



February 15, 2019

SENATE BILL No. 472

DIGEST OF SB 472 (Updated February 14, 2019 10:35 am - DI 119)

Citations Affected: IC 8-1; IC 8-1.5; IC 16-22; noncode.

Synopsis: Utility acquisitions, rates, and connection requirements. Provides that an order affecting rates of service may be entered by the utility regulatory commission (IURC) without a formal public hearing in the case of any public or municipally owned utility that either: (1) serves less than 5,000 customers; or (2) has initiated a rate case on behalf of a single division of the utility and that division: (A) serves less than 5,000 customers; and (B) has an IURC-approved schedule of rates and charges that is separate and independent from that of any other division of the utility. (Current law permits the IURC to enter a service rate order without a public hearing only in the case of a public or municipally owned utility that itself serves less than 5,000 customers.) Changes the term "distressed utility" to "offered utility" for purposes of provisions regarding acquisition of water or wastewater utilities. Makes the following changes for purposes of provisions under which a utility that acquires property from another utility at a cost differential may petition the Indiana utility regulatory commission (commission) to include the cost differential in the acquiring utility's rate base: (1) Provides conditions for applicability of the rebuttable presumption that the cost differential is reasonable. (2) Amends the findings the commission must make in order to approve the petition. (3) Provides that notice of the filing of the petition may be provided to customers of the acquiring utility company in a billing insert. Provides, for purposes of the requirement that a municipal legislative body or municipal executive that plans to sell or dispose of nonsurplus
(Continued next page)

Effective: Upon passage; July 1, 2019.

Koch

January 14, 2019, read first time and referred to Committee on Utilities.
February 14, 2019, amended, reported favorably — Do Pass.

SB 472—LS 7340/DI 101



Digest Continued

municipally owned utility property must appoint appraisers in a writing that is a public record, that it is sufficient that the municipal legislative body or municipal executive provide for the appointment in written contracts with the appraisers or the firms with whom the appraisers are employed. Provides that the legislative body and the municipal executive must hold a public hearing regarding the appraisal and proposed sale not later than 180 days (rather than 90 days, under current law) after the appraisal is complete. Amends the factors the commission must consider in deciding whether the sale or disposition is in the public interest. Provides that, if a main sewer line is extended at the initiative and expense of one owner of residential property to allow that owner's residential property to be connected to a sanitary sewer system, the board of the health and hospital corporation of Marion County may not require other residential properties to be connected to the extension of the main sewer line, regardless of the proximity of those other residential properties to the extension of the main sewer line. Urges the legislative council to assign to an appropriate interim study committee the task of studying the connection of unserved properties to sanitary sewer systems.

SB 472—LS 7340/DI 101



February 15, 2019

First Regular Session of the 121st General Assembly (2019)

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 2018 Regular and Special Session of the General Assembly.

SENATE BILL No. 472

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 8-1-2-61.5 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 61.5. (a) An order
3 affecting rates of service may be entered by the commission without a
4 formal public hearing in the case of any public or municipally owned
5 utility that:
6 (1) **either:**
7 (A) serves less than five thousand (5,000) customers; **or**
8 (B) **has initiated a rate case on behalf of a single division of**
9 **the utility and that division:**
10 (i) **serves less than five thousand (5,000) customers;**
11 (ii) **has a commission-approved schedule of rates and**
12 **charges that is separate and independent from that of**
13 **any other division of the utility; and**
14 (iii) **itself satisfies subdivisions (2) and (3);**
15 (2) primarily provides retail service to customers; and

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- 1 (3) does not serve extensively another utility.
- 2 (b) The commission may require a formal public hearing on any
- 3 petition or complaint filed under this section concerning a rate change
- 4 request by a utility upon **its the commission's** own motion or upon
- 5 motion of any of the following:
- 6 (1) The utility consumer counselor.
- 7 (2) A public or municipal corporation.
- 8 (3) Ten (10) individuals, firms, limited liability companies,
- 9 corporations, or associations.
- 10 (4) Ten (10) complainants of any class described in this
- 11 subsection.
- 12 (c) A not-for-profit water utility or a not-for-profit sewer utility must
- 13 include in its petition a statement as to whether it has an outstanding
- 14 indebtedness to the federal government. When an indebtedness is
- 15 shown to exist, the commission shall require a formal hearing, unless
- 16 the utility also has included in its filing written consent from the agency
- 17 of the federal government with which the utility has outstanding
- 18 indebtedness for the utility to obtain an order affecting its rates from
- 19 the commission without a formal hearing.
- 20 (d) Notwithstanding any other provision of this chapter, the
- 21 commission may:
- 22 (1) on **its the commission's** own motion; or
- 23 (2) at the request of:
- 24 (A) the utility consumer counselor;
- 25 (B) a water or sewer utility described in subsection (a);
- 26 (C) ten (10) individuals, firms, limited liability companies,
- 27 corporations, or associations; or
- 28 (D) ten (10) complainants of any class described in this
- 29 subsection;
- 30 adopt a rule under IC 4-22-2, or issue an order in a specific proceeding,
- 31 providing for the development, investigation, testing, and use of
- 32 regulatory procedures or generic standards with respect to water or
- 33 sewer utilities described in subsection (a) or their services.
- 34 (e) The commission may adopt a rule or enter an order under
- 35 subsection (d) only if it finds, after notice and hearing, that the
- 36 proposed regulatory procedures or standards are in the public interest
- 37 and promote at least one (1) of the following:
- 38 (1) Utility cost minimalization to the extent that a utility's quality
- 39 of service or facilities are not diminished.
- 40 (2) A more accurate evaluation by the commission of a utility's
- 41 physical or financial conditions or needs.
- 42 (3) A less costly regulatory procedure for a utility, its consumers,



1 or the commission.

2 (4) Increased utility management efficiency that is beneficial to
3 consumers.

4 SECTION 2. IC 8-1-30.3-1, AS ADDED BY P.L.189-2015,
5 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
6 JULY 1, 2019]: Sec. 1. As used in this chapter, "cost differential"
7 means the difference between:

8 (1) the cost to a utility company that acquires utility property from
9 a ~~distressed~~ **an offered** utility, including the purchase price,
10 incidental expenses, and other costs of acquisition; minus

11 (2) the difference between:

12 (A) the cost of the utility property when originally put into
13 service by the ~~distressed~~ **offered** utility; minus

14 (B) contributions or advances in aid of construction plus
15 applicable accrued depreciation.

16 SECTION 3. IC 8-1-30.3-2 IS REPEALED [EFFECTIVE JULY 1,
17 2019]. Sec. 2: As used in this chapter, "~~distressed utility~~" refers to a
18 utility company whose property is the subject of an acquisition
19 described in section 5(a) of this chapter.

20 SECTION 4. IC 8-1-30.3-2.6 IS ADDED TO THE INDIANA
21 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
22 [EFFECTIVE JULY 1, 2019]: **Sec. 2.6. As used in this chapter,**
23 **"offered utility" means a utility company whose property is the**
24 **subject of an acquisition described in section 5(a) of this chapter.**

25 SECTION 5. IC 8-1-30.3-5, AS AMENDED BY P.L.64-2018,
26 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
27 JULY 1, 2019]: Sec. 5. (a) This section applies if:

28 (1) a utility company acquires property from ~~another~~ **an offered**
29 utility ~~company~~ at a ~~cost differential~~ in a transaction involving a
30 willing buyer and a willing seller; and

31 (2) at least one (1) utility company described in subdivision (1) is
32 subject to the jurisdiction of the commission under this article.

33 (b) **Subject to subsection (c)**, there is a rebuttable presumption that
34 a cost differential is reasonable.

35 (c) **If the acquisition is made under IC 8-1.5-2-6.1, and to the**
36 **extent the purchase price does not exceed the appraised value as**
37 **determined under IC 8-1.5-2-5, the purchase price is considered**
38 **reasonable for purposes of subsection (d) and any resulting cost**
39 **differential is considered reasonable.**

40 (c) ~~(d)~~ **Before closing on the acquisition**, the utility company that
41 acquires the utility property may petition the commission to include ~~the~~
42 **any cost differentials differential** as part of its rate base **in future rate**



1 **cases.** The commission shall approve the petition if the commission
2 finds the following:

3 (1) The utility property is used and useful **to the offered utility**
4 in providing water service, wastewater service, or both water and
5 wastewater service.

6 (2) The ~~distressed~~ **offered utility is too small to capture**
7 **economies of scale or has** failed to furnish or maintain adequate,
8 efficient, safe, and reasonable service and facilities.

9 (3) The utility company will **improve economies of scale or, if**
10 **otherwise needed,** make reasonable and prudent improvements
11 to ~~ensure the offered utility's plant, the offered utility's~~
12 **operations, or both, so** that customers of the ~~distressed offered~~
13 utility will receive adequate, efficient, safe, and reasonable
14 service.

15 (4) The acquisition of the utility property is the result of a mutual
16 agreement made at arms length.

17 (5) The actual purchase price of the utility property is reasonable.

18 (6) The utility company and the ~~distressed offered~~ utility are not
19 affiliated and share no ownership interests.

20 (7) The rates charged by the utility company ~~before acquiring the~~
21 ~~utility property of the distressed utility~~ will not increase
22 unreasonably **in future general rate cases solely** as a result of
23 acquiring the utility property **from the offered utility. For**
24 **purposes of this subdivision, the rates and charges will not**
25 **increase unreasonably in future general rate cases so long as**
26 **the net original cost proposed to be recorded under subsection**
27 **(f) is not greater than two percent (2%) of the acquiring**
28 **utility's net original cost rate base as determined in the**
29 **acquiring utility's most recent general rate case. If the amount**
30 **proposed to be recorded under subsection (f) is greater than**
31 **two percent (2%) of the acquiring utility's net original cost**
32 **rate base as determined in the acquiring utility's most recent**
33 **general rate case, the commission shall proceed to determine**
34 **whether the rates charged by the utility company will increase**
35 **unreasonably in future general rate cases solely as a result of**
36 **acquiring the utility property from the offered utility and, in**
37 **making the determination, may consider evidence of:**

38 (A) the anticipated dollar value increase; and

39 (B) the increase as a percentage of the average bill.

40 (8) The cost differential will be added to the utility company's rate
41 base to be amortized as an addition to expense over a reasonable
42 time with corresponding reductions in the rate base.



1 (d) (e) A utility company may petition the commission in an
 2 independent proceeding to approve a petition under subsection (e)
 3 before the financial close of the transaction if the utility company
 4 provides for **In connection with its petition under subsection (d), the**
 5 **acquiring utility company shall provide** the following:

6 (1) Notice of the proposed acquisition and any proposed changes
 7 in rates or charges to customers of the distressed utility.

8 (2) (1) Notice to customers of the **acquiring** utility company that
 9 a petition has been filed with the commission under this chapter.
 10 The notice provided under this subdivision must include the cause
 11 number assigned to the petition. **Notice under this subdivision**
 12 **may be provided to customers in a billing insert.**

13 (3) (2) Notice to the office of the utility consumer counselor.

14 (4) A plan for reasonable and prudent improvements to provide
 15 adequate, efficient, safe, and reasonable service to customers of
 16 the distressed utility.

17 (e) (f) In a proceeding under subsection (d), the commission shall
 18 issue its final order not later than two hundred ten (210) days after the
 19 filing of the petitioner's case in chief. If the commission grants the
 20 petition, the commission's order shall authorize the acquiring utility
 21 company to make accounting entries recording the acquisition and that
 22 reflect:

- 23 (1) the full purchase price;
- 24 (2) incidental expenses; and
- 25 (3) other costs of acquisition;

26 as the **net** original cost of the utility plant in service assets being
 27 acquired, allocated in a reasonable manner among appropriate utility
 28 plant in service accounts.

29 SECTION 6. IC 8-1-30.3-6, AS AMENDED BY P.L.85-2017,
 30 SECTION 37, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 31 JULY 1, 2019]: Sec. 6. For purposes of section 5~~(e)(2)~~ **5(d)(2)** of this
 32 chapter, a ~~distressed~~ **an offered** utility is **too small to capture**
 33 **economies of scale or is** not furnishing or maintaining adequate,
 34 efficient, safe, and reasonable service and facilities if the commission
 35 finds one (1) or more of the following:

- 36 (1) The ~~distressed offered~~ utility violated one (1) or more state or
 37 federal statutory or regulatory requirements in a manner that the
 38 commission determines affects the safety, adequacy, efficiency,
 39 or reasonableness of its services or facilities.
- 40 (2) The ~~distressed offered~~ utility has inadequate financial,
 41 managerial, or technical ability or expertise.
- 42 (3) The ~~distressed offered~~ utility fails to provide water in



1 sufficient amounts, that is palatable, or at adequate volume or
2 pressure.

3 (4) The ~~distressed offered~~ utility, due to necessary improvements
4 to its plant or distribution or collection system or operations, is
5 unable to furnish and maintain adequate service to its customers
6 at rates equal to or less than those of the acquiring utility
7 company.

8 (5) The ~~distressed offered~~ utility

9 ~~(A) is municipally owned utility property of a municipally~~
10 ~~owned utility that serves fewer than five thousand (5,000)~~
11 ~~customers. and~~

12 ~~(B) is being sold under IC 8-1.5-2-6.1.~~

13 (6) Any other facts that the commission determines demonstrate
14 the ~~distressed offered~~ utility's inability to **capture economies of**
15 **scale or to** furnish or maintain adequate, efficient, safe, or
16 reasonable service or facilities.

17 SECTION 7. IC 8-1.5-2-4, AS AMENDED BY P.L.98-2016,
18 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
19 JULY 1, 2019]: Sec. 4. Whenever the municipal legislative body or the
20 municipal executive determines to sell or otherwise dispose of
21 nonsurplus municipally owned utility property, it shall provide for the
22 following in a ~~written document writing~~ that shall be made available,
23 **upon request**, for inspection and copying at the offices of the
24 municipality's municipally owned utility in accordance with IC 5-14-3:

25 (1) The appointment, as follows, of three (3) residents of Indiana
26 to serve as appraisers:

27 (A) One (1) disinterested person who is an engineer licensed
28 under IC 25-31-1.

29 (B) One (1) disinterested appraiser licensed under IC 25-34.1.

30 (C) One disinterested person who is either:

31 (i) an engineer licensed under IC 25-31-1; or

32 (ii) an appraiser licensed under IC 25-34.1.

33 (2) The appraisal of the property.

34 (3) The time that the appraisal is due.

35 **It is sufficient for purposes of this section that the municipal**
36 **legislative body or municipal executive provides for the**
37 **appointment in written contracts with the appraisers or the firms**
38 **with whom the appraisers are employed.**

39 SECTION 8. IC 8-1.5-2-5, AS AMENDED BY P.L.98-2016,
40 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
41 JULY 1, 2019]: Sec. 5. (a) Each appraiser appointed as provided by
42 section 4 of this chapter must:



- 1 (1) by education and experience, have such expert and technical
 2 knowledge and qualifications as to make a proper appraisal and
 3 valuation of the property of the type and nature involved in the
 4 sale;
 5 (2) be a disinterested person; and
 6 (3) not be a resident or taxpayer of the municipality.
- 7 (b) The appraisers shall:
 8 (1) be sworn to make a just and true valuation of the property; and
 9 (2) return their appraisal, in writing, to the:
 10 (A) municipal legislative body; or
 11 (B) municipal executive;
 12 that appointed them within the time fixed in the ~~written document~~
 13 **writing** appointing them under section 4 of this chapter.
- 14 (c) If all three (3) appraisers cannot agree as to the appraised value,
 15 the appraisal, when signed by two (2) of the appraisers, constitutes a
 16 good and valid appraisal.
- 17 (d) If, after the return of the appraisal by the appraisers, the
 18 legislative body and the municipal executive decide to proceed with the
 19 sale or disposition of the nonsurplus municipally owned utility
 20 property, the legislative body shall, not earlier than the thirty (30) day
 21 period described in subsection (e) and not later than ~~ninety (90)~~ **one**
 22 **hundred eighty (180)** days after the return of the appraisal, hold a
 23 public hearing to do the following:
 24 (1) Review and explain the appraisal.
 25 (2) Receive public comment on the proposed sale or disposition
 26 of the nonsurplus municipally owned utility property.
- 27 Not less than thirty (30) days or more than sixty (60) days after the date
 28 of a hearing under this section, the legislative body may adopt an
 29 ordinance providing for the sale or disposition of the nonsurplus
 30 municipally owned utility property, subject to subsections (f) and (g)
 31 and, in the case of an ordinance adopted under this subsection after
 32 March 28, 2016, subject to section 6.1 of this chapter. The legislative
 33 body is not required to adopt an ordinance providing for the sale or
 34 disposition of the nonsurplus municipally owned utility property if,
 35 after the hearing, the legislative body determines it is not in the interest
 36 of the municipality to proceed with the sale or disposition. Notice of a
 37 hearing under this section shall be published in the manner prescribed
 38 by IC 5-3-1.
- 39 (e) The hearing on the proposed sale or disposition of the
 40 nonsurplus municipally owned utility property may not be held less
 41 than thirty (30) days after notice of the hearing is given as required by
 42 subsection (d).



1 (f) Subject to subsection (j), an ordinance adopted under subsection
2 (d) does not take effect until the latest of the following:

3 (1) The expiration of the thirty (30) day period described in
4 subsection (g), if the question as to whether the sale or disposition
5 should be made is not submitted to the voters of the municipality
6 under subsection (g).

7 (2) If:

8 (A) the question as to whether the sale or disposition shall be
9 made is submitted to the voters of the municipality under
10 subsection (g); and

11 (B) a majority of the voters voting on the question vote for the
12 sale or disposition;

13 at such time that the vote is determined to be final.

14 (3) The effective date specified by the legislative body in the
15 ordinance.

16 (g) Subject to subsection (m) and to section 6.1 of this chapter in the
17 case of an ordinance adopted under subsection (d) after March 28,
18 2016, if:

19 (1) the legislative body adopts an ordinance under subsection (d);
20 and

21 (2) not later than thirty (30) days after the date the ordinance is
22 adopted at least the number of the registered voters of the
23 municipality set forth in subsection (h) sign and present a petition
24 to the legislative body opposing the sale or disposition;

25 the legislative body shall submit the question as to whether the sale or
26 disposition shall be made to the voters of the municipality at a special
27 or general election. In submitting the public question to the voters, the
28 legislative body shall certify within the time set forth in IC 3-10-9-3, if
29 applicable, the question to the county election board of the county
30 containing the greatest percentage of population of the municipality.
31 The county election board shall adopt a resolution setting forth the text
32 of the public question and shall submit the question as to whether the
33 sale or disposition shall be made to the voters of the municipality at a
34 special or general election on a date specified by the municipal
35 legislative body. Pending the results of an election under this
36 subsection, the municipality may not take further action to sell or
37 dispose of the property as provided in the ordinance.

38 (h) Subject to subsection (m) and to section 6.1 of this chapter in the
39 case of an ordinance adopted under subsection (d) after March 28,
40 2016, the number of signatures required on a petition opposing the sale
41 or disposition under subsection (g) is as follows:

42 (1) In a municipality with not more than one thousand (1,000)



1 registered voters, thirty percent (30%) of the registered voters.

2 (2) In a municipality with at least one thousand one (1,001)
3 registered voters and not more than five thousand (5,000)
4 registered voters, fifteen percent (15%) of the registered voters.

5 (3) In a municipality with at least five thousand one (5,001)
6 registered voters and not more than twenty-five thousand (25,000)
7 registered voters, ten percent (10%) of the registered voters.

8 (4) In a municipality with at least twenty-five thousand one
9 (25,001) registered voters, five percent (5%) of the registered
10 voters.

11 (i) If a majority of the voters voting on the question vote for the sale
12 or disposition, the legislative body shall proceed to sell or dispose of
13 the property as provided in the ordinance, subject to subsection (m) and
14 to section 6.1 of this chapter in the case of an ordinance adopted under
15 subsection (d) after March 28, 2016.

16 (j) If a majority of the voters voting on the question vote against the
17 sale or disposition, the ordinance adopted under subsection (d) does not
18 take effect and the sale or disposition may not be made, subject to
19 subsection (m) and to section 6.1 of this chapter in the case of an
20 ordinance adopted under subsection (d) after March 28, 2016.

21 (k) If:

22 (1) the legislative body adopts an ordinance under subsection (d);
23 and

24 (2) after the expiration of the thirty (30) day period described in
25 subsection (g), a petition is not filed;

26 the municipal legislative body may proceed to sell the property as
27 provided in the ordinance, subject to subsection (m) and to section 6.1
28 of this chapter in the case of an ordinance adopted under subsection (d)
29 after March 28, 2016.

30 (l) Notwithstanding the procedures set forth in this section, if:

31 (1) before July 1, 2015, a municipality adopts an ordinance under
32 this section for the sale or disposition of nonsurplus municipally
33 owned utility property in accordance with the procedures set forth
34 in this section before its amendment on July 1, 2015; and

35 (2) the ordinance adopted takes effect before July 1, 2015, in
36 accordance with the procedures set forth in this section before its
37 amendment on July 1, 2015;

38 the ordinance is not subject to challenge under subsection (g) after June
39 30, 2015, regardless of whether the thirty (30) day period described in
40 subsection (g) expires after June 30, 2015. An ordinance described in
41 this subsection is effective for all purposes and is legalized and
42 validated.



1 (m) Subsections (g) through (k) do not apply to an ordinance
2 adopted under subsection (d) after March 28, 2016, if the commission
3 determines, in reviewing the proposed sale or disposition under section
4 6.1(h) of this chapter, that the factors set forth in ~~IC 8-1-30.3-5(c)~~
5 **IC 8-1-30.3-5(d)** are satisfied as applied to the proposed sale or
6 disposition.

7 SECTION 9. IC 8-1.5-2-6.1, AS AMENDED BY P.L.64-2018,
8 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
9 JULY 1, 2019]: Sec. 6.1. (a) This section applies to a municipality that
10 adopts an ordinance under section 5(d) of this chapter after March 28,
11 2016.

12 (b) Before a municipality may proceed to sell or otherwise dispose
13 of all or part of its nonsurplus utility property under an ordinance
14 adopted under section 5(d) of this chapter, the municipality and the
15 prospective purchaser must obtain the approval of the commission
16 under this section.

17 (c) As part of the sale or disposition of the property, the
18 municipality and the prospective purchaser may include terms and
19 conditions that the municipality and the prospective purchaser consider
20 to be equitable to the existing utility customers of:

- 21 (1) the municipality's municipally owned utility; and
 - 22 (2) the prospective purchaser;
- 23 as applicable.

24 (d) The commission shall approve the sale or disposition of the
25 property according to the terms and conditions proposed by the
26 municipality and the prospective purchaser if the commission finds that
27 the sale or disposition according to the terms and conditions proposed
28 is in the public interest. For purposes of this section, the purchase price
29 of the municipality's nonsurplus utility property shall be considered
30 reasonable if it does not exceed the appraised value set forth in the
31 appraisal required under section 5 of this chapter.

32 (e) The following apply to the commission's determination under
33 subsection (d) as to whether the proposed sale or disposition according
34 to the proposed terms and conditions is in the public interest:

- 35 (1) If:
 - 36 (A) the ~~municipality's municipally owned utility~~ **prospective**
 - 37 **purchaser** petitions the commission under IC 8-1-30.3-5(d);
 - 38 and
 - 39 (B) the commission approves the ~~municipality's municipally~~
 - 40 ~~owned utility's~~ **prospective purchaser's** petition; ~~under~~
 - 41 ~~IC 8-1-30.3-5(c)~~;
 - 42 the proposed sale or disposition is considered to be in the public



- 1 interest.
- 2 (2) If subdivision (1) does not apply and subject to subsection (h),
 3 the commission shall consider the extent to which the proposed
 4 terms and conditions of the proposed sale or disposition would
 5 require the existing utility customers of either the prospective
 6 purchaser or the municipality's municipally owned utility, as
 7 applicable, to pay rates that would subsidize utility service to the
 8 other party's existing customers. **For purposes of this**
 9 **subdivision, the proposed terms and conditions will not result**
 10 **in rates that would subsidize service to other customers if the**
 11 **amount to be recorded as net original cost under subsection**
 12 **(f) is not greater than two percent (2%) of the prospective**
 13 **purchaser's net original cost rate base as determined in the**
 14 **prospective purchaser's most recent general rate case. If the**
 15 **amount to be recorded is greater than two percent (2%), the**
 16 **commission determines that: shall proceed to determine**
 17 **whether:**
- 18 (A) the proposed terms and conditions would result in a
 19 subsidy described in this subdivision; and
- 20 (B) the subsidy would cause the proposed terms and
 21 conditions of the proposed sale or disposition not to be in the
 22 public interest.
- 23 The commission shall calculate the amount of the subsidy that
 24 would result and shall set forth in an order under this section such
 25 changes to the proposed terms and conditions as the commission
 26 considers appropriate to address the subsidy. The prospective
 27 purchaser and the municipality shall each have thirty (30) days
 28 from the date of the commission's order setting forth the
 29 commission's changes to either accept or reject the changes. If
 30 either party rejects the commission's changes, the proposed sale
 31 or disposition is considered not to be in the public interest.
- 32 (3) In reviewing the proposed terms and conditions of the
 33 proposed sale or disposition under either subdivision (1) or (2),
 34 the commission shall consider the financial, managerial, and
 35 technical ability of the prospective purchaser to provide the utility
 36 service required after the proposed sale or disposition.
- 37 (4) In reviewing the proposed terms and conditions of the
 38 proposed sale or disposition under either subdivision (1) or (2),
 39 the commission shall accept as reasonable the valuation of the
 40 nonsurplus utility property determined through an appraisal and
 41 review under section 5 of this chapter.
- 42 (f) As part of an order approving a sale or disposition of property



1 under this section, the commission shall, without regard to amounts
 2 that may be recorded on the books and records of the municipality and
 3 without regard to any grants or contributions previously received by the
 4 municipality, provide that for ratemaking purposes, the prospective
 5 purchaser shall record as the net original cost rate base an amount
 6 equal to:

- 7 (1) the full purchase price;
- 8 (2) incidental expenses; and
- 9 (3) other costs of acquisition;

10 allocated in a reasonable manner among appropriate utility plant in
 11 service accounts.

12 (g) The commission shall issue a final order under this section not
 13 later than two hundred ten (210) days after the filing of the parties' case
 14 in chief.

15 (h) In reviewing a proposed sale or disposition under subsection (e),
 16 the commission shall determine whether the factors set forth in
 17 ~~IC 8-1-30.3-5(e)~~ **IC 8-1-30.3-5(d)** are satisfied as applied to the
 18 proposed sale or disposition of the municipality's nonsurplus
 19 municipally owned utility property for purposes of section 5(m) of this
 20 chapter. If the commission determines that the factors set forth in
 21 ~~IC 8-1-30.3-5(e)~~ **IC 8-1-30.3-5(d)**:

- 22 (1) are satisfied as applied to the proposed sale or disposition,
 23 section 5(g) through 5(k) of this chapter does not apply to the
 24 municipality's ordinance adopted under section 5(d) of this
 25 chapter; or
- 26 (2) are not satisfied as applied to the proposed sale or disposition:
 27 (A) section 5(g) through 5(k) of this chapter applies to the
 28 municipality's ordinance adopted under section 5(d) of this
 29 chapter; and
- 30 (B) the question as to whether the sale or disposition should be
 31 made must be submitted to the voters of the municipality at a
 32 special or general election if at least the number of the
 33 registered voters of the municipality set forth in section 5(h) of
 34 this chapter sign and present a petition to the legislative body
 35 opposing the sale or disposition, in accordance with section
 36 5(g) through 5(k) of this chapter.

37 However, notwithstanding this subsection, in reviewing a proposed sale
 38 or disposition under subsection (e)(2), the commission may not
 39 condition its approval of the proposed sale or disposition on whether
 40 the factors set forth in ~~IC 8-1-30.3-5(e)~~ **IC 8-1-30.3-5(d)** are satisfied
 41 or on any other factors except those provided for in subsection (e)(2),
 42 (e)(3), and (e)(4).



1 SECTION 10. IC 16-22-8-34, AS AMENDED BY P.L.134-2008,
 2 SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 3 UPON PASSAGE]: Sec. 34. (a) The board or corporation may do all
 4 acts necessary or reasonably incident to carrying out the purposes of
 5 this chapter, including the following:

6 (1) As a municipal corporation, sue and be sued in any court with
 7 jurisdiction.

8 (2) To serve as the exclusive local board of health and local
 9 department of health within the county with the powers and duties
 10 conferred by law upon local boards of health and local
 11 departments of health.

12 (3) To adopt and enforce ordinances consistent with Indiana law
 13 and administrative rules for the following purposes:

14 (A) To protect property owned or managed by the corporation.

15 (B) To determine, prevent, and abate public health nuisances.

16 (C) To establish isolation and quarantine regulations in
 17 accordance with IC 16-41-9.

18 (D) To license, regulate, and establish minimum sanitary
 19 standards for the operation of a business handling, producing,
 20 processing, preparing, manufacturing, packing, storing,
 21 selling, distributing, or transporting articles used for food,
 22 drink, confectionery, or condiment in the interest of the public
 23 health.

24 (E) To control:

25 (i) rodents, mosquitos, and other animals, including insects,
 26 capable of transmitting microorganisms and disease to
 27 humans and other animals; and

28 (ii) the animals' breeding places.

29 (F) **Subject to subsection (c)**, to require persons to connect to
 30 available sewer systems and to regulate the disposal of
 31 domestic or sanitary sewage by private methods. However, the
 32 board and corporation have no jurisdiction over publicly
 33 owned or financed sewer systems or sanitation and disposal
 34 plants.

35 (G) To control rabies.

36 (H) For the sanitary regulation of water supplies for domestic
 37 use.

38 (I) To protect, promote, or improve public health. For public
 39 health activities and to enforce public health laws, the state
 40 health data center described in IC 16-19-10 shall provide
 41 health data, medical information, and epidemiological
 42 information to the corporation.



- 1 (J) To detect, report, prevent, and control disease affecting
 2 public health.
 3 (K) To investigate and diagnose health problems and health
 4 hazards.
 5 (L) To regulate the sanitary and structural conditions of
 6 residential and nonresidential buildings and unsafe premises.
 7 (M) To regulate the remediation of lead hazards.
 8 (N) To license and regulate the design, construction, and
 9 operation of public pools, spas, and beaches.
 10 (O) To regulate the storage, containment, handling, use, and
 11 disposal of hazardous materials.
 12 (P) To license and regulate tattoo and body piercing facilities.
 13 (Q) To regulate the storage and disposal of waste tires.
 14 (4) To manage the corporation's hospitals, medical facilities, and
 15 mental health facilities.
 16 (5) To furnish health and nursing services to elementary and
 17 secondary schools within the county.
 18 (6) To furnish medical care to insured and uninsured residents of
 19 the county.
 20 (7) To furnish dental services to the insured and uninsured
 21 residents of the county.
 22 (8) To establish public health programs.
 23 (9) To adopt an annual budget ordinance and levy taxes.
 24 (10) To incur indebtedness in the name of the corporation.
 25 (11) To organize the corporation into divisions.
 26 (12) To acquire and dispose of property.
 27 (13) To receive charitable contributions and gifts as provided in
 28 26 U.S.C. 170.
 29 (14) To make charitable contributions and gifts.
 30 (15) To establish a charitable foundation as provided in 26 U.S.C.
 31 501.
 32 (16) To receive and distribute federal, state, local, or private
 33 grants.
 34 (17) To receive and distribute grants from charitable foundations.
 35 (18) To establish corporations and enter into partnerships and
 36 joint ventures to carry out the purposes of the corporation. This
 37 subdivision does not authorize the merger of the corporation with
 38 a hospital licensed under IC 16-21.
 39 (19) To erect, improve, remodel, or repair corporation buildings.
 40 (20) To determine operating procedures.
 41 (21) To do the following:
 42 (A) Adopt a schedule of reasonable charges for nonresidents



- 1 of the county for medical and mental health services.
- 2 (B) Collect the charges from the patient, the patient's insurance
- 3 company, or a government program.
- 4 (C) Require security for the payment of the charges.
- 5 (22) To adopt a schedule of and to collect reasonable charges for
- 6 medical and mental health services.
- 7 (23) To enforce Indiana laws, administrative rules, ordinances,
- 8 and the code of the health and hospital corporation of the county.
- 9 (24) To purchase supplies, materials, and equipment.
- 10 (25) To employ personnel and establish personnel policies.
- 11 (26) To employ attorneys admitted to practice law in Indiana.
- 12 (27) To acquire, erect, equip, and operate the corporation's
- 13 hospitals, medical facilities, and mental health facilities.
- 14 (28) To dispose of surplus property in accordance with a policy by
- 15 the board.
- 16 (29) To determine the duties of officers and division directors.
- 17 (30) To fix the compensation of the officers and division
- 18 directors.
- 19 (31) To carry out the purposes and object of the corporation.
- 20 (32) To obtain loans for hospital expenses in amounts and upon
- 21 terms agreeable to the board. The board may secure the loans by
- 22 pledging accounts receivable or other security in hospital funds.
- 23 (33) To establish fees for licenses, services, and records. The
- 24 corporation may accept payment by credit card for fees.
- 25 IC 5-14-3-8(d) does not apply to fees established under this
- 26 subdivision for certificates of birth, death, or stillbirth
- 27 registration.
- 28 (34) To use levied taxes or other funds to make intergovernmental
- 29 transfers to the state to fund governmental health care programs,
- 30 including Medicaid and Medicaid supplemental programs.
- 31 (b) The board shall exercise the board's powers and duties in a
- 32 manner consistent with Indiana law, administrative rules, and the code
- 33 of the health and hospital corporation of the county.
- 34 **(c) If a main sewer line is extended at the initiative and expense**
- 35 **of one (1) owner of residential property to allow that owner's**
- 36 **residential property to be connected to a sanitary sewer system, the**
- 37 **board may not exercise its power under subsection (a)(3)(F) to**
- 38 **require other residential properties to be connected to the**
- 39 **extension of the main sewer line, regardless of the proximity of**
- 40 **those other residential properties to the extension of the main**
- 41 **sewer line.**
- 42 SECTION 11. [EFFECTIVE UPON PASSAGE] (a) The legislative



1 council is urged to assign to an appropriate interim study
2 committee the task of studying the connection of unserved
3 properties to sanitary sewer systems.
4 (b) This SECTION expires January 1, 2020.
5 SECTION 12. An emergency is declared for this act.



COMMITTEE REPORT

Madam President: The Senate Committee on Utilities, to which was referred Senate Bill No. 472, 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 4, line 27, delete "one percent (1%)" and insert "**two percent (2%)**".

Page 4, line 29, after "case." insert "**If the amount proposed to be recorded under subsection (f) is greater than two percent (2%) of the acquiring utility's net original cost rate base as determined in the acquiring utility's most recent general rate case, the commission shall proceed to determine whether the rates charged by the utility company will increase unreasonably in future general rate cases solely as a result of acquiring the utility property from the offered utility and, in making the determination, may consider evidence of:**

(A) the anticipated dollar value increase; and

(B) the increase as a percentage of the average bill."

Page 11, line 2, delete "one percent (1%)" and insert "**two percent (2%)**".

Page 11, line 5, delete "one percent (1%)," and insert "**two percent (2%),**".

Page 12, after line 32, begin a new paragraph and insert:

"SECTION 10. IC 16-22-8-34, AS AMENDED BY P.L.134-2008, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 34. (a) The board or corporation may do all acts necessary or reasonably incident to carrying out the purposes of this chapter, including the following:

(1) As a municipal corporation, sue and be sued in any court with jurisdiction.

(2) To serve as the exclusive local board of health and local department of health within the county with the powers and duties conferred by law upon local boards of health and local departments of health.

(3) To adopt and enforce ordinances consistent with Indiana law and administrative rules for the following purposes:

(A) To protect property owned or managed by the corporation.

(B) To determine, prevent, and abate public health nuisances.

(C) To establish isolation and quarantine regulations in accordance with IC 16-41-9.

(D) To license, regulate, and establish minimum sanitary



standards for the operation of a business handling, producing, processing, preparing, manufacturing, packing, storing, selling, distributing, or transporting articles used for food, drink, confectionery, or condiment in the interest of the public health.

(E) To control:

- (i) rodents, mosquitos, and other animals, including insects, capable of transmitting microorganisms and disease to humans and other animals; and
- (ii) the animals' breeding places.

(F) **Subject to subsection (c)**, to require persons to connect to available sewer systems and to regulate the disposal of domestic or sanitary sewage by private methods. However, the board and corporation have no jurisdiction over publicly owned or financed sewer systems or sanitation and disposal plants.

(G) To control rabies.

(H) For the sanitary regulation of water supplies for domestic use.

(I) To protect, promote, or improve public health. For public health activities and to enforce public health laws, the state health data center described in IC 16-19-10 shall provide health data, medical information, and epidemiological information to the corporation.

(J) To detect, report, prevent, and control disease affecting public health.

(K) To investigate and diagnose health problems and health hazards.

(L) To regulate the sanitary and structural conditions of residential and nonresidential buildings and unsafe premises.

(M) To regulate the remediation of lead hazards.

(N) To license and regulate the design, construction, and operation of public pools, spas, and beaches.

(O) To regulate the storage, containment, handling, use, and disposal of hazardous materials.

(P) To license and regulate tattoo and body piercing facilities.

(Q) To regulate the storage and disposal of waste tires.

(4) To manage the corporation's hospitals, medical facilities, and mental health facilities.

(5) To furnish health and nursing services to elementary and secondary schools within the county.

(6) To furnish medical care to insured and uninsured residents of



the county.

- (7) To furnish dental services to the insured and uninsured residents of the county.
- (8) To establish public health programs.
- (9) To adopt an annual budget ordinance and levy taxes.
- (10) To incur indebtedness in the name of the corporation.
- (11) To organize the corporation into divisions.
- (12) To acquire and dispose of property.
- (13) To receive charitable contributions and gifts as provided in 26 U.S.C. 170.
- (14) To make charitable contributions and gifts.
- (15) To establish a charitable foundation as provided in 26 U.S.C. 501.
- (16) To receive and distribute federal, state, local, or private grants.
- (17) To receive and distribute grants from charitable foundations.
- (18) To establish corporations and enter into partnerships and joint ventures to carry out the purposes of the corporation. This subdivision does not authorize the merger of the corporation with a hospital licensed under IC 16-21.
- (19) To erect, improve, remodel, or repair corporation buildings.
- (20) To determine operating procedures.
- (21) To do the following:
 - (A) Adopt a schedule of reasonable charges for nonresidents of the county for medical and mental health services.
 - (B) Collect the charges from the patient, the patient's insurance company, or a government program.
 - (C) Require security for the payment of the charges.
- (22) To adopt a schedule of and to collect reasonable charges for medical and mental health services.
- (23) To enforce Indiana laws, administrative rules, ordinances, and the code of the health and hospital corporation of the county.
- (24) To purchase supplies, materials, and equipment.
- (25) To employ personnel and establish personnel policies.
- (26) To employ attorneys admitted to practice law in Indiana.
- (27) To acquire, erect, equip, and operate the corporation's hospitals, medical facilities, and mental health facilities.
- (28) To dispose of surplus property in accordance with a policy by the board.
- (29) To determine the duties of officers and division directors.
- (30) To fix the compensation of the officers and division directors.



(31) To carry out the purposes and object of the corporation.

(32) To obtain loans for hospital expenses in amounts and upon terms agreeable to the board. The board may secure the loans by pledging accounts receivable or other security in hospital funds.

(33) To establish fees for licenses, services, and records. The corporation may accept payment by credit card for fees. IC 5-14-3-8(d) does not apply to fees established under this subdivision for certificates of birth, death, or stillbirth registration.

(34) To use levied taxes or other funds to make intergovernmental transfers to the state to fund governmental health care programs, including Medicaid and Medicaid supplemental programs.

(b) The board shall exercise the board's powers and duties in a manner consistent with Indiana law, administrative rules, and the code of the health and hospital corporation of the county.

(c) If a main sewer line is extended at the initiative and expense of one (1) owner of residential property to allow that owner's residential property to be connected to a sanitary sewer system, the board may not exercise its power under subsection (a)(3)(F) to require other residential properties to be connected to the extension of the main sewer line, regardless of the proximity of those other residential properties to the extension of the main sewer line.

SECTION 11. [EFFECTIVE UPON PASSAGE] (a) The legislative council is urged to assign to an appropriate interim study committee the task of studying the connection of unserved properties to sanitary sewer systems.

(b) This SECTION expires January 1, 2020.

SECTION 12. An emergency is declared for this act."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 472 as introduced.)

MERRITT, Chairperson

Committee Vote: Yeas 11, Nays 0.

