



Reprinted  
February 2, 2000

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## HOUSE BILL No. 1396

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DIGEST OF HB 1396 (Updated February 1, 2000 9:43 PM - DI 84)

**Citations Affected:** IC 8-1; noncode.

**Synopsis:** Requires a qualified entity that applies to the department of commerce for a grant for a rural development project involving the construction of a water distribution system or a water distribution system extension to submit with its application a plan to extend water utility service to all customers in the subject area of the proposed project. Requires the plan to include certain estimated costs of the project. Allows a public water utility an increase in its rates to recover the costs of improvements to its distribution system under certain circumstances. Authorizes a health agency and the Indiana utility regulatory commission to order a local water utility to extend service to an area that is located entirely or partially within a county having a consolidated city and within a municipality served by private wells if the health agency finds that: (1) the area suffers from a health hazard due to the presence of at least one contaminant; and (2) the area lies in at least one census tract or block having a median household income of less than 200% of the most recently determined federal income poverty level.

**Effective:** July 1, 2000.

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January 11, 2000, read first time and referred to Committee on Commerce and Economic Development.  
January 25, 2000, amended, reported — Do Pass.  
February 1, 2000, read second time, amended, ordered engrossed.

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Reprinted  
February 2, 2000

Second Regular Session 111th General Assembly (2000)

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 *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 1999 General Assembly.

## HOUSE BILL No. 1396

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 8-1-31 IS ADDED TO THE INDIANA CODE AS  
2 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY  
3 1, 2000]:

4 **Chapter 31. Distribution System Improvement Charges**  
5 **Sec. 1. The definitions in IC 8-1-2-1 apply throughout this**  
6 **chapter.**

7 **Sec. 2. As used in this chapter, "DSIC" refers to distribution**  
8 **system improvement charge.**

9 **Sec. 3. As used in this chapter, "DSIC costs" means depreciation**  
10 **expenses and pretax return associated with eligible system**  
11 **improvements.**

12 **Sec. 4. As used in this chapter, "DSIC revenues" means**  
13 **revenues produced through a DSIC exclusive of revenues from all**  
14 **other rates and charges.**

15 **Sec. 5. As used in this chapter, "eligible system improvements"**  
16 **means new used and useful water utility plant projects that:**

17 (1) do not increase revenues by connecting the distribution

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- 1 system to new customers;
- 2 (2) are in service; and
- 3 (3) were not included in the public utility's rate base in its
- 4 most recent general rate case.

5 **Sec. 6.** As used in this chapter, "pretax return" means the  
6 revenues necessary to:

- 7 (1) produce net operating income equal to the public utility's
- 8 weighted cost of capital multiplied by the net original cost of
- 9 eligible system improvements; and
- 10 (2) pay state and federal income taxes applicable to such
- 11 income.

12 **Sec. 7. (a)** A public utility providing water service may file with  
13 the commission rate schedules establishing a DSIC that will allow  
14 the automatic adjustment of the public utility's basic rates and  
15 charges to provide for recovery of DSIC costs.

16 (b) The public utility shall serve the office of the utility  
17 consumer counselor a copy of its filing at the time of its filing with  
18 the commission.

19 (c) Publication of notice of the filing is not required.

20 **Sec. 8. (a)** When a petition is filed under section 7 of this  
21 chapter, the commission shall conduct a hearing.

22 (b) The office of the utility consumer counselor may examine  
23 information of the public utility to confirm that the system  
24 improvements are in accordance with section 5 of this chapter, to  
25 confirm proper calculation of the proposed charge, and submit a  
26 report to the commission not later than thirty (30) days after the  
27 petition is filed.

28 (c) The commission shall hold the hearing and issue its order not  
29 later than sixty (60) days after the petition is filed.

30 (d) The commission shall enter an order approving a DSIC that  
31 complies with this chapter.

32 **Sec. 9.** A public utility may, but is not required to, file a petition  
33 for a change in its DSIC not more often than one (1) time every  
34 three (3) months.

35 **Sec. 10.** Pretax return shall be calculated using the following:

- 36 (1) The current state and federal income tax rates.
- 37 (2) The public utility's actual capital structure.
- 38 (3) The actual cost rates for the public utility's long term debt
- 39 and preferred stock.
- 40 (4) The public utility's cost of common equity.
- 41 (5) Other components that the commission considers
- 42 appropriate.

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1        **Sec. 11.** The cost of common equity to be used in the calculation  
 2 of the charge shall be the most recent determination by the  
 3 commission in a general rate proceeding of the public utility. If the  
 4 commission finds that the last such determination is no longer  
 5 representative of current conditions, the commission may make a  
 6 new determination of the common equity cost rate for use in  
 7 determining the charge, after notice and hearing. The most recent  
 8 prior determination shall be used pending any redetermination.

9        **Sec. 12.** The commission may not approve a DSIC to the extent  
 10 it would produce total DSIC revenues exceeding five percent (5%)  
 11 of the public utility's revenues from providing water utility service.

12        **Sec. 13.** The DSIC may be calculated based on a reasonable  
 13 estimate of sales in the period in which the charge will be in effect.  
 14 At the end of each twelve (12) month period the charge is in effect,  
 15 and using procedures approved by the commission, the public  
 16 utility shall reconcile the difference between DSIC revenues and  
 17 DSIC costs during that period and recover or refund the  
 18 difference, as appropriate, through adjustment of the charge.

19        **Sec. 14.** A public utility that has implemented a DSIC under this  
 20 chapter shall file revised rate schedules resetting the charge if new  
 21 basic rates and charges become effective for the public utility  
 22 following a commission order authorizing a general increase in  
 23 rates and charges that includes in the utility's rate base eligible  
 24 distribution system improvements reflected in the DSIC.

25        **Sec. 15.** For purposes of IC 8-1-2-42(a), the filing of a DSIC and  
 26 a change in a DSIC is not a general increase in basic rates and  
 27 charges.

28        **Sec. 16.** The commission may adopt by order or rule other  
 29 procedures not inconsistent with this chapter that the commission  
 30 finds reasonable or necessary to administer a DSIC.

31        SECTION 2. IC 8-1-32 IS ADDED TO THE INDIANA CODE AS  
 32 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY  
 33 1, 2000]:

34        **Chapter 32. Water Wells**

35        **Sec. 1.** This chapter applies only to a subject area located  
 36 entirely or partially within a county having a consolidated city.

37        **Sec. 2.** The definitions in IC 8-1-2-1 apply throughout this  
 38 chapter.

39        **Sec. 3.** As used in this chapter, "health agency" refers to either  
 40 of the following:

- 41            (1) The state department of health.  
 42            (2) A local health department (as defined in IC 16-18-2-211).



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1           **Sec. 4.** As used in this chapter, "project" refers to the extension  
2 of water utility service to a subject area.

3           **Sec. 5.** As used in this chapter, "subject area" refers to an area  
4 described in section 6 of this chapter.

5           **Sec. 6. (a)** Notwithstanding IC 8-1-2-103(a), if a health agency  
6 determines that an area located within a municipality:

7               (1) is served by private water wells;

8               (2) suffers from a health hazard due to the presence of at least  
9 one (1) contaminant; and

10              (3) incorporates at least a portion of at least one (1) census  
11 track or block having a median household income of less than  
12 two hundred percent (200%) of the most recently determined  
13 federal income poverty level;

14 the health agency may direct the nearest public utility that is  
15 authorized to provide water utility service within the municipality  
16 to prepare and provide to the commission an estimate of the cost  
17 of extending water utility service to the subject area and request  
18 the commission to approve the project.

19           **(b)** The costs estimated under subsection (a) may include the  
20 following:

21               (1) Installing the mains and connecting service lines on  
22 properties within the subject area.

23               (2) Abandoning and plugging existing wells in accordance  
24 with IC 25-39-2-14 and rules adopted under IC 25-39 on  
25 properties within the subject area.

26               (3) Restoration of areas disturbed by the project.

27               (4) Other reasonable costs of extending water utility service  
28 to the subject area.

29           **Sec. 7.** If the commission approves the project, the commission  
30 shall, at the request of the health agency, direct the local public  
31 utility to undertake and complete the project. The commission shall  
32 enter such an order only if both of the following apply:

33               (1) The commission's order authorizes an increase in the local  
34 public utility's water rates in an amount sufficient to cover the  
35 local public utility's depreciation expense related to its  
36 investment in the project and provide the local public utility  
37 an after-tax return on the undepreciated portion of the  
38 project at a rate not less than the rate of return allowed the  
39 local public utility on its rate base in its most recent general  
40 rate order as:

41                   (A) set out in the order; or

42                   (B) stipulated by the local public utility and the office of

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the utility consumer counselor.

(2) The rate adjustment associated with the project will not increase the local public utility's rates by more than one percent (1%).

**Sec. 8.** A rate adjustment authorized under section 7 of this chapter must be reflected in an amended rate schedule filed with the commission not later than thirty (30) days after the commission enters the order, effective upon completion of the project.

**Sec. 9.** A rate adjustment authorized under section 7 of this chapter:

(1) is not considered as a general increase in the local public utility's basic rates and charges for purposes of IC 8-1-2-42(a); and

(2) may be further adjusted by the commission to reflect actual project costs upon petition by the local public utility or the office of the utility consumer counselor.

**Sec. 10.** If the commission orders a project under this chapter, the health agency shall require owners of properties in the subject area to connect those properties to a project main and to abandon and plug their existing wells in accordance with IC 25-39-2-14 and rules adopted under IC 25-39.

**Sec. 11.** (a) Upon completion of a project, the local public utility shall be responsible for operating and maintaining;

(1) the mains installed; and

(2) any portion of the connecting service lines that are located in a public right-of-way.

(b) Upon completion of a project, each property owner shall be responsible for maintaining, repairing, and replacing, if necessary, the portion of the service line on the property served that is not required to be serviced by the local public utility under subsection (a).

**Sec. 12.** This chapter does not reduce or supersede the commission's jurisdiction under IC 8-1-2-86 and IC 8-1-2-86.5.

**SECTION 3.** [EFFECTIVE JULY 1, 2000] (a) If both of the following apply, a local water utility may, but is not required to, adjust its rates under IC 8-1-32, as added by this act, upon approval by the Indiana utility regulatory commission:

(1) The local water utility has undertaken a project requested by a municipal council and confirmed by an appropriate health agency under P.L.221-1997, SECTION 2, before July 1, 2000.

(2) The local water utility has not adjusted its rates as

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1           **permitted by P.L.221-1997, SECTION 2.**  
2           **(b) This SECTION expires July 1, 2001.**

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Commerce and Economic Development, to which was referred House Bill 1396, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Delete the title and insert the following:

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

Delete everything after the enacting clause and insert the following:

(SEE TEXT OF BILL)

and when so amended that said bill do pass.

(Reference is to HB 1396 as introduced.)

BOTTORFF, Chair

Committee Vote: yeas 12, nays 0.

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HOUSE MOTION

Mr. Speaker: I move that House Bill 1396 be amended to read as follows:

Page 2, line 21, delete "summary".

Page 2, line 23, after "confirm" insert "**that the system improvements are in accordance with section 5 of this chapter, to confirm**".

Page 2, line 24, after charge" insert ",".

Page 2, line 26, delete "summary".

Page 4, line 15, delete "." and insert "**and request the commission to approve the project.**".

(Reference is to HB 1396 as printed January 26, 2000.)

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