



January 28, 2025

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## SENATE BILL No. 424

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DIGEST OF SB 424 (Updated January 23, 2025 12:57 pm - DI 101)

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

**Synopsis:** Small modular nuclear reactor development costs. Amends as follows the Indiana Code section concerning certificates of public convenience and necessity (certificates) for small modular nuclear reactors: (1) Authorizes a public utility to petition the Indiana utility regulatory commission (IURC) for approval to incur, before obtaining a certificate, project development costs for the development of one or more small modular nuclear reactors. (2) Sets forth certain factors that the IURC must consider in reviewing a public utility's petition to incur project development costs. (3) Requires the IURC to issue a final order approving or denying the petition not later than 180 days after receiving the petition and the public utility's complete case in chief, subject to the IURC's right to extend the time for review if the public utility does not object to the extension. (4) Provides that if a public utility receives approval to incur project development costs, the public utility may petition the IURC at any time before or during the development and execution of a small modular nuclear reactor project for the approval of a rate schedule that periodically adjusts the public utility's rates and charges to provide for the timely recovery of project development costs. (5) Provides that after reviewing a public utility's proposed rate schedule, the IURC shall approve the recovery of project development costs by the public utility if the IURC finds that project development costs that have been or will be incurred are: (A) reasonable in amount; (B) necessary to support the construction, purchase, or lease of a small modular nuclear reactor; and (C)  
(Continued next page)

**Effective:** July 1, 2025.

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### Koch, Buchanan, Leising, Doriot

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January 13, 2025, read first time and referred to Committee on Utilities.  
January 27, 2025, amended, reported favorably — Do Pass.

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## Digest Continued

consistent with the commission's finding as to the best estimate of project development costs. (6) Provides that a public utility that is authorized to recover project development costs shall: (A) recover 80% of the approved project development costs under the approved rate schedule; and (B) defer the remaining 20% of approved project development costs for recovery as part of public utility's next general rate case before the IURC. (7) Provides that the recovery of a public utility's project development costs through an approved periodic rate adjustment mechanism must occur over a period that is equal to: (A) the period over which the approved project development costs are incurred; or (B) three years; whichever is less. (8) Provides that project development costs that: (A) are incurred by a public utility; and (B) exceed the best estimate of project development costs included in the IURC's order authorizing the public utility to incur project development costs; may not be included in the public utility's rates and charges unless found by the IURC to be reasonable, necessary, and prudent in supporting the construction, purchase, or lease of the small modular nuclear reactor for which they were incurred. (9) Provides that: (A) project development costs incurred for a project that is canceled or not completed may be recovered by the public utility if found by the IURC to be reasonable, necessary, and prudently incurred; but (B) such costs shall be recovered without a return unless the IURC makes certain additional findings. (10) Provides that if a public utility does not seek: (A) approval of; or (B) cost recovery for; project development costs under the bill's provisions, the IURC may approve the deferral and amortization of project development costs in accordance with the statutory procedures set forth for construction costs. (11) Provides that these provisions expire July 1, 2035.



January 28, 2025

First Regular Session of the 124th General Assembly (2025)

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 2024 Regular Session of the General Assembly.

## SENATE BILL No. 424

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 8-1-8.5-12.1, AS AMENDED BY P.L.93-2024,  
2 SECTION 67, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 2025]: Sec. 12.1. (a) **As used in this section, "project  
4 development costs" means costs that have been incurred, or are  
5 reasonably estimated to be incurred, in the development of one (1)  
6 or more small modular nuclear reactors, including:**  
7 (1) **evaluation, design, and engineering costs;**  
8 (2) **costs for federal approvals and licensing;**  
9 (3) **costs for environmental analyses and permitting;**  
10 (4) **early site permit (as defined in 10 CFR 52.1) costs;**  
11 (5) **equipment procurement costs; and**  
12 (6) **authorized carrying costs.**  
13 ~~(a)~~ (b) **As used in this section, "small modular nuclear reactor"**  
14 **means a nuclear reactor that:**  
15 (1) **has a rated electric generating capacity of not more than four**

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1 hundred seventy (470) megawatts;

2 (2) is capable of being constructed and operated, either:

3 (A) alone; or

4 (B) in combination with one (1) or more similar reactors if

5 additional reactors are, or become, necessary;

6 at a single site; and

7 (3) is required to be licensed by the United States Nuclear

8 Regulatory Commission.

9 The term includes a nuclear reactor that is described in this subsection  
10 and that uses a process to produce hydrogen that can be used for energy  
11 storage, as a fuel, or for other uses.

12 ~~(b)~~ (c) Not later than July 1, 2023, the commission, in consultation  
13 with the department of environmental management, shall adopt rules  
14 under IC 4-22-2 concerning the granting of certificates under this  
15 chapter for the construction, purchase, or lease of small modular  
16 nuclear reactors:

17 (1) in Indiana for the generation of electricity to be directly or  
18 indirectly used to furnish public utility service to Indiana  
19 customers; or

20 (2) at the site of a nuclear energy production or generating facility  
21 that supplies electricity to Indiana retail customers on July 1,  
22 2011.

23 ~~(c)~~ (d) Rules adopted by the commission under this section must  
24 provide for the following:

25 (1) That in acting on a public utility's petition for the construction,  
26 purchase, or lease of one (1) or more small modular nuclear  
27 reactors, as described in subsection ~~(b)~~, (c), the commission shall  
28 consider the following:

29 (A) Whether, and to what extent, the one (1) or more small  
30 modular nuclear reactors proposed by the public utility will  
31 replace a loss of generating capacity in the public utility's  
32 portfolio resulting from the retirement or planned retirement  
33 of one (1) or more of the public utility's existing electric  
34 generating facilities that:

35 (i) are located in Indiana; and

36 (ii) use coal or natural gas as a fuel source.

37 (B) Whether one (1) or more of the small modular nuclear  
38 reactors that will replace an existing facility will be located on  
39 the same site as or near the existing facility and, if so, potential  
40 opportunities for the public utility to:

41 (i) make use of any land and existing infrastructure or  
42 facilities already owned or under the control of the public



- 1 utility; or
- 2 (ii) create new employment opportunities for workers who
- 3 have been, or would be, displaced as a result of the
- 4 retirement of the existing facility.
- 5 (2) That the commission may grant a certificate under this chapter
- 6 under circumstances and for locations other than those described
- 7 in subdivision (1).
- 8 (3) That the commission may not grant a certificate under this
- 9 chapter unless the owner or operator of a proposed small modular
- 10 nuclear reactor provides evidence of a plan to apply for all
- 11 licenses or permits to construct or operate the proposed small
- 12 modular nuclear reactor as may be required by:
- 13 (A) the United States Nuclear Regulatory Commission;
- 14 (B) the department of environmental management; or
- 15 (C) any other relevant state or federal regulatory agency with
- 16 jurisdiction over the construction or operation of nuclear
- 17 generating facilities.
- 18 (4) That any:
- 19 (A) reports;
- 20 (B) notices of violations; or
- 21 (C) other notifications;
- 22 sent to or from the United States Nuclear Regulatory Commission
- 23 by or to the owner or operator of a proposed small nuclear reactor
- 24 must be submitted by the owner or operator to the commission
- 25 within such times as prescribed by the commission, subject to the
- 26 commission's duty to treat as confidential and protect from public
- 27 access and disclosure any information that is contained in a report
- 28 or notice and that is considered confidential or exempt from
- 29 public access and disclosure under state or federal law.
- 30 (5) That any person that owns or operates a small modular nuclear
- 31 reactor in Indiana may not store:
- 32 (A) spent nuclear fuel (as defined in IC 13-11-2-216); or
- 33 (B) high level radioactive waste (as defined in
- 34 IC 13-11-2-102);
- 35 from the small modular nuclear reactor on the site of the small
- 36 modular nuclear reactor without first meeting all applicable
- 37 requirements of the United States Nuclear Regulatory
- 38 Commission.
- 39 ~~(d) In adopting the rules required by this section, the commission~~
- 40 ~~may adopt rules under IC 4-22-2.~~
- 41 **(e) A public utility may petition the commission for approval to**
- 42 **incur, before obtaining a certificate under this chapter, project**



1 development costs for the development of one (1) or more small  
 2 modular nuclear reactors. The public utility must file with the  
 3 petition the public utility's case in chief, which must contain the  
 4 information and supporting documentation regarding the factors  
 5 the commission must consider under this subsection. In reviewing  
 6 a petition and the supporting case in chief under this subsection,  
 7 the commission shall consider the following:

8 (1) Whether a project by the utility to construct, purchase, or  
 9 lease a small modular nuclear reactor is reasonably consistent  
 10 with:

11 (A) this section and rules adopted by the commission under  
 12 this section; and

13 (B) the purposes set forth in IC 8-1-8.8-1(b), as applicable.

14 (2) The following factors with respect to the project  
 15 development costs and the project for which they are to be  
 16 incurred:

17 (A) The amount of project development costs the public  
 18 utility anticipates incurring.

19 (B) The anticipated timeline for incurring the project  
 20 development costs.

21 (C) The anticipated date by which the public utility will  
 22 make a decision as to whether to seek a certificate under  
 23 this chapter.

24 The commission shall review a petition submitted under this  
 25 subsection and issue a final order approving or denying the petition  
 26 not later than one hundred eighty (180) days after receiving the  
 27 petition and complete case in chief. However, if the commission  
 28 makes a docket entry extending the procedural schedule and the  
 29 public utility does not object to the entered extension, the  
 30 commission may extend the one hundred eighty (180) day time  
 31 frame for issuing a final order under this subsection for the  
 32 amount of time set forth in the docket entry. In an order approving  
 33 a petition, the commission must make a finding as to the best  
 34 estimate and reasonableness of project development costs based on  
 35 the evidence of record.

36 (f) If a public utility has received approval from the commission  
 37 under subsection (e) to incur project development costs, the public  
 38 utility may petition the commission at any time before or during  
 39 the development and execution of a small modular nuclear reactor  
 40 project for the approval of a rate schedule that periodically adjusts  
 41 the public utility's rates and charges to provide for the timely  
 42 recovery of project development costs. A petition under this



1 subsection must describe any efforts by the public utility to pursue  
2 funding opportunities from the United States Department of  
3 Energy to offset the project development costs that the public  
4 utility seeks to recover under the proposed rate schedule.

5 (g) If, after reviewing a public utility's proposed rate schedule  
6 in a petition submitted under subsection (f), the commission  
7 determines that the public utility has incurred or will incur project  
8 development costs that are:

9 (1) reasonable in amount;

10 (2) necessary to support the construction, purchase, or lease  
11 of a small modular nuclear reactor; and

12 (3) consistent with the commission's finding as to the best  
13 estimate of project development costs in the commission's  
14 order of approval under subsection (e);

15 the commission shall approve the recovery of the project  
16 development costs, subject to subsections (h) and (i). However, a  
17 public utility may not file adjustments to a rate schedule to adjust  
18 for cost recovery approved under this subsection more than one (1)  
19 time every twelve (12) months.

20 (h) A public utility that recovers project development costs  
21 under subsection (g) shall recover eighty percent (80%) of the  
22 approved project development costs under the rate schedule  
23 approved under subsection (g) and shall defer the remaining  
24 twenty percent (20%) of approved project development costs,  
25 including, to the extent applicable, depreciation, allowance for  
26 funds used during construction, and post in service carrying costs,  
27 based on the overall cost of capital most recently approved by the  
28 commission, and shall recover those project development costs as  
29 part of the next general rate case that the public utility files with  
30 the commission.

31 (i) The recovery of a public utility's project development costs  
32 through a periodic rate adjustment mechanism approved by the  
33 commission under subsection (g) must occur over a period that is  
34 equal to:

35 (1) the period over which the approved project development  
36 costs are incurred; or

37 (2) three (3) years;

38 whichever is less.

39 (j) Project development costs that are found by the commission  
40 to be reasonable, necessary, and consistent with the best estimate  
41 of project development costs in the commission's order of approval  
42 under subsection (e) shall be recovered by a public utility by



1 inclusion in the public utility's rates and charges. Project  
 2 development costs that are incurred by a public utility and that  
 3 exceed the best estimate of project development costs under  
 4 subsection (e) may not be included in the public utility's rates and  
 5 charges unless found by the commission to be reasonable,  
 6 necessary, and prudent in supporting the construction, purchase,  
 7 or lease of the small modular nuclear reactor for which they were  
 8 incurred. Project development costs that are incurred by a public  
 9 utility for a project that is canceled or not completed may be  
 10 recovered by the public utility if found by the commission to be  
 11 reasonable, necessary, and prudently incurred, but such costs shall  
 12 be recovered without a return unless the commission also finds  
 13 that:

14 (1) the decision to cancel or not complete the project was  
 15 prudently made for good cause;

16 (2) the project development costs incurred will be offset, as  
 17 applicable, by:

18 (A) funding opportunities from the United States  
 19 Department of Energy that are pursued in good faith by  
 20 the public utility;

21 (B) a recoupment of revenues received by the public utility  
 22 from one (1) or more third parties for the transfer of assets  
 23 created through the costs incurred; or

24 (C) a reimbursement of costs by a single customer or  
 25 prospective customer at whose request the project was  
 26 pursued; and

27 (3) a return on the project development costs incurred is  
 28 appropriate under the circumstances to avoid harm to the  
 29 public utility and its customers.

30 (k) A public utility may elect not to seek approval of, or cost  
 31 recovery for, project development costs under subsections (e)  
 32 through (i) and instead seek approval from the commission to defer  
 33 and amortize project development costs in accordance with the  
 34 procedures set forth in section 6.5 of this chapter with respect to  
 35 construction costs.

36 (l) The commission may adopt rules under IC 4-22-2 to  
 37 implement subsections (e) through (k).

38 ~~(e)~~ (m) This section shall not be construed to affect the authority of  
 39 the United States Nuclear Regulatory Commission.

40 (n) Subsection (a) and subsections (e) through (l) expire July 1,  
 41 2035.





## COMMITTEE REPORT

Mr. President: The Senate Committee on Utilities, to which was referred Senate Bill No. 424, 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, line 27, delete "(c)" and insert "(c)".

Page 5, line 30, delete "Actual project development costs that are".

Page 5, delete lines 31 through 36.

Page 6, line 3, delete "Reasonable and necessary project development costs that are" and insert "**Project development costs that are found by the commission to be reasonable, necessary, and consistent with the best estimate of project development costs in the commission's order of approval under subsection (e) shall be recovered by a public utility by inclusion in the public utility's rates and charges. Project development costs that are incurred by a public utility and that exceed the best estimate of project development costs under subsection (e) may not be included in the public utility's rates and charges unless found by the commission to be reasonable, necessary, and prudent in supporting the construction, purchase, or lease of the small modular nuclear reactor for which they were incurred. Project development costs that are incurred by a public utility for a project that is canceled or not completed may be recovered by the public utility if found by the commission to be reasonable, necessary, and prudently incurred, but such costs shall be recovered without a return unless the commission also finds that:**

(1) the decision to cancel or not complete the project was prudently made for good cause;

(2) the project development costs incurred will be offset, as applicable, by:

(A) funding opportunities from the United States Department of Energy that are pursued in good faith by the public utility;

(B) a recoupment of revenues received by the public utility from one (1) or more third parties for the transfer of assets created through the costs incurred; or

(C) a reimbursement of costs by a single customer or prospective customer at whose request the project was pursued; and

(3) a return on the project development costs incurred is appropriate under the circumstances to avoid harm to the public utility and its customers.



**(k) A public utility may elect not to seek approval of, or cost recovery for, project development costs under subsections (e) through (i) and instead seek approval from the commission to defer and amortize project development costs in accordance with the procedures set forth in section 6.5 of this chapter with respect to construction costs."**

Page 6, delete lines 4 through 17.

Page 6, line 18, delete "(k)" and insert "**(l)**".

Page 6, line 19, delete "(j)." and insert "**(k)**".

Page 6, line 20, delete "(l)" and insert "**(m)**".

Page 6, line 22, delete "(m)" and insert "**(n)**".

Page 6, line 22, delete "(k)" and insert "**(l)**".

and when so amended that said bill do pass.

(Reference is to SB 424 as introduced.)

KOCH, Chairperson

Committee Vote: Yeas 8, Nays 3.

