
HOUSE BILL No. 1306

DIGEST OF INTRODUCED BILL

Citations Affected: IC 8-1-37.

Synopsis: Voluntary renewable portfolio standard program. Requires the utility regulatory commission (IURC) to adopt rules to establish the renewable energy portfolio standard program (program). Provides that the program must be a voluntary program that provides incentives to participating electricity suppliers that undertake to supply specified percentages of the total electricity supplied to their Indiana retail electric customers from renewable energy. Sets forth three renewable portfolio standard goals (RPS goals) that a participating electricity supplier must achieve during specified periods during the program to qualify for one or more of the financial incentives available under the program. Provides that a participating electricity supplier may own or purchase one or more renewable energy credits to meet any of the RPS goals. Provides that the financial incentives under the program must include: (1) a shareholder incentive consisting of an increased overall rate of return on equity, not to exceed 50 basis points over the authorized rate of return, whenever a participating electricity supplier attains an RPS goal; and (2) the recovery, by means of a period rate adjustment mechanism, of reasonable and necessary program costs incurred by an electricity supplier in participating in the program. Beginning in 2012, requires each participating electricity supplier to report to the IURC before March 1 of each year on the participating electricity supplier's efforts to meet the RPS goals included in the program. Beginning in 2012, requires the IURC to include in its annual energy report to the regulatory flexibility committee a summary of the information reported by the participating electricity suppliers.

Effective: Upon passage.

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January 13, 2009, read first time and referred to Committee on Commerce, Energy, Technology and Utilities.

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First Regular Session 116th General Assembly (2009)

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 2008 Regular Session of the General Assembly.

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HOUSE BILL No. 1306



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

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

1 SECTION 1. IC 8-1-37 IS ADDED TO THE INDIANA CODE AS
 2 A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON
 3 PASSAGE]:
 4 **Chapter 37. Renewable Energy Portfolio Standard Program**
 5 **Sec. 1. As used in this chapter, "base year" means the calendar**
 6 **year ending December 31, 2008.**
 7 **Sec. 2. (a) As used in this chapter, "electricity supplier" means**
 8 **a public utility (as defined in IC 8-1-2-1) that furnishes retail**
 9 **electric service to customers in Indiana on January 1, 2009.**
 10 **(b) The term does not include a utility that is:**
 11 **(1) a municipally owned utility (as defined in IC 8-1-2-1(h));**
 12 **(2) a corporation organized under IC 8-1-13; or**
 13 **(3) a corporation organized under IC 23-17 that is an electric**
 14 **cooperative and that has at least one (1) member that is a**
 15 **corporation organized under IC 8-1-13.**
 16 **Sec. 3. As used in this chapter, "participating electricity**
 17 **supplier" refers to an electricity supplier that has been approved**



1 by the commission under section 11 of this chapter to participate
2 in the program.

3 Sec. 4. As used in this chapter, "program" refers to the Indiana
4 renewable energy portfolio standard program established by the
5 commission under section 10 of this chapter.

6 Sec. 5. As used in this chapter, "regional transmission
7 organization", with respect to an electricity supplier, refers to the
8 regional transmission organization approved by the Federal
9 Energy Regulatory Commission for the control area that includes
10 the electricity supplier's assigned service area (as defined in
11 IC 8-1-2.3-2).

12 Sec. 6. As used in this chapter, "renewable energy" means
13 electricity that is derived from a renewable energy resource.

14 Sec. 7. As used in this chapter, "renewable energy credit", or
15 "REC", means an interest that:

16 (1) represents:

17 (A) one (1) megawatt hour of renewable energy that
18 satisfies the conditions set forth in section 12(b)(2) of this
19 chapter, if the REC represents renewable energy that is
20 not generated or purchased from a facility in Indiana; or

21 (B) one and twenty-five hundredths (1.25) megawatt hours
22 of renewable energy that satisfies the conditions set forth
23 in section 12(b)(2) of this chapter, if the REC represents
24 renewable energy that is generated or purchased from a
25 facility in Indiana;

26 (2) is quantifiable and transferrable; and

27 (3) is possessed by not more than one (1) entity at a time.

28 Sec. 8. (a) As used in this chapter, "renewable energy resource"
29 means any of the following sources or programs for the production
30 of electricity:

31 (1) Methane systems that convert waste products, including
32 animal, food, and plant waste, into electricity.

33 (2) Methane recovered from landfills.

34 (3) Wind.

35 (4) Solar photovoltaic cells and panels.

36 (5) Geothermal energy.

37 (6) Hydropower, other than hydropower involving the
38 construction of new dams or the expansion of existing dams.

39 (7) Dedicated crops grown for energy production.

40 (8) Agricultural crop waste.

41 (9) Sawmill or timber waste, other than waste derived from
42 commercial grade timber.

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- 1 **(10) Fuel cells that directly convert chemical energy in a**
- 2 **hydrogen rich fuel into electricity.**
- 3 **(11) A clean coal and energy project described in**
- 4 **IC 8-1-8.8-2(1)(D).**
- 5 **(12) Carbon capture and storage projects.**
- 6 **(13) Nuclear energy.**
- 7 **(14) Electricity that is:**
 - 8 **(A) generated from a customer owned distributed**
 - 9 **generation facility that is interconnected to the electricity**
 - 10 **supplier's distribution system in accordance with the**
 - 11 **commission's interconnection standards set forth in 170**
 - 12 **IAC 4-4.3; and**
 - 13 **(B) supplied back to the electricity supplier for use in**
 - 14 **meeting the electricity supplier's electricity demand**
 - 15 **requirements.**
- 16 **(15) Coal bed methane.**
- 17 **(b) The term does not include energy from the incineration,**
- 18 **burning, or heating of the following:**
 - 19 **(1) Tires.**
 - 20 **(2) Garbage.**
 - 21 **(3) General household, institutional, or commercial waste.**
 - 22 **(4) Industrial lunchroom or office waste.**
 - 23 **(5) Landscape waste.**
 - 24 **(6) Construction or demolition debris.**
 - 25 **(7) Feedstock that is municipal, food, plant, industrial, or**
 - 26 **animal waste from outside Indiana.**
- 27 **Sec. 9. As used in this chapter, "RPS goal" refers to a goal set**
- 28 **forth in section 12(a) of this chapter that a participating electricity**
- 29 **supplier must achieve during a specified period during the**
- 30 **program to qualify for one (1) or more of the financial incentives**
- 31 **described in section 13 of this chapter.**
- 32 **Sec. 10. (a) The commission shall adopt rules under IC 4-22-2 to**
- 33 **establish the Indiana renewable energy portfolio standard**
- 34 **program. The program established under this section must be a**
- 35 **voluntary program that provides incentives to participating**
- 36 **electricity suppliers that undertake to supply specified percentages**
- 37 **of the total electricity supplied to their Indiana retail electric**
- 38 **customers from renewable energy.**
- 39 **(b) The rules adopted by the commission under this section to**
- 40 **establish the program must:**
 - 41 **(1) incorporate:**
 - 42 **(A) the RPS goals set forth in section 12(a) of this chapter;**

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- 1 (B) methods for measuring and evaluating a participating
- 2 electricity supplier's compliance with the RPS goals set
- 3 forth in section 12(a) of this chapter;
- 4 (C) the financial incentives set forth in section 13 of this
- 5 chapter; and
- 6 (D) the reporting requirements set forth in section 14 of
- 7 this chapter;

- 8 (2) take effect not later than January 1, 2010; and
- 9 (3) be consistent with this chapter.

10 (c) Upon the effective date of the rules adopted by the
 11 commission under this section, an electricity supplier may apply to
 12 the commission under section 11 of this chapter for approval to
 13 participate in the program.

14 **Sec. 11. (a)** An electricity supplier that seeks to participate in the
 15 program established by the commission under section 10 of this
 16 chapter must apply to the commission:

- 17 (1) in the manner and on a form prescribed by the
- 18 commission; and
- 19 (2) not later than a date specified by the commission in the
- 20 rules adopted under section 10 of this chapter;

21 for approval to participate in the program.

22 (b) Upon receiving an application under subsection (a), the
 23 commission promptly shall review the application for
 24 completeness. The commission may request additional information
 25 the commission considers necessary to aid in the commission's
 26 review.

27 (c) The commission shall approve an application submitted
 28 under subsection (a) if the commission determines that:

- 29 (1) the application is complete and accurate; and
- 30 (2) the electricity supplier submitting the application has
- 31 demonstrated that the electricity supplier has a reasonable
- 32 expectation of supplying renewable energy to its Indiana
- 33 retail electric customers during the calendar year ending
- 34 December 31, 2023, in an amount equal to at least twelve
- 35 percent (12%) of the total electricity supplied by the
- 36 participating electricity supplier to its Indiana retail electric
- 37 customers during the base year, as set forth in section 12(a)(3)
- 38 of this chapter.

39 **Sec. 12. (a)** Subject to subsection (b), to qualify for the financial
 40 incentives set forth in section 13 of this chapter, a participating
 41 electricity supplier must supply renewable energy to the
 42 participating electricity supplier's Indiana retail electric customers

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according to the following RPS goals:

(1) RPS Goal I: In the calendar year ending December 31, 2011, at least four percent (4%) of the total electricity supplied by the participating electricity supplier to its Indiana retail electric customers during the base year.

(2) RPS Goal II: For the five (5) calendar years beginning January 1, 2012, and ending December 31, 2016, an average of at least four percent (4%) of the total electricity supplied by the participating electricity supplier to its Indiana retail electric customers during the base year. In the calendar year ending December 31, 2017, at least seven percent (7%) of the total electricity supplied by the participating electricity supplier to its Indiana retail electric customers during the base year.

(3) RPS Goal III: For the five (5) calendar years beginning January 1, 2018, and ending December 31, 2022, an average of at least seven percent (7%) of the total electricity supplied by the participating electricity supplier to its Indiana retail electric customers during the base year. In the calendar year ending December 31, 2023, at least twelve percent (12%) of the total electricity supplied by the participating electricity supplier to its Indiana retail electric customers during the base year.

For purposes of this subsection, electricity is measured in megawatt hours. However, in determining whether a participating electricity supplier has met an RPS goal set forth in this subsection, the commission shall multiply each megawatt hour of renewable energy that is generated or purchased from a facility in Indiana by a factor of one and twenty-five hundredths (1.25).

(b) In determining whether a participating electricity supplier has met a particular RPS goal set forth in subsection (a), the commission shall consider only renewable energy that:

(1) is supplied by the participating electricity supplier to the participating electricity supplier's Indiana retail electric customers during the RPS goal period under consideration; and

(2) meets one (1) of the following conditions:

(A) Is generated or purchased in Indiana or in a control area that is part of the regional transmission organization of which the participating electricity supplier is a member.

(B) Is generated from a facility that:

(i) is not located in Indiana or in a control area that is

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1 part of the regional transmission organization of which
2 the participating electricity supplier is a member; and
3 (ii) is located in a control area that is part of another
4 regional transmission organization and that is adjacent
5 to a control area that is part of the regional transmission
6 organization of which the participating electricity
7 supplier is a member;

8 if the participating electricity supplier owns at least a
9 forty-nine percent (49%) interest in the facility.

10 (c) To the extent feasible, a participating electricity supplier
11 shall apply toward meeting the RPS goals set forth in subsection (a)
12 renewable energy that is:

- 13 (1) generated from facilities that are:
 - 14 (A) owned;
 - 15 (B) operated; or
 - 16 (C) in the process of being constructed;
- 17 by the participating electricity supplier on January 1, 2009;
- 18 or
- 19 (2) purchased under a contract at no additional cost to the
20 participating electricity supplier's Indiana retail electric
21 customers.

22 (d) A participating electricity supplier may own or purchase one
23 (1) or more RECs to meet any of the RPS goals set forth in
24 subsection (a) as long as the renewable energy represented by the
25 REC meets one (1) of the conditions set forth in subsection (b)(2).

- 26 (e) A participating electricity supplier may apply:
 - 27 (1) amounts of renewable energy supplied by the participating
28 electricity supplier to its Indiana retail electric customers
29 during a particular RPS goal period; or
 - 30 (2) RECs acquired by the participating electricity supplier
31 during a particular RPS goal period;

32 that exceed the requirements for the particular RPS goal period to
33 the immediately succeeding RPS goal period.

34 Sec. 13. (a) The commission shall establish the following
35 financial incentives for participating electricity suppliers:

- 36 (1) A shareholder incentive consisting of the authorization of
37 an increased overall rate of return on equity, not to exceed
38 fifty (50) basis points over a participating electricity supplier's
39 authorized rate of return, whenever the participating
40 electricity supplier attains an RPS goal set forth in section
41 12(a) of this chapter. The number of additional basis points
42 authorized by the commission under this subdivision may:

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1 (A) be different for each of the RPS goal periods identified
 2 in section 12(a) of this chapter, as the commission
 3 determines is appropriate; and

4 (B) in the case of a particular participating electricity
 5 supplier, be based, in part, on the extent to which the
 6 participating electricity supplier has attempted to meet a
 7 particular RPS goal in the manner specified in section
 8 12(c) of this chapter.

9 The additional basis points authorized by the commission
 10 under this subdivision for each RPS goal period are not
 11 cumulative. In determining a participating electricity
 12 supplier's authorized rate of return to which additional basis
 13 points may be added upon the participating electricity
 14 supplier's achievement of a particular RPS goal, the
 15 commission shall not include as part of the authorized rate of
 16 return any additional basis points awarded to the
 17 participating electricity supplier for having achieved the
 18 immediately preceding RPS goal.

19 (2) The recovery, by means of a periodic rate adjustment
 20 mechanism, of all reasonable and necessary program costs
 21 incurred by a participating electricity supplier in:

22 (A) constructing, operating, or maintaining facilities that
 23 generate renewable energy that:

24 (i) is used by the participating electricity supplier in its
 25 efforts to meet an RPS goal set forth in section 12(a) of
 26 this chapter; and

27 (ii) meets the requirements set forth in section 12(b) of
 28 this chapter; or

29 (B) otherwise generating or purchasing renewable energy
 30 that:

31 (i) is used by the participating electricity supplier in its
 32 efforts to meet an RPS goal set forth in section 12(a) of
 33 this chapter; and

34 (ii) meets the requirements set forth in section 12(b) of
 35 this chapter.

36 For purposes of this subdivision, "program costs" includes
 37 administrative costs, ancillary costs, capacity costs, costs
 38 associated with RECs, capital costs, depreciation costs, tax
 39 costs, and financing costs incurred in connection with an
 40 activity described in clause (A) or (B).

41 (b) A participating electricity supplier that seeks one (1) or more
 42 incentives established by the commission under subsection (a) must

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apply to the commission:

(1) in the manner and on a form prescribed by the commission; and

(2) not later than any dates specified by the commission in rules adopted under section 10 of this chapter;

for approval for the incentives sought.

(c) The commission promptly shall review an application filed under this section for completeness. The commission may request additional information the commission considers necessary to aid in the commission's review.

(d) The commission shall, after notice and hearing, issue a determination of a participating electricity supplier's eligibility for the financial incentives sought. The commission shall issue a determination under this subsection not later than one hundred twenty (120) days after the date of the application, unless the commission finds that the applicant has not cooperated fully in the proceeding.

(e) A shareholder incentive described in subsection (a)(1) continues in effect until:

(1) a time or upon an event as specified in the commission's order approving the shareholder incentive; or

(2) the commission issues a new order authorizing the participating electricity supplier to receive a shareholder incentive for meeting the next RPS program goal;

whichever occurs first, if the participating electricity supplier continues to comply with the measurement and evaluation procedures established by the commission under section 10(b)(1)(B) of this chapter.

(f) A financial incentive described in subsection (a)(2) continues in effect until:

(1) the participating electricity supplier has recovered the program costs for which the periodic rate adjustment mechanism was allowed; or

(2) another time or upon another event as specified in the commission's order approving the periodic rate adjustment mechanism;

provided that the participating electricity supplier continues to comply with the measurement and evaluation procedures established by the commission under section 10(b)(1)(B) of this chapter.

Sec. 14. (a) Subject to subsection (c), beginning in 2012, each participating electricity supplier shall report to the commission not

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later than March 1 of each year on the following:

(1) The participating electricity supplier's efforts, if any, during the most recently ended calendar year to meet the RPS goal applicable to the most recently ended calendar year.

(2) The total amount of renewable energy supplied to the participating electricity supplier's Indiana retail electric customers during the most recently ended calendar year, including a breakdown of the following:

(A) The amount of renewable energy generated by facilities owned or operated by the participating electricity supplier. The participating electricity supplier shall identify each facility by:

- (i) name and location;
- (ii) total generating capacity;
- (iii) total amount of electricity generated at the facility during the most recently ended calendar year, including the percentage of this amount that was supplied to the participating electricity supplier's Indiana retail electric customers; and
- (iv) total amount of renewable energy generated at the facility during the most recently ended calendar year, including the percentage of this amount that was supplied to the participating electricity supplier's Indiana retail electric customers.

(B) The amount of renewable energy purchased from other suppliers of renewable energy. The participating electricity supplier shall identify:

- (i) each supplier from whom renewable energy was purchased;
- (ii) the amount of renewable energy purchased from each supplier;
- (iii) the price paid by the participating electricity supplier for the renewable energy purchased from each supplier; and
- (iv) to the extent known, the name and location of each facility at which the renewable energy purchased from each supplier was generated.

(3) The number of RECs purchased by the participating electricity supplier during the most recently ended calendar year. The participating electricity supplier shall identify:

(A) each person from whom one (1) or more RECS was purchased;

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- 1 **(B) the price paid to each person identified in clause (A) for**
- 2 **the RECs purchased;**
- 3 **(C) the number of RECs applied, if any, during the most**
- 4 **recently ended calendar year to meet the RPS goal**
- 5 **applicable to the most recently ended calendar year; and**
- 6 **(D) the number of RECs, if any, that the participating**
- 7 **electricity supplier plans to carry over to the next**
- 8 **succeeding RPS goal period, as permitted by section 12(e)**
- 9 **of this chapter.**
- 10 **(4) The participating electricity supplier's plans for meeting**
- 11 **the RPS goal applicable to the calendar year in which the**
- 12 **report is submitted.**
- 13 **(5) Advances in renewable energy technology that affect**
- 14 **activities described in subdivisions (1) and (4).**
- 15 **(6) Any other information that the commission prescribes in**
- 16 **rules adopted under IC 4-22-2.**

17 **For purposes of this subsection, amounts of renewable energy and**
 18 **electricity shall be reported in megawatt hours. A participating**
 19 **electricity supplier's duty to submit a report under this subsection**
 20 **terminates after the participating electricity supplier has submitted**
 21 **the report that applies to the calendar year ending December 31,**
 22 **2023.**

23 **(b) Subject to subsection (c), beginning in 2012, the**
 24 **commission's annual report to the regulatory flexibility committee**
 25 **under IC 8-1-2.5-9(b) must include a summary of the information**
 26 **provided by participating electricity suppliers under subsection (a)**
 27 **with respect to the most recently ended calendar year. The**
 28 **commission's duty to include the information specified in this**
 29 **subsection in its annual report to the regulatory flexibility**
 30 **committee terminates after the commission has submitted the**
 31 **information that applies to the calendar year ending December 31,**
 32 **2023.**

33 **(c) This section does not empower the commission to require a**
 34 **participating electricity supplier to disclose confidential and**
 35 **proprietary business plans and other confidential information**
 36 **without adequate protection of the information. The commission**
 37 **shall exercise all necessary caution to avoid disclosure of**
 38 **confidential information supplied under this section.**

39 **SECTION 2. [EFFECTIVE UPON PASSAGE] (a) As used in this**
 40 **SECTION, "commission" refers to the Indiana utility regulatory**
 41 **commission created by IC 8-1-1-2.**

42 **(b) Notwithstanding IC 8-1-37-10, as added by this act, the**

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1 **commission shall adopt rules to establish the Indiana renewable**
2 **energy portfolio standard program described in IC 8-1-37, as**
3 **added by this act, in the same manner as emergency rules are**
4 **adopted under IC 4-22-2-37.1. Any rules adopted under this**
5 **SECTION must be adopted not later than December 1, 2009. A**
6 **rule adopted under this SECTION expires on the earlier of:**
7 **(1) the date the rule is adopted by the commission under**
8 **IC 4-22-2-24 through IC 4-22-2-36; or**
9 **(2) January 1, 2011.**
10 **(c) This SECTION expires January 1, 2011.**
11 **SECTION 3. An emergency is declared for this act.**

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