



January 25, 2022

SENATE BILL No. 271

DIGEST OF SB 271 (Updated January 20, 2022 12:46 pm - DI 101)

Citations Affected: IC 8-1.

Synopsis: Small modular nuclear reactors. Amends the statute governing certificates of public convenience and necessity (certificates) that are issued by the Indiana utility regulatory commission (IURC) for the construction, lease, or purchase of electric generation facilities to require the IURC, in consultation with the department of environmental management (department), to adopt rules concerning the granting of certificates for the construction, purchase, or lease of small modular nuclear reactors: (1) in Indiana for the generation of electricity to be used to furnish public utility service to Indiana customers; or (2) at the site of a nuclear energy production or generating facility that supplies electricity to Indiana retail customers on July 1, 2011. Requires the IURC to adopt the rules not later than July 1, 2023. Provides that the rules adopted by the IURC must provide that in acting on a public utility's petition for a certificate for one or more small modular nuclear reactors, the IURC shall consider the following: (1) Whether, and to what extent, the one or more small modular nuclear reactors proposed by the public utility will replace a loss of generating capacity in the public utility's portfolio resulting from the retirement or planned retirement of one or more of existing electric generating facilities that: (A) are located in Indiana; and (B) use coal or natural gas as a fuel source. (2) Whether one or more of the small modular nuclear reactors will be located on the same site as or near the facility to be retired and, if so, potential opportunities for the public utility to: (A) make use of any land and existing infrastructure or facilities already owned or under the control of the public utility; or (B) create new employment
(Continued next page)

Effective: July 1, 2022.

Koch, Doriot

January 10, 2022, read first time and referred to Committee on Utilities.
January 24, 2022, amended, reported favorably — Do Pass.

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Digest Continued

opportunities for workers who have been, or would be, displaced as a result of the retirement of the existing facility. Provides that the IURC's rules must provide that the IURC may grant a certificate under circumstances and for locations other than these. Sets forth additional requirements for small modular nuclear reactors that must be included in the IURC's rules, including the requirement that the owner or operator of a proposed small modular nuclear reactor must provide evidence of a plan to apply for all licenses or permits to construct or operate the proposed small modular nuclear reactor required by the United States Nuclear Regulatory Commission, the department, or any other relevant state or federal regulatory agency. Amends the statute providing certain financial incentives for energy utilities that invest in clean energy projects by providing that, for purposes of the statute, a "clean energy project" and a "nuclear energy production or generating facility" include a small modular nuclear reactor that is constructed after June 30, 2023: (1) in Indiana for the generation of electricity to be used to furnish public utility service to Indiana customers; or (2) at the site of a nuclear energy production or generating facility that supplies electricity to Indiana retail customers on July 1, 2011; under the rules adopted by the IURC under the bill. Defines "small modular nuclear reactor" for purposes of the bill's provisions.

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January 25, 2022

Second Regular Session of the 122nd General Assembly (2022)

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 2021 Regular Session of the General Assembly.

SENATE BILL No. 271

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 8-1-8.5-12.1 IS ADDED TO THE INDIANA
2 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
3 [EFFECTIVE JULY 1, 2022]: **Sec. 12.1. (a) As used in this section,**
4 **"small modular nuclear reactor" means a nuclear reactor that:**
5 **(1) has a rated electric generating capacity of not more than**
6 **three hundred fifty (350) megawatts;**
7 **(2) is capable of being constructed and operated, either:**
8 **(A) alone; or**
9 **(B) in combination with one (1) or more similar reactors if**
10 **additional reactors are, or become, necessary;**
11 **at a single site; and**
12 **(3) is required to be licensed by the United States Nuclear**
13 **Regulatory Commission.**
14 **The term includes a nuclear reactor that is described in this**
15 **subsection and that uses a process to produce hydrogen that can be**

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1 used for energy storage, as a fuel, or for other uses.

2 (b) Not later than July 1, 2023, the commission, in consultation
3 with the department of environmental management, shall adopt
4 rules under IC 4-2-22 concerning the granting of certificates under
5 this chapter for the construction, purchase, or lease of small
6 modular nuclear reactors:

7 (1) in Indiana for the generation of electricity to be directly or
8 indirectly used to furnish public utility service to Indiana
9 customers; or

10 (2) at the site of a nuclear energy production or generating
11 facility that supplies electricity to Indiana retail customers on
12 July 1, 2011.

13 (c) Rules adopted by the commission under this section must
14 provide for the following:

15 (1) That in acting on a public utility's petition for the
16 construction, purchase, or lease of one (1) or more small
17 modular nuclear reactors, as described in subsection (b), the
18 commission shall consider the following:

19 (A) Whether, and to what extent, the one (1) or more small
20 modular nuclear reactors proposed by the public utility
21 will replace a loss of generating capacity in the public
22 utility's portfolio resulting from the retirement or planned
23 retirement of one (1) or more of the public utility's existing
24 electric generating facilities that:

25 (i) are located in Indiana; and

26 (ii) use coal or natural gas as a fuel source.

27 (B) Whether one (1) or more of the small modular nuclear
28 reactors that will replace an existing facility will be located
29 on the same site as or near the existing facility and, if so,
30 potential opportunities for the public utility to:

31 (i) make use of any land and existing infrastructure or
32 facilities already owned or under the control of the
33 public utility; or

34 (ii) create new employment opportunities for workers
35 who have been, or would be, displaced as a result of the
36 retirement of the existing facility.

37 (2) That the commission may grant a certificate under this
38 chapter under circumstances and for locations other than
39 those described in subdivision (1).

40 (3) That the commission may not grant a certificate under this
41 chapter unless the owner or operator of a proposed small
42 modular nuclear reactor provides evidence of a plan to apply



1 **for all licenses or permits to construct or operate the proposed**
 2 **small modular nuclear reactor as may be required by:**

- 3 **(A) the United States Nuclear Regulatory Commission;**
 4 **(B) the department of environmental management; or**
 5 **(C) any other relevant state or federal regulatory agency**
 6 **with jurisdiction over the construction or operation of**
 7 **nuclear generating facilities.**

8 **(4) That any:**

- 9 **(A) reports;**
 10 **(B) notices of violations; or**
 11 **(C) other notifications;**

12 **sent to or from the United States Nuclear Regulatory**
 13 **Commission by or to the owner or operator of a proposed**
 14 **small nuclear reactor must be submitted by the owner or**
 15 **operator to the commission within such times as prescribed by**
 16 **the commission, subject to the commission's duty to treat as**
 17 **confidential and protect from public access and disclosure any**
 18 **information that is contained in a report or notice and that is**
 19 **considered confidential or exempt from public access and**
 20 **disclosure under state or federal law.**

21 **(5) That any person that owns or operates a small modular**
 22 **nuclear reactor in Indiana may not store:**

- 23 **(A) spent nuclear fuel (as defined in IC 13-11-2-216); or**
 24 **(B) high level radioactive waste (as defined in**
 25 **IC 13-11-2-102);**

26 **from the small modular nuclear reactor on the site of the**
 27 **small modular nuclear reactor without first meeting all**
 28 **applicable requirements of the United States Nuclear**
 29 **Regulatory Commission.**

30 **(d) In adopting the rules required by this section, the**
 31 **commission may adopt emergency rules in the manner provided by**
 32 **IC 4-22-2-37.1. Notwithstanding IC 4-22-2-37.1(g), an emergency**
 33 **rule adopted by the commission under this subsection and in the**
 34 **manner provided by IC 4-22-2-37.1 expires on the date on which**
 35 **a rule that supersedes the emergency rule is adopted by the**
 36 **commission under IC 4-22-2-24 through IC 4-22-2-36.**

37 **(e) This section shall not be construed to affect the authority of**
 38 **the United States Nuclear Regulatory Commission.**

39 SECTION 2. IC 8-1-8.8-2, AS AMENDED BY P.L.150-2011,
 40 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 41 JULY 1, 2022]: Sec. 2. As used in this chapter, "clean energy projects"
 42 means any of the following:



- 1 (1) Any of the following projects:
 2 (A) Projects at new energy production or generating facilities
 3 that employ the use of clean coal technology and that produce
 4 energy, including substitute natural gas, primarily from coal,
 5 or gases derived from coal, from the geological formation
 6 known as the Illinois Basin.
 7 (B) Projects to provide advanced technologies that reduce
 8 regulated air emissions from or increase the efficiency of
 9 existing energy production or generating plants that are fueled
 10 primarily by coal or gases from coal from the geological
 11 formation known as the Illinois Basin, such as flue gas
 12 desulfurization and selective catalytic reduction equipment.
 13 (C) Projects to provide electric transmission facilities to serve
 14 a new energy production or generating facility or a nuclear
 15 energy production or generating facility.
 16 (D) Projects that produce substitute natural gas from Indiana
 17 coal by construction and operation of a coal gasification
 18 facility.
 19 (E) Projects or potential projects:
 20 (i) to construct, after June 30, 2023, one (1) or more
 21 small modular nuclear reactors in Indiana for the
 22 generation of electricity to be directly or indirectly used
 23 to furnish public utility service to Indiana customers, or
 24 at the site of a nuclear energy production or generating
 25 facility that supplies electricity to Indiana retail
 26 customers on July 1, 2011, under rules adopted by the
 27 commission under IC 8-1-8.5-12.1; or
 28 (ii) that enhance the safe and reliable use of nuclear energy
 29 production or generating technologies to produce electricity.
 30 (2) Projects to develop alternative energy sources, including
 31 renewable energy projects or coal gasification facilities.
 32 (3) The purchase of fuels or energy produced by a coal
 33 gasification facility or by a nuclear energy production or
 34 generating facility.
 35 (4) Projects described in subdivisions (1) through (2) that use coal
 36 bed methane.
 37 SECTION 3. IC 8-1-8.8-8.5, AS ADDED BY P.L.150-2011,
 38 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 39 JULY 1, 2022]: Sec. 8.5. (a) As used in this chapter, "nuclear energy
 40 production or generating facility" means **either of the following:**
 41 (1) an energy production or generation facility that:
 42 (†) (A) uses a nuclear reactor as its heat source to provide



- 1 steam to a turbine generator to produce or generate electricity;
 2 ~~(2)~~ **(B)** supplies electricity to Indiana retail customers on July
 3 1, 2011;
 4 ~~(3)~~ **(C)** is dedicated primarily to serving Indiana customers;
 5 and
 6 ~~(4)~~ **(D)** is undergoing a comprehensive life cycle management
 7 project to enhance the safe and reliable operation of the
 8 facility during the period the facility is licensed to operate by
 9 the United States Nuclear Regulatory Commission; **or**
 10 **(2) a small modular nuclear reactor that is constructed after**
 11 **June 30, 2023:**
 12 **(A) in Indiana for the generation of electricity to be**
 13 **directly or indirectly used to furnish public utility service**
 14 **to Indiana customers; or**
 15 **(B) at the site of a nuclear energy production or generating**
 16 **facility that supplies electricity to Indiana retail customers**
 17 **on July 1, 2011;**
 18 **under rules adopted by the commission under IC 8-1-8.5-12.1.**
 19 (b) The term includes the transmission lines and other associated
 20 equipment employed specifically to serve a nuclear energy production
 21 or generating facility.
 22 SECTION 4. IC 8-1-8.8-10.2 IS ADDED TO THE INDIANA
 23 CODE AS A NEW SECTION TO READ AS FOLLOWS
 24 [EFFECTIVE JULY 1, 2022]: **Sec. 10.2. (a) As used in this chapter,**
 25 **"small modular nuclear reactor" means a nuclear reactor that:**
 26 **(1) has a rated electric generating capacity of not more than**
 27 **three hundred fifty (350) megawatts;**
 28 **(2) is capable of being constructed and operated, either:**
 29 **(A) alone; or**
 30 **(B) in combination with one (1) or more similar reactors if**
 31 **additional reactors are, or become, necessary;**
 32 **at a single site; and**
 33 **(3) is required to be licensed by the United States Nuclear**
 34 **Regulatory Commission.**
 35 **(b) The term includes a nuclear reactor that:**
 36 **(1) is described in subsection (a); and**
 37 **(2) uses a process to produce hydrogen that can be used:**
 38 **(A) for energy storage;**
 39 **(B) as a fuel; or**
 40 **(C) for other uses.**



COMMITTEE REPORT

Madam President: The Senate Committee on Utilities, to which was referred Senate Bill No. 271, 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:

Page 1, line 6, delete "(300)" and insert "**fifty (350)**".

Page 5, line 27, delete "(300)" and insert "**fifty (350)**".

and when so amended that said bill do pass.

(Reference is to SB 271 as introduced.)

KOCH, Chairperson

Committee Vote: Yeas 8, Nays 2.

