



March 17, 2017

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## ENGROSSED SENATE BILL No. 376

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DIGEST OF SB 376 (Updated March 15, 2017 3:46 pm - DI 130)

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

**Synopsis:** Rural electric membership corporation governance. Amends the statute governing rural electric membership corporations (corporations) as follows: (1) Specifies that for purposes of the statute: (A) a "law" includes the statute itself; and (B) a "member" of a corporation means a person admitted to membership under law and the corporation's bylaws. (Current law provides that a member means a person admitted to membership under law or the corporation's bylaws.) (2) Allows for electronic notice of a meeting of the corporation's members. (3) Authorizes a corporation to include a provision in its articles of incorporation or its bylaws to allow any votes cast: (A) after notice of a meeting is provided; and (B) before a meeting of its members; to count toward specified quorum requirements. (4) Specifies that a corporation may file a petition with the utility regulatory commission seeking authority to begin water or wastewater service. (Current law does not specify that a corporation may seek to provide wastewater service.) (5) Makes technical changes.

**Effective:** July 1, 2017.

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**Houchin, Messmer, Zay, Koch, Ford**  
(HOUSE SPONSORS — MORRISON, MACER)

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January 10, 2017, read first time and referred to Committee on Utilities.  
February 16, 2017, reported favorably — Do Pass.  
February 20, 2017, read second time, ordered engrossed. Engrossed.  
February 21, 2017, read third time, passed. Yeas 48, nays 0.

HOUSE ACTION

February 28, 2017, read first time and referred to Committee on Utilities, Energy and Telecommunications.  
March 16, 2017, amended, reported — Do Pass.

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ES 376—LS 6849/DI 101





March 17, 2017

First Regular Session 120th General Assembly (2017)

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 2016 Regular Session of the General Assembly.

## ENGROSSED SENATE BILL No. 376

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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 8-1-13-3 IS AMENDED TO READ AS FOLLOWS  
2 [EFFECTIVE JULY 1, 2017]: Sec. 3. The following terms whenever  
3 used or referred to in this chapter have the following meanings, unless  
4 a different meaning clearly appears from the context:
- 5 (a) "Corporation" means a corporation formed under this chapter.
  - 6 (b) "Municipality" means any county, city, or town of this state.
  - 7 (c) "Person" or "inhabitant" means natural persons, firms,  
8 associations, corporations, limited liability companies, business trusts,  
9 partnerships, and bodies politic.
  - 10 (d) "Energy" means all electric energy no matter how generated or  
11 produced.
  - 12 (e) "System" means any plant, works, system, facilities, or  
13 properties, together with all parts thereof and appurtenances thereto,  
14 used or useful in the furnishing of services.
  - 15 (f) "Obligations" means negotiable bonds, interim certificates or  
16 receipts, notes, debentures, and all other evidences of indebtedness,  
17 either issued or the payment thereof assumed by the corporation.

ES 376—LS 6849/DI 101



- 1 (g) "Law" means any law of this state.
- 2 (h) "Federal agency" means the United States of America, the  
3 President of the United States of America, the federal emergency  
4 administrator of public works and any other authority, agency, or  
5 instrumentality of the United States of America, heretofore or hereafter  
6 created.
- 7 (i) "Acquire" means construction, obtaining by purchase, lease,  
8 devise, or gift, the exercise of the right of eminent domain in the  
9 manner provided by law for the exercise thereof, or other mode of  
10 acquisition.
- 11 (j) "Improve" means to construct, reconstruct, improve, extend,  
12 enlarge, alter, better, or repair.
- 13 (k) "Board" means board of directors of a corporation formed under  
14 this chapter.
- 15 (l) "Member" means each person signing the articles of  
16 incorporation of a corporation and each person admitted to membership  
17 therein pursuant to law ~~or~~ **and** the corporation's bylaws.
- 18 (m) "Service" or "services" means the furnishing of energy or other  
19 utility services incidental to development, operation, or maintenance  
20 of utility infrastructure and the rendering of related engineering,  
21 financial, accounting, economic development, or community  
22 development services, or educational services and related materials or  
23 equipment assisting in the establishment and maintenance of better  
24 communication between corporations and their members, or any of the  
25 same.
- 26 (n) ~~As used in this chapter, the word~~ "Territory", when modified by  
27 the phrase "already being served with energy by any public or  
28 municipally owned utility", shall not be construed to include territory  
29 served by an electric distribution line or lines:
- 30 (1) acquired prior to March 1, 1980, from a public or municipally  
31 owned utility by a corporation formed or admitted to do business  
32 in this state under this chapter; or
- 33 (2) acquired on or after March 1, 1980, from a public or  
34 municipally owned utility by such a corporation;
- 35 if the Indiana utility regulatory commission, after public hearing, finds  
36 that public convenience and necessity would be best served by, and  
37 authorizes, such acquisition, and if the electric distribution line or lines,  
38 together with all other facilities proposed to be purchased, have a  
39 reproduction cost new, less depreciation, of not more than three  
40 hundred thousand dollars (\$300,000) and are not located in whole or  
41 in part in any city or town having a population in excess of one  
42 thousand five hundred (1,500); however, the dollar and population



1 limitations do not apply if the acquisition is agreed to in all respects by  
2 all affected electricity suppliers and is approved by the commission.

3 (o) ~~As used in this chapter,~~ "Commission" refers to the Indiana  
4 utility regulatory commission.

5 SECTION 2. IC 8-1-13-8 IS AMENDED TO READ AS FOLLOWS  
6 [EFFECTIVE JULY 1, 2017]: Sec. 8. (a) A corporation may issue to its  
7 members certificates of membership and each member shall be entitled  
8 to only one (1) vote at any regular or special meeting of the  
9 corporation.

10 (b) Meetings of members may be held at such place as may be  
11 provided in the by-laws. An annual meeting of the members shall be  
12 held at such time as may be provided by the by-laws. Special meetings  
13 may be called by the president, by the board of directors, by a petition  
14 signed by not less than one-twentieth (1/20) of all the members or by  
15 such other officers or persons as may be provided in the articles of  
16 incorporation or the by-laws.

17 (c) Written, ~~or printed,~~ **or electronic** notice stating the place, day  
18 and hour of the meeting of members, and, in the case of a special  
19 meeting, the purpose or purposes for which the meeting is called, shall  
20 be delivered not less than ten (10) nor more than ~~thirty (30)~~ **sixty (60)**  
21 days before the date of the meeting, ~~either~~ personally, ~~or~~ by mail, **or**  
22 **electronically**, by or at the direction of the president or the secretary,  
23 or the officers or persons calling the meeting, to each member of record  
24 entitled to vote at such meeting. If mailed, such notice shall be deemed  
25 to be delivered when deposited in the United States mails in a sealed  
26 envelope addressed to the member at ~~his~~ **the member's** address as it  
27 appears on the records of the corporation, with postage thereon prepaid.  
28 **If transmitted electronically, the notice is considered delivered**  
29 **when transmitted to the electronic mail address or other address**  
30 **provided by the member for electronic communications.** Notice of  
31 meetings of members may be waived in writing.

32 (d) Unless otherwise provided in the articles of incorporation,  
33 one-fiftieth (1/50) of all the **corporation's** members: ~~of the corporation~~

34 **(1) who are** present in person at any meeting of members; **or**

35 **(2) who, in accordance with subsection (f), cast votes before**  
36 **any meeting of members;**

37 of which meeting notice shall have been given as provided in ~~the~~  
38 ~~foregoing subdivision~~ **subsection (c), of this section,** shall constitute  
39 a quorum for the transaction of business at such meeting.

40 (e) Except as otherwise specifically provided in this chapter, a  
41 majority vote of those members who are voting at any regular meeting,  
42 or at any special meeting of the members called for that purpose, shall



1 be necessary for the taking of any action, adoption of any resolution, or  
 2 the election of any directors, or otherwise, as the case may be.  
 3 Provided, that if more than two (2) persons are running for election as  
 4 a director from the same district then the person receiving the most  
 5 votes shall be elected.

6 **(f) A corporation may include a provision in the corporation's**  
 7 **articles of incorporation or in the corporation's bylaws to allow**  
 8 **any votes cast:**

9 **(1) after notice of a meeting is provided in accordance with**  
 10 **subsection (c); and**

11 **(2) before a meeting of the members;**

12 **whether cast in person, by a written ballot mailed to the**  
 13 **corporation's office, or by electronic ballot, to count toward the**  
 14 **quorum requirement set forth in subsection (d) or toward any**  
 15 **quorum requirement lawfully established in the corporation's**  
 16 **articles of incorporation or in the corporation's bylaws.**

17 SECTION 3. IC 8-1-13-9 IS AMENDED TO READ AS FOLLOWS  
 18 [EFFECTIVE JULY 1, 2017]: Sec. 9. (a) The corporate purpose of  
 19 each corporation formed under this chapter shall be to render services  
 20 to or for the benefit of its members. ~~and no~~

21 **(b) A person shall may not** become or remain a member of any  
 22 local district corporation **(as** defined in section 23 of this chapter)  
 23 unless such person shall use energy **or services** supplied by such  
 24 corporation and shall have complied with the terms and conditions ~~in~~  
 25 **respect to of** membership contained in the bylaws of such corporation.

26 ~~(b)~~ **(c)** Notwithstanding IC 8-1-2.7, a corporation or any subsidiary  
 27 or affiliate thereof may not begin water **or wastewater** service in any  
 28 area unless both of the following apply:

29 (1) The corporation has filed a petition with the commission  
 30 seeking authority to begin water **or wastewater** service.

31 (2) The commission has found after a hearing that public  
 32 convenience and necessity require the proposed service.

33 In connection with the petition, the commission may adopt conditions  
 34 and restrictions on the area and consumers to be served that the  
 35 commission finds consistent with the public interest. The commission  
 36 may revoke, modify, or amend a finding of public convenience and  
 37 necessity upon a showing of good cause after a hearing.

38 SECTION 4. IC 8-1-13-10 IS AMENDED TO READ AS  
 39 FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 10. Each corporation  
 40 formed under this chapter is hereby vested with all powers necessary  
 41 or requisite for the accomplishment of its corporate purpose and  
 42 capable of being delegated by the general assembly of the state of



1 Indiana, and no enumeration of particular powers hereby granted shall  
2 be construed to impair any general grant of power contained in this  
3 ~~section,~~ **chapter**, nor to limit any such grant to a power or powers of  
4 the same class or classes as those so enumerated.



COMMITTEE REPORT

Madam President: The Senate Committee on Utilities, to which was referred Senate Bill No. 376, 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 SB 376 as introduced.)

MERRITT, Chairperson

Committee Vote: Yeas 10, Nays 0

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Utilities, Energy and Telecommunications, to which was referred Senate Bill 376, 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 2, line 1, delete ", including this chapter." and insert ".".

and when so amended that said bill do pass.

(Reference is to SB 376 as printed February 17, 2017.)

OBER

Committee Vote: yeas 11, nays 0.

