

# SENATE BILL No. 361

---

## DIGEST OF INTRODUCED BILL

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

**Synopsis:** Municipal electric utilities. Provides that a contract for the procurement of electricity or purchased power capacity that is entered into after June 30, 2020, by a municipally owned electric utility must, to the extent practicable, be the result of the solicitation by the utility of competitive bids to obtain electricity or purchased power capacity from alternative suppliers. Requires the utility to make available for public inspection and copying under the statute governing access to public records: (1) a verified copy of such a contract; or (2) a memorandum of the contract that includes information concerning certain specified terms of the contract. Requires a municipally owned electric utility to monitor, and maintain data on, the levels of peak demand and electricity usage on the electric utility's electric system, including seasonal and time-of-day variation in such levels. Requires the utility to: (1) compile the required data on a calendar year basis; (2) maintain the data compiled for a particular calendar year for a period of five years; and (3) make the data available for inspection and copying at the offices of the utility in accordance with the statute governing access to public records.

**Effective:** July 1, 2020.

---

---

## Donato, Houchin

---

---

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

---

---



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.

## SENATE BILL No. 361

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 8-1.5-3-4, AS AMENDED BY P.L.257-2019,  
2 SECTION 77, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 2020]: Sec. 4. (a) The board has general supervisory powers  
4 over the utilities under its control, with responsibility for the detailed  
5 supervision of each utility to be vested in its superintendent, who is  
6 responsible to the board for the business and technical operation of the  
7 utility. The board shall:  
8 (1) fix the number and compensation of employees;  
9 (2) adopt rules governing the appointment of employees including  
10 making proper classifications and rules to:  
11 (A) determine the eligibility of applicants;  
12 (B) determine by competitive examination the relative fitness  
13 of applicants for positions;  
14 (C) establish eligible lists arranged according to the ratings  
15 secured;  
16 (D) provide for the appointment of those having the highest  
17 ratings; and



(E) provide for the promotion of employees;

(3) subject to IC 36-4-9-2, appoint a superintendent or manager of each utility under its control who is responsible to the board for the business and technical operation of the utility; the board shall make the appointment on the basis of fitness to manage the particular utility to which ~~he~~ **the superintendent or manager** is to be assigned, taking into account ~~his~~ **the superintendent's or manager's** executive ability and ~~his~~ knowledge of the utility industry;

(4) subject to IC 36-4-9-12, hire attorneys when required for the operation of the utility;

(5) hire professional or expert personnel when required for the operation of the utility;

(6) submit a budget of its financial needs for the next year in the detail required by the municipal legislative body;

(7) recommend to the legislative body reasonable and just rates and charges for services to the patrons of each utility;

(8) appropriate, lease, rent, purchase, and hold all real and personal property of the utility;

(9) enter upon lands for the purpose of surveying or examining the land to determine the location of any plant or appurtenances;

(10) award contracts for:

(A) the purchase of capital equipment;

(B) the construction of capital improvements; or

(C) other property or purposes that are necessary for the full and efficient construction, management, and operation of each utility;

(11) adopt rules for the safe, economical, and efficient management and protection of each utility;

(12) deposit at least weekly with the municipal fiscal officer all money collected from each utility to be kept in a separate fund subject to the order of the board; and

(13) make monthly reports to the fiscal officer of the receipts and disbursements of money belonging to each utility and an annual report of the condition of the utility.

(b) The board may purchase by contract electricity, water, gas, power, or any other commodity or service for the purpose of furnishing the commodity or service to the patrons of the municipally owned utility or to the municipality itself. **A contract described in this subsection for the procurement of electricity or purchased power capacity that is entered into after June 30, 2020, by a municipally owned electric utility:**



(1) must, to the extent practicable, be the result of the solicitation by the board of competitive bids to obtain electricity or purchased power capacity from alternative suppliers; and

(2) is subject to section 4.6 of this chapter.

(c) If the board wants to purchase ~~the~~ a commodity or service described in subsection (b) from a public utility and the parties cannot agree on a rate or charge to be paid for it, either party may apply to the commission or other appropriate state or federal regulatory agency to establish a fair and reasonable rate or charge to be paid for the commodity or service.

(d) The board may discontinue water service by a waterworks to:

(1) a water consumer; or

(2) any property;

upon failure by the water consumer or the property owner to pay charges legally due for sewer or sewage disposal plant service. However, the water service may not be discontinued for nonpayment of sewer or sewage disposal plant service charges until the charges have been due and unpaid for at least the time fixed by the board governing the sewer or sewage disposal plant service.

(e) Before water service is discontinued under subsection (d), the board must give written notice to the water consumer or property owner of its intention to discontinue water service if the unpaid sewer or sewage disposal plant service charges are not paid before a date specified in the notice. The notice must be mailed not less than ten (10) days before water service is to be discontinued and addressed to the water consumer or the property owner at the consumer's or owner's last known address.

SECTION 2. IC 8-1.5-3-4.6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: **Sec. 4.6. (a) This section applies to a utility that, after June 30, 2020, enters into a contract described in section 4(b) of this chapter for the procurement of electricity or purchased power capacity.**

**(b) As used in this section, "utility" refers to a municipally owned electric utility.**

**(c) Subject to subsection (d), a utility that enters into a contract described in subsection (a) shall make available for inspection and copying at the offices of the utility in accordance with IC 5-14-3:**

**(1) a verified copy of the contract, redacted as necessary to comply with subsection (d); or**

**(2) a memorandum of the contract, including, at a minimum,**



the following information:

(A) The date the contract was executed.

(B) The term of the contract.

(C) The amount or percentage of electricity or capacity procured by the utility under the contract.

(D) The price or rate to be paid by the utility under the contract for the electricity or capacity procured.

(E) The number of bids to provide the electricity or capacity contracted for that were received by the utility from alternative suppliers.

(d) In complying with subsection (c), the utility shall not disclose information reasonably designated as confidential or proprietary business information by a party to the contract.

SECTION 3. IC 8-1.5-3-4.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 4.7. (a) As used in this section, "peak demand", with respect to a utility's electric system, means the highest demand for electricity that occurs over a specified time period.

(b) As used in this section, "utility" refers to a municipally owned electric utility.

(c) A utility shall monitor, and maintain data on, the levels of peak demand and electricity usage on the electric utility's electric system, including seasonal and time-of-day variation in such levels. To the extent the necessary data or information exists, the utility shall disaggregate the levels of peak demand and electricity usage by:

(1) customer class;

(2) interruptible load; and

(3) end use.

(d) A utility shall:

(1) compile on a calendar year basis the data on levels of peak demand and electricity usage required under subsection (c);

(2) maintain the data compiled for a particular calendar year for a period of five (5) years, beginning on January 1 of the calendar year immediately following the calendar year to which the data pertains; and

(3) make the data available for inspection and copying at the offices of the utility in accordance with IC 5-14-3.

