



February 24, 2023

SENATE BILL No. 390

DIGEST OF SB 390 (Updated February 23, 2023 11:57 am - DI 129)

Citations Affected: IC 5-28.

Synopsis: Commercial solar and wind energy ready communities. Provides that the commercial solar and wind energy ready communities development center (center) may be established within the Indiana economic development corporation (IEDC). Specifies that the center may: (1) provide comprehensive, easily accessible information concerning permits required for commercial solar projects, wind power projects, and related business activities in Indiana; and (2) work with permit authorities concerning those projects. Provides that the center may create and administer a program to certify counties and municipalities as commercial solar energy ready communities and wind energy ready communities. Provides that the IEDC may certify a county or municipality as a commercial solar energy ready community or a wind energy ready community if the county or municipality meets certain requirements, including the adoption of a commercial solar regulation or wind power regulation that includes standards that are not more restrictive than the default standards established by Indiana law. Provides that the commercial solar and wind energy ready communities incentive fund (fund) may be established. Provides that if: (1) a county
(Continued next page)

Effective: July 1, 2023.

Messmer, Randolph Lonnie M

January 19, 2023, read first time and referred to Committee on Appropriations.
February 23, 2023, amended, reported favorably — Do Pass.

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Digest Continued

or municipality receives certification as a commercial solar energy ready community; and (2) a project owner develops a commercial solar project in the county or municipality; the IEDC may authorize the county or municipality to receive from the fund, for a period of 10 years, \$1 per megawatt hour of electricity generated by the commercial solar project. Provides that if: (1) a county or municipality receives certification as a wind energy ready community; and (2) a project owner develops a wind power project in the in the county or municipality; the IEDC may authorize the county or municipality to receive from the fund, for a period of 10 years, \$1 per megawatt hour of electricity generated by the wind power project. However, provides that if the IEDC determines that a county or municipality has failed during the 10 year period to continue meeting the requirements for certification, the corporation shall discontinue the incentive and require the county or municipality to return to the fund the amounts collected after the county's or municipality's breach of the requirements for certification.



February 24, 2023

First Regular Session of the 123rd General Assembly (2023)

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 2022 Regular Session of the General Assembly.

SENATE BILL No. 390

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 5-28-28.6 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2023]:

4 **Chapter 28.6. Commercial Solar and Wind Energy Ready**
5 **Communities**

6 **Sec. 1. As used in this chapter, "center" refers to the**
7 **commercial solar and wind energy ready communities**
8 **development center established by section 12 of this chapter.**

9 **Sec. 2. As used in this chapter, "commercial solar project"**
10 **means a project involving the construction, installation, siting,**
11 **modification, operation, or decommissioning of one (1) or more**
12 **commercial solar energy systems (as defined in IC 8-1-42-2) in a**
13 **unit.**

14 **Sec. 3. As used in this chapter, "commercial solar regulation"**
15 **has the meaning set forth in IC 8-1-42-3.**

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1 **Sec. 4.** As used in this chapter, "fund" refers to the commercial
2 solar and wind energy ready communities incentive fund
3 established by section 16 of this chapter.

4 **Sec. 5.** As used in this chapter, "permit", with respect to a
5 project, means any state or local permit, license, certificate,
6 approval, registration, or similar form of approval required by
7 statute, administrative rule, regulation (including a commercial
8 solar regulation or a wind power regulation), ordinance, or
9 resolution.

10 **Sec. 6.** As used in this chapter, "permit authority" has the
11 meaning set forth in:

12 (1) IC 8-1-41-4, in the case of a wind power project; or

13 (2) IC 8-1-42-6, in the case of a commercial solar project.

14 **Sec. 7.** As used in this chapter, "project" refers to:

15 (1) a wind power project; or

16 (2) a commercial solar project.

17 **Sec. 8.** As used in this chapter, "project owner" has the meaning
18 set forth in:

19 (1) IC 8-1-41-5, in the case of a wind power project; or

20 (2) IC 8-1-42-7, in the case of a commercial solar project.

21 **Sec. 9.** As used in this chapter, "unit" means a county or a
22 municipality, as specified in:

23 (1) IC 8-1-41-6, in the case of a wind power project; or

24 (2) IC 8-1-42-8, in the case of a commercial solar project.

25 **Sec. 10.** As used in this chapter, "wind power project" means a
26 project involving the construction, installation, siting, modification,
27 operation, or decommissioning of one (1) or more wind power
28 devices (as defined in IC 8-1-41-7) in a unit.

29 **Sec. 11.** As used in this chapter, "wind power regulation" has
30 the meaning set forth in IC 8-1-41-8.

31 **Sec. 12.** (a) The commercial solar and wind energy ready
32 communities development center may be established within the
33 corporation. The center has the following duties:

34 (1) Providing comprehensive information concerning permits
35 required for projects and related business activities in
36 Indiana, and making the information available and easily
37 accessible to:

38 (A) project owners;

39 (B) state and local government offices, departments, and
40 administrative entities; and

41 (C) the public.

42 (2) Working with permit authorities to encourage the timely



1 and efficient issuance of permits and the resolution of related
2 issues.

3 (b) In addition to the duties set forth in subsection (a), the center
4 may create and administer the following programs:

5 (1) A program to certify a unit as a commercial solar energy
6 ready community under section 13 of this chapter.

7 (2) A program to certify a unit as a wind energy ready
8 community under section 14 of this chapter.

9 Sec. 13. (a) A unit may apply to the corporation for certification
10 as a commercial solar energy ready community. The application
11 must be in a form and manner prescribed by the corporation. The
12 corporation may approve an application and certify a unit as a
13 commercial solar energy ready community if the corporation
14 determines the following:

15 (1) That the unit has adopted a resolution indicating support
16 for the development of commercial solar projects in the unit.

17 (2) That the unit has adopted a commercial solar regulation
18 that includes clear standards for the construction, installation,
19 siting, modification, operation, or decommissioning of one (1)
20 or more commercial solar energy systems (as defined in
21 IC 8-1-42-2) in the unit.

22 (3) That the unit's commercial solar regulation:

23 (A) includes standards that are not more restrictive,
24 directly or indirectly, than the default standards for
25 commercial solar energy systems set forth in IC 8-1-42;

26 (B) provides a clear and transparent process for project
27 owners to identify potential commercial solar project sites;

28 (C) does not unreasonably eliminate portions of the unit as
29 sites for commercial solar projects;

30 (D) provides for a fair review and approval process for
31 proposed commercial solar projects, including final
32 approval that cannot be revoked; and

33 (E) includes a specific plan for using any funds from an
34 incentive granted by the corporation under subsection (b):

35 (i) for economic development purposes within or near
36 the commercial solar project's footprint; or

37 (ii) to otherwise benefit residents and businesses within
38 or near the commercial solar project's footprint.

39 (4) That the unit has demonstrated a commitment to
40 maintain:

41 (A) the standards and procedural framework set forth in
42 the unit's commercial solar regulation; and



- 1 **(B) all applicable zoning, land use, and planning**
 2 **regulations;**
 3 **with respect to any particular commercial solar project that**
 4 **is approved under the unit's commercial solar regulation, for**
 5 **a period of at least ten (10) years, beginning with the start**
 6 **date of the commercial solar project's full commercial**
 7 **operation.**
- 8 **(b) If:**
- 9 **(1) a unit receives certification as a commercial solar energy**
 10 **ready community by the corporation under this section; and**
 11 **(2) after the unit's certification, a project owner develops a**
 12 **commercial solar project in the unit;**
- 13 **the corporation may authorize the unit to receive from the fund,**
 14 **for a period of ten (10) years beginning with the start date of the**
 15 **commercial solar project's full commercial operation, one dollar**
 16 **(\$1) per megawatt hour of electricity generated by the commercial**
 17 **solar project, if the corporation determines that the procedures**
 18 **and standards set forth in the unit's commercial solar regulation**
 19 **were adhered to in the development of the project. However, if the**
 20 **corporation determines at any time after the start of the**
 21 **commercial solar project's full commercial operation that the unit**
 22 **has failed to continue to meet the requirement for certification set**
 23 **forth in subsection (a)(4), the corporation shall discontinue the**
 24 **incentive granted under this subsection and shall require the unit**
 25 **to return to the fund any amounts collected by the unit under this**
 26 **subsection after the unit's breach of the requirement for**
 27 **certification set forth in subsection (a)(4).**
- 28 **Sec. 14. (a) A unit may apply to the corporation for certification**
 29 **as a wind energy ready community. The application must be in a**
 30 **form and manner prescribed by the corporation. The corporation**
 31 **may approve an application and certify a unit as a wind energy**
 32 **ready community if the corporation determines the following:**
- 33 **(1) That the unit has adopted a resolution indicating support**
 34 **for the development of wind power projects in the unit.**
- 35 **(2) That the unit has adopted a wind power regulation that**
 36 **includes clear standards for the construction, installation,**
 37 **siting, modification, operation, or decommissioning of one (1)**
 38 **or more wind power devices (as defined in IC 8-1-41-7) in the**
 39 **unit.**
- 40 **(3) That the unit's wind power regulation:**
- 41 **(A) includes standards that are not more restrictive,**
 42 **directly or indirectly, than the default standards for wind**



- 1 power devices set forth in IC 8-1-41;
- 2 (B) provides a clear and transparent process for project
- 3 owners to identify potential wind power project sites;
- 4 (C) does not unreasonably eliminate portions of the unit as
- 5 sites for wind power projects;
- 6 (D) provides for a fair review and approval process for
- 7 proposed wind power projects, including final approval
- 8 that cannot be revoked; and
- 9 (E) includes a specific plan for using any funds from an
- 10 incentive granted by the corporation under subsection (b):
- 11 (i) for economic development purposes within or near
- 12 the wind power project's footprint; or
- 13 (ii) to otherwise benefit residents and businesses within
- 14 or near the wind power project's footprint.
- 15 (4) That the unit has demonstrated a commitment to
- 16 maintain:
- 17 (A) the standards and procedural framework set forth in
- 18 the unit's wind power regulation; and
- 19 (B) all applicable zoning, land use, and planning
- 20 regulations;
- 21 with respect to any particular wind power project that is
- 22 approved under the unit's commercial solar regulation, for a
- 23 period of at least ten (10) years, beginning with the start date
- 24 of the wind power project's full commercial operation.
- 25 (b) If:
- 26 (1) a unit receives certification as a wind energy ready
- 27 community by the corporation under this section; and
- 28 (2) after the unit's certification, a project owner develops a
- 29 wind power project in the unit;
- 30 the corporation may authorize the unit to receive from the fund,
- 31 for a period of ten (10) years beginning with the start date of the
- 32 wind power project's full commercial operation, one dollar (\$1) per
- 33 megawatt hour of electricity generated by the wind power project,
- 34 if the corporation determines that the procedures and standards
- 35 set forth in the unit's wind power regulation were adhered to in the
- 36 development of the project. However, if the corporation determines
- 37 at any time after the start of the wind power project's full
- 38 commercial operation that the unit has failed to continue to meet
- 39 the requirement for certification set forth in subsection (a)(4), the
- 40 corporation shall discontinue the incentive granted under this
- 41 subsection and shall require the unit to return to the fund any
- 42 amounts collected by the unit under this subsection after the unit's



1 breach of the requirement for certification set forth in subsection
2 (a)(4).

3 Sec. 15. A unit may be certified as both:

- 4 (1) a commercial solar energy ready community under section
5 13 of this chapter; and
6 (2) a wind energy ready community under section 14 of this
7 chapter;

8 if the unit meets the requirements for certification set forth in both
9 sections 13 and 14 of this chapter.

10 Sec. 16. (a) The commercial solar and wind energy ready
11 communities incentive fund may be established for the purpose of:

- 12 (1) providing payments to commercial solar energy ready
13 communities under section 13(b) of this chapter; and
14 (2) providing payments to wind energy ready communities
15 under section 14(b) of this chapter.

16 (b) The fund shall be administered by the corporation.

17 (c) The fund consists of:

- 18 (1) appropriations made by the general assembly;
19 (2) grants, gifts, and donations intended for deposit in the
20 fund;
21 (3) interest that accrues from money in the fund; and
22 (4) any amounts returned to the fund by units under section
23 13(b) or 14(b) of this chapter.

24 (d) The treasurer of state shall invest the money in the fund not
25 currently needed to meet the obligations of the fund in the same
26 manner as other public money may be invested.



COMMITTEE REPORT

Madam President: The Senate Committee on Appropriations, to which was referred Senate Bill No. 390, 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:

Delete the title and insert the following:

A BILL FOR AN ACT to amend the Indiana Code concerning utilities.

Page 2, line 32, delete "is" and insert "**may be**".

Page 3, line 4, delete "shall" and insert "**may**".

Page 3, line 12, delete "shall" and insert "**may**".

Page 4, line 13, delete "shall" and insert "**may**".

Page 4, line 31, delete "shall" and insert "**may**".

Page 5, line 30, delete "shall" and insert "**may**".

Page 6, line 11, delete "is" and insert "**may be**".

Page 6, delete lines 24 through 25.

Page 6, line 26, delete "(e)" and insert "**(d)**".

Page 6, line 28, delete "Money in the fund".

Page 6, delete lines 29 through 41.

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 390 as introduced.)

MISHLER, Chairperson

Committee Vote: Yeas 11, Nays 2.

