



January 26, 2024

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## SENATE BILL No. 5

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DIGEST OF SB 5 (Updated January 25, 2024 9:50 am - DI 140)

**Citations Affected:** IC 8-1; IC 16-46; IC 34-30; IC 34-31.

**Synopsis:** Lead water line replacement and lead remediation. Specifies that, for purposes of the statute concerning the replacement of customer owned lead service lines by water utilities, a municipally owned utility includes a utility company owned, operated, or held in trust by a consolidated city. Provides that the following apply with respect to the owner of a building, structure, or dwelling, other than a multi-family residential property that contains more than four dwelling units, that is served by a customer owned lead service line within or connected to a water utility's system: (1) That upon request by the water utility, the owner shall replace, or cause to be replaced, the customer owned portion of the lead service line by: (A) enrolling in the water utility's lead service line replacement program; or (B) replacing the customer owned portion of the lead service line through the owner's own agents  
(Continued next page)

**Effective:** Upon passage; July 1, 2024.

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**Koch, Charbonneau, Hunley,  
Bohacek, Deery, Dernulc, Doriot,  
Garten, Glick, Holdman, Johnson T,  
Bassler, Leising, Messmer, Niemeyer,  
Walker G, Niezgodski, Walker K,  
Zay, Carrasco, Busch, Yoder**

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January 8, 2024, read first time and referred to Committee on Utilities.  
January 16, 2024, amended, reported favorably — Do Pass; reassigned to Committee on Appropriations.  
January 25, 2024, reported favorably — Do Pass.

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Digest Continued

or contractors and at the owner's own expense. (2) That if the owner: (A) does not enroll in the water utility's lead service line replacement program; (B) does not replace the customer owned portion of the lead service line; or (C) fails to communicate with the water utility regarding the replacement; the water utility or the water utility's agent may enter the property to replace the customer owned portion of the lead service line. (3) That the: (A) water utility; and (B) occupant of the property, if the property is occupied by a person other than the owner; are not liable to the owner with respect to any replacement made under these provisions. (4) That a water utility may, in addition to availing itself of the remedies set forth in these provisions, and in accordance with state law, disconnect water service to the owner's property. Provides that the following apply with respect to the owner of a multi-family residential property that contains more than four dwelling units: (1) That the owner may elect to participate in the water utility's lead service line replacement program. (2) That the owner must communicate to the water utility the owner's election to participate not later than 45 days after receiving the water utility's request. (3) That if the owner does not communicate the owner's election to participate within this 45 day period, the owner, or any future owner of the property, is responsible for replacing the customer owned portion of the lead service line through the owner's own agents or contractors and at the owner's own expense. Provides that in the case of a: (1) building; (2) structure; or (3) dwelling; that a water utility has determined to be abandoned or unserviceable, the water utility may disconnect water service to the property and require the owner, or any future owner, of the property to install a new service line. Provides that these provisions may be incorporated, without the need for further approval by the Indiana utility regulatory commission (IURC), into a water utility's lead service line replacement plan that has been previously approved by the IURC. Establishes the school lead testing and remediation grant program (program) for the purpose of making grants to public school corporations to perform lead testing and remediation in schools. Requires the Indiana department of health to administer the program. Makes an appropriation.



January 26, 2024

Second Regular Session of the 123rd General Assembly (2024)

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 2023 Regular Session of the General Assembly.

## SENATE BILL No. 5

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A BILL FOR AN ACT to amend the Indiana Code concerning utilities and to make an appropriation.

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

1           SECTION 1. IC 8-1-31.6-2, AS AMENDED BY P.L.15-2019,  
2 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 UPON PASSAGE]: Sec. 2. As used in this chapter, "customer lead  
4 service line improvement" means an expenditure that is:  
5           (1) related to ~~(A)~~ a lead service line, ~~or (B)~~ **including any**  
6           galvanized steel service line **that is or has been connected to**  
7           **any upstream component made of lead or of an unknown**  
8           **material, that is** owned by a customer of a water utility;  
9           (2) made by a water utility; and  
10          (3) related to a water utility's plan to replace lead service lines  
11          within or connected to the water utility's system, including lines  
12          owned by the customer and lines owned by the water utility.  
13          SECTION 2. IC 8-1-31.6-4, AS AMENDED BY P.L.137-2020,  
14 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
15 UPON PASSAGE]: Sec. 4. **(a)** As used in this chapter, "water utility"

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1 means:

- 2 (1) a public utility (as defined in IC 8-1-2-1(a)); or  
 3 (2) a municipally owned utility (as defined in IC 8-1-2-1(h));  
 4 that provides water service to the public, and that is under the  
 5 commission's authority with respect to rates and charges.

6 **(b) For purposes of this chapter, a municipally owned utility**  
 7 **includes a utility company owned, operated, or held in trust by a**  
 8 **consolidated city.**

9 SECTION 3. IC 8-1-31.6-6, AS AMENDED BY P.L.32-2021,  
 10 SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 11 UPON PASSAGE]: Sec. 6. (a) **As used in this section, "occupant",**  
 12 **with respect to any:**

- 13 (1) **building;**  
 14 (2) **structure; or**  
 15 (3) **dwelling;**

16 **that is served by a lead service line, means a person in actual**  
 17 **possession of and residing in or occupying the building, structure,**  
 18 **or dwelling.**

19 **(b) As used in this section, "owner", with respect to any:**

- 20 (1) **building;**  
 21 (2) **structure; or**  
 22 (3) **dwelling;**

23 **that is served by a lead service line, means a person who has legal**  
 24 **title to the building, structure, or dwelling, as indicated by the**  
 25 **property tax records of the county in which the property is located,**  
 26 **or by the account or other customer or billing records maintained**  
 27 **by the water utility with respect to the property, regardless of**  
 28 **whether the person is in actual possession of and residing in or**  
 29 **occupying the building, structure, or dwelling.**

30 (a) (c) Before a water utility is authorized to include customer lead  
 31 service line improvements as eligible infrastructure improvements for  
 32 purposes of IC 8-1-31, for a public utility, or for purposes of this  
 33 chapter, for a municipally owned utility, the commission must first  
 34 approve the water utility's plan for the replacement of the customer  
 35 owned portion of the lead service lines within or connected to the water  
 36 utility's system. The water utility's plan must address the following:

- 37 (1) The availability of grants or low interest loans and how the  
 38 water utility plans to use available grants or low interest loans to  
 39 help the water utility finance or reduce the cost of the customer  
 40 lead service line improvements for the water utility and the water  
 41 utility's customers, including any arrangements for the customer  
 42 to receive available grants or financing directly.



- 1 (2) A description of how the replacement of customer owned lead
- 2 service lines will be accomplished in conjunction with
- 3 distribution system infrastructure replacement projects.
- 4 (3) The estimated savings in costs per service line that would be
- 5 realized by the water utility replacing the customer owned portion
- 6 of the lead service lines versus the anticipated replacement costs
- 7 if customers were required to replace the customer owned portion
- 8 of the lead service lines.
- 9 (4) The number of lead mains and lead service lines estimated to
- 10 be part of the water utility's system.
- 11 (5) A range for the number of customer owned lead service lines
- 12 estimated to be replaced annually.
- 13 (6) A range for the total feet of lead mains estimated to be
- 14 replaced annually.
- 15 (7) The water utility's proposal for addressing the costs of unusual
- 16 site restoration work necessitated by structures or improvements
- 17 located above the customer owned portion of the lead service
- 18 lines.
- 19 (8) The water utility's proposal for
- 20 ~~(A) communicating with the customer the availability of the~~
- 21 ~~water utility's plan to replace the customer owned portion of~~
- 22 ~~the lead service line in conjunction with the water utility's~~
- 23 ~~replacement of the utility owned portion of the lead service~~
- 24 ~~line. and~~
- 25 ~~(B) documenting the customer's consent or lack of consent to~~
- 26 ~~replace the customer owned portion of the lead service line.~~
- 27 (9) The water utility's proposal concerning whether the water
- 28 utility or the customer will be responsible for future replacement
- 29 or repair of the portion of the new service line corresponding to
- 30 the previous customer owned lead service line.
- 31 (10) The estimated total cost to replace all customer owned
- 32 portions of the lead service lines within or connected to the water
- 33 utility's system and an estimated range for the annual cost to be
- 34 incurred by the water utility under the water utility's plan.
- 35 **(d) Notwithstanding the terms of a water utility's plan for the**
- 36 **replacement of the customer owned portion of the lead service lines**
- 37 **within or connected to the water utility's system, the following**
- 38 **apply to the owner of a building, structure, or dwelling that is**
- 39 **served by a customer owned lead service line within or connected**
- 40 **to the water utility's system:**
- 41 **(1) Upon request by the water utility, the owner of a building,**
- 42 **structure, or dwelling, other than a multi-family residential**



1 property that contains more than four (4) dwelling units, shall  
 2 replace, or cause to be replaced, the customer owned portion  
 3 of the lead service line by either of the following methods:

4 (A) Enrolling in the lead service line replacement program  
 5 offered by the water utility and, after enrolling, allowing  
 6 the water utility or the water utility's agents to access the  
 7 owner's property, at no cost to the water utility, to conduct  
 8 the replacement in accordance with the water utility's  
 9 plan.

10 (B) Replacing the customer owned portion of the lead  
 11 service line through the owner's own agents or contractors  
 12 and at the owner's own expense. If the owner elects to  
 13 replace the customer owned portion of the lead service line  
 14 under this clause, the replacement must be completed not  
 15 later than forty-five (45) days after the water utility first  
 16 communicates to the owner the availability of the water  
 17 utility's program to replace the customer owned portion of  
 18 the lead service line.

19 (2) If the owner of a building, structure, or dwelling, other  
 20 than a multi-family residential property that contains more  
 21 than four (4) dwelling units:

22 (A) does not enroll in the lead service line replacement  
 23 program offered by the water utility;

24 (B) does not replace the customer owned portion of the  
 25 lead service line through the owner's own agents or  
 26 contractors and at the owner's own expense within the  
 27 forty-five (45) day period described in subdivision (1)(B);  
 28 or

29 (C) fails to communicate with or is nonresponsive to the  
 30 water utility's attempted communications regarding the  
 31 replacement of the customer owned portion of the lead  
 32 service line;

33 the water utility or the water utility's agent may, after the  
 34 expiration of the forty-five (45) day period described in  
 35 subdivision (1)(B), enter the property to replace the customer  
 36 owned portion of the lead service line without having obtained  
 37 the permission of the owner with respect to the entry or the  
 38 replacement. A water utility, including an agent of the water  
 39 utility, that enters an owner's property and conducts a  
 40 replacement under this subdivision shall be held harmless by  
 41 and is not liable to the owner with respect to the entry or the  
 42 replacement. If the property is occupied by an occupant other



1 than the owner, and the occupant grants the water utility or  
2 the water utility's agent access to the property to conduct a  
3 replacement under this subdivision, the occupant shall also be  
4 held harmless by and is also not liable to the owner with  
5 respect to the entry or the replacement. Notwithstanding the  
6 terms of the water utility's plan for the replacement of  
7 customer owned lead service lines, a water utility that  
8 conducts a replacement under this subdivision is not liable for  
9 any property restoration costs necessitated by the  
10 replacement and that exceed five hundred dollars (\$500). The  
11 owner is responsible for the completion and cost of any  
12 property restoration work necessitated by the replacement  
13 and exceeding the five hundred dollar (\$500) limit set forth in  
14 this subdivision. A water utility that enters an owner's  
15 property as permitted under this subdivision is not liable to  
16 the owner for any cost for access to, or for an easement on,  
17 the property.

18 (3) Upon request by the water utility, the owner of a  
19 multi-family residential property that contains more than  
20 four (4) dwelling units may elect to participate in the water  
21 utility's lead service line replacement program. An owner  
22 shall communicate to the water utility the owner's election to  
23 participate in the water utility's program under this  
24 subdivision not later than forty-five (45) days after receiving  
25 the water utility's request. If the owner does not communicate  
26 the owner's election to participate in the water utility's  
27 program within the forty-five (45) day period set forth in this  
28 subdivision, the owner, or any future owner of the property,  
29 is responsible for replacing the customer owned portion of the  
30 lead service line through the owner's own agents or  
31 contractors and at the owner's own expense.

32 (4) In any case in which the conditions set forth in subdivision  
33 (2) apply, or in which the owner denies access to the property  
34 to enable the replacement of the customer owned portion of  
35 the lead service line, a water utility may, in addition to  
36 availing itself of the remedies set forth in subdivision (2), and  
37 in accordance with state law and rules adopted by the  
38 commission, disconnect water service to the property. Before  
39 water service may be restored to the property, the owner  
40 must provide the water utility with proof that:

41 (A) the owner has enrolled in the water utility's lead  
42 service line replacement program under subdivision



1           (1)(A); or  
 2           **(B) the customer owned service line has been replaced in**  
 3           **accordance with subdivision (1)(B).**  
 4           **(5) In the case of any:**  
 5           **(A) building;**  
 6           **(B) structure; or**  
 7           **(C) dwelling;**  
 8           **that the water utility has determined, in accordance with any**  
 9           **applicable law, to be abandoned or unserviceable, the water**  
 10           **utility may disconnect water service to the property and**  
 11           **require the owner, or any future owner, of the property to**  
 12           **install a new service line through the owner's own agents or**  
 13           **contractors and at the owner's own expense.**  
 14           **(6) The provisions set forth in this subsection may be**  
 15           **incorporated into a water utility's plan that has been**  
 16           **previously approved by the commission under this section. A**  
 17           **water utility that incorporates the provisions set forth in this**  
 18           **subsection into a previously approved plan is not required to**  
 19           **obtain any additional approval from the commission with**  
 20           **respect to the incorporated provisions.**  
 21           ~~(b)~~ **(e)** The commission shall approve a water utility's plan if the  
 22           commission finds the plan to be reasonable and in the public interest.  
 23           Subject to subsection ~~(e)~~; **(f)**, in general rate cases following the  
 24           approval of a public utility's plan, the commission shall for ratemaking  
 25           purposes add to the value of the public utility's property for purposes  
 26           of IC 8-1-2-6 the actual costs incurred by the public utility in replacing  
 27           the customer owned portion of the lead service lines and in removing  
 28           customer owned lead service lines from service in accordance with the  
 29           public utility's plan, notwithstanding the continued ownership of the  
 30           service line by the customer.  
 31           ~~(e)~~ **(f)** To the extent a water utility incurs an annual cost under the  
 32           water utility's plan in excess of the range set forth in subsection ~~(a)~~~~(10)~~  
 33           **(c)(10)** and approved by the commission under subsection ~~(b)~~; **(e)**, the  
 34           additional costs are not eligible for the ratemaking treatment provided  
 35           for in this section or in section 7, **8, or 10** of this chapter.  
 36           SECTION 4. IC 8-1-31.6-7, AS AMENDED BY P.L.137-2020,  
 37           SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 38           UPON PASSAGE]: Sec. 7. Subject to section ~~6(e)~~ **6(f)** of this chapter,  
 39           **in the case of a water utility that is a public utility**, upon the  
 40           commission's approval of a ~~public~~ **the water** utility's plan under section  
 41           6 of this chapter, the water utility may include the actual costs incurred  
 42           by the ~~public water~~ utility in connection with completing customer





1 lead service line improvements that:

2 (1) have been placed in service; and

3 (2) have not been included in the **public water** utility's rate base  
4 in the **public water** utility's most recent general rate case;

5 as eligible infrastructure improvements for purposes of IC 8-1-31. For  
6 purposes of the revenue limitation calculation under IC 8-1-31-13,  
7 infrastructure improvement costs associated with customer lead service  
8 line improvements shall not be counted as adjustment revenues in  
9 determining whether the water utility's total adjustment revenues  
10 exceed ten percent (10%) of the water utility's base revenue level  
11 approved in the water utility's most recent general rate case.

12 SECTION 5. IC 8-1-31.6-8, AS ADDED BY P.L.137-2020,  
13 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
14 UPON PASSAGE]: Sec. 8. Subject to section ~~6(e)~~ **6(f)** of this chapter,  
15 **in the case of a water utility that is a municipally owned utility,**  
16 upon the commission's approval of the **water** utility's plan under  
17 section 6 of this chapter, a ~~municipally owned the water~~ utility may  
18 include in the **water** utility's rates the costs for customer lead service  
19 line improvements that:

20 (1) are made, or are to be made, by a ~~municipally owned the~~  
21 **water** utility;

22 (2) do not increase revenues by connecting to new customers,  
23 even though the plant or equipment may provide the ~~municipally~~  
24 **owned water** utility with available capacity greater than the  
25 available capacity provided to the customer before the line  
26 improvements;

27 (3) are or will be an extension or replacement consistent with  
28 section 9 of this chapter; and

29 (4) were not included on the **water** utility's balance sheet as plant  
30 in service in the **water** utility's most recent general rate case.

31 SECTION 6. IC 16-46-18 IS ADDED TO THE INDIANA CODE  
32 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE  
33 JULY 1, 2024]:

34 **Chapter 18. School Lead Testing and Remediation Grant**  
35 **Program**

36 **Sec. 1. For purposes of this chapter, "public school corporation"**  
37 **has the meaning set forth in IC 4-4-38.5-6.2.**

38 **Sec. 2. The school lead testing and remediation grant program**  
39 **is established. The state department shall administer the program.**

40 **Sec. 3. (a) The school lead testing and remediation grant fund is**  
41 **established for the purpose of making grants to public school**  
42 **corporations to perform lead testing and remediation in schools.**



- 1       **The state department shall administer the fund.**  
2       **(b) The fund consists of:**  
3           **(1) money received from state or federal grants or programs;**  
4           **and**  
5           **(2) gifts, money, and donations received from any other**  
6           **source, including transfers from other funds or accounts.**  
7       **(c) Money in the fund is continuously appropriated for purposes**  
8       **of this section.**  
9       **(d) The expenses of administering the fund shall be paid from**  
10       **money in the fund.**  
11       **(e) The treasurer of state shall invest the money in the fund not**  
12       **currently needed to meet the obligations of the fund in the same**  
13       **manner as other public money may be invested. Interest that**  
14       **accrues from the investments shall be deposited in the fund.**  
15       **(f) Money in the fund at the end of a state fiscal year does not**  
16       **revert to the state general fund.**  
17       **Sec. 4. (a) A public school corporation seeking a grant under**  
18       **this chapter must submit a proposal to the state department in a**  
19       **manner prescribed by the state department.**  
20       **(b) The state department, upon receiving a proposal from a**  
21       **public school corporation, shall either approve or reject the**  
22       **proposal.**  
23       **(c) The state department, upon the approval of a proposal from**  
24       **a public school corporation, shall make the grant to the public**  
25       **school corporation in a time and manner determined by the state**  
26       **department.**  
27       **Sec. 5. The state department may adopt necessary rules under**  
28       **IC 4-22-2 to implement this chapter.**  
29       **SECTION 7. IC 34-30-2.1-77.5 IS ADDED TO THE INDIANA**  
30       **CODE AS A NEW SECTION TO READ AS FOLLOWS**  
31       **[EFFECTIVE UPON PASSAGE]: Sec. 77.5. IC 8-1-31.6-6**  
32       **(Concerning a water utility, or an occupant other than the owner**  
33       **of real property, that enters real property (or grants access to the**  
34       **property, in the case of an occupant) served by a customer owned**  
35       **lead service line to replace the customer owned lead service line**  
36       **after the owner's failure to replace, or cause to be replaced, the**  
37       **customer owned lead service line).**  
38       **SECTION 8. IC 34-31-2-1.5 IS ADDED TO THE INDIANA CODE**  
39       **AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE**  
40       **UPON PASSAGE]: Sec. 1.5. IC 8-1-31.6-6 (Concerning a water**  
41       **utility for any property restoration costs that are necessitated by**  
42       **the replacement of customer owned lead service lines on a property**



1 **owner's property).**  
2 **SECTION 9. An emergency is declared for this act.**



## COMMITTEE REPORT

Madam President: The Senate Committee on Utilities, to which was referred Senate Bill No. 5, 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 utilities and to make an appropriation.

Page 4, line 27, after "subdivision (1)(B);" insert "or".

Page 4, line 31, delete "or".

Page 4, delete lines 32 through 33.

Page 5, line 34, after "apply," insert "**or in which the owner denies access to the property to enable the replacement of the customer owned portion of the lead service line,**".

Page 7, between lines 29 and 30, begin a new paragraph and insert:

"SECTION 6. IC 16-46-18 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2024]:

**Chapter 18. School Lead Testing and Remediation Grant Program**

**Sec. 1. For purposes of this chapter, "public school corporation" has the meaning set forth in IC 4-4-38.5-6.2.**

**Sec. 2. The school lead testing and remediation grant program is established. The state department shall administer the program.**

**Sec. 3. (a) The school lead testing and remediation grant fund is established for the purpose of making grants to public school corporations to perform lead testing and remediation in schools. The state department shall administer the fund.**

**(b) The fund consists of:**

**(1) money received from state or federal grants or programs; and**

**(2) gifts, money, and donations received from any other source, including transfers from other funds or accounts.**

**(c) Money in the fund is continuously appropriated for purposes of this section.**

**(d) The expenses of administering the fund shall be paid from money in the fund.**

**(e) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public money may be invested. Interest that accrues from the investments shall be deposited in the fund.**

**(f) Money in the fund at the end of a state fiscal year does not**



revert to the state general fund.

**Sec. 4. (a) A public school corporation seeking a grant under this chapter must submit a proposal to the state department in a manner prescribed by the state department.**

**(b) The state department, upon receiving a proposal from a public school corporation, shall either approve or reject the proposal.**

**(c) The state department, upon the approval of a proposal from a public school corporation, shall make the grant to the public school corporation in a time and manner determined by the state department.**

**Sec. 5. The state department may adopt necessary rules under IC 4-22-2 to implement this chapter."**

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass and be reassigned to the Senate Committee on Appropriations.

(Reference is to SB 5 as introduced.)

KOCH, Chairperson

Committee Vote: Yeas 10, Nays 0.

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COMMITTEE REPORT

Madam President: The Senate Committee on Appropriations, to which was referred Senate Bill No. 5, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is to SB 5 as printed January 17, 2024.)

MISHLER, Chairperson

Committee Vote: Yeas 12, Nays 0

