

# HOUSE BILL No. 1284

---

## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 8-1-2-5.5.

**Synopsis:** Modification of utility facilities. Provides that if a person, including a customer of a utility, requests or requires the modification of one or more utility facilities of a utility, the utility: (1) may not refuse to perform the modification if: (A) the local unit in which the modification will occur supports the request; and (B) the utility's access to the facility will not be diminished or hindered as a result of the modification; and (2) may require the person requesting or requiring the modification to pay the cost of the modification. Sets forth certain requirements and conditions that apply to a utility's determination of the cost of the modification of a utility facility. Requires a utility to include information about requests for modifications of utility facilities, including information on the factors the utility uses in determining the cost of modifications: (1) in the utility's filings with the utility regulatory commission (IURC); and (2) on the utility's Internet web site. Requires the utility to make the information available for public inspection in each of the utility's offices or stations that are open to the public. Provides that upon: (1) the IURC's own motion; or (2) the complaint of a utility, a person requesting or requiring the modification of a utility facility, or certain other qualified complainants; the IURC may investigate the amounts assessed by a utility with respect to the modification of a specific utility facility, or by the utility generally for modifications of utility facilities. Authorizes the IURC to: (1) hold hearings and issue orders in connection with such an investigation; and (2) adopt rules that the IURC considers necessary to implement these provisions.

**Effective:** Upon passage.

---

---

## DeVon

---

---

January 14, 2020, read first time and referred to Committee on Utilities, Energy and Telecommunications.

---

---



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. 1284



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 8-1-2-5.5 IS ADDED TO THE INDIANA CODE  
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE  
3 UPON PASSAGE]: **Sec. 5.5. (a) This section applies if a person,  
4 including a customer of a utility:**  
5 (1) requests for the person's convenience; or  
6 (2) requires by the person's actions;  
7 **the modification of one (1) or more utility facilities of a utility.**  
8 (b) As used in this section, "cost of the modification", with  
9 respect to the modification of a utility facility by a utility, means  
10 the utility's direct, actual, and reasonably incurred costs that are  
11 properly attributable to the modification.  
12 (c) As used in this section, "local unit" means:  
13 (1) a local unit of government; or  
14 (2) any board, commission, department, agency, or governing  
15 body of a local unit of government.  
16 (d) As used in this section, "modification", with respect to a  
17 utility facility, includes the:



- 1           (1) redesign;  
 2           (2) reengineering;  
 3           (3) relocation;  
 4           (4) removal;  
 5           (5) alteration;  
 6           (6) reinstallation; or  
 7           (7) replacement;  
 8 of the utility facility, or the taking of any combination of one (1) or  
 9 more of these activities, or similar activities, with respect to the  
 10 utility facility.
- 11           (e) As used in this section, "utility" refers to either of the  
 12 following:
- 13           (1) A public utility (as defined in IC 8-1-2-1(a)).  
 14           (2) For purposes of this section only, a communications  
 15 service provider (as defined in IC 8-1-32.5-4).
- 16           (f) If a person requests or requires the modification of one (1) or  
 17 more utility facilities of a utility, as described in subsection (a), the  
 18 utility:
- 19           (1) may not refuse to perform the modification if:  
 20           (A) the local unit in which the modification will occur  
 21 supports the request; and  
 22           (B) the utility's access to the facility will not be diminished  
 23 or hindered as a result of the modification; and  
 24           (2) subject to subsections (g) and (h), may require the person  
 25 requesting or requiring the modification to make payment to  
 26 the utility of the cost of the modification.
- 27           (g) If a utility requires the person requesting or requiring the  
 28 modification to pay the utility the cost of the modification, as  
 29 described in subsection (f)(2), the following apply to the utility's  
 30 determination of the cost of the modification:
- 31           (1) The utility shall deduct from the amount:  
 32           (A) any increase in the value of:  
 33           (i) the utility facility after the modification; or  
 34           (ii) the new utility facility, in the case of a modification  
 35 involving the replacement of a utility facility; and  
 36           (B) any salvage value derived from the utility facility being  
 37 modified.
- 38           (2) The utility shall take into account:  
 39           (A) the age and condition of the utility facility for which  
 40 the modification is requested or required; and  
 41           (B) the utility's planned schedule for the replacement or  
 42 repair of the utility facility, if any, in relation to the timing



- 1 of the requested or required modification of the utility  
 2 facility.
- 3 (3) The cost may not include any upgrade in materials, design,  
 4 or features of the utility facility that are not:
- 5 (A) requested or required by the person requesting or  
 6 requiring the modification of the utility facility;
- 7 (B) required by any applicable law, regulation, or code; or  
 8 (C) necessitated by the availability or obsolescence of  
 9 materials, equipment, components, or technology.
- 10 (4) To the extent commercially practicable, the cost must be  
 11 the result of competitively bid engineering, procurement, or  
 12 construction contracts, as applicable.
- 13 (5) Engineering and administrative costs may not exceed a  
 14 combined total of twenty-five percent (25%) of the total cost  
 15 of the modification.
- 16 (6) The total cost of the modification may not result in any  
 17 profit to the utility.
- 18 (h) If a utility requires the person requesting or requiring the  
 19 modification to pay the utility the cost of the modification, as  
 20 described in subsection (f)(2), the following apply, in addition to the  
 21 requirements set forth in subsection (g):
- 22 (1) If the utility requires the person requesting or requiring  
 23 the modification to pay any amount as a deposit or  
 24 contingency reserve at any time before the modification is  
 25 complete, the utility shall return to the person any unused  
 26 portion of the amount paid by the person.
- 27 (2) The utility shall include information about requests for  
 28 modifications of utility facilities, including information on the  
 29 factors the utility uses in determining the cost of  
 30 modifications, as prescribed in subsection (g):
- 31 (A) in the utility's filings with the commission under  
 32 section 39 of this chapter; and
- 33 (B) on the utility's Internet web site.
- 34 The utility shall also make the information required under  
 35 this clause available for public inspection in each of the  
 36 utility's offices or stations that are open to the public.
- 37 (3) Upon:
- 38 (A) the commission's own motion; or  
 39 (B) the complaint of a utility, a person requesting or  
 40 requiring the modification of a utility facility, or any  
 41 qualified complainant under section 54 of this chapter;  
 42 the commission may investigate the amounts assessed by a



1 utility with respect to the modification of a specific utility  
2 facility, or by the utility generally for modifications of utility  
3 facilities. The commission may proceed in the manner  
4 prescribed in this chapter to hold hearings and issue orders in  
5 connection with an investigation under this subdivision.  
6 (i) The commission shall adopt rules under IC 4-22-2 that the  
7 commission considers necessary to implement this section,  
8 including any necessary amendment to 170 IAC 4-1-28 concerning  
9 customer modification requests. In adopting the rules required by  
10 this subsection, the commission may adopt emergency rules in the  
11 manner provided by IC 4-22-2-37.1. Notwithstanding  
12 IC 4-22-2-37.1(g), an emergency rule adopted by the commission  
13 under this subsection and in the manner provided by  
14 IC 4-22-2-37.1 expires on the date on which a rule that supersedes  
15 the emergency rule is adopted by the commission under  
16 IC 4-22-2-24 through IC 4-22-2-36.  
17 SECTION 2. An emergency is declared for this act.

