The county
- 28 and its officers and employees are not liable for any material error in
- 29 the information on this list.
- 30 (g) The officer shall release any recorded lien when the delinquent
- 31 fees, penalties, service charges, and recording fees have been fully
- 32 paid. The county recorder shall charge a fee for releasing the lien in
- 33 accordance with IC 36-2-7-10.
- 34 (h) On receipt of the list under subsection (e) or (f), the county
- 35 auditor of each county shall add a fifteen dollar (\$15) certification fee
- 36 for each lot or parcel of real property on which fees are delinquent,
- 37 which fee is in addition to all other fees and charges. The county
- 38 auditor shall immediately enter on the tax duplicate for the
- 39 municipality the delinquent fees, penalties, service charges, recording
- 40 fees, and certification fees, which are due not later than the due date of
- 41 the next cycle's installment of property taxes. The county treasurer shall
- 42 then include any unpaid charges for the delinquent fee, penalty, service



1 charge, recording fee, and certification fee to the owner or owners of
 2 each lot or parcel of property, at the time the next cycle's property tax
 3 installment is billed.

4 (i) After certification of liens under subsection (f), the officer may
 5 not collect or accept delinquent fees, penalties, service charges,
 6 recording fees, or certification fees from property owners whose
 7 property has been certified to the county auditor. This subsection does
 8 not apply to a county containing a consolidated city.

9 (j) If a delinquent fee, penalty, service charge, recording fee, and
 10 certification fee are not paid, they shall be collected by the county
 11 treasurer in the same way that delinquent property taxes are collected.

12 (k) At the time of each semiannual tax settlement, the county
 13 treasurer shall certify to the county auditor all fees, charges, and
 14 penalties that have been collected. The county auditor shall deduct the
 15 service charges and certification fees collected by the county treasurer
 16 and pay over to the officer the remaining fees and penalties due the
 17 municipality. The county treasurer shall retain the service charges and
 18 certification fees that have been collected, and shall deposit them in the
 19 county general fund.

20 (l) Fees, penalties, and service charges that were not recorded before
 21 a recorded conveyance shall be removed from the tax roll for a
 22 purchaser who, in the manner prescribed by section 32(d) of this
 23 chapter, files a verified demand with the county auditor.

24 (m) A board may write off a fee or penalty under subsection (b) that
 25 is for less than ~~forty dollars (\$40)~~ **two hundred dollars (\$200)**.

26 SECTION 3. IC 36-9-25-11.7 IS AMENDED TO READ AS
 27 FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 11.7. A municipality
 28 may, by ordinance, establish a procedure to expense as bad debt
 29 overdue user fees, together with any penalties provided under this
 30 chapter, if the amount of fees and penalties involved does not exceed
 31 ~~twenty-five dollars (\$25)~~ **two hundred dollars (\$200)**.

