

First Regular Session of the 123rd General Assembly (2023)

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 2022 Regular Session of the General Assembly.

HOUSE ENROLLED ACT No. 1401

AN ACT to amend the Indiana Code concerning taxation.

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

SECTION 1. IC 6-1.1-8-19.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2024]: **Sec. 19.5. (a) This section applies to a public utility company that:**

- (1) owns or operates one (1) or more wind power devices; and
- (2) is filing the public utility company's first annual report as the new owner of the wind power devices following a change in ownership.

(b) This section does not apply to a public utility company that owns or operates one (1) or more wind power devices and that has signed or countersigned an economic development agreement, or another financial agreement, that is entered into:

- (1) with the county in which the public utility company's wind power devices are located; and
- (2) for the purpose of:
 - (A) repowering the wind power devices; or
 - (B) upgrading the technology used in the wind power devices;

before a sale or transfer of the wind power devices.

(c) As used in this section, "annual report" means the statement of value and description of property described in section 19 of this chapter.

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(d) As used in this section, "change of ownership", with respect to one (1) or more wind power devices owned by a public utility company, means any:

(1) transaction or series of related transactions (whether as a result of a tender offer, merger, consolidation, reorganization, acquisition, sale or transfer of equity securities, proxy, power of attorney, or otherwise) that results in, or occurs in connection with, another public utility company acquiring beneficial ownership, directly or indirectly, of a majority of the then issued and outstanding voting securities or combined voting rights of the public utility company; or

(2) sale, lease, exchange, conveyance, transfer, distribution, or other disposition whether:

(A) for cash, securities, equity interests, or other consideration; or

(B) made in connection with any liquidation, dissolution, or winding up of the affairs of the public utility company; of substantially all of the public utility company's wind power devices to another public utility company.

(e) As used in this section, "wind power device" means a device, including a windmill or a wind turbine, that is designed to use the kinetic energy of moving air to provide mechanical energy or to produce electricity.

(f) Notwithstanding any other law or rule adopted by the department, a public utility company described in subsection (a) shall:

(1) value the wind power devices at the same valuation amount that the previous owner valued the devices prior to the change in ownership on the previous owner's last annual report;

(2) enter that valuation amount on the public utility company's first annual report following the change in ownership; and

(3) notify the department in a timely manner of the change in ownership;

if the valuation amount that the public utility company would otherwise enter on the report, in accordance with this chapter and the rules prescribed by the department, is lower than the valuation amount that the previous owner valued the wind power devices before the change in ownership on the previous owner's last annual report.

(g) For years subsequent to the first year after the change in



ownership, the public utility company shall calculate and report the valuation of the wind power devices on the annual report in accordance with this chapter and the rules prescribed by the department. However, in determining the just value of the property of the public utility company in any year subsequent to the first year after the change in ownership, the department shall not consider valuations determined by another governmental agency, notwithstanding section 26(b)(5) of this chapter.

(h) The department shall make changes to the annual report form necessary to conform with the provisions of this section.

(i) The Indiana utility regulatory commission shall include a provision in an order issued under IC 8-1-2.5-5 to a public utility company that:

- (1) owns or operates one (1) or more wind power devices; or
- (2) plans to own or operate one (1) or more wind power devices;

requiring the public utility company to notify the department of any change in ownership of the wind power devices.

(j) Before November 1, 2024, and before November 1, 2025, the department shall prepare, submit in an electronic format under IC 5-14-6, and present to the interim study committee on energy, utilities, and telecommunications established by IC 2-5-1.3-4(8) a report on the valuation of wind power devices and the progress of implementing this section.

SECTION 2. IC 6-1.1-8-26, AS AMENDED BY P.L.38-2021, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2024]: Sec. 26. (a) On or before June 1st of each year, the department of local government finance shall determine the just value of the property of each public utility company. Except for **wind power devices described in section 19.5 of this chapter** and railcar companies, the department of local government finance shall determine that just value by first determining the approximate unit value of each public utility company. The value of the distributable property of a public utility company, other than a railcar company, equals the remainder of:

- (1) the unit value of the company; minus
- (2) the value of the company's fixed property.

The value of the distributable property of a railcar company equals the value of all of the company's distributable property multiplied by the adjustment factor provided under section 12 of this chapter.

(b) In order to determine the unit value of a public utility company, the department of local government finance may consider:



- (1) book value;
- (2) cost of replacement or reproduction, less depreciation;
- (3) cost of establishing and developing the business;
- (4) amount and market value or sales price of outstanding securities;
- (5) valuations determined by another governmental agency or indicated by a judicial decision, including but not limited to determinations made for rate making purposes;
- (6) statistics and reports prepared or filed by the company;
- (7) statistics and reports prepared by another governmental agency or by a private organization if the organization is considered reliable by investors and investment dealers;
- (8) earnings capitalized at a reasonable rate; and
- (9) any other information which the department considers relevant.



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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