COMMITTEE REPORT

MR. SPEAKER:

Your Committee on Utilities, Energy and Telecommunications, to which was referred House Bill 1347, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 4, delete lines 5 through 42, begin a new paragraph and insert:
"SECTION 2. IC 36-9-23-32, AS AMENDED BY P.L.196-2014, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 32. (a) Except as otherwise provided in a provision included in an ordinance under section 25(f)(3) of this chapter, fees assessed against real property under this chapter or under any statute repealed by IC 19-2-5-30 (repealed September 1, 1981) constitute a lien against the property assessed. The lien is superior to all other liens except tax liens. Except as provided in subsections (b) and (c), the lien attaches when notice of the lien is filed in the county recorder's office under section 33 of this chapter.
(b) A fee is not enforceable as a lien against a subsequent owner of property unless the lien for the fee was recorded with the county
recorder before the conveyance to the subsequent owner. If the property
is conveyed before the lien can be filed, the municipality shall notify
the person who owned the property at the time the fee became payable.
The notice must inform the person that payment, including penalty fees
for delinquencies, is due not more than fifteen (15) days after the date
of the notice. If payment is not received within one hundred eighty
(180) days after the date of the notice, the amount due may be
expensed as a bad debt loss.

(c) Except as otherwise provided in a provision included in an
ordinance under section 25(f)(3) of this chapter, and subject to
subsection (e), a lien attaches against real property occupied by
someone other than the owner only if the utility notifies the owner not
later than twenty (20) days after the time the utility fees become sixty
(60) days delinquent. A notice sent to the owner under this subsection
must be sent by first class mail or by certified mail, return receipt
requested (or an equivalent service permitted under IC 1-1-7-1) to:

(1) the owner of record of real property with a single owner; or
(2) at least one (1) of the owners of real property with multiple
owners;
at the last address of the owner for the property as indicated in the
records of the county auditor on the date of the notice of the
delinquency, or to another address specified by the owner, in a written
notice to the utility, at which the owner requests to receive a notice of
delinquency under this subsection. The cost of sending notice under
this subsection is an administrative cost that may be billed to the
owner.

(d) The municipality shall release:

(1) liens filed with the county recorder after the recorded date of
conveyance of the property; and
(2) delinquent fees incurred by the seller;
upon receipt of a verified demand in writing from the purchaser. The
demand must state that the delinquent fees were not incurred by the
purchaser as a user, lessee, or previous owner, and that the purchaser
has not been paid by the seller for the delinquent fees.

(e) This subsection applies to real property that is occupied by
someone other than the owner and with respect to which fees
assessed under this chapter become sixty (60) days delinquent after
June 30, 2019. Except as otherwise provided in a provision
included in an ordinance under section 25(f)(3) of this chapter, a
lien attaches to real property subject to this subsection only if the
utility provides notice of the delinquency to:
   (1) the owner, in the manner prescribed in subsection (c); and
   (2) any first lien mortgage holder of record, by first class mail
or by certified mail, return receipt requested (or an
equivalent service permitted under IC 1-1-7-1);
not later than twenty (20) days after the time the utility fees
become sixty (60) days delinquent. The cost of sending notice under
this subsection is an administrative cost that may be billed to the
owner.

SECTION 3. IC 36-9-25-11, AS AMENDED BY P.L.196-2014,
SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
JULY 1, 2019]: 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, except as otherwise
provided in an ordinance provision described in subsection (l), 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. 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, 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 board may recover, in a civil action in the name of the municipality, the amount, together with a penalty of ten percent (10%) and a reasonable attorney's fee from:

(1) the delinquent user; or
(2) the owner of the property;
subject to any ordinance described in subsection (l).

(g) Except as otherwise provided in:
(1) subsection (h);
(2) section 11.2(b) of this chapter; or in
(3) an ordinance provision described in subsection (l);
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:

(1) penalties under subsections (f) and (g); or

(2) alternative penalty available under 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.

(l) For purposes of this subsection, "municipal legislative body" refers to the legislative body of each municipality in the district, in the case of a district described in section 3(b)(2) of this chapter. This subsection does not apply to a conservancy district established under IC 14-33 for the collection, treatment, and disposal of sewage and other liquid wastes. In an ordinance adopted under this chapter, the municipal legislative body may include one (1) or more of the following provisions with respect to property occupied by someone other than the owner of the property:

(1) That fees for the services rendered by the sewerage system to the property are payable by the person occupying the property. At the option of the municipal legislative body, the ordinance may include any:

(A) requirement for a deposit to ensure payment of the fees by
the person occupying the property; or

(B) other requirement to ensure the creditworthiness of the
person occupying the property as the account holder or
customer with respect to the property;

that the municipal legislative body may lawfully impose.

(2) That the fees for the services rendered by the sewerage system
to the property are payable by the person occupying the property
if one (1) of the following conditions is satisfied:

(A) Either the property owner or the person occupying the
property gives to the board written notice that indicates that
the person occupying the property is responsible for paying the
fees with respect to the property and requests that the account
or other customer or billing records maintained for the
property be in the name of the person occupying the property.

At the option of the municipal legislative body, the ordinance
may provide that a document that:

(i) is executed by the property owner and the person
occupying the property;

(ii) identifies the person occupying the property by name;

and

(iii) indicates that the person occupying the property is
responsible for paying the fees assessed by the board with
respect to the property;

serves as written notice for purposes of this clause.

(B) The account or other customer or billing records
maintained by the board for the property otherwise indicate
that:

(i) the property is occupied by someone other than the
owner; and

(ii) the person occupying the property is responsible for
paying the fees.

(C) The property owner or the person occupying the property
satisfies any other requirements or conditions that the
municipal legislative body includes in the ordinance.

(3) That fees assessed against the property for the services
rendered by the sewerage system to the property do not constitute
a lien against the property, notwithstanding subsection (g), and
subject to any requirements or conditions set forth in the
ordinance.

This subsection may not be construed to prohibit a municipal legislative body from including in an ordinance adopted under this chapter any other provision that the municipal legislative body considers appropriate.

SECTION 4. IC 36-9-25-11.2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 11.2. (a) If a fee established under section 11 of this chapter is not paid within thirty (30) days after it is due, a copy of any notice of delinquency sent to a delinquent user who is a tenant must be sent to the owner of the property occupied by the tenant at the latest address of the owner as shown on the property tax records of the county in which the property is located.

(b) This subsection applies to real property that is occupied by someone other than the owner and with respect to which fees established under section 11 of this chapter become sixty (60) days delinquent after June 30, 2019. Except as otherwise provided in section 11(h) of this chapter or in a provision included in an ordinance under section 11(l)(3) of this chapter, a lien attaches to real property subject to this subsection only if the board provides notice of the delinquency to any first lien mortgage holder of record, by first class mail or by certified mail, return receipt requested (or an equivalent service permitted under IC 1-1-7-1), not later than twenty (20) days after the time the fees become sixty (60) days delinquent. The cost of sending notice under this subsection is an administrative cost that may be billed to the owner of the property.

Page 5, delete lines 1 through 10.
Renumber all SECTIONS consecutively.
(Reference is to HB 1347 as introduced.)

and when so amended that said bill do pass.

Representative Soliday