

SENATE BILL No. 245

DIGEST OF INTRODUCED BILL

Citations Affected: IC 8-1-39.1.

Synopsis: Natural gas and electric utility infrastructure. Provides that an applicant that seeks: (1) the installation or extension of electric or natural gas utility infrastructure; (2) electric or natural gas utility service; or (3) both; in connection with certain development projects is entitled to request and convene, before commencing construction on the project, at least one technical advisory meeting with each utility whose service area includes the project site. Defines a "technical advisory meeting" as a meeting that: (1) includes as participants the applicant and one or more utilities: (A) whose service area includes the project site; and (B) from whom utility infrastructure, utility service, or both, will be required for the project; and (2) is held: (A) in preparation for, or in connection with, certain advance planning activities related to the project; and (B) for the purpose of: (i) sharing planning documents and drawings; (ii) determining the utility infrastructure, utility service, or both, required to serve the project; and (iii) discussing the terms of a potential extension agreement between the utility and the applicant. Sets forth the procedures and time frame for requesting and holding a technical advisory meeting. Requires an applicant and a utility to enter into an extension agreement before construction commences on a project, regardless of whether a technical advisory meeting is requested or held. Defines an "extension agreement" as an agreement that: (1) is entered into between an applicant and a utility whose service area includes the project site of the applicant's project; and (2) sets forth the obligations and commitments of: (A) the utility and the applicant with respect to the extension of utility infrastructure to the project site; and (B) the utility and the customers to be initially
(Continued next page)

Effective: July 1, 2024.

Glick

January 10, 2024, read first time and referred to Committee on Utilities.



Digest Continued

served by the extension upon its installation. Sets forth the required elements of an extension agreement. Provides that before agreeing to extend utility infrastructure to a project site in connection with the project, a natural gas utility must provide the applicant with a written summary that explains the obligations and commitments that apply to: (1) the utility; (2) the applicant; and (3) the customers to be initially served by the extension of the utility infrastructure upon its installation; under the Indiana utility regulatory commission's (IURC) rule on the extension of gas distribution mains. Sets forth the information required to be included in the summary. Provides that an applicant or a utility may submit an informal complaint to the IURC's consumer affairs division in connection with the bill's provisions concerning technical advisory meetings and extension agreements. Provides that if the IURC determines that it requires additional staff to handle the volume of informal complaints submitted, the IURC may impose a fee on a party against whom a decision is rendered. Provides that the fee may not exceed the lesser of: (1) the IURC's actual costs in handling the informal complaint; or (2) \$750. Authorizes the IURC to adopt rules to implement the bill's provisions.



Introduced

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. 245



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 8-1-39.1 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2024]:
4 **Chapter 39.1. Natural Gas or Electric Utility Infrastructure and**
5 **Service for Development Projects**
6 **Sec. 1. (a) As used in this chapter, "applicant" means a person**
7 **that seeks:**
8 **(1) the installation or extension of utility infrastructure;**
9 **(2) utility service; or**
10 **(3) both the installation or extension of utility infrastructure**
11 **and utility service;**
12 **in connection with a project.**
13 **(b) For purposes of this section, a "person" includes any**
14 **individual, partnership, corporation, limited liability company,**
15 **association, governmental agency, political subdivision, or other**



- 1 entity of any character.
- 2 **Sec. 2. As used in this chapter, "extension agreement" means an**
 3 **agreement that:**
- 4 (1) is entered into between an applicant and a utility whose
 5 service area includes the project site of the applicant's
 6 project; and
- 7 (2) sets forth the obligations and commitments of:
- 8 (A) the utility and the applicant with respect to the
 9 extension of utility infrastructure to the project site; and
- 10 (B) the utility and the customers to be initially served by
 11 the extension upon its installation.
- 12 **Sec. 3. (a) As used in this chapter, "permit authority" means**
 13 **any governmental:**
- 14 (1) agency;
 15 (2) department;
 16 (3) board;
 17 (4) commission;
 18 (5) authority; or
 19 (6) instrumentality;
- 20 that makes legislative or administrative decisions concerning the
 21 permitting, construction, siting, modification, operation, or
 22 decommissioning of a project.
- 23 (b) The term does not include any court or other judicial body
 24 that reviews decisions or rulings made by a governmental body
 25 described in subsection (a).
- 26 **Sec. 4. As used in this chapter, "project" means a project for:**
- 27 (1) the construction of new buildings or facilities, or the
 28 expansion or modification of existing buildings or facilities, on
 29 a project site; or
- 30 (2) any similar activities related to the development of a
 31 project site;
- 32 for economic development purposes or for the purpose of
 33 constructing or expanding residential, commercial, or industrial
 34 developments or projects.
- 35 **Sec. 5. As used in this chapter, "project site" means the**
 36 **particular:**
- 37 (1) site;
 38 (2) parcel; or
 39 (3) premises;
- 40 on which a project is or will be located.
- 41 **Sec. 6. As used in this chapter, "technical advisory meeting"**
 42 **means a meeting that:**



- 1 (1) is requested under section 8 of this chapter by an
 2 applicant;
 3 (2) includes as participants the applicant and one (1) or more
 4 utilities:
 5 (A) whose service area includes the project site; and
 6 (B) from whom utility infrastructure, utility service, or
 7 both, will be required for the project; and
 8 (3) is held:
 9 (A) in preparation for, or in connection with:
 10 (i) bidding;
 11 (ii) preconstruction engineering activities; or
 12 (iii) other advance planning activities;
 13 in connection with the project; and
 14 (B) for the purpose of:
 15 (i) sharing planning documents or civil, structural, or
 16 architectural drawings in connection with the project;
 17 (ii) determining the utility infrastructure, utility service,
 18 or both, that will be required to serve the project; and
 19 (iii) discussing the terms of a potential extension
 20 agreement between the utility and the applicant.
- 21 **Sec. 7.** As used in this chapter, "utility" means a public utility
 22 (as defined in IC 8-1-2-1(a)) that is under the jurisdiction of the
 23 commission and is engaged in:
 24 (1) the sale or distribution of natural gas service; or
 25 (2) the production, sale, or distribution of electric service.
- 26 **Sec. 8.** (a) Before commencing construction on a project, an
 27 applicant is entitled to request and convene at least one (1)
 28 technical advisory meeting with each utility whose service area
 29 includes the project site. A technical advisory meeting held under
 30 this section may, at the option of the parties, include each utility:
 31 (1) whose service area includes the project site; and
 32 (2) from whom utility infrastructure, utility service, or both,
 33 will be required for the project.
- 34 An applicant may request and convene a technical advisory
 35 meeting under this section regardless of whether any similar
 36 meeting involving the applicant and one (1) or more utilities
 37 described in this subsection has been or may be convened by a
 38 permit authority with jurisdiction over the project site.
- 39 (b) After receiving a request for a technical advisory meeting
 40 from an applicant, a utility shall, not later than thirty (30) days
 41 after receipt of the request, meet with the applicant:
 42 (1) at the project site or another location agreed to by the



- 1 parties; or
 2 (2) by means of a virtual meeting or by telephonic means, as
 3 agreed to by the parties.
 4 (c) At the conclusion of a technical advisory meeting, the parties
 5 may agree to:
 6 (1) convene one (1) or more additional technical advisory
 7 meetings at a later date;
 8 (2) continue, on an informal basis, any activities described in
 9 section 6(3)(B) of this chapter; or
 10 (3) proceed to enter into an extension agreement within a
 11 specified time agreed to by the parties.
 12 (d) Each party that participates in a technical advisory meeting
 13 under this section shall ensure that at least one (1) of the party's
 14 representatives who participates in the meeting has the authority
 15 to bind the party with respect to any action described in subsection
 16 (c).
 17 (e) If a utility:
 18 (1) refuses to participate in a technical advisory meeting after
 19 receiving a request for a technical advisory meeting from an
 20 applicant under subsection (a); or
 21 (2) fails to participate in a technical advisory meeting within
 22 the thirty (30) day period prescribed in subsection (b) without
 23 first contacting the requesting applicant within that thirty
 24 (30) day period to schedule a meeting to be held within a
 25 reasonable time after the prescribed thirty (30) day period;
 26 the applicant that requested the technical advisory meeting may
 27 submit an informal complaint to the commission's consumer
 28 affairs division, in accordance with IC 8-1-2-34.5(b) and the
 29 commission's rules under 170 IAC 16, including provisions for
 30 referrals and appeals to the full commission, regardless of whether
 31 the applicant is a customer of the utility at the time the complaint
 32 is submitted.
 33 Sec. 9. (a) In preparation for, or in connection with, the
 34 construction of a project, an applicant and a utility described in
 35 section 6(2) of this chapter must enter into an extension agreement
 36 regardless of whether a technical advisory meeting is requested or
 37 held under section 8 of this chapter. An applicant and a utility may
 38 enter into an extension agreement:
 39 (1) before the commencement of construction; or
 40 (2) after the commencement of construction at a phase of the
 41 development that is mutually agreed upon by the parties.
 42 (b) An extension agreement must include the following, as



- 1 applicable:
2 (1) For each party to the agreement, the name and contact
3 information for one (1) or more representatives of the party
4 who may be contacted with respect to:
5 (A) the project as a whole; or
6 (B) one (1) or more aspects or phases of development of the
7 project.
8 (2) A description of the project, including the following:
9 (A) The location of the project site, which may be
10 identified by:
11 (i) a street address;
12 (ii) a legal description of the location;
13 (iii) a highway location using highway mile markers or
14 cross streets; or
15 (iv) another description that sufficiently identifies the
16 location of the project site.
17 (B) A description of the physical and geographic
18 characteristics of the project site.
19 (C) A description of any new buildings or facilities that will
20 be constructed on the project site, including:
21 (i) the size of the new buildings or facilities; and
22 (ii) the approximate location of the new buildings or
23 facilities on the project site.
24 (D) A description of any expansion or modification to be
25 made to one (1) or more existing buildings or facilities on
26 the project site, including:
27 (i) the size of the buildings or facilities both before and
28 after the expansion or modification; and
29 (ii) the approximate location of the buildings or facilities
30 on the project site.
31 (E) To the extent determinable before the commencement
32 of construction, a description of:
33 (i) the utility infrastructure;
34 (ii) the utility service; or
35 (iii) both the utility infrastructure and utility service;
36 that will be required to serve the project site or one (1) or
37 more buildings or facilities on the project site, as
38 applicable.
39 (F) To the extent determinable before the commencement
40 of construction, an estimate of the costs to:
41 (i) the applicant with respect to the extension of utility
42 infrastructure to the project site; and



- 1 (ii) the customers to be initially served by the extension
2 upon its installation.
- 3 **(3) To the extent known by the applicant, the:**
4 **(A) starting date;**
5 **(B) anticipated duration; and**
6 **(C) type;**
7 **of any preconstruction engineering studies or other advance**
8 **planning activities that will be performed in connection with**
9 **the project.**
- 10 **(4) To the extent known by the applicant, the name of, and**
11 **contact information for, any person that will perform any:**
12 **(A) preconstruction engineering activities; or**
13 **(B) other advance planning activities;**
14 **in connection with the project.**
- 15 **(5) To the extent known by the applicant, the anticipated:**
16 **(A) starting date;**
17 **(B) duration; and**
18 **(C) completion date;**
19 **for each phase of construction contemplated in connection**
20 **with the development of the project site.**
- 21 **(6) To the extent known by the applicant, the name of, and**
22 **contact information for, any person that will perform any**
23 **construction activities with respect to any phase of**
24 **construction contemplated in connection with the**
25 **development of the project site.**
- 26 **(7) To the extent known by the applicant, and subject to any**
27 **existing confidentiality or nondisclosure agreements, the name**
28 **of, and contact information for, any current or future owner,**
29 **tenant, operator, or manager that:**
30 **(A) owns or will own one (1) or more buildings, facilities,**
31 **or lots on the project site;**
32 **(B) occupies or will occupy one (1) or more buildings,**
33 **facilities, or lots on the project site; or**
34 **(C) operates or manages, or will operate or manage, one**
35 **(1) or more buildings, facilities, or lots on the project site.**
- 36 **(8) Any:**
37 **(A) planning documents; or**
38 **(B) civil, structural, or architectural drawings;**
39 **prepared by any party to the agreement in connection with**
40 **the project.**
- 41 **(9) Requirements for the method and time by which each**
42 **party to the agreement must notify all other parties to the**



- 1 agreement of the following:
- 2 (A) Any changes to any information set forth in the
- 3 agreement, including changes to any documents or
- 4 drawings included as part of the agreement under
- 5 subdivision (8).
- 6 (B) Any delays or unanticipated conditions encountered
- 7 before or during construction, including any difficulties in
- 8 obtaining any needed:
- 9 (i) financing; or
- 10 (ii) permits or approvals;
- 11 in connection with the project.
- 12 (C) Any other changes, events, delays, circumstances, or
- 13 contingencies that may materially affect:
- 14 (i) the development of the project; or
- 15 (ii) the agreement of the parties.
- 16 (10) Requirements for memorializing communications
- 17 exchanged and agreements made among the parties before,
- 18 during, and after the development of the project site, along
- 19 with requirements for:
- 20 (A) record keeping;
- 21 (B) record retention; and
- 22 (C) each party's ability to access the records kept and
- 23 maintained by any other party to the agreement.
- 24 (11) A method for resolving, through informal means, any
- 25 disputes that arise among the parties:
- 26 (A) before;
- 27 (B) during; or
- 28 (C) after the completion of;
- 29 any activity or phase of construction contemplated or
- 30 undertaken in connection with the development of the project
- 31 site.
- 32 (12) Any other information concerning the project, or any
- 33 aspect of the project, considered relevant by the parties to the
- 34 agreement.
- 35 (c) In connection with a utility's agreement to make an extension
- 36 of utility infrastructure in connection with a project, an extension
- 37 agreement may include a provision requiring:
- 38 (1) the applicant; or
- 39 (2) the customers to be initially served by the extension of the
- 40 utility infrastructure upon its installation;
- 41 to provide a satisfactory guaranty to the utility of the performance
- 42 of the applicant's or the customers' obligations with respect to the



- 1 extension.
- 2 (d) An extension agreement must be executed and signed by a
3 representative of each party to the agreement who has the
4 authority to bind the party with respect to the terms of the
5 agreement.
- 6 (e) An extension agreement entered into under this section does
7 not replace, or otherwise relieve the obligation of any party to
8 enter into, any other agreement that:
- 9 (1) sets forth the obligations and commitments of the parties
10 with respect to the:
- 11 (A) extension of utility infrastructure; or
12 (B) provision of utility service; and
- 13 (2) is required:
- 14 (A) by law;
15 (B) by any rule adopted by the commission; or
16 (C) under any tariff of the utility.
- 17 (f) If, at any time before, during, or after the completion of any
18 activity or phase of construction contemplated or undertaken in
19 connection with the development of the project site:
- 20 (1) a party to an extension agreement alleges that any other
21 party to the agreement has not fulfilled that party's
22 obligations or commitments under the agreement; and
23 (2) the parties have not been able to resolve the matter using
24 the informal method for resolving disputes set forth in the
25 extension agreement under subsection (b)(11);
- 26 the aggrieved party may submit an informal complaint to the
27 commission's consumer affairs division, in accordance with
28 IC 8-1-2-34.5(b) and the commission's rules under 170 IAC 16,
29 including provisions for referrals and appeals to the full
30 commission. If the applicant is the aggrieved party, the remedy set
31 forth in this subsection is available to the applicant regardless of
32 whether the applicant is a customer of the utility at the time the
33 complaint is submitted.
- 34 **Sec. 10. (a) This section applies to a utility described in section**
35 **7(1) of this chapter, regardless of whether the utility:**
- 36 (1) has participated in, or will participate in, a technical
37 advisory meeting with an applicant under section 8 of this
38 chapter; or
39 (2) has entered into an extension agreement with an applicant
40 under section 9 of this chapter.
- 41 (b) Before agreeing to extend utility infrastructure to a project
42 site in connection with a project, a utility must provide the



1 applicant with a written summary that explains the obligations and
2 commitments that apply to:

- 3 (1) the utility;
4 (2) the applicant; and
5 (3) the customers to be initially served by the extension of the
6 utility infrastructure upon its installation;

7 under 170 IAC 5-1-27.

8 (c) The summary required by this section must include the
9 following:

10 (1) The circumstances under which the utility is obligated to
11 make an extension of infrastructure to prospective customers
12 free of charge, as set forth in 170 IAC 5-1-27(B).

13 (2) The conditions that apply to an extension of infrastructure
14 in any case in which the estimated cost of the extension
15 required to furnish utility service to prospective customers is
16 greater than the utility's total estimated revenue from the
17 extension, as set forth in 170 IAC 5-1-27(C). The information
18 provided under this subdivision must include information as
19 to the following:

20 (A) The requirement for the payment of a deposit by the
21 applicant, including:

22 (i) the method by which the amount of the deposit is
23 determined; and

24 (ii) the timing for payment of the deposit;

25 as set forth in 170 IAC 5-1-27(C)(1).

26 (B) The conditions under which the utility may submit an
27 application for an infrastructure extension to the
28 commission for investigation and a determination as to the
29 public convenience and necessity of the extension, as set
30 forth in 170 IAC 5-1-27(C)(2).

31 (C) The right of an initial applicant for an extension of
32 utility infrastructure to receive a refund of the applicant's
33 contribution toward the cost of the extension from each
34 customer that subsequently connects to the extension
35 within the six (6) year period following the completion of
36 the extension, as set forth in 170 IAC 5-1-27(C)(3).

37 (3) The most recent estimate of costs:

38 (A) used to establish the amounts described in subdivision
39 (2); and

40 (B) filed with the commission;

41 as described in 170 IAC 5-1-27(D).

42 (d) The summary required by this section must be in language



1 that is clear, concise, and easily understandable to a lay person.
2 (e) The commission may prescribe the form to be used for the
3 summary required by this section.
4 Sec. 11. If the commission determines that it requires additional
5 staff to handle the volume of informal complaints submitted under
6 section 8(e) or 9(f) of this chapter, the commission may impose a
7 fee under this section. Any fee charged by the commission under
8 this section may:
9 (1) not exceed:
10 (A) the commission's actual costs in administering section
11 8(e) or 9(f) of this chapter; or
12 (B) seven hundred fifty dollars (\$750);
13 whichever is less; and
14 (2) be assessed against the party against whom a decision is
15 rendered under section 8(e) or 9(f) of this chapter.
16 Sec. 12. The commission may adopt rules under IC 4-22-2 to
17 implement this chapter.

