

PREVAILED	Roll Call No. _____
FAILED	Ayes _____
WITHDRAWN	Noes _____
RULED OUT OF ORDER	

HOUSE MOTION _____

MR. SPEAKER:

I move that Engrossed Senate Bill 560 be amended to read as follows:

- 1 Page 1, between the enacting clause and line 1, begin a new
2 paragraph and insert the following:
3 "SECTION 1. IC 4-21.5-2-4, AS AMENDED BY P.L.219-2007,
4 SECTION 3, IS AMENDED TO READ AS FOLLOWS [JULY 1,
5 2013]: Sec. 4. (a) This article does not apply to any of the following
6 agencies:
7 (1) The governor.
8 (2) The state board of accounts.
9 (3) The state educational institutions.
10 (4) The department of workforce development.
11 (5) The unemployment insurance review board of the department
12 of workforce development.
13 (6) The worker's compensation board of Indiana.
14 (7) The military officers or boards.
15 (8) The Indiana utility regulatory commission, **except as**
16 **provided in IC 8-1-1-5(e).**
17 (9) The department of state revenue (excluding an agency action
18 related to the licensure of private employment agencies).
19 (10) The department of local government finance.
20 (11) The Indiana board of tax review.
21 (b) This article does not apply to action related to railroad rate and
22 tariff regulation by the Indiana department of transportation."
23 Page 2, between lines 24 and 25, begin a new paragraph and insert:
24 "SECTION 3. IC 8-1-1-5, AS AMENDED BY P.L.30-2006,

1 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
2 JULY 1, 2013]: Sec. 5. (a) The commission shall in all controversial
3 proceedings heard by it be an impartial fact-finding body and shall
4 make its orders in such cases upon the facts impartially found by it. The
5 commission shall in no such proceeding, during the hearing, act in the
6 role either of a proponent or opponent on any issue to be decided by it.
7 All evidence given in any such proceeding shall be offered on behalf
8 of the respective parties to, or appearing in, the proceeding and not in
9 the name or behalf of the commission itself.

10 (b) Any report, audit, examination, or analysis prepared by the
11 commission staff at the request or direction of the commission may be
12 made a part of the record of the proceeding, subject to
13 cross-examination by any party of the person who performed or
14 directed the preparation of the report, audit, examination, or analysis.

15 (c) If in any such proceeding the public interest is not otherwise
16 adequately represented by counsel, in the opinion of the commission,
17 it shall be the duty of the utility consumer counselor, if requested by the
18 commission, to make adequate preparation for the presentation of the
19 interests of the public in such proceeding and the utility consumer
20 counselor shall at the hearing represent the public interests therein
21 involved.

22 (d) However, nothing in this section prevents the commission from
23 instituting, prosecuting, hearing, or determining any investigation or
24 proceeding which it is authorized to do, or make, on its own motion by
25 any law with the administration of which it is charged.

26 (e) ~~Except as otherwise provided in this chapter, no member or~~
27 ~~employee of the commission assigned to make findings of fact and~~
28 ~~conclusions of law in a formally docketed evidentiary proceeding may~~
29 ~~communicate in connection with any issue of fact or law disputed in~~
30 ~~that proceeding with any party or any party's representative, except on~~
31 ~~notice and with opportunity for all parties to participate.~~
32 **IC 4-21.5-3-11 applies to members and employees of the**
33 **commission, including the chair of the commission and**
34 **administrative law judges.**

35 (f) In addition to holding an executive session in the instances
36 described in IC 5-14-1.5-6.1(b), the commission may hold an executive
37 session to deliberate on a proposed order if all the following are
38 satisfied:

- 39 (1) All evidence on the matter has been received by the
40 commission.
41 (2) The deliberations are preparatory to taking final action on an
42 order subject to judicial review.
43 (3) Only the following are permitted to participate in the
44 executive session:
45 (A) Commission members.
46 (B) Commission employees who are formally assigned to

1 advise or assist in preparing the order, including the
2 commission's technical staff and attorneys.

3 IC 5-14-1.5-5, IC 5-14-1.5-6.1, and IC 5-14-1.5-7 apply to an executive
4 session held under this subsection.

5 (g) A person who violates ~~this section~~ **subsection (a), (b), (c), (d),**
6 **or (f)** commits a Class C infraction. **A person who violates subsection**
7 **(e) is subject to the sanctions under IC 4-21.5-3-36 and**
8 **IC 4-21.5-3-37."**

9 Renumber all SECTIONS consecutively.
 (Reference is to ESB 560 as printed March 15, 2013.)

Representative Dvorak