

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 ENROLLED ACT No. 1191

AN ACT to amend the Indiana Code concerning energy.

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

SECTION 1. IC 8-1-2-101.2 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2021 (RETROACTIVE)]: Sec. 101.2. (a) The following definitions apply throughout this section:**

(1) "Energy source" means:

(A) the method of generation; or

(B) the fuel source;

used to provide or supply utility service to a customer. The term includes any energy source used to provide utility service, including a clean energy resource (as defined in IC 8-1-37-4).

(2) "Executive" has the meaning set forth in IC 36-1-2-5.

(3) "Municipal council" has the meaning set forth in section 1(b) of this chapter.

(4) "Utility service" means any service provided by a liquid petroleum gas company, a public utility, or a department of public utilities relating to:

(A) the generation, production, transmission, or distribution of electricity or thermal energy to or for the public, for compensation; or

(B) the production, manufacture, storage, transportation, distribution, sale, or furnishing of:

(i) natural gas;

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- (ii) artificial or manufactured gas; or
- (iii) a mixture of natural gas and artificial or manufactured gas;

to or for the public, for compensation;
for heat, light, power, or other uses.

(b) A municipal council or county executive does not have the power to enact any code, ordinance, or land use regulation that would prohibit or have the effect of prohibiting, or to otherwise regulate in a manner that would prohibit or have the effect of prohibiting:

(1) a liquid petroleum gas company, a public utility, or a department of public utilities from furnishing utility service to a utility customer; or

(2) a customer of a liquid petroleum gas company, a public utility, or a department of public utilities from:

(A) purchasing;

(B) using; or

(C) connecting or reconnecting to;
a utility service;

based on the energy source of the utility service.

(c) This section does not prohibit a liquid petroleum gas company, a public utility, or a department of public utilities from disconnecting utility service to a customer in accordance with the company's, utility's, or department's approved terms and conditions for service, including when an imminent danger to public safety exists.

SECTION 2. IC 8-1-8.5-3.2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: **Sec. 3.2. (a) This section applies to an electric utility that submits an integrated resource plan described in section 3(e) of this chapter after June 30, 2021, and before January 1, 2025.**

(b) Except as otherwise provided in this section, the definitions in 170 IAC 4-7 apply throughout this section.

(c) As used in this section, "electric utility" refers to an electric utility listed in 170 IAC 4-7-2(a).

(d) As used in this section, "federal phaseout mandate" means any federal statutory or regulatory requirement that:

(1) is established after April 20, 2021, by the Congress of the United States, a federal regulatory agency, or a federal executive order; and

(2) requires the phaseout or discontinuance of a particular type of electric generating facility, technology, or fuel source.

(e) In reviewing an integrated resource plan submitted by an electric utility after June 30, 2021, the commission shall evaluate the impact of federal phaseout mandates on the estimated useful



lives of both:

- (1) the existing electric generating facilities of the electric utility; and**
- (2) any proposed electric generating facilities of the electric utility;**

including depreciation expense associated with such facilities, as set forth in the integrated resource plan.

SECTION 3. IC 8-1-8.5-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 4. **(a) As used in this section, "federal phaseout mandate" means any federal statutory or regulatory requirement that:**

- (1) is established after April 20, 2021, by the Congress of the United States, a federal regulatory agency, or a federal executive order; and**
- (2) requires the phaseout or discontinuance of a particular type of electric generating facility, technology, or fuel source.**

(b) In acting upon any petition for the construction, purchase, or lease of any facility for the generation of electricity, the commission shall take into account the following:

- (1) The applicant's current and potential arrangement with other electric utilities for:
 - (A) the interchange of power;
 - (B) the pooling of facilities;
 - (C) the purchase of power; and
 - (D) joint ownership of facilities. ~~and~~

(2) Other methods for providing reliable, efficient, and economical electric service, including the refurbishment of existing facilities, conservation, load management, cogeneration and renewable energy sources.

(3) With respect to a petition that:

- (A) is for the construction of a new generating facility; and**
- (B) is submitted to the commission after June 30, 2021, and before January 1, 2025;**

the impact of federal phaseout mandates on the estimated useful life of each proposed generating facility included in the petition, including depreciation expense associated with each facility.

SECTION 4. IC 36-1-3-13 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 13. **(a) Unless required under IC 36-7-2-9, a unit does not have the power to do the following:**

- (1) Require that a particular component, design, or type of material be used in the construction of a building or other structure because of the energy saving or energy producing qualities of the component, design, or material.**

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(2) Prohibit the use of a particular component, design, or type of material in the construction of a building or other structure because the component, design, or material does not meet a standard for energy saving.

(3) Require that a building or other structure be retrofitted with a particular device or type of material because of the energy saving or energy producing qualities of the device or material.

(4) Prohibit or restrict the purchase or use of vehicles or other machines based upon the type of energy that powers the vehicle or machine.

(5) Prohibit the sale, installation, or use of any of the following:

(A) Natural gas powered home heating equipment.

(B) Natural gas powered home appliances.

(C) Grills, stoves, and other food preparation appliances designed to be used outdoors.

(D) Natural gas powered:

(i) heating appliances; and

(ii) torches, lamps, and other decorative features;

designed to be used outdoors.

(6) Enact an ordinance, adopt a resolution, or enforce an ordinance or resolution that purports to exercise a power denied by subdivisions (1) through (5).

(b) This section does not apply to requirements included in procurement documents used to procure goods and services, including the construction or design of buildings, to be owned or used by the unit. A unit may adopt bid specifications for a public works project that include energy savings or energy production provisions with respect to the components, design, or materials for the specific project.

SECTION 5. An emergency is declared for this act.



Speaker of the House of Representatives

President of the Senate

President Pro Tempore

Governor of the State of Indiana

Date: _____ Time: _____

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