

HOUSE BILL No. 1070

DIGEST OF INTRODUCED BILL

Citations Affected: IC 8-23.

Synopsis: Utility facility relocation. Makes changes to the statutes concerning: (1) emergency repairs to the state highway system by the department of transportation; and (2) utility facility relocations necessitated by projects on the state highway system; to allow communications service providers to recover certain costs incurred toward the cost of relocation of utility facilities necessitated by state highway projects.

Effective: July 1, 2015.

Thompson

January 6, 2015, read first time and referred to Committee on Utilities, Energy and Telecommunications.



First Regular Session of the 119th General Assembly (2015)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2014 Regular Session and 2014 Second Regular Technical Session of the General Assembly.

HOUSE BILL No. 1070



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 8-23-1-22.5 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 22.5. "Extraordinary
3 cost" means the cost to a utility to relocate existing facilities that is
4 ~~either:~~ **any of the following:**
5 (1) More than ten percent (10%) of the total operating revenue
6 received by the utility during the utility's most recent full fiscal
7 year. ~~or~~
8 (2) More than fifty percent (50%) of the total estimated cost of a
9 proposed highway or bridge construction or improvement project.
10 **(3) More than five thousand dollars (\$5,000), in the case of a**
11 **utility operating under a certificate of territorial authority**
12 **issued under IC 8-1-32.5 if the costs are incurred after June**
13 **30, 2015.**
14 SECTION 2. IC 8-23-11-4 IS ADDED TO THE INDIANA CODE
15 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY



1 1, 2015]: **Sec. 4. (a) This section applies to the relocation of a utility**
 2 **facility necessitated by an emergency determination ordered by the**
 3 **governor under section 1 of this chapter after June 30, 2015.**

4 **(b) If an emergency repair under this chapter requires the**
 5 **relocation of a utility facility, the department shall reimburse the**
 6 **utility that owns or operates the affected utility facility for the cost**
 7 **of relocation (as defined in IC 8-1-9-2(b)).**

8 SECTION 3. IC 8-23-26-1.2 IS ADDED TO THE INDIANA CODE
 9 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 10 1, 2015]: **Sec. 1.2. As used in this chapter, "cost of relocation" has**
 11 **the meaning set forth in IC 8-1-9-2(b).**

12 SECTION 4. IC 8-23-26-5 IS AMENDED TO READ AS
 13 FOLLOWS [EFFECTIVE JULY 1, 2015]: **Sec. 5. The department:**

14 **(1) may, with respect to extraordinary costs incurred by a**
 15 **utility before July 1, 2015; and**

16 **(2) shall, with respect to extraordinary costs incurred by a**
 17 **utility after June 30, 2015;**

18 negotiate an agreement with a utility to reimburse the utility for
 19 extraordinary costs of facilities relocation caused by a highway or
 20 bridge construction or improvement project or a combination of
 21 highway or bridge construction or improvement projects.

22 SECTION 5. IC 8-23-26-7 IS AMENDED TO READ AS
 23 FOLLOWS [EFFECTIVE JULY 1, 2015]: **Sec. 7. The department shall**
 24 **reimburse a utility for the costs of an unnecessary relocation of**
 25 **facilities if after the completion of the relocation of the utility's**
 26 **facilities was specifically requested by the department and any of**
 27 **the following apply:**

28 **(1) Within two (2) years after the completion of the relocation**
 29 **the department has not let a contract for the highway or bridge**
 30 **construction or improvement or necessitating the relocation, in**
 31 **the case of a relocation that is completed before July 1, 2015.**

32 **(2) Within two (2) years after the utility has incurred costs**
 33 **toward the cost of relocation of the facilities the department**
 34 **has not let a contract for the highway or bridge construction**
 35 **or improvement necessitating the relocation, in the case of a**
 36 **relocation that is not completed before July 1, 2015.**

37 ~~(2)~~ **(3) Within ten (10) years after the completion of:**

38 **(A) the relocation of facilities; or**

39 **(B) the installation of new facilities;**

40 **necessitated by the highway or bridge construction or**
 41 **improvement the department alters the department's plan of**
 42 **construction for the highway or bridge construction or**



- 1 improvement in a manner that would cause the utility to relocate
 2 the utility's facilities for the same highway or bridge construction
 3 or improvement project.
- 4 SECTION 6. IC 8-23-26-8 IS AMENDED TO READ AS
 5 FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 8. (a) The
 6 reimbursement paid under section 7 of this chapter is limited to the cost
 7 of relocation (~~as defined in IC 8-1-9-2~~) to the utility.
- 8 (b) The department may reimburse a utility for an unnecessary
 9 relocation under section 7 **only of this chapter** if the relocation of the
 10 utility's facilities was **not** specifically requested by the department **but**
 11 **was necessitated by a state highway project subject to this chapter.**
- 12 SECTION 7. IC 8-23-26-9 IS AMENDED TO READ AS
 13 FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 9. The commissioner
 14 must approve a reimbursement paid under section 7 **or 8(b)** of this
 15 chapter.
- 16 SECTION 8. IC 8-23-26-12 IS AMENDED TO READ AS
 17 FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 12. The following
 18 apply to a highway or bridge construction or improvement project that
 19 requires the relocation of customer service facilities located in a
 20 highway, street, or road:
- 21 (1) If the utility does not own the customer service facilities, the
 22 department is responsible for the cost of the relocation of those
 23 facilities.
- 24 (2) If the utility owns the customer service facilities, the cost of
 25 relocation is the responsibility of **the following:**
- 26 **(A) Except as otherwise provided in clause (B),** the utility or
 27 the customer, as determined by the operating rules of the
 28 utility or by a contract between the utility and the customer.
- 29 **(B) In the case of a utility operating under a certificate of**
 30 **territorial authority issued under IC 8-1-32.5, and for costs**
 31 **toward the cost of relocation that are incurred by the**
 32 **utility after June 30, 2015, the department.**
- 33 SECTION 9. IC 8-23-26-14 IS AMENDED TO READ AS
 34 FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 14. (a) **Except for a**
 35 **relocation of customer service facilities described in section 12(1)**
 36 **or 12(2)(B) of this chapter,** if the department causes the relocation of
 37 customer service facilities under section 13 of this chapter, the
 38 department may recover the costs of the relocation from the utility.
- 39 (b) A utility shall reimburse the department for costs that are
 40 allowable under section ~~12(2)~~ **12(2)(A)** of this chapter and that the
 41 department determines are not extraordinary costs incurred under
 42 section 13 of this chapter upon the presentation of an invoice of the



1 costs from the department.

2 SECTION 10. IC 8-23-26-15 IS AMENDED TO READ AS
3 FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 15. (a) This section
4 does not apply to a relocation included in the national system of
5 interstate highways if the placement of the facilities was made solely
6 to cross the highway.

7 (b) Whenever a utility locates new facilities on a highway included
8 in the national system of interstate highways after June 30, 1991, **the**
9 **following apply:**

10 (1) The utility shall bear the cost of ~~all~~ future relocations and
11 adjustments of ~~the~~ **those** facilities caused by highway or bridge
12 construction or improvements **if the relocation or adjustment of**
13 **the facilities is completed more than ten (10) years after the**
14 **completion of the installation of the facilities on the highway**
15 **included in the national system of interstate highways.**

16 (2) **The department shall reimburse the utility for the cost of**
17 **future relocations and adjustments of those facilities caused**
18 **by highway or bridge construction or improvements if the**
19 **relocation or adjustment of the facilities is completed in ten**
20 **(10) or fewer years after the completion of the installation of**
21 **the facilities on the highway included in the national system of**
22 **interstate highways.**

