

# HOUSE BILL No. 1245

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 8-1-2-103; IC 8-1.5-4-14.

**Synopsis:** Recovery of fire protection costs. Gives the Indiana utility regulatory commission authority to determine whether fire protection costs should be recovered from customers of a water utility other than the municipality that provides the fire protection services.

**Effective:** July 1, 2000.

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January 10, 2000, read first time and referred to Committee on Commerce and Economic Development.

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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.

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# HOUSE BILL No. 1245



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 8-1-2-103 IS AMENDED TO READ AS  
2 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 103. (a) No public  
3 utility, or agent or officer thereof, or officer of any municipality  
4 constituting a public utility, as defined in this chapter, may charge,  
5 demand, collect, or receive from any person a greater or less  
6 compensation for any service rendered or to be rendered, or for any  
7 service in connection therewith, than that prescribed in the published  
8 schedules or tariffs then in force or established as provided herein, or  
9 than it charges, demands, collects, or receives from any other person  
10 for a like and contemporaneous service. A person who recklessly  
11 violates this subsection commits a Class A misdemeanor.

12 (b) Notwithstanding subsection (a), ~~of this section~~, if a city of less  
13 than twenty thousand (20,000) in population according to the most  
14 recent federal decennial census, constituting a public water utility, and  
15 acting as a public utility prior to May 1, 1913, either as such city, or by  
16 any commercial association, chamber of commerce, or committee with  
17 the consent of such city, entered into any agreement with any person



1 engaged in manufacturing any articles of commerce to furnish free  
 2 water for a certain limited time as an inducement to such person so  
 3 engaged in manufacturing to locate the establishment or manufacturing  
 4 plant of such person within such city, such city may carry out such  
 5 agreement to furnish free water to such person for the period of time  
 6 remaining, as stipulated in such contract. This chapter does not prohibit  
 7 any public utility from supplying or furnishing free service or service  
 8 at special rates to any municipality, or any institution or agency of such  
 9 municipality, in cases where the supplying or furnishing of such free  
 10 service or service at special rates is stipulated in any provision of the  
 11 franchise under which such public utility was operating before May 16,  
 12 1919, or, in the event that such franchise shall have been surrendered,  
 13 from supplying or furnishing such free service or service at special  
 14 rates until such time as the franchise would have expired had it not  
 15 been surrendered under this chapter; and it shall be the duty of any  
 16 utility operating under any franchise, stipulating for free service or  
 17 service at special rates to municipality, or any institution or agency of  
 18 such municipality, to furnish such free service or service at special  
 19 rates.

20 (c) This subsection applies to a public utility that provides water for  
 21 public fire protection services in both a county containing a  
 22 consolidated city and in portions of counties that are adjacent to the  
 23 county containing a consolidated city. This subsection applies  
 24 throughout the territory served by the public utility. In the case of a  
 25 public utility furnishing water and beginning on January 1, 1994, the  
 26 charges for the production, storage, transmission, sale and delivery, or  
 27 furnishing of water for public fire protection purposes shall be included  
 28 in the basic rates of the customers of the public utility. However, the  
 29 construction cost of any fire hydrant installed after December 31, 1993;  
 30 at the request of a municipality, township, county, or other  
 31 governmental unit shall be paid for by or on behalf of the municipality,  
 32 township, county, or other governmental unit. The change in the  
 33 recovery of current revenue authorized by this section shall be reflected  
 34 in a new schedule of rates to be filed with the commission at least thirty  
 35 (30) days before the time the new schedule of rates is to take effect.  
 36 The new schedule of rates shall:

- 37 (1) eliminate fire protection charges billed directly to  
 38 governmental units, other than charges for the construction cost  
 39 for new hydrants installed after December 31, 1993; and  
 40 (2) increase the rates charged each customer of the utility, based  
 41 on equivalent meter size, by an amount equal to:

42 (A) the revenues lost from the elimination of such fire



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1 protection charges; divided by

2 (B) the current number of equivalent five-eighths (5/8) inch  
3 meters:

4 This change in the recovery of public fire protection costs shall not be  
5 considered to be a general increase in basic rates and charges of the  
6 public utility and is not subject to the notice and hearing requirements  
7 applicable to general rate proceedings. The commission shall approve  
8 the new schedule of rates that are to be effective January 1, 1994.

9 (d) This subsection applies to a public utility or a municipally  
10 owned water utility that is not subject to subsection (c). Except as  
11 provided in subsection (e); in the case of a public utility or municipally  
12 owned water utility furnishing water; if the governing body of the  
13 governmental unit with the greatest number of customers of the utility  
14 adopts an ordinance providing that costs shall be recovered under this  
15 subsection; the charges for the production; storage; transmission; sale  
16 and delivery; or furnishing of water for public fire protection purposes  
17 shall be included in the basic rates of all customers of the utility.  
18 However; on or after a date specified in the ordinance; the construction  
19 cost of any fire hydrant installed at the request of a municipality;  
20 township; county; or other governmental unit that adopts an ordinance  
21 under this subsection shall be paid for by or on behalf of the  
22 municipality; township; county; or other governmental unit. The change  
23 in the recovery of current revenue authorized by the ordinance shall be  
24 reflected in a new schedule of rates to be filed with the commission at  
25 least thirty (30) days before the time the new schedule of rates is to take  
26 effect. The new schedule of rates shall:

27 (1) eliminate fire protection charges billed directly to  
28 governmental units; other than charges for the construction cost  
29 for new hydrants installed on and after the date specified in the  
30 ordinance; and

31 (2) increase the rates charged each customer of the utility; based  
32 on equivalent meter size; by an amount equal to:

33 (A) the revenues lost from the elimination of such fire  
34 protection charges; divided by

35 (B) the current number of equivalent five-eighths (5/8) inch  
36 meters:

37 This change in the recovery of public fire protection costs shall not be  
38 considered to be a general increase in basic rates and charges of the  
39 utility and is not subject to the notice and hearing requirements  
40 applicable to general rate proceedings. The commission shall approve  
41 the new schedule of rates that are to be effective on a date specified in  
42 the ordinance.



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1 (e) This subsection applies to a municipally owned water utility in  
 2 a city having a population of more than forty-three thousand (43,000)  
 3 but less than forty-three thousand seven hundred (43,700). The city  
 4 may adopt a plan to recover costs as described in subsection (d)  
 5 without passing an ordinance, if the plan applies only to customers of  
 6 the utility residing in a county having a population of more than two  
 7 hundred thousand (200,000) but less than three hundred thousand  
 8 (300,000). If the city wishes to adopt such a plan, the city shall file a  
 9 new schedule of rates with the commission, but is not subject to  
 10 commission approval of the rates.

11 (f) In the case of a change in the method of recovering public fire  
 12 protection costs under an ordinance adopted under subsection (d):

13 (1) on or after July 1, 1997, a customer of the utility located  
 14 outside the limits of a municipality whose property is not located  
 15 within one thousand (1,000) feet of a fire hydrant (measured from  
 16 the hydrant to the nearest point on the property line of the  
 17 customer) must be excluded from the increase in rates attributable  
 18 to the change and must not be included in the number of  
 19 equivalent five-eighths (5/8) inch meters for purposes of  
 20 subsection (d)(2)(B); or

21 (2) before July 1, 1997, the commission may:

22 (A) in the context of a general rate proceeding initiated by the  
 23 utility; or

24 (B) upon petition of:

25 (i) the utility;

26 (ii) the governmental unit that passed the ordinance; or

27 (iii) an affected customer;

28 prospectively exclude public fire protection costs from the rates  
 29 charged to customers located outside the limits of any  
 30 municipality whose property is not located within one thousand  
 31 (1,000) feet of a fire hydrant (measured from the hydrant to the  
 32 nearest point on the property line of the customer) if the  
 33 commission authorizes a simultaneous increase in the rates of the  
 34 utility's other customers to the extent necessary to prevent a loss  
 35 of revenues to the utility:

36 An increase in the rates of the utility's other customers under  
 37 subdivision (2) may not be construed to be a general increase in basic  
 38 rates and charges of the utility and is not subject to the hearing  
 39 requirements applicable to general rate proceedings. This subsection  
 40 does not prohibit the commission from adopting different methods of  
 41 public fire protection cost recovery for unincorporated areas after  
 42 notice and hearing within the context of a general rate proceeding or



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1 other appropriate proceeding.

2 SECTION 2. IC 8-1.5-4-14 IS AMENDED TO READ AS  
3 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 14. (a) This subsection  
4 applies to a municipality that is not subject to IC 8-1-2-103(c) or has  
5 not adopted an ordinance to become subject to IC 8-1-2-103(d). The  
6 reasonable cost and value of any service rendered to the municipality  
7 by the waterworks by furnishing water for public purposes or by  
8 maintaining hydrants and other facilities for fire protection shall be:

- 9 (1) charged against the municipality; and  
10 (2) paid for in monthly installments as the service accrues out of  
11 the current revenues of the municipality, collected or in process  
12 of collection, and the tax levy of the municipality made by it to  
13 raise money to meet its necessary current expenses.

14 (b) This subsection applies to a municipality that is subject to  
15 IC 8-1-2-103(c); that has adopted an ordinance to become subject to  
16 IC 8-1-2-103(d); or that has adopted a plan described in  
17 IC 8-1-2-103(d) as prescribed in IC 8-1-2-103(e). The reasonable cost  
18 and value of any service rendered to the municipality by the  
19 waterworks by furnishing water for public purposes shall be:

- 20 (1) charged against the municipality; and  
21 (2) paid for in monthly installments as the service accrues out of  
22 the current revenues of the municipality, collected or in process  
23 of collection, and the tax levy of the municipality made by it to  
24 raise money to meet its necessary current expenses.

25 Except as provided in subsection (d); **If approved by the commission**  
26 **as part of the utility's tariff structure**, the cost and value of  
27 maintaining hydrants and other facilities for fire protection shall be  
28 excluded from the charges against the municipality and shall be  
29 recovered from the other customers of the waterworks, beginning on  
30 January 1, 1994, in a municipality subject to IC 8-1-2-103(c) and  
31 beginning on a date provided in the ordinance for a municipality that  
32 adopts an ordinance under IC 8-1-2-103(d). The change in the recovery  
33 of current revenue authorized by this section shall be reflected in a  
34 schedule of new rates to be filed with the commission at least thirty  
35 (30) days before the time the schedule of new rates is to take effect.

36 (c) The compensation for the service provided to the municipality  
37 shall, in the manner prescribed by this chapter, be paid into the separate  
38 and special fund created by setting aside the income and revenues of  
39 the waterworks and is subject to apportionment to the operating,  
40 maintenance, depreciation, and bond and interest redemption accounts.

41 (d) This subsection applies to a city having a population of more  
42 than forty-three thousand (43,000) but less than forty-three thousand



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1 seven hundred (43,700). The cost and value of maintaining hydrants  
2 and other facilities for fire protection may be recovered from customers  
3 of the waterworks residing:  
4 (1) in a county having a population of more than two hundred  
5 thousand (200,000) but less than three hundred thousand  
6 (300,000); and  
7 (2) in a township having a population of more than six thousand  
8 (6,000) but less than seven thousand (7,000) located in a county  
9 having a population of more than one hundred fifty thousand  
10 (150,000) but less than one hundred sixty thousand (160,000);  
11 beginning on a date determined by the city. The city shall file a new  
12 schedule of rates with the commission as set forth in subsection (b); but  
13 is not subject to commission approval of the rates.

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