



February 21, 2020

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# ENGROSSED HOUSE BILL No. 1165

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DIGEST OF HB 1165 (Updated February 20, 2020 1:49 pm - DI 119)

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

**Synopsis:** Municipally owned utilities. Provides that a statute allowing rates, charges, and other fees for services provided by a municipally owned utility (other than sewer services provided by a municipally owned utility) to be paid by a person who occupies, but does not own, the property does not allow a municipal legislative body to impose a requirement that the owner of the property must: (1) ensure the creditworthiness of the person occupying the property; or (2) accept responsibility for charges incurred by the person occupying the property; by cosigning an agreement or by any other method.

**Effective:** Upon passage.

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## Burton, Pressel, Smaltz, Soliday

(SENATE SPONSOR — SANDLIN)

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

January 23, 2020, amended, reported — Do Pass.

January 27, 2020, read second time, ordered engrossed.

January 28, 2020, engrossed.

January 29, 2020, read third time, passed. Yeas 64, nays 31.

SENATE ACTION

February 5, 2020, read first time and referred to Committee on Utilities.

February 20, 2020, amended, reported favorably — Do Pass.

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EH 1165—LS 6738/DI 101





February 21, 2020

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.

## ENGROSSED 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;

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

- 24 (1) the property is occupied by someone other than the owner; and  
 25 (2) the person occupying the property is responsible for paying  
 26 the rates, charges, and fees assessed for the services rendered by  
 27 the municipally owned utility with respect to the property.

28 Rates, charges, and fees assessed for services rendered by a  
 29 municipally owned utility with respect to property occupied by  
 30 someone other than the owner of the property do not constitute a lien  
 31 against the property.

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

- 35 (1) prohibit a municipal legislative body from imposing any:  
 36 (A) requirement for a deposit to ensure payment by the person  
 37 occupying the property of the rates, charges, and fees assessed  
 38 for the services rendered by the municipally owned utility with  
 39 respect to the property; or  
 40 (B) other requirement to ensure the creditworthiness of the  
 41 person occupying the property as the account holder or  
 42 customer with respect to the property;



1 that the municipal legislative body may lawfully impose; or  
2 (2) abrogate or limit the authority of the owner of a multi-unit  
3 building to engage in electrical submetering under IC 8-1-2-36.5,  
4 subject to:  
5 (A) the owner's qualification to engage in submetering under  
6 IC 8-1-2-36.5 and 170 IAC 4-5; and  
7 (B) the owner's compliance with the requirements for  
8 submetering set forth in IC 8-1-2-36.5 and 170 IAC 4-5.  
9 **(l) With respect to property that is served by a municipally**  
10 **owned utility and that is occupied by someone other than the**  
11 **owner of the property, subsection (k) does not allow a municipal**  
12 **legislative body to impose a requirement that the owner of the**  
13 **property must:**  
14 **(1) ensure the creditworthiness of the person occupying the**  
15 **property; or**  
16 **(2) accept responsibility for charges incurred by the person**  
17 **occupying the property;**  
18 **by cosigning an agreement or by any other method.**  
19 **SECTION 2. An emergency is declared for this act.**



COMMITTEE REPORT

Mr. Speaker: Your Committee on Utilities, Energy and Telecommunications, to which was referred House Bill 1165, 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:

Delete everything after the enacting clause and insert the following:

(SEE TEXT OF BILL)

and when so amended that said bill do pass.

(Reference is to HB 1165 as introduced.)

SOLIDAY

Committee Vote: yeas 11, nays 2.

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COMMITTEE REPORT

Madam President: The Senate Committee on Utilities, to which was referred House Bill No. 1165, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Delete everything after the enacting clause and insert the following:

(SEE TEXT OF BILL)

and when so amended that said bill do pass.

(Reference is to HB 1165 as printed January 24, 2020.)

MERRITT, Chairperson

Committee Vote: Yeas 8, Nays 3.

