

HOUSE BILL No. 1319

DIGEST OF INTRODUCED BILL

Citations Affected: IC 8-1-30.3.

Synopsis: Acquisition of distressed utilities. Provides that the utility regulatory commission may allow a utility company that acquires certain water or wastewater utilities to include any cost differential in the utility company's rate base.

Effective: July 1, 2015.

Koch

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



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.

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 of utility property when put into service; minus
9 (2) applicable accrued depreciation.
10 **Sec. 2. As used in this chapter, "distressed utility" refers to a**
11 **utility company whose property is the subject of an acquisition**
12 **described in section 5(a) of this chapter.**
13 **Sec. 3. As used in this chapter, "utility company" means:**
14 (1) a public utility (as defined in IC 8-1-31-7) that provides
15 water or wastewater service; or



- 1 **(2) a regional sewer or water district.**
2 **Sec. 4. As used in this chapter, "utility property" refers to**
3 **property of a utility company that is the subject of an acquisition**
4 **described in section 5(a) of this chapter.**
5 **Sec. 5. (a) This section applies if:**
6 **(1) a utility company acquires property from another utility**
7 **company at a cost differential; and**
8 **(2) at least one (1) utility company described in subdivision (1)**
9 **is subject to the jurisdiction of the commission under this**
10 **article.**
11 **(b) There is a rebuttable presumption that a cost differential is**
12 **reasonable.**
13 **(c) The utility company that acquires the utility property may**
14 **petition the commission to include the cost differentials as part of**
15 **its rate base. The commission shall approve the petition if the**
16 **commission finds the following:**
17 **(1) The utility property is used and useful in providing water**
18 **service, wastewater service, or both water and wastewater**
19 **service.**
20 **(2) The distressed utility:**
21 **(A) served not more than three thousand (3,000)**
22 **customers; or**
23 **(B) was nonviable in the absence of the acquisition.**
24 **(3) The distressed utility failed to furnish or maintain**
25 **adequate, efficient, safe, and reasonable service and facilities.**
26 **(4) The utility company will make reasonable and prudent**
27 **investments to ensure that customers of the distressed utility**
28 **will receive adequate, efficient, safe, and reasonable service.**
29 **(5) The acquisition of the utility property is the result of a**
30 **mutual agreement made at arms length.**
31 **(6) The actual purchase price of the utility property is**
32 **reasonable.**
33 **(7) The utility company and the distressed utility are not**
34 **affiliated and share no ownership interests.**
35 **(8) The rates charged by the utility company before acquiring**
36 **the utility property will not increase unreasonably as a result**
37 **of acquiring the utility property.**
38 **(9) The cost differential will be added to the utility company's**
39 **rate base to be amortized as an addition to expense over a**
40 **reasonable time with corresponding reductions in the rate**
41 **base.**
42 **(d) A utility company may petition the commission in an**



1 independent proceeding to approve a petition under subsection (c)
 2 before the utility company acquires the utility property if the
 3 utility company provides:

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

6 (2) notice to customers of the utility company if the proposed
 7 acquisition will increase the utility company's rates by an
 8 amount that is greater than one percent (1%) of the utility
 9 company's base annual revenue;

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

11 (4) a plan for reasonable and prudent investments to provide
 12 adequate, efficient, safe, and reasonable service to customers
 13 of the distressed utility.

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

18 (1) The distressed utility violated one (1) or more statutory or
 19 regulatory requirements of the commission or the department
 20 of environmental management concerning the safety,
 21 adequacy, efficiency, or reasonableness of its services or
 22 facilities.

23 (2) The distressed utility has inadequate financial, managerial,
 24 or technical ability or expertise.

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

27 (4) The distressed utility, due to necessary improvements to its
 28 plant or distribution system, is unable to furnish and maintain
 29 adequate service to its customers at rates equal to or less than
 30 those of the public utility.

31 (5) Any other facts that the commission determines
 32 demonstrate the distressed utility's inability to furnish or
 33 maintain adequate, efficient, safe, or reasonable service or
 34 facilities.

35 Sec. 7. If at any time the commission determines that all or part
 36 of the cost differentials included in a utility company's rate base
 37 are unreasonable, the commission shall:

38 (1) remove the cost differential from the utility company's
 39 rate base; and

40 (2) order refunds of the excess revenue, plus interest, to the
 41 utility company's customers.

42 Sec. 8. 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.

