



February 22, 2024

ENGROSSED SENATE BILL No. 5

DIGEST OF SB 5 (Updated February 21, 2024 6:25 pm - DI 134)

Citations Affected: IC 8-1; 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
(Continued next page)

Effective: Upon passage.

**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, Alexander, Alting, Baldwin,
Becker, Randolph Lonnie M**
(HOUSE SPONSORS — SOLIDAY, BARRETT, JACKSON, HALL,
ZIMMERMAN)

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.
January 29, 2024, read second time, ordered engrossed. Engrossed.
January 30, 2024, read third time, passed. Yeas 49, nays 0.
HOUSE ACTION
February 6, 2024, read first time and referred to Committee on Utilities, Energy and Telecommunications.
February 15, 2024, amended, reported — Do Pass. Referred to Committee on Ways and Means pursuant to Rule 127.
February 22, 2024, amended, reported — Do Pass.

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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 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 if a water utility attempts to avail itself of the remedies set forth in these provisions and is prevented from doing so by the owner of the property, the water utility may, 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.



February 22, 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.

ENGROSSED SENATE BILL No. 5

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 8-1-31.6-2, 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)~~ **a 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 and in which the water utility attempts to avail itself
34 of the remedies set forth in subdivision (2) but is prevented
35 from doing so by the owner of the property, the water utility
36 may, in accordance with state law and rules adopted by the
37 commission, disconnect water service to the property. Before
38 water service may be restored to the property, the owner
39 must provide the water utility with proof that:

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



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



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

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

- 19 (1) are made, or are to be made, by a ~~municipally owned the~~
 20 **water** utility;
 21 (2) do not increase revenues by connecting to new customers,
 22 even though the plant or equipment may provide the ~~municipally~~
 23 **owned water** utility with available capacity greater than the
 24 available capacity provided to the customer before the line
 25 improvements;
 26 (3) are or will be an extension or replacement consistent with
 27 section 9 of this chapter; and
 28 (4) were not included on the **water** utility's balance sheet as plant
 29 in service in the **water** utility's most recent general rate case.

30 SECTION 6. IC 34-30-2.1-77.5 IS ADDED TO THE INDIANA
 31 CODE AS A **NEW SECTION** TO READ AS FOLLOWS
 32 [EFFECTIVE UPON PASSAGE]: **Sec. 77.5. IC 8-1-31.6-6**
 33 **(Concerning a water utility, or an occupant other than the owner**
 34 **of real property, that enters real property (or grants access to the**
 35 **property, in the case of an occupant) served by a customer owned**
 36 **lead service line to replace the customer owned lead service line**
 37 **after the owner's failure to replace, or cause to be replaced, the**
 38 **customer owned lead service line).**

39 SECTION 7. IC 34-31-2-1.5 IS ADDED TO THE INDIANA CODE
 40 AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE
 41 UPON PASSAGE]: **Sec. 1.5. IC 8-1-31.6-6 (Concerning a water**
 42 **utility for any property restoration costs that are necessitated by**



1 **the replacement of customer owned lead service lines on a property**
2 **owner's property).**

3 **SECTION 8. 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.

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



COMMITTEE REPORT

Mr. Speaker: Your Committee on Utilities, Energy and Telecommunications, to which was referred Senate Bill 5, 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:

Page 5, line 33, delete "apply, or in which the owner denies access to the property" and insert "**apply and in which the water utility attempts to avail itself of the remedies set forth in subdivision (2) but is prevented from doing so by the owner of the property, the water utility may,**".

Page 5, delete lines 34 through 36.

Page 8, line 3, delete "state or".

and when so amended that said bill do pass.

(Reference is to SB 5 as printed January 26, 2024.)

SOLIDAY

Committee Vote: yeas 12, nays 0.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred Engrossed Senate Bill 5, 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 the title and insert the following:

A BILL FOR AN ACT to amend the Indiana Code concerning utilities.

Page 7, delete lines 30 through 42.

Page 8, delete lines 1 through 26.

Re-number all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to ESB 5 as printed February 15, 2024.)

THOMPSON

Committee Vote: yeas 18, nays 0.

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