

# HOUSE BILL No. 1330

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## DIGEST OF INTRODUCED BILL

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

**Synopsis:** Free or reduced utility rates in incentive areas. Defines "incentive area". Provides that if a political subdivision dedicates funds of the political subdivision to provide or pay for utility infrastructure in an incentive area, an investor owned utility may furnish electric, gas, water, or wastewater utility service at a free or reduced rate to any customer or class of customer that locates within the incentive area. Provides that the resulting change in the utility's rates must be reflected in a new schedule of rates that the utility shall file with: (1) the political subdivision providing or paying for the utility infrastructure; and (2) the Indiana utility regulatory commission; at least 60 days before the time the new schedule of rates is to take effect. Provides that a utility that furnishes utility service at a free or reduced rate within an incentive area is not considered to be in violation of a statutory prohibition against a utility charging or receiving less compensation from any person for any service rendered than the utility charges or receives from any other person for a similar service. Provides that any customer or class of customer that receives utility service at a free or reduced rate within an incentive area is not considered to be in violation of a statutory prohibition against a person knowingly soliciting, accepting, or receiving utility service at a free or reduced rate.

**Effective:** July 1, 2018.

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## Candelaria Reardon

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January 11, 2018, read first time and referred to Committee on Utilities, Energy and Telecommunications.

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Second Regular Session of the 120th General Assembly (2018)

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 2017 Regular Session of the General Assembly.

# HOUSE BILL No. 1330

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 8-1-2-103, AS AMENDED BY P.L.119-2012,  
2 SECTION 82, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 2018]: Sec. 103. (a) ~~No~~ **Except as provided in section 103.1**  
4 **of this chapter, a public utility, or an agent or officer thereof, or an**  
5 **officer of any municipality constituting a public utility, as defined in**  
6 **this chapter, may not charge, demand, collect, or receive from any**  
7 **person a greater or less compensation for any service rendered or to be**  
8 **rendered, or for any service in connection therewith, than that**  
9 **prescribed in the published schedules or tariffs then in force or**  
10 **established as provided herein, or than it charges, demands, collects, or**  
11 **receives from any other person for a like and contemporaneous service.**  
12 **A person who recklessly violates this subsection commits a Class A**  
13 **misdemeanor.**

14 (b) Notwithstanding subsection (a), if a city of less than twenty  
15 thousand (20,000) in population according to the most recent federal  
16 decennial census, constituting a public water utility, and acting as a  
17 public utility prior to May 1, 1913, either as such city, or by any



1 commercial association, chamber of commerce, or committee with the  
2 consent of such city, entered into any agreement with any person  
3 engaged in manufacturing any articles of commerce to furnish free  
4 water for a certain limited time as an inducement to such person so  
5 engaged in manufacturing to locate the establishment or manufacturing  
6 plant of such person within such city, such city may carry out such  
7 agreement to furnish free water to such person for the period of time  
8 remaining, as stipulated in such contract. This chapter does not prohibit  
9 any public utility from supplying or furnishing free service or service  
10 at special rates to any municipality, or any institution or agency of such  
11 municipality, in cases where the supplying or furnishing of such free  
12 service or service at special rates is stipulated in any provision of the  
13 franchise under which such public utility was operating before May 16,  
14 1919, or, in the event that such franchise shall have been surrendered,  
15 from supplying or furnishing such free service or service at special  
16 rates until such time as the franchise would have expired had it not  
17 been surrendered under this chapter; and it shall be the duty of any  
18 utility operating under any franchise, stipulating for free service or  
19 service at special rates to the municipality, or any institution or agency  
20 of such municipality, to furnish such free service or service at special  
21 rates.

22 (c) This subsection applies to a public utility that provides water for  
23 public fire protection services in both a county containing a  
24 consolidated city and in portions of counties that are adjacent to the  
25 county containing a consolidated city. This subsection applies  
26 throughout the territory served by the public utility. In the case of a  
27 public utility furnishing water and beginning on January 1, 1994, the  
28 charges for the production, storage, transmission, sale and delivery, or  
29 furnishing of water for public fire protection purposes shall be included  
30 in the basic rates of the customers of the public utility. However, the  
31 construction cost of any fire hydrant installed after December 31, 1993,  
32 at the request of a municipality, township, county, or other  
33 governmental unit shall be paid for by or on behalf of the municipality,  
34 township, county, or other governmental unit. The change in the  
35 recovery of current revenue authorized by this section shall be reflected  
36 in a new schedule of rates to be filed with the commission at least thirty  
37 (30) days before the time the new schedule of rates is to take effect.  
38 The new schedule of rates shall:

- 39 (1) eliminate fire protection charges billed directly to  
40 governmental units, other than charges for the construction cost  
41 for new hydrants installed after December 31, 1993; and  
42 (2) increase the rates charged each customer of the utility, based



1 on equivalent meter size, by an amount equal to:

2 (A) the revenues lost from the elimination of such fire  
3 protection charges; divided by

4 (B) the current number of equivalent five-eighths (5/8) inch  
5 meters.

6 This change in the recovery of public fire protection costs shall not be  
7 considered to be a general increase in basic rates and charges of the  
8 public utility and is not subject to the notice and hearing requirements  
9 applicable to general rate proceedings. The commission shall approve  
10 the new schedule of rates that are to be effective January 1, 1994.

11 (d) This subsection applies to a public utility or a municipally  
12 owned water utility that is not subject to subsection (c). Except as  
13 provided in subsection (e), in the case of a public utility or municipally  
14 owned water utility furnishing water, if the governing body of any  
15 municipality within the service area of the utility adopts an ordinance  
16 providing that costs shall be recovered under this subsection, the  
17 charges for the production, storage, transmission, sale and delivery, or  
18 furnishing of water for public fire protection purposes shall be included  
19 in the basic rates of all customers of the utility within the municipality.  
20 However, on or after a date specified in the ordinance, the construction  
21 cost of any fire hydrant installed at the request of a municipality,  
22 township, county, or other governmental unit that adopts an ordinance  
23 under this subsection shall be paid for by or on behalf of the  
24 municipality, township, county, or other governmental unit. The change  
25 in the recovery of current revenue authorized by the ordinance shall be  
26 reflected in a new schedule of rates to be filed with the commission at  
27 least thirty (30) days before the time the new schedule of rates is to take  
28 effect. The new schedule of rates shall:

29 (1) eliminate fire protection charges billed directly to  
30 governmental units, other than charges for the construction cost  
31 for new hydrants installed on and after the date specified in the  
32 ordinance; and

33 (2) increase the rates charged each customer of the utility, based  
34 on equivalent meter size, by an amount equal to:

35 (A) the revenues lost from the elimination of such fire  
36 protection charges; divided by

37 (B) the current number of equivalent five-eighths (5/8) inch  
38 meters.

39 This change in the recovery of public fire protection costs shall not be  
40 considered to be a general increase in basic rates and charges of the  
41 utility and is not subject to the notice and hearing requirements  
42 applicable to general rate proceedings. The commission shall approve



1 the new schedule of rates that are to be effective on a date specified in  
2 the ordinance.

3 (e) This subsection applies to a municipally owned water utility in  
4 a city having a population of more than fifty thousand (50,000) but less  
5 than fifty-one thousand (51,000). The city may adopt a plan to recover  
6 costs as described in subsection (d) without passing an ordinance, if the  
7 plan applies only to customers of the utility residing in a county having  
8 a population of more than two hundred fifty thousand (250,000) but  
9 less than two hundred seventy thousand (270,000). If the city wishes to  
10 adopt such a plan, the city shall file a new schedule of rates with the  
11 commission, but is not subject to commission approval of the rates.

12 (f) In the case of a change in the method of recovering public fire  
13 protection costs under an ordinance adopted under subsection (d):

14 (1) on or after July 1, 1997, a customer of the utility located  
15 outside the limits of a municipality whose property is not located  
16 within one thousand (1,000) feet of a fire hydrant (measured from  
17 the hydrant to the nearest point on the property line of the  
18 customer) must be excluded from the increase in rates attributable  
19 to the change and must not be included in the number of  
20 equivalent five-eighths (5/8) inch meters for purposes of  
21 subsection (d)(2)(B); or

22 (2) before July 1, 1997, the commission may:

23 (A) in the context of a general rate proceeding initiated by the  
24 utility; or

25 (B) upon petition of:

26 (i) the utility;

27 (ii) the governmental unit that passed the ordinance; or

28 (iii) an affected customer;

29 prospectively exclude public fire protection costs from the rates  
30 charged to customers located outside the limits of any  
31 municipality whose property is not located within one thousand  
32 (1,000) feet of a fire hydrant (measured from the hydrant to the  
33 nearest point on the property line of the customer) if the  
34 commission authorizes a simultaneous increase in the rates of the  
35 utility's other customers to the extent necessary to prevent a loss  
36 of revenues to the utility.

37 An increase in the rates of the utility's other customers under  
38 subdivision (2) may not be construed to be a general increase in basic  
39 rates and charges of the utility and is not subject to the hearing  
40 requirements applicable to general rate proceedings. This subsection  
41 does not prohibit the commission from adopting different methods of  
42 public fire protection cost recovery for unincorporated areas after



1 notice and hearing within the context of a general rate proceeding or  
2 other appropriate proceeding.

3 SECTION 2. IC 8-1-2-103.1 IS ADDED TO THE INDIANA CODE  
4 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
5 1, 2018]: **Sec. 103.1. (a) As used in this section, "incentive area"**  
6 **refers to an economic or sports development area, a community**  
7 **revitalization area, an enterprise zone, a tax increment financing**  
8 **district, or any other similar area or district.**

9 **(b) As used in this section, "utility" refers to an investor owned**  
10 **utility that:**

11 **(1) is subject to the jurisdiction of the commission; and**

12 **(2) provides one (1) or more utility services at retail to**  
13 **customers in Indiana.**

14 **(c) As used in this section, "utility infrastructure" means:**

15 **(1) improvements;**

16 **(2) facilities; or**

17 **(3) other infrastructure;**

18 **necessary for the provision of utility service.**

19 **(d) As used in this section, "utility service" means any of the**  
20 **following:**

21 **(1) Electric service.**

22 **(2) Gas distribution service.**

23 **(3) Water service.**

24 **(4) Wastewater service.**

25 **(e) If a political subdivision dedicates funds of the political**  
26 **subdivision to provide or pay for utility infrastructure in an**  
27 **incentive area, a utility may furnish utility service at a free or**  
28 **reduced rate to any customer or class of customer that locates**  
29 **within the incentive area. A change in a utility's rates as authorized**  
30 **by this section:**

31 **(1) must be reflected in a new schedule of rates that the utility**  
32 **shall file with:**

33 **(A) the political subdivision providing or paying for the**  
34 **utility infrastructure; and**

35 **(B) the commission;**

36 **at least sixty (60) days before the time the new schedule of**  
37 **rates is to take effect;**

38 **(2) may not be considered to be a change in the utility's basic**  
39 **rates and charges; and**

40 **(3) is not subject to the requirements applicable to general**  
41 **rate proceedings.**

42 **The commission shall approve the new schedule of rates, which**



1 shall take effect on a date specified by the utility in its filing under  
2 subdivision (1).

3 (f) A utility that furnishes utility service at a free or reduced  
4 rate to any customer or class of customer within an incentive area,  
5 as authorized by this section, is not considered to be in violation of  
6 section 103(a) of this chapter.

7 SECTION 3. IC 8-1-2-106 IS AMENDED TO READ AS  
8 FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 106. (a) **Except as**  
9 **provided in subsection (b)**, it is a Class B infraction for a person  
10 knowingly to solicit, accept, or receive any rebate, concession, or  
11 discrimination in respect to any service in or affecting or relating to any  
12 public utility or for any service in connection therewith, whereby any  
13 such service is rendered free or at a less rate than that named in the  
14 published schedules and tariffs in force as provided herein, or whereby  
15 any service or advantage is received other than is herein specified.

16 (b) **Any customer or class of customer that receives utility**  
17 **service (as defined in section 103.1(d) of this chapter) that is**  
18 **furnished by a utility at a free or reduced rate under section 103.1**  
19 **of this chapter is not considered to be in violation of this section.**

