



Reprinted
April 13, 2021

ENGROSSED HOUSE BILL No. 1191

DIGEST OF HB 1191 (Updated April 12, 2021 8:00 pm - DI 101)

Citations Affected: IC 8-1; IC 8-25; IC 36-1.

Synopsis: Local utility and energy matters. Provides that a public transportation corporation managing a public transportation project in Marion County is liable for the costs incurred by a public utility after December 31, 2017, to relocate utility infrastructure for the construction of any aspect of the project. Requires a public transportation corporation to reimburse, before January 1, 2022, a public utility for expenses incurred by the public utility after December 31, 2017, to relocate utility infrastructure for the construction of the Red Line bus rapid transit line. Requires the Indianapolis Public Transportation Corporation to pay for all utilities and sewer and water infrastructure associated with certain transportation projects before any utility ratepayers are required to do so. Provides that a county executive or the legislative body of a city or town does not have the power to prohibit: (1) a public utility or department of public utilities from furnishing utility service to a utility customer; or (2) a customer of a public utility or department of public utilities from purchasing, using,
(Continued next page)

Effective: January 1, 2021 (retroactive); July 1, 2021.

Pressel, Manning, Soliday

(SENATE SPONSORS — KOCH, BOHACEK)

January 7, 2021, read first time and referred to Committee on Utilities, Energy and Telecommunications.

January 28, 2021, amended, reported — Do Pass.

February 1, 2021, read second time, ordered engrossed. Engrossed.

February 2, 2021, read third time, passed. Yeas 66, nays 28.

SENATE ACTION

February 18, 2021, read first time and referred to Committee on Utilities.

April 8, 2021, amended, reported favorably — Do Pass.

April 12, 2021, read second time, amended, ordered engrossed.

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Digest Continued

or connecting or reconnecting to a utility service; based on the energy source of the utility service. Provides that, except for purposes of compliance with specified building and fire safety laws, a local unit does not have the power to: (1) require that a particular component, design, or type of material be used in the construction of a building because of the energy saving or energy producing qualities of the component, design, or material; (2) prohibit the use of a particular component, design, or type of material in the construction of a building because the component, design, or material does not meet an energy saving standard; (3) require that a building or structure be retrofitted with a particular device or type of material because of the energy saving or energy producing qualities of the device or material; (4) prohibit or restrict the purchase or use of vehicles based upon the type of energy used; or (5) prohibit the sale, installation, or use of: (A) natural gas powered: (i) home heating equipment; (ii) home appliances; or (iii) outdoor heating appliances, torches, lamps, or other decorative features; or (B) outdoor grills and stoves. Specifies that: (1) this prohibition does not apply with respect to requirements included in procurement documents used to procure goods and services, including the construction or design of buildings, to be owned or used by a local unit; and (2) a local unit may adopt bid specifications for a public works project that include energy savings or energy production provisions with respect to the components, design, or materials for the specific project.

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First Regular Session of the 122nd General Assembly (2021)

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 2020 Regular Session of the General Assembly.

ENGROSSED HOUSE BILL No. 1191

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 8-1-2-101.2 IS ADDED TO THE INDIANA CODE
2 AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE
3 JANUARY 1, 2021 (RETROACTIVE)]; **Sec. 101.2. (a) The following**
4 **definitions apply throughout this section:**
5 (1) "Energy source" means:
6 (A) the method of generation; or
7 (B) the fuel source;
8 used to provide or supply utility service to a customer. The
9 term includes any energy source used to provide utility
10 service, including a clean energy resource (as defined in
11 IC 8-1-37-4).
12 (2) "Executive" has the meaning set forth in IC 36-1-2-5.
13 (3) "Municipal council" has the meaning set forth in section
14 1(b) of this chapter.
15 (4) "Utility service" means any service provided by a liquid
16 petroleum gas company, a public utility, or a department of
17 public utilities relating to:

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1 (A) the generation, production, transmission, or
 2 distribution of electricity or thermal energy to or for the
 3 public, for compensation; or
 4 (B) the production, manufacture, storage, transportation,
 5 distribution, sale, or furnishing of:
 6 (i) natural gas;
 7 (ii) artificial or manufactured gas; or
 8 (iii) a mixture of natural gas and artificial or
 9 manufactured gas;
 10 to or for the public, for compensation;
 11 for heat, light, power, or other uses.

12 (b) A municipal council or county executive does not have the
 13 power to enact any code, ordinance, or land use regulation that
 14 would prohibit or have the effect of prohibiting, or to otherwise
 15 regulate in a manner that would prohibit or have the effect of
 16 prohibiting:

- 17 (1) a liquid petroleum gas company, a public utility, or a
- 18 department of public utilities from furnishing utility service
- 19 to a utility customer; or
- 20 (2) a customer of a liquid petroleum gas company, a public
- 21 utility, or a department of public utilities from:
- 22 (A) purchasing;
- 23 (B) using; or
- 24 (C) connecting or reconnecting to;
- 25 a utility service;

26 based on the energy source of the utility service.

27 (c) This section does not prohibit a liquid petroleum gas
 28 company, a public utility, or a department of public utilities from
 29 disconnecting utility service to a customer in accordance with the
 30 company's, utility's, or department's approved terms and
 31 conditions for service, including when an imminent danger to
 32 public safety exists.

33 SECTION 2. IC 8-25-4-12 IS ADDED TO THE INDIANA CODE
 34 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 35 1, 2021]: **Sec. 12. (a) This section applies only to a public**
 36 **transportation project located in Marion County.**

37 (b) For the purposes of this section, "public utility" shall mean
 38 any utility as defined in IC 8-1-2-1(a), IC 8-1-2-1(h), and
 39 IC 8-1-2-125(a).

40 (c) Notwithstanding any other law, the public transportation
 41 corporation managing a public transportation project authorized
 42 under this article is liable for the costs incurred by a public utility



1 after December 31, 2017, to relocate utility infrastructure for the
 2 construction of any aspect of the public transportation project.

3 (d) Before January 1, 2022, a public transportation corporation
 4 shall reimburse a public utility for expenses incurred by the public
 5 utility after December 31, 2017, to relocate utility infrastructure
 6 for the construction of a bus rapid transit line known as the Red
 7 Line.

8 (e) The Indianapolis Public Transportation Corporation must
 9 pay for all utilities, sewer, and water infrastructure associated with
 10 the purple line, blue line, and any further expansion project before
 11 any ratepayers are required to do so.

12 SECTION 3. IC 36-1-3-13 IS ADDED TO THE INDIANA CODE
 13 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 14 1, 2021]: Sec. 13. (a) Unless required under IC 36-7-2-9, a unit does
 15 not have the power to do the following:

16 (1) Require that a particular component, design, or type of
 17 material be used in the construction of a building or other
 18 structure because of the energy saving or energy producing
 19 qualities of the component, design, or material.

20 (2) Prohibit the use of a particular component, design, or type
 21 of material in the construction of a building or other structure
 22 because the component, design, or material does not meet a
 23 standard for energy saving.

24 (3) Require that a building or other structure be retrofitted
 25 with a particular device or type of material because of the
 26 energy saving or energy producing qualities of the device or
 27 material.

28 (4) Prohibit or restrict the purchase or use of vehicles or other
 29 machines based upon the type of energy that powers the
 30 vehicle or machine.

31 (5) Prohibit the sale, installation, or use of any of the
 32 following:

33 (A) Natural gas powered home heating equipment.

34 (B) Natural gas powered home appliances.

35 (C) Grills, stoves, and other food preparation appliances
 36 designed to be used outdoors.

37 (D) Natural gas powered:

38 (i) heating appliances; and

39 (ii) torches, lamps, and other decorative features;

40 designed to be used outdoors.

41 (6) Enact an ordinance, adopt a resolution, or enforce an
 42 ordinance or resolution that purports to exercise a power



1 denied by subdivisions (1) through (5).
2 **(b) This section does not apply to requirements included in**
3 **procurement documents used to procure goods and services,**
4 **including the construction or design of buildings, to be owned or**
5 **used by the unit. A unit may adopt bid specifications for a public**
6 **works project that include energy savings or energy production**
7 **provisions with respect to the components, design, or materials for**
8 **the specific project.**
9 SECTION 4. An emergency is declared for this act.



COMMITTEE REPORT

Mr. Speaker: Your Committee on Utilities, Energy and Telecommunications, to which was referred House Bill 1191, 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, line 9, delete "nonrenewable or renewable energy source." and insert "**energy source used to provide utility service, including a clean energy resource (as defined in IC 8-1-37-4).**".

Page 1, line 15, after "by" insert "**a liquid petroleum gas company,**".

Page 1, line 16, delete "utility or" and insert "**utility, or a**".

Page 2, line 1, after "electricity" insert "**or thermal energy**".

Page 2, line 16, delete "public utility or" and insert "**liquid petroleum gas company, a public utility, or a**".

Page 2, line 18, delete "public utility or" and insert "**liquid petroleum gas company, a public utility, or a**".

Page 2, delete lines 25 through 29, begin a new paragraph and insert:

"SECTION 2. IC 21-37-8 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]:

Chapter 8. Energy Related Requirements and Prohibitions

Sec. 1. (a) As used in this section, "net monetary savings" means the amount by which the overall costs associated with the electrical energy supplied to a state educational institution's facilities will be lower because of the implementation of a prohibition or restriction described in subsection (d) than they would have been without the implementation of the prohibition or restriction.

(b) As used in this section, "net monetary savings" does not include secondary savings or avoided or mitigated externalities not directly associated with the electrical energy supplied to a state educational institution's facilities.

(c) A determination of "net monetary savings" under subsection (d)(1) must consider:

(1) the stranded cost of any sources of electrical energy, including any sources of electrical energy supplied through:

(A) a power purchase agreement that is in effect as of the effective date of the prohibition or restriction described in subsection (d); or

(B) an electric generation facility owned or operated by the state educational institution as of the effective date of the



prohibition or restriction described in subsection (d), including any stranded costs resulting from any part of the facility that is not fully depreciated as of the effective date of the prohibition or restriction described in subsection (d);

that will stop being used as a result of the implementation of the prohibition or restriction described in subsection (d); and
 (2) the fully allocated cost of new sources of electrical energy that must be procured as a result of the implementation of a prohibition or restriction described in subsection (d);

as well as the difference in overall energy costs that would be incurred without the implementation of the prohibition or restriction and with the implementation of the prohibition and restriction.

(d) A state educational institution may not adopt, implement, or enforce a resolution, rule, or policy that would prohibit or restrict the manner in which electrical energy that is supplied to its facilities is generated, transmitted, or distributed, including any electrical energy that is supplied to its facilities through a power purchase agreement entered into after June 30, 2021, unless the prohibition or restriction:

- (1) would result in net monetary savings to the state educational institution; or
- (2) is in furtherance of an established academic discipline of the state educational institution as of January 1, 2021.

Sec. 2. (a) As used in this section, "net monetary savings" means the amount by which the overall costs associated with the construction, heating, cooling, use, and maintenance of a building or other structure will be lower because of the implementation of a requirement described in subsection (d)(1) or (d)(2) than they would have been without the implementation of the requirement.

(b) As used in this section, "net monetary savings" does not include secondary savings or avoided or mitigated externalities not directly associated with the construction, heating, cooling, use, and maintenance of a building or other structure.

(c) A determination of "net monetary savings" under subsection (d) must consider:

- (1) the stranded cost of any equipment or materials that will stop being used as a result of the implementation of a requirement described in subsection (d)(1) or (d)(2) before the equipment or materials are fully depreciated; and
- (2) the fully allocated cost of new equipment and materials



that must be acquired and used as a result of the implementation of a requirement described in subsection (d)(1) or (d)(2);

as well as the difference in energy costs that would be incurred without the implementation of the requirement and with the implementation of the requirement.

(d) A state educational institution may not adopt, implement, or enforce a resolution, rule, or policy that would:

(1) require the use of a particular component or type of material in the construction of a building or other structure on a campus of the state educational institution solely because of the energy saving or energy producing qualities of the component or material; or

(2) require the retrofitting of a building or other structure on a campus of the state educational institution with a particular device or type of material solely because of the energy saving or energy producing qualities of the device or material;

unless the requirement can reasonably be expected to result in net monetary savings within ten (10) years after the installation of the component, material, or device, as determined by an individual who is not an employee of or associated with the state educational institution and who has been certified as a Certified Energy Manager by the Association of Energy Engineers.

Sec. 3. (a) As used in this section, "net monetary savings" means the amount by which the overall costs associated with the purchase or use of motor vehicles by a state educational institution will be lower because of the implementation of a resolution, rule, or policy described in subsection (d) than they would have been without the implementation of the resolution, rule, or policy.

(b) As used in this section, "net monetary savings" does not include secondary savings or avoided or mitigated externalities not directly associated with the purchase or use of motor vehicles by a state educational institution.

(c) A determination of "net monetary savings" under subsection (e)(1) must consider:

(1) the stranded cost of any motor vehicles that will stop being used as a result of the implementation of a resolution, rule, or policy described in subsection (d) before the motor vehicles are fully depreciated; and

(2) the fully allocated cost of new or replacement motor vehicles that must be purchased as a result of the implementation of a resolution, rule, or policy described in



subsection (d);
as well as the difference in vehicle or fuel costs that would be incurred without the implementation of the resolution, rule, or policy and with the implementation of the resolution, rule, or policy.

(d) Except as provided in subsection (e), a state educational institution may not adopt, implement, or enforce a resolution, rule, or policy that:

- (1) would prohibit, restrict, give preference to, or establish any condition concerning the purchase or use of motor vehicles by the state educational institution; and
- (2) is based upon the type of energy that powers the motor vehicle.

(e) The prohibition set forth in subsection (d) does not apply if the resolution, rule, or policy described in subsection (d):

- (1) would result in net monetary savings to the state educational institution over the life of the motor vehicle; or
- (2) is in furtherance of an established academic discipline of the state educational institution as of January 1, 2021.

SECTION 3. IC 36-1-3-13 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 13. A unit does not have the power to do the following:

- (1) Require that a particular component, design, or type of material be used in the construction of a building or other structure because of the energy saving or energy producing qualities of the component, design, or material.
- (2) Prohibit the use of a particular component, design, or type of material in the construction of a building or other structure because the component, design, or material does not meet a standard for energy saving.
- (3) Require that a building or other structure be retrofitted with a particular device or type of material because of the energy saving or energy producing qualities of the device or material.
- (4) Prohibit or restrict the purchase or use of vehicles or other machines based upon the type of energy that powers the vehicle or machine.
- (5) Prohibit the sale, installation, or use of any of the following:
 - (A) Natural gas powered home heating equipment.
 - (B) Natural gas powered home appliances.



(C) Grills, stoves, and other food preparation appliances designed to be used outdoors.

(D) Natural gas powered:

(i) heating appliances; and

(ii) torches, lamps, and other decorative features; designed to be used outdoors.

(6) Enact an ordinance, adopt a resolution, or enforce an ordinance or resolution that purports to exercise a power denied by subdivisions (1) through (5)."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1191 as introduced.)

SOLIDAY

Committee Vote: yeas 9, nays 4.

COMMITTEE REPORT

Madam President: The Senate Committee on Utilities, to which was referred House Bill No. 1191, 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, delete lines 29 through 42, begin a new paragraph and insert:

"(c) This section does not prohibit a liquid petroleum gas company, a public utility, or a department of public utilities from disconnecting utility service to a customer in accordance with the company's, utility's, or department's approved terms and conditions for service, including when an imminent danger to public safety exists."

Delete pages 3 through 4.

Page 5, delete lines 1 through 28.

Page 5, line 31, delete "A" and insert "**Unless required under IC 36-7-2-9, a**".

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

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(Reference is to HB 1191 as printed January 28, 2021.)

KOCH, Chairperson

Committee Vote: Yeas 7, Nays 3.

SENATE MOTION

Madam President: I move that Engrossed House Bill 1191 be amended to read as follows:

Page 1, delete lines 15 through 16.

Page 1, line 17, delete "(5)" and insert "(4)".

Page 2, line 37, after "13." insert "(a)".

Page 3, between lines 24 and 25, begin a new paragraph and insert:

"(b) This section does not apply to requirements included in procurement documents used to procure goods and services, including the construction or design of buildings, to be owned or used by the unit. A unit may adopt bid specifications for a public works project that include energy savings or energy production provisions with respect to the components, design, or materials for the specific project."

(Reference is to EHB 1191 as printed April 9, 2021.)

KOCH

SENATE MOTION

Madam President: I move that Engrossed House Bill 1191 be amended to read as follows:

Page 2, between lines 34 and 35, begin a new paragraph and insert:

"SECTION 2. IC 8-25-4-12 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 12. (a) This section applies only to a public transportation project located in Marion County.

(b) For the purposes of this section, "public utility" shall mean any utility as defined in IC 8-1-2-1(a), IC 8-1-2-1(h), and IC 8-1-2-125(a).

(c) Notwithstanding any other law, the public transportation corporation managing a public transportation project authorized under this article is liable for the costs incurred by a public utility

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after December 31, 2017, to relocate utility infrastructure for the construction of any aspect of the public transportation project.

(d) Before January 1, 2022, a public transportation corporation shall reimburse a public utility for expenses incurred by the public utility after December 31, 2017, to relocate utility infrastructure for the construction of a bus rapid transit line known as the Red Line.

(e) The Indianapolis Public Transportation Corporation must pay for all utilities, sewer, and water infrastructure associated with the purple line, blue line, and any further expansion project before any ratepayers are required to do so."

Renumber all SECTIONS consecutively.

(Reference is to EHB 1191 as printed April 9, 2021.)

FREEMAN

