

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

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FISCAL IMPACT STATEMENT

LS 7058

BILL NUMBER: HB 1164

NOTE PREPARED: Feb 22, 2021

BILL AMENDED: Feb 15, 2021

SUBJECT: Various Utility Matters.

FIRST AUTHOR: Rep. Manning

FIRST SPONSOR: Sen. Messmer

BILL STATUS: As Passed House

FUNDS AFFECTED: **GENERAL**
 X DEDICATED
 FEDERAL

IMPACT: State & Local

Summary of Legislation: The bill exempts a contract for the lease of state property under which no state expenditures are required from provisions: (1) requiring certain disclosures and certifications by a prospective state contractor regarding violations of Indiana telephone solicitation and automated calling statutes; (2) regarding cancellation of public purchasing contracts due to lack of funds; (3) regarding state contractor use of the E-Verify program; and (4) prohibiting state contractor employment of unauthorized aliens.

The bill provides that: (1) rural electric cooperatives; and (2) municipalities providing electric service; shall permit attachments by communications service providers to poles owned or controlled by the cooperatives or municipalities. It provides that any pole attachment rental fee imposed by a rural electric cooperative or a municipality: (1) must be calculated on an annual, per-pole basis; and (2) is considered to provide reasonable compensation and to be nondiscriminatory, just, and reasonable if the fee: (A) is agreed upon by the parties; or (B) is not greater than the fee that would apply if the fee were calculated in accordance with the formula applied by the Federal Communications Commission (FCC).

The bill amends the procedures under which a public utility applies to a municipality or county executive for authorization to occupy and perform work in a public right-of-way controlled by the municipality or county executive, and provides for restrictions on the requirements a municipality or county executive may impose for purposes of granting such authority.

It provides that the Indiana Utility Regulatory Commission (IURC) may not require a communications service provider to: (1) file a tariff; or (2) report to the IURC any information that is: (A) available to the public on the communications service provider's Internet web site; (B) filed with the FCC; or (C) otherwise

available to the public; except as required by the IURC to respond to consumer complaints or information requests from the general assembly.

The bill amends the factors that must exist for a permit authority to prohibit the placement of a new utility pole or wireless support structure for purposes of construction, placement, or use of a small cell facility or structure in an area that is: (1) within a right-of-way; and (2) designated strictly for underground or buried utilities.

It provides that a permit authority may not impose: (1) a restriction on maximum height of a wireless support structure, subject to certain federal regulations and state laws; or (2) a requirement regarding minimum separation distances between wireless support structures.

It provides that a tariff filed with the IURC by a communications service provider is effective upon filing.

The bill provides that a video service provider is not required to provide the IURC with information describing the provider's programming, including the provider's channel lineups or channel guides.

It exempts a political subdivision's disposal of property by sale, exchange, transfer, or lease of the property to a public utility or a communications service provider from certain provisions regarding disposal of property by a political subdivision. The bill also provides an exemption to the public works law for certain work done by the employees of a conservancy district established for the purpose of water or sewage treatment.

Effective Date: July 1, 2021.

Explanation of State Expenditures: *Indiana Utility Regulatory Commission (IURC):* The bill provides that rural electric cooperatives and municipalities providing electric service shall permit attachments by communications service providers to poles owned or controlled by the cooperatives or municipalities, and outlines procedures for determining pole attachment rental fees. This could increase IURC workload to the extent that if such parties fail to reach an agreement on compensation, a party may apply to the IURC for investigation to determine if the denial of access to one or more poles was unlawful or the rates, terms, and conditions complained of were not just and reasonable.

The IURC may not require a communications service provider to file a tariff, or require publicly available information of a communications service provider unless it is part of a petition or request filed or submitted to the IURC. It also adds language that exempts video service providers from having to provide the IURC with information describing their services, such as service, channel line-ups or channel guides.

The IURC should be able to accommodate the provisions of the bill within existing resources.

Explanation of State Revenues:

Explanation of Local Expenditures: The bill amends the procedures for public utilities to apply for authorization to occupy and perform work in a public right-of-way controlled by the municipality or county executive. It also outlines several restrictions on the requirements that a municipality or county executive may impose for purposes of granting such authority to a public utility. Complying with these procedural changes and new restrictions could result in increased costs for municipal and county units.

The bill adds criteria that must be met in order for a permit authority to prohibit the placement of a new utility pole or wireless support structure that is within a right-of-way. It also provides that a permit authority may not impose restrictions on maximum height of, or minimum separation distance between, wireless support structures, except as related to certain small cell facilities and federal regulations. These administrative changes should be handled by local permit authorities within existing resources.

A political subdivision's disposal of property by sale, exchange, transfer, or lease of the property to a public utility or a communications service provider are made exempt from certain provisions regarding disposal of property by a political subdivision. Local expenditures may be reduced to the extent that political subdivisions no longer have to adhere to these procedural requirements for such property disposals; resulting impacts on local revenue, though indeterminable, may offset any costs savings.

The bill also extends a current exemption to public works law provided for certain work done by the employees of a municipal utility to also include employees of a conservancy district established for the purpose of water or sewage treatment. This could reduce local costs to the extent that this exemption reduces administrative burdens.

Explanation of Local Revenues: To the extent that municipalities are the owners of utility poles, the bill could impact local revenues resulting from fees that those entities may impose. Any change to local revenues is indeterminable.

State Agencies Affected: Indiana Utility Regulatory Commission.

Local Agencies Affected: Local units; Municipal utilities.

Information Sources:

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