

**LEGISLATIVE SERVICES AGENCY  
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**FISCAL IMPACT STATEMENT**

**LS 7332**

**BILL NUMBER:** HB 1173

**NOTE PREPARED:** Apr 25, 2023

**BILL AMENDED:** Apr 24, 2023

**SUBJECT:** Utility Scale Battery Energy Storage Systems.

**FIRST AUTHOR:** Rep. Pressel

**FIRST SPONSOR:** Sen. Koch

**BILL STATUS:** Enrolled

**FUNDS AFFECTED:**    **GENERAL**  
                          **X DEDICATED**  
                          **FEDERAL**

**IMPACT:** State & Local

**Summary of Legislation:** This bill provides that a person may not: (1) construct a new utility scale battery energy storage system (BESS); or (2) expand the capacity of an existing BESS by more than 10% of the system's original capacity; without the prior approval of the Indiana Department of Homeland Security (IDHS). The bill also sets forth information that must be included in an application to the IDHS for approval of the construction or expansion of a BESS.

The bill provides that: (1) a BESS for which installation is subject to IDHS approval; and (2) an installation added to an existing BESS in an expansion for which IDHS approval is required; must comply with the National Fire Protection Association's standard concerning stationary energy storage systems (NFPA 855).

The bill provides that the total capacity of the batteries contained within a single enclosure in: (1) a BESS for which installation is subject to IDHS approval; and (2) an installation added to an existing BESS in an expansion for which IDHS approval is required; may not exceed 10 megawatt hours unless authorized under rules adopted by the Fire Prevention and Building Safety Commission (Commission).

The bill provides that if a BESS installed after June 30, 2023, is located less than 1/2 mile from the nearest 100 year flood plain, all of the system's equipment must be located at least two feet above the 100 year frequency flood elevation.

The bill requires the operator of a BESS to: (1) provide a copy of the operator's emergency response plan for the BESS; and (2) offer training to enable effective response to a fire or contaminant discharge at the BESS; to the fire department responsible for providing fire protection services in the area in which the BESS is located.

The bill authorizes the Commission to adopt rules to specify standards for the installation and operation of a BESS. It also provides that the Commission's rules: (1) must be consistent with NFPA 855; and (2) must include standards for: (A) chemical spill prevention and control; and (B) appropriate setbacks from surface water resources.

The bill requires the IDHS to issue to the Interim Study Committee on Energy, Utilities, and Telecommunication, not later than November 1, 2023, a report regarding the progress of the Commission in adopting rules addressing the installation and operation of a BESS.

**Effective Date:** Upon Passage; July 1, 2023.

**Explanation of State Expenditures:** This bill could increase the workload of the Department of Homeland Security (IDHS) to ensure requirements related to battery energy storage systems (BESS) in the bill are satisfied as well as provide the report required during the 2023 interim. The bill's requirements would become effective for new and expanded BESS during FY 2024. The IDHS would have authority over a BESS in operation before the bill's provisions go into effect. Increases in workload and/or expenditures to administer the bill's requirements could be offset with the collection of application fees collected by the IDHS.

*Fire Prevention and Building Safety Commission:* The bill could increase the workload of the Fire Prevention and Building Safety Commission to adopt rules concerning the installation and operation of a utility scale battery energy storage system. In creating these rules, the Commission would consult with the Indiana Department of Environmental Management and the Indiana Department of Natural Resources. Increases in workload are within the routine administrative function of the agency and are expected to be accomplished within existing resource and funding levels.

**Explanation of State Revenues: Summary** - The bill could increase revenue to the IDHS Fire and Building Service Fund from application fees collected from utility scale battery energy storage systems. The application fee is expected to increase state revenue by approximately \$1,000 during FY 2024. Increases in revenue in subsequent years would depend on how many BESS locations either come online or expand capacity after the bill's effective date.

**Additional Information** - The bill establishes a maximum application fee of \$250 for BESS locations in the state. The fee would apply to new locations as well as capacity expansions of currently existing locations. The IURC reports there are nine BESS locations in operation, in development, or under construction in the state. Of these nine locations, five are already operational and may not be subject to the application fees created by the bill. The remaining four locations could generate a maximum of \$1,000 for the IDHS Fire and Building Service Fund during FY 2024. The total number of (1) BESS locations that will come online in subsequent years or (2) existing BESS locations that may elect to expand capacity, are currently indeterminable.

For FY 2023, the Fire and Building Services Fund was appropriated approximately \$14.3 M in dedicated funds. The Fire and Building Services Fund consists of fines and fees collected by the Indiana Department of Homeland Security from a number of sources including fireworks permits, filing fees, and inspection fees.

**Explanation of Local Expenditures:** Depending on the rules adopted by the Fire Prevention and Building Safety Commission concerning how to respond to an emergency at a utility scale battery energy storage system, training requirements for first responders in areas where a system is in operation could change.

**Explanation of Local Revenues:**

**State Agencies Affected:** Indiana Department of Homeland Security; Board of Firefighting Personnel Standards and Education.

**Local Agencies Affected:** First responders.

**Information Sources:** Auditor of State data; Luke Wilson, IURC.

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