

Second Regular Session of the 121st General Assembly (2020)

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 2019 Regular Session of the General Assembly.

HOUSE ENROLLED ACT No. 1165

AN ACT to amend the Indiana Code concerning utilities.

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

SECTION 1. IC 8-1.5-3-8, AS AMENDED BY P.L.105-2019, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. (a) A municipality owning a utility under this chapter shall furnish reasonably adequate services and facilities.

(b) The rates and charges made by a municipality for a service rendered or to be rendered, either directly or in connection therewith, must be nondiscriminatory, reasonable, and just.

(c) "Reasonable and just rates and charges for services" means rates and charges that produce sufficient revenue to:

(1) pay all the legal and other necessary expenses incident to the operation of the utility, including:

- (A) maintenance costs;
- (B) operating charges;
- (C) upkeep;
- (D) repairs;
- (E) depreciation;
- (F) interest charges on bonds or other obligations, including leases; and
- (G) costs associated with the acquisition of utility property under IC 8-1.5-2;

(2) provide a sinking fund for the liquidation of bonds or other

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obligations, including leases;

(3) provide a debt service reserve for bonds or other obligations, including leases, in an amount established by the municipality, not to exceed the maximum annual debt service on the bonds or obligations or the maximum annual lease rentals;

(4) provide adequate money for working capital;

(5) provide adequate money for making extensions and replacements to the extent not provided for through depreciation in subdivision (1); and

(6) provide money for the payment of any taxes that may be assessed against the utility.

(d) It is the intent of this section that the rates and charges produce an income sufficient to maintain the utility property in a sound physical and financial condition to render adequate and efficient service. Rates and charges too low to meet these requirements are unlawful.

(e) The board may recommend to the municipal legislative body rates and charges sufficient to include a reasonable return on the utility plant of the municipality.

(f) Rates and charges established under this section are subject to the approval of:

(1) the municipal legislative body by ordinance; and

(2) the commission, in accordance with the procedures set forth in IC 8-1-2.

The commission shall approve rates and charges that are sufficient, in addition to the cash revenue requirements set forth in subsection (c), to include a reasonable return on the utility plant of the municipality if the legislative body so elects.

(g) Except for a municipally owned utility taxed under IC 6-1.1-8-3, the commission shall approve rates and charges sufficient to compensate the municipality for taxes that would be due the municipality on the utility property were it privately owned. These rates and charges in lieu of taxes may be transferred to the municipal general fund, if the legislative body so elects.

(h) The commission shall grant a request that an increase in rates and charges not be effective until after the occurrence of a future event if the legislative body so requests.

(i) A municipality that acquires and operates a utility under IC 8-1.5-2 by exercising the power of eminent domain may not impose a special rate, charge, surcharge, or other fee, other than rates and charges approved under this section or otherwise authorized by law, on the customers of the utility in order to pay for the costs associated with acquiring the utility through the exercise of the power of eminent



domain.

(j) This subsection does not apply to services rendered by a sewage works that is subject to IC 36-9-23 or to IC 36-9-25. This subsection also does not apply to services rendered by a department of public utilities created by IC 8-1-11.1 or to services rendered by a utility company owned, operated, or held in trust by a consolidated city. This subsection applies to property that is served by a municipally owned utility and that is occupied by someone other than the owner of the property. Upon applying for utility service from a municipally owned utility for property subject to this subsection, the person occupying the property shall provide the municipally owned utility with the name and contact information of the owner or manager of the property. Subject to subsection (k), all rates, charges, and other fees for services rendered by a municipally owned utility to a property that is subject to this subsection are payable by the person occupying the property if the account or other customer or billing records maintained by the municipally owned utility for the property indicate that:

- (1) the property is occupied by someone other than the owner; and
- (2) the person occupying the property is responsible for paying the rates, charges, and fees assessed for the services rendered by the municipally owned utility with respect to the property.

Rates, charges, and fees assessed for services rendered by a municipally owned utility with respect to property occupied by someone other than the owner of the property do not constitute a lien against the property.

(k) With respect to property that is served by a municipally owned utility and that is occupied by someone other than the owner of the property, subsection (j) does not:

- (1) prohibit a municipal legislative body from imposing any:
 - (A) requirement for a deposit to ensure payment by the person occupying the property of the rates, charges, and fees assessed for the services rendered by the municipally owned utility with respect to the property; or
 - (B) other requirement to ensure the creditworthiness of the person occupying the property as the account holder or customer with respect to the property;

that the municipal legislative body may lawfully impose; or

- (2) abrogate or limit the authority of the owner of a multi-unit building to engage in electrical submetering under IC 8-1-2-36.5, subject to:

- (A) the owner's qualification to engage in submetering under IC 8-1-2-36.5 and 170 IAC 4-5; and



(B) the owner's compliance with the requirements for submetering set forth in IC 8-1-2-36.5 and 170 IAC 4-5.

(l) With respect to property that is served by a municipally owned utility and that is occupied by someone other than the owner of the property, subsection (k) does not allow a municipal legislative body to impose a requirement that the owner of the property must:

(1) ensure the creditworthiness of the person occupying the property; or

(2) accept responsibility for charges incurred by the person occupying the property;

by cosigning an agreement or by any other method.

SECTION 2. An emergency is declared for this act.



Speaker of the House of Representatives

President of the Senate

President Pro Tempore

Governor of the State of Indiana

Date: _____ Time: _____

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