



April 1, 2015

ENGROSSED HOUSE BILL No. 1319

DIGEST OF HB 1319 (Updated March 30, 2015 1:14 pm - DI 55)

Citations Affected: IC 8-1.

Synopsis: Acquisition of distressed utilities. Provides that a public water or wastewater utility that acquires the utility property of a "distressed utility" may petition the utility regulatory commission to include the "cost differential" associated with the acquisition as part of its rate base. Requires the commission to approve a petition under certain circumstances. Requires the commission to report annually to the interim study committee on energy, utilities, and telecommunications concerning such acquisitions.

Effective: July 1, 2015.

Koch, Hale

(SENATE SPONSOR — CHARBONNEAU)

January 13, 2015, read first time and referred to Committee on Utilities, Energy and Telecommunications.

February 16, 2015, amended, reported — Do Pass.

February 19, 2015, read second time, ordered engrossed. Engrossed.

February 23, 2015, read third time, passed. Yeas 96, nays 0.

SENATE ACTION

February 25, 2015, read first time and referred to Committee on Environmental Affairs.

March 31, 2015, amended, reported favorably — Do Pass.

EH 1319—LS 6992/DI 103



April 1, 2015

First Regular Session of the 119th General Assembly (2015)

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 2014 Regular Session and 2014 Second Regular Technical Session of the General Assembly.

ENGROSSED HOUSE BILL No. 1319

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 8-1-30.3 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2015]:
4 **Chapter 30.3. Acquisition of Distressed Water or Wastewater**
5 **Utilities**
6 **Sec. 1. As used in this chapter, "cost differential" means the**
7 **difference between:**
8 **(1) the cost to a utility company that acquires utility property**
9 **from a distressed 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 utility; minus**
14 **(B) contributions or advances in aid of construction plus**
15 **applicable accrued depreciation.**

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1 **Sec. 2.** As used in this chapter, "distressed utility" refers to a
2 utility company whose property is the subject of an acquisition
3 described in section 5(a) of this chapter.

4 **Sec. 3.** As used in this chapter, "utility company" means:

- 5 (1) a public utility (as defined in IC 8-1-31-7) that provides
6 water or wastewater service; or
7 (2) a regional sewer or water district.

8 **Sec. 4.** As used in this chapter, "utility property" refers to
9 property of a utility company that is the subject of an acquisition
10 described in section 5(a) of this chapter.

11 **Sec. 5. (a)** This section applies if:

- 12 (1) a utility company acquires property from another utility
13 company at a cost differential; and
14 (2) at least one (1) utility company described in subdivision (1)
15 is subject to the jurisdiction of the commission under this
16 article.

17 **(b)** There is a rebuttable presumption that a cost differential is
18 reasonable.

19 **(c)** The utility company that acquires the utility property may
20 petition the commission to include the cost differentials as part of
21 its rate base. The commission shall approve the petition if the
22 commission finds the following:

- 23 (1) The utility property is used and useful in providing water
24 service, wastewater service, or both water and wastewater
25 service.
26 (2) The distressed utility:
27 (A) served not more than three thousand (3,000)
28 customers; or
29 (B) was nonviable in the absence of the acquisition.
30 (3) The distressed utility failed to furnish or maintain
31 adequate, efficient, safe, and reasonable service and facilities.
32 (4) The utility company will make reasonable and prudent
33 improvements to ensure that customers of the distressed
34 utility will receive adequate, efficient, safe, and reasonable
35 service.
36 (5) The acquisition of the utility property is the result of a
37 mutual agreement made at arms length.
38 (6) The actual purchase price of the utility property is
39 reasonable.
40 (7) The utility company and the distressed utility are not
41 affiliated and share no ownership interests.
42 (8) The rates charged by the utility company before acquiring



1 the utility property of the distressed utility will not increase
2 unreasonably as a result of acquiring the utility property.

3 **(9) The cost differential will be added to the utility company's**
4 **rate base to be amortized as an addition to expense over a**
5 **reasonable time with corresponding reductions in the rate**
6 **base.**

7 **(d) A utility company may petition the commission in an**
8 **independent proceeding to approve a petition under subsection (c)**
9 **before the utility company acquires the utility property if the**
10 **utility company provides:**

11 **(1) notice of the proposed acquisition and any changes in rates**
12 **or charges to customers of the distressed utility;**

13 **(2) notice to customers of the utility company if the proposed**
14 **acquisition will increase the utility company's rates by an**
15 **amount that is greater than one percent (1%) of the utility**
16 **company's base annual revenue;**

17 **(3) notice to the office of the utility consumer counselor; and**

18 **(4) a plan for reasonable and prudent improvements to**
19 **provide adequate, efficient, safe, and reasonable service to**
20 **customers of the distressed utility.**

21 **Sec. 6. For purposes of section 5(c)(3) of this chapter, a**
22 **distressed utility is not furnishing or maintaining adequate,**
23 **efficient, safe, and reasonable service and facilities if the**
24 **commission finds one (1) or more of the following:**

25 **(1) The distressed utility violated one (1) or more state or**
26 **federal statutory or regulatory requirements concerning the**
27 **safety, adequacy, efficiency, or reasonableness of its services**
28 **or facilities.**

29 **(2) The distressed utility has inadequate financial, managerial,**
30 **or technical ability or expertise.**

31 **(3) The distressed utility fails to provide water in sufficient**
32 **amounts, that is palatable, or at adequate volume or pressure.**

33 **(4) The distressed utility, due to necessary improvements to its**
34 **plant or distribution or collection system or operations, is**
35 **unable to furnish and maintain adequate service to its**
36 **customers at rates equal to or less than those of the public**
37 **utility.**

38 **(5) Any other facts that the commission determines**
39 **demonstrate the distressed utility's inability to furnish or**
40 **maintain adequate, efficient, safe, or reasonable service or**
41 **facilities.**

42 **Sec. 7. Not later than October 1 of each year, the commission**



1 shall submit, in an electronic format under IC 5-14-6 to the interim
2 study committee on energy, utilities, and telecommunications, a
3 report concerning acquisitions under this chapter.



COMMITTEE REPORT

Mr. Speaker: Your Committee on Utilities, Energy and Telecommunications, to which was referred House Bill 1319, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, delete lines 8 through 9, begin a new line block indented and insert:

- "(1) the cost to a utility company that acquires utility property from a distressed utility, including the purchase price, incidental expenses, and other costs of acquisition; minus**
(2) the difference between:
(A) the cost of the utility property when originally put into service by the distressed utility; minus
(B) contributions or advances in aid of construction plus applicable accrued depreciation."

and when so amended that said bill do pass.

(Reference is to HB 1319 as introduced.)

KOCH

Committee Vote: yeas 13, nays 0.

 COMMITTEE REPORT

Madam President: The Senate Committee on Environmental Affairs, to which was referred House Bill No. 1319, 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 2, line 33, delete "investments" and insert "**improvements**".
 Page 2, line 42, after "property" insert "**of the distressed utility**".
 Page 3, line 17, delete "investments" and insert "**improvements**".
 Page 3, line 24, after "more" insert "**state or federal**".
 Page 3, line 25, delete "of the commission or the department".
 Page 3, line 26, "of environmental management".
 Page 3, line 34, after "distribution" insert "**or collection**".
 Page 3, line 34, after "system" delete "," and insert "**or operations**".
 Page 3, delete lines 41 through 42.

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Page 4, delete lines 1 through 5.

Page 4, line 6, delete "8." and insert "7."

and when so amended that said bill do pass.

(Reference is to HB 1319 as printed February 17, 2015.)

CHARBONNEAU, Chairperson

Committee Vote: Yeas 8, Nays 0.

