

# HOUSE BILL No. 1287

---

## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 8-1-2-46.2.

**Synopsis:** Water or wastewater service for underserved areas. Allows a water or wastewater utility to extend service to a developed but underserved area without a deposit from customers if the extension of service will result in a positive contribution to the utility's overall cost of service over a 20 year period. Defines "developed but underserved area" as an area in which prospective service would be provided predominantly to existing and occupied structures that receive water from private wells or from which wastewater is disposed of through onsite private systems such as septic tanks. Provides that a water or wastewater utility's extension of service to a developed but underserved area will be considered as resulting in a positive contribution to the utility's overall cost of service over a 20 year period to the extent that rates to be paid by at least one-half of the customers who could be served by the extension of service would enable the utility to fully recover the cost of serving those customers, including the utility's pretax return. Provides that if a water or wastewater utility determines that an extension of service to a developed but underserved area will not result in a positive contribution to the utility's overall cost of service over a 20 year period, the utility may require a deposit or other adequate assurance of performance from the customers to be served by the extension of service.

**Effective:** July 1, 2021.

---

---

## Pressel, Manning

---

---

January 14, 2021, read first time and referred to Committee on Utilities, Energy and Telecommunications.

---

---



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.

# HOUSE BILL No. 1287



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 8-1-2-46.2, AS AMENDED BY P.L.160-2020,  
2 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 2021]: Sec. 46.2. (a) ~~As used in~~ **The following definitions**  
4 **apply throughout** this section:  
5 (1) **"Developed but underserved area"** means an area in  
6 **which the prospective service would be provided**  
7 **predominantly to existing and occupied structures:**  
8 (A) **that receive water from private wells; or**  
9 (B) **from which wastewater is disposed of through onsite**  
10 **private systems such as septic tanks.**  
11 (2) **"Pretax return"** means the revenues necessary:  
12 (A) **to produce net operating income equal to a water or**  
13 **wastewater utility's authorized weighted cost of capital**  
14 **multiplied by the net original cost of the extension of**  
15 **service; and**  
16 (B) **to pay state and federal income taxes applicable to the**  
17 **utility's net operating income described in clause (A).**



1           **(3)** "Water or wastewater utility" means a public utility, other than  
 2           a not-for-profit utility, as defined in section 125(a) of this chapter,  
 3           that provides water or wastewater service to the public.

4           (b) Notwithstanding any law or rule governing extension of service,  
 5           a water or wastewater utility may, on a nondiscriminatory basis, extend  
 6           service:

7           **(1)** for economic development purposes; or

8           **(2)** to rural areas **or developed but underserved areas;**

9           without a deposit or other adequate assurance of performance from the  
 10          customer, to the extent that the extension of service results in a positive  
 11          contribution to the utility's overall cost of service over a twenty (20)  
 12          year period. **For the purposes of this subsection, a water or**  
 13          **wastewater utility's extension of service to a developed but**  
 14          **underserved area will be considered as resulting in a positive**  
 15          **contribution to the utility's overall cost of service over a twenty**  
 16          **(20) year period to the extent that rates to be paid by at least**  
 17          **one-half (1/2) of the customers who could be served by the**  
 18          **extension of service would enable the utility to fully recover the**  
 19          **cost of serving those customers, including the utility's pretax**  
 20          **return.**

21          (c) ~~However,~~ If ~~the a~~ water or wastewater utility determines that ~~the~~  
 22          **an** extension of service **described in subsection (b)** will not result in  
 23          a positive contribution to the utility's overall cost of service over a  
 24          twenty (20) year period, the water or wastewater utility, **in extending**  
 25          **service,** may require a deposit or other adequate assurance of  
 26          performance from:

27          (1) the developer of the project; ~~or~~

28          (2) a local, regional, or state economic development organization;

29          **or**

30          **(3) the customers to be served by the extension of service.**

31          ~~(d)~~ **(d)** Subsection ~~(d)~~ **(e)** applies if:

32          (1) a county executive, a municipal legislative body, or, in Marion  
 33          County, the county fiscal body, establishes an infrastructure  
 34          development zone under IC 6-1.1-12.5-4; and

35          (2) the county executive, municipal legislative body, or county  
 36          fiscal body requests a public utility to extend water or wastewater  
 37          utility service to the geographic territory established as the  
 38          infrastructure development zone.

39          ~~(d)~~ **(e)** A water or wastewater utility that receives a request  
 40          described in subsection ~~(e)~~~~(2)~~ **(d)(2)** may file a petition with the  
 41          commission seeking approval of the requested extension of service. If  
 42          the commission approves the petition, in future general rate cases, the



1 commission shall approve rate schedules that include a surcharge  
2 payable only by customers located in the geographic area within the  
3 jurisdiction of the governmental entity described in subsection ~~(c)~~, **(d)**,  
4 or, if requested by the governmental entity, only within the geographic  
5 area established as an infrastructure development zone. The surcharge  
6 shall recover depreciation expense, weighted cost of capital, and  
7 federal and state income tax applicable to the extension of water or  
8 wastewater utility service.

