

# HOUSE BILL No. 1165

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 8-1.5-3-8.

**Synopsis:** Municipally owned utilities. Makes the following changes to the Indiana Code provision that provides that in the case of property occupied by someone other than the owner, the person occupying the property is responsible for rates, charges, and other fees for utility services (other than sewer services) provided to the property by a municipally owned utility: (1) Provides that a municipally owned utility shall, without requiring: (A) a request from the property owner; or (B) the property owner to sign or cosign an agreement to: (i) ensure the creditworthiness of the person occupying the property; or (ii) assume responsibility or liability for payment for utility services rendered to the property; maintain the account for the property in the name of the person occupying the property and send all bills to the person occupying the property at the address of the property. (2) Prohibits a municipality from requiring, as a condition of providing utility service to the property or otherwise, the property owner to: (A) ensure the creditworthiness of the person occupying the property; or (B) assume responsibility or liability for payment for utility services rendered to the property; by signing or cosigning an agreement, or by any other means. (3) Prohibits a municipally owned utility from taking certain actions if, after utility service has been established in the name of the person occupying the property, the person occupying the property incurs a delinquency with respect to any rates, charges, or other fees incurred with respect to the property. (4) Sets forth procedures to be followed if, after utility service has been established in the name of the person occupying the property, possession of the property is transferred from that person to another tenant or occupant. (5) Sets forth procedures to  
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**Effective:** Upon passage.

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January 8, 2020, read first time and referred to Committee on Utilities, Energy and Telecommunications.

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be followed if, after utility service has been established in the name of the person occupying the property, ownership of the property is transferred from one owner to another owner. (6) Specifies that a municipally owned utility or a municipality is not prohibited from: (A) terminating, in accordance with law and the municipally owned utility's policies, one or more utility services to the property for delinquent rates, charges, or other fees incurred with respect to the property; or (B) pursuing any legal or equitable remedies otherwise available to the municipally owned utility or municipality from or against: (i) the person occupying the property; or (ii) the property owner, if the property owner has provided notice that the property owner elects to assume responsibility for payment of the utility services rendered to the property. (7) Provides that any rates, charges, or other fees imposed by the municipally owned utility with respect to the property are payable by the property owner if the property owner provides to the municipally owned utility a written notice stating that the property owner elects to assume responsibility for the payment of the rates, charges, or other fees. (8) Provides that if a municipality provides both sewer service and one or more other utility services to a property that is occupied by someone other than the owner: (A) all rates, charges, and other fees for the other utility services are payable by the person occupying the property, regardless of whether the municipality combines billing for sewer service and the other utility services; and (B) the municipality shall not attempt to circumvent, through the use of combined billing or by any other means, the liability of the person occupying the property for the payment of all rates, charges, and other fees imposed for the other utility services.



Introduced

Second Regular Session of the 121st General Assembly (2020)

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 2019 Regular Session of the General Assembly.

## HOUSE BILL No. 1165

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

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

- 1 SECTION 1. IC 8-1.5-3-8, AS AMENDED BY P.L.105-2019,  
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 UPON PASSAGE]: Sec. 8. (a) A municipality owning a utility under  
4 this chapter shall furnish reasonably adequate services and facilities.  
5 (b) The rates and charges made by a municipality for a service  
6 rendered or to be rendered, either directly or in connection therewith,  
7 must be nondiscriminatory, reasonable, and just.  
8 (c) "Reasonable and just rates and charges for services" means rates  
9 and charges that produce sufficient revenue to:  
10 (1) pay all the legal and other necessary expenses incident to the  
11 operation of the utility, including:  
12 (A) maintenance costs;  
13 (B) operating charges;  
14 (C) upkeep;  
15 (D) repairs;



- 1 (E) depreciation;
- 2 (F) interest charges on bonds or other obligations, including
- 3 leases; and
- 4 (G) costs associated with the acquisition of utility property
- 5 under IC 8-1.5-2;
- 6 (2) provide a sinking fund for the liquidation of bonds or other
- 7 obligations, including leases;
- 8 (3) provide a debt service reserve for bonds or other obligations,
- 9 including leases, in an amount established by the municipality,
- 10 not to exceed the maximum annual debt service on the bonds or
- 11 obligations or the maximum annual lease rentals;
- 12 (4) provide adequate money for working capital;
- 13 (5) provide adequate money for making extensions and
- 14 replacements to the extent not provided for through depreciation
- 15 in subdivision (1); and
- 16 (6) provide money for the payment of any taxes that may be
- 17 assessed against the utility.
- 18 (d) It is the intent of this section that the rates and charges produce
- 19 an income sufficient to maintain the utility property in a sound physical
- 20 and financial condition to render adequate and efficient service. Rates
- 21 and charges too low to meet these requirements are unlawful.
- 22 (e) The board may recommend to the municipal legislative body
- 23 rates and charges sufficient to include a reasonable return on the utility
- 24 plant of the municipality.
- 25 (f) Rates and charges established under this section are subject to
- 26 the approval of:
- 27 (1) the municipal legislative body by ordinance; and
- 28 (2) the commission, in accordance with the procedures set forth
- 29 in IC 8-1-2.
- 30 The commission shall approve rates and charges that are sufficient, in
- 31 addition to the cash revenue requirements set forth in subsection (c), to
- 32 include a reasonable return on the utility plant of the municipality if the
- 33 legislative body so elects.
- 34 (g) Except for a municipally owned utility taxed under IC 6-1.1-8-3,
- 35 the commission shall approve rates and charges sufficient to
- 36 compensate the municipality for taxes that would be due the
- 37 municipality on the utility property were it privately owned. These rates
- 38 and charges in lieu of taxes may be transferred to the municipal general
- 39 fund, if the legislative body so elects.
- 40 (h) The commission shall grant a request that an increase in rates
- 41 and charges not be effective until after the occurrence of a future event
- 42 if the legislative body so requests.



1 (i) A municipality that acquires and operates a utility under  
 2 IC 8-1.5-2 by exercising the power of eminent domain may not impose  
 3 a special rate, charge, surcharge, or other fee, other than rates and  
 4 charges approved under this section or otherwise authorized by law, on  
 5 the customers of the utility in order to pay for the costs associated with  
 6 acquiring the utility through the exercise of the power of eminent  
 7 domain.

8 (j) **Except as provided in subsection (o), this subsection does and**  
 9 **subsections (k) through (n) do not apply to services rendered by a**  
 10 **sewage works that is subject to IC 36-9-23 or to IC 36-9-25. Except as**  
 11 **provided in subsection (o), this subsection and subsections (k)**  
 12 **through (n) also does do not apply to services rendered by a**  
 13 **department of public utilities created by IC 8-1-11.1 or to services**  
 14 **rendered by a utility company owned, operated, or held in trust by a**  
 15 **consolidated city. This subsection applies to property that is served by**  
 16 **a municipally owned utility and that is occupied by someone other than**  
 17 **the owner of the property. Upon applying for utility service from a**  
 18 **municipally owned utility for property subject to this subsection, the**  
 19 **person occupying the property shall provide the municipally owned**  
 20 **utility with the name and contact information of the owner or manager**  
 21 **of the property. Subject to subsection subsections (k) and (l), all rates,**  
 22 **charges, and other fees for services rendered by a municipally owned**  
 23 **utility to a property that is subject to this subsection are payable by the**  
 24 **person occupying the property if:**

25 **(1) either:**

26 **(A) the municipally owned utility has received the name**  
 27 **and contact information of the owner or manager of the**  
 28 **property from the person occupying the property, as**  
 29 **required by this subsection; or**

30 **(B) the account or other customer or billing records**  
 31 **maintained by the municipally owned utility for the property**  
 32 **otherwise indicate that (1) the property is occupied by**  
 33 **someone other than the owner; and (2) the person occupying**  
 34 **the property is responsible for paying the rates, charges, and**  
 35 **fees assessed for the services rendered by the municipally**  
 36 **owned utility with respect to the property.**

37 **(2) the municipally owned utility has not received from the**  
 38 **owner of the property a notice under subsection (m) that is in**  
 39 **effect under subsection (n).**

40 Rates, charges, and fees assessed for services rendered by a  
 41 municipally owned utility with respect to property occupied by  
 42 someone other than the owner of the property do not constitute a lien



1 against the property, **regardless of whether a notice described in**  
 2 **subsection (m) is in effect with respect to the property under**  
 3 **subsection (n).**

4 (k) With respect to property that is served by a municipally owned  
 5 utility and that is occupied by someone other than the owner of the  
 6 property, subsection (j) does not:

7 (1) **except as provided in subsection (l)**, prohibit a municipal  
 8 legislative body from imposing any:

9 (A) requirement for a deposit to ~~ensure payment by~~ **from** the  
 10 person occupying the property **to ensure payment by the**  
 11 **person** of the rates, charges, and fees assessed for the services  
 12 rendered by the municipally owned utility with respect to the  
 13 property; or

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

17 that the municipal legislative body may lawfully impose; or

18 (2) abrogate or limit the authority of the owner of a multi-unit  
 19 building to engage in electrical submetering under IC 8-1-2-36.5,  
 20 subject to:

21 (A) the owner's qualification to engage in submetering under  
 22 IC 8-1-2-36.5 and 170 IAC 4-5; and

23 (B) the owner's compliance with the requirements for  
 24 submetering set forth in IC 8-1-2-36.5 and 170 IAC 4-5.

25 **(l) This subsection applies to property that is served by a**  
 26 **municipally owned utility and that is occupied by someone other**  
 27 **than the owner of the property. If all rates, charges, and other fees**  
 28 **for services rendered by the municipally owned utility to the**  
 29 **property are payable by the person occupying the property under**  
 30 **subsection (j)(1) and (j)(2), the following apply:**

31 **(1) A municipally owned utility shall, without requiring:**

32 **(A) a request from the property owner; or**

33 **(B) the property owner to sign or cosign an agreement**  
 34 **described in subdivision (2);**

35 **maintain all account or other customer or billing records for**  
 36 **the property in the name of the person occupying the property**  
 37 **and shall send all bills or invoices concerning the property to**  
 38 **the person occupying the property at the address of the**  
 39 **property. This subdivision does not prohibit a municipally**  
 40 **owned utility from requiring the person occupying the**  
 41 **property to apply for utility services from the municipally**  
 42 **owned utility, in the form and manner prescribed by the**



- 1 municipally owned utility, as a condition to receiving one (1)  
 2 or more utility services from the municipally owned utility at  
 3 the property.
- 4 (2) Subdivision (1) does not prohibit a municipally owned  
 5 utility or a municipal legislative body from imposing on the  
 6 person occupying the property any lawful requirement for a  
 7 deposit, or any other requirement to ensure the  
 8 creditworthiness of the person as the account holder or  
 9 customer, that the municipality may lawfully impose at any  
 10 time before or after establishing utility service to the property  
 11 in the person's name, in accordance with subsection (k)(1).  
 12 However, a municipally owned utility or a municipal  
 13 legislative body may not, as a condition of providing one (1)  
 14 or more utility services to the property or otherwise, require  
 15 the owner of the property to:
- 16 (A) ensure the creditworthiness of the person occupying  
 17 the property, including by requiring the property owner to  
 18 accept responsibility for the payment of a deposit on behalf  
 19 of the person occupying the property; or
- 20 (B) subject to subsection (m), assume:
- 21 (i) responsibility for payment of any rates, charges, or  
 22 other fees for services rendered by the municipally  
 23 owned utility to the property; or
- 24 (ii) joint and several liability with respect to unpaid bills  
 25 invoiced to the person occupying the property;
- 26 by signing an agreement with the municipality or the  
 27 municipally owned utility, by cosigning an agreement  
 28 between the person occupying the property and the  
 29 municipality or the municipally owned utility, or by any  
 30 other means.
- 31 (3) If, after a municipally owned utility has established utility  
 32 service to the property in the name of the person occupying  
 33 the property, the person occupying the property incurs a  
 34 delinquency with respect to any rates, charges, or other fees  
 35 imposed by the municipally owned utility with respect to the  
 36 property, the municipally owned utility may not:
- 37 (A) invoice the property owner for the delinquent rates,  
 38 charges, or other fees incurred by the person occupying the  
 39 property;
- 40 (B) place the customer account for the property in the  
 41 property owner's name because of the delinquency, unless  
 42 the owner of the property provides the municipally owned



- 1 utility a notice under subsection (m) with respect to the  
 2 property after the delinquency is incurred by the person  
 3 occupying the property;
- 4 (C) assess the property owner for any reconnect fees,  
 5 collection costs, attorney's fees, or interest owed by the  
 6 person occupying the property in connection with the  
 7 delinquency; or
- 8 (D) prohibit the property from being eligible for the  
 9 invoicing of rates, charges, or fees in the name of:
- 10 (i) the person occupying the property; or  
 11 (ii) any subsequent tenant or occupant of the property;  
 12 during the property owner's continued ownership of the  
 13 property.
- 14 (4) If, after a municipally owned utility has established utility  
 15 service to the property in the name of the person occupying  
 16 the property, possession of the property is transferred from  
 17 that person to another tenant or occupant, utility service for  
 18 the property shall remain in the name of the first tenant, and  
 19 the first tenant shall remain liable for payment of any utility  
 20 charges or fees incurred with respect to the property until the  
 21 first of the following occurs:
- 22 (A) The municipally owned utility receives a request from:
- 23 (i) the first tenant; or  
 24 (ii) the property owner;
- 25 for a final meter reading for the property in the name of  
 26 the first tenant. After receiving a request under this clause,  
 27 the municipally owned utility shall, as soon as practicable,  
 28 and in accordance with the municipally owned utility's  
 29 policies, perform a final meter reading for the property in  
 30 the name of the first tenant. The first tenant remains liable  
 31 for payment of any utility rates, charges, or other fees  
 32 incurred with respect to the property until the time of the  
 33 final meter reading. After performing a final meter  
 34 reading under this clause, the municipally owned utility  
 35 may terminate one (1) or more utility services to the  
 36 property until the new tenant or occupant applies for  
 37 utility service under clause (B), or until the municipally  
 38 owned utility receives a notice from the property owner  
 39 under clause (C).
- 40 (B) The new tenant or occupant applies to the municipally  
 41 owned utility, in the form and manner prescribed by the  
 42 municipally owned utility, for one (1) or more utility





1 services at the property. After receiving a request for  
 2 utility service from the new tenant under this clause, the  
 3 municipally owned utility shall, as soon as practicable, and  
 4 in accordance with the municipally owned utility's policies,  
 5 perform a final meter reading for the property in the name  
 6 of the first tenant. The first tenant remains liable for  
 7 payment of any utility rates, charges, or other fees  
 8 incurred with respect to the property until the time of the  
 9 final meter reading. After performing a final meter  
 10 reading under this clause, the municipally owned utility  
 11 may:

- 12 (i) establish one (1) or more utility services to the  
 13 property in the name of the new tenant or occupant, if  
 14 the municipally owned utility approves the new tenant or  
 15 occupant for the utility services requested; or  
 16 (ii) terminate one (1) or more utility services to the  
 17 property, if the municipally owned utility does approve  
 18 the new tenant or occupant for the utility services  
 19 requested.

20 (C) The municipally owned utility receives a notice from  
 21 the property owner under subsection (m) with respect to  
 22 the property. Upon receiving a notice from the property  
 23 owner under subsection (m), the municipally owned utility  
 24 shall, as soon as practicable, and in accordance with the  
 25 municipally owned utility's policies, perform a final meter  
 26 reading for the property in the name of the first tenant.  
 27 The first tenant remains liable for payment of any utility  
 28 rates, charges, or other fees incurred with respect to the  
 29 property until the time of the final meter reading. After  
 30 performing a final meter reading under this clause, the  
 31 municipally owned utility shall maintain all account or  
 32 other customer or billing records for the property in the  
 33 name of the property owner, effective as of the date  
 34 provided for under subsection (n)(1), and shall send all  
 35 bills or invoices concerning the property to the property  
 36 owner at the address specified by the property owner in  
 37 the notice under subsection (m)(3).

38 (5) If, after a municipally owned utility has established utility  
 39 service to a property in the name of the person occupying the  
 40 property, ownership of the property is transferred from one  
 41 (1) owner to another owner, utility service for the property  
 42 shall remain in the name of the person occupying the property



1 under first property owner, and that person shall remain  
 2 liable for payment of any utility charges or fees incurred with  
 3 respect to the property until the first of the following occurs:

- 4 (A) The municipally owned utility receives a request from:  
 5 (i) the first property owner;  
 6 (ii) the person occupying the property under the first  
 7 property owner; or  
 8 (iii) the person to whom ownership of the property is  
 9 transferred;

10 for a final meter reading for the property in the name of  
 11 the person occupying the property under first property  
 12 owner. Upon receiving a request under this clause, the  
 13 municipally owned utility shall proceed in accordance with  
 14 the procedures set forth in subdivision (4)(A).

15 (B) A new tenant or occupant applies to the municipally  
 16 owned utility for one (1) or more utility services at the  
 17 property. Upon receiving a request for utility service from  
 18 a new tenant or occupant under this clause, the  
 19 municipally owned utility shall proceed in accordance with  
 20 the procedures set forth in subdivision (4)(B).

21 (C) The municipally owned utility receives a notice under  
 22 subsection (m) with respect to the property from the  
 23 person to whom ownership of the property is transferred.  
 24 Upon receiving a notice under this clause, the municipally  
 25 owned utility shall proceed in accordance with the  
 26 procedures set forth in subdivision (4)(C).

27 (6) Subdivisions (2) through (5) do not prohibit a municipally  
 28 owned utility or a municipality from:

29 (A) terminating, in accordance with law and with the  
 30 municipally owned utility's applicable policies for the  
 31 utility services provided, one (1) or more utility services to  
 32 the property for any delinquent rates, charges, or other  
 33 fees incurred with respect to the property; or

34 (B) pursuing any legal or equitable remedies otherwise  
 35 available to the municipally owned utility or municipality  
 36 with respect to the delinquency, including seeking  
 37 collection costs, reconnect fees, statutory interest, or  
 38 reasonable attorney's fees from, or any available causes of  
 39 action against:

- 40 (i) the person occupying the property, if subsection (j)(1)  
 41 and (j)(2) apply; or  
 42 (ii) the property owner, if a notice from the property



- 1 owner under subsection (m) is in effect with respect to  
 2 the property.
- 3 (m) This subsection applies to property that is served by a  
 4 municipally owned utility and that is occupied by someone other  
 5 than the owner of the property. Subject to subsection (n), any rates,  
 6 charges, or other fees imposed by the municipally owned utility  
 7 with respect to property that is subject to this subsection are  
 8 payable by the owner of the property if the owner provides to the  
 9 municipally owned utility a written notice that:
- 10 (1) indicates that the property is occupied by someone other  
 11 than the owner;
- 12 (2) states that the owner of the property elects to assume  
 13 responsibility for the payment of any rates, charges, or other  
 14 fees imposed by the municipally owned utility with respect to  
 15 the property; and
- 16 (3) includes a mailing address at which the owner of the  
 17 property requests to receive:
- 18 (A) billings; or  
 19 (B) other notices of fees or charges due;  
 20 with respect to the property.
- 21 (n) A notice provided under subsection (m):
- 22 (1) takes effect as of:
- 23 (A) the date of receipt by the municipally owned utility; or  
 24 (B) another date indicated by the property owner in the  
 25 notice;
- 26 whichever is later; and
- 27 (2) remains in effect until:
- 28 (A) the property owner provides to the municipally owned  
 29 utility subsequent written notice that:
- 30 (i) states that the property owner no longer elects to  
 31 assume responsibility for the payment of any rates,  
 32 charges, or other fees imposed by the municipally owned  
 33 utility with respect to the property;
- 34 (ii) requests that the account or other customer or billing  
 35 records maintained by the municipally owned utility for  
 36 the property be placed in the name of the person  
 37 occupying the property; and
- 38 (iii) requests that all billings or other notices of fees or  
 39 charges due be provided to the person occupying the  
 40 property at the address of the property; or
- 41 (B) the date the property is conveyed to a subsequent  
 42 owner, as indicated in the office of the county recorder;



1           whichever occurs first.

2           **(o) This subsection applies to a municipality that provides:**

3           **(1) sewer service through a sewage works subject to**  
 4           **IC 36-9-23 or IC 36-9-25, including sewer service provided**  
 5           **through:**

6           **(A) a department of public utilities created by IC 8-1-11.1;**  
 7           **or**

8           **(B) a utility company owned, operated, or held in trust by**  
 9           **a consolidated city; and**

10          **(2) one (1) or more other utility services under this article;**

11          **to a property that is occupied by someone other than the owner of**  
 12          **the property. Subject to subsections (k) and (l), and except with**  
 13          **respect to any property for which a notice under subsection (m) is**  
 14          **in effect under subsection (n), all rates, charges, and other fees for**  
 15          **utility services described in subdivision (2) are payable by the**  
 16          **person occupying the property if subsection (j)(1) and (j)(2) apply,**  
 17          **regardless of whether the municipality combines billing for sewer**  
 18          **service and the utility services described in subdivision (2). The**  
 19          **municipality shall provide a copy of any combined bill that**  
 20          **includes fees and charges for both sewer service and utility services**  
 21          **described in subdivision (2) to the person occupying the property**  
 22          **at the address of the property, in accordance with subsection (l)(1).**  
 23          **The municipality shall also provide a copy of any combined bill**  
 24          **that includes fees and charges for both sewer service and utility**  
 25          **services described in subdivision (2) to the property owner at the**  
 26          **address for the property owner provided under subsection (j) by**  
 27          **the person occupying the property or, if the person occupying the**  
 28          **property fails to provide the property owner's address, and the**  
 29          **account or other customer or billing records maintained by the**  
 30          **municipally owned utility for the property otherwise indicate that**  
 31          **the property is occupied by someone other than the owner, at the**  
 32          **last address of the owner for the property as indicated in the**  
 33          **records of the county auditor. Rates, charges, and fees assessed for**  
 34          **utility services described in subdivision (2) do not constitute a lien**  
 35          **against the property regardless of whether the municipality**  
 36          **combines billing for sewer service and the utility services described**  
 37          **in subdivision (2). A municipality shall not attempt to circumvent,**  
 38          **through the use of combined billing or by any other means, the**  
 39          **application of subsections (j) and (l) to property subject to this**  
 40          **subsection with respect to any utility services described in**  
 41          **subdivision (2).**

42          **SECTION 2. An emergency is declared for this act.**

