



Reprinted
January 31, 2020

HOUSE BILL No. 1414

DIGEST OF HB 1414 (Updated January 30, 2020 5:12 pm - DI 101)

Citations Affected: IC 8-1.

Synopsis: Electric generation. Provides that a public utility that owns and operates a reliable capacity electric generation resource shall operate and maintain the unit in a manner reasonably intended to secure the availability of the unit for dispatch and for providing reliable service to customers of the public utility. Prohibits a public utility from terminating a power agreement with a legacy generation resource in which the public utility has an ownership interest unless the public utility provides the utility regulatory commission (IURC) with at least three years advance notice of the termination. Provides that the IURC shall determine the reasonable costs incurred by the public utility under the power agreement and allow the public utility to recover those costs
(Continued next page)

Effective: Upon passage.

**Soliday, Morrison, Hostettler,
Manning**

January 15, 2020, read first time and referred to Committee on Utilities, Energy and Telecommunications.
January 23, 2020, amended, reported — Do Pass.
January 30, 2020, read second time, amended, ordered engrossed.

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Digest Continued

in a fuel adjustment charge proceeding. Provides that a public utility shall provide the IURC with at least six months advance notice of the public utility's intention to retire, sell, or transfer a reliable capacity resource with a capacity of at least 80 megawatts if such intention is not set forth in the public utility's preferred portfolio in the public utility's most recent integrated resource plan for which the IURC has provided a final director's report. Provides that a public utility may not retire, sell, or transfer a reliable capacity resource with a capacity of at least 80 megawatts unless: (1) the public utility first notifies the IURC of the public utility's intent to do so; and (2) the IURC conducts a public hearing to receive information concerning the reasonableness of the planned retirement, sale, or transfer. Requires the IURC to conduct the required hearing and issue its findings and conclusions concerning the reasonableness of the planned retirement, sale, or transfer not later than 120 days after the date of the public utility's notice to the IURC. Provides that if a public utility cites a federal mandate as the basis, in whole or in part, for the planned retirement, sale, or transfer of the unit, the IURC may consider in making the IURC's required findings and conclusions whether the cited federal mandate: (1) is in force; (2) has not expired or been revoked; and (3) is not merely anticipated to be enacted; at the time of the public utility's notice. Provides that a public utility is entitled to recover in a fuel adjustment charge proceeding the cost of not more than 90 days of reserve fuel supply, with up to 60 days of such reserve stored at any location that provides availability of the fuel supply upon not more than 48 hours notice. Provides that these provisions expire May 1, 2021. Provides that in awarding high value workforce ready credit-bearing grants, the commission for higher education, in conjunction with the department of workforce development, shall give priority to an applicant who is a dislocated coal mine employee.

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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. 1414

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 8-1-8.5-11 IS ADDED TO THE INDIANA CODE
2 AS A **NEW SECTION TO READ AS FOLLOWS [EFFECTIVE**
3 **UPON PASSAGE]: Sec. 11. (a) As used in this section, "legacy**
4 **generation resource" means an electric generating facility owned**
5 **directly or indirectly by a corporation that was formed for the**
6 **original purpose of providing power to the federal government for**
7 **use in the nation's defense or in furtherance of national interests,**
8 **including the Ohio Valley Electric Corporation.**
9 (b) As used in this section, "reliable capacity resource" means
10 an electric generating unit:
11 (1) that is located in Indiana;
12 (2) the capacity of which is valued by a regional transmission
13 organization at a minimum of eighty percent (80%) of the
14 unit's nameplate capacity; and
15 (3) that maintains an annual average onsite fuel inventory of
16 at least thirty (30) days of average fuel consumption.
17 (c) The general assembly finds that it is in the public interest to

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1 support the reliability, availability, fuel security, and diversity of
 2 electric generating capacity in Indiana for the purpose of providing
 3 reliable and stable electric service to customers of public utilities.

4 (d) A public utility that owns and operates a reliable capacity
 5 resource shall operate and maintain the unit in a manner
 6 reasonably intended to secure the availability of the unit for
 7 dispatch and for providing reliable service to customers of the
 8 public utility.

9 (e) A public utility may not terminate a power agreement with
 10 a legacy generation resource in which the public utility has an
 11 ownership interest unless the public utility provides the
 12 commission with at least three (3) years advance notice of the
 13 termination. The commission shall determine the reasonable costs
 14 incurred by the public utility under the power agreement and allow
 15 the public utility to recover those costs in a fuel adjustment charge
 16 proceeding under IC 8-1-2-42. For purposes of this subsection, a
 17 public utility's reasonable costs related to a legacy generation
 18 resource means those costs, including deferred costs, allocated
 19 under a power agreement approved by the Federal Energy
 20 Regulatory Commission and relating to a legacy generation
 21 resource.

22 (f) A public utility shall provide the commission with at least six
 23 (6) months advance notice of the public utility's intention to retire,
 24 sell, or transfer a reliable capacity resource with a capacity
 25 exceeding eighty (80) megawatts if such intention is not set forth in
 26 the public utility's preferred portfolio in the public utility's most
 27 recent integrated resource plan for which the commission has
 28 provided a final director's report. The public utility shall provide
 29 the reasons for the proposed retirement, sale, or transfer in the
 30 notice required under this subsection.

31 (g) A public utility may not retire, sell, or transfer a reliable
 32 capacity resource with a capacity exceeding eighty (80) megawatts
 33 unless:

34 (1) the public utility first notifies the commission of the public
 35 utility's intent to do so; and

36 (2) the commission conducts a public hearing, noticed in
 37 accordance with IC 5-14-1.5, to receive information
 38 concerning the reasonableness of the planned retirement, sale,
 39 or transfer.

40 Not later than one hundred twenty (120) days after the date of the
 41 public utility's notice to the commission under this subsection or,
 42 if applicable, under subsection (f), the commission shall conduct



1 the hearing described in subdivision (2) and issue the commission's
 2 findings and conclusions concerning the reasonableness of the
 3 planned retirement, sale, or transfer based on the information
 4 received.

5 (h) If a public utility that seeks to retire, sell, or transfer a
 6 reliable capacity resource under subsection (g) cites a federal
 7 mandate as the basis, in whole or in part, for the planned
 8 retirement, sale, or transfer of the unit, the commission may
 9 consider in making the commission's findings and conclusions
 10 under subsection (g) whether the cited federal mandate:

- 11 (1) is in force;
- 12 (2) has not expired or been revoked; and
- 13 (3) is not merely anticipated to be enacted;

14 at the time of the public utility's notice under subsection (g).

15 (i) A public utility is entitled to recover in a fuel adjustment
 16 charge proceeding under IC 8-1-2-42 the cost of not more than
 17 ninety (90) days of reserve fuel supply, with up to sixty (60) days of
 18 such reserve stored at any location that provides availability of the
 19 fuel supply upon not more than forty-eight (48) hours notice. Costs
 20 associated with a reserve fuel supply described in this subsection
 21 shall be considered reasonable by the commission, and are eligible
 22 for recovery in the public utility's fuel charge, if the commission
 23 finds that the public utility has otherwise made every reasonable
 24 effort to acquire the reserve supply at the lowest cost reasonably
 25 possible, giving due regard to considerations of fuel assurance, fuel
 26 security, and reliability with respect to the electricity supplied by
 27 the public utility to its customers and the wholesale market.

28 (j) This section expires May 1, 2021.

29 SECTION 2. IC 8-1-8.5-12 IS ADDED TO THE INDIANA CODE
 30 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE
 31 UPON PASSAGE]: Sec. 12. (a) As used in this section, "dislocated
 32 coal mine employee" means:

- 33 (1) an individual who:
 - 34 (A) has been laid off or terminated from the individual's
 - 35 employment at a commercial coal mine in Indiana; or
 - 36 (B) has received a notice of termination or layoff from the
 - 37 individual's employment at a commercial coal mine in
 - 38 Indiana;
 - 39 as a result of the permanent closure of, or a substantial layoff
 - 40 at, the commercial coal mine; or
- 41 (2) an individual who:
 - 42 (A) has:



1 (i) been laid off or terminated, for a reason other than
2 cause; or
3 (ii) received a notice of termination or layoff, for a
4 reason other than cause;
5 from the individual's employment at a commercial coal
6 mine in Indiana; and
7 (B) is unlikely to become reemployed in the coal mining
8 industry because of market forces or other factors
9 affecting the industry.
10 (b) In awarding high value workforce ready credit-bearing
11 grants under IC 21-12-8, the commission for higher education, in
12 conjunction with the department of workforce development, shall
13 give priority to an applicant who is a dislocated coal mine
14 employee if the applicant is otherwise eligible for a grant under
15 IC 21-12-8-9.
16 SECTION 3. An emergency is declared for this act.



COMMITTEE REPORT

Mr. Speaker: Your Committee on Utilities, Energy and Telecommunications, to which was referred House Bill 1414, 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 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 1414 as introduced.)

SOLIDAY

Committee Vote: yeas 9, nays 4.

 HOUSE MOTION

Mr. Speaker: I move that House Bill 1414 be amended to read as follows:

Page 1, line 3, delete "As used in this section, "annual".

Page 1, delete lines 4 through 13.

Page 1, line 14, delete "(c)".

Page 1, run in lines 1 through 14.

Page 2, line 3, delete "(d)" and insert "**(b)**".

Page 2, line 11, delete "(e)" and insert "**(c)**".

Page 2, line 15, delete "(f)" and insert "**(d)**".

Page 2, delete lines 20 through 32.

Page 2, line 33, delete "(h)" and insert "**(e)**".

Page 3, line 4, delete "(i)" and insert "**(f)**".

Page 3, line 8, delete "most recent integrated resource plan." and insert "**preferred portfolio in the public utility's most recent integrated resource plan for which the commission has provided a final director's report.**".

Page 3, delete lines 11 through 36, begin a new paragraph and insert:

"(g) A public utility may not retire, sell, or transfer a reliable capacity resource with a capacity exceeding eighty (80) megawatts unless:

(1) the public utility first notifies the commission of the public

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utility's intent to do so; and

(2) the commission conducts a public hearing, noticed in accordance with IC 5-14-1.5, to receive information concerning the reasonableness of the planned retirement, sale, or transfer.

Not later than one hundred twenty (120) days after the date of the public utility's notice to the commission under this subsection or, if applicable, under subsection (f), the commission shall conduct the hearing described in subdivision (2) and issue the commission's findings and conclusions concerning the reasonableness of the planned retirement, sale, or transfer based on the information received.

(h) If a public utility that seeks to retire, sell, or transfer a reliable capacity resource under subsection (g) cites a federal mandate as the basis, in whole or in part, for the planned retirement, sale, or transfer of the unit, the commission may consider in making the commission's findings and conclusions under subsection (g) whether the cited federal mandate:

- (1) is in force;
- (2) has not expired or been revoked; and
- (3) is not merely anticipated to be enacted;

AT the time of the public utility's notice under subsection (g)."

Page 3, line 37, delete "(l)" and insert "(i)".

Page 4, delete line 8 and insert "(j) This section expires May 1, 2021."

(Reference is to HB 1414 as printed January 24, 2020.)

SOLIDAY

HOUSE MOTION

Mr. Speaker: I move that House Bill 1414 be amended to read as follows:

Page 4, between lines 8 and 9, begin a new paragraph and insert:

"SECTION 2. IC 8-1-8.5-12 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE UPON PASSAGE]: **Sec. 12. (a) As used in this section, "dislocated coal mine employee" means:**

- (1) an individual who:
 - (A) has been laid off or terminated from the individual's

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**employment at a commercial coal mine in Indiana; or
(B) has received a notice of termination or layoff from the individual's employment at a commercial coal mine in Indiana;**

as a result of the permanent closure of, or a substantial layoff at, the commercial coal mine; or

(2) an individual who:

(A) has:

(i) been laid off or terminated, for a reason other than cause; or

(ii) received a notice of termination or layoff, for a reason other than cause;

from the individual's employment at a commercial coal mine in Indiana; and

(B) is unlikely to become reemployed in the coal mining industry because of market forces or other factors affecting the industry.

(b) In awarding high value workforce ready credit-bearing grants under IC 21-12-8, the commission for higher education, in conjunction with the department of workforce development, shall give priority to an applicant who is a dislocated coal mine employee if the applicant is otherwise eligible for a grant under IC 21-12-8-9."

Renumber all SECTIONS consecutively.

(Reference is to HB 1414 as printed January 24, 2020.)

MORRISON

