

HOUSE BILL No. 1365

DIGEST OF INTRODUCED BILL

Citations Affected: IC 36-8-12.

Synopsis: Volunteer fire department recovery of costs. Allows a volunteer fire department to recover attorney's fees and costs incurred by the department in an action to recover unpaid service charges.

Effective: July 1, 2011.

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January 18, 2011, read first time and referred to Committee on Veterans Affairs and Public Safety.

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First Regular Session 117th General Assembly (2011)

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 2010 Regular Session of the General Assembly.

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HOUSE BILL No. 1365



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 36-8-12-13, AS AMENDED BY P.L.1-2010,
2 SECTION 154, IS AMENDED TO READ AS FOLLOWS
3 [EFFECTIVE JULY 1, 2011]: Sec. 13. (a) A volunteer fire department
4 may impose a charge on the owner of property, the owner of a vehicle,
5 or a responsible party (as defined in IC 13-11-2-191(e)) that is involved
6 in a hazardous material or fuel spill or chemical or hazardous material
7 related fire (as defined in IC 13-11-2-96(b)):

- 8 (1) that is responded to by the volunteer fire department; and
- 9 (2) that members of that volunteer fire department assisted in
10 extinguishing, containing, or cleaning up.

11 (b) The volunteer fire department shall bill the owner or responsible
12 party of the vehicle for the total dollar value of the assistance that was
13 provided, with that value determined by a method that the state fire
14 marshal shall establish under ~~IC 36-8-12-16~~. **section 16 of this**
15 **chapter**. A copy of the fire incident report to the state fire marshal
16 must accompany the bill. This billing must take place within thirty (30)
17 days after the assistance was provided. The owner or responsible party



1 shall remit payment directly to the governmental unit providing the
2 service. Any money that is collected under this section may be:

3 (1) deposited in the township firefighting fund established in
4 IC 36-8-13-4;

5 (2) used to pay principal and interest on a loan made by the
6 department of homeland security established by IC 10-19-2-1 or
7 a division of the department for the purchase of new or used
8 firefighting and other emergency equipment or apparatus; or

9 (3) used for the purchase of equipment, buildings, and property
10 for firefighting, fire protection, and other emergency services.

11 (c) Any administrative fees charged by a fire department's agent
12 must be paid only from fees that are collected and allowed by Indiana
13 law and the fire marshal's schedule of fees.

14 (d) An agent who processes fees on behalf of a fire department shall
15 send all bills, notices, and other related materials to both the fire
16 department and the person being billed for services.

17 (e) All fees allowed by Indiana law and the fire marshal's fee
18 schedule must be itemized separately from any other charges.

19 (f) The volunteer fire department may maintain a civil action to
20 recover an unpaid charge that is imposed under subsection (a) **and may**
21 **recover all costs of the action, including attorney's fees.**

22 SECTION 2. IC 36-8-12-16, AS AMENDED BY P.L.182-2009(ss),
23 SECTION 436, IS AMENDED TO READ AS FOLLOWS
24 [EFFECTIVE JULY 1, 2011]: Sec. 16. (a) A volunteer fire department
25 that provides service within a jurisdiction served by the department
26 may establish a schedule of charges for the services that the department
27 provides not to exceed the state fire marshal's recommended schedule
28 for services. The volunteer fire department or its agent may collect a
29 service charge according to this schedule from the owner of property
30 that receives service if the following conditions are met:

31 (1) At the following times, the department gives notice under
32 IC 5-3-1-4(d) in each political subdivision served by the
33 department of the amount of the service charge for each service
34 that the department provides:

35 (A) Before the schedule of service charges is initiated.

36 (B) When there is a change in the amount of a service charge.

37 (2) The property owner has not sent written notice to the
38 department to refuse service by the department to the owner's
39 property.

40 (3) The bill for payment of the service charge:

41 (A) is submitted to the property owner in writing within thirty

42 (30) days after the services are provided; and

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- 1 (B) includes a copy of a fire incident report in the form
 2 prescribed by the state fire marshal, if the service was
 3 provided for an event that requires a fire incident report.
- 4 (4) Payment is remitted directly to the governmental unit
 5 providing the service.
- 6 (b) A volunteer fire department shall use the revenue collected from
 7 the fire service charges under this section:
- 8 (1) for the purchase of equipment, buildings, and property for
 9 firefighting, fire protection, or other emergency services;
 10 (2) for deposit in the township firefighting fund established under
 11 IC 36-8-13-4; or
 12 (3) to pay principal and interest on a loan made by the department
 13 of homeland security established by IC 10-19-2-1 or a division of
 14 the department for the purchase of new or used firefighting and
 15 other emergency equipment or apparatus.
- 16 (c) Any administrative fees charged by a fire department's agent
 17 must be paid only from fees that are collected and allowed by Indiana
 18 law and the fire marshal's schedule of fees.
- 19 (d) An agent who processes fees on behalf of a fire department shall
 20 send all bills, notices, and other related materials to both the fire
 21 department and the person being billed for services.
- 22 (e) All fees allowed by Indiana law and the fire marshal's fee
 23 schedule must be itemized separately from any other charges.
- 24 (f) If at least twenty-five percent (25%) of the money received by a
 25 volunteer fire department for providing fire protection or emergency
 26 services is received under one (1) or more contracts with one (1) or
 27 more political subdivisions (as defined in IC 34-6-2-110), the
 28 legislative body of a contracting political subdivision must approve the
 29 schedule of service charges established under subsection (a) before the
 30 schedule of service charges is initiated in that political subdivision.
- 31 (g) A volunteer fire department that:
- 32 (1) has contracted with a political subdivision to provide fire
 33 protection or emergency services; and
 34 (2) charges for services under this section;
 35 must submit a report to the legislative body of the political subdivision
 36 before April 1 of each year indicating the amount of service charges
 37 collected during the previous calendar year and how those funds have
 38 been expended.
- 39 (h) The state fire marshal shall annually prepare and publish a
 40 recommended schedule of service charges for fire protection services.
- 41 (i) The volunteer fire department or its agent may maintain a civil
 42 action to recover an unpaid service charge under this section **and may**

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recover all costs of the action, including attorney's fees.

SECTION 3. IC 36-8-12-17, AS AMENDED BY P.L.107-2007, SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 17. (a) If a political subdivision has not imposed its own false alarm fee or service charge, a volunteer fire department that provides service within the jurisdiction may establish a service charge for responding to false alarms. The volunteer fire department may collect the false alarm service charge from the owner of the property if the volunteer fire department dispatches firefighting apparatus or personnel to a building or premises in the township in response to:

- (1) an alarm caused by improper installation or improper maintenance; or
- (2) a drill or test, if the fire department is not previously notified that the alarm is a drill or test.

However, if the owner of property that constitutes the owner's residence establishes that the alarm is under a maintenance contract with an alarm company and that the alarm company has been notified of the improper installation or maintenance of the alarm, the alarm company is liable for the payment of the fee or service charge.

(b) Before establishing a false alarm service charge, the volunteer fire department must provide notice under IC 5-3-1-4(d) in each political subdivision served by the department of the amount of the false alarm service charge. The notice required by this subsection must be given:

- (1) before the false alarm service charge is initiated; and
- (2) before a change in the amount of the false alarm service charge.

(c) A volunteer fire department may not collect a false alarm service charge from a property owner or alarm company unless the department's bill for payment of the service charge:

- (1) is submitted to the property owner in writing within thirty (30) days after the false alarm; and
- (2) includes a copy of a fire incident report in the form prescribed by the state fire marshal.

(d) A volunteer fire department shall use the money collected from the false alarm service charge imposed under this section:

- (1) for the purchase of equipment, buildings, and property for fire fighting, fire protection, or other emergency services;
- (2) for deposit in the township firefighting fund established under IC 36-8-13-4; or
- (3) to pay principal and interest on a loan made by the department

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1 of homeland security established by IC 10-19-2-1 or a division of
 2 the department for the purchase of new or used firefighting and
 3 other emergency equipment or apparatus.
 4 (e) If at least twenty-five percent (25%) of the money received by a
 5 volunteer fire department for providing fire protection or emergency
 6 services is received under one (1) or more contracts with one (1) or
 7 more political subdivisions (as defined in IC 34-6-2-110), the
 8 legislative body of a contracting political subdivision must approve the
 9 false alarm service charge established under subsection (a) before the
 10 service charge is initiated in that political subdivision.
 11 (f) A volunteer fire department that:
 12 (1) has contracted with a political subdivision to provide fire
 13 protection or emergency services; and
 14 (2) imposes a false alarm service charge under this section;
 15 must submit a report to the legislative body of the political subdivision
 16 before April 1 of each year indicating the amount of false alarm
 17 charges collected during the previous calendar year and how those
 18 funds have been expended.
 19 (g) The volunteer fire department may maintain a civil action to
 20 recover unpaid false alarm service charges imposed under this section
 21 **and may recover all costs of the action, including attorney's fees.**

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