



State of Indiana

Legislative Council
Legislative Services Agency

302 STATE HOUSE * INDIANAPOLIS, INDIANA 46204

317-269-3550

6/8
Acting
Controlled
Mr. Schumann
Mr. McCarthy

June 4, 1979

Mr. Robert Ryan
Office of State Programs
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Dear Mr. Ryan:

Enclosed is a bill which was introduced in the last session of the Indiana General Assembly regarding a state trust fund for decommissioning of nuclear powerplants. I discussed this with Elizabeth McCarthy, and she suggested I write to you about it. The bill died in committee, but I am certain there will be requests to revive this bill for the next session.

The concept of this bill is a state supervised sinking fund funded by a kilowatt-hour assessment and the accrued interest and other investment earnings of the trust fund. The bill was based on NRC information presented at a National Conference of State Legislatures meeting last summer.

Disregard the first part of the bill which deals only with a moratorium on nuclear powerplants (based on the California and Maine laws).

~~I would appreciate your comments on this bill.~~

Respectfully yours,

Patrick J. Haynes
Staff Counsel

PJH/gmc

Enclosure

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Duplicate

HOUSE BILL No. 1379

A bill for an Act to amend IC 8-1
by adding two chapters concerning
public utilities.

INTRODUCED BY

Repr. JONTZ

JAN 8 1979, read first time and

referred to Committee on
PUBLIC POLICY
AND VETERANS AFFAIRS

reported favorably

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DIGEST

Adds IC 8-1-2.5 and IC 8-1-2.6 to prohibit the certification of any nuclear powerplant in the state until the public service commission makes a determination that there is a federally approved and operating facility for the disposal of high level nuclear wastes, and to establish a trust fund and a special kilowatt hour assessment for the accumulation of funds for the decommissioning of any nuclear powerplant in the state.

A BILL FOR AN ACT to amend IC 8-1 by adding two chapters concerning public utilities.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF INDIANA:

1 SECTION 1. IC 8-1 is amended by adding a NEW chapter
2 2.5 to read as follows:

3 Chapter 2.5. Certification of Nuclear Powerplants.

4 Sec. 1. Definitions. As used in this chapter, unless
5 the context indicates otherwise:

6 "Commission" means the public service commission.

7 "Construction" means the installation of permanent
8 equipment or structures.

9 "High level nuclear wastes" means those aqueous wastes
10 resulting from the operation of the first cycle of the
11 solvent extraction system or its equivalent and the
12 concentrated wastes of the subsequent extraction cycles or
13 their equivalent in a facility for reprocessing irradiated
14 reactor fuel. High level nuclear wastes includes spent fuel

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1 assemblies prior to fuel processing.

2 "Nuclear powerplant", means a nuclear fission, thermal
3 powerplant.

4 "Technology for the disposal of high level nuclear
5 waste" means a method for the permanent and terminal
6 disposal of high level nuclear waste.

7 Sec. 2. Construction of a nuclear powerplant may not
8 be commenced after August 1, 1979, unless it has been
9 certified by the commission in accordance with this chapter.

10 Sec. 3. The commission may not certify a nuclear
11 powerplant unless it has found and determined that:

12 (1) the United States, through its authorized agency,
13 has an approved and demonstrated technology for the
14 disposal of high level nuclear wastes; and

15 (2) there is a specific authorized facility which:

16 (A) has adequate capacity to handle the
17 projected amounts of high level nuclear
18 waste attributable to the proposed nuclear
19 powerplant in this state; and

20 (B) is in operation, or will be in operation
21 when the proposed nuclear powerplant in this
22 state is to be in operation.

23 Sec. 4. The commission may receive and process
24 applications for certification under this chapter in
25 anticipation of certification.

26 SECTION 2. IC 8-1 is amended by adding a NEA chapter
27 2,6 to read as follows:

28 Chapter 2,6. Nuclear Powerplant Decommissioning Trust

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1 Fund.

2 Sec. 1. Definitions. As used in this chapter, unless
3 the context indicates otherwise:

4 "Commission" means the public service commission.

5 "Committee" means the nuclear powerplant
6 decommissioning trust fund committee established by this
7 chapter.

8 "Decommissioning" means the dismantling, encapsulation,
9 or other safe disposal or isolation of the nuclear reactor
10 elements of the powerplant in accordance with federal law.

11 "Cost of decommissioning" is the amount required to
12 decommission a commercial use base unit nuclear powerplant
13 in accordance with federal law, as determined under this
14 chapter.

15 "Treasurer" means the treasurer of the state.

16 Sec. 2. There is created a nuclear powerplant
17 decommissioning trust fund for the purpose of insuring that
18 sufficient funds will be accrued and available for the
19 decommissioning of any nuclear powerplant in this state when
20 it is taken out of service.

21 Sec. 3. The source of the trust fund shall be:

22 (1) revenue produced by a monthly assessment on each
23 utility which owns and operates a nuclear powerplant in
24 this state based on an assessment for each kilowatt
25 hour generated by the nuclear powerplant during that
26 months; and

27 (2) accrued interest and other investment earnings of
28 the trust fund.

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1 Sec. 4. The nuclear powerplant decommissioning trust
2 fund committee is established. The committee consists of
3 the chairman of the public service commission, the treasurer
4 of state, and the auditor of state, or their designees. The
5 chairman of the public service commission, or his designee,
6 shall be the chairman of the committee, and shall call the
7 meetings of the committee.

8 Sec. 5. A separate sinking fund account shall be
9 established and maintained in the trust fund for each
10 nuclear powerplant. The sinking fund account shall include
11 a projected schedule of monthly balances as a standard for
12 maintaining the account against the effects of inflation,

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13 Sec. 6. (a) A sinking fund account shall be
14 established for a nuclear powerplant by the committee within
15 sixty (60) days after such powerplant is put into service,
16 The sinking fund account shall include a target fund amount
17 to be determined as follows:

18 (1) Determine the cost of decommissioning as of the
19 date the powerplant is put into service as follows:
20 STEP ONE: Subtract from the national average consumer
21 price index (fuel and utilities) for the month the
22 powerplant is put into service, the national average
23 consumer price index (fuel and utilities) for the month
24 of September, 1978.
25 STEP TWO: Divide the remainder obtained under STEP ONE
26 by the national average consumer price index (fuel and
27 utilities) for the month of September, 1978.
28 STEP THREE: Add the number one (1) to the quotient

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1 obtained under STEP TWO, and multiply that sum by forty
2 million dollars (\$40,000,000). The product is the cost
3 of decommissioning at the time the nuclear powerplant
4 is put into service.

5 (2) Determine the target fund amount, using standard
6 mathematical formulas, by computing the compounding of
7 inflation for a period of thirty (30) years, on the
8 cost of decommissioning amount obtained under clause
9 (1) at an annual rate of inflation of seven percent
10 (7%).

11 (b) For purposes of this section, the national average
12 consumer price index (fuel and utilities) for a particular
13 month is the national average consumer price index (fuel and
14 utilities) as prepared and reported for that month by the
15 Bureau of Labor Statistics of the United States Department
16 of Labor.

17 (c) If in establishing a sinking fund account for a
18 nuclear powerplant, the committee finds that the United
19 States nuclear regulatory commission has declared an
20 estimate for the cost of decommissioning which exceeds the
21 forty million dollar (\$40,000,000) amount in subsection (a),
22 then the committee shall use the nuclear regulatory
23 commission estimate as the base to compute the cost of
24 decommissioning as of the date the powerplant is put into
25 service in subsection (a)(1). In so doing, the month and
26 year the nuclear regulatory commission declared the
27 estimate, and the national consumer price index (fuel and
28 utilities) for that month and year shall be substituted for

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1 the September 1973 consumer price index (fuel and utilities)
2 in STEP ONE and STEP TWO of subsection (a)(1),

3 Sec. 7. The monthly assessment on a nuclear powerplant
4 shall be determined as follows:

5 (1) Determine the monthly amount which in accumulation
6 of principal and interest and by virtue of a reasonable
7 interest rate of not less than six percent (6%),
8 compounded monthly, will yield the target fund amount
9 obtained under section 6 of this chapter over a thirty
10 (30) year period.

11 (2) Determine the kilowatt hour assessment by
12 calculating the twelve (12) month total of the monthly
13 amount obtained under clause (1), and dividing that sum
14 by the product of: the total nameplate capacity of the
15 nuclear powerplant in kilowatts; multiplied by eight
16 thousand seven hundred sixty (8,760) hours; multiplied
17 by a capacity factor of seven tenths (0.7).

18 The kilowatt hour assessment shall be used by the utility in
19 its cost of service calculations for the purpose of rate
20 making, and shall be passed through to all classes of
21 customers and customers including interstate and contract
22 sales.

23 Sec. 8. The utility shall pay each month to the
24 treasurer for deposit in the trust fund an amount equal to
25 the total kilowatt hours generated by each of its nuclear
26 powerplants multiplied by the kilowatt hour assessment rate
27 established for that powerplant under section 7 of this
28 chapter.

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1 Sec. 9. If a sinking fund account balance is at least
2 ten percent (10%) less than the projected schedule of
3 monthly balances for three (3) consecutive months, the
4 committee shall meet within ten (10) days of such
5 determination and shall establish a temporary kilowatt hour
6 assessment to be kept in effect until the sinking fund
7 account is brought back to conformity with the projected
8 schedule of monthly balances. If the temporary kilowatt
9 hour assessment is in effect for more than twelve (12)
10 months, the committee shall declare it to be the new
11 kilowatt hour assessment.

12 Sec. 10. If a sinking fund account balance exceeds by
13 twenty-five percent (25%) the projected schedule of monthly
14 balances for eight (8) consecutive months, the committee
15 shall meet within ten (10) days of such determination and
16 establish a temporary reduction or temporary curtailment of
17 the kilowatt hour assessment obtained under section 7 of
18 this chapter until the excess is reduced to five percent
19 (5%) or less of the projected schedule of monthly balances.

20 Sec. 11. (a) Within thirty (30) days of each fifth
21 anniversary of the establishment of any sinking fund
22 account, the committee shall review the target fund amount
23 and the forty million dollar (\$40,000,000) cost of
24 decommissioning prescribed in section 6 of this chapter.

25 (b) If the Bureau of Labor Statistics of the United
26 States Department of Labor, or other federal agency, has
27 published clear and convincing projections of inflation
28 which differ from the seven percent (7%) figure prescribed

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1 in section 6 of this chapter, the committee may adopt the
2 new inflation rate.

3 (c) If the United States Nuclear Regulatory Commission
4 issues an estimate on the cost of decommissioning which
5 differs from the forty million dollar (\$40,000,000) figure
6 prescribed in section 6 of this chapter by ten percent (10%)
7 or more, the committee shall adopt the new cost of
8 decommissioning.

9 (d) If the committee declares a change in inflation
10 rate or cost of decommissioning, or both, the committee
11 shall recompute the target fund amount, the projected
12 schedule of monthly balances, the monthly amount required
13 under section 7 of this chapter, and the kilowatt hour
14 assessment for the remaining years in the thirty (30) year
15 period. .

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16 Sec. 12. The kilowatt hour assessment and any changes
17 in the kilowatt hour assessment shall be considered by the
18 commission as fuel costs and shall be treated as fuel costs
19 under IC 8-1-2-42.

20 Sec. 13. The treasurer shall invest the assets of the
21 trust fund as a whole, and not by accounts, in such
22 investments as authorized by the constitution and laws of
23 this state.

24 Sec. 14. The assets of the trust fund may not be
25 transferred to any other fund, except as provided under
26 sections 17 and 18 of this chapter.

27 Sec. 15. (a) The utility shall give the committee one
28 hundred eighty (180) days' notice of the date it intends to

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1 permanently remove a nuclear powerplant from service,

2 (b) The state is liable for the cost of decommissioning
3 only to the extent of the amount accumulated in the sinking
4 fund account for any nuclear powerplant,

5 (c) The utility shall inform the committee of the
6 contract cost and work schedule for the decommissioning,
7 The treasurer shall make monthly payments to the utility
8 based on a percentage of completion of the decommissioning.
9 The final ten percent (10%) of the sinking fund account
10 shall be paid only upon certification by the United States
11 nuclear regulatory commission, or its successor, that the
12 decommissioning is complete and in accordance with federal
13 law,

14 Sec. 16. If any nuclear powerplant is kept in service
15 beyond the thirty (30) year period proposed by this chapter,
16 its sinking fund account shall be maintained within the
17 trust fund. The committee:

18 (1) may curtail the kilowatt hour assessment if the
19 accrual of the sinking fund account based on its
20 investment earnings alone is equal to or greater than
21 the projected rate of inflation; or

22 (2) shall maintain or reinstate the kilowatt hour
23 assessment if the accrual of the sinking fund account
24 based on its investment earnings is less than the
25 projected rate of inflation,

26 Sec. 17. Investment earnings on any sinking fund
27 account which, under section 16 of this chapter exceed that
28 needed to maintain the account against inflation, shall be

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1 transferred to the state general fund.

2 Sec. 18. (a) Any amount in any sinking fund account
3 which cannot be used to fulfill the purpose of that account
4 shall be transferred to any other sinking fund account in
5 the trust fund which has an amount less than its projected
6 schedule of monthly balances.

7 (b) Any amount in any sinking fund account which cannot
8 be used to fulfill the purpose of this chapter shall be used
9 for capital expenditures of the state for public health or
10 public recreation purposes, and may be so transferred by the
11 treasurer, with the approval of the committee.

12 SECTION 3. SECTION 1 of this act takes effect June 1,
13 1979.