

# HOUSE BILL No. 1190

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 8-1.5-3-8.

**Synopsis:** Municipally owned utilities. Makes the following changes to the Indiana Code provision that provides that in the case of property occupied by someone other than the owner, the person occupying the property is responsible for rates, charges, and other fees for utility services (other than sewer services) provided to the property by a municipally owned utility: (1) Provides that a municipally owned utility shall, without requiring: (A) a request from the property owner; or (B) the property owner to sign or cosign an agreement to: (i) ensure the creditworthiness of the person occupying the property; or (ii) assume responsibility or liability for payment for utility services rendered to the property; maintain the account for the property in the name of the person occupying the property and send all bills to the person occupying the property at the address of the property. (2) Prohibits a municipality from requiring, after March 14, 2020, as a condition of providing utility service to the property or otherwise, the property owner to: (A) ensure the creditworthiness of the person occupying the property; or (B) assume responsibility or liability for payment for utility services rendered to the property; by signing or cosigning an agreement, or by any other means. (3) Provides that if the person occupying the property incurs a delinquency with respect to any rates, charges, or other fees incurred with respect to the property, the municipally owned utility shall provide written notice to the property  
(Continued on next page)

**Effective:** Upon passage.

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## Lehman

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January 13, 2020, read first time and referred to Committee on Utilities, Energy and Telecommunications.

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owner of the delinquency not later than 20 days after the time the rates, charges, or fees become 60 days delinquent. (4) Provides that if the municipally owned utility provides the required notice of the delinquency to the property owner: (A) the person occupying the property and the property owner become jointly and severally liable for the unpaid rates, charges, or fees as of the date that is 20 days after the date on which the rates, charges, or fees become 60 days delinquent; and (B) the municipally owned utility or the municipality may pursue any legal or equitable remedies available to the municipally owned utility or municipality from or against: (i) the person occupying the property; or (ii) the property owner. (5) Specifies that the bill's provisions do not prohibit a municipally owned utility or a municipality from: (A) terminating, in accordance with law and the municipally owned utility's policies, one or more utility services for delinquent rates, charges, or other fees incurred with respect to property occupied by someone other than the property owner; or (B) pursuing any legal or equitable remedies otherwise available to the municipally owned utility or municipality from or against: (i) the person occupying the property; or (ii) the property owner, if the property owner becomes jointly or severally liable under the bill's provisions for delinquencies incurred with respect to the property, or if the property owner has elected to assume responsibility for the payment of utility services rendered to the property. (6) Provides that any rates, charges, or other fees imposed by the municipally owned utility with respect to the property are payable by the property owner if the property owner provides to the municipally owned utility a written notice stating that the property owner elects to assume responsibility for the payment of the rates, charges, or other fees.



Introduced

Second Regular Session of the 121st General Assembly (2020)

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 2019 Regular Session of the General Assembly.

## HOUSE BILL No. 1190

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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 8-1.5-3-8, AS AMENDED BY P.L.105-2019,  
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 UPON PASSAGE]: Sec. 8. (a) A municipality owning a utility under  
4 this chapter shall furnish reasonably adequate services and facilities.  
5 (b) The rates and charges made by a municipality for a service  
6 rendered or to be rendered, either directly or in connection therewith,  
7 must be nondiscriminatory, reasonable, and just.  
8 (c) "Reasonable and just rates and charges for services" means rates  
9 and charges that produce sufficient revenue to:  
10 (1) pay all the legal and other necessary expenses incident to the  
11 operation of the utility, including:  
12 (A) maintenance costs;  
13 (B) operating charges;  
14 (C) upkeep;  
15 (D) repairs;



- 1 (E) depreciation;
- 2 (F) interest charges on bonds or other obligations, including
- 3 leases; and
- 4 (G) costs associated with the acquisition of utility property
- 5 under IC 8-1.5-2;
- 6 (2) provide a sinking fund for the liquidation of bonds or other
- 7 obligations, including leases;
- 8 (3) provide a debt service reserve for bonds or other obligations,
- 9 including leases, in an amount established by the municipality,
- 10 not to exceed the maximum annual debt service on the bonds or
- 11 obligations or the maximum annual lease rentals;
- 12 (4) provide adequate money for working capital;
- 13 (5) provide adequate money for making extensions and
- 14 replacements to the extent not provided for through depreciation
- 15 in subdivision (1); and
- 16 (6) provide money for the payment of any taxes that may be
- 17 assessed against the utility.
- 18 (d) It is the intent of this section that the rates and charges produce
- 19 an income sufficient to maintain the utility property in a sound physical
- 20 and financial condition to render adequate and efficient service. Rates
- 21 and charges too low to meet these requirements are unlawful.
- 22 (e) The board may recommend to the municipal legislative body
- 23 rates and charges sufficient to include a reasonable return on the utility
- 24 plant of the municipality.
- 25 (f) Rates and charges established under this section are subject to
- 26 the approval of:
- 27 (1) the municipal legislative body by ordinance; and
- 28 (2) the commission, in accordance with the procedures set forth
- 29 in IC 8-1-2.
- 30 The commission shall approve rates and charges that are sufficient, in
- 31 addition to the cash revenue requirements set forth in subsection (c), to
- 32 include a reasonable return on the utility plant of the municipality if the
- 33 legislative body so elects.
- 34 (g) Except for a municipally owned utility taxed under IC 6-1.1-8-3,
- 35 the commission shall approve rates and charges sufficient to
- 36 compensate the municipality for taxes that would be due the
- 37 municipality on the utility property were it privately owned. These rates
- 38 and charges in lieu of taxes may be transferred to the municipal general
- 39 fund, if the legislative body so elects.
- 40 (h) The commission shall grant a request that an increase in rates
- 41 and charges not be effective until after the occurrence of a future event
- 42 if the legislative body so requests.



1 (i) A municipality that acquires and operates a utility under  
 2 IC 8-1.5-2 by exercising the power of eminent domain may not impose  
 3 a special rate, charge, surcharge, or other fee, other than rates and  
 4 charges approved under this section or otherwise authorized by law, on  
 5 the customers of the utility in order to pay for the costs associated with  
 6 acquiring the utility through the exercise of the power of eminent  
 7 domain.

8 (j) This subsection ~~does~~ **and subsections (k) through (n) do not**  
 9 apply to services rendered by a sewage works that is subject to  
 10 IC 36-9-23 or to IC 36-9-25. This subsection **and subsections (k)**  
 11 **through (n)** also ~~does do~~ not apply to services rendered by a  
 12 department of public utilities created by IC 8-1-11.1 or to services  
 13 rendered by a utility company owned, operated, or held in trust by a  
 14 consolidated city. This subsection applies to property that is served by  
 15 a municipally owned utility and that is occupied by someone other than  
 16 the owner of the property. Upon applying for utility service from a  
 17 municipally owned utility for property subject to this subsection, the  
 18 person occupying the property shall provide the municipally owned  
 19 utility with the name and contact information of the owner or manager  
 20 of the property. Subject to ~~subsection~~ **subsections (k) and (l)**, all rates,  
 21 charges, and other fees for services rendered by a municipally owned  
 22 utility to a property that is subject to this subsection are payable by the  
 23 person occupying the property if:

24 **(1) either:**

25 **(A) the municipally owned utility has received the name**  
 26 **and contact information of the owner or manager of the**  
 27 **property from the person occupying the property, as**  
 28 **required by this subsection; or**

29 **(B) the account or other customer or billing records**  
 30 **maintained by the municipally owned utility for the property**  
 31 **otherwise indicate that (†) the property is occupied by**  
 32 **someone other than the owner; and (‡) the person occupying**  
 33 **the property is responsible for paying the rates, charges, and**  
 34 **fees assessed for the services rendered by the municipally**  
 35 **owned utility with respect to the property.**

36 **(2) the municipally owned utility has not received from the**  
 37 **owner of the property a notice under subsection (m) that is in**  
 38 **effect under subsection (n).**

39 Rates, charges, and fees assessed for services rendered by a  
 40 municipally owned utility with respect to property occupied by  
 41 someone other than the owner of the property do not constitute a lien  
 42 against the property, **regardless of whether a notice described in**



1 **subsection (m) is in effect with respect to the property under**  
 2 **subsection (n).**

3 (k) With respect to property that is served by a municipally owned  
 4 utility and that is occupied by someone other than the owner of the  
 5 property, subsection (j) does not:

6 (1) **except as provided in subsection (l)**, prohibit a municipal  
 7 legislative body from imposing any:

8 (A) requirement for a deposit to ~~ensure payment by from~~ the  
 9 person occupying the property **to ensure payment by the**  
 10 **person** of the rates, charges, and fees assessed for the services  
 11 rendered by the municipally owned utility with respect to the  
 12 property; or

13 (B) other requirement to ensure the creditworthiness of the  
 14 person occupying the property as the account holder or  
 15 customer with respect to the property;

16 that the municipal legislative body may lawfully impose; or

17 (2) abrogate or limit the authority of the owner of a multi-unit  
 18 building to engage in electrical submetering under IC 8-1-2-36.5,  
 19 subject to:

20 (A) the owner's qualification to engage in submetering under  
 21 IC 8-1-2-36.5 and 170 IAC 4-5; and

22 (B) the owner's compliance with the requirements for  
 23 submetering set forth in IC 8-1-2-36.5 and 170 IAC 4-5.

24 **(l) This subsection applies to property that is served by a**  
 25 **municipally owned utility and that is occupied by someone other**  
 26 **than the owner of the property. If all rates, charges, and other fees**  
 27 **for services rendered by the municipally owned utility to the**  
 28 **property are payable by the person occupying the property under**  
 29 **subsection (j)(1) and (j)(2), the following apply:**

30 **(1) A municipally owned utility shall, without requiring:**

31 **(A) a request from the property owner; or**

32 **(B) the property owner to sign or cosign an agreement**  
 33 **described in subdivision (2);**

34 **maintain all account or other customer or billing records for**  
 35 **the property in the name of the person occupying the property**  
 36 **and shall send all bills or invoices concerning the property to**  
 37 **the person occupying the property at the address of the**  
 38 **property. This subdivision does not prohibit a municipally**  
 39 **owned utility from requiring the person occupying the**  
 40 **property to apply for utility services from the municipally**  
 41 **owned utility, in the form and manner prescribed by the**  
 42 **municipally owned utility, as a condition to receiving one (1)**



- 1 or more utility services from the municipally owned utility at  
 2 the property.
- 3 **(2) Subdivision (1) does not prohibit a municipally owned**  
 4 **utility or a municipal legislative body from imposing on the**  
 5 **person occupying the property any lawful requirement for a**  
 6 **deposit, or any other requirement to ensure the**  
 7 **creditworthiness of the person as the account holder or**  
 8 **customer, that the municipality may lawfully impose at any**  
 9 **time before or after establishing utility service to the property**  
 10 **in the person's name, in accordance with subsection (k)(1).**  
 11 **However, after March 14, 2020, a municipally owned utility**  
 12 **or a municipal legislative body may not, as a condition of**  
 13 **providing one (1) or more utility services to the property or**  
 14 **otherwise, require the owner of the property to:**
- 15 **(A) ensure the creditworthiness of the person occupying**  
 16 **the property, including by requiring the property owner to**  
 17 **accept responsibility for the payment of a deposit on behalf**  
 18 **of the person occupying the property; or**
- 19 **(B) subject to subsection (m), assume:**
- 20 **(i) responsibility for payment of any rates, charges, or**  
 21 **other fees for services rendered by the municipally**  
 22 **owned utility to the property; or**
- 23 **(ii) joint and several liability with respect to unpaid bills**  
 24 **invoiced to the person occupying the property;**
- 25 **by signing an agreement with the municipality or the**  
 26 **municipally owned utility, by cosigning an agreement**  
 27 **between the person occupying the property and the**  
 28 **municipality or the municipally owned utility, or by any**  
 29 **other means. An agreement described in this clause that is**  
 30 **entered into before March 15, 2020, expires as of the date**  
 31 **that a final meter reading is performed for the property in**  
 32 **the name of the person occupying the property on March**  
 33 **14, 2020, as reflected in the records of the municipally**  
 34 **owned utility. Upon the expiration of the agreement under**  
 35 **this clause, the municipally owned utility or the**  
 36 **municipality may not require the owner of the property, or**  
 37 **any subsequent owner of the property, to sign or cosign an**  
 38 **agreement described in this clause with respect to the**  
 39 **property as a condition of providing one (1) or more utility**  
 40 **services to the property or otherwise.**
- 41 **(3) If, after a municipally owned utility has established utility**  
 42 **service to the property in the name of the person occupying**



1 the property, the person occupying the property incurs a  
 2 delinquency with respect to any rates, charges, or other fees  
 3 imposed by the municipally owned utility with respect to the  
 4 property, the municipally owned utility shall provide written  
 5 notice to the property owner of the delinquency not later than  
 6 twenty (20) days after the time the rates, charges, or fees  
 7 become sixty (60) days delinquent. A notice under this  
 8 subsection shall be sent by first class mail or by certified mail,  
 9 return receipt requested (or an equivalent service permitted  
 10 under IC 1-1-7-1) to the property owner at:

11 (A) the address for the property owner provided to the  
 12 municipally owned utility under subsection (j) by the  
 13 person occupying the property; or

14 (B) the last address of the property owner as indicated in  
 15 the records of the county auditor on the date of the notice  
 16 of the delinquency if:

- 17 (i) the person occupying the property did not provide an  
 18 address for the property owner under subsection (j); or  
 19 (ii) the municipally owned utility sends the notice  
 20 required by this subdivision to the address provided  
 21 under subsection (j) by the person occupying the  
 22 property and there is no return of receipt of the mailing,  
 23 or the notice is returned as being undeliverable.

24 However, if the property owner, in a written notice to the  
 25 municipally owned utility, has specified an address at which  
 26 the property owner requests to receive a notice of delinquency  
 27 under this subdivision, the municipally owned utility shall  
 28 send the notice to the address specified by the property owner.  
 29 The cost of sending notice under this subdivision is an  
 30 administrative cost that may be billed to the property owner.

31 (4) If the municipally owned utility, in accordance with  
 32 subdivision (3), provides notice to the property owner that  
 33 any rates, charges, or other fees incurred by the person  
 34 occupying the property have become sixty (60) days  
 35 delinquent:

36 (A) the person occupying the property and the property  
 37 owner become jointly and severally liable for the unpaid  
 38 rates, charges, or fees as of the date that is twenty (20) days  
 39 after the date on which the rates, charges, or fees become  
 40 sixty (60) days delinquent; and

41 (B) the municipally owned utility or the municipality may  
 42 pursue any legal or equitable remedies available to the





1 municipally owned utility or the municipality with respect  
 2 to the delinquency, including seeking collection costs,  
 3 reconnect fees (if one (1) or more utility services have been  
 4 disconnected), statutory interest, or reasonable attorney's  
 5 fees from, or any available causes of action against:

- 6 (i) the person occupying the property; or  
 7 (ii) the property owner.

8 **(5) Subdivisions (1) through (4) do not prohibit a municipally**  
 9 **owned utility or a municipality from:**

10 **(A) terminating, in accordance with law and with the**  
 11 **municipally owned utility's applicable policies for the**  
 12 **utility services provided, one (1) or more utility services to**  
 13 **the property for any delinquent rates, charges, or other**  
 14 **fees incurred with respect to the property; or**

15 **(B) pursuing any legal or equitable remedies otherwise**  
 16 **available to the municipally owned utility or municipality**  
 17 **with respect to amounts owed in connection with utility**  
 18 **services rendered to the property, including seeking**  
 19 **collection costs, reconnect fees (if one (1) or more utility**  
 20 **services have been disconnected), statutory interest, or**  
 21 **reasonable attorney's fees from, or any available causes of**  
 22 **action against:**

- 23 (i) the person occupying the property; or  
 24 (ii) the property owner, if subdivision (4) applies, or if a  
 25 notice from the property owner under subsection (m) is  
 26 in effect with respect to the property.

27 **(m) This subsection applies to property that is served by a**  
 28 **municipally owned utility and that is occupied by someone other**  
 29 **than the owner of the property. Subject to subsection (n), any rates,**  
 30 **charges, or other fees imposed by the municipally owned utility**  
 31 **with respect to property that is subject to this subsection are**  
 32 **payable by the owner of the property if the owner provides to the**  
 33 **municipally owned utility a written notice that:**

- 34 **(1) indicates that the property is occupied by someone other**  
 35 **than the owner;**  
 36 **(2) states that the owner of the property elects to assume**  
 37 **responsibility for the payment of any rates, charges, or other**  
 38 **fees imposed by the municipally owned utility with respect to**  
 39 **the property; and**  
 40 **(3) includes a mailing address at which the owner of the**  
 41 **property requests to receive:**

- 42 **(A) billings; or**



1                   **(B) other notices of fees or charges due;**  
2                   **with respect to the property.**  
3                   **(n) A notice provided under subsection (m):**  
4                   **(1) takes effect as of:**  
5                   **(A) the date of receipt by the municipally owned utility; or**  
6                   **(B) another date indicated by the property owner in the**  
7                   **notice;**  
8                   **whichever is later; and**  
9                   **(2) remains in effect until:**  
10                   **(A) the property owner provides to the municipally owned**  
11                   **utility subsequent written notice that:**  
12                   **(i) states that the property owner no longer elects to**  
13                   **assume responsibility for the payment of any rates,**  
14                   **charges, or other fees imposed by the municipally owned**  
15                   **utility with respect to the property;**  
16                   **(ii) requests that the account or other customer or billing**  
17                   **records maintained by the municipally owned utility for**  
18                   **the property be placed in the name of the person**  
19                   **occupying the property; and**  
20                   **(iii) requests that all billings or other notices of fees or**  
21                   **charges due be provided to the person occupying the**  
22                   **property at the address of the property; or**  
23                   **(B) the date the property is conveyed to a subsequent**  
24                   **owner, as indicated in the office of the county recorder;**  
25                   **whichever occurs first.**  
26                   **SECTION 2. An emergency is declared for this act.**

