

A History of the Competitive Procurement Effort in Indiana

2012 – Summer Study – An RFP process was first introduced to the legislature in the 2012 Regulatory Flexibility (Utilities and Energy) Summer Study Committee.

2013 – Legislative Session – A coalition of Independent Power Producers hoped to offer an amendment to an energy bill in the 2013 legislative session. It was suggested to hold off because the proposal would be discussed after session as part of the Governor’s Energy Plan.

2013 – Summer Study – Again, the proposal was discussed in the 2013 Regulatory Flexibility (Utilities and Energy) Summer Study Committee.

2014 – Legislative Session – Rep. Steve Braun introduced and Rep. Sharon Negele co-authored a bill to provide a Competitive Bidding (RFP) process. The introduced bill met the objectives of a fair, transparent process that protected Hoosier Ratepayers. However, it was weakened during the legislative process and did not provide the free market transparency or competition necessary to protect the Hoosier ratepayer. The bill became law but was just a small step forward.

2015 – Legislative Session – Rep. Sharon Negele and Rep. Christina Hale introduced a Competitive Procurement 2nd Reading amendment on the House Floor and it is discussed but withdrawn with no vote taken.

2016 – HB 1377 is filed by Rep. Sharon Negele with Rep. Christina Hale and Rep. Mike Karickhoff as co-authors.



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Chairman Koch:

I am writing to you to express my support for the discussion and dialogue that has occurred surrounding House Bill 1377 and competitive procurement. I am the President of Bio Town Ag, Inc. in Reynolds, Indiana. Bio Town Ag is a sustainable cattle feedlot and hog operation that uses a methane digester to generate over six megawatts of electricity for NIPSCO.

As a renewable energy producer, I know, first hand, the challenges associated with successfully supplying the marketplace with cogenerated, alternatively produced electricity. These challenges persist, particularly in rural parts of Indiana where many of our renewable resources are located, even though the desirability of renewable energy has increased for both customers and utilities. Bio Town's relationship with NIPSCO, while smaller in size than directly addressed in HB 1377, has demonstrated a model for additional participation in the generation of electricity that is beneficial for utilities and their customers.

As a result, Bio Town supports the dialogue surrounding additional marketplace participation fostered by HB 1377 because new and additional participants in the energy production marketplace can provide for new and flexible solutions to Indiana's electricity needs. However, such dialogue surrounding the implementation and encouragement of additional market participation must consider, support, and protect the reliable electric service that the utilities have provided for over 75 years.

Thank you for your time and consideration.

Sincerely,

A handwritten signature in blue ink that reads 'Brian S. Furrer'.

Brian S. Furrer
President

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January 26, 2016

Representative Negele

Representative Hale

Representative Karickhoff

Members of the House Utilities and Energy Committee

On behalf of Indiana Public School Superintendents (IAPSS), please allow me to express our strong support of HB 1377. Due to an IAPSS seminar, I could not attend to provide testimony in support of the bill, but I am doing so via this letter.

The electrical buying consortium is a concept we have promoted for several years and we have looked for an avenue to implement it for Indiana public schools and HB 1377 is that vehicle. Since we have a natural gas consortium that saves Indiana public schools thousands of dollars annually, it only makes sense for us to look to the same concept to save school districts (taxpayers) thousands of dollars annually on their electrical bills via a consortium concept.

Several states surrounding Indiana have electrical buying consortiums and these are putting Indiana in a less than favorable light for manufacturers making decisions about expansion or relocation, so it is an economic development dilemma as well. Therefore, competitive procurement is recognized as good public policy and best practice in 22 states. In four short years, Indiana has gone from a rate favorable state to the middle of the pack regarding electrical rates and I fear will continue to slip if we are not proactive with our policy decisions.

The overriding issue for Indiana school districts is the fact that they scramble for every dollar to provide quality education for their students and their communities. It makes sense to consider another concept that would assist in saving taxpayer dollars and putting those savings back into the classrooms for all Indiana school districts.

On behalf of Indiana students, teachers and school leaders, we appreciate your kind and careful decisions regarding HB 1377.

Sincerely,

J. T. Coopman, Ed. D.
Executive Director IAPSS
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Memorandum

To: Chairman Eric Allan Koch and Members of the Indiana House of Representatives Utilities, Energy & Telecommunications Committee

Cc: Luke Wilson, Staff Assistant for the Indiana House of Representatives Utilities, Energy and Telecommunications Committee

From: Matt Mincieli, Northeast Region Executive Director, TechNet

Date: January 27, 2016

Re: Support of HB 1377, re competitive procurement standards for utilities

Dear Chairman Koch and members of the House Utilities, Energy and Telecommunications Committee, TechNet is a state and federal policy trade association made up of CEOs and senior executives from more than 70 of the nation's leading tech and innovation companies. As Northeast Region Executive Director at TechNet and on behalf of our membership, TechNet respectfully submits the following testimony in support of HB 1377, filed by Representative Sharon Negele and co-authored by Representatives Christina Hale and Mike Karickhoff.

TechNet is committed to advancing the public policies and private sector initiatives that make the United States the most innovative country in the world. This partnership with policy makers paves the way for technology companies to create, thrive and compete. TechNet proudly supports transparent and competitive procurement in energy markets because they are good public policy and bring the best value to ratepayers.

Competitive procurement standards for utilities are critically important in order to ensure least-cost electricity rates for Hoosier ratepayers (residential, small and large businesses and industrial customers). HB 1377 will protect the Indiana ratepayer by requiring utilities to solicit competitive bids from alternative suppliers when seeking additional electric generating capacity.

The bill would also add new ratepayer protections and benefits, including increased transparency via comprehensive RFPs, a more balanced approach to deciding who incurs the burden of cost overruns and a competitive and fair procurement RFP process that will bring greater efficiencies and downward pressure on Indiana's electricity costs.

In closing, we respectfully thank you for your attention to our memorandum and on behalf of our membership ask that you carefully consider the beneficial impact HB 1377 will have and support its favorable report from your Committee. If TechNet can be of any assistance to you and your staff as you deliberate this important legislation, please feel free to consider us a resource and contact us at mmincieli@technet.org.



No. 1 □ January 22, 2016

Legislative Agenda

Chamber Outlines Bill Positions

By Kevin Brinegar, president and CEO, Indiana Chamber of Commerce

This **first edition** of the Indiana Chamber's 2016 *Legislative Agenda* continues an evolving public policy process for the organization and the state's business community.

Chamber policy committees, composed of statewide volunteer leaders, meet throughout the year. They identify key issues, research the topics and help define policy positions, which are adopted each fall by the Chamber's board of directors.

The organization's policy positions are outlined in the annual *Legislative Business Issues* publication, with the 2016 edition presented to all members of the General Assembly at the beginning of the current session. *Legislative Agenda* matches those policy positions with specific feedback on the bills introduced in the House and Senate.

This publication provides clear input on issues that not only affect the Indiana business community, but communities, families and individuals throughout the state. We strive to provide you with a clear understanding of our positions on key bills that will assist you as you proceed during this legislative session.

Please contact me or any of the members of our government affairs team with questions about this *Legislative Agenda*.

NOTES: This first edition considers all bills as of 1/18. The absence of a bill from this list does not mean the Indiana Chamber has, or will have, no position on the legislation. The review process continues throughout the legislative session.



This symbol denotes bills designated as "job killers."

HOUSE BILLS

HB 1001 ROAD FUNDING (Soliday)

Provides for the transfer of the state's excess reserves to the local road and bridge matching grant fund and the state highway fund. Provides that use tax collected on sales of gasoline is distributed differently than ordinary sales and use tax collections. Provides that a county may impose the county motor vehicle license excise surtax and the county wheel tax at higher rates if the county uses a transportation asset management plan approved by the department. Authorizes an eligible municipality to impose a municipal motor vehicle excise surtax and a municipal wheel tax. Authorizes an adopting body of a county to specify that a part of the county's local income tax revenue is to be used for road and bridge projects. Increases the gasoline tax from the current rate of 18 cents per gallon to an indexed rate to be determined by the Department of Revenue. Increases the special fuel tax from the current rate of 16 cents per gallon to an indexed rate to be determined by the Department of Revenue. Increases the motor carrier surcharge tax from the current rate of 11 cents per gallon to an indexed

rate to be determined by the Department of Revenue. Increases the cigarette tax to \$1.995 per pack and uses the additional revenue for reimbursements of Medicaid providers. ...

Chamber Position: **Support Reason:** The Indiana Chamber supports increased infrastructure funding to address an estimated \$1 billion annual maintenance gap for interstates, highways and local roads. The mechanisms in this bill provide many options to address that gap and serve as a longer-term solution. The Chamber supports a sustainable, dedicated funding solution to the problem.

Contact: Cam Carter 317-264-6892

HB 1002 NEXT GENERATION HOOSIER EDUCATORS SCHOLARSHIP (Bosma)

Establishes the next generation Hoosier educators' scholarship program where it provides that the Commission for Higher Education may approve awarding a scholarship to an eligible applicant in an amount of \$7,500 each academic year for not more than four academic years. Establishes criteria an applicant must meet to receive a scholarship and prohibits the commission from: (1) awarding a scholarship in an amount of

HB 1344 UNEMPLOYMENT INSURANCE

(Leonard)

Abolishes the Indiana Unemployment Compensation Board and transfers the board's duties to the Department of Workforce Development. Provides that no later than the fourth week after the week an individual begins receiving benefits, the individual must visit and receive an orientation to the services available through a one-stop center in order to maintain eligibility to receive benefits. Provides that grants from the special employment and training services fund to various state educational institutions for apprenticeship programs and training and counseling assistance are contingent only on the availability of money and do not require approval by the department.

Chamber Position: Support Reason: Maintaining solvency of the unemployment insurance trust fund is of paramount importance. Reporting on its status annually is prudent.

Contact: Mike Ripley 317-264-6883

HB 1357 DATA BREACHES (Fine)



Makes the following changes to the statute concerning the breach of the security of data that includes the sensitive personal information of Indiana residents and that is collected and maintained by a person other than a state agency or the judicial or legislative department of state government: (1) Specifies that the statute is not limited to breaches of computerized data. (2) Repeals the definition of a term ("doing business in Indiana") that is not used in the statute. (3) Replaces the term "data base owner" with "data owner". (4) Defines the term "data collector" as a person that: (A) is not a data owner; and (B) collects, maintains, disseminates, or handles data that includes sensitive personal information. (5) Defines the term "data user" as a data owner or a data collector. (6) Replaces the term "personal information" with "sensitive personal information" and makes conforming amendments. (7) Requires a data user to post certain information concerning the data user's privacy practices on the data user's web site. (8) Increases the amount of the civil penalty that a court may impose in an action by the attorney general to enforce the provisions concerning the safeguarding of data if the court finds that a violation: (A) was done knowingly; or (B) contributed to a breach of the security of data that includes the sensitive personal information of Indiana residents. (9) Sets forth certain information that a data owner must include in a disclosure of a security breach. (10) Specifies the applicability of different enforcement procedures available to the attorney general under the statute. **Chamber Position: Oppose Reason:** The provisions of this bill are costly and overly burdensome, particularly on small enterprises. A small business could find itself closing its doors for an inadvertent data breach given the fines in this bill.

Contact: Cam Carter 317-264-6892

HB 1363 SCHOOL CALENDAR (Morris)

Requires, beginning with the 2017-2018 school year, a school corporation to conduct at least 175 student instructional days in a school year. (Currently, a school corporation is required to conduct at least 180 student instructional days.) Provides, beginning with the 2017-2018 school year, that student

instructional days begin the Tuesday after Labor Day (the first Monday in September) and end the Friday before Memorial Day (the last Monday in May). Repeals sections concerning a penalty for conducting fewer than 180, but more than 175, student instructional days and deletes a reference to one of those sections in the tuition support calculations. **Chamber Position: Oppose Reason:** The Indiana Chamber believes individual school corporations should determine their start and end dates. We become very concerned when proposals include provisions that would shorten or limit the length of the school year, as would occur with the mandatory end date in this proposal, even with exceptions. Student instructional time in Indiana already ranks among the shortest in the country and the world. Even our highest performing schools have significant opportunities to improve student learning, but that cannot be accomplished by having students attend less school rather than more. Improving educational achievement ought to be the focus, which would result in adding more instructional days instead of eliminating them.

Contact: Cary Auslander 317-264-6880

HB 1368 REPEAL OF IOSHA (Niezgodski)

Repeals, on January 1, 2017, the Indiana Occupational Safety and Health Act (IOSHA), except for provisions concerning the INSafe program. Provides that the powers and duties of the Department of Labor under IOSHA (except for those concerning the INSafe program) are assumed by U.S. Department of Labor. **Chamber Position: Oppose Reason:** The Chamber is opposed to transferring control to the federal level due to the uncertainty that causes.

Contact: Mike Ripley 317-264-6883

HB 1377 COMPETITIVE PROCUREMENT (Negele)

Requires an electric utility that applies for certain certificates of public convenience and necessity to solicit competitive bids from alternative suppliers. Specifies the costs that the utility may recover through a periodic rate adjustment mechanism. **Chamber Position: Support Reason:** Indiana's electric power rates have risen substantially over the last 10 years. Much of that is due to the environmental overreach by the Obama administration/Environmental Protection Agency. If applied fairly, HB 1377 directs utilities to solicit requests for proposals for new power plants, major modifications and pollution control devices.

Contact: Vince Griffin 317-264-6881

HB 1383 TEACHER SALARY SUPPLEMENT (Smaltz)

Requires a school corporation to pay a supplement to a teacher who obtains a master's degree in a content area directly related to the subject matter of a course taught by the teacher: (1) of \$1,500 during the school year that begins after the teacher earns the master's degree; and (2) of \$1,000 each year thereafter if the teacher teaches at least one dual credit course during the school year. **Chamber Position: Support in Part/Oppose in Part Reason:** We support assisting dual-credit teachers in obtaining their master's degree in a content area directly related to the

Indiana Electricity Outlook

The State Utility Forecasting Group (SUFG) at Purdue University, established by statute to provide an independent forecast of Indiana's electricity needs, projects slower growth in both electricity sales and peak demand, compared to previous SUFG forecasts, particularly in the residential and commercial sectors.⁸ Electricity usage is projected to grow at an annual rate of 0.74 percent over the next 20 years and peak electricity demand is expected to grow at an average rate of 0.90 percent annually or 170 MW of increased peak demand per year. Increased efficiency from utility sponsored energy efficiency efforts, higher projected electricity prices, and stricter federal energy efficiency standards for appliances and other end-uses are the primary drivers of the slower growth in energy usage. As a result, significant additional resources are expected to be needed in the near future, as soon as 2016.

Despite slower growth in electricity sales and peak demand, the SUFG's forecast indicates Indiana electricity prices will continue to increase through 2023.

Despite slower growth in electricity sales and peak demand, the SUFG's forecast indicates Indiana real electricity prices will continue to increase through 2023.

Construction costs related to new generating facilities and extending the useful life of existing generating facilities are contributing factors to higher electricity prices. Additionally, environmental retrofit work associated with achieving environmental compliance with rules such as the Mercury and Air Toxics Standards (MATS) and the U.S. EPA's Clean Power Plan put significant pressure on electricity prices.

Generation Types

Given the relatively low cost of natural gas, utilities across the country are switching or converting from coal to natural gas. Indiana utilities are no exception. In fact, IPL filed a petition in April 2013 seeking a certificate of public convenience and necessity (CPCN) to construct a 550 to 725 MW combined cycle gas turbine generation facility at the Eagle Valley Generating Station in Morgan County.⁹ The utility also requested a CPCN to convert two 100 MW coal generating units to natural gas at its Harding Street Generating Station in Marion County. Both CPCNs were approved by the Commission with an order issued May 14, 2014. The Eagle Valley CPCN was issued for a 644-685 MW unit.

⁸ Purdue, Indiana Electricity Projections: The 2013 Forecast, available at <http://www.purdue.edu/discoverypark/energy/assets/pdfs/SUFG/publications/2013%20SUFG%20Forecast.pdf> (Last accessed July 14, 2014).

⁹ IURC Cause No. 44339

analysis, discussions with turbine manufacturers and EPC contractors from which capital costs, operating costs, performance characteristics and construction schedules were secured. Pet. Ex. KWC-1, at 18-19. To develop the cost estimate IPL and S&L also sought budgetary bids from vendors for every piece of equipment expected to cost more than \$1 million. Pet. Ex. KWC-1, at 18; Pet. Ex. PMG-1, at 10. Based on the design effort, provisions in the quotes for major equipment and past history of similar projects, S&L's analysis provided a 95% confidence in the overall EPC cost estimate. Pet. Ex. PJM5, ES-3.

Additionally, we recognize that the purpose of this proceeding differs from Cause No. 44242. That docket concerned a proposal to retrofit existing plants that would otherwise need to be retired due to the MATS Rule. Here, we are asked to approve IPL's resource selection for new generation. In Cause No. 44242, a cost estimate was developed and a competitive solicitation process was used to reach a firm price EPC contract. *See Indianapolis Power & Light Company*, Cause No. 44242 (IURC Aug. 14, 2013). Here, IPL had S&L develop an EPC cost estimate for the Eagle Valley self-build project and conducted a competitive RFP process to identify alternative sites and costs.

IPL contended that the competing project costs obtained from the RFP process demonstrated the competitiveness of IPL's best estimate for the Eagle Valley CCGT Project. According to IPL, this approach enabled the Company to use the competitive solicitation process in its decision-making process and also permitted the Commission to review a credible cost estimate in the context of the competitive resource alternatives.

While we recognize the effort IPL put into the RFP, we disagree with IPL's perceived value of the RFP process for our review. From the Commission's perspective, it appeared that the RFP process was designed and carried out with the intention of showing that IPL's self-build option was not inferior to other potential new build locations. In effect, IPL conducted the RFP to show that its preferred site was competitive. A more useful RFP would have involved developers bidding on constructing a CCGT at the Eagle Valley location, despite IPL's concerns over such an arrangement. Under such an analysis, the Commission could then have determined the validity of IPL's concerns, and whether those concerns justified foregoing potential cost savings from having a turnkey plant constructed. However, even with that criticism, the PVRP analysis supports IPL's self-build on the basis of the cost presented.

The record reflects IPL and OUCC agree that the CCGT project cost estimate is reasonable. IPL's witnesses showed the estimated cost of the Eagle Valley CCGT is based on a detailed engineering study, past experience with similar projects and input from vendors.

We find that IPL's estimated cost of \$631 Million (not including AFUDC), minus the confidential cost of the natural gas lateral that IPL is no longer pursuing, represents the best estimate of construction.

II. Harding Street 5 & 6 Refueling. The estimated capital cost for the Harding Street Refueling 5 & 6 is approximately \$36 million (excluding AFUDC) based on an April 2016 in-service date. Pet. Ex. KWC-1, at 24. Mr. Crawford and Ms. Guletsky explained that the cost estimate is based upon a detailed engineering study of the existing units and the cost to convert them to firing natural-gas performed by S&L and Alstom.

