



February 17, 2017

HOUSE BILL No. 1519

DIGEST OF HB 1519 (Updated February 15, 2017 3:17 pm - DI 130)

Citations Affected: IC 6-1.1; IC 8-1; noncode.

Synopsis: Infrastructure development zone utility service. Provides that facilities used by a wastewater utility in the collection or treatment of wastewater constitute "eligible infrastructure" for purposes of the law providing a property tax exemption to a person who invests in eligible infrastructure located in an infrastructure development zone. Authorizes a public utility that provides water utility service to petition the utility regulatory commission (commission) for approval of a plan to develop a future source of water source supply. Requires the commission to approve the plan if the commission finds that the proposed future source of supply is reasonably needed and prudent within the utility's timetable for providing reasonably adequate service. Provides that after the utility's plan is approved, the commission shall, for ratemaking purposes, add the costs incurred by the utility in developing the future source of water supply to the value of the water utility's property even though the source of supply is not yet used and useful in the provision of service. Restricts costs incurred by the utility to the costs presented in the petition for approval of its plan unless the commission finds that the utility's additional costs have been prudently incurred. Provides that a water or wastewater utility that is requested to extend utility service to an infrastructure development zone may petition the utility regulatory commission (commission) for approval of the requested extension of service. Provides that, if the utility's petition is approved, the commission shall in future rate cases approve rate schedules that include a surcharge allowing the utility to recover depreciation expense, weighted cost of capital, and federal and state income tax applicable to the extension of service. Urges the legislative council to assign the energy, utilities, and telecommunications committee the topic of lead services by water utilities.

Effective: Upon passage; July 1, 2017.

VanNatter, Ober

January 18, 2017, read first time and referred to Committee on Utilities, Energy and Telecommunications.
February 16, 2017, amended, reported — Do Pass.

HB 1519—LS 7273/DI 55



February 17, 2017

First Regular Session of the 120th General Assembly (2017)

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 2016 Regular Session of the General Assembly.

HOUSE BILL No. 1519

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 6-1.1-12.5-1, AS ADDED BY P.L.133-2013,
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2017]: Sec. 1. As used in this chapter, "eligible infrastructure"
4 means the following:
5 (1) Storage, compressed natural gas, liquefied natural gas,
6 transmission, and distribution facilities to be used in the delivery
7 of natural gas, or supplemental or substitute forms of gas sources
8 by a natural gas utility.
9 (2) Facilities and technologies used in the deployment and
10 transmission of broadband service, however defined or classified
11 by the Federal Communications Commission, or advanced
12 services (as defined in 47 CFR 51.5) by a provider of broadband
13 service or advanced services.
14 (3) Facilities used in the treatment, storage, or distribution of
15 water by a water utility.
16 **(4) Facilities used in the collection or treatment of wastewater**
17 **by a wastewater utility.**

HB 1519—LS 7273/DI 55



1 SECTION 2. IC 6-1.1-12.5-4, AS ADDED BY P.L.133-2013,
 2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 3 JULY 1, 2017]: Sec. 4. A county executive, **a municipal legislative**
 4 **body**, or, in Marion County, the county fiscal body, may adopt an
 5 ordinance designating a geographic territory as an infrastructure
 6 development zone after:

- 7 (1) conducting a public hearing on the proposed ordinance;
 8 (2) publishing notice of the public hearing in the manner
 9 prescribed by IC 5-3-1; and
 10 (3) making the following findings:
 11 (A) Adequate eligible infrastructure is not available in the
 12 zone.
 13 (B) Providing a property tax exemption to a person for
 14 investing in eligible infrastructure in the zone will provide:
 15 (i) opportunities for increased natural gas usage, increased
 16 availability of broadband service, advanced services, and
 17 public water **or wastewater service**; and
 18 (ii) economic development benefits;
 19 in the zone.

20 SECTION 3. IC 8-1-2-23.5 IS ADDED TO THE INDIANA CODE
 21 AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY
 22 1, 2017]: **Sec. 23.5. (a) A public utility that provides water utility**
 23 **service may file a petition with the commission to seek approval of**
 24 **a plan to develop a future source of water supply. The public utility**
 25 **seeking the approval shall submit evidence of:**

- 26 (1) **the public utility's timetable for the development of the**
 27 **future source of supply;**
 28 (2) **the cost of the source of supply;**
 29 (3) **the need for a new source of supply within the public**
 30 **utility's timetable;**
 31 (4) **the availability of alternatives to the proposed source of**
 32 **supply; and**
 33 (5) **the need to secure property rights to preserve and protect**
 34 **the planned future source of supply.**

35 **The commission shall approve the public utility's plan if the**
 36 **commission finds that the proposed future source of supply is**
 37 **reasonably needed and prudent within the public utility's timetable**
 38 **for the provision of reasonably adequate service.**

39 (b) **In general rate cases, following approval of a public utility's**
 40 **plan under this section, the commission shall for ratemaking**
 41 **purposes add to the value of the public utility's property under**
 42 **section 6 of this chapter the public utility's actual cost not to exceed**



1 the cost presented to the commission under subsection (a) as
 2 expenditures incurred for land, studies, development costs, and
 3 construction in developing a future source of water supply even
 4 though the source of supply is not yet used and useful in the
 5 provision of service. If the public utility's actual cost exceeds the
 6 cost presented to the commission under subsection (a), the
 7 additional costs shall be included if the commission finds that the
 8 additional costs were prudently incurred.

9 (c) If a public utility has an approved plan under this section
 10 and the public utility has not placed the source of water supply into
 11 service before the date set forth to the commission in the public
 12 utility's timetable under subsection (a), subsection (b) does not
 13 apply, unless the public utility obtains the commission's approval
 14 for amendment of the public utility's plan to extend the timetable.
 15 The commission shall consider the elements listed in subsection (a)
 16 in determining whether to approve the amendment of the plan.

17 SECTION 4. IC 8-1-2-46.2 IS ADDED TO THE INDIANA CODE
 18 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 19 1, 2017]: Sec. 46.2. (a) As used in this section, "water or wastewater
 20 utility" means a public utility, other than a not-for-profit utility, as
 21 defined in section 125(a) of this chapter, that provides water or
 22 wastewater service to the public.

23 (b) Notwithstanding any law or rule governing extension of
 24 service, a water or wastewater utility may, on a nondiscriminatory
 25 basis, extend service for economic development purposes or to
 26 rural areas without a deposit or other adequate assurance of
 27 performance from the customer, to the extent that the extension of
 28 service results in a positive contribution to the utility's overall cost
 29 of service over a twenty (20) year period. However, if the water or
 30 wastewater utility determines that the extension of service will not
 31 result in a positive contribution to the utility's overall cost of
 32 service over a twenty (20) year period, the water or wastewater
 33 utility may require a deposit or other adequate assurance of
 34 performance from:

- 35 (1) the developer of the project; or
- 36 (2) a local, regional, or state economic development
 37 organization.

38 (c) Subsection (d) applies if:

- 39 (1) a county executive, a municipal legislative body, or, in
 40 Marion County, the county fiscal body, establishes an
 41 infrastructure development zone under IC 6-1.1-12.5-4; and
- 42 (2) the county executive, municipal legislative body, or county



1 fiscal body requests a public utility to extend water or
2 wastewater utility service to the geographic territory
3 established as the infrastructure development zone.

4 (d) A water or wastewater utility that receives a request
5 described in subsection (c)(2) may file a petition with the
6 commission seeking approval of the requested extension of service.
7 If the commission approves the petition, in future general rate
8 cases, the commission shall approve rate schedules that include a
9 surcharge payable only by customers located in the water or
10 wastewater utility's operation, including the geographic area
11 established as an infrastructure development zone. The surcharge
12 shall recover depreciation expense, weighted cost of capital, and
13 federal and state income tax applicable to the extension of water or
14 wastewater utility service.

15 SECTION 5. [EFFECTIVE UPON PASSAGE] (a) As used in this
16 SECTION, "committee" refers to the interim study committee on
17 energy, utilities, and telecommunications established by
18 IC 2-5-1.3-4(8).

19 (b) As used in this SECTION, "interim" has the meaning set
20 forth in IC 2-5-1.3-1.

21 (c) As used in this SECTION, "legislative council" refers to the
22 legislative council created by IC 2-5-1.1-1.

23 (d) The legislative council is urged to assign to the energy,
24 utilities, and telecommunications committee for study during the
25 2017 interim the topic of lead service improvements by water
26 utilities, including:

27 (1) compliance with environmental and safe drinking water
28 regulations, including regulations concerning lead and
29 copper;

30 (2) costs associated with complying with environmental and
31 safe drinking water regulations; and

32 (3) cost recovery mechanisms for a water utility's replacement
33 of the customer owned part of lead service lines.

34 (e) If the topic set forth in subsection (d) is assigned to the
35 committee, the committee shall issue a final report to the legislative
36 council containing the committee's findings and recommendations
37 in an electronic format under IC 5-14-6 not later than November
38 1, 2017.

39 (f) This SECTION expires December 31, 2017.

40 SECTION 6. An emergency is declared for this act.



COMMITTEE REPORT

Mr. Speaker: Your Committee on Utilities, Energy and Telecommunications, to which was referred House Bill 1519, 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:

Page 2, between lines 19 and 20, begin a new paragraph and insert:

"SECTION 3. IC 8-1-2-23.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: **Sec. 23.5. (a) A public utility that provides water utility service may file a petition with the commission to seek approval of a plan to develop a future source of water supply. The public utility seeking the approval shall submit evidence of:**

- (1) the public utility's timetable for the development of the future source of supply;**
- (2) the cost of the source of supply;**
- (3) the need for a new source of supply within the public utility's timetable;**
- (4) the availability of alternatives to the proposed source of supply; and**
- (5) the need to secure property rights to preserve and protect the planned future source of supply.**

The commission shall approve the public utility's plan if the commission finds that the proposed future source of supply is reasonably needed and prudent within the public utility's timetable for the provision of reasonably adequate service.

(b) In general rate cases, following approval of a public utility's plan under this section, the commission shall for ratemaking purposes add to the value of the public utility's property under section 6 of this chapter the public utility's actual cost not to exceed the cost presented to the commission under subsection (a) as expenditures incurred for land, studies, development costs, and construction in developing a future source of water supply even though the source of supply is not yet used and useful in the provision of service. If the public utility's actual cost exceeds the cost presented to the commission under subsection (a), the additional costs shall be included if the commission finds that the additional costs were prudently incurred.

(c) If a public utility has an approved plan under this section and the public utility has not placed the source of water supply into service before the date set forth to the commission in the public utility's timetable under subsection (a), subsection (b) does not



apply, unless the public utility obtains the commission's approval for amendment of the public utility's plan to extend the timetable. The commission shall consider the elements listed in subsection (a) in determining whether to approve the amendment of the plan."

Page 2, line 23, delete ":".

Page 2, delete lines 24 through 26.

Page 2, line 27, delete "(3)" and insert **"a public utility, other than"**.

Page 2, line 28, delete ";" and insert ",".

Page 2, run in lines 23 through 29.

Page 3, line 15, after "cases" insert ",".

Page 3, after line 21, begin a new paragraph and insert:

"SECTION 5. [EFFECTIVE UPON PASSAGE] (a) As used in this SECTION, "committee" refers to the interim study committee on energy, utilities, and telecommunications established by IC 2-5-1.3-4(8).

(b) As used in this SECTION, "interim" has the meaning set forth in IC 2-5-1.3-1.

(c) As used in this SECTION, "legislative council" refers to the legislative council created by IC 2-5-1.1-1.

(d) The legislative council is urged to assign to the energy, utilities, and telecommunications committee for study during the 2017 interim the topic of lead service improvements by water utilities, including:

(1) compliance with environmental and safe drinking water regulations, including regulations concerning lead and copper;

(2) costs associated with complying with environmental and safe drinking water regulations; and

(3) cost recovery mechanisms for a water utility's replacement of the customer owned part of lead service lines.

(e) If the topic set forth in subsection (d) is assigned to the committee, the committee shall issue a final report to the legislative council containing the committee's findings and recommendations in an electronic format under IC 5-14-6 not later than November 1, 2017.



(f) This SECTION expires December 31, 2017.
SECTION 6. An emergency is declared for this act."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1519 as introduced.)

OBER

Committee Vote: yeas 12, nays 0.

