
HOUSE BILL No. 1308

DIGEST OF INTRODUCED BILL

Citations Affected: IC 8-1.

Synopsis: IURC enforcement authority. 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. Provides for the deposit of revenue collected through monetary penalties in the public utility fund account. 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. Provides that each day a utility fails to provide acceptable service after ordered by the commission or division is a separate violation for purposes of the commission's authority to impose monetary penalties. Repeals a superseded statute relating to the commission's enforcement powers.

Effective: July 1, 2001.

Bottorff

January 9, 2001, read first time and referred to Committee on Commerce, Economic Development and Technology.

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First Regular Session 112th General Assembly (2001)

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 2000 General Assembly.

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HOUSE BILL No. 1308



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

Be it enacted by the General Assembly of the State of Indiana:

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SECTION 1. IC 8-1-2-115.1 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: **Sec. 115.1. (a) As used in this section, "order" refers to an order, a decision, a decree, a rule, a direction, a demand, or a requirement of the commission or a division of the commission.**

(b) As used in this section, "utility" refers to any of the following:

- (1) A public utility regulated under this chapter.**
- (2) For purposes of section 128 of this chapter, any of the following:**
 - (A) A rural electric membership corporation under IC 8-1-13.**
 - (B) A municipally owned utility under IC 8-1.5.**
 - (C) A public utility that has withdrawn from the commission's jurisdiction under any provision of Indiana law or over which the commission has declined jurisdiction under any provision of Indiana law.**



1 (c) If, after notice and hearing, the commission finds that a
2 utility has:

3 (1) violated a provision of this title over which the commission
4 has jurisdiction; or

5 (2) failed to comply with any part of an order;

6 the commission may act as provided in subsection (d).

7 (d) The commission may issue an order that does one (1) or
8 more of the following if the commission makes a finding under
9 subsection (c):

10 (1) Impose a civil penalty of not more than one hundred
11 thousand dollars (\$100,000) for each violation or
12 noncompliance. For purposes of this subdivision, the
13 commission may consider each day a violation or
14 noncompliance occurs to be a separate violation or
15 noncompliance.

16 (2) Impose a civil penalty of not more than fifteen percent
17 (15%) of the gross intrastate operating revenue of the utility.
18 A utility's gross intrastate operating revenue shall be
19 determined from the most recent public utility fee report filed
20 under IC 8-1-6-5.

21 (3) Issue an order that the utility cease and desist from the
22 violation or noncompliance.

23 (4) Issue an order mandating corrective action to alleviate the
24 violation or noncompliance.

25 (5) Revoke or modify the terms of the utility's certificate of
26 territorial authority, certificate of public convenience and
27 necessity, or other permit issued by the commission.

28 (e) The commission shall consider the following when
29 determining the appropriateness of the amount of a civil penalty or
30 compromise amount:

31 (1) The size of the utility.

32 (2) The gravity of the violation or noncompliance.

33 (3) The good faith of the utility in attempting to remedy the
34 violation or achieve compliance after receiving notification of
35 the violation or noncompliance.

36 (f) The attorney general may bring an action in the name of the
37 state of Indiana to enforce an order of the commission under
38 subsection (d), including the collection of an unpaid civil penalty
39 imposed by the commission under subsection (d)(1) or (d)(2). The
40 attorney general may bring the action in a court that has
41 jurisdiction.

42 (g) All civil penalties accruing under this section are cumulative.

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- 1 A suit for recovery of one (1) civil penalty does not bar or affect:
 2 (1) the recovery of any other civil penalty or forfeiture; or
 3 (2) a criminal prosecution against:
 4 (A) a public utility;
 5 (B) an officer, a director, an agent, or an employee of a
 6 public utility; or
 7 (C) any other person.

8 (h) The secretary of the commission shall deposit any civil
 9 penalties collected under this section in the commission public
 10 utility fund account established under IC 8-1-6.

11 (i) The authority granted under this section is in addition to, and
 12 may be exercised independently of, any other authority granted
 13 under this article.

14 SECTION 2. IC 8-1-2-128 IS ADDED TO THE INDIANA CODE
 15 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 16 1, 2001]: Sec. 128. (a) As used in this section, "utility" refers to any
 17 of the following:

- 18 (1) A public utility regulated under this chapter.
 19 (2) A rural electric membership corporation under IC 8-1-13.
 20 (3) A municipally owned utility under IC 8-1.5.
 21 (4) A public utility that has withdrawn from the commission's
 22 jurisdiction under any provision of Indiana law or over which
 23 the commission has declined jurisdiction under any provision
 24 of Indiana law.

25 (b) If the commission or a division of the commission:

- 26 (1) determines that the provision of utility service is necessary
 27 to:
 28 (A) prevent injury to any person;
 29 (B) alleviate an emergency; or
 30 (C) remedy a sustained level of unacceptable service to
 31 consumers; and

32 (2) directs a utility to provide utility service;
 33 the utility shall provide acceptable utility service within
 34 twenty-four (24) hours after receiving direction from the
 35 commission or division of the commission.

36 (c) If the commission finds that a utility has violated subsection
 37 (b), the commission may impose civil penalties on the utility under
 38 section 115.1 of this chapter.

39 (d) For purposes of imposing civil penalties on a utility under
 40 section 115.1 of this chapter, each day that the utility fails to
 41 provide service as directed by the commission or a division of the
 42 commission is considered a separate violation.



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1 SECTION 3. IC 8-1-6-2 IS AMENDED TO READ AS FOLLOWS
 2 [EFFECTIVE JULY 1, 2001]: Sec. 2. (a) All fees herein prescribed
 3 shall be paid into the treasury of the state of Indiana through the
 4 secretary of the commission and quietused into an account to be known
 5 as the commission public utility fund account. This account shall be
 6 used for enforcing the provisions of IC 8-1-1 and IC 8-1-2 and shall be
 7 utilized only for the purpose of funding the expenses of the commission
 8 and the consumer counselor in amounts not in excess of their
 9 respective appropriations by the general assembly, plus the contingency
 10 fund. All appropriations under this chapter paid out of the commission
 11 public utility fund account shall be subject to the prior approval of the
 12 general assembly, the governor, and the ~~state~~ budget agency.

13 (b) **The following shall also be deposited in the commission**
 14 **public utility fund account:**

15 (1) Fees collected from municipalities under IC 8-1-2-85. ~~shall~~
 16 ~~also be deposited in the commission public utility fund account;~~
 17 ~~as if they were fees collected from public utilities under this~~
 18 ~~chapter.~~

19 (2) **Civil penalties collected under IC 8-1-2-115.1.**

20 SECTION 4. IC 8-1-2-115 IS REPEALED [EFFECTIVE JULY 1,
 21 2001].

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