



February 21, 2012

# ENGROSSED SENATE BILL No. 132

DIGEST OF SB 132 (Updated February 21, 2012 11:06 am - DI 101)

**Citations Affected:** IC 8-1; IC 36-9.

**Synopsis:** Water utility resource data. Requires each water utility that provides water service to the public in Indiana for a fee to annually submit to the Indiana utility regulatory commission (IURC) a report on the following: (1) The types of use of the water resources used by the utility in providing water service to Indiana customers. (2) The utility's operations and maintenance costs in providing water service to Indiana customers. Allows the IURC to prescribe the process, deadlines, and other requirements for submitting the annual reports. Requires the IURC to collect in each annual report certain information concerning each water utility's plant in service, use of water resources, and sources of funding. Requires the IURC to include a summary of the data and information contained in the reports in: (1) an annual report to the legislative council; and (2) the commission's annual report on the water and wastewater industries provided to the regulatory flexibility committee. Provides that in making the required reports, the IURC shall: (1) use aggregated data to protect the confidential information of individual water utilities; and (2) include in the reports recommendations concerning the use of financial resources by water utilities, necessary infrastructure investments by water utilities, and actions to minimize impacts on rates paid by water and wastewater customers. Authorizes the IURC to adopt rules to implement the reporting requirements. Excludes an underground aquifer or water in an underground aquifer from the definition of "watercourse".

**Effective:** Upon passage; March 30, 2008 (retroactive).

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## Gard, Charbonneau, Young R

(HOUSE SPONSORS — WOLKINS, KOCH, WELCH)

January 4, 2012, read first time and referred to Committee on Energy and Environmental Affairs.

January 17, 2012, amended, reported favorably — Do Pass.

January 26, 2012, read second time, amended, ordered engrossed.

January 27, 2012, engrossed.

January 31, 2012, read third time, passed. Yeas 37, nays 11.

### HOUSE ACTION

February 9, 2012, read first time and referred to Committee on Utilities and Energy.

February 21, 2012, amended, reported — Do Pass.

ES 132—LS 6538/DI 101+



February 21, 2012

Second Regular Session 117th General Assembly (2012)

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 2011 Regular Session of the General Assembly.

## ENGROSSED SENATE BILL No. 132

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

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

1 SECTION 1. IC 8-1-30.5 IS ADDED TO THE INDIANA CODE  
2 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE  
3 UPON PASSAGE]:

4 **Chapter 30.5. Water Utility Resource Data**

5 **Sec. 1. As used in this chapter, "commission" refers to the**  
6 **Indiana utility regulatory commission created by IC 8-1-1-2.**

7 **Sec. 2. As used in this chapter, "water utility" means:**

- 8 (1) a public utility (as defined in IC 8-1-2-1(a));  
9 (2) a municipally owned utility (as defined in IC 8-1-2-1(h));  
10 (3) a not-for-profit utility (as defined in IC 8-1-2-125(a));  
11 (4) a cooperatively owned corporation;  
12 (5) a conservancy district established under IC 14-33; or  
13 (6) a regional water district established under IC 13-26;

14 **that provides water service to the public in Indiana for a fee,**  
15 **regardless of whether the entity described in subdivisions (1)**  
16 **through (6) is under the jurisdiction of the commission.**

17 **Sec. 3. (a) For each calendar year, beginning with the calendar**

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1 year ending December 31, 2012, each water utility shall submit to  
2 the commission, on a form or in the manner prescribed by the  
3 commission, a report on the following:

4 (1) The types of use of the water resources used by the water  
5 utility in providing water service to the water utility's Indiana  
6 customers.

7 (2) The water utility's operations and maintenance costs in  
8 providing water service to the water utility's Indiana  
9 customers.

10 (b) The commission shall prescribe the form of the report and  
11 the process, deadlines, and other requirements for submitting the  
12 report required under this section. However, the commission shall  
13 collect the following information for each water utility with respect  
14 to the calendar year for which a particular report is submitted:

15 (1) The number of Indiana customers served by the water  
16 utility.

17 (2) A description of the water utility's service territory in  
18 Indiana.

19 (3) The total utility plant in service with respect to the water  
20 utility's Indiana customers.

21 (4) The amount and location of the water resources used by  
22 the water utility to provide water service to the water utility's  
23 Indiana customers.

24 (5) The availability and location of additional water resources  
25 that could be used, if necessary, by the water utility to provide  
26 water service to Indiana customers.

27 (6) The amount of funding received, including the purpose of  
28 the funding, from the following sources:

29 (A) A state revolving loan program under IC 13-18.

30 (B) The office of community and rural affairs established  
31 by IC 4-4-9.7-4.

32 (C) United States Department of Agriculture rural  
33 development loans and grants.

34 (D) The Indiana bond bank.

35 (E) The issuance of any debt instruments for the purpose  
36 of raising capital to fund infrastructure projects.

37 (c) Upon receiving the annual reports required under this  
38 section, the commission shall compile and organize the data and  
39 information contained in the reports. Subject to subsection (d)(1),  
40 the commission shall include a summary of the data and  
41 information contained in the reports, along with the  
42 recommendations described in subsection (d)(2), in:

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- 1 (1) an annual report to be submitted by the commission to the
- 2 legislative council not later than November 1 of each year;
- 3 and
- 4 (2) the commission's annual report on the water and
- 5 wastewater industries provided to the regulatory flexibility
- 6 committee established by IC 8-1-2.6-4.

7 The annual report to the legislative council required by subdivision  
 8 (1) must be in an electronic format under IC 5-14-6.

9 (d) In making the reports required under subsection (c), the  
 10 commission shall:

- 11 (1) use aggregated data in a manner that:
  - 12 (A) protects the confidential information of individual
  - 13 water utilities; and
  - 14 (B) is consistent with IC 5-14-3-4; and
- 15 (2) include in the reports recommendations concerning:
  - 16 (A) the efficient use of financial resources by water
  - 17 utilities;
  - 18 (B) necessary infrastructure investments by water utilities;
  - 19 and
  - 20 (C) actions designed to minimize impacts on the rates and
  - 21 charges imposed on water and wastewater customers.

22 Sec. 4. (a) Subject to subsection (b), the commission may adopt  
 23 rules under IC 4-22-2, including emergency rules under  
 24 IC 4-22-2-37.1, to implement this chapter. An emergency rule  
 25 adopted by the commission under IC 4-22-2-37.1 expires on the  
 26 date a rule that supersedes the emergency rule is adopted by the  
 27 commission under IC 4-22-2-24 through IC 4-22-2-36.

28 (b) Any emergency rules adopted by the commission under  
 29 subsection (a) must take effect by a date that enables a water utility  
 30 subject to this chapter to comply with the requirements of this  
 31 chapter with respect to the calendar year ending December 31,  
 32 2012.

33 SECTION 2. IC 36-9-1-10 IS AMENDED TO READ AS  
 34 FOLLOWS [EFFECTIVE MARCH 30, 2008 (RETROACTIVE)]: Sec.  
 35 10. (a) "Watercourse" includes lakes, rivers, streams, and any other  
 36 body of water.

37 (b) The term does not include an underground aquifer or water  
 38 in an underground aquifer.

39 SECTION 3. An emergency is declared for this act.

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## COMMITTEE REPORT

Madam President: The Senate Committee on Energy and Environmental Affairs, to which was referred Senate Bill No. 132, 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:

Delete the title and insert the following:

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

Page 2, line 10, delete "collect, at a minimum," and insert "**collect**".

Page 2, delete lines 19 through 21.

Page 2, line 22, delete "(5)" and insert "**(4)**".

Page 2, line 25, delete "(6)" and insert "**(5)**".

Page 2, delete lines 28 through 29.

Page 3, between lines 10 and 11, begin a new paragraph and insert:

"SECTION 2. IC 36-9-1-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MARCH 30, 2008 (RETROACTIVE)]: Sec. 10. (a) "Watercourse" includes lakes, rivers, streams, and any other body of water.

**(b) The term does not include an underground aquifer or water in an underground aquifer.**

SECTION 3. IC 36-9-2-20 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 20. This chapter may not be construed to authorize a unit to regulate conduct that is regulated by a state agency.**

SECTION 4. IC 36-9-2-21 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 21. A municipal ordinance:**

**(1) enacted before, on, or after March 31, 2008; and**

**(2) that purports to authorize a unit to regulate conduct under this chapter that is regulated by a state agency;**

**is void."**

Re-number all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 132 as introduced.)

GARD, Chairperson

Committee Vote: Yeas 5, Nays 1.

ES 132—LS 6538/DI 101+



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## SENATE MOTION

Madam President: I move that Senate Bill 132 be amended to read as follows:

Page 2, line 3, delete "water utility's:" and insert "**following:**

**"(1) The types of use of the water resources used by the water utility in providing water service to the water utility's Indiana customers.**

**(2) The water utility's operations and maintenance costs in providing water service to the water utility's Indiana customers."**

Page 2, delete lines 4 through 6.

Page 2, between lines 23 and 24, begin a new line block indented and insert:

**"(6) The amount of funding received, including the purpose of the funding, from the following sources:**

**(A) A state revolving loan program under IC 13-18.**

**(B) The office of community and rural affairs established by IC 4-4-9.7-4.**

**(C) United States Department of Agriculture rural development loans and grants.**

**(D) The Indiana bond bank.**

**(E) The issuance of any debt instruments for the purpose of raising capital to fund infrastructure projects."**

Page 2, line 26, delete "The" and insert "**Subject to subsection (d)(1), the**".

Page 2, line 27, after "reports" and insert "**, along with the recommendations described in subsection (d)(2),"**

Page 2, between lines 35 and 36, begin a new paragraph and insert:

**"(d) In making the reports required under subsection (c), the commission shall:**

**(1) use aggregated data in a manner that:**

**(A) protects the confidential information of individual water utilities; and**

**(B) is consistent with IC 5-14-3-4; and**

**(2) include in the reports recommendations concerning:**

**(A) the efficient use of financial resources by water utilities;**

**(B) necessary infrastructure investments by water utilities; and**

**(C) actions designed to minimize impacts on the rates and charges imposed on water and wastewater customers."**

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Page 3, delete lines 11 through 22.  
Renumber all SECTIONS consecutively.

(Reference is to SB 132 as printed January 18, 2012.)

GARD

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Utilities and Energy, to which was referred Senate Bill 132, 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:

Page 1, line 14, delete "Indiana," and insert "**Indiana for a fee**,"  
and when so amended that said bill do pass.

(Reference is to SB 132 as reprinted January 27, 2012.)

LUTZ, Chair

Committee Vote: yeas 10, nays 2.

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