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HOUSE BILL No. 1173

Proposed Changes to introduced printing by AM117302

DIGEST OF PROPOSED AMENDMENT

Utility scale battery energy storage systems. Deletes AM117301 as adopted by the house utilities, energy, and telecommunications committee on January 17, 2023. Amends the introduced version of HB 1173 as follows: (1) Provides that bill takes effect upon passage, instead of retroactively on January 1, 2023. (2) Amends the definition of "utility scale battery energy storage system" (BESS) to specify that: (A) such a system is interconnected to the electric grid; and (B) the term does not include: (i) an energy storage system that is used for the purpose of providing electricity to meet or offset all or part of a host operation's energy needs; or (ii) a battery recycling facility. (3) Specifies that an expansion of an existing BESS requires the prior approval of the department of homeland security (department) only if the expansion will increase the capacity of the system by more than 10% of the system's existing capacity. (4) Authorizes the department to charge a reasonable application fee, not to exceed \$250 per application, to review and process applications for a new BESS or the expansion of an existing BESS. (5) Specifies that the bill's requirement that a BESS comply with the National Fire Protection Association's standard concerning stationary energy storage systems (NFPA 855): (A) applies only to the construction of a new system or the expansion of an existing system; and (B) includes compliance with: (i) ASTM E119; (ii) UL 263; (iii) UL 9540; and (iv) UL 9540A; as incorporated by reference in NFPA 855. (6) Specifies that the bill's provision restricting the total capacity of the batteries contained within a single enclosure in a BESS to not more than 10 megawatt hours applies only to a new BESS, or to the expansion of an existing BESS, for which an application is submitted to the department after April 1, 2023, and before July 1, 2024. (7) Removes the bill's requirement that each

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battery enclosure in a BESS be located at least 10 feet from the nearest adjacent enclosure. (8) Provides that if a BESS 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 introduced bill prohibits a system from being located less than 1/2 mile from the nearest 100 year flood plain.) (9) Removes the requirement that the site on which a BESS is located must be lined to prevent chemicals contained in or produced by the BESS from leaching into the soil. (10) Adds language requiring the operator of a BESS to provide a copy of the operator's emergency response plan for the BESS to the fire department responsible for providing fire protection services in the area in which the BESS is located. (11) Specifies that an operator of a BESS must offer (instead of provide, under the bill's current provisions) annual training to members of the fire department responsible for providing fire protection services in the area in which the BESS is located. (12) Extends from January 1, 2024, to July 1, 2024, the date by which the fire prevention and building safety commission (commission) must adopt rules to specify standards for the construction and operation of a BESS. (13) Provides the commission's rules must establish standards for: (A) chemical spill prevention and control; and (B) appropriate setbacks from surface water resources; for the construction and expansion of a BESS. (14) Provides that the commission's rules must: (A) be consistent with NFPA 855; and (B) take effect not later than July 1, 2024.

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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 10-19-13 IS ADDED TO THE INDIANA CODE
2 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
3 ~~<JANUARY 1, 2023 (RETROACTIVE)>~~ [UPON PASSAGE]]:
4 **Chapter 13. Utility Scale Battery Energy Storage Systems**
5 **Sec. 1. As used in this chapter, "NFPA 855" refers to the most**
6 **current edition of NFPA 855, Standard for the Installation of**
7 **Stationary Energy Storage Systems, as adopted by the National**
8 **Fire Protection Association.**



1 Sec. 2.] (a) As used in this chapter, "utility scale battery energy
2 storage system" means an ~~array of batteries~~ energy storage
3 system (as defined in NFPA 855) that:

- 4 (1) is] capable of storing and releasing more than one (1)
5 megawatt of electrical energy for a minimum of one (1) hour
6 using an AC inverter and DC storage]; and
7 (2) is interconnected to the electric grid].

8 (b) The term does not include ~~the following:~~

- 9 (1) F]oundations or property used to directly or indirectly
10 connect the AC inverter or DC storage of such a ~~n-array~~]
11 system] to electrical energy production equipment or to a
12 customer's meter.<

13 ~~Sec. 2->]~~

14 (2) An energy storage system that is used for the purpose of
15 providing electricity to meet or offset all or part of a host
16 operation's energy needs.

17 (3) A battery recycling facility.

18 Sec. 3]. (a) A person may not:

19 (1) construct a new utility scale battery energy storage
20 system]; or

21 (2) expand the capacity of]an existing<

22 >] utility scale battery energy storage system [by more than ten
23 percent (10%) of the system's existing capacity;
24]without applying for and obtaining the prior approval of the
25 department.[]

26 [(b) An application for approval under subsection (a) must be
27 in the form and manner specified by the department and must
28 include the following information:

29 (1) The proposed location , including the county,] of the [new
30 or expanded] utility scale battery energy storage system], as
31 applicable].

32 (2) Plans and specifications for the new or expanded] utility
33 scale battery energy storage system], as applicable].

34 (3) A description of the manner in which the utility scale
35 battery energy storage system will comply with ~~each~~
36 ~~requirement~~ the requirements set forth] in sections <3> [4]
37 through <7> [6] of this chapter], as applicable].

38 (4) The ~~person's~~ applicant's] proposed emergency
39 response plan for responding to a:

40 (A) fire at; or

41 (B) discharge or threatened discharge of environmental
42 contaminants by;

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1 the utility scale battery energy storage system.

2 (5) The ~~<person's>~~ [applicant's] plan for
3 ~~<providing>~~ [offering] emergency response training under
4 section ~~<8>~~ [7] of this chapter.

5 (6) Any other information the department considers
6 necessary.

7 [(c) The department may charge a reasonable application fee,
8 not to exceed two hundred fifty dollars (\$250) per application, to
9 review and process applications under this section.

10 [(d)] Not later than thirty (30) days after the department
11 receives an application for approval under subsection (a), the
12 department shall provide notice to the applicant of the
13 department's approval or disapproval of the application.

14 (e)] The department shall adopt procedures under which
15 the department:

16 (1) evaluates an application for approval under subsection
17 (a); and

18 (2) makes a determination as to whether to approve the
19 construction or expansion proposed by the application ~~<~~
20 ~~consistent with rules adopted by the fire prevention and building~~
21 ~~safety commission under section 9 of this chapter>.~~[.]

22 [Sec. <3>[4]. A [new] utility scale battery energy storage
23 system], or an expansion of an existing utility scale battery energy
24 storage system,] must comply with applicable safety standards in
25 ~~<the most current version of the National Fire Protection~~
26 ~~Association standard>~~ [NFPA 855, including:

27 (1) ASTM E119;

28 (2) UL 263;

29 (3) UL 9540; and

30 (4) UL 9540A;

31 as incorporated by reference in] NFPA 855.

32 Sec. <4>[5. (a) This section applies only to a new utility scale
33 battery energy storage system, or to the expansion of an existing
34 utility scale battery energy storage system, for which an
35 application is submitted under section 3(a) of this chapter after
36 April 1, 2023, and before July 1, 2024].]

37 (b)] The total capacity of the batteries contained within a
38 single enclosure in a utility scale battery energy storage system
39 may not exceed ten (10) megawatt hours.

40 Sec. <5>[6]. If a utility scale battery energy storage system is
41 ~~comprised of more than one (1) enclosure of batteries, each~~
42 ~~enclosure must be located at least ten (10) feet from the nearest~~



1 ~~adjacent enclosure.~~

2 ~~— Sec. 6. A utility scale battery energy storage system may not~~
 3 ~~be~~ located less than one-half (1/2) mile from the nearest one
 4 hundred (100) year flood plain, as determined by the most recently
 5 issued Federal Emergency Management Agency (FEMA) Flood
 6 Insurance Rate Maps

7 ~~— Sec. 7. The site on which a utility scale battery energy storage~~
 8 ~~system is located must be lined to prevent chemicals contained in~~
 9 ~~or produced by the utility scale battery energy storage system from~~
 10 ~~leaching into the soil.~~

11 ~~— Sec. 8~~], all of the system's equipment must be located at least
 12 two (2) feet above the one hundred (100) year frequency flood
 13 elevation.

14 Sec. 7]. (a) The operator of a utility scale battery energy
 15 storage system shall, ~~not less than once each year, provide~~
 16 training described in subsection (b) to the members of]:

17 (1) provide a copy of the emergency response plan described
 18 in section 3(b)(4) of this chapter, as finally adopted, to] the
 19 fire department that is responsible for providing fire
 20 protection services in the area in which the utility scale
 21 battery energy storage system is located]; and

22 (2) not less than once each year, offer training described in
 23 subsection (b) to the members of the fire department
 24 described in subdivision (1)].

25 (b) Subject to subsection (c), the training ~~provided~~ offered
 26 under subsection (a) (2) must provide participating members of
 27 the fire department with information regarding the construction
 28 and operation of the utility scale battery energy storage system
 29 reasonably necessary to allow the fire department to safely and
 30 effectively respond to a:

- 31 (1) fire at; or
 32 (2) discharge or threatened discharge of environmental
 33 contaminants by;

34 the utility scale battery energy storage system.

35 (c) This section does not require the operator of a utility scale
 36 battery energy storage system to divulge a trade secret (as defined
 37 in IC 24-2-3-2).[]

38 []Sec. ~~9~~ [8]. ~~Not later than January 1~~ [(a) As used in this
 39 section], ~~2024~~ ["commission" refers to] the fire prevention and
 40 building safety] commission established by IC 22-12-2-1.

41 (b) Before July 1, 2024, the] commission shall adopt rules
 42 under IC 4-22-2 specifying standards for the construction and

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1 operation of utility scale battery energy storage systems consistent
2 with ~~<this chapter>~~ [;

3 (1) this chapter; and

4 (2) NFPA 855.

5 (c) The rules adopted by the commission under subsection (b)
6 must establish standards for:

7 (1) chemical spill prevention and control; and

8 (2) appropriate setbacks from surface water resources;

9 for the construction and expansion of utility scale battery energy
10 storage systems, as necessary to protect soil and surface water
11 resources from chemicals contained in or produced by utility scale
12 energy storage systems. In establishing the standards described in
13 this subsection, the commission shall consult with the department
14 of environmental management or the department of natural
15 resources, as appropriate.

16 (d) In adopting rules under this section, the commission may
17 adopt emergency rules in the manner provided by IC 4-22-2-37.1.

18 (e) The rules adopted by the commission under this section
19 must take effect not later than July 1, 2024].

20 SECTION 2. [EFFECTIVE UPON PASSAGE] (a) Not later than
21 July 31, 2023, the department of homeland security shall issue to
22 the executive director of the legislative services agency for
23 distribution to the members of the interim study committee on
24 energy, utilities, and telecommunications a report regarding the
25 ~~<department's>~~ progress ~~<in developing standards>~~ [of the fire
26 prevention and building safety commission in adopting the rules]
27 described in IC 10-19-13-~~<9>~~ [8], as added by this act.

28 (b) This SECTION expires December 31, 2023.

29 SECTION 3. An emergency is declared for this act. [
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