



March 26, 2021

ENGROSSED HOUSE BILL No. 1287

DIGEST OF HB 1287 (Updated March 25, 2021 12:34 pm - DI 133)

Citations Affected: IC 8-1.

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 50% or more of the customers who could be served
(Continued next page)

Effective: January 1, 2018 (retroactive); July 1, 2021.

Pressel, Manning

(SENATE SPONSORS — FORD JON, KOCH)

January 14, 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 95, nays 0.

SENATE ACTION

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

March 25, 2021, reported favorably — Do Pass.

EH 1287—LS 7071/DI 55



Digest Continued

by the extension of service would enable the utility to fully recover the weighted cost of debt and depreciation expense attributable to the cost of the main extension for the extension of service. 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. Provides that if a property owner makes an improvement to the property owner's property, the property owner is not required to upgrade the property's septic tank soil absorption system or to connect to a sewer system, and to discontinue use of a septic tank soil absorption system if the improvement does not include the addition of a bedroom or bedroom equivalent and the property owner receives a written determination from a qualified inspector that the septic tank soil absorption system is not failing.

EH 1287—LS 7071/DI 55



March 26, 2021

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

14 (b) Notwithstanding any law or rule governing extension of service,
15 a water or wastewater utility may, on a nondiscriminatory basis, extend
16 service:

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

EH 1287—LS 7071/DI 55



1 (2) to rural areas; or
 2 (3) to developed but underserved areas;
 3 without a deposit or other adequate assurance of performance from the
 4 customer, to the extent that the extension of service results in a positive
 5 contribution to the utility's overall cost of service over a twenty (20)
 6 year period. **For the purposes of this subsection, a water or**
 7 **wastewater utility's extension of service to a developed but**
 8 **underserved area will be considered as resulting in a positive**
 9 **contribution to the utility's overall cost of service over a twenty**
 10 **(20) year period to the extent that rates to be paid by fifty percent**
 11 **(50%) or more of the customers who could be served by the**
 12 **extension of service would enable the utility to fully recover the**
 13 **weighted cost of debt and depreciation expense attributable to the**
 14 **cost of the main extension for the extension of service.**

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

21 (1) the developer of the project; ~~or~~
 22 (2) a local, regional, or state economic development organization;
 23 **or**
 24 **(3) the customers to be served by the extension of service.**

25 ~~(d)~~ (d) Subsection ~~(d)~~ (e) applies if:
 26 (1) a county executive, a municipal legislative body, or, in Marion
 27 County, the county fiscal body, establishes an infrastructure
 28 development zone under IC 6-1.1-12.5-4; and
 29 (2) the county executive, municipal legislative body, or county
 30 fiscal body requests a public utility to extend water or wastewater
 31 utility service to the geographic territory established as the
 32 infrastructure development zone.

33 ~~(d)~~ (e) A water or wastewater utility that receives a request
 34 described in subsection ~~(e)~~(2) (d)(2) may file a petition with the
 35 commission seeking approval of the requested extension of service. If
 36 the commission approves the petition, in future general rate cases, the
 37 commission shall approve rate schedules that include a surcharge
 38 payable only by customers located in the geographic area within the
 39 jurisdiction of the governmental entity described in subsection ~~(e)~~; (d),
 40 or, if requested by the governmental entity, only within the geographic
 41 area established as an infrastructure development zone. The surcharge
 42 shall recover depreciation expense, weighted cost of capital, and



1 federal and state income tax applicable to the extension of water or
2 wastewater utility service.

3 SECTION 2. IC 8-1-2-46.3 IS ADDED TO THE INDIANA CODE
4 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE
5 JANUARY 1, 2018 (RETROACTIVE)]: **Sec. 46.3. (a) The following**
6 **definitions apply throughout this section:**

7 (1) "Bedroom" has the meaning set forth in 410 IAC 6-8.3-6.

8 (2) "Bedroom equivalent" has the meaning set forth in 410
9 IAC 6-8.3-7.

10 (3) "Septic tank soil absorption system" has the meaning set
11 forth in IC 13-11-2-199.5.

12 (b) Subject to the rules provided under IC 13-26-5-2.5 and
13 IC 36-9-23-30.1, if a property owner makes an improvement to the
14 property owner's property, the property owner is not required to
15 upgrade the property's septic tank soil absorption system or to
16 connect to a sewer system, and to discontinue use of a septic tank
17 soil absorption system if:

18 (1) the improvement does not include the addition of a
19 bedroom or bedroom equivalent; and

20 (2) the property owner has a written determination as
21 required by section 125(f)(2) of this chapter provided by a
22 qualified inspector (as defined in IC 36-9-23-30.1) that the
23 septic tank soil absorption system is not failing.

24 SECTION 3. An emergency is declared for this act.



COMMITTEE REPORT

Mr. Speaker: Your Committee on Utilities, Energy and Telecommunications, to which was referred House Bill 1287, 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 11 through 17.

Page 2, line 1, delete "(3)" and insert "(2)".

Page 2, line 7, strike "or".

Page 2, line 8, delete "areas or developed but underserved areas;" and insert "areas; **or**".

Page 2, between lines 8 and 9, begin a new line block indented and insert:

"(3) to developed but underserved areas;".

Page 2, line 16, delete "at least".

Page 2, line 17, delete "one-half (1/2)" and insert **"fifty percent (50%) or more"**.

Page 2, line 18, after "recover the" insert **"weighted cost of debt and depreciation expense attributable to the cost of the main extension for the extension of service."**

Page 2, delete lines 19 through 20.

Page 3, after line 8, begin a new paragraph and insert:

"SECTION 2. IC 8-1-2-46.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2018 (RETROACTIVE)]: Sec. 46.3. (a) The following definitions apply throughout this section:

(1) "Bedroom" has the meaning set forth in 410 IAC 6-8.3-6.

(2) "Bedroom equivalent" has the meaning set forth in 410 IAC 6-8.3-7.

(3) "Septic tank soil absorption system" has the meaning set forth in IC 13-11-2-199.5.

(b) Subject to the rules provided under IC 13-26-5-2.5 and IC 36-9-23-30.1, if a property owner makes an improvement to the property owner's property, the property owner is not required to upgrade the property's septic tank soil absorption system or to connect to a sewer system, and to discontinue use of a septic tank soil absorption system if:

(1) the improvement does not include the addition of a bedroom or bedroom equivalent; and

(2) the property owner has a written determination as required by section 125(f)(2) of this chapter provided by a qualified inspector (as defined in IC 36-9-23-30.1) that the



septic tank soil absorption system is not failing.
SECTION 3. An emergency is declared for this act."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1287 as introduced.)

SOLIDAY

Committee Vote: yeas 13, nays 0.

COMMITTEE REPORT

Madam President: The Senate Committee on Utilities, to which was referred House Bill No. 1287, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is to HB 1287 as printed January 28, 2021.)

KOCH, Chairperson

Committee Vote: Yeas 11, Nays 0

