



February 28, 2020

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## ENGROSSED HOUSE BILL No. 1414

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DIGEST OF HB 1414 (Updated February 27, 2020 2:46 pm - DI 119)

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

**Synopsis:** Electric generation. Prohibits a public utility from terminating a power agreement with a legacy generation resource in which the public utility has an ownership interest unless the public utility provides the utility regulatory commission (IURC) with at least three years advance notice of the termination. Provides that the IURC shall determine the reasonable costs incurred by the public utility under the power agreement and allow the public utility to recover those costs in a fuel adjustment charge proceeding. Provides that a public utility shall provide the IURC with at least six months advance notice of the public utility's intention to retire, sell, or transfer a reliable capacity resource with a capacity of at least 80 megawatts if such intention is  
(Continued next page)

**Effective:** July 1, 2020.

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## Soliday, Morrison, Hostettler, Manning

(SENATE SPONSORS — MESSMER, KOCH, HOUCHIN, GARTEN,  
FORD JON)

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January 15, 2020, read first time and referred to Committee on Utilities, Energy and Telecommunications.

January 23, 2020, amended, reported — Do Pass.

January 30, 2020, read second time, amended, ordered engrossed.

January 31, 2020, engrossed.

February 3, 2020, read third time, passed. Yeas 52, nays 41.

### SENATE ACTION

February 17, 2020, read first time and referred to Committee on Utilities.

February 27, 2020, amended, reported favorably — Do Pass.

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## Digest Continued

not set forth in the public utility's preferred portfolio in the public utility's most recent integrated resource plan for which the IURC has provided a final director's report. Provides that a public utility may not retire, sell, or transfer a reliable capacity resource with a capacity of at least 80 megawatts unless: (1) the retirement, sale, or transfer is consistent with the public utility's preferred portfolio in the public utility's most recent integrated resource plan; and (2) the public utility has made a reasonable effort to comply with certain administrative rules concerning integrated resource planning. Provides that these provisions expire December 31, 2020. Provides that in awarding high value workforce ready credit-bearing grants, the commission for higher education, in conjunction with the department of workforce development, shall give priority to an applicant who is a coal transition worker. Defines a "coal transition worker" as an individual who is laid off or terminated from the individual's employment: (1) at a commercial coal mine in Indiana; (2) at a coal-fired electric generating unit in Indiana; or (3) in an Indiana based manufacturing or transportation supply chain serving: (A) a commercial coal mine; or (B) a coal-fired electric generating unit; in Indiana.

**EH 1414—LS 7169/DI 101**



February 28, 2020

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.

## ENGROSSED HOUSE BILL No. 1414

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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 8-1-8.5-11 IS ADDED TO THE INDIANA CODE  
2 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
3 1, 2020]: Sec. 11. (a) **As used in this section, "legacy generation**  
4 **resource" means an electric generating facility owned directly or**  
5 **indirectly by a corporation that was formed for the original**  
6 **purpose of providing power to the federal government for use in**  
7 **the nation's defense or in furtherance of national interests,**  
8 **including the Ohio Valley Electric Corporation.**  
9 (b) **As used in this section, "reliable capacity resource" means**  
10 **an electric generating unit:**  
11 (1) **that is located in Indiana;**  
12 (2) **the capacity of which is valued by a regional transmission**  
13 **organization at a minimum of eighty percent (80%) of the**  
14 **unit's nameplate capacity; and**  
15 (3) **that maintains an annual average onsite fuel inventory of**  
16 **at least thirty (30) days of average fuel consumption.**  
17 (c) **The general assembly finds that it is in the public interest to**

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1       **support the reliability, availability, fuel security, and diversity of**  
2       **electric generating capacity in Indiana for the purpose of providing**  
3       **reliable and stable electric service to customers of public utilities.**

4       (d) A public utility may not terminate a power agreement with  
5       a legacy generation resource in which the public utility has an  
6       ownership interest unless the public utility provides the  
7       commission with at least three (3) years advance notice of the  
8       termination. The commission shall determine the reasonable costs  
9       incurred by the public utility under the power agreement and allow  
10      the public utility to recover those costs in a fuel adjustment charge  
11      proceeding under IC 8-1-2-42. For purposes of this subsection, a  
12      public utility's reasonable costs related to a legacy generation  
13      resource means those costs, including deferred costs, allocated  
14      under a power agreement approved by the Federal Energy  
15      Regulatory Commission and relating to a legacy generation  
16      resource.

17      (e) A public utility shall provide the commission with at least six  
18      (6) months advance notice of the public utility's intention to retire,  
19      sell, or transfer a reliable capacity resource with a capacity  
20      exceeding eighty (80) megawatts if such intention is not set forth in  
21      the public utility's preferred portfolio in the public utility's most  
22      recent integrated resource plan for which the commission has  
23      provided a final director's report. The public utility shall provide  
24      the reasons for the proposed retirement, sale, or transfer in the  
25      notice required under this subsection.

26      (f) A public utility may not retire, sell, or transfer a reliable  
27      capacity resource with a capacity exceeding eighty (80) megawatts  
28      unless:

- 29       (1) the retirement, sale, or transfer is consistent with the  
30       public utility's preferred portfolio in the public utility's most  
31       recent integrated resource plan; and
- 32       (2) the public utility has made a reasonable effort to comply  
33       with 170 IAC 4-7-2.6 and 170 IAC 4-7-4.

34      (g) **This section expires December 31, 2020.**

35      SECTION 2. IC 8-1-8.5-12 IS ADDED TO THE INDIANA CODE  
36      AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
37      1, 2020]: Sec. 12. (a) As used in this section, "coal industry  
38      employment" means employment:

- 39       (1) at a commercial coal mine in Indiana;
- 40       (2) at a coal-fired electric generating unit in Indiana; or
- 41       (3) in an Indiana based manufacturing or transportation  
42       supply chain serving:



- (A) a commercial coal mine in Indiana; or
- (B) a coal-fired electric generating unit in I

**(b) As used in this section, "coal transition worker" means:**

(1) an individual who:

- (A) has been laid off or terminated from the individual's coal industry employment; or
- (B) has received a notice of termination or layoff from the individual's coal industry employment;

as a result of the permanent closure of, or a substantial layoff at, a commercial coal mine in Indiana or a coal-fired electric generating unit in Indiana; or

**(2) an individual who:**

(A) has:

(i) been laid off or terminated, for a reason other than cause; or

(ii) received a notice of termination or layoff, for a reason other than cause;

from the individual's coal industry employment; and

(B) is unlikely to obtain employment in an industry described in subsection (a)(1) through (a)(3) because of

**market forces or other factors affecting the industry.**

(c) In awarding high value workforce ready credit-bearing grants under IC 21-12-8, the commission for higher education, in conjunction with the department of workforce development, shall give priority to an applicant who is a coal transition worker if the applicant is otherwise eligible for a grant under IC 21-12-8-9.

(i) been laid off or terminated, for a reason other than cause; or

(ii) received a notice of termination or layoff, for a reason other than cause;

from the individual's employment at a commercial coal mine in Indiana; and

**(B) is unlikely to become reemployed in the coal mining industry because of market forces or other factors affecting the industry.**

**(b) In awarding high value workforce ready credit-bearing grants under IC 21-12-8, the commission for higher education, in conjunction with the department of workforce development, shall give priority to an applicant who is a dislocated coal mine employee if the applicant is otherwise eligible for a grant under IC 21-12-8-9.**



## COMMITTEE REPORT

Mr. Speaker: Your Committee on Utilities, Energy and Telecommunications, to which was referred House Bill 1414, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Delete everything after the enacting clause and insert the following:

(SEE TEXT OF BILL)

and when so amended that said bill do pass.

(Reference is to HB 1414 as introduced.)

SOLIDAY

Committee Vote: yeas 9, nays 4.

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HOUSE MOTION

Mr. Speaker: I move that House Bill 1414 be amended to read as follows:

Page 1, line 3, delete "As used in this section, "annual".

Page 1, delete lines 4 through 13.

Page 1, line 14, delete "(c)".

Page 1, run in lines 1 through 14.

Page 2, line 3, delete "(d)" and insert "(b)".

Page 2, line 11, delete "(e)" and insert "(c)".

Page 2, line 15, delete "(f)" and insert "(d)".

Page 2, delete lines 20 through 32.

Page 2, line 33, delete "(h)" and insert "(e)".

Page 3, line 4, delete "(i)" and insert "(f)".

Page 3, line 8, delete "most recent integrated resource plan." and insert "**preferred portfolio in the public utility's most recent integrated resource plan for which the commission has provided a final director's report.**"

Page 3, delete lines 11 through 36, begin a new paragraph and insert:

**"(g) A public utility may not retire, sell, or transfer a reliable capacity resource with a capacity exceeding eighty (80) megawatts unless:**

**(1) the public utility first notifies the commission of the public**



**utility's intent to do so; and**

**(2) the commission conducts a public hearing, noticed in accordance with IC 5-14-1.5, to receive information concerning the reasonableness of the planned retirement, sale, or transfer.**

**Not later than one hundred twenty (120) days after the date of the public utility's notice to the commission under this subsection or, if applicable, under subsection (f), the commission shall conduct the hearing described in subdivision (2) and issue the commission's findings and conclusions concerning the reasonableness of the planned retirement, sale, or transfer based on the information received.**

**(h) If a public utility that seeks to retire, sell, or transfer a reliable capacity resource under subsection (g) cites a federal mandate as the basis, in whole or in part, for the planned retirement, sale, or transfer of the unit, the commission may consider in making the commission's findings and conclusions under subsection (g) whether the cited federal mandate:**

- (1) is in force;**
- (2) has not expired or been revoked; and**
- (3) is not merely anticipated to be enacted;**

**AT the time of the public utility's notice under subsection (g).".**

Page 3, line 37, delete "(l)" and insert "(i)".

Page 4, delete line 8 and insert "**(j) This section expires May 1, 2021.**".

(Reference is to HB 1414 as printed January 24, 2020.)

SOLIDAY

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#### HOUSE MOTION

Mr. Speaker: I move that House Bill 1414 be amended to read as follows:

Page 4, between lines 8 and 9, begin a new paragraph and insert:

**"SECTION 2. IC 8-1-8.5-12 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 12. (a) As used in this section, "dislocated coal mine employee" means:**

- (1) an individual who:**

**(A) has been laid off or terminated from the individual's employment at a commercial coal mine in Indiana; or**

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**(B) has received a notice of termination or layoff from the individual's employment at a commercial coal mine in Indiana; as a result of the permanent closure of, or a substantial layoff at, the commercial coal mine; or**

**(2) an individual who:**

**(A) has:**

- (i) been laid off or terminated, for a reason other than cause; or**
- (ii) received a notice of termination or layoff, for a reason other than cause;**

**from the individual's employment at a commercial coal mine in Indiana; and**

**(B) is unlikely to become reemployed in the coal mining industry because of market forces or other factors affecting the industry.**

**(b) In awarding high value workforce ready credit-bearing grants under IC 21-12-8, the commission for higher education, in conjunction with the department of workforce development, shall give priority to an applicant who is a dislocated coal mine employee if the applicant is otherwise eligible for a grant under IC 21-12-8-9."**

Renumber all SECTIONS consecutively.

(Reference is to HB 1414 as printed January 24, 2020.)

MORRISON

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#### COMMITTEE REPORT

Madam President: The Senate Committee on Utilities, to which was referred House Bill No. 1414, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Replace the effective dates in SECTIONS 1 and 2 with "[EFFECTIVE JULY 1, 2020]".

Page 2, delete lines 4 through 8.

Page 2, line 9, delete "(e)" and insert "(d)".

Page 2, line 22, delete "(f)" and insert "(e)".

Page 2, line 31, delete "(g)" and insert "(f)".

Page 2, delete lines 34 through 42, begin a new line block indented and insert:

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- "(1) the retirement, sale, or transfer is consistent with the public utility's preferred portfolio in the public utility's most recent integrated resource plan; and**
- (2) the public utility has made a reasonable effort to comply with 170 IAC 4-7-2.6 and 170 IAC 4-7-4."**

Page 3, delete lines 1 through 27.

Page 3, line 28, delete "(j)" and insert "(g)".

Page 3, line 28, delete "May 1, 2021." and insert "**December 31, 2020.**".

Page 3, delete lines 29 through 42, begin a new paragraph and insert:

**"SECTION 2. IC 8-1-8.5-12 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 12. (a) As used in this section, "coal industry employment" means employment:**

- (1) at a commercial coal mine in Indiana;**
- (2) at a coal-fired electric generating unit in Indiana; or**
- (3) in an Indiana based manufacturing or transportation supply chain serving:**
  - (A) a commercial coal mine in Indiana; or**
  - (B) a coal-fired electric generating unit in Indiana.**

**(b) As used in this section, "coal transition worker" means:**

- (1) an individual who:**
  - (A) has been laid off or terminated from the individual's coal industry employment; or**
  - (B) has received a notice of termination or layoff from the individual's coal industry employment;**

as a result of the permanent closure of, or a substantial layoff at, a commercial coal mine in Indiana or a coal-fired electric generating unit in Indiana; or
- (2) an individual who:**
  - (A) has:**
    - (i) been laid off or terminated, for a reason other than cause; or**
    - (ii) received a notice of termination or layoff, for a reason other than cause;**

from the individual's coal industry employment; and

  - (B) is unlikely to obtain employment in an industry described in subsection (a)(1) through (a)(3) because of market forces or other factors affecting the industry.**

**(c) In awarding high value workforce ready credit-bearing grants under IC 21-12-8, the commission for higher education, in**



**conjunction with the department of workforce development, shall give priority to an applicant who is a coal transition worker if the applicant is otherwise eligible for a grant under IC 21-12-8-9.".**

Page 4, delete line 16.

and when so amended that said bill do pass.

(Reference is to HB 1414 as reprinted January 31, 2020.)

MERRITT, Chairperson

Committee Vote: Yeas 8, Nays 2.

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