



February 18, 2000

**ENGROSSED
SENATE BILL No. 490**

DIGEST OF SB 490 (Updated February 16, 2000 7:08 PM - DI 101)

Citations Affected: IC 8-1; noncode.

Synopsis: Water utilities. Allows a public water utility to apply to the Indiana utility regulatory commission (IURC) for an increase in its rates, in the form of a distribution system improvement charge (DSIC), to recover the costs of improvements to its distribution system under certain circumstances. Prohibits a public utility from filing a petition for a DSIC or a change in DSIC in the same calendar year in which the public utility has filed a request for a general increase in the basic rates and charges of the public utility. Provides that a public utility may file a petition for a change in its DSIC not more than one time every twelve months. Authorizes a health agency and the IURC to order a local water utility to extend service to an area that is located within a city or within a county containing a consolidated city and that is served by private wells if the health agency finds that: (1) the area suffers from a health hazard due to the presence of at least one contaminant; and (2) the area lies in at least one census tract or block having a median household income of less than 200% of the most recently determined federal income poverty level.

Effective: July 1, 2000.

Mills, Howard

(HOUSE SPONSORS — MAHERN, BEHNING, BOTTORFF)

January 10, 2000, read first time and referred to Committee on Commerce and Consumer Affairs.

January 18, 2000, amended, reported favorably — Do Pass.

January 25, 2000, read second time, amended, ordered engrossed.

January 26, 2000, engrossed.

January 27, 2000, read third time, passed. Yeas 44, nays 3.

HOUSE ACTION

February 7, 2000, read first time and referred to Committee on Commerce and Economic Development.

February 17, 2000, amended, reported — Do Pass.

ES 490—LS 7018/DI 75+



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February 18, 2000

Second Regular Session 111th General Assembly (2000)

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 1999 General Assembly.

ENGROSSED SENATE BILL No. 490

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 8-1-31 IS ADDED TO THE INDIANA CODE AS
2 A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2000]:

4 **Chapter 31. Distribution System Improvement Charges**
5 **Sec. 1. The definitions in IC 8-1-2-1 apply throughout this**
6 **chapter.**

7 **Sec. 2. As used in this chapter, "DSIC" refers to distribution**
8 **system improvement charge.**

9 **Sec. 3. As used in this chapter, "DSIC costs" means depreciation**
10 **expenses and pretax return associated with eligible distribution**
11 **system improvements.**

12 **Sec. 4. As used in this chapter, "DSIC revenues" means**
13 **revenues produced through a DSIC exclusive of revenues from all**
14 **other rates and charges.**

15 **Sec. 5. As used in this chapter, "eligible distribution system**
16 **improvements" means new used and useful water utility plant**
17 **projects that:**

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- 1 (1) do not increase revenues by connecting the distribution
 2 system to new customers;
 3 (2) are in service; and
 4 (3) were not included in the public utility's rate base in its
 5 most recent general rate case.

6 Sec. 6. As used in this chapter, "pretax return" means the
 7 revenues necessary to:

- 8 (1) produce net operating income equal to the public utility's
 9 weighted cost of capital multiplied by the net original cost of
 10 eligible distribution system improvements; and
 11 (2) pay state and federal income taxes applicable to such
 12 income.

13 Sec. 7. As used in this chapter, "public utility" means a:

- 14 (1) public utility (as defined in IC 8-1-2-1(a)); or
 15 (2) municipally owned utility (as defined in IC 8-1-2-1(h)).

16 Sec. 8. (a) Except as provided in subsection (d), a public utility
 17 providing water service may file with the commission rate
 18 schedules establishing a DSIC that will allow the automatic
 19 adjustment of the public utility's basic rates and charges to provide
 20 for recovery of DSIC costs.

21 (b) The public utility shall serve the office of the utility
 22 consumer counselor a copy of its filing at the time of its filing with
 23 the commission.

24 (c) Publication of notice of the filing is not required.

25 (d) A public utility may not file a petition under this section in
 26 the same calendar year in which the public utility has filed a
 27 request for a general increase in the basic rates and charges of the
 28 public utility.

29 Sec. 9. (a) When a petition is filed under section 8 of this
 30 chapter, the commission shall conduct a hearing.

31 (b) The office of the utility consumer counselor may examine
 32 information of the public utility to confirm that the system
 33 improvements are in accordance with section 5 of this chapter, to
 34 confirm proper calculation of the proposed charge, and submit a
 35 report to the commission not later than thirty (30) days after the
 36 petition is filed.

37 (c) The commission shall hold the hearing and issue its order not
 38 later than sixty (60) days after the petition is filed.

39 (d) If the commission finds that a DSIC petition complies with
 40 the requirements of this chapter, the commission shall enter an
 41 order approving the petition.

42 Sec. 10. (a) Except as provided in subsection (b), a public utility

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1 may, but is not required to, file a petition for a change in its DSIC
2 not more often than one (1) time every twelve (12) months.

3 (b) Except as provided in section 15 of this chapter, a public
4 utility may not file a petition for a change in its DSIC in the same
5 calendar year in which the public utility has filed a request for a
6 general increase in the basic rates and charges of the public utility.

7 **Sec. 11.** In determining an appropriate pretax return, the
8 commission may consider the following factors:

9 (1) The current state and federal income tax rates.

10 (2) The public utility's actual regulatory capital structure.

11 (3) The actual cost rates for the public utility's long term debt
12 and preferred stock.

13 (4) The public utility's cost of common equity.

14 (5) Other components that the commission considers
15 appropriate.

16 **Sec. 12.** The cost of common equity to be used in the calculation
17 of the charge shall be the most recent determination by the
18 commission in a general rate proceeding of the public utility. If the
19 commission finds that the last such determination is no longer
20 representative of current conditions, the commission may make a
21 new determination of the common equity cost rate for use in
22 determining the charge, after notice and hearing. The most recent
23 prior determination shall be used pending any redetermination.

24 **Sec. 13.** The commission may not approve a DSIC to the extent
25 it would produce total DSIC revenues exceeding five percent (5%)
26 of the public utility's base revenue level approved by the
27 commission in the public utility's most recent general rate
28 proceeding.

29 **Sec. 14.** The DSIC may be calculated based on a reasonable
30 estimate of sales in the period in which the charge will be in effect.
31 At the end of each twelve (12) month period the charge is in effect,
32 and using procedures approved by the commission, the public
33 utility shall reconcile the difference between DSIC revenues and
34 DSIC costs during that period and recover or refund the
35 difference, as appropriate, through adjustment of the charge.

36 **Sec. 15.** A public utility that has implemented a DSIC under this
37 chapter shall file revised rate schedules resetting the charge if new
38 basic rates and charges become effective for the public utility
39 following a commission order authorizing a general increase in
40 rates and charges that includes in the utility's rate base eligible
41 distribution system improvements reflected in the DSIC.

42 **Sec. 16.** For purposes of IC 8-1-2-42(a), the filing of a DSIC and

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1 a change in a DSIC is not a general increase in basic rates and
2 charges.

3 **Sec. 17. The commission may adopt by rule under IC 4-22-2 or**
4 **by order other procedures not inconsistent with this chapter that**
5 **the commission finds reasonable or necessary to administer a**
6 **DSIC.**

7 SECTION 2. IC 8-1-32 IS ADDED TO THE INDIANA CODE AS
8 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
9 1, 2000]:

10 **Chapter 32. Water Wells**

11 **Sec. 1. This chapter applies only to a subject area located**
12 **entirely or partially within:**

- 13 (1) a city; or
14 (2) a county having a consolidated city.

15 **Sec. 2. The definitions in IC 8-1-2-1 apply throughout this**
16 **chapter.**

17 **Sec. 3. As used in this chapter, "health agency" refers to either**
18 **of the following:**

- 19 (1) The state department of health.
20 (2) A local health department (as defined in IC 16-18-2-211).

21 **Sec. 4. As used in this chapter, "project" refers to the extension**
22 **of water utility service to a subject area.**

23 **Sec. 5. As used in this chapter, "subject area" refers to an area**
24 **described in section 6 of this chapter.**

25 **Sec. 6. (a) Notwithstanding IC 8-1-2-103(a), if a health agency**
26 **determines that an area located within a city or within a county**
27 **having a consolidated city:**

- 28 (1) is served by private water wells;
29 (2) suffers from a health hazard due to the presence of at least
30 one (1) contaminant; and
31 (3) incorporates at least a portion of at least one (1) census
32 track or block having a median household income of less than
33 two hundred percent (200%) of the most recently determined
34 federal income poverty level;

35 **the health agency may direct the nearest public utility that is**
36 **authorized to provide water utility service within the municipality**
37 **to prepare and provide to the commission an estimate of the cost**
38 **of extending water utility service to the subject area and request**
39 **the commission to approve the project.**

40 **(b) The costs estimated under subsection (a) may include the**
41 **following:**

- 42 (1) Installing the mains and connecting service lines on

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properties within the subject area.

(2) Abandoning and plugging existing wells in accordance with IC 25-39-2-14 and rules adopted under IC 25-39 on properties within the subject area.

(3) Restoration of areas disturbed by the project.

(4) Other reasonable costs of extending water utility service to the subject area.

Sec. 7. If the commission approves the project, the commission shall, at the request of the health agency, direct the local public utility to undertake and complete the project. The commission shall enter such an order only if both of the following apply:

(1) The commission's order authorizes an increase in the local public utility's water rates in an amount sufficient to cover the local public utility's depreciation expense related to its investment in the project and provide the local public utility an after-tax return on the undepreciated portion of the project at a rate not less than the rate of return allowed the local public utility on its rate base in its most recent general rate order as:

(A) set out in the order; or

(B) stipulated by the local public utility and the office of the utility consumer counselor.

(2) The rate adjustment associated with the project will not increase the local public utility's rates by more than one percent (1%).

Sec. 8. A rate adjustment authorized under section 7 of this chapter must be reflected in an amended rate schedule filed with the commission not later than thirty (30) days after the commission enters the order, effective upon completion of the project.

Sec. 9. A rate adjustment authorized under section 7 of this chapter:

(1) is not considered as a general increase in the local public utility's basic rates and charges for purposes of IC 8-1-2-42(a); and

(2) may be further adjusted by the commission to reflect actual project costs upon petition by the local public utility or the office of the utility consumer counselor.

Sec. 10. If the commission orders a project under this chapter, the health agency shall require owners of properties in the subject area to connect those properties to a project main and to abandon and plug their existing wells in accordance with IC 25-39-2-14 and rules adopted under IC 25-39.

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Sec. 11. (a) Upon completion of a project, the local public utility shall be responsible for operating and maintaining;

- (1) the mains installed; and**
- (2) any portion of the connecting service lines that are located in a public right-of-way.**

(b) Upon completion of a project, each property owner shall be responsible for maintaining, repairing, and replacing, if necessary, the portion of the service line on the property served that is not required to be serviced by the local public utility under subsection (a).

Sec. 12. This chapter does not reduce or supersede the commission's jurisdiction under IC 8-1-2-86 and IC 8-1-2-86.5.

SECTION 3. [EFFECTIVE JULY 1, 2000] (a) If both of the following apply, a local water utility may, but is not required to, adjust its rates under IC 8-1-32, as added by this act, upon approval by the Indiana utility regulatory commission:

- (1) The local water utility has undertaken a project requested by a municipal council and confirmed by an appropriate health agency under P.L.221-1997, SECTION 2, before July 1, 2000.**
 - (2) The local water utility has not adjusted its rates as permitted by P.L.221-1997, SECTION 2.**
- (b) This SECTION expires July 1, 2001.**

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COMMITTEE REPORT

Mr. President: The Senate Committee on Commerce and Consumer Affairs, to which was referred Senate Bill No. 490, 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 3, line 27, delete "section" and insert "**chapter**".

and when so amended that said bill do pass.

(Reference is to SB 490 as introduced.)

MILLS, Chairperson

Committee Vote: Yeas 7, Nays 0.

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SENATE MOTION

Mr. President: I move that Senator Howard be added as second author of Senate Bill 490.

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SENATE MOTION

Mr. President: I move that Senate Bill 490 be amended to read as follows:

Page 2, line 21, delete "summary".

Page 2, line 23, after "confirm" insert "**that the system improvements are in accordance with section 5 of this chapter, to confirm**".

Page 2, line 24, after "charge" insert ",."

Page 2, line 26, delete "summary".

Page 4, line 11, delete "." insert "**and request the commission to approve the project.**".

(Reference is to SB 490 as printed January 19, 2000.)

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Commerce and Economic Development, to which was referred Senate Bill 490, 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, line 10, after "eligible" insert "**distribution**".

Page 1, line 15, after "eligible" insert "**distribution**".

Page 2, line 9, after "eligible" insert "**distribution**".

Page 2, between lines 11 and 12, begin a new paragraph and insert:
"Sec. 7. As used in this chapter, "public utility" means a:

(1) public utility (as defined in IC 8-1-2-1(a)); or

(2) municipally owned utility (as defined in IC 8-1-2-1(h))."

Page 2, line 12, delete "Sec. 7." and insert "**Sec. 8.**".

Page 2, line 12, delete "A" and insert "**Except as provided in subsection (d), a**".

Page 2, between lines 19 and 20, begin a new paragraph and insert:

"(d) A public utility may not file a petition under this section in the same calendar year in which the public utility has filed a request for a general increase in the basic rates and charges of the public utility."

Page 2, line 20, delete "Sec. 8." and insert "**Sec. 9.**".

Page 2, line 20, delete "7" and insert "**8**".

Page 2, delete lines 30 through 31, begin a new paragraph and insert:

"(d) If the commission finds that a DSIC petition complies with the requirements of this chapter, the commission shall enter an order approving the petition."

Page 2, line 32, delete "Sec. 9. A" and insert "**Sec. 10. (a) Except as provided in subsection (b), a**".

Page 2, line 34, delete "three (3)" and insert "**twelve (12)**".

Page 2, between lines 34 and 35, begin a new paragraph and insert:

"(b) Except as provided in section 15 of this chapter, a public utility may not file a petition for a change in its DSIC in the same calendar year in which the public utility has filed a request for a general increase in the basic rates and charges of the public utility."

Page 2, delete line 35, begin a new paragraph and insert:

"Sec. 11. In determining an appropriate pretax return, the commission may consider the following factors:"

Page 2, line 37, after "actual" insert "**regulatory**".

Page 3, line 1, delete "Sec. 11." and insert "**Sec. 12.**".



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Page 3, line 9, delete "Sec. 12." and insert "**Sec. 13.**".

Page 3, line 11, delete "revenues from providing water utility service." and insert "**base revenue level approved by the commission in the public utility's most recent general rate proceeding.**".

Page 3, line 12, delete "Sec. 13." and insert "**Sec. 14.**".

Page 3, line 19, delete "Sec. 14." and insert "**Sec. 15.**".

Page 3, line 25, delete "Sec. 15." and insert "**Sec. 16.**".

Page 3, line 28, delete "Sec. 16." and insert "**Sec. 17.**".

Page 3, line 28, after "adopt" insert "**by rule under IC 4-22-2 or**".

Page 3, line 28, delete "or rule".

Page 3, between lines 34 and 35, begin a new paragraph and insert:

"Sec. 1. This chapter applies only to a subject area located entirely or partially within:

(1) a city; or

(2) a county having a consolidated city."

Page 3, line 35, delete "Sec. 1." and insert "**Sec. 2.**".

Page 3, line 37, delete "Sec. 2." and insert "**Sec. 3.**".

Page 3, line 41, delete "Sec. 3." and insert "**Sec. 4.**".

Page 4, line 1, delete "Sec. 4." and insert "**Sec. 5.**".

Page 4, line 2, delete "5" and insert "**6**".

Page 4, line 3, delete "Sec. 5." and insert "**Sec. 6.**".

Page 4, line 4, delete "municipality:" and insert "**city or within a county having a consolidated city:**".

Page 4, line 27, delete "Sec. 6." and insert "**Sec. 7.**".

Page 5, line 3, delete "Sec. 7." and insert "**Sec. 8.**".

Page 5, line 3, delete "6" and insert "**7**".

Page 5, line 7, delete "Sec. 8." and insert "**Sec. 9.**".

Page 5, line 7, delete "6" and insert "**7**".

Page 5, line 15, delete "Sec. 9." and insert "**Sec. 10.**".

Page 5, line 20, delete "Sec. 10." and insert "**Sec. 11.**".

Page 5, line 30, delete "Sec. 11." and insert "**Sec. 12.**".

and when so amended that said bill do pass.

(Reference is to SB 490 as reprinted January 26, 2000.)

BOTTORFF, Chair

Committee Vote: yeas 11, nays 0.



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