

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

301 State House
(317) 232-9855

FISCAL IMPACT STATEMENT

LS 7834
BILL NUMBER: HB 1308

DATE PREPARED: Jan 4, 2001
BILL AMENDED:

SUBJECT: IURC Enforcement Authority.

FISCAL ANALYST: John Parkey
PHONE NUMBER: 232-9854

FUNDS AFFECTED: GENERAL
X DEDICATED
FEDERAL

IMPACT: State

Summary of Legislation: This bill gives the Indiana Utility Regulatory Commission (IURC) authority to impose certain penalties on a utility that violates Indiana utility law or fails to comply with an order of the Commission or a division of the Commission. The bill provides for the deposit of revenue collected through monetary penalties in the Public Utility Fund account. The bill authorizes the Commission or a division of the Commission to order a utility to provide service within 24 hours if the Commission or division determines that the provision of service is necessary to prevent injury to any person, alleviate an emergency, or remedy a sustained level of unacceptable service. This bill provides that each day a utility fails to provide acceptable service after ordered by the Commission or a division of the Commission is a separate violation for purposes of the Commission's authority to impose monetary penalties. The bill repeals a superseded statute relating to the Commission's enforcement powers.

Effective Date: July 1, 2001.

Explanation of State Expenditures: This proposal extends the IURC's enforcement power over certain regulated and unregulated Indiana utilities. The proposal would give the IURC the ability to: impose civil penalties, issue cease and desist orders, and modify permits issued by the Commission. Under current law, the IURC can only revoke a certificate or permit. While this bill would make more options available to the IURC in the event of a violation or act of noncompliance, it should not require any additional procedures or expenditures for the Commission.

The proposal also authorizes the Attorney General to bring an action in a court that has jurisdiction over the noncompliant utility. If more legal actions are sought, the administrative burden of the Attorney General's office may increase.

Explanation of State Revenues: Under this bill, the IURC could impose a civil penalty of up to \$100,000 for each violation or fine the utility not more than 15% of the utility's gross annual intrastate operating

revenue (as reported in the most recent *IURC Public Utility Fee Report*) or both for certain violations or acts of noncompliance. If the IURC or the Office of the Utility Consumer Counselor (OUCC) directs a utility to provide service to avoid personal injury or alleviate an emergency situation, each day the utility does not comply with the order would be considered a separate violation subject to a civil penalty.

Penalties would be deposited into the Public Utility Fund, which is used for the operation of the IURC and the OUCC. It is not known in how many instances the IURC would impose monetary penalties

At the end of the fiscal year, if the total public utility fees in the Public Utility Fund plus the unspent balance of the Fund exceeds the total appropriations for the IURC and the OUCC (plus a \$250,0000 contingency fund), then the IURC must compute each utility's share of the excess. This share is then deducted from any subsequent payment of the utility's public utility fees. In FY 2000, public utility fines and fees generated \$8,053,986.

Explanation of Local Expenditures: This bill increases the monetary liabilities of municipally owned utilities that violate the Commission's rules or decisions.

Explanation of Local Revenues:

State Agencies Affected: Indiana Utility Regulatory Commission; Office of the Utility Consumer Counselor; Office of the Attorney General.

Local Agencies Affected: Municipally owned utilities.

Information Sources: Mike Leppert, Executive Director of External Affairs, IURC, (317) 232-2714.