

SENATE BILL No. 218

DIGEST OF INTRODUCED BILL

Citations Affected: IC 3-5-2-48; IC 3-8; IC 3-9-2-14; IC 3-10-2-17; IC 3-11-2-12; IC 3-13-4; IC 8-1; IC 10-19-8.1-3.

Synopsis: Election of two IURC members. Increases the membership of the Indiana utility regulatory commission (IURC) from five members to seven members. Requires the two new commission members to be elected on a nonpartisan basis starting in the 2028 general election. Prohibits a candidate for the office of the Indiana utility regulatory commissioner from: (1) having an official or professional relationship or connection with; or (2) soliciting or accepting campaign contributions from; any public utility operating in Indiana. Provides that the elected commission members shall serve a term of four years and establishes a procedure to appoint a member if there is a vacancy of an elected member. Requires references to the IURC members to appoint a chair to the IURC annually. Changes "chairman" to "chair". Makes conforming changes.

Effective: July 1, 2024.

Ford J.D.

January 9, 2024, read first time and referred to Committee on Utilities.



Second Regular Session of the 123rd General Assembly (2024)

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 2023 Regular Session of the General Assembly.

SENATE BILL No. 218

A BILL FOR AN ACT to amend the Indiana Code concerning elections.

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

1 SECTION 1. IC 3-5-2-48, AS AMENDED BY P.L.43-2021,
2 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2024]: Sec. 48. "State office" refers to the governor, lieutenant
4 governor, secretary of state, auditor of state, treasurer of state, attorney
5 general, justice of the supreme court, judge of the court of appeals, ~~and~~
6 judge of the tax court, **and Indiana utility regulatory commissioner.**

7 SECTION 2. IC 3-8-1-35 IS ADDED TO THE INDIANA CODE
8 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
9 1, 2024]: **Sec. 35. A candidate for the office of the Indiana utility
10 regulatory commissioner:**

11 **(1) must have resided in Indiana for at least one (1) year
12 before the election; and**

13 **(2) may not have any official or professional relationship or
14 connection with, or hold any stock or securities or have any
15 pecuniary interest in, any public utility operating in Indiana.**

16 SECTION 3. IC 3-8-6-1, AS AMENDED BY P.L.194-2013,
17 SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE



1 JULY 1, 2024]: Sec. 1. (a) This chapter applies to a candidate for
2 nomination to an elected office who:

- 3 (1) is an independent candidate; ~~or~~
4 (2) represents a political party not qualified to nominate
5 candidates in a primary or by convention; **or**
6 **(3) is a candidate for the office of the Indiana utility**
7 **regulatory commissioner.**

8 (b) This chapter does not apply to a candidate for a school board
9 office.

10 SECTION 4. IC 3-9-2-14 IS ADDED TO THE INDIANA CODE
11 AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE JULY
12 1, 2024]: **Sec. 14. A candidate for the office of the Indiana utility**
13 **regulatory commissioner may not, directly or indirectly:**

- 14 **(1) solicit; or**
15 **(2) accept;**

16 **campaign contributions from any public utility operating in**
17 **Indiana.**

18 SECTION 5. IC 3-10-2-17 IS ADDED TO THE INDIANA CODE
19 AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE JULY
20 1, 2024]: **Sec. 17. The members of the Indiana utility regulatory**
21 **commission shall be elected at the general election before their**
22 **term of office expires and every four (4) years thereafter.**

23 SECTION 6. IC 3-11-2-12, AS AMENDED BY P.L.227-2023,
24 SECTION 67, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
25 JULY 1, 2024]: Sec. 12. (a) The following offices shall be placed on
26 the general election ballot in the following order after the public
27 questions described in section 10(a) of this chapter:

- 28 (1) Federal and state offices:
29 (A) President and Vice President of the United States.
30 (B) United States Senator.
31 (C) Governor and lieutenant governor.
32 (D) Secretary of state.
33 (E) Auditor of state.
34 (F) Treasurer of state.
35 (G) Attorney general.
36 (H) United States Representative. If an election to fill a
37 vacancy in an office of United States Representative under
38 IC 3-10-8 is held on the same day as the election for the next
39 term of the same office, the ballot shall list the election to fill
40 the vacancy in the office immediately after the election for the
41 next term of the office.
42 **(I) Indiana utility regulatory commissioner.**



- 1 (2) Legislative offices:
 2 (A) State senator.
 3 (B) State representative.
 4 (3) Circuit offices and county judicial offices:
 5 (A) Judge of the circuit court, and unless otherwise specified
 6 under IC 33, with each division separate if there is more than
 7 one (1) judge of the circuit court.
 8 (B) Judge of the superior court, and unless otherwise specified
 9 under IC 33, with each division separate if there is more than
 10 one (1) judge of the superior court.
 11 (C) Judge of the probate court.
 12 (D) Prosecuting attorney.
 13 (E) Clerk of the circuit court.
 14 (4) County offices:
 15 (A) County auditor.
 16 (B) County recorder.
 17 (C) County treasurer.
 18 (D) County sheriff.
 19 (E) County coroner.
 20 (F) County surveyor.
 21 (G) County assessor.
 22 (H) County commissioner.
 23 (I) County council member.
 24 (5) Township offices:
 25 (A) Township assessor (only in a township referred to in
 26 IC 36-6-5-1(d)).
 27 (B) Township trustee.
 28 (C) Township board member.
 29 (D) Judge of the small claims court.
 30 (E) Constable of the small claims court.
 31 (6) City offices:
 32 (A) Mayor.
 33 (B) Clerk or clerk-treasurer.
 34 (C) Judge of the city court.
 35 (D) City-county council member or common council member.
 36 (7) Town offices:
 37 (A) Clerk-treasurer.
 38 (B) Judge of the town court.
 39 (C) Town council member.
 40 (b) If a major political party does not nominate a candidate for an
 41 office on a general, municipal, or special election ballot then the county
 42 election board may print "NO CANDIDATE FILED" in the place on



1 the ballot where the name of the major political party's nominee would
2 be printed.

3 SECTION 7. IC 3-13-4-3, AS AMENDED BY P.L.225-2011,
4 SECTION 84, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
5 JULY 1, 2024]: Sec. 3. (a) This section applies to a vacancy that occurs
6 in a state office other than governor, lieutenant governor, ~~or~~ a judicial
7 office, **or Indiana utility regulatory commissioner.**

8 (b) If a state officer wants to resign from office, the state officer
9 must resign as provided in IC 5-8-3.5.

10 (c) A vacancy that occurs in a state office because of the death of
11 the state officer may be certified to the governor under IC 5-8-6. The
12 governor may not fill a vacancy as provided by law until the governor
13 receives notice of the death under IC 5-8-6.

14 (d) A vacancy that occurs in a state office other than by resignation
15 or death shall be certified to the governor by the circuit court clerk of
16 the county in which the officer resided.

17 (e) The governor shall fill a vacancy in a state office by appointment
18 of a person of the same political party as the officer who held the
19 vacated office.

20 (f) The person who is appointed by the governor holds office for the
21 remainder of the unexpired term and until a successor is elected and
22 qualified.

23 SECTION 8. IC 3-13-4-4 IS ADDED TO THE INDIANA CODE
24 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
25 1, 2024]: **Sec. 4. A vacancy of an elected member on the Indiana
26 utility regulatory commission shall be filled by appointment by the
27 remaining commissioners as soon as practicable after the vacancy
28 occurs. The appointee holds office for the remainder of the
29 unexpired term and until a successor is elected and qualified. The
30 commission shall adopt rules under IC 4-22-2 to implement this
31 section.**

32 SECTION 9. IC 8-1-1-2, AS AMENDED BY P.L.136-2018,
33 SECTION 42, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
34 JULY 1, 2024]: Sec. 2. (a) There is created the Indiana utility
35 regulatory commission. ~~which shall consist of~~ **The commission has
36 the following membership:**

37 **(1) Five (5) members appointed by the governor who meet the
38 following requirements:**

39 **(A)** At least one (1) ~~of whom~~ **member** shall be an attorney
40 qualified to practice law before the supreme court of Indiana.
41 **and**

42 **(B)** Not more than three (3) ~~of whom~~ **members may** belong to



- 1 the same political party.
- 2 ~~(b)~~ The members of the commission **appointed under this**
- 3 **subdivision**, and all vacancies ~~occurring on the commission of an~~
- 4 **appointed member**, shall be appointed by the governor from
- 5 among persons nominated by the nominating committee in
- 6 accordance with IC 8-1-1.5.
- 7 **(2) Two (2) members elected under section 2.5 of this chapter.**
- 8 **A vacancy of an elected member shall be filled in accordance**
- 9 **with IC 3-13-4-4.**
- 10 ~~(c)~~ **(b)** ~~The members~~ **A member appointed to the commission**
- 11 **under subsection (a)(1)** may be removed at any time by the governor
- 12 for cause.
- 13 ~~(d)~~ **(c)** ~~The governor~~ **members of the commission shall annually**
- 14 **appoint one (1) member as chairman:** **chair. No member shall serve**
- 15 **as chair more than one (1) time during a four (4) year term.**
- 16 ~~(e)~~ **(d)** The members of the commission shall be appointed **or**
- 17 **elected** for a term of four (4) years, except when a member is appointed
- 18 to fill a vacancy, in which case such appointment shall be for such
- 19 unexpired term only. All members of ~~said the~~ **the** commission shall serve
- 20 as such until their successors are duly appointed and qualified, and
- 21 while so serving shall devote full time to the duties of the commission
- 22 and shall not be actively engaged in any other occupation, profession,
- 23 or business that constitutes a conflict of interest or otherwise interferes
- 24 with carrying out their duties as commissioners.
- 25 ~~(f)~~ **(e)** ~~A member~~ **All elected and appointed members** of the
- 26 commission or any person appointed to any position or employed in
- 27 any capacity to serve the commission, may not have any official or
- 28 professional relationship or connection with, or hold any stock or
- 29 securities or have any pecuniary interest in any public utility operating
- 30 in Indiana.
- 31 ~~(g)~~ **(f)** Each member ~~appointed to of~~ **of** the Indiana utility regulatory
- 32 commission shall take and subscribe to an oath in writing that the
- 33 member will faithfully perform the duties of the member's office, and
- 34 support and defend to the best of the member's ability the Constitution
- 35 and laws of the state of Indiana and of the United States of America,
- 36 and such oath shall be filed with the secretary of state.
- 37 ~~(h)~~ **(g)** The ~~chairman~~ **chair** of the commission shall assign cases to
- 38 the various members of the commission or to administrative law judges
- 39 for hearings.
- 40 SECTION 10. IC 8-1-1-2.5 IS ADDED TO THE INDIANA CODE
- 41 AS A **NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY**
- 42 **1, 2024]: Sec. 2.5. (a) Two (2) members of the commission shall be**



1 elected on a nonpartisan basis. Candidates for membership on the
 2 commission may not run in a primary election, but must, in the
 3 manner prescribed by IC 3-8-6, file a petition to be placed on the
 4 ballot for a general election.

5 (b) IC 3 applies to an election required by this section. At the
 6 general election, each voter may vote for one (1) of the candidates
 7 for the office of the Indiana utility regulatory commissioner. The
 8 two (2) candidates receiving the highest number of votes are
 9 elected.

10 (c) The two (2) members elected to the commission shall take
 11 office on January 1 following the individuals' election.

12 (d) The first two (2) members elected to the commission shall:

13 (1) be elected at the 2028 general election;

14 (2) take office on January 1, 2029; and

15 (3) serve a term of four (4) years.

16 **This subsection expires on January 1, 2030.**

17 SECTION 11. IC 8-1-1-3, AS AMENDED BY P.L.136-2018,
 18 SECTION 43, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 19 JULY 1, 2024]: Sec. 3. (a) The members of the commission shall meet
 20 and organize the commission. The commission may, subject to the
 21 approval of the governor, appoint a secretary of the commission.

22 (b) The salaries of the members and secretary of the commission
 23 shall be fixed by the governor, subject to the approval of the budget
 24 agency. However, the salaries of the ~~chairman~~ **chair** and the members
 25 shall not be less than the following annual minimum amounts:

26 (1) For the ~~chairman~~ **chair**, sixty-five thousand dollars (\$65,000).

27 (2) For the members, sixty thousand dollars (\$60,000) each.

28 (c) The commission may appoint one (1) or more administrative law
 29 judges who shall be responsible to and serve at the will and pleasure of
 30 the commission. While serving, the administrative law judges shall
 31 devote full time to the duties of the commission and shall not be
 32 actively engaged in any other occupation, profession, or business that
 33 constitutes a conflict of interest or otherwise interferes with carrying
 34 out their duties as administrative law judges. The salary of each
 35 administrative law judge shall be fixed by the commission subject to
 36 the approval of the budget agency but may not be less than the
 37 following annual amounts:

38 (1) For the chief administrative law judge, forty-five thousand
 39 dollars (\$45,000).

40 (2) For all other administrative law judges, forty thousand dollars
 41 (\$40,000).

42 (d) A majority of the commission members shall constitute a



1 quorum.

2 (e) On order of the commission any one (1) member of the
3 commission, or an administrative law judge, may conduct a hearing or
4 an investigation, and take evidence in the hearing or investigation, and
5 report on the hearing or investigation to the commission for the
6 commission's consideration and action. However, a hearing concerning
7 a request for a general increase in the basic rates and charges of a
8 utility in an amount exceeding twenty million dollars (\$20,000,000)
9 may only be conducted by one (1) or more commission members.

10 (f) Each member of the commission shall give bond in the sum of
11 ten thousand dollars (\$10,000) for the faithful performance of the
12 member's duties. Such bond shall be filed with the secretary of state.

13 (g) The commission shall formulate rules necessary or appropriate
14 to carry out this chapter, and shall perform the duties imposed by law
15 upon it.

16 (h) The commission may:

17 (1) employ, with the approval of the governor and the state budget
18 agency, sufficient professional staff, including specialists,
19 technicians, and analysts, who are exempt from the job
20 classifications and compensation schedules established under
21 IC 4-15; and

22 (2) purchase, lease, or otherwise acquire for the commission's
23 internal use sufficient technical equipment necessary for the
24 commission to carry out its statutory duties.

25 SECTION 12. IC 8-1-1-14, AS AMENDED BY P.L.71-2022,
26 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
27 JULY 1, 2024]: Sec. 14. (a) As used in this section, "committee" refers
28 to the interim study committee on energy, utilities, and
29 telecommunications established by IC 2-5-1.3-4(8).

30 (b) The ~~chairman~~ **chair** of the commission shall prepare an annual
31 report and file it with the governor and the chairman of the legislative
32 council before October 1 of each year. The commission shall present
33 the annual report to the committee before October 1 of each year. A
34 report filed under this subsection with the chairman of the legislative
35 council must be in an electronic format under IC 5-14-6. The ~~chairman~~
36 **chair** shall include in the annual report information for the fiscal year
37 ending June 30 of the year in which the report is due.

38 (c) The annual report required under subsection (b) must include the
39 following:

40 (1) An update on the operations of the commission, including the
41 following:

42 (A) Statistics relevant to the workload and operations of the



- 1 commission.
- 2 (B) A statement of the commission's revenues by source and
- 3 expenditures by purpose.
- 4 (C) A description of the commission's goals, legal
- 5 responsibilities, and accomplishments.
- 6 (D) Comments on the state of the commission and the various
- 7 kinds of utilities that it regulates.
- 8 (E) Any other matters that the commission wishes to bring to
- 9 the attention of the governor and the general assembly.
- 10 (2) Information concerning changes or emerging trends in the
- 11 energy utility industry, and the effects of those changes or trends
- 12 on service and on the pricing of all energy utility services under
- 13 the jurisdiction of the commission. The information reported
- 14 under this subdivision must include the following:
- 15 (A) The effects of competition or changes in the energy utility
- 16 industry, including the impact on customer rates.
- 17 (B) The status of modernization of the energy utility facilities
- 18 in Indiana and the incentives in place to further enhance this
- 19 infrastructure.
- 20 (C) The effects on economic development of the
- 21 modernization described in clause (B).
- 22 (D) Changes in Indiana's electricity generation mix.
- 23 (E) Any other energy utility matters the commission considers
- 24 appropriate.
- 25 (3) Information concerning changes or emerging trends in the
- 26 water and wastewater utility industries, and the effects of those
- 27 changes or trends on service and on the pricing of all water and
- 28 wastewater utility services under the jurisdiction of the
- 29 commission. The information reported under this subdivision
- 30 must include the following:
- 31 (A) The effects of changes in the water and wastewater utility
- 32 industries, including the impact on customer rates.
- 33 (B) The status of water and wastewater utility infrastructure in
- 34 Indiana and the incentives in place to further enhance this
- 35 infrastructure.
- 36 (C) An update on:
- 37 (i) acquisitions under IC 8-1-30.3;
- 38 (ii) consolidations;
- 39 (iii) regionalization; and
- 40 (iv) service territory disputes;
- 41 involving water and wastewater utilities.
- 42 (D) The nature and extent of the jurisdiction of the



- 1 commission and other state agencies over various types of
 2 water and wastewater utilities.
- 3 (E) Any other water or wastewater utility matters the
 4 commission considers appropriate.
- 5 (4) Information concerning the communications services industry,
 6 including the following:
- 7 (A) The type and availability of communications service
 8 provided to Indiana customers, including the provision of
 9 video service (as defined in IC 8-1-34-14).
- 10 (B) Details on the status of the Indiana universal service fund.
- 11 (C) The status of eligible telecommunications carriers for
 12 purposes of receiving:
- 13 (i) Lifeline reimbursement from the federal universal service
 14 fund;
- 15 (ii) support to serve rural and high cost areas; and
- 16 (iii) other monetary support from the federal universal
 17 service fund;
- 18 through the administrator designated by the Federal
 19 Communications Commission.
- 20 (D) A summary of the video franchise fee reports submitted
 21 under IC 8-1-34-24.5.
- 22 (E) Any other matters concerning the communications services
 23 industry the commission considers appropriate.
- 24 (5) Information concerning Indiana's pipeline safety program,
 25 including the following:
- 26 (A) An update on the activities of the commission's pipeline
 27 safety division established by IC 8-1-22.5-2.
- 28 (B) An update on activities under IC 8-1-26.
- 29 (C) An update on the underground plant protection account
 30 established by IC 8-1-26-24.
- 31 (D) Any other matters concerning pipeline safety the
 32 commission considers appropriate.
- 33 SECTION 13. IC 8-1-2-63 IS AMENDED TO READ AS
 34 FOLLOWS [EFFECTIVE JULY 1, 2024]: Sec. 63. Each witness who
 35 shall appear before the commission or its agent by its order, shall
 36 receive for ~~his~~ **the witness's** attendance the fees and mileage now
 37 provided for witnesses in civil cases in courts of record which shall be
 38 audited and paid by the state, in the same manner as other expenses are
 39 audited and paid, upon the presentation of proper vouchers sworn to by
 40 such witnesses and approved by the ~~chairman~~ **chair** of the commission.
 41 No witnesses subpoenaed at the instance of parties other than the
 42 commission shall be entitled to compensation from the state for



1 attendance or travel unless the commission shall certify that ~~his~~ **the**
 2 **witness's** testimony was material to the matter investigated; Provided,
 3 That the commission shall have power to pass upon, approve and limit
 4 the expenditures of a public utility in connection with a rate case which
 5 are to be charged against the rate base and to be amortized over a
 6 period of years as determined by the commission; it being the intent
 7 and purpose to prevent excessive expenditures by the utilities for expert
 8 witnesses, legal and stenographic expenses in rate hearings and
 9 appraisals.

10 SECTION 14. IC 10-19-8.1-3, AS AMENDED BY P.L.127-2022,
 11 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 12 JULY 1, 2024]: Sec. 3. (a) The council consists of the following
 13 members:

- 14 (1) The governor or the governor's designee.
- 15 (2) The executive director.
- 16 (3) The superintendent of the state police department.
- 17 (4) The adjutant general.
- 18 (5) The state health commissioner.
- 19 (6) The commissioner of the department of environmental
 20 management.
- 21 (7) The ~~chairman~~ **chair** of the Indiana utility regulatory
 22 commission.
- 23 (8) The director of the department of natural resources or, if
 24 designated by the director, the deputy director who manages the
 25 bureau of administration.
- 26 (9) The chief information officer of the office of technology.
- 27 (10) The speaker of the house of representatives or the speaker's
 28 designee.
- 29 (11) The president pro tempore of the senate or the president pro
 30 tempore's designee.
- 31 (12) The minority leader of the house of representatives or the
 32 minority leader's designee.
- 33 (13) The minority leader of the senate or the minority leader's
 34 designee.

35 (b) The members of the council described in subsection (a)(10)
 36 through (a)(13) are nonvoting members.

