



Reprinted
March 28, 2023

ENGROSSED

SENATE BILL No. 390

DIGEST OF SB 390 (Updated March 27, 2023 3:16 pm - DI 92)

Citations Affected: IC 4-3.

Synopsis: Commercial solar and wind energy ready communities. Provides that the commercial solar and wind energy ready communities development center (center) may be established within the Indiana office of energy development (office). Provides that the center, if established, shall: (1) provide comprehensive, easily accessible information concerning permits required for commercial solar projects and wind power projects; and (2) work with permit authorities (Continued next page)

Effective: July 1, 2023.

Messmer, Koch, Randolph Lonnie M
(HOUSE SPONSORS — SOLIDAY, BARTELS, HAMILTON)

January 19, 2023, read first time and referred to Committee on Appropriations.
February 23, 2023, amended, reported favorably — Do Pass.
February 27, 2023, read second time, amended, ordered engrossed.
February 28, 2023, engrossed. Read third time, passed. Yeas 36, nays 12.

HOUSE ACTION

March 6, 2023, read first time and referred to Committee on Utilities, Energy and Telecommunications.
March 21, 2023, reported — Do Pass.
March 27, 2023, read second time, amended, ordered engrossed.

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Digest Continued

concerning those projects. Requires the center to create and administer a program to certify counties and municipalities as commercial solar energy ready communities and wind energy ready communities. Requires the office to certify a county or municipality as a commercial solar energy ready community or a wind energy ready community if the county or municipality meets certain requirements, including the adoption of a commercial solar regulation or wind power regulation that includes standards that are not more restrictive than the default standards established by Indiana law. Provides that a commercial solar and wind energy ready communities incentive fund (fund) may be established by the office. Provides that if: (1) a county or municipality receives certification as a commercial solar energy ready community or a wind energy ready community; (2) a project owner constructs a commercial solar project or wind power project in the county or municipality; (3) the fund is established; and (4) there is a sufficient balance in the fund; the office may authorize the county or municipality to receive from the fund, for a period of 10 years, \$1 per megawatt hour of electricity generated by the commercial solar project or wind power project.



Reprinted
March 28, 2023

First Regular Session of the 123rd General Assembly (2023)

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 2022 Regular Session of the General Assembly.

ENGROSSED SENATE BILL No. 390

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 4-3-23.1 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2023]:

4 **Chapter 23.1. Commercial Solar and Wind Energy Ready**
5 **Communities**

6 **Sec. 1. As used in this chapter, "center" refers to the**
7 **commercial solar and wind energy ready communities**
8 **development center that may be established under section 12 of**
9 **this chapter.**

10 **Sec. 2. As used in this chapter, "commercial solar project"**
11 **means a project involving the construction, installation, siting,**
12 **modification, operation, or decommissioning of one (1) or more**
13 **commercial solar energy systems (as defined in IC 8-1-42-2) in a**
14 **unit.**

15 **Sec. 3. As used in this chapter, "commercial solar regulation"**

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- 1 has the meaning set forth in IC 8-1-42-3.
- 2 **Sec. 4.** As used in this chapter, "fund" refers to the commercial
3 solar and wind energy ready communities incentive fund described
4 in section 16 of this chapter.
- 5 **Sec. 5.** As used in this chapter, "office" refers to the Indiana
6 office of energy development established by IC 4-3-23-3.
- 7 **Sec. 6.** As used in this chapter, "permit", with respect to a
8 project, means any state or local permit, license, certificate,
9 approval, registration, or similar form of approval required by
10 statute, administrative rule, regulation (including a commercial
11 solar regulation or a wind power regulation), ordinance, or
12 resolution.
- 13 **Sec. 6.5.** As used in this chapter, "permit authority" has the
14 meaning set forth in:
- 15 (1) IC 8-1-41-4, in the case of a wind power project; or
16 (2) IC 8-1-42-6, in the case of a commercial solar project.
- 17 **Sec. 7.** As used in this chapter, "project" refers to:
- 18 (1) a wind power project; or
19 (2) a commercial solar project.
- 20 **Sec. 8.** As used in this chapter, "project owner" has the meaning
21 set forth in:
- 22 (1) IC 8-1-41-5, in the case of a wind power project; or
23 (2) IC 8-1-42-7, in the case of a commercial solar project.
- 24 **Sec. 9.** As used in this chapter, "unit" means a county or a
25 municipality, as specified in:
- 26 (1) IC 8-1-41-6, in the case of a wind power project; or
27 (2) IC 8-1-42-8, in the case of a commercial solar project.
- 28 **Sec. 10.** As used in this chapter, "wind power project" means a
29 project involving the construction, installation, siting, modification,
30 operation, or decommissioning of one (1) or more wind power
31 devices (as defined in IC 8-1-41-7) in a unit.
- 32 **Sec. 11.** As used in this chapter, "wind power regulation" has
33 the meaning set forth in IC 8-1-41-8.
- 34 **Sec. 12.** (a) The commercial solar and wind energy ready
35 communities development center may be established within the
36 office. If established, the center shall have the following duties:
- 37 (1) Providing comprehensive information concerning permits
38 required for projects and related business activities in
39 Indiana, and making the information available and easily
40 accessible to:
- 41 (A) project owners;
42 (B) state and local government offices, departments, and



- 1 administrative entities; and
 2 (C) the public.
- 3 (2) Working with permit authorities to encourage the timely
 4 and efficient issuance of permits and the resolution of related
 5 issues.
- 6 (b) The center, if established, may create and administer:
 7 (1) a program for the certification of units as commercial
 8 solar energy ready communities under section 13 of this
 9 chapter; and
 10 (2) a program for the certification of units as wind energy
 11 ready communities under section 14 of this chapter.
- 12 Sec. 13. (a) A unit may apply to the office for certification as a
 13 commercial solar energy ready community. The application must
 14 be in a form and manner prescribed by the office. The office may
 15 approve an application and certify a unit as a commercial solar
 16 energy ready community if the office determines the following:
 17 (1) That the unit has adopted a commercial solar regulation
 18 that includes clear standards for the construction, installation,
 19 siting, modification, operation, or decommissioning of one (1)
 20 or more commercial solar energy systems (as defined in
 21 IC 8-1-42-2) in the unit.
 22 (2) That the unit's commercial solar regulation:
 23 (A) includes standards that are not more restrictive,
 24 directly or indirectly, than the default standards for
 25 commercial solar energy systems set forth in IC 8-1-42;
 26 (B) provides a clear and transparent process for project
 27 owners to identify potential commercial solar project sites;
 28 (C) does not unreasonably eliminate portions of the unit as
 29 sites for commercial solar projects;
 30 (D) provides for a fair review and approval process for
 31 proposed commercial solar projects, including final
 32 approval that cannot be revoked; and
 33 (E) includes a specific plan for using any funds from an
 34 incentive granted by the office under subsection (b):
 35 (i) for economic development purposes within or near
 36 the commercial solar project's footprint; or
 37 (ii) to otherwise benefit residents and businesses within
 38 or near the commercial solar project's footprint.
- 39 (3) That the unit has demonstrated a commitment to
 40 maintain:
 41 (A) the standards and procedural framework set forth in
 42 the unit's commercial solar regulation; and



- 1 **(B) all applicable zoning, land use, and planning**
 2 **regulations;**
 3 **with respect to any particular commercial solar project that**
 4 **is approved under the unit's commercial solar regulation, for**
 5 **a period of at least ten (10) years, beginning with the start**
 6 **date of the commercial solar project's full commercial**
 7 **operation.**
- 8 **(b) If:**
- 9 **(1) a unit receives certification as a commercial solar energy**
 10 **ready community by the office under this section;**
 11 **(2) after the unit's certification, a project owner constructs a**
 12 **commercial solar project in the unit; and**
 13 **(3) the fund is established and there is a sufficient balance in**
 14 **the fund;**
- 15 **the office may authorize the unit to receive from the fund, for a**
 16 **period of ten (10) years beginning with the start date of the**
 17 **commercial solar project's full commercial operation, one dollar**
 18 **(\$1) per megawatt hour of electricity generated by the commercial**
 19 **solar project, if the office determines that the procedures and**
 20 **standards set forth in the unit's commercial solar regulation were**
 21 **adhered to in the development of the project. However, if the office**
 22 **determines at any time after the start of the commercial solar**
 23 **project's full commercial operation that the unit has failed to**
 24 **continue to meet the requirement for certification set forth in**
 25 **subsection (a)(3), the office shall discontinue the incentive granted**
 26 **under this subsection and shall require the unit to return to the**
 27 **fund any amounts collected by the unit under this subsection after**
 28 **the unit's breach of the requirement for certification set forth in**
 29 **subsection (a)(3).**
- 30 **(c) After:**
- 31 **(1) a unit receives certification as a commercial solar energy**
 32 **ready community under this section; and**
 33 **(2) a project owner constructs a commercial solar energy**
 34 **facility that qualifies the unit to receive the incentive**
 35 **payments under subsection (b);**
- 36 **the project owner shall annually report to the office the total**
 37 **megawatt hours generated by the commercial solar energy facility**
 38 **in the previous year.**
- 39 **Sec. 14. (a) A unit may apply to the office for certification as a**
 40 **wind energy ready community. The application must be in a form**
 41 **and manner prescribed by the office. The office may approve an**
 42 **application and certify a unit as a wind energy ready community**



- 1 if the office determines the following:
- 2 (1) That the unit has adopted a wind power regulation that
- 3 includes clear standards for the construction, installation,
- 4 siting, modification, operation, or decommissioning of one (1)
- 5 or more wind power devices (as defined in IC 8-1-41-7) in the
- 6 unit.
- 7 (2) That the unit's wind power regulation:
- 8 (A) includes standards that are not more restrictive,
- 9 directly or indirectly, than the default standards for wind
- 10 power devices set forth in IC 8-1-41;
- 11 (B) provides a clear and transparent process for project
- 12 owners to identify potential wind power project sites;
- 13 (C) does not unreasonably eliminate portions of the unit as
- 14 sites for wind power projects;
- 15 (D) provides for a fair review and approval process for
- 16 proposed wind power projects, including final approval
- 17 that cannot be revoked; and
- 18 (E) includes a specific plan for using any funds from an
- 19 incentive granted by the office under subsection (b):
- 20 (i) for economic development purposes within or near
- 21 the wind power project's footprint; or
- 22 (ii) to otherwise benefit residents and businesses within
- 23 or near the wind power project's footprint.
- 24 (3) That the unit has demonstrated a commitment to
- 25 maintain:
- 26 (A) the standards and procedural framework set forth in
- 27 the unit's wind power regulation; and
- 28 (B) all applicable zoning, land use, and planning
- 29 regulations;
- 30 with respect to any particular wind power project that is
- 31 approved under the unit's commercial solar regulation, for a
- 32 period of at least ten (10) years, beginning with the start date
- 33 of the wind power project's full commercial operation.
- 34 (b) If:
- 35 (1) a unit receives certification as a wind energy ready
- 36 community by the office under this section;
- 37 (2) after the unit's certification, a project owner constructs a
- 38 wind power project in the unit; and
- 39 (3) the fund is established and there is a sufficient balance in
- 40 the fund;
- 41 the office may authorize the unit to receive from the fund, for a
- 42 period of ten (10) years beginning with the start date of the wind



1 power project's full commercial operation, one dollar (\$1) per
 2 megawatt hour of electricity generated by the wind power project,
 3 if the office determines that the procedures and standards set forth
 4 in the unit's wind power regulation were adhered to in the
 5 development of the project. However, if the office determines at
 6 any time after the start of the wind power project's full commercial
 7 operation that the unit has failed to continue to meet the
 8 requirement for certification set forth in subsection (a)(3), the
 9 office shall discontinue the incentive granted under this subsection
 10 and shall require the unit to return to the fund any amounts
 11 collected by the unit under this subsection after the unit's breach
 12 of the requirement for certification set forth in subsection (a)(3).

13 (c) After:

14 (1) a unit receives certification as a wind energy ready
 15 community under this section; and

16 (2) a project owner constructs a wind energy facility that
 17 qualifies the unit to receive the incentive under subsection (b);
 18 the project owner shall annually report to the office the total
 19 megawatt hours generated by the wind energy facility in the
 20 previous year.

21 Sec. 15. A unit may be certified as both:

22 (1) a commercial solar energy ready community under section
 23 13 of this chapter; and

24 (2) a wind energy ready community under section 14 of this
 25 chapter;

26 if the unit meets the requirements for certification set forth in both
 27 sections 13 and 14 of this chapter.

28 Sec. 16. (a) The commercial solar and wind energy ready
 29 communities incentive fund may be established by the office for the
 30 purpose of:

31 (1) providing payments to commercial solar energy ready
 32 communities under section 13(b) of this chapter; and

33 (2) providing payments to wind energy ready communities
 34 under section 14(b) of this chapter.

35 (b) The fund, if established, shall be administered by the office.

36 (c) The fund, if established, shall consist of:

37 (1) grants, gifts, and donations intended for deposit in the
 38 fund;

39 (2) federal funds;

40 (3) interest that accrues from money in the fund; and

41 (4) any amounts returned to the fund by units under section
 42 13(b) or 14(b) of this chapter.



1 **(d) The treasurer of state shall invest the money in the fund not**
2 **currently needed to meet the obligations of the fund in the same**
3 **manner as other public money may be invested.**



COMMITTEE REPORT

Madam President: The Senate Committee on Appropriations, to which was referred Senate Bill No. 390, 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:

Delete the title and insert the following:

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

Page 2, line 32, delete "is" and insert "**may be**".

Page 3, line 4, delete "shall" and insert "**may**".

Page 3, line 12, delete "shall" and insert "**may**".

Page 4, line 13, delete "shall" and insert "**may**".

Page 4, line 31, delete "shall" and insert "**may**".

Page 5, line 30, delete "shall" and insert "**may**".

Page 6, line 11, delete "is" and insert "**may be**".

Page 6, delete lines 24 through 25.

Page 6, line 26, delete "(e)" and insert "**(d)**".

Page 6, line 28, delete "Money in the fund".

Page 6, delete lines 29 through 41.

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 390 as introduced.)

MISHLER, Chairperson

Committee Vote: Yeas 11, Nays 2.

 SENATE MOTION

Madam President: I move that Senate Bill 390 be amended to read as follows:

Page 1, line 1, delete "IC 5-28-28.6" and insert "IC 4-3-23.1".

Page 1, line 4, delete "28.6." and insert "**23.1**".

Page 1, line 8, delete "established by" and insert "**that may be established under**".

Page 2, line 3, delete "established by" and insert "**described in**".

Page 2, between lines 3 and 4, begin a new paragraph and insert:

"Sec. 5. As used in this chapter, "office" refers to the Indiana office of energy development established by IC 4-3-23-3."

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Page 2, line 4, delete "5." and insert "6."

Page 2, line 10, delete "Sec. 6." and insert "**Sec. 6.5.**".

Page 2, line 33, delete "corporation. The center has" and insert "**office. If established, the center shall have**".

Page 3, delete lines 3 through 8, begin a new paragraph and insert:
"(b) The center, if established, may create and administer:

(1) a program for the certification of units as commercial solar energy ready communities under section 13 of this chapter; and

(2) a program for the certification of units as wind energy ready communities under section 14 of this chapter."

Page 3, line 9, delete "corporation" and insert "**office**".

Page 3, line 11, delete "corporation." and insert "**office.**".

Page 3, line 12, delete "corporation" and insert "**office**".

Page 3, line 13, delete "corporation" and insert "**office**".

Page 3, delete lines 15 through 16.

Page 3, line 17, delete "(2)" and insert "**(1)**".

Page 3, line 22, delete "(3)" and insert "**(2)**".

Page 3, line 34, delete "corporation" and insert "**office**".

Page 3, line 39, delete "(4)" and insert "**(3)**".

Page 4, line 10, delete "corporation" and insert "**office**".

Page 4, line 10, delete "and".

Page 4, line 11, delete "develops" and insert "**constructs**".

Page 4, line 12, after "unit;" insert "**and**

(3) the fund is established and there is a sufficient balance in the fund;".

Page 4, line 13, delete "corporation" and insert "**office**".

Page 4, line 17, delete "corporation" and insert "**office**".

Page 4, line 20, delete "corporation" and insert "**office**".

Page 4, line 23, delete "(a)(4), the corporation" and insert "**(a)(3), the office**".

Page 4, line 27, delete "(a)(4)." and insert "**(a)(3)**".

(c) After:

(1) a unit receives certification as a commercial solar energy ready community under this section; and

(2) a project owner constructs a commercial solar energy facility that qualifies the unit to receive the incentive payments under subsection (b);

the project owner shall annually report to the office the total megawatt hours generated by the commercial solar energy facility in the previous year."

Page 4, line 28, delete "corporation" and insert "**office**".



Page 4, line 30, delete "corporation. The corporation" and insert "**office. The office**".

Page 4, line 32, delete "corporation" and insert "**office**".

Page 4, delete lines 33 through 34.

Page 4, line 35, delete "(2)" and insert "**(1)**".

Page 4, line 40, delete "(3)" and insert "**(2)**".

Page 5, line 10, delete "corporation" and insert "**office**".

Page 5, line 15, delete "(4)" and insert "**(3)**".

Page 5, line 27, delete "corporation" and insert "**office**".

Page 5, line 27, delete "and".

Page 5, line 28, delete "develops" and insert "**constructs**".

Page 5, line 29, after "unit;" insert "**and**

(3) the fund is established and there is a sufficient balance in the fund;".

Page 5, line 30, delete "corporation" and insert "**office**".

Page 5, line 34, delete "corporation" and insert "**office**".

Page 5, line 36, delete "corporation" and insert "**office**".

Page 5, line 39, delete "(a)(4)," and insert "**(a)(3),**".

Page 5, line 40, delete "corporation" and insert "**office**".

Page 6, line 2, delete "(a)(4)." and insert "**(a)(3)**."

(c) After:

(1) a unit receives certification as a wind energy ready community under this section; and

(2) a project owner constructs a wind energy facility that qualifies the unit to receive the incentive under subsection (b);

the project owner shall annually report to the office the total megawatt hours generated by the wind energy facility in the previous year."

Page 6, line 11, after "established" insert "**by the office**".

Page 6, line 16, delete "fund" and insert "**fund, if established,**".

Page 6, line 16, delete "corporation." and insert "**office.**".

Page 6, line 17, delete "fund consists" and insert "**fund, if established, shall consist**".

Page 6, between lines 20 and 21, begin a new line block indented and insert:

"(3) federal funds;".

Page 6, line 21, delete "(3)" and insert "**(4)**".

Page 6, line 22, delete "(4)" and insert "**(5)**".

(Reference is to SB 390 as printed February 24, 2023.

MESSMER



COMMITTEE REPORT

Mr. Speaker: Your Committee on Utilities, Energy and Telecommunications, to which was referred Senate Bill 390, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

(Reference is to SB 390 as reprinted February 28, 2023.)

SOLIDAY

Committee Vote: Yeas 13, Nays 0

HOUSE MOTION

Mr. Speaker: I move that Engrossed Senate Bill 390 be amended to read as follows:

Page 2, line 17, delete "A" and insert "**As**".

Page 6, delete line 37.

Page 6, line 38, delete "(2)" and insert "**(1)**".

Page 6, line 40, delete "(3)" and insert "**(2)**".

Page 6, line 41, delete "(4)" and insert "**(3)**".

Page 6, line 42, delete "(5)" and insert "**(4)**".

(Reference is to ESB 390 as printed March 21, 2023.)

JUDY

