

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 ENROLLED ACT No. 272

AN ACT to amend the Indiana Code concerning utilities.

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

SECTION 1. IC 5-1.2-4-1, AS AMENDED BY P.L.154-2021, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 1. (a) The authority is granted all powers necessary or appropriate to carry out and effectuate its public and corporate purposes under the referenced statutes, including the following:

- (1) Have perpetual succession as a body politic and corporate and an independent instrumentality exercising essential public functions.
- (2) Without complying with IC 4-22-2, adopt, amend, and repeal bylaws, rules, guidelines, and policies not inconsistent with the referenced statutes, and necessary or convenient to regulate its affairs and to carry into effect the powers, duties, and purposes of the authority and conduct its business under the referenced statutes. These bylaws, rules, guidelines, and policies must be made by a resolution of the authority introduced at one (1) meeting and approved at a subsequent meeting of the authority.
- (3) Sue and be sued in its own name.
- (4) Have an official seal and alter it at will.
- (5) Maintain an office or offices at a place or places within the

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state as it may designate.

(6) Make, execute, and enforce contracts and all other instruments necessary, convenient, or desirable for the purposes of the authority or pertaining to:

(A) a purchase, acquisition, or sale of securities or other investments; or

(B) the performance of the authority's duties and execution of any of the authority's powers under the referenced statutes.

(7) Employ architects, engineers, attorneys, space planners, construction managers, inspectors, accountants, agriculture experts, silviculture experts, aquaculture experts, health care experts, and financial experts, and any other advisers, consultants, and agents as may be necessary in its judgment and to fix their compensation and contract for the creation of plans and specifications for a facility.

(8) Procure insurance against any loss in connection with its property and other assets, including loans and loan notes in amounts and from insurers as it may consider advisable.

(9) Borrow money, make guaranties, issue bonds, and otherwise incur indebtedness for any of the authority's purposes, and issue debentures, notes, or other evidence of indebtedness, whether secured or unsecured, to any person, as provided by the referenced statutes. Notwithstanding any other law, the:

(A) issuance by the authority of any indebtedness that establishes a procedure for the authority or a person acting on behalf of the authority to certify to the general assembly the amount needed to restore a debt service reserve fund or another fund to required levels; or

(B) execution by the authority of any other agreement that creates a moral obligation of the state to pay all or part of any indebtedness issued by the authority;

is subject to review by the budget committee and approval by the budget director.

(10) Procure insurance or guaranties from any public or private entities, including any department, agency, or instrumentality of the United States, to guarantee, insure, coinsure, and reinsure against political and commercial risk of loss, and any other insurance the authority considers necessary, including insurance to secure payment:

(A) on a loan, lease, or purchase payment owed by a participating provider to the authority; and

(B) of any bonds issued by the authority, including the power



to pay premiums on any insurance, reinsurance, or guarantee.
(11) Purchase, receive, take by grant, gift, devise, bequest, or otherwise, and accept, from any source, aid or contributions of money, property, labor, or other things of value to be held, used, and applied to carry out the purposes of the referenced statutes, subject to the conditions upon which the grants or contributions are made, including but not limited to gifts or grants from any department, agency, or instrumentality of the United States, and lease (as lessee or lessor) or otherwise acquire, own, hold, improve, employ, use, or otherwise deal in and with real or personal property or any interest in real or personal property, wherever situated, for any purpose consistent with the referenced statutes.

(12) Enter into agreements with any department, agency, or instrumentality of the United States or this state and with lenders and enter into loan agreements, sales contracts, financial assistance agreements, and leases with contracting parties, including participants for any purpose allowed under IC 5-1.2-10, IC 5-1.2-11, IC 5-1.2-14, or IC 5-1.2-14.5, borrowers, lenders, developers, or users, for the purpose of planning, regulating, and providing for the financing and refinancing of any economic development project, for any purpose allowed under IC 5-1.2-10, IC 5-1.2-11, IC 5-1.2-14, or IC 5-1.2-14.5, or intrastate and interstate sales, transactions and business activities or international exports, and distribute data and information concerning the encouragement and improvement of economic development projects, intrastate and interstate sales, transactions and business activities, international exports, and other types of employment in the state undertaken with the assistance of the authority under this article.

(13) Enter into contracts or agreements with lenders and lessors for the servicing and processing of loans and leases pursuant to the referenced statutes.

(14) Provide technical assistance to local public bodies and to for profit and nonprofit entities in the development or operation of economic development projects.

(15) To the extent allowed under its contract with the holders of the bonds of the authority, consent to any modification with respect to the rate of interest, time, and payment of any installment of principal or interest, or any other term of any contract, loan, loan note, loan note commitment, contract, lease, or agreement of any kind to which the authority is a party.



(16) To the extent allowed under its contract with the holders of bonds of the authority, enter into contracts with any lender containing provisions enabling it to reduce the rental or carrying charges to persons unable to pay the regular schedule of charges when, by reason of other income or payment by any department, agency, or instrumentality of the United States or of this state, the reduction can be made without jeopardizing the economic stability of the economic development project being financed.

(17) Notwithstanding IC 5-13, but subject to the requirements of any trust agreement entered into by the authority, invest:

- (A) the authority's money, funds, and accounts;
- (B) any money, funds, and accounts in the authority's custody; and
- (C) proceeds of bonds or notes;

in the manner provided by an investment policy established by resolution of the authority.

(18) Fix and revise periodically, and charge and collect, fees and charges as the authority determines to be reasonable in connection with:

- (A) the authority's loans, guarantees, advances, insurance, commitments, and servicing; and
- (B) the use of the authority's services or facilities.

(19) Cooperate and exchange services, personnel, and information with any federal, state, or local government agency, or instrumentality of the United States or this state.

(20) Sell, at public or private sale, with or without public bidding, any loan or other obligation held by the authority.

(21) Enter into agreements concerning, and acquire, hold, and dispose of by any lawful means, land or interests in land, building improvements, structures, personal property, franchises, patents, accounts receivable, loans, assignments, guarantees, and insurance needed for the purposes of the referenced statutes.

(22) Purchase, lease as lessee, construct, remodel, rebuild, enlarge, or substantially improve economic development projects, including land, machinery, equipment, or any combination of these.

(23) Lease economic development projects to users or developers, with or without an option to purchase.

(24) Sell economic development projects to users or developers, for consideration to be paid in installments or otherwise.

(25) Make direct loans from the proceeds of the bonds to users or developers for:



- (A) the cost of acquisition, construction, or installation of economic development projects, including land, machinery, equipment, or any combination of these; or
- (B) eligible expenditures for an educational facility project; with the loans to be secured by the pledge of one (1) or more bonds, notes, warrants, or other secured or unsecured debt obligations of the users or developers.
- (26) Lend or deposit the proceeds of bonds to or with a lender for the purpose of furnishing funds to the lender to be used for making a loan to a developer or user for the financing of economic development projects under this article.
- (27) Enter into agreements with users or developers to allow the users or developers, directly or as agents for the authority, to wholly or partially construct economic development projects to be leased from or to be acquired by the authority.
- (28) Establish reserves from the proceeds of the sale of bonds, other funds, or both, in the amount determined to be necessary by the authority to secure the payment of the principal of and interest on the bonds.
- (29) Adopt rules and guidelines governing its activities authorized under the referenced statutes.
- (30) Purchase, discount, sell, and negotiate, with or without guaranty, notes and other evidence of indebtedness.
- (31) Sell and guarantee securities.
- (32) Procure letters of credit or other credit facilities or agreements from any national or state banking association or other entity authorized to issue a letter of credit or other credit facilities or agreements to secure the payment of any bonds issued by the authority or to secure the payment of any loan, lease, or purchase payment owed by a participating provider to the authority, including the power to pay the cost of obtaining such letter of credit or other credit facilities or agreements.
- (33) Accept gifts, grants, or loans from, and enter into contracts or other transactions with, any federal or state agency, municipality, private organization, or other source.
- (34) Sell, convey, mortgage, pledge, assign, lease, exchange, transfer, or otherwise dispose of property or any interest in property, wherever the property is located.
- (35) Reimburse from bond proceeds expenditures for economic development projects under this article.
- (36) Acquire, hold, use, and dispose of the authority's income, revenues, funds, and money.



(37) Purchase, acquire, or hold debt securities or other investments for the authority's own account at prices and in a manner the authority considers advisable, and sell or otherwise dispose of those securities or investments at prices without relation to cost and in a manner the authority considers advisable.

(38) Fix and establish terms and provisions with respect to:

(A) a purchase of securities by the authority, including dates and maturities of the securities;

(B) redemption or payment before maturity; and

(C) any other matters that in connection with the purchase are necessary, desirable, or advisable in the judgment of the authority.

(39) To the extent allowed under the authority's contracts with the holders of bonds or notes, amend, modify, and supplement any provision or term of:

(A) a bond, a note, or any other obligation of the authority; or

(B) any agreement or contract of any kind to which the authority is a party.

(40) Subject to the authority's investment policy, do any act and enter into any agreement pertaining to a swap agreement (as defined in IC 8-9.5-9-4) related to the purposes of the referenced statutes in accordance with IC 8-9.5-9-5 and IC 8-9.5-9-7, whether the action is incidental to the issuance, carrying, or securing of bonds or otherwise.

(41) Do any act necessary or convenient to the exercise of the powers granted by the referenced statutes, or reasonably implied from those statutes, including compliance with requirements of federal law imposed from time to time for the issuance of bonds.

(42) Contract and collaborate with a state supported college or university to provide the research and extension program authorized by IC 5-1.2-11.5-10.

(43) Serve as the executive branch coordinator for funding allocated or made available to the state or local communities from federal, state, and other sources for purposes related to drinking water, wastewater, or storm water infrastructure and systems, as set forth in IC 5-1.2-11.5-9(a)(2).

(b) The authority's powers under this article shall be interpreted broadly to effectuate the purposes of this article and may not be construed as a limitation of powers. The omission of a power from the list in subsection (a) does not imply that the authority lacks that power. The authority may exercise any power that is not listed in subsection (a) but is consistent with the powers listed in subsection (a) to the



extent that the power is not expressly denied by the Constitution of the State of Indiana or by another statute.

(c) This chapter does not authorize the financing of economic development projects for a developer unless any written agreement that may exist between the developer and the user at the time of the bond resolution is fully disclosed to and approved by the authority.

(d) The authority shall work with and assist the Indiana housing and community development authority created by IC 5-20-1-3, the ports of Indiana created under IC 8-10-1-3, and the state fair commission established by IC 15-13-2-1 in the issuance of bonds, notes, or other indebtedness. The Indiana housing and community development authority, the ports of Indiana, and the state fair commission shall work with and cooperate with the authority in connection with the issuance of bonds, notes, or other indebtedness.

SECTION 2. IC 5-1.2-10-16, AS ADDED BY P.L.189-2018, SECTION 25, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 16. (a) A loan or other financial assistance from either fund must be accompanied by the following:

- (1) All papers and opinions required by the authority.
- (2) Unless otherwise provided by the guidelines of the authority, the following:
 - (A) An approving opinion of nationally recognized bond counsel.
 - (B) A certification and guarantee of signatures.
 - (C) A certification that, as of the date of the loan or other financial assistance:
 - (i) no litigation is pending challenging the validity of or entry into the loan or other financial assistance or any security for the loan or other financial assistance; or
 - (ii) if litigation is pending, the litigation will not have a material adverse effect on the validity of the loan or other financial assistance or any security for the loan or other financial assistance.
 - (D) If litigation is pending, as an alternative to the certification described in clause (C), an opinion of legal counsel that the litigation will not have a material adverse effect on the validity of the loan or other financial assistance.
 - (E) Documentation demonstrating that the participant has the financial, managerial, technical, and legal capability of operating and maintaining its water or wastewater collection and treatment system.
- (b) Each participant

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(1) to which, or

(2) for the benefit of which:

(1) a loan, ~~would be made~~ grant, or the other financial assistance ~~would be provided under this chapter~~ is awarded before July 1, 2023, must demonstrate that it has developed or is in the process of developing an asset management program, as defined in the guidelines of the authority; **or**

(2) a loan, grant, or other financial assistance is awarded after June 30, 2023:

(A) must demonstrate that it has developed:

(i) an asset management program, as defined in the guidelines of the authority; and

(ii) an estimate of the life cycle management costs, as defined in the guidelines of the authority, that will be incurred over the useful life of the asset to be financed with the loan, grant, or other financial assistance;

not later than the time of submission of the participant's preliminary engineering report for any project for which the loan, grant, or other financial assistance would be provided;

(B) must report to the authority on an ongoing basis, at such times as the authority shall prescribe, the actual life cycle management costs incurred by the participant over the useful life of the asset; and

(C) in the case of a participant that is not under the jurisdiction of the Indiana utility regulatory commission, must regularly report, at such times and in such manner as the authority shall prescribe, to all:

(i) customers;

(ii) counties; and

(iii) municipalities;

within the participant's service territory such information concerning the participant's asset management program and utility asset life cycle management costs as the authority may require.

SECTION 3. IC 5-1.2-11-6, AS ADDED BY P.L.189-2018, SECTION 25, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 6. Money in the supplemental fund may be used to do the following:

(1) Provide grants, loans, or other financial assistance to or for the benefit of participants for the planning, designing, acquisition, construction, renovation, improvement, or expansion of the

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following:

(A) A public water system, whether or not those other activities are allowed by the federal Clean Water Act or the federal Safe Drinking Water Act.

(B) A wastewater or storm water collection and treatment system.

The money may be used to pay for other activities necessary or convenient to complete these tasks, regardless of whether those other activities are allowed by the federal Clean Water Act or the federal Safe Drinking Water Act.

(2) Provide grants, loans, or other financial assistance to political subdivisions for tasks associated with the development and preparation of:

(A) long term control plans;

(B) use attainability analyses; and

(C) storm water management programs.

(3) Provide grants, loans, or other financial assistance to or for the benefit of participants for the planning, designing, acquisition, construction, renovation, improvement, or expansion of septic relief systems in accordance with guidelines of the authority.

~~(3)~~ **(4)** Provide interest subsidies.

~~(4)~~ **(5)** Establish guaranties, reserves, or sinking funds, including guaranties, reserves, or sinking funds to secure and pay, in whole or in part, loans or other financial assistance made from sources other than the supplemental fund (including financial institutions) for a purpose allowed by subdivision (1).

~~(5)~~ **(6)** Pay financing charges, including interest on the loan or other financial assistance during construction and for a reasonable period after the completion of construction.

~~(6)~~ **(7)** Pay the cost of administering the supplemental fund and the supplemental program.

~~(7)~~ **(8)** Conduct all other activities that are allowed by the federal Clean Water Act or the federal Safe Drinking Water Act.

SECTION 4. IC 5-1.2-11.5-9, AS ADDED BY P.L.15-2019, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 9. (a) The authority shall coordinate the executive branch activities related to the state's **drinking water and wastewater** programs. The authority's duties under this section include the following:

(1) Serving as the executive branch coordinator of **drinking water and wastewater** related programs and activities of the state.

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(2) Serving as the executive branch coordinator for funding allocated or made available to the state or local communities from federal, state, and other sources for purposes related to drinking water, wastewater, or storm water infrastructure and systems. The authority's duties under this subdivision include:

(A) communicating with utilities, local communities, and state agencies about the availability of funds;

(B) vetting proposals for, and potential recipients of, available funds; and

(C) directing available funds to and among utilities, local communities, and state agencies;

as appropriate.

~~(2)~~ **(3)** Advising state agencies and political subdivisions, and coordinating their activities, regarding best practices concerning the best use of funding streams and incentives in the manner most likely to achieve comprehensive **drinking water and wastewater** related data collection and regional collaboration in **drinking water and wastewater service.**

~~(3)~~ **(4)** Promoting and coordinating the collection and sharing of information throughout Indiana concerning **drinking water and wastewater service.**

~~(4)~~ **(5)** Providing leadership regarding investment, affordability, supply, and economic development related to **drinking water and wastewater service.**

(b) All instrumentalities, agencies, authorities, boards, and commissions of the state, including the management performance hub established by IC 4-3-26, shall cooperate with and provide assistance to the authority in carrying out the authority's duties under this section.

(c) In carrying out the authority's duties under subsection (a)(3) and (a)(4), the authority may consult and collaborate with, and draw on the technical expertise of, the drinking water and wastewater infrastructure research and extension program authorized by section 10 of this chapter, as appropriate.

~~(e)~~ **(d)** In carrying out the authority's duties under this section, the authority shall use any data the authority acquires in a manner that:

(1) protects the confidential information of individual **drinking water utilities, wastewater utilities, and their** customers; and

(2) is consistent with IC 5-14-3-4.

SECTION 5. IC 5-1.2-11.5-10 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 10. (a) As used in this section,**

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"program" refers to the drinking water and wastewater infrastructure research and extension program authorized by subsection (c).

(b) As used in this section, "utility" means any of the following that provides drinking water, wastewater, or storm water service in Indiana:

- (1) A public utility (as defined in IC 8-1-2-1(a)).
- (2) A municipally owned utility (as defined in IC 8-1-2-1(h)).
- (3) A not-for-profit utility (as defined in IC 8-1-2-125(a)).
- (4) A cooperatively owned corporation.
- (5) A conservancy district established under IC 14-33.
- (6) A regional sewer district established under IC 13-26.
- (7) A department of storm water management under IC 8-1.5-5.

(c) A drinking water and wastewater infrastructure research and extension program may be established to provide data collection and information, training, and technical assistance concerning:

- (1) drinking water infrastructure;
- (2) wastewater infrastructure; and
- (3) storm water infrastructure;

in Indiana, including assistance with infrastructure and system design, construction, operation, maintenance, financial management, and administration.

(d) The authority may contract with a state supported college or university in Indiana to provide the program. The program:

- (1) must be overseen by a director and include such staff as mutually agreed upon by the authority and the college or university; and
- (2) may be housed within, or share staff with, the research and highway extension program established by IC 8-17-7, as may be mutually agreed upon by the authority and the college or university.

The authority may financially support the program from existing funds appropriated to the authority.

(e) The program may provide the following services and programs to, or for the benefit of, utilities that provide drinking water, wastewater, or storm water service in Indiana:

- (1) Assisting utilities in the development of asset management programs by:
 - (A) providing educational and technical assistance concerning the principles, benefits, requirements, and



- implementation of a successful asset management program; and
- (B) reviewing the asset management programs of utilities and offering advice in cases in which information or essential components may be missing or lacking.
- (2) Serving as a central repository for data concerning the location and condition of, and populations served by, drinking water infrastructure, wastewater infrastructure, and storm water infrastructure throughout Indiana, by:
- (A) collecting:
- (i) data from utilities, local units, and state agencies; or
- (ii) field data;
- (B) compiling and organizing the data collected; and
- (C) subject to subsection (g), making the data available in an electronic format specified by the authority on an Internet web site maintained by:
- (i) the authority; or
- (ii) the program.
- (3) Providing training and technical assistance to utilities by:
- (A) offering, participating in, or sponsoring statewide or local conferences and workshops on topics related to the design, construction, operation, maintenance, and administration of utilities' infrastructure and systems; and
- (B) making available or providing information on professional development opportunities for Indiana's drinking water, wastewater, and storm water utility industry workforces.
- (f) Subject to subsection (g), not later than July 1, 2023, the authority shall make information concerning all:
- (1) utility asset management programs; and
- (2) utility asset lifecycle management costs;
- submitted to or reviewed by the authority under this article available in an electronic format specified by the authority on an Internet web site maintained by the authority or the program.
- (g) In carrying out the duties set forth in subsections (e)(2) and (f), the authority and, if applicable, the program shall use any data the authority or the program acquires in a manner that:
- (1) protects the confidential information of individual utilities and customers; and
- (2) is consistent with IC 5-14-3-4.

SECTION 6. IC 5-1.2-14-4, AS AMENDED BY P.L.56-2019, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE



JULY 1, 2022]: Sec. 4. (a) Money in the water infrastructure assistance fund may be used to do the following:

(1) Provide grants, loans, and other financial assistance to or for the benefit of participants for:

(A) the planning, designing, acquisition, construction, renovation, improvement, or expansion of public water systems; and

(B) other activities necessary or convenient to complete the tasks referred to in clause (A) whether or not the other activities are permitted by the federal Clean Water Act or the federal Safe Drinking Water Act.

(2) Provide grants, loans, or other financial assistance to or for the benefit of participants for:

(A) the planning, designing, acquisition, construction, renovation, improvement, or expansion of wastewater or storm water collection and treatment systems; and

(B) other activities necessary or convenient to complete the tasks referred to in clause (A) whether or not the other activities are permitted by the federal Clean Water Act or the federal Safe Drinking Water Act.

(3) Provide grants, loans, or other financial assistance to or for the benefit of participants for the planning, designing, acquisition, construction, renovation, improvement, or expansion of septic relief systems in accordance with guidelines of the authority.

~~(3)~~ (4) Provide grants to political subdivisions for tasks associated with the development and preparation of:

(A) long term control plans;

(B) use attainability analyses; and

(C) storm water management programs.

~~(4)~~ (5) Undertake tasks associated with the development and preparation of water, wastewater, and storm water infrastructure and resource analyses.

~~(5)~~ (6) Conduct all other activities that are permitted by the federal Clean Water Act or the federal Safe Drinking Water Act.

(b) The authority may make loans or provide other financial assistance from the water infrastructure assistance fund to or for the benefit of a participant to do any of the following:

(1) Establish guaranties, reserves, or sinking funds, including guaranties, reserves, or sinking funds to secure and pay, in whole or in part, loans or other financial assistance made from sources other than the fund (including financial institutions) for a purpose



permitted by this chapter.

(2) Provide interest subsidies.

(3) Pay financing charges, including interest on the loan or other financial assistance:

(A) during design and construction of a water or wastewater infrastructure project based upon a viable financial plan; and

(B) for a reasonable period after the completion of construction.

SECTION 7. IC 5-1.2-14-8, AS AMENDED BY P.L.56-2019, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 8. (a) To receive a loan, grant, or other financial assistance from the water infrastructure assistance fund, a participant:

(1) ~~must have~~ **demonstrate that it has developed or is in the process of developing** an asset management program, ~~that meets standards established by as defined in the guidelines of the authority, and in the case of a loan, grant, or other financial assistance awarded before July 1, 2023;~~

(2) **must:**

(A) **demonstrate that it has developed:**

(i) **an asset management program, as defined in the guidelines of the authority; and**

(ii) **an estimate of the life cycle management costs, as defined in the guidelines of the authority, that will be incurred over the useful life of the asset to be financed with the loan, grant, or other financial assistance;**

not later than the time of submission of the participant's preliminary engineering report for any project for which the loan, grant, or other financial assistance would be provided;

(B) **report to the authority on an ongoing basis, at such times as the authority shall prescribe, the actual life cycle management costs incurred by the participant over the useful life of the asset; and**

(C) **in the case of a participant that is not under the jurisdiction of the Indiana utility regulatory commission, must regularly report, at such times and in such manner as the authority shall prescribe, to all:**

(i) **customers;**

(ii) **counties; and**

(iii) **municipalities;**

within the participant's service territory such information concerning the participant's asset management program



and utility asset life cycle management costs as the authority may require; in the case of a loan, grant, or other financial assistance awarded after June 30, 2023; and

~~(2)~~ (3) must demonstrate to the authority that it has a plan to participate with one (1) or more other participants in cooperative activities, which may include using the proceeds of the loan or grant to pay a part of the costs associated with a cooperative activity.

(b) To receive a loan or grant from the water infrastructure assistance fund for purposes of cybersecurity, a participant must satisfy the same requirements that are established under this chapter for loans or grants for projects for other purposes.

(c) A participant receiving a grant, loan, or other financial assistance from the water infrastructure assistance fund shall enter into a financial assistance agreement with the authority. A financial assistance agreement entered into under this section is a valid, binding, and enforceable agreement of the participant.

(d) After receiving a loan or grant from the water infrastructure assistance fund, a participant must maintain its asset management program:

- (1) as long as the loan remains unpaid; or
- (2) during the useful life of the asset financed with the loan or grant.

(e) In addition to meeting the other requirements established under this section, a participant must, if appropriate, conduct or participate in efforts to determine and eliminate the causes of non-revenue water in its water distribution system.

(f) Notwithstanding any other law, the authority may establish and implement requirements that:

- (1) apply to loans and other financial assistance to be made to participants that are not political subdivisions; and
- (2) are different from, or in addition to, requirements that apply to loans and financial assistance made to political subdivisions.

SECTION 8. IC 5-1.2-14-8.2, AS ADDED BY P.L.56-2019, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 8.2. (a) The authority shall establish a project prioritization system for the purposes of awarding loans and grants from the water infrastructure assistance fund. The project prioritization system must be based on a model that includes at least the following variables:

- (1) The effect of a project on **the environment and** public health



and safety.

(2) The effect upon the user rates and charges of participants.

(3) The existence of plans for collaboration with other entities.

(4) The existence of a plan to measure and manage non-revenue water.

(5) Whether an applicant is employing other best practices as determined by the authority.

(b) The authority shall use the results of the project prioritization system established under subsection (a) to create a project priority list, and shall use the project priority list in awarding grants, loans, and other financial assistance under this chapter. The authority may adjust the project priority list established under this section:

(1) if the authority determines that unforeseen circumstances require an adjustment; or

(2) in case of an emergency.

SECTION 9. IC 5-1.2-14.5-4, AS ADDED BY P.L.154-2021, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 4. Money in the water infrastructure grant fund may be used to do the following:

(1) Provide grants, loans, and other financial assistance to or for the benefit of participants for:

(A) the planning, designing, acquisition, construction, renovation, improvement, or expansion of water systems; and

(B) other activities necessary or convenient to complete the tasks referred to in clause (A), regardless of whether the other activities are permitted by the federal Clean Water Act or the federal Safe Drinking Water Act.

(2) Provide grants, loans, or other financial assistance to or for the benefit of participants for:

(A) the planning, designing, acquisition, construction, renovation, improvement, or expansion of wastewater or storm water collection and treatment systems; and

(B) other activities necessary or convenient to complete the tasks referred to in clause (A), regardless of whether the other activities are permitted by the federal Clean Water Act or the federal Safe Drinking Water Act.

(3) Provide grants, loans, or other financial assistance to or for the benefit of participants for the planning, designing, acquisition, construction, renovation, improvement, or expansion of septic relief systems in accordance with guidelines of the authority.

~~(3)~~ (4) Provide grants, loans, or other financial assistance to or for



the benefit of participants for any eligible activity (as defined in IC 5-1.2-2-23).

~~(4)~~ **(5)** Provide grants to political subdivisions for tasks associated with the development and preparation of:

- (A) long term control plans;
- (B) use attainability analyses; and
- (C) storm water management programs.

~~(5)~~ **(6)** Undertake tasks associated with the development and preparation of water, wastewater, and storm water infrastructure and resource analyses.

~~(6)~~ **(7)** Conduct all other activities that are permitted by the federal Clean Water Act or the federal Safe Drinking Water Act.

SECTION 10. IC 5-1.2-14.5-7, AS ADDED BY P.L.154-2021, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 7. (a) To receive a loan, grant, or other financial assistance from the water infrastructure grant fund, a participant:

(1) must ~~have~~ **demonstrate that it has developed or is in the process of developing** an asset management program, ~~that meets standards established by as defined in the guidelines of the authority, and in the case of a loan, grant, or other financial assistance awarded before July 1, 2023;~~

(2) must:

(A) **demonstrate that it has developed:**

(i) **an asset management program, as defined in the guidelines of the authority; and**

(ii) **an estimate of the life cycle management costs, as defined in the guidelines of the authority, that will be incurred over the useful life of the asset to be financed with the loan, grant, or other financial assistance;**

not later than the time of submission of the participant's preliminary engineering report for any project for which the loan, grant, or other financial assistance would be provided;

(B) **report to the authority on an ongoing basis, at such times as the authority shall prescribe, the actual life cycle management costs incurred by the participant over the useful life of the asset; and**

(C) **in the case of a participant that is not under the jurisdiction of the Indiana utility regulatory commission, must regularly report, at such times and in such manner as the authority shall prescribe, to all:**

(i) **customers;**



(ii) counties; and

(iii) municipalities;

within the participant's service territory such information concerning the participant's asset management program and utility asset life cycle management costs as the authority may require;

in the case of a loan, grant, or other financial assistance awarded after June 30, 2023; and

~~(2)~~ **(3)** must demonstrate to the authority that it has a plan to participate with one (1) or more other participants in cooperative activities, which may include using the proceeds of the loan or grant to pay a part of the costs associated with a cooperative activity.

(b) To receive a loan or grant from the water infrastructure grant fund for purposes of cybersecurity, a participant must satisfy the same requirements that are established under this chapter for loans or grants for projects for other purposes.

(c) A participant receiving a grant, loan, or other financial assistance from the water infrastructure grant fund shall enter into an agreement with the authority. An agreement entered into under this section is a valid, binding, and enforceable agreement of the participant.

(d) After receiving a loan or grant from the water infrastructure grant fund, a participant must maintain its asset management program during the useful life of the asset financed with the loan or grant.

(e) In addition to meeting the other requirements established under this section, a participant must, if appropriate, conduct or participate in efforts to determine and eliminate the causes of non-revenue water in its water distribution system.

(f) Notwithstanding any other law, the authority may establish and implement requirements that:

(1) apply to grants, loans, and other financial assistance to be made to participants that are not political subdivisions; and

(2) are different from, or in addition to, requirements that apply to grants, loans, and financial assistance made to political subdivisions.

SECTION 11. IC 5-1.2-14.5-8, AS ADDED BY P.L.154-2021, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 8. (a) The authority shall establish a project prioritization system for the purposes of awarding loans and grants from the water infrastructure grant fund. The project prioritization system must be based on a model that includes at least the following variables:

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- (1) The effect of a project on **the environment and** public health and safety.
- (2) The effect upon, and the affordability of, the user rates and charges of participants.
- (3) The existence of plans for collaboration with other entities.
- (4) The existence of a plan to measure and manage non-revenue water.
- (5) Whether an applicant is employing other best practices as determined by the authority.
- (6) Whether the project includes an expansion of storm water collection and treatment systems.

(b) The authority shall use the results of the project prioritization system established under subsection (a) to create a project priority list, and shall use the project priority list in awarding grants, loans, and other financial assistance under this chapter. The authority may adjust the project priority list established under this section:

- (1) if the authority determines that unforeseen circumstances require an adjustment; or
- (2) in case of an emergency.

SECTION 12. IC 8-1-1.9-5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]: **Sec. 5. (a) This section applies to a wastewater utility that:**

- (1) is not subject to the jurisdiction of the commission for the approval of rates and charges; and**
- (2) has been issued one (1) or more enforcement orders after June 30, 2022.**

(b) As used in this section, "department enforcement action" means an action of the department of environmental management commenced under IC 13-30-3.

(c) As used in this section, "enforcement order" means an order, including an agreed order under IC 13-30-3-3:

- (1) resulting from a department enforcement action; and**
- (2) relating to environmental or health and human safety issues.**

(d) As used in this section, "wastewater utility" means any of the following that provides wastewater service in Indiana:

- (1) A public utility (as defined in IC 8-1-2-1(a)).**
- (2) A municipally owned utility (as defined in IC 8-1-2-1(h)).**
- (3) A not-for-profit utility (as defined in IC 8-1-2-125(a)).**
- (4) A cooperatively owned corporation.**
- (5) A conservancy district established under IC 14-33.**
- (6) A regional sewer district established under IC 13-26.**



(e) The following apply to a wastewater utility that is subject to this section:

(1) Upon the issuance of the first enforcement order with respect to the wastewater utility, the commission shall:

(A) perform an informal review, using such procedures as the commission may choose, of the rates and charges of the wastewater utility to determine if the rates and charges are sufficient to:

- (i) operate and maintain the wastewater utility's collection and treatment system; and
- (ii) pay all obligations of the wastewater utility's collection and treatment system; and

(B) determine whether all elements of an adequate asset management program are in place with respect to the wastewater utility's collection and treatment system.

In making a determination under clause (B), the commission may consult with the drinking water and wastewater infrastructure research and extension program authorized by IC 5-1.2-11.5-10. Notwithstanding IC 8-1-1-5(b), commission staff shall not be subject to cross examination in any subsequent proceeding in connection with any documents prepared during an informal review under this subdivision.

(2) If a second enforcement order is issued with respect to the wastewater utility within two (2) years of the effective date of the first enforcement order, the wastewater utility:

(A) shall undergo a base rate case before the commission; and

(B) becomes subject to the jurisdiction of the commission for the approval of rates and charges upon the effective date of the second enforcement order.

After this first required rate case, the wastewater utility shall undergo one (1) subsequent rate case before the commission not earlier than three (3) years after the effective date of the commission's order in the first rate case under this subdivision. The wastewater utility shall remain subject to the jurisdiction of the commission for the approval of rates and charges for a minimum of five (5) years from the effective date of the commission's order in the first rate case under this subdivision and for at least one (1) year after the effective date of the commission's order in the second rate case under this subdivision. For purposes of determining rates and charges under this subdivision, if the wastewater utility also



provides storm water services or is considered a combined sewer system, the commission may consider any revenues collected by the wastewater utility for storm water services. However, the commission may not order storm water rates to be adjusted.

(3) Notwithstanding IC 8-1-2.7, if the wastewater utility:

(A) satisfies the requirements set forth in subdivision (2); and

(B) is not issued any additional enforcement orders during the rate regulation period described in subdivision (2); the wastewater utility shall provide to the commission written notice to that effect. If the commission determines that the wastewater utility has satisfied the requirements set forth in subdivision (2) and has not been issued any additional enforcement orders during the rate regulation period described in subdivision (2), the wastewater utility shall be withdrawn from the commission's jurisdiction.

(4) If, during the rate regulation period described in subdivision (2):

(A) one (1) or more additional enforcement orders are issued with respect to the wastewater utility; or

(B) the commissioner of the department of environmental management otherwise determines that environmental or health and human safety considerations so warrant; the commission may, in consultation with the department of environmental management, initiate a receivership proceeding with respect to the wastewater utility.

(5) Subdivision (1) applies with respect to any enforcement order that is issued with respect to the wastewater utility after the completion of the rate regulation period described in subdivision (2).

(f) The commission may enter into an agreement with the department to carry out the requirements set forth in subsection (e).

(g) An action by the department of environmental management under this section is subject to review under IC 4-21.5.

(h) An action by the commission under this section is subject to review under IC 8-1-3.

SECTION 13. IC 20-32-4-15 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]: **Sec. 15. (a) The following definitions apply throughout this section:**



- (1) "Utility career cluster" means a list:
- (A) compiled for purposes of college and career pathways relating to career and technical education under section 1.5(g) of this chapter; and
 - (B) setting forth industries or occupational fields that:
 - (i) are related to the provision of utility services; and
 - (ii) share similar knowledge and skill training requirements.
- (2) "Utility services" includes:
- (A) production, transmission, or distribution of electricity;
 - (B) acquisition, transportation, distribution, or storage of natural gas;
 - (C) provision of communications service (as defined in IC 8-1-32.5-3);
 - (D) treatment, storage, or distribution of water; and
 - (E) collection or treatment of wastewater.
- (b) Not later than December 31, 2022:
- (1) the state board shall, for purposes of approving under section 1.5(g) of this chapter sequences of courses leading to student concentrators in industries or occupational fields related to the provision of utility services, approve a utility career cluster; and
 - (2) the governor's workforce cabinet shall, in consultation with the state board, the department, and the department of workforce development, create one (1) or more course sequences:
 - (A) each of which consists of courses approved by the state board for purposes of college and career pathways relating to career and technical education under section 1.5(g) of this chapter; and
 - (B) each of which provides students with knowledge and skills necessary for employment in an industry or occupational field in the utility career cluster.
- (c) In creating one (1) or more course sequences under subsection (b)(2), the governor's workforce cabinet, in consultation with the state board, the department, and the department of workforce development, shall:
- (1) consider the impact of course sequences on the long term outcomes of students; and
 - (2) prioritize course sequences that lead to high wage, high demand jobs.

SECTION 14. IC 20-32-4-16 IS ADDED TO THE INDIANA

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CODE AS A NEW SECTION TO READ AS FOLLOWS
[EFFECTIVE JULY 1, 2022]: **Sec. 16. (a) This section applies to any:**

- (1) career clusters approved or amended by the state board under this chapter after June 30, 2022; or**
- (2) course sequences created or amended by the governor's workforce cabinet under this chapter after June 30, 2022.**

(b) The governor's workforce cabinet shall do the following:

- (1) Collect data each year regarding approved career clusters and course sequences to inform decision making around approving, creating, and amending current and future career clusters and course sequence requirements.**
- (2) Prepare and submit, not later than November 1 of each year, a report to the legislative council in an electronic format under IC 5-14-6 regarding the data collected under subdivision (1).**

SECTION 15. An emergency is declared for this act.



President of the Senate

President Pro Tempore

Speaker of the House of Representatives

Governor of the State of Indiana

Date: _____ Time: _____

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