

HOUSE BILL No. 1159

DIGEST OF INTRODUCED BILL

Citations Affected: IC 4-4-11.6.

Synopsis: Substitute natural gas. Repeals certain provisions related to a purchase contract for substitute natural gas (SNG). Removes certain findings made by the general assembly with respect to SNG. Removes requirements that addenda to a purchase contract and other agreements entered into by the Indiana finance authority and a producer of SNG be submitted to the utility regulatory commission for approval.

Effective: Upon passage.

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January 13, 2014, read first time and referred to Committee on Utilities and Energy.



Second Regular Session 118th General Assembly (2014)

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 2013 Regular Session and 2013 First Regular Technical Session of the General Assembly.

HOUSE BILL No. 1159

A BILL FOR AN ACT to amend the Indiana Code concerning state offices and administration.

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

1 SECTION 1. IC 4-4-11.6-2.5 IS REPEALED [EFFECTIVE UPON
2 PASSAGE]. ~~Sec. 2.5. As used in this chapter, "business day" means a~~
3 ~~day other than a Saturday, Sunday, or legal holiday (as defined in~~
4 ~~IC 1-1-9-1).~~

5 SECTION 2. IC 4-4-11.6-10.5 IS REPEALED [EFFECTIVE UPON
6 PASSAGE]. ~~Sec. 10.5. As used in this chapter, a "savings" occurs, with~~
7 ~~respect to a purchase contract subject to review by the commission~~
8 ~~under section 14.5 of this chapter, when the purchase price of SNG~~
9 ~~paid by the authority under the purchase contract is less than the~~
10 ~~average market price of natural gas during intervals determined by the~~
11 ~~commission as set forth in section 14.5(b)(4) of this chapter.~~

12 SECTION 3. IC 4-4-11.6-12, AS AMENDED BY P.L.228-2013,
13 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
14 UPON PASSAGE]: Sec. 12. (a) The general assembly makes the
15 following findings:

16 (1) The furnishing of reliable supplies of reasonably priced



1 natural gas for sales to retail customers is essential for the well
 2 being of the people of Indiana. Natural gas prices are volatile, and
 3 energy utilities have been unable to mitigate completely the
 4 effects of the volatility.

5 (2) Long term contracts for the purchase of SNG between the
 6 authority and SNG producers will enhance the receipt of federal
 7 incentives for the development, construction, and financing of
 8 new coal gasification facilities in Indiana.

9 (3) The authority's participation in and oversight of the purchase,
 10 sale, and delivery of SNG to retail end use customers is critical to
 11 obtain low cost financing for the construction of new coal
 12 gasification facilities.

13 (4) Obtaining low cost financing for the construction of new coal
 14 gasification facilities is necessary to allow retail end use
 15 customers to enjoy the benefits of a reliable, reasonably priced,
 16 and long term energy supply.

17 (b) In addition to the findings set forth in subsection (a), the general
 18 assembly makes the following findings:

19 (1) With respect to pending litigation concerning contracts
 20 entered into under this chapter, the general assembly defers to the
 21 constitutional role and independence of the judicial branch.

22 (2) The general assembly recognizes the expertise and
 23 independence of the commission in matters concerning Indiana's
 24 natural gas ratepayers.

25 (3) Legislative power includes the power to amend and repeal
 26 existing laws. The legislature has no power to enact a law or to
 27 make a contract or arrangement that in any way surrenders or
 28 abridges this legislative power. The act of one (1) legislature is
 29 not binding upon a future legislature.

30 ~~(4) An action by a general assembly, including the enactment of~~
 31 ~~legislation, to protect the public interest is a proper exercise of the~~
 32 ~~police power and is not intended to impair a long term contract~~
 33 ~~for the purchase of SNG.~~

34 ~~(5) (4) New discoveries of natural gas supplies and development~~
 35 ~~of advanced drilling techniques may affect the determination of~~
 36 ~~whether a long term contract for the purchase of SNG is in the~~
 37 ~~public interest.~~

38 ~~(6) Realizing savings at intervals during the term of a contract for~~
 39 ~~the purchase of SNG protects retail end use customers and serves~~
 40 ~~the public interest.~~

41 SECTION 4. IC 4-4-11.6-14, AS AMENDED BY P.L.228-2013,
 42 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE



1 UPON PASSAGE]: Sec. 14. (a) The authority, either directly or as an
 2 assignee of an energy utility, may enter into purchase contracts for the
 3 purchase of SNG from coal gasification facilities.

4 (b) The authority shall submit the following to the commission for
 5 approval:

6 (1) The following:

7 (A) A purchase contract that is:

8 (i) originally submitted to the commission for approval
 9 before January 1, 2012; and

10 (ii) subsequently amended, supplemented with addenda or
 11 agreements, or otherwise modified to amend the definition
 12 of retail end use customers in the purchase contract.

13 (B) A purchase contract entered into after December 31, 2012.

14 (2) Any amendments addenda, or other modifications made or
 15 added at any time to a purchase contract, regardless of when the
 16 purchase contract is entered into.

17 (3) Any other agreements entered into between the authority and
 18 a producer of SNG.

19 SECTION 5. IC 4-4-11.6-14.5 IS REPEALED [EFFECTIVE UPON
 20 PASSAGE]. Sec. 14.5: (a) This section applies if an opinion by a court
 21 of appeal that does not affirm the 2011 order in its entirety is certified
 22 under Rule 65 of the Indiana Rules of Appellate Procedure.

23 (b) After notice and a hearing, the commission may approve, reject,
 24 or, before approval, require modification of a purchase contract
 25 submitted to the commission under section 14(b)(1) of this chapter if
 26 the commission finds that such action is in the public interest. The
 27 commission shall consider the following before finding that an action
 28 under this subsection is in the public interest:

29 (1) Whether the purchase contract is structured in a way that
 30 lessens the impact of any price volatility in the natural gas market
 31 on retail end use customers:

32 (2) Whether the assumptions underlying the model used to
 33 calculate the purchase price of SNG under the purchase contract,
 34 including assumptions about the future price of natural gas and
 35 coal and the value of future byproducts of the coal gasification
 36 facility, adequately apportion financial risk between the SNG
 37 producer and retail end use customers:

38 (3) The findings of any study conducted by the commission on the
 39 natural gas market and reported to the general assembly:

40 (4) Whether a purchase contract allows retail end use customers
 41 to realize savings during the term of the purchase contract at
 42 intervals established by the commission:



1 (5) Any other factors the commission considers necessary.
2 The commission shall issue a final order not more than one hundred
3 eighty (180) business days after the date on which the authority submits
4 the purchase contract to the commission under section 14(b)(1) of this
5 chapter.
6 (c) A party that seeks to appeal an order issued under subsection (b)
7 shall do so only through an expedited direct appeal to the Indiana
8 supreme court under rules to be adopted by the Indiana supreme court.
9 (d) The commission may adopt rules under IC 4-22-2 to carry out
10 the requirements of this section. A rule adopted under this subsection
11 must establish filing and other procedural deadlines for all parties to a
12 hearing under subsection (b).
13 **SECTION 6. An emergency is declared for this act.**

