

HOUSE BILL No. 1471

DIGEST OF INTRODUCED BILL

Citations Affected: IC 6-3.1-35.8; IC 13-11-2; IC 13-18-5.6; IC 36-8-12-13.

Synopsis: Renewable energy development. Establishes a tax credit for taxpayers that establish clean energy training positions to provide training in technology involving solar, wind energy, or geothermal energy facilities and equipment. Requires the owner or operator of an above ground storage tank (AST) that is designed to contain more than 660 gallons of liquid to report certain information about the AST to the department of environmental management (department) before January 1, 2022. Establishes certain exceptions from this reporting requirement. Requires the environmental rules board to adopt rules concerning the reporting requirement. Requires a person who is responsible for the operation of a public water system that uses surface water as a source of drinking water to develop a surface water quality threat minimization and response plan for the public water system and to submit the report to the department. Requires the environmental rules board to adopt rules concerning surface water quality threat minimization and response plans. Makes a technical correction.

Effective: July 1, 2021.

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January 14, 2021, read first time and referred to Committee on Ways and Means.



First Regular Session of the 122nd General Assembly (2021)

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 2020 Regular Session of the General Assembly.

HOUSE BILL No. 1471

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 6-3.1-35.8 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2021]:
4 **Chapter 35.8. Clean Energy Trainee Employment Tax Credits**
5 **Sec. 1. The following definitions apply throughout this chapter:**
6 (1) "Clean energy technology" means a technology involving:
7 (A) solar energy facilities and equipment;
8 (B) wind energy facilities and equipment; or
9 (C) geothermal energy facilities and equipment.
10 (2) "Clean energy training position" means a position:
11 (A) in which an individual not previously trained or
12 experienced in a clean energy technology is given training
13 in clean energy technology; and
14 (B) that provides training to the individual for at least six
15 (6) months.
16 (3) "State income tax liability" means a taxpayer's total
17 income tax liability incurred under IC 6-3 and IC 6-5.5, as



1 **computed after application of credits that under IC 6-3.1-1-2**
 2 **are to be applied before the credit provided by this chapter.**

3 **Sec. 2. Subject to the limitation established in sections 4 and 5**
 4 **of this chapter, a taxpayer that establishes and fills a clean energy**
 5 **training position is entitled to a tax credit against that taxpayer's**
 6 **state income tax liability as provided for under section 3 of this**
 7 **chapter.**

8 **Sec. 3. A taxpayer is entitled to a credit for a taxable year for**
 9 **each clean energy training position that the taxpayer establishes**
 10 **and fills under section 2 of this chapter in an amount equal to the**
 11 **lesser of:**

12 **(1) two thousand five hundred dollars (\$2,500); or**

13 **(2) fifty percent (50%) of the amount of compensation paid to**
 14 **the eligible trainee by the taxpayer during the taxable year.**

15 **However, the aggregate credits that a taxpayer may receive for a**
 16 **particular taxable year under this chapter may not exceed the**
 17 **taxpayer's state income tax liability for that taxable year.**

18 **Sec. 4. The department shall disallow a credit provided under**
 19 **this chapter with respect to a clean energy training position if the**
 20 **individual who fills the clean energy training position does not**
 21 **continue in the clean energy training position for a period of at**
 22 **least six (6) months.**

23 **Sec. 5. A credit to which a taxpayer is entitled under this**
 24 **chapter shall be applied against the taxpayer's adjusted gross**
 25 **income tax liability for the taxable year.**

26 **Sec. 6. The department of workforce development established by**
 27 **IC 22-4.1-2-1, in consultation with the department of state**
 28 **revenue, may adopt rules to administer this chapter, including**
 29 **rules establishing standards for clean energy training positions that**
 30 **qualify a taxpayer for a credit under this chapter.**

31 **SECTION 2. IC 13-11-2-0.4 IS ADDED TO THE INDIANA CODE**
 32 **AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY**
 33 **1, 2021]: Sec. 0.4. "Above ground storage tank", or "AST", for**
 34 **purposes of IC 13-18-5.6, has the meaning set forth in**
 35 **IC 13-18-5.6-1.**

36 **SECTION 3. IC 13-11-2-2.4 IS ADDED TO THE INDIANA CODE**
 37 **AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY**
 38 **1, 2021]: Sec. 2.4. "Agribusiness", for purposes of IC 13-18-5.6, has**
 39 **the meaning set forth in IC 13-18-5.6-2.**

40 **SECTION 4. IC 13-11-2-48.4 IS ADDED TO THE INDIANA**
 41 **CODE AS A NEW SECTION TO READ AS FOLLOWS**
 42 **[EFFECTIVE JULY 1, 2021]: Sec. 48.4. "Critical zone of concern",**



1 **for purposes of IC 13-18-5.6, has the meaning set forth in**
 2 **IC 13-18-5.6-3.**

3 SECTION 5. IC 13-11-2-55, AS AMENDED BY P.L.72-2017,
 4 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 5 JULY 1, 2021]: Sec. 55. "Discharge", for purposes of IC 13-24-2 **and**
 6 **IC 13-18-5.6**, means any emission or spill, other than natural seepage,
 7 that is intentional or unintentional. The term includes any of the
 8 following:

- 9 (1) Spilling.
- 10 (2) Leaking.
- 11 (3) Pumping.
- 12 (4) Pouring.
- 13 (5) Emitting.
- 14 (6) Emptying.
- 15 (7) Dumping.

16 SECTION 6. IC 13-11-2-57.6 IS ADDED TO THE INDIANA
 17 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
 18 [EFFECTIVE JULY 1, 2021]: **Sec. 57.6. "Disruption", for purposes**
 19 **of IC 13-18-5.6, has the meaning set forth in IC 13-18-5.6-5.**

20 SECTION 7. IC 13-11-2-96, AS AMENDED BY P.L.72-2017,
 21 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 22 JULY 1, 2021]: Sec. 96. (a) "Hazardous material", for purposes of
 23 IC 13-18-5, means any of the following:

- 24 (1) A hazardous chemical (as defined in 42 U.S.C. 11021(e), as
 25 in effect on January 1, 1990).
- 26 (2) A hazardous waste.
- 27 (3) A hazardous substance (as defined in 42 U.S.C. 9601(14), as
 28 in effect on January 1, 1990).
- 29 (4) A substance that is on the list of extremely hazardous
 30 substances published by the Administrator of the United States
 31 Environmental Protection Agency under 42 U.S.C. 11002(a)(2).
- 32 (5) A material that is identified by the board as potentially
 33 harmful to surface water or groundwater if accidentally released
 34 from a storage or handling facility.

35 **(b) "Hazardous material", for purposes of IC 13-18-5.6, has the**
 36 **meaning set forth in IC 13-18-5.6-6.**

37 ~~(b)~~ (c) "Hazardous material", for purposes of IC 13-25-6, means a
 38 material or waste that has been determined to be hazardous or
 39 potentially hazardous to human health, to property, or to the
 40 environment by:

- 41 (1) the United States:
 42 (A) Environmental Protection Agency;



- 1 (B) Nuclear Regulatory Commission;
 2 (C) Department of Transportation; or
 3 (D) Occupational Safety and Health Administration; or
 4 (2) the board.

5 The term includes all of the hazardous materials identified in 49 CFR
 6 172.101.

7 SECTION 8. IC 13-11-2-119.4 IS ADDED TO THE INDIANA
 8 CODE AS A **NEW SECTION TO READ AS FOLLOWS**
 9 [EFFECTIVE JULY 1, 2021]: **Sec. 119.4. "Liquid", for purposes of**
 10 **IC 13-18-5.6, has the meaning set forth in IC 13-18-5.6-7.**

11 SECTION 9. IC 13-11-2-177.3, AS AMENDED BY P.L.15-2019,
 12 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 13 JULY 1, 2021]: Sec. 177.3. "Public water system", for purposes of this
 14 chapter, **IC 13-18-5.6**, IC 13-18-11, IC 13-18-16, IC 13-18-20.5,
 15 IC 13-18-26, and other environmental management laws, has the
 16 meaning set forth in 42 U.S.C. 300f.

17 SECTION 10. IC 13-18-5.6 IS ADDED TO THE INDIANA CODE
 18 AS A **NEW CHAPTER TO READ AS FOLLOWS** [EFFECTIVE
 19 JULY 1, 2021]:

20 **Chapter 5.6. Reporting of Above Ground Storage Tanks**

21 **Sec. 1. As used in this chapter, "above ground storage tank" or**
 22 **"AST" means a device:**

- 23 (1) at least ten percent (10%) of the outer surface of which is
 24 exposed above the ground; and
 25 (2) that is designed to contain more than six hundred sixty
 26 (660) gallons above ground of a matter that is a liquid.

27 **Sec. 2. As used in this chapter, "agribusiness" means a business**
 28 **that is primarily engaged in:**

- 29 (1) the distribution of farm equipment and supplies; or
 30 (2) the processing, storage, and distribution of farm
 31 commodities.

32 **Sec. 3. (a) As used in this chapter, "critical zone of concern"**
 33 **means:**

- 34 (1) an area in which a hazardous material could:
 35 (A) travel to a water intake of a public water system that
 36 uses surface water as a source of drinking water; and
 37 (B) cause a disruption; or
 38 (2) another area designated in subsection (b) as a critical zone
 39 of concern.

40 **(b) The term includes the following:**

- 41 (1) In the case of a flowing stream on which an intake of a
 42 public water system is located, the area:



- 1 (A) within one-quarter (1/4) mile of each bank of the
 2 stream and of every tributary of the stream from the
 3 location of the intake on the main stream to the point on
 4 the main stream and on each tributary twenty-five (25)
 5 miles upstream of the intake; and
 6 (B) within one-quarter (1/4) mile of each bank of the main
 7 stream from the intake to fifty (50) feet downstream of the
 8 intake.
- 9 (2) In the case of a reservoir or lake other than Lake
 10 Michigan on which an intake of a public water system is
 11 located, the area:
- 12 (A) within one-quarter (1/4) mile of each bank of the
 13 reservoir or lake; and
 14 (B) within one-quarter (1/4) mile of each bank of every
 15 stream or tributary flowing into the lake or reservoir from
 16 the point where the stream or tributary flows into the lake
 17 or reservoir to the point twenty-five (25) miles upstream of
 18 where the stream or tributary flows into the lake or
 19 reservoir.
- 20 (3) In the case of a stream or tributary flowing into Lake
 21 Michigan, the area that is:
- 22 (A) within one-quarter (1/4) mile of each bank of the
 23 stream or tributary; and
 24 (B) within five (5) miles of an intake of a public water
 25 system.
- 26 (4) In the case of Lake Michigan, the area of land that is
 27 within one-quarter (1/4) mile of the ordinary high water mark
 28 of Lake Michigan.
- 29 (5) Any other areas established by the board in rules adopted
 30 by the board under section 10 of this chapter.
- 31 Sec. 4. As used in this chapter, "discharge" has the meaning set
 32 forth in IC 13-11-2-55.
- 33 Sec. 5. As used in this chapter, "disruption" means an
 34 interruption in the ability of a public water system to provide safe
 35 drinking water at a rate adequate to meet the demand on the
 36 public water system for a period exceeding twenty-four (24) hours.
- 37 Sec. 6. As used in this chapter, "hazardous material" means a
 38 liquid that:
- 39 (1) contains a hazardous material (as defined in
 40 IC 13-11-2-96(a)); and
 41 (2) is capable of causing a disruption if discharged from an
 42 above ground storage tank.



1 **Sec. 7. As used in this chapter, "liquid" means matter that:**

2 **(1) is in a nongaseous state; and**

3 **(2) will, at:**

4 **(A) sixty (60) degrees Fahrenheit; and**

5 **(B) ambient atmospheric pressure;**

6 **take the shape of the interior of a container immediately upon**
 7 **being placed in the container.**

8 **Sec. 8. As used in this chapter, "public water system" has the**
 9 **meaning set forth in IC 13-11-2-177.3.**

10 **Sec. 9. (a) Except as provided in subsection (c) and sections**
 11 **10(b)(3) and 11 of this chapter, the owner or operator of an above**
 12 **ground storage tank located in a critical zone of concern shall**
 13 **report to the department the following information concerning the**
 14 **AST:**

15 **(1) The location of the AST.**

16 **(2) The materials stored in the AST.**

17 **(3) The capacity of the AST.**

18 **(4) The name and contact information of a person who may be**
 19 **contacted for information about the AST.**

20 **The owner or operator shall submit the report before January 1,**
 21 **2022.**

22 **(b) After submitting a report under subsection (a), the owner or**
 23 **operator of an above ground storage tank shall submit to the**
 24 **department a supplemental report concerning the AST whenever:**

25 **(1) the location of the AST;**

26 **(2) the classification of the materials stored in the AST;**

27 **(3) the capacity of the AST; or**

28 **(4) the name or contact information of the person who may be**
 29 **contacted for information about the AST;**

30 **is changed, so that the information concerning the AST in the**
 31 **possession of the department will remain accurate.**

32 **(c) If the owner or operator of an above ground storage tank has**
 33 **reported the existence of the AST to the department or another**
 34 **agency of the state pursuant to another statute or administrative**
 35 **rule, the owner or operator is not required to report to the**
 36 **department concerning the AST under this chapter.**

37 **(d) The owner or operator of an above ground storage tank who**
 38 **is required to report under this chapter shall report to the**
 39 **department concerning the AST:**

40 **(1) according to rules adopted by the board under section 10**
 41 **of this chapter; and**

42 **(2) either:**



- 1 (A) on a form adopted by the board or the department; or
 2 (B) through an electronic mail or Internet based means
 3 established by the board or the department;
 4 until rules concerning reporting are adopted under section 10
 5 of this chapter.

6 **Sec. 10. (a) The board shall adopt rules under IC 13-14-9 and**
 7 **IC 4-22-2 concerning the reporting required under this chapter.**

8 **(b) The rules adopted by the board under this section must do**
 9 **the following:**

10 **(1) Establish at least three (3) different classifications of above**
 11 **ground storage tanks for the purposes of this chapter,**
 12 **according to the relative danger of a disruption from an AST**
 13 **discharge, based on:**

- 14 **(A) the liquid stored in the AST;**
 15 **(B) the capacity and location of the AST; and**
 16 **(C) the proximity of the AST to the water intake of a public**
 17 **water system.**

18 **(2) Require reports to the department under this chapter**
 19 **concerning all ASTs that:**

- 20 **(A) are used to store hazardous materials; and**
 21 **(B) are located in a critical zone of concern.**

22 **(3) Establish certain conditions under which an AST shall be**
 23 **recognized as exempt from the reporting requirements of this**
 24 **chapter because the AST does not pose a threat to cause a**
 25 **disruption from a discharge of the contents of the AST.**

26 **(c) The rules adopted under this section must:**

27 **(1) provide for the filing of a supplemental report concerning**
 28 **an AST when a change as described in section 9(b) of this**
 29 **chapter occurs so that the information in the possession of the**
 30 **department concerning the AST will remain accurate; and**

31 **(2) specify the means by which the owner or operator of an**
 32 **AST will comply with the reporting requirements of this**
 33 **chapter, as described in section 9(d)(2) of this chapter.**

34 **(d) Notwithstanding subsection (a), the board may adopt**
 35 **emergency rules under IC 4-22-2-37.1 to create a temporary**
 36 **reporting form for use under this chapter.**

37 **Sec. 11. The following are exempt from the reporting**
 38 **requirements of this chapter:**

39 **(1) An AST used to contain only uncontaminated drinking**
 40 **water, demineralized water, noncontact or circulating cooling**
 41 **water, or water stored for fire or emergency purposes.**

42 **(2) An AST located on a farm or the premises of an**



- 1 **agribusiness, the contents of which are:**
 2 **(A) used by the AST owner or operator for farming**
 3 **purposes; or**
 4 **(B) produced as an agricultural commodity.**
 5 **(3) An AST:**
 6 **(A) that is located on a farm, the premises of an**
 7 **agribusiness, or residential property;**
 8 **(B) the capacity of which is not more than ten thousand**
 9 **(10,000) gallons; and**
 10 **(C) that is used for storing motor fuel for noncommercial**
 11 **purposes.**
 12 **(4) An AST:**
 13 **(A) the capacity of which is not more than one thousand**
 14 **one hundred (1,100) gallons; and**
 15 **(B) that is used for storing heating oil for consumption on**
 16 **the premises on which the AST is located.**
 17 **(5) An AST that is used for storing heating oil, natural gas, or**
 18 **propane and that is regulated under NFPA 58-30A or NFPA**
 19 **58-30B of the Liquified Petroleum Gas Code of the National**
 20 **Fire Protection Association through 49 CFR 192.11(b).**
 21 **(6) An AST that is part of a stormwater or wastewater**
 22 **collection and treatment system.**
 23 **(7) An AST located on a site regulated under IC 14-34.**
 24 **(8) Machinery and equipment containing integral operating**
 25 **fluids that are necessary for the proper operation of the**
 26 **machinery or equipment, including, but not limited to,**
 27 **hydraulic reservoirs, lubricating oil reservoirs, electrical**
 28 **equipment, heating and cooling equipment, and fuel tanks for**
 29 **emergency generators and fire pumps.**
 30 **(9) An AST that is:**
 31 **(A) located inside a building; and**
 32 **(B) resting on or elevated above a floor of the building;**
 33 **a discharge from which would be contained in a secondary**
 34 **containment structure or would, through other means, be**
 35 **prevented from escaping in a manner that could cause a**
 36 **disruption.**
 37 **(10) An AST that:**
 38 **(A) is regulated by the United States Department of**
 39 **Transportation; and**
 40 **(B) is located on a particular site for less than one hundred**
 41 **eighty (180) consecutive calendar days.**
 42 **(11) A surface impoundment, pit, pond, or lagoon.**



- 1 **(12) An AST:**
 2 (A) that is otherwise regulated through individual, site
 3 specific permits issued under the National Pollutant
 4 Discharge Elimination System or another regulatory
 5 program; or
 6 (B) for which appropriate containment and diversionary
 7 structures or equipment to prevent unregulated discharge
 8 of materials from reaching the waters of Indiana are in
 9 place in compliance with law or administrative rules.
- 10 **(13) An AST that is regulated under Section 1321 of the**
 11 **federal Water Pollution Control Act (Section 311 of the**
 12 **federal Clean Water Act, 33 U.S.C. 1321) and the regulations**
 13 **adopted thereunder, 40 CFR 112, et seq.**
- 14 **(14) Any flow-through or process AST, including, but not**
 15 **limited to, a pressure vessel and oil and water separators.**
- 16 **(15) A pipeline facility, including gathering lines, that:**
 17 (A) is regulated under the Natural Gas Pipeline Safety Act
 18 of 1968 (49 U.S.C. 1671 et seq.);
 19 (B) is regulated under the Hazardous Liquid Pipeline
 20 Safety Act of 1979 (49 U.S.C. 60101 et seq.); or
 21 (C) is an intrastate pipeline facility regulated under state
 22 laws comparable to the laws identified in clauses (A) and
 23 (B).
- 24 **(16) Electrical equipment such as transformers, circuit**
 25 **breakers, and voltage regulators.**
- 26 **(17) An AST used in a process operation:**
 27 (A) in which liquids are altered through biological,
 28 chemical, or physical means; or
 29 (B) that is used strictly to regulate liquid volumes in a
 30 process operation.
- 31 **(18) An AST containing pesticides or fertilizers regulated by**
 32 **the state chemist under 355 IAC.**
- 33 **(19) An emergency spill or overflow containment AST that is**
 34 **maintained to preserve its capacity.**
- 35 **(20) An AST that contains a de minimis concentration of**
 36 **hazardous material.**
- 37 **(21) An AST that is used for the storage of products that are**
 38 **regulated under the federal Food, Drug, and Cosmetic Act, 21**
 39 **U.S.C. 301 et seq.**
- 40 **(22) A device that is subject to IC 13-23 or other laws, rules,**
 41 **or regulations concerning underground storage tanks (as**
 42 **defined in IC 13-11-2-241).**



- 1 **(23) An AST containing mineral oil used solely for dust**
- 2 **suppression.**
- 3 **(24) Any other AST exempted by a rule adopted by the board**
- 4 **under section 10(b)(3) of this chapter.**

5 **Sec. 12. Information about above ground storage tanks that is**
 6 **reported to the department under this chapter may be considered**
 7 **confidential under IC 5-14-3-4(a)(1), IC 5-14-3-4(a)(4),**
 8 **IC 5-14-3-4(a)(8), or IC 5-14-3-4(b)(19) for purposes of public**
 9 **disclosure. However, the information may be disclosed to a**
 10 **responsible person developing or updating a surface water quality**
 11 **threat minimization and response plan for a public water system**
 12 **under IC 13-18-16-7.5.**

13 SECTION 11. IC 36-8-12-13, AS AMENDED BY P.L.10-2019,
 14 SECTION 140, IS AMENDED TO READ AS FOLLOWS
 15 [EFFECTIVE JULY 1, 2021]: Sec. 13. (a) Except as provided in
 16 subsection (b), the volunteer fire department that responds first to an
 17 incident may impose a charge on the owner of property, the owner of
 18 a vehicle, or a responsible party (as defined in IC 13-11-2-191(d)) that
 19 is involved in a hazardous material or fuel spill or chemical or
 20 hazardous material related fire (as defined in ~~IC 13-11-2-96(b)~~):
 21 **IC 13-11-2-96(c):**

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

25 A second or subsequently responding volunteer fire department may
 26 not impose a charge on an owner or responsible party under this
 27 section, although it may be entitled to reimbursement from the first
 28 responding volunteer fire department in accordance with an interlocal
 29 or other agreement.

- 30 (b) A volunteer fire department that is funded, in whole or in part:
- 31 (1) by taxes imposed by a unit; or
- 32 (2) by a contract with a unit;

33 may not impose a charge under subsection (a) on a natural person who
 34 resides or pays property taxes within the boundaries of the unit
 35 described in subdivision (1) or (2), unless the spill or the chemical or
 36 hazardous material fire poses an imminent threat to persons or
 37 property.

38 (c) The volunteer fire department shall bill the owner or responsible
 39 party of the vehicle for the total dollar value of the assistance that was
 40 provided, with that value determined by a method that the state fire
 41 marshal shall establish under section 16 of this chapter. A copy of the
 42 fire incident report to the state fire marshal must accompany the bill.



1 This billing must take place within thirty (30) days after the assistance
2 was provided. The owner or responsible party shall remit payment
3 directly to the governmental unit providing the service. Any money that
4 is collected under this section may be:

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

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

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

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

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

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

21 (g) The volunteer fire department may maintain a civil action to
22 recover an unpaid charge that is imposed under subsection (a) and may,
23 if it prevails, recover all costs of the action, including reasonable
24 attorney's fees.

