

# HOUSE BILL No. 1347

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## DIGEST OF INTRODUCED BILL

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

**Synopsis:** Municipally owned utilities. Provides that all rates, charges, and other fees for services rendered by a municipally owned utility to property occupied by someone other than the owner are payable by the person occupying the property if the account or other customer or billing records maintained by the utility for the property indicate that: (1) the property is occupied by someone other than the owner; and (2) the person occupying the property is responsible for paying the rates, charges, and fees. Provides that rates, charges, and fees assessed by a municipally owned utility with respect to property occupied by someone other than the owner do not constitute a lien against the property. Specifies that these provisions do not: (1) prohibit a municipal legislative body from imposing any requirement to: (A) ensure payment by; or (B) the creditworthiness of; the person occupying the property; or (2) abrogate or limit the authority of the owner of a multi-unit building to engage in electrical submetering. Establishes a process for establishing a policy review committee (committee) for a municipally owned utility that has properly withdrawn from the jurisdiction of the utility regulatory commission. Provides that a committee may be established if a specified number of the registered voters of the municipality file a petition with the utility's board. Provides that the petition must set forth procedures by which the committee is authorized to do the following: (1) Receive complaints from customers concerning the utility's rules and policies, rates and charges, and service quality. (2) Attempt to negotiate a resolution with the utility's board with respect to complaints received. (3) Seek mediation to be overseen by the office of the attorney general with  
(Continued next page)

**Effective:** Upon passage.

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January 14, 2019, read first time and referred to Committee on Utilities, Energy and Telecommunications.

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Digest Continued

respect to complaints that are not resolved through negotiations. Authorizes the attorney general to adopt rules to implement these provisions.



Introduced

First Regular Session of the 121st General Assembly (2019)

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 2018 Regular and Special Session of the General Assembly.

# HOUSE BILL No. 1347



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.172-2009,
- 2 SECTION 5, 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) **This subsection does not apply to services rendered by a**  
 9 **sewage works that is subject to IC 36-9-23 or to IC 36-9-25. This**  
 10 **subsection applies to property that is served by a municipally**  
 11 **owned utility and that is occupied by someone other than the**  
 12 **owner of the property. Subject to subsection (k), all rates, charges,**  
 13 **and other fees for services rendered by a municipally owned utility**  
 14 **to a property that is subject to this subsection are payable by the**  
 15 **person occupying the property if the account or other customer or**  
 16 **billing records maintained by the municipally owned utility for the**  
 17 **property indicate that:**

18 (1) **the property is occupied by someone other than the owner;**  
 19 **and**

20 (2) **the person occupying the property is responsible for**  
 21 **paying the rates, charges, and fees assessed for the services**  
 22 **rendered by the municipally owned utility with respect to the**  
 23 **property.**

24 **Rates, charges, and fees assessed for services rendered by a**  
 25 **municipally owned utility with respect to property occupied by**  
 26 **someone other than the owner of the property do not constitute a**  
 27 **lien against the property.**

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

31 (1) **prohibit a municipal legislative body from imposing any:**

32 (A) **requirement for a deposit to ensure payment by the**  
 33 **person occupying the property of the rates, charges, and**  
 34 **fees assessed for the services rendered by the municipally**  
 35 **owned utility with respect to the property; or**

36 (B) **other requirement to ensure the creditworthiness of the**  
 37 **person occupying the property as the account holder or**  
 38 **customer with respect to the property;**

39 **that the municipal legislative body may lawfully impose; or**

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



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

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

5 SECTION 2. IC 8-1.5-3-9.2 IS ADDED TO THE INDIANA CODE  
6 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE  
7 UPON PASSAGE]: Sec. 9.2. (a) This section applies to a  
8 municipally owned utility that has properly withdrawn from  
9 commission jurisdiction under section 9 or 9.1 of this chapter.

10 (b) As used in this section, "committee" refers to a policy review  
11 committee established under this section.

12 (c) A policy review committee may be established for a  
13 municipally owned utility described in subsection (a) if at least the  
14 number of the registered voters of the municipality required under  
15 IC 3-8-6-3 to place a candidate on the ballot file, individually or  
16 collectively, with the board a verified petition under subsection (d)  
17 to establish the committee.

18 (d) A petition under this section must provide for the following:

19 (1) A procedure for:

20 (A) establishing districts within the municipally owned  
21 utility's service area, if there are not existing districts  
22 within the utility's service area at the time the petition is  
23 filed; and

24 (B) electing members, who must be customers of the  
25 municipally owned utility residing within the districts:

26 (i) existing within the utility's service area at the time the  
27 petition is filed; or

28 (ii) to be established under the procedure described in  
29 clause (A);

30 to serve as members of the committee.

31 (2) The terms of the members of the committee.

32 (3) Procedures by which the committee is authorized to do the  
33 following:

34 (A) Receive complaints from customers of the municipally  
35 owned utility concerning:

36 (i) rules and policies established by the board;

37 (ii) the utility's rates and charges;

38 (iii) utility service quality; or

39 (iv) other matters concerning the utility's operations,  
40 management, or service, as specifically set forth in the  
41 petition.

42 (B) Attempt to negotiate a resolution with the board with



1                   **respect to a complaint received under clause (A).**  
2                   **(C) Seek mediation to be overseen by the office of the**  
3                   **attorney general with respect to complaints that are not**  
4                   **resolved through negotiations described in clause (B).**  
5                   **(4) Other matters that the petitioners consider appropriate**  
6                   **with respect to the municipal utility's operations,**  
7                   **management, or service.**  
8                   **(e) The attorney general may adopt rules under IC 4-22-2,**  
9                   **including emergency rules in the manner provided under**  
10                   **IC 4-22-2-37.1, to implement this section.**  
11                   **SECTION 3. An emergency is declared for this act.**

