
SENATE BILL No. 97

DIGEST OF INTRODUCED BILL

Citations Affected: IC 8-1.3.

Synopsis: Sustainable energy. Requires the governor to request, on behalf of the state, the establishment of a private, nonprofit corporation to be known as the sustainable energy corporation to: (1) ensure that all electric and gas ratepayers are given the opportunity to participate in and benefit from a comprehensive set of sustainable energy programs and initiatives designed to overcome barriers to implementation; and (2) promote and implement sustainable energy technologies and measures. Establishes the sustainable energy fund to make loans and award grants to implement sustainable energy programs. Requires an electric distribution company and a gas distribution company to impose a monthly surcharge on their retail customers for deposit in the fund beginning September 1, 2002. Allows an electric distribution company and a gas distribution company to file a rate case with the utility regulatory commission to recover lost revenue due to sustainable energy programs initiated by the corporation.

Effective: Upon passage.

Lanane

January 7, 2003, read first time and referred to Committee on Rules and Legislative Procedure.

C
o
p
y



First Regular Session 113th General Assembly (2003)

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 2002 Regular or Special Session of the General Assembly.

C
o
p
y

SENATE BILL No. 97



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 8-1.3 IS ADDED TO THE INDIANA CODE AS A
- 2 **NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE UPON**
- 3 **PASSAGE]:**
- 4 **ARTICLE 1.3. SUSTAINABLE ENERGY**
- 5 **Chapter 1. Definitions**
- 6 **Sec. 1. The definitions in this chapter apply throughout this**
- 7 **article.**
- 8 **Sec. 2. "Biomass" means any of the following:**
- 9 (1) **Closed loop biomass.**
- 10 (2) **Nonhazardous cellulosic waste material that:**
- 11 (A) **does not contain painted, treated, or pressurized wood**
- 12 **or wood contaminated with plastics or metals;**
- 13 (B) **is segregated from other waste materials; and**
- 14 (C) **is derived from forest related resources, including:**
- 15 (i) **mill residues;**
- 16 (ii) **precommercial thinnings;**
- 17 (iii) **slash; and**



- 1 (iv) brush, except old growth timber, black liquor, and
 2 materials from national forests, unless the materials are
 3 in the form of paper mill waste.
- 4 (3) Waste pallets, crates, dunnage, and landscape or
 5 right-of-way trimmings, except municipal solid waste, post
 6 consumer wastepaper, construction debris, and demolition
 7 debris.
- 8 (4) Agricultural byproducts, including byproducts from:
 9 (A) orchards;
 10 (B) vineyards;
 11 (C) grain;
 12 (D) legumes;
 13 (E) sugar; and
 14 (F) other crops.
- 15 (5) Gases from municipal wastewater.
- 16 Sec. 3. "Central station facility" means:
 17 (1) baseload;
 18 (2) intermediate; or
 19 (3) peaking;
- 20 electric power generating facilities that are used to generate
 21 electricity primarily for the wholesale or retail electric markets.
- 22 Sec. 4. "Closed loop biomass" means organic material from a
 23 plant that is planted exclusively for purposes of being used at a
 24 facility to produce electricity.
- 25 Sec. 5. "Commission" refers to the Indiana utility regulatory
 26 commission established by IC 8-1-1-2.
- 27 Sec. 6. "Corporation" refers to the sustainable energy
 28 corporation established by IC 8-1.3-2-1.
- 29 Sec. 7. (a) "Distributed energy resource" means:
 30 (1) end use energy efficiency improvement; or
 31 (2) electricity produced from:
 32 (A) renewable energy resources;
 33 (B) microturbines;
 34 (C) internal combustion engines;
 35 (D) Stirling engines;
 36 (E) combined heat and power systems; or
 37 (F) district energy systems;
 38 that primarily serves a customer's load.
- 39 (b) The term does not include the following:
 40 (1) A central station facility.
 41 (2) Electric power generators that use:
 42 (A) diesel fuel;

C
O
P
Y

- 1 (B) fuel oil;
 2 (C) gasoline;
 3 (D) nuclear fuel; or
 4 (E) coal.

5 **Sec. 8. "Electric distribution company" means a corporation, a**
 6 **company, a partnership, a limited liability company, an individual,**
 7 **an association of individuals or their lessees, trustees, or receivers**
 8 **appointed by a court that distribute electric power to retail**
 9 **customers.**

10 **Sec. 9. (a) "End use energy efficiency improvement" means the**
 11 **use or installation of a device, method, or project that reduces**
 12 **electrical or natural gas energy usage.**

13 **(b) The term includes the following:**

- 14 **(1) Home weatherization.**
 15 **(2) Appliance efficiency modifications or replacements.**
 16 **(3) Commercial motor efficiency modifications or**
 17 **replacements.**
 18 **(4) Residential or commercial lighting efficiency or**
 19 **modifications.**
 20 **(5) Systems to turn off or vary the delivery of energy,**
 21 **including thermostats or lighting control.**
 22 **(6) Building design with the purpose of achieving end use**
 23 **energy reductions.**

24 **Sec. 10. "Fund" refers to the sustainable energy fund**
 25 **established by IC 8-1.3-4-1.**

26 **Sec. 11. "Gas distribution company" means a corporation, a**
 27 **company, a partnership, a limited liability company, an individual,**
 28 **an association of individuals, their lessees, trustees, or receivers**
 29 **appointed by a court that distribute natural gas to retail customers.**

30 **Sec. 12. "Renewable energy" means energy derived from any of**
 31 **the following sources:**

- 32 **(1) Solar photovoltaic and solar thermal energy.**
 33 **(2) Wind.**
 34 **(3) Fuel cells.**
 35 **(4) Geothermal energy conversion, except end use grid**
 36 **dependent technologies, including geothermal heat pumps.**
 37 **(5) Biomass.**

38 **Sec. 13. "Sustainable energy" means:**

- 39 **(1) renewable energy; or**
 40 **(2) distributed energy resource.**

41 **Chapter 2. Sustainable Energy Corporation**

42 **Sec. 1. (a) The governor shall request, on behalf of the state, the**

C
O
P
Y



1 establishment of a private, nonprofit corporation called the
2 sustainable energy corporation.

3 (b) The corporation shall do the following:

4 (1) Ensure that all Indiana electric and gas ratepayers are
5 given the opportunity to participate in and benefit from a
6 comprehensive set of sustainable energy programs and
7 initiatives designed to overcome barriers to implementation.

8 (2) Promote and implement sustainable energy technologies
9 and measures in Indiana.

10 (3) Carry out the purposes of this article.

11 (c) Before the corporation may begin operation, the governor
12 must conduct a public hearing for the purpose of giving all
13 interested parties an opportunity to review and comment upon the
14 articles of incorporation, bylaws, and methods of operation of the
15 corporation. Notice of the hearing must be given at least fourteen
16 (14) days before the hearing in accordance with IC 5-14-1.5-5(b).

17 Sec. 2. (a) The board of directors of the corporation is composed
18 of sixteen (16) voting members as follows:

19 (1) The lieutenant governor or the lieutenant governor's
20 designee.

21 (2) The chairman of the commission or the chairman's
22 designee.

23 (3) The utility consumer counselor or the utility consumer
24 counselor's designee.

25 (4) Thirteen (13) members appointed by the governor as
26 follows:

27 (A) Two (2) representatives of public or private
28 universities in Indiana.

29 (B) Two (2) representatives of statewide investor owned
30 utility organizations.

31 (C) One (1) representative of statewide municipal utility
32 organizations.

33 (D) One (1) representative of statewide rural electric
34 cooperative organizations.

35 (E) One (1) representative of statewide industrial
36 organizations.

37 (F) One (1) representative of statewide commercial
38 organizations.

39 (G) One (1) representative of statewide business
40 organizations that represent energy service companies.

41 (H) One (1) representative of statewide consumer
42 organizations that represent residential ratepayers.

C
O
P
Y



- 1 **(I) One (1) representative of statewide consumer**
 2 **organizations that represent low income residential**
 3 **ratepayers.**
 4 **(J) One (1) representative of statewide environmental**
 5 **organizations.**
 6 **(K) One (1) representative of statewide organized labor**
 7 **organizations.**
 8 **(b) The appointments made by the governor under subsection**
 9 **(a)(4) must be made in accordance with recommendations**
 10 **provided by the organizations described in subsection (a)(4).**
 11 **(c) Members of the board of directors shall:**
 12 **(1) be appointed not more than sixty (60) days after the**
 13 **creation of the corporation; and**
 14 **(2) serve:**
 15 **(A) a term of three (3) years beginning on the date of their**
 16 **appointments; and**
 17 **(B) until their successors are appointed and qualified.**
 18 **(d) A vacancy on the board of directors shall be filled by the**
 19 **governor not more than thirty (30) days after the vacancy occurs.**
 20 **A person appointed to fill a vacancy shall serve the remainder of**
 21 **the term of the member of the board the person is replacing.**
 22 **(e) The lieutenant governor, chairman of the commission, and**
 23 **utility consumer counselor or their designees serve on the board of**
 24 **directors without compensation.**
 25 **(f) An appointed member of the board of directors is not entitled**
 26 **to the minimum salary per diem provided by IC 4-10-11-2.1(b). An**
 27 **appointed member of the board is, however, entitled to**
 28 **reimbursement for traveling expenses as provided by IC 4-13-1-4**
 29 **and other expenses actually incurred in connection with the duties**
 30 **of the member as provided in the state policies and procedures**
 31 **established by the Indiana department of administration and**
 32 **approved by the budget agency.**
 33 **Sec. 3. The board of directors shall do the following:**
 34 **(1) Elect the following officers of the corporation:**
 35 **(A) A chair.**
 36 **(B) A vice chair.**
 37 **(C) A treasurer.**
 38 **(D) A secretary.**
 39 **(E) Any other officers the board considers appropriate.**
 40 **(2) Hire an executive director of the corporation who shall do**
 41 **the following:**
 42 **(A) Be the principal executive of the corporation.**

C
O
P
Y



- 1 **(B) Manage, supervise, and control the daily affairs of the**
 2 **corporation.**
 3 **(C) Implement the policies of the directors.**
 4 **(D) Perform other duties prescribed by the board of**
 5 **directors.**
 6 **Sec. 4. (a) The board of directors shall meet at least quarterly.**
 7 **(b) The meetings of the board shall be open to the public under**
 8 **IC 5-14-1.5.**
 9 **(c) Notice of a board meeting must be given at least fourteen**
 10 **(14) days before the meeting in accordance with IC 5-14-1.5-5(b).**
 11 **(d) A person who attends a public meeting of the board shall be**
 12 **given an adequate opportunity to comment through the oral or**
 13 **written presentation of facts or argument.**
 14 **(e) Written comments submitted to the board shall be**
 15 **maintained and made available for public inspection.**
 16 **(f) Eleven (11) members of the board constitute a quorum for**
 17 **doing business.**
 18 **(g) Except as otherwise provided by law, a majority vote is**
 19 **required for passage of any matter put to a vote before the board.**
 20 **Sec. 5. Debts incurred by the corporation under authority of this**
 21 **article do not represent or constitute a debt of the state within the**
 22 **meaning of the provisions of the Constitution of the State of**
 23 **Indiana or Indiana statutes.**
 24 **Sec. 6. (a) The corporation shall be audited each year by the**
 25 **state board of accounts.**
 26 **(b) The corporation shall pay the full costs of the audit required**
 27 **under subsection (a).**
 28 **Sec. 7. The corporation shall coordinate programs established**
 29 **under this article with:**
 30 **(1) low income weatherization programs;**
 31 **(2) state or federal energy efficiency and renewable energy**
 32 **programs; and**
 33 **(3) other state agencies as appropriate.**
 34 **Sec. 8. The corporation may enter into contracts with public and**
 35 **private entities to implement this article.**
 36 **Sec. 9. (a) The board of directors shall establish priorities for**
 37 **and implement the following:**
 38 **(1) Initiatives to educate businesses, policy makers, and the**
 39 **public as to the benefits of end use energy efficiency**
 40 **improvements.**
 41 **(2) Programs to assist commercial and industrial energy**
 42 **consumers in making end use energy efficient purchases when**

C
O
P
Y



- 1 replacing or remodeling existing equipment and facilities.
2 (3) Programs to assist and train energy auditors.
3 (4) Programs to assist commercial and industrial energy
4 consumers in taking advantage of opportunities to gain
5 energy savings through incremental investments during
6 construction of new facilities.
7 (5) Programs to allow eligible commercial and industrial
8 customers, subject to criteria developed by the corporation,
9 to implement end use efficiency measures on their own
10 premises and receive partial refunds of their contributions to
11 the fund.
12 (6) Programs that use a combination of cash incentives,
13 energy ratings, technical assistance, education, direct
14 installation or efficiency measures, energy efficient
15 mortgages, and strategic partnerships to introduce high
16 efficiency technologies and building practices into Indiana.
17 (7) Programs that target low income families and that build
18 on Indiana's weatherization program for single family homes
19 and provide technical assistance, education, and direct
20 installation of measures for multiple family units.
21 (8) Programs to transform the market for end use energy
22 efficiency improvements both in terms of the mix of products
23 and consumer choices through a combination of incentive
24 programs, marketing, and coordination with vendors and
25 market participants, including high efficiency residential
26 lighting products and home appliances.
27 (9) Programs to provide incentives to or engage in research
28 and activities that support new end use energy efficiency or
29 renewable energy technologies and applications.
30 (10) Programs and initiatives developed by other
31 organizations and parties that contribute to fulfilling the
32 corporation's mission and requirements under this article.
33 (11) Programs to analyze and evaluate the need for changes
34 to building codes in Indiana in terms of energy efficiencies
35 and savings benefits.
36 (12) Initiatives to promote the use of renewable resources by
37 Indiana consumers and businesses.
38 (13) Initiatives to promote the development of renewable
39 energy resources and businesses in Indiana.
40 (14) Initiatives to improve reliability of the electric
41 transmission and distribution systems through the use of
42 distributed energy resources.

C
O
P
Y

- 1 **(15) Initiatives determined by the board to be commensurate**
 2 **with the mission of the corporation.**
- 3 **(b) The corporation shall take into account the following criteria**
 4 **in selecting programs under this section:**
- 5 **(1) The needs of persons and businesses facing the most**
 6 **significant barriers to participation in the market for end use**
 7 **energy efficiency services and renewable energy installation.**
- 8 **(2) The cost effectiveness of each program as determined by**
 9 **the criteria set forth in IC 8-1.3-3-3.**
- 10 **Sec. 10. The corporation established under this chapter shall**
 11 **remain in operation until the general assembly provides by law for**
 12 **termination of the corporation.**
- 13 **Chapter 3. Required Reports and Criteria**
- 14 **Sec. 1. (a) The corporation shall submit a report before July 1**
 15 **of each year to the governor, the legislative council, and the board**
 16 **of directors of the corporation.**
- 17 **(b) The report required under subsection (a) must include the**
 18 **following:**
- 19 **(1) A statement of the corporation's revenues by source and**
 20 **expenditures by purpose.**
- 21 **(2) Statistics relevant to the programs and operations of the**
 22 **corporation.**
- 23 **(3) A description of the corporation's goals, legal**
 24 **responsibilities, and accomplishments.**
- 25 **(4) Comments on the state of energy efficiency and renewable**
 26 **energy markets in Indiana.**
- 27 **(5) Suggestions for legislation and the rationale for any**
 28 **proposals.**
- 29 **(6) The progress in carrying out the plan required by section**
 30 **2 of this chapter.**
- 31 **(7) Any other matters that the corporation wishes to bring to**
 32 **the attention of the governor and the legislative council.**
- 33 **(8) Any comments or proposals that any member of the**
 34 **corporation's board gives to the chair to include in the report.**
- 35 **(c) The corporation shall conduct a meeting to receive**
 36 **comments from interested parties regarding the report required**
 37 **under subsection (a) before the report is submitted to the governor,**
 38 **legislative council, and board.**
- 39 **Sec. 2. (a) The corporation shall submit an assessment of the**
 40 **energy efficiency improvement and renewable energy potential**
 41 **before October 1 of each even-numbered year to the governor, the**
 42 **legislative council, and the board of directors of the corporation.**

C
O
P
Y



1 (b) The assessment required by subsection (a) must include the
2 following:

3 (1) An analysis of the barriers to and potential of sustainable
4 energy resources in Indiana and the region.

5 (2) An estimate of existing investments in sustainable energy
6 resources in Indiana.

7 (3) An estimate of probable future market driven investments
8 in sustainable energy resources in Indiana.

9 (4) A recommendation as to the optimal extent, size, mix, and
10 general location of sustainable energy resources to achieve
11 maximum efficiencies and benefits for the people of Indiana.

12 (5) A plan for achieving those efficiencies and benefits.

13 (c) While preparing the assessment required under subsection
14 (a), the corporation shall conduct at least one (1) public hearing.

15 Sec. 3. The corporation shall develop criteria to assess
16 sustainable energy resource potential that includes a comparative
17 analysis of energy resources available to Indiana in terms of:

18 (1) short term and long term energy costs; and

19 (2) societal benefits, including the following:

20 (A) Impact on electric and natural gas system reliability.

21 (B) Impact on public health costs.

22 (C) Impact on environmental quality and cost savings to
23 the citizens of Indiana.

24 (D) Impact on competitive electric and natural gas
25 markets.

26 (E) Impact on economic growth, including employment
27 opportunities.

28 (F) Other issues the corporation considers relevant.

29 **Chapter 4. Sustainable Energy Fund**

30 Sec. 1. (a) The sustainable energy fund is established to:

31 (1) make loans and award grants to implement this article;
32 and

33 (2) pay the costs of administering this article.

34 The fund shall be administered by the board of directors of the
35 corporation.

36 (b) The fund consists of the following:

37 (1) Money collected under sections 2 and 3 of this chapter.

38 (2) Appropriations to the fund from other sources.

39 (3) Grants, gifts, and donations intended for deposit in the
40 fund.

41 (4) Interest that accrues from money in the fund.

42 (c) The expenses of administering the fund shall be paid from

C
O
P
Y



1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42

money in the fund.

(d) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public money may be invested. Interest that accrues from these investments shall be deposited in the fund.

(e) Money in the fund at the end of a state fiscal year does not revert to the state general fund.

Sec. 2. (a) Beginning September 1, 2003, the commission shall require an electric distribution company to impose a monthly surcharge on its retail customers for deposit in the fund.

(b) The monthly surcharge imposed by an electric distribution company under subsection (a) may not be more than three hundredths of a cent (\$0.0003) per kilowatt hour of electricity consumed by the company's retail customers.

(c) The commission may impose separate charges on retail customers of electric distribution companies based on the electricity consumption of each customer class.

Sec. 3. (a) Beginning September 1, 2003, the commission shall require a gas distribution company to impose a monthly surcharge on its retail customers for deposit in the fund.

(b) The monthly surcharge imposed by a gas distribution company under subsection (a) may not be more than thirty cents (\$0.30) for each decatherm of natural gas consumed by the company's retail customers.

(c) The commission may impose separate charges on retail customers of gas distribution companies based on the gas consumption of each customer class.

Sec. 4. The money collected by a gas distribution company or an electric distribution company in surcharges under this chapter is exempt from all state income taxes and all fees imposed by IC 8-1-6.

Sec. 5. An electric distribution company or a gas distribution company that collects a surcharge under this chapter shall deposit monthly the amount collected for the surcharge in the fund.

Sec. 6. (a) The board of directors of the corporation may:
(1) make loans and award grants to persons to implement this article; and
(2) pay the expenses of administering this article;
from money in the fund.

(b) Before the board uses money in the fund under subsection (a):
(1) an authorized officer of the corporation must execute a

C
o
p
y



1 document in which the corporation agrees to meet the
 2 requirements of this article; and
 3 (2) a copy of the document described in subdivision (1) must
 4 be delivered to each electric distribution company and gas
 5 distribution company that collects a surcharge required by
 6 this chapter.

7 **Chapter 5. Recovery of Lost Revenue**

8 **Sec. 1. Until September 1, 2005, an electric distribution**
 9 **company or a gas distribution company may file a rate case with**
 10 **the commission to recover lost revenue due to programs initiated**
 11 **by the corporation under this article.**

12 **Sec. 2. An electric distribution company or a gas distribution**
 13 **company may present evidence in and argue the rate case filed**
 14 **under section 1 of this chapter concerning:**

- 15 (1) the extent to which revenue erosion due to savings of
- 16 programs initiated by the corporation has had an effect on the
- 17 company's opportunity to earn its allowed return;
- 18 (2) the appropriateness of establishing a rate making method
- 19 to ameliorate this effect; and
- 20 (3) a proposed rate making method to ameliorate this effect.

21 **Sec. 3. The commission may conduct an investigation after**
 22 **September 1, 2005, to determine if it is appropriate and necessary**
 23 **for an electric distribution company or a gas distribution company**
 24 **to continue to collect lost revenue due to programs implemented by**
 25 **the corporation.**

26 **SECTION 2. An emergency is declared for this act.**

C
o
p
y

