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FISCAL IMPACT STATEMENT

LS 6624
BILL NUMBER: HB 1211

NOTE PREPARED: Jan 6, 2003
BILL AMENDED:

SUBJECT: Public Power and Finance Authority.

FIRST AUTHOR: Rep. Fry
FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: X **GENERAL**
X **DEDICATED**
FEDERAL

IMPACT: State & Local

Summary of Legislation: This bill creates the Public Power and Finance Authority. It allows the Authority to sell electricity at cost to Indiana customers other than investor owned utilities. The bill requires the Authority to use project labor agreements. The bill also allows the Authority to charge fees to use its transmission lines and use the revenue generated by the fees to repay bonds.

The bill provides that the Indiana Utility Regulatory Commission (IURC) has jurisdiction over:

(1) purchases of clean coal technology; and
(2) certain merchant power plants.

The bill requires a merchant power plant to give notice of a proposed facility to property owners within one half mile of the proposed facility, to hold hearings, and to issue written findings. It establishes the criteria the IURC must consider when considering a merchant power plant application. The bill requires the IURC to obtain a recommendation from the Department of Natural Resources regarding a merchant power plant's planned use of and potential effect on a water resource and to have prepared an assessment of the plant's effect on a water resource and its users. The bill also requires a merchant power plant that seeks approval from or alternative regulation by the IURC to establish proof of financial responsibility in an amount determined by the IURC. The bill requires the IURC to issue a decision on a merchant power plant's petition for approval or for alternative regulation not later than 18 months after the date of the petition. It lists the duties of the merchant power plant following approval by the IURC. The bill provides the circumstances under which the IURC may revoke its approval of a merchant power plant. The bill also allows the IURC to decline to exercise jurisdiction over a facility that has applied to the IURC before March 1, 2003.

Effective Date: Upon passage; July 1, 2003.

Explanation of State Expenditures: *Public Power and Finance Authority*: The only direct impact on state expenditures caused by the creation of the Public Power and Finance Authority (PPFA), a body corporate and politic, is expected to be administrative and covered using existing resources or revenues provided for in the bill. All expenditures made by the PPFA would be financed through bonds issued and backed by the Authority or through revenue generated through the sale of electricity.

IURC: This bill places merchant power plants under the jurisdiction of the IURC. Under this proposal, a new merchant power plant would be required to petition the IURC for approval to construct the facility. The bill requires the IURC to consider the following when reviewing a plant's petition: location, need, financing, reporting requirements, a plant's impact on utility suppliers and customers, and recommendations from the Department of Natural Resources. The bill also requires the Commission to establish rules and standards related to a potential plant's closure. The IURC is required by this bill to give preference to brownfield sites, sites of existing plants, or other sites identified for power plant or heavy industrial development in local land use plans.

The bill also requires the IURC to exercise jurisdiction over exiting merchant power plants if the operators of a facility do not use contractors, subcontractors, or work crews who have not completed a jointly administered labor and management program approved by the United States Department of Labor's Bureau of Apprenticeship Training.

Any plants proposed and built by the PPFA would be under the jurisdiction of the IURC. The bill also requires the PPFA to petition the IURC for approval before constructing a facility. These provisions could require the IURC to conduct more hearings, thereby increasing its administrative burden.

The bill also gives the IURC jurisdiction over transactions involving clean coal technology made under IC 8-1-2-6.1. This provision could also increase the Commission's administrative cots.

While the various provisions in this bill will increase the IURC and OUCC's administrative costs, it is presumed that their impact will not be greater than the resources current available to the Commission.

DNR: The bill requires the Department of Natural Resources (DNR) to make a recommendation to the IURC regarding a proposed merchant power plant's planned use of, and its potential effect on, water resources. The bill allows the Department to make its recommendation based on a specified assessment provided by the petitioning power plant or through the Department's own activities. The impact of this bill on the DNR will depend on the number of powerplants that petition the IURC and on the specific requirements of each site.

Background on IURC and OUCC Funding: The operating budgets of the IURC and OUCC are funded by regulated utilities operating in Indiana. The IURC determines the rate at which to bill the utilities based on the two agencies' budgets, less reversions, divided by the total amount of gross intra-state operating revenue received by the regulated utilities for the previous fiscal year. Based on this formula, utilities are currently billed approximately 0.10% of their gross intra-state operating revenues to fund the IURC and OUCC. In FY 2002, fees from the utilities and fines generated approximately $9.5 M.

Explanation of State Revenues: The bill's net impact on the state's revenue is indeterminable, as it will depend on the specific actions taken by the Authority. However, if the PPFA does construct powerplants, it could have both positive and negative impacts on the state's revenue.

Potential Sources of Increases in State Revenue: While the PPFA and any property it acquires will be exempt from state and local taxes, the income of the Authority's employees would be subject to the state's individual Adjusted Gross Income Tax. If PPFA employees would have otherwise been unemployed or employed at lower wages, state and local income taxes would increase. Additionally, increases in income are often related to increases in consumer expenditures. If PPFA employees used additional income to purchase more sales taxable goods, state Sales Tax revenue would increase. Additionally, if the PPFA's existence encourages firms that would have otherwise located outside the state to locate inside Indiana, state revenue in the form of Individual and Corporate Taxes could increase.

Potential Sources of Decreases in State Revenue: The Authority's sale of energy could also impact the financial performance of the state's tax paying utilities, resulting in a potential loss of corporate tax revenue from these firms. If the Authority's presence in the marketplace lowers the price of electricity that these firms may charge, or if the Authority sells electricity to customers that would have otherwise been served by taxpaying utilities, tax revenue from the state's corporate taxes could be negatively impacted. Additionally, if these firms cut jobs as a result of the Authority's competition, Income and Sales Tax revenue would be reduced.

As stated above, the bill's net impact on the state's revenue is indeterminable and will depend on the specific actions taken by the Authority.

Explanation of Local Expenditures:

Explanation of Local Revenues: If the PPFA encourages new businesses to relocate to Indiana or if the program helps prevent businesses from moving out of state, local taxing districts could preserve or grow their assessed valuation. However, if the program causes taxpaying utilities to downsize, close, or relocate, the assessed valuation of local taxing districts could be reduced.

The proposal could also cause an indeterminable impact on counties imposing local option income taxes (CAGIT, COIT, and/or CEDIT).

State Agencies Affected: Indiana Utility Regulatory Commission; Office of the Utility Consumer Counselor; Department of Natural Resources; Department of Administration.

Local Agencies Affected: Counties with a local option income tax.

Information Sources: 2002 Electric Report to the Regulatory Flexibility Committee, IURC; Auditor's Trial Balance FY 2002.

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