

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) This subsection applies only to a district in which a campground brought a legal action after January 1, 2000, and before April 1, 2003, against a board concerning sewage service billed at a flat rate. 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 for one (1) year. The highest meter reading for a calendar week for the campground during the year shall be used to determine the resident equivalent units for the campground. 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. The board may impose additional charges on a campground under this subsection 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) excessive biochemical oxygen demand (BOD).

As added by P.L.1-1996, SEC.16. Amended by P.L.239-2003, SEC.1.

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

Establishment of equitable rates or 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) 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.

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

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.

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

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) 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.

IC 13-26-11-15

Regional sewage district authority

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

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

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

(A) except as provided in clause (B), the county executive of that county; or

(B) if the members of the county executive are trustees of the regional sewage district, the members of the county fiscal body.

(2) In the case of a regional sewage district located in more than one (1) county, one (1) county executive member, appointed by that member's county executive, from each county in which the district is located.

However, a person who serves on the board of trustees of a district may not be a member of the district authority.

(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 before January 1, 2001, 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.

(d) If a petition meeting the requirements of subsection (c) 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 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 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. 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.

(g) 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.