



PREVAILED	Roll Call No. _____
FAILED	Ayes _____
WITHDRAWN	Noes _____
RULED OUT OF ORDER	

HOUSE MOTION _____

MR. SPEAKER:

I move that Engrossed Senate Bill 309 be amended to read as follows:

- 1 Page 5, line 15, delete "(a)(2) or (a)(3), as applicable." and insert
- 2 **"(a)(2), subsection (a)(3) (if applicable), or section 7 of this**
- 3 **chapter."**
- 4 Page 5, between lines 18 and 19, begin a new paragraph and insert:
- 5 "SECTION 2. IC 8-1-2.3-7 IS ADDED TO THE INDIANA CODE
- 6 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE
- 7 UPON PASSAGE]: **Sec. 7. (a) This section does not apply to**
- 8 **incorporations, consolidations, mergers, or annexations that:**
- 9 (1) are under IC 36-4-3-4(a)(3), IC 36-4-3-4(b), IC 36-4-3-4(h),
- 10 or IC 36-4-3-4.1; or
- 11 (2) are not contiguous under IC 36-4-3-13(b) or
- 12 IC 36-4-3-13(c).
- 13 **(b) After May 12, 2015, if:**
- 14 (1) a municipality that owns and operates an electric utility
- 15 system furnishing retail electric service to the public annexes
- 16 an area beyond the assigned service area of its municipally
- 17 owned electric utility; and
- 18 (2) the municipality and the affected incumbent electricity
- 19 suppliers do not, within a specified number of days after the
- 20 annexation becomes effective (as determined by the
- 21 commission in rules adopted under subsection (f)(1)), reach a
- 22 mutual agreement under section 6(a)(2) of this chapter to

1 change the boundaries of the assigned service areas of the
 2 municipally owned electric utility and the affected incumbent
 3 electricity suppliers;

4 a petition signed by eighty percent (80%) of the property owners
 5 in the annexed area may be submitted to the commission
 6 requesting that the commission determine whether the public
 7 convenience and necessity will be served if the municipally owned
 8 electric utility renders service in the annexed area.

9 (c) If a petition is submitted to the commission under subsection
 10 (b), upon notice and after a hearing, the commission shall
 11 determine whether the public convenience and necessity will be
 12 served if the municipally owned electric utility renders service in
 13 the annexed area. In making a determination under this subsection
 14 as to whether the public convenience and necessity will be served,
 15 the commission shall consider all relevant matters, including the
 16 following:

17 (1) The preference of property owners and utility service
 18 customers in the annexed area.

19 (2) The ability of the municipally owned electric utility to
 20 render service following the assignment of the annexed area
 21 into the municipally owned electric utility's assigned service
 22 area.

23 (3) Other utility services to be supplied in the annexed area by
 24 the municipality.

25 (4) The:

26 (A) proximity to the annexed area; and

27 (B) capability;

28 of the service repair facilities of all affected electricity
 29 suppliers, including those of the municipally owned electric
 30 utility.

31 (5) The preference of local government officials.

32 (d) If the commission determines under subsection (c) that the
 33 public convenience and necessity will be served if the municipally
 34 owned electric utility renders service in the annexed area, the
 35 commission shall:

36 (1) issue an order:

37 (A) changing the assigned service areas of the municipally
 38 owned electric utility and the affected incumbent
 39 electricity suppliers to include the annexed area within the
 40 assigned service area of the municipally owned electric
 41 utility; and

42 (B) giving the right to serve and immediate possession to
 43 the municipally owned electric utility; and

44 (2) determine just and reasonable compensation to be paid to
 45 the affected incumbent electricity suppliers.

46 An order of the commission under this subsection is enforceable in
 47 court pending an appeal of the order. An appellant from a court

1 order enforcing a commission order under this subsection is not
 2 entitled to a stay of the court order pending appeal.
 3 (e) All affected electricity suppliers that appear before the
 4 commission under subsection (c) upon a petition to change the
 5 boundaries of the assigned service areas of the affected electricity
 6 suppliers shall bear their own fees and costs. Property owners
 7 submitting a petition to the commission under this section shall not
 8 be assessed any fees or costs by the commission in connection with
 9 the petition or with the hearing under subsection (c).
 10 (f) The commission shall adopt rules under IC 4-22-2
 11 establishing:
 12 (1) procedures and time frames for the submission of a
 13 petition under subsection (b);
 14 (2) procedures and time frames for the actions described in
 15 subsection (c); and
 16 (3) guidelines for determining just and reasonable
 17 compensation under subsection (d)(2) and time frames for the
 18 payment of such compensation.
 19 In adopting rules under this subsection, the commission may adopt
 20 emergency rules in the manner provided under IC 4-22-2-37.1.
 21 Notwithstanding IC 4-22-2-37.1(g), an emergency rule adopted by
 22 the commission under this subsection in the manner provided
 23 under IC 4-22-2-37.1 expires on the date a rule that supersedes the
 24 emergency rule is adopted by the commission under IC 4-22-2-24
 25 through IC 4-22-2-36."
 26 Renumber all SECTIONS consecutively.
 (Reference is to ESB 309 as printed March 20, 2015.)

Representative McMillin