

COMMITTEE REPORT

MR. PRESIDENT:

The Senate Committee on Commerce and Consumer Affairs, to which was referred Senate Bill No. 177, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

- 1 Delete everything after the enacting clause and insert the following:
2 SECTION 1. IC 8-1-30 IS ADDED TO THE INDIANA CODE AS
3 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
4 1, 1999]:
5 **Chapter 30. Operation of Certain Water and Sewer Utilities**
6 **Sec. 1. The definitions in IC 8-1-2-1 apply throughout this**
7 **chapter.**
8 **Sec. 2. As used in this chapter, "utility company" refers to**
9 **either of the following:**
10 (1) A public utility that provides water or sewer service.
11 (2) A regional sewer and water district.
12 **The term does not include a municipally owned utility.**
13 **Sec. 3. (a) The commission may review any of the following or**
14 **any combination of the following aspects of a utility company's**
15 **operations:**
16 (1) Technical, financial, and managerial capacity.
17 (2) Physical condition and capacity of the utility company's

- 1 **plant.**
- 2 **(3) Compliance with Indiana or federal law or the**
- 3 **commission's orders.**
- 4 **(4) Provision of service to customers.**
- 5 **(b) The commission may conduct a review under this section**
- 6 **upon its own motion, a request of the office of the utility consumer**
- 7 **counselor, or upon the filing of a complaint by a customer of the**
- 8 **utility company. The commission's order for review must state**
- 9 **facts to justify a review by the commission.**
- 10 **Sec. 4. The commission may issue orders under section 5 of this**
- 11 **chapter if the commission finds either of the following:**
- 12 **(1) The utility company has continued violations of:**
- 13 **(A) law regulating the utility company after the**
- 14 **commission has ordered compliance; or**
- 15 **(B) commission orders.**
- 16 **(2) The commission finds after a review conducted under**
- 17 **section 3 of this chapter that the utility company has severe**
- 18 **deficiencies that the utility company is unlikely to remedy.**
- 19 **Sec. 5. (a) As used in this section, "subject utility company"**
- 20 **refers to a utility company that is the subject of a finding by the**
- 21 **commission under section 4 of this chapter.**
- 22 **(b) If the commission makes a finding under section 4 of this**
- 23 **chapter, the commission may, after notice and hearing, make**
- 24 **appropriate orders to do any of the following:**
- 25 **(1) Provide for the acquisition of the subject utility company**
- 26 **by another utility company, a municipally owned utility, or by**
- 27 **another person that has the ability to operate the subject**
- 28 **utility company:**
- 29 **(A) in compliance with law and the commission's orders;**
- 30 **and**
- 31 **(B) to remedy any deficiencies found by the commission.**
- 32 **(2) Provide for the appointment of a receiver to operate the**
- 33 **subject public utility:**
- 34 **(A) in compliance with law and the commission's orders;**
- 35 **and**
- 36 **(B) to remedy any deficiencies found by the commission.**
- 37 **(c) Before making an order under subsection (b), the**
- 38 **commission shall give notice of the hearing to the following:**

- 1 **(1) The subject utility company.**
- 2 **(2) Other utility companies in Indiana.**
- 3 **(3) Appropriate public agencies and political subdivisions,**
- 4 **including all municipalities, located in the subject utility**
- 5 **company's service territory.**
- 6 **(d) An order under subsection (b)(1) must provide:**
- 7 **(1) that the person acquiring the subject utility company must**
- 8 **pay the fair market value of the subject utility company at the**
- 9 **time of acquisition; and**
- 10 **(2) the method and terms by which the fair market value of**
- 11 **the subject utility company is to be determined.**
- 12 **(e) An order under subsection (b)(1) may provide cost recovery**
- 13 **mechanisms for costs associated with improvements to the**
- 14 **acquired system that are immediate and necessary to remedy**
- 15 **deficiencies, including any of the following:**
- 16 **(1) A mechanism for expediting any adjustments to the rate**
- 17 **base and rates of the person acquiring the subject utility**
- 18 **company.**
- 19 **(2) Surcharges on customers of the acquired utility company**
- 20 **system to pay for extraordinary costs.**
- 21 **(3) A plan for deferring certain improvement costs and**
- 22 **recovering costs in phases.**
- 23 **(4) A plan for equalizing rates of the subject utility company**
- 24 **with the rates of the person acquiring the subject utility**
- 25 **company, if necessary.**
- 26 **(5) Other incentives to the person acquiring the subject utility**
- 27 **company, including adjustments to the allowed rate of return.**
- 28 **(f) If the commission makes an order under subsection (b)(2),**
- 29 **the attorney general shall file an action in a court with jurisdiction**
- 30 **on behalf of the commission for the appointment of a receiver**
- 31 **under IC 34-48. The receiver appointed by the court:**
- 32 **(1) has the same rights and duties under Indiana law as a**
- 33 **utility company providing water or sewer service; and**
- 34 **(2) shall continue to operate the subject utility company until**
- 35 **the court finds that the subject utility company:**
- 36 **(A) has the ability to comply and will comply with Indiana**
- 37 **law and the commission's orders relating to the operation**
- 38 **of the utility company; and**

1 **(B) has the ability to operate without any of the**
2 **deficiencies found by the commission.**

3 **Sec. 6. A municipality or other governmental unit may not**
4 **require a utility company that provides water or sewer service to**
5 **sell property used in the provision of such service to the**
6 **municipality or governmental unit under IC 8-1-2-92, IC 8-1-2-93,**
7 **or otherwise, unless the procedures and requirements of this**
8 **chapter have been complied with and satisfied.**

9 **SECTION 2. [EFFECTIVE JULY 1, 1999] (a) As used in this**
10 **SECTION, "committee" refers to the regulatory flexibility**
11 **committee established by IC 8-1-2.6-4.**

12 **(b) Before January 1, 2000, the committee shall study the**
13 **enforcement powers of the Indiana utility regulatory commission**
14 **and make any recommendations to the general assembly regarding**
15 **the commission's enforcement powers that the committee considers**
16 **necessary.**

17 **(c) This SECTION expires January 1, 2000.**
 (Reference is to SB 177 as introduced.)

and when so amended that said bill do pass.

Committee Vote: Yeas 8, Nays 0.

Senator Mills, Chairperson