

HOUSE BILL No. 1060

DIGEST OF INTRODUCED BILL

Citations Affected: IC 8-1.5-3.

Synopsis: Water and wastewater utility service territories. Requires the appointment of two additional members to a utility service board serving a municipal water, wastewater, or combined water and wastewater utility not later than 60 days after the effective date of the final disposition in a proceeding involving the provision of utility service in a regulated territory outside the municipal boundaries of the municipality owning or operating the municipal utility. Sets forth conditions for the appointment of the additional members.

Effective: Upon passage.

Ober

January 5, 2016, read first time and referred to Committee on Utilities, Energy and Telecommunications.



Second Regular Session of the 119th General Assembly (2016)

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 2015 Regular Session of the General Assembly.

HOUSE BILL No. 1060

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 8-1.5-3-3 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) The
3 legislative body of a municipality may, by ordinance, provide for the
4 control of any or all of its municipally owned utilities by:
5 (1) the municipal works board;
6 (2) a board consisting of the members of the municipal legislative
7 body;
8 (3) **subject to section 3.5 of this chapter**, a utility service board
9 established under subsection (f) or established before January 1,
10 1983, under IC 8-1-2-100 (repealed); or
11 (4) the board of directors of a department of waterworks
12 established under IC 8-1.5-4.
13 The legislative body of a third class city also may adopt an ordinance
14 under this subsection to provide for the control of any or all of its storm
15 water facilities by a board described in subdivisions (1) through (4). An
16 ordinance granting control of any or all of a third class city's storm
17 water facilities to a board described in this subsection may be separate



1 from or combined with an ordinance granting control of the third class
2 city's municipally owned utilities to a board described in this
3 subsection.

4 (b) If, at the time an ordinance is adopted under subsection (a) to
5 grant control of any or all of a third class city's storm water facilities to
6 a board described in subsection (a) the third class city has a department
7 of storm water management under IC 8-1.5-5, the ordinance must
8 specify a procedure for the transition of control of the affected storm
9 water facilities from the board of directors of the department of storm
10 water management to the board described in subsection (a).

11 (c) The registered voters of a municipality may file a petition
12 addressed to the legislative body requesting that the question of the
13 creation of a utility service board be submitted to a referendum. The
14 petition must be signed by at least the number of the registered voters
15 of the municipality required under IC 3-8-6-3 to place a candidate on
16 the ballot.

17 (d) Within thirty (30) days after a petition is filed, the municipal
18 clerk shall certify to the legislative body and to the county election
19 board that a sufficient petition has been filed.

20 (e) Following certification, the legislative body shall submit the
21 question of the creation of a utility service board to a referendum at the
22 next election. The question shall be submitted to the registered voters
23 of the municipality by placement on the ballot in the form prescribed
24 by IC 3-10-9-4 and must state:

25 "Shall the legislative body of the municipality of _____
26 adopt an ordinance providing for the appointment of a utility service
27 board to operate _____ (Insert name of utility here)?"

28 (f) If a majority of the voters voting on the question vote for the
29 creation of a utility service board, the legislative body shall, by
30 ordinance, establish a utility service board consisting of not less than
31 three (3) nor more than seven (7) members. Not more than two-thirds
32 (2/3) of the members may be of the same political party. All members
33 must be residents of the area served by the board. The ordinance must
34 provide for:

- 35 (1) a majority of the members to be appointed by the executive
36 and a minority of the members to be appointed by the legislative
37 body;
- 38 (2) the terms of the members, which may not exceed four (4)
39 years, with initial terms prescribed so that the members' terms will
40 be staggered;
- 41 (3) the salaries, if any, to be paid to the members; and
42 (4) the selection by the board of a chairman, who shall not be



1 considered the head of a department for purposes of IC 36-4-9-2.
 2 (g) The registered voters of the municipality may also file a petition
 3 requesting that the question of the abolition of the utility service board
 4 be submitted to a referendum. The procedure for filing of the petition
 5 and the referendum is the same as that prescribed by subsections (c)
 6 through (e).

7 SECTION 2. IC 8-1.5-3-3.5 IS ADDED TO THE INDIANA CODE
 8 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE
 9 UPON PASSAGE]: **Sec. 3.5. (a) This section applies to a utility
 10 service board that was established before March 28, 2016, for the
 11 control of a municipal utility owned or operated by a municipality
 12 if:**

- 13 **(1) the municipality adopts a regulatory ordinance after
 14 December 31, 2012;**
 15 **(2) a utility owned by the municipality files a wholesale
 16 sewage petition; and**
 17 **(3) a final disposition under IC 8-1.5-6 has occurred with
 18 respect to the provision of utility service in the regulated
 19 territory.**

20 **(b) As used in this section, "approved regulated territory"**
 21 **refers to the regulated territory, as set forth and approved in a
 22 final disposition described in subsection (a)(3), in which a
 23 municipality described in subsection (a) is granted exclusive
 24 authority to provide utility service.**

25 **(c) As used in this section, "municipal utility" refers to a
 26 municipally owned:**

- 27 **(1) water utility;**
 28 **(2) wastewater utility; or**
 29 **(3) combined water and wastewater utility;**

30 **regardless of whether the municipal utility is under the jurisdiction
 31 of the commission for the approval of rates and charges.**

32 **(d) As used in this section, "regulated territory" means the area
 33 outside the corporate boundaries of a municipality described in:**

- 34 **(1) IC 36-9-2-18;**
 35 **(2) IC 36-9-2-19; or**
 36 **(3) IC 36-9-23-36.**

37 **(e) As used in this section, "regulatory ordinance" means an
 38 ordinance adopted by a municipality that:**

- 39 **(1) asserts the exclusive authority of a municipal utility to
 40 provide service within a regulated territory; or**
 41 **(2) prohibits another utility from providing utility service in
 42 the regulated territory.**



1 **(f) Not later than sixty (60) days after the effective date of a final**
2 **disposition described in subsection (a)(3) establishing the approved**
3 **regulated territory in which a municipality described in subsection**
4 **(a) is granted exclusive authority to provide utility service, the**
5 **municipality shall adopt an ordinance to provide for the**
6 **appointment of two (2) additional members to the municipality's**
7 **utility service board, in accordance with the following:**

8 **(1) Each member appointed under this subsection must be a**
9 **resident of the approved regulated territory.**

10 **(2) One (1) member shall be appointed by the executive of the**
11 **municipality and one (1) member shall be appointed by the**
12 **legislative body.**

13 **(3) The appointments required under this subsection must be**
14 **made so as to ensure as nearly as possible that all affected**
15 **communities and geographic areas within the approved**
16 **regulated territory are represented on the utility service**
17 **board.**

18 **(4) The two (2) members appointed under this subsection may**
19 **not be of the same political party.**

20 **(5) The terms of the members appointed under this subsection**
21 **must be for the same number of years as other members of**
22 **the utility service board, with the terms of the members**
23 **initially appointed under this subsection prescribed so as to be**
24 **staggered.**

25 **(6) The ordinance adopted under this subsection must provide**
26 **for the salaries, if any, to be paid to the members appointed**
27 **under this subsection.**

28 **(7) The members appointed under this subsection may vote or**
29 **take official action only with respect to matters concerning a**
30 **municipal utility described in subsection (c).**

31 **SECTION 3. An emergency is declared for this act.**

