

HOUSE BILL No. 1164

DIGEST OF INTRODUCED BILL

Citations Affected: IC 5-22; IC 8-1; IC 8-20-1-28; IC 22-5-1.7-6; IC 36-1.

Synopsis: Various utility matters. 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. Provides limitations on fees, terms, and conditions that may be imposed by a person or entity for access to: (1) tracks, conduits, subways, or poles; or (2) other equipment on, over, or under a street or highway; owned or controlled by the person or entity. 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. 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 Federal Communications Commission; or (C) otherwise available to the public; except for purposes of the communications service provider's application for a certificate of territorial authority. 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,
(Continued next page)

Effective: July 1, 2021.

Manning

January 7, 2021, read first time and referred to Committee on Utilities, Energy and Telecommunications.



Digest Continued

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. Provides that a permit authority may not impose: (1) a restriction on maximum height of a wireless support structure; or (2) a requirement regarding minimum separation distance between wireless support structures. Specifies that providers of cable service are communications service providers regulated under certificates of territorial authority issued by the IURC. Provides that a tariff filed with the IURC by a communications service provider is effective upon filing. Provides that a video service provider is not required to provide the IURC with information describing the provider's service, including the provider's channel lineups or channel guides. 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. 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.



First Regular Session of the 122nd General Assembly (2021)

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 2020 Regular Session of the General Assembly.

HOUSE BILL No. 1164

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 5-22-3-7, AS ADDED BY P.L.222-2005,
2 SECTION 27, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2021]: Sec. 7. (a) This section applies to every use of funds by
4 a governmental body. However, this section does not apply to:
5 (1) a contract in which one (1) party is a political subdivision,
6 including a body corporate and politic created by or authorized by
7 a political subdivision; **or**
8 (2) **a contract for the lease of property owned by the state**
9 **under which no state expenditures are required.**
10 (b) A prospective contractor may not contract with a governmental
11 body unless the prospective contractor includes the following
12 certifications as terms of the contract with the governmental body:
13 (1) The contractor and any principals of the contractor certify
14 that:
15 (A) the contractor, except for de minimis and nonsystematic
16 violations, has not violated the terms of:
17 (i) IC 24-4.7;



- 1 (ii) IC 24-5-12; or
 2 (iii) IC 24-5-14;
 3 in the previous three hundred sixty-five (365) days, even if
 4 IC 24-4.7 is preempted by federal law; and
 5 (B) the contractor will not violate the terms of IC 24-4.7 for
 6 the duration of the contract, even if IC 24-4.7 is preempted by
 7 federal law.
- 8 (2) The contractor and any principals of the contractor certify that
 9 an affiliate or principal of the contractor and any agent acting on
 10 behalf of the contractor or on behalf of an affiliate or principal of
 11 the contractor:
- 12 (A) except for de minimis and nonsystematic violations, has
 13 not violated the terms of IC 24-4.7 in the previous three
 14 hundred sixty-five (365) days, even if IC 24-4.7 is preempted
 15 by federal law; and
 16 (B) will not violate the terms of IC 24-4.7 for the duration of
 17 the contract, even if IC 24-4.7 is preempted by federal law.
- 18 (c) If a certification in subsection (b) concerning compliance with
 19 IC 24-4.7, IC 24-5-12, or IC 24-5-14 is materially false or if the
 20 contractor, an affiliate or a principal of the contractor, or an agent
 21 acting on behalf of the contractor or an affiliate or a principal of the
 22 contractor violates the terms of IC 24-4.7, IC 24-5-12, or IC 24-5-14,
 23 even if IC 24-4.7 is preempted by federal law, the attorney general may
 24 bring a civil action in the circuit or superior court of Marion County to:
- 25 (1) void a contract under this section, subject to subsection (d);
 26 and
 27 (2) obtain other proper relief.
- 28 However, a contractor is not liable under this section if the contractor
 29 or an affiliate of the contractor acquires another business entity that
 30 violated the terms of IC 24-4.7, IC 24-5-12, or IC 24-5-14 within the
 31 preceding three hundred sixty-five (365) days before the date of the
 32 acquisition if the acquired business entity ceases violating IC 24-4.7,
 33 IC 24-5-12, or IC 24-5-14, even if IC 24-4.7 is preempted by federal
 34 law, as of the date of the acquisition.
- 35 (d) If:
- 36 (1) the attorney general notifies the contractor, department of
 37 administration, and budget agency in writing of the intention of
 38 the attorney general to void a contract; and
 39 (2) the attorney general does not receive a written objection from
 40 the department of administration or budget agency, sent to both
 41 the attorney general and the contractor, within thirty (30) days of
 42 the notice;



1 a contract between a contractor and a governmental body is voidable
 2 at the election of the attorney general in a civil action brought under
 3 subsection (c). If an objection of the department of administration or
 4 the budget agency is submitted under subdivision (2), the contract that
 5 is the subject of the objection is not voidable at the election of the
 6 attorney general unless the objection is rescinded or withdrawn by the
 7 department of administration or the budget agency.

8 (e) If the attorney general establishes in a civil action that a
 9 contractor is knowingly, intentionally, or recklessly liable under
 10 subsection (c), the contractor is prohibited from entering into a contract
 11 with a governmental body for three hundred sixty-five (365) days after
 12 the date on which the contractor exhausts appellate remedies.

13 (f) In addition to any remedy obtained in a civil action brought
 14 under this section, the attorney general may obtain the following:

15 (1) All money the contractor obtained through each telephone call
 16 made in violation of the terms of IC 24-4.7, IC 24-5-12, or
 17 IC 24-5-14, even if IC 24-4.7 is preempted by federal law.

18 (2) The attorney general's reasonable expenses incurred in:

19 (A) investigation; and

20 (B) maintaining the civil action.

21 SECTION 2. IC 5-22-17-5 IS AMENDED TO READ AS
 22 FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 5. **(a) This section**
 23 **does not apply to a contract for the lease of property owned by the**
 24 **state under which no state expenditures are required.**

25 ~~(a)~~ **(b)** When the fiscal body of the governmental body makes a
 26 written determination that funds are not appropriated or otherwise
 27 available to support continuation of performance of a contract, the
 28 contract is considered canceled.

29 ~~(b)~~ **(c)** A determination by the fiscal body that funds are not
 30 appropriated or otherwise available to support continuation of
 31 performance is final and conclusive.

32 SECTION 3. IC 8-1-2-1, AS AMENDED BY P.L.145-2015,
 33 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 34 JULY 1, 2021]: Sec. 1. (a) Except as provided in section 1.1 of this
 35 chapter, "public utility", as used in this chapter, means every
 36 corporation, company, partnership, limited liability company,
 37 individual, association of individuals, their lessees, trustees, or
 38 receivers appointed by a court, that may own, operate, manage, or
 39 control any plant or equipment within the state for the:

40 (1) conveyance of telegraph or telephone messages;

41 (2) production, transmission, delivery, or furnishing of heat, light,
 42 water, or power; or



- 1 (3) collection, treatment, purification, and disposal in a sanitary
 2 manner of liquid and solid waste, sewage, night soil, and
 3 industrial waste.
- 4 The term does not include a municipality that may acquire, own, or
 5 operate any of the foregoing facilities.
- 6 (b) "Municipal council", as used in this chapter, means the
 7 legislative body of any town or city in Indiana wherein the property of
 8 the public utility or any part thereof is located.
- 9 (c) "Municipality", as used in this chapter, means any city or town
 10 of Indiana.
- 11 (d) "Rate", as used in this chapter, means every individual or joint
 12 rate, fare, toll, charge, rental, or other compensation of any utility or
 13 any two (2) or more such individual or joint rates, fares, tolls, charges,
 14 rentals, or other compensation of any utility or any schedule or tariff
 15 thereof, but nothing in this subsection shall give the commission any
 16 control, jurisdiction, or authority over the rate charged by a municipally
 17 owned utility except as in this chapter expressly provided.
- 18 (e) "Service" is used in this chapter in its broadest and most
 19 inclusive sense and includes not only the use or accommodation
 20 afforded consumers or patrons but also any product or commodity
 21 furnished by any public or other utility and the plant, equipment,
 22 apparatus, appliances, property, and facility employed by any public or
 23 other utility in performing any service or in furnishing any product or
 24 commodity and devoted to the purposes in which such public or other
 25 utility is engaged and to the use and accommodation of the public.
- 26 (f) "Commission", as used in this chapter, means the commission
 27 created by IC 8-1-1-2.
- 28 (g) "Utility", as used in this chapter, means every plant or equipment
 29 within the state used for:
- 30 (1) the conveyance of telegraph and telephone messages;
 31 (2) the production, transmission, delivery, or furnishing of heat,
 32 light, water, or power, either directly or indirectly to the public;
 33 or
 34 (3) collection, treatment, purification, and disposal in a sanitary
 35 manner of liquid and solid waste, sewage, night soil, and
 36 industrial waste.
- 37 The term does not include a municipality that may acquire, own, or
 38 operate facilities for the collection, treatment, purification, and disposal
 39 in a sanitary manner of liquid and solid waste, sewage, night soil, and
 40 industrial waste. A warehouse owned or operated by any person, firm,
 41 limited liability company, or corporation engaged in the business of
 42 operating a warehouse business for the storage of used household



1 goods is not a public utility within the meaning of this chapter.

2 (h) "Municipally owned utility", as used in this chapter, includes
3 every utility owned or operated by a municipality.

4 (i) "Indeterminate permit", as used in this chapter, means every
5 grant, directly or indirectly from the state, to any corporation, company,
6 partnership, limited liability company, individual, association of
7 individuals, their lessees, trustees, or receivers appointed by a court, of
8 power, right, or privilege to own, operate, manage, or control any plant
9 or equipment, or any part of a plant or equipment, within this state, for
10 the:

11 (1) production, transmission, delivery, or furnishing of heat, light,
12 water, or power, either directly or indirectly to or for the public;

13 (2) collection, treatment, purification, and disposal in a sanitary
14 manner of liquid and solid waste, sewage, night soil, and
15 industrial waste; or

16 (3) furnishing of facilities for the transmission of intelligence by
17 electricity between points within this state;

18 which shall continue in force until such time as the municipality shall
19 exercise its right to purchase, condemn, or otherwise acquire the
20 property of such public utility, as provided in this chapter, or until it
21 shall be otherwise terminated according to law.

22 (j) "Communications service provider", as used in this chapter, has
23 the meaning set forth in IC 8-1-2.6-13.

24 **(k) "Ground disturbance activities", as used in this chapter,**
25 **means any work, operation, or activity that results in a disturbance**
26 **of the earth, including excavating, digging, trenching, cultivating,**
27 **drilling, tunneling, boring, backfilling, blasting, topsoil stripping,**
28 **clearing, or grading. The term does not include checking or**
29 **inspecting handholes, manholes, or other facilities.**

30 SECTION 4. IC 8-1-2-5, AS AMENDED BY P.L.145-2015,
31 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
32 JULY 1, 2021]: Sec. 5. (a) Every public utility, every communications
33 service provider, every municipality, and every person, association,
34 limited liability company, or corporation having tracks, conduits,
35 subways, poles, or other equipment on, over, or under any street or
36 highway shall for a reasonable compensation, permit the use of the
37 same, **by attachment or otherwise**, by any other public utility or
38 communications service provider or by a municipality owning or
39 operating a utility, whenever public convenience and necessity require
40 such use, and such use will not result in irreparable injury to the owner
41 or other users of such equipment, nor in any substantial detriment to
42 the service to be rendered by such owners or other users. If any



1 prospective consumers or patrons of any public utility for the
 2 production, transmission, delivery, or furnishing of light or power,
 3 living in territory outside of cities and towns, and within not to exceed
 4 one-half (1/2) mile of the transmission line of such utility, shall agree
 5 to and shall construct and install the necessary equipment, in
 6 compliance with plans and specifications prescribed by such utility,
 7 such public utility shall permit the necessary physical connection or
 8 connections to be made and service to be furnished to the person or
 9 persons who have constructed and installed such equipment.

10 **(b) If a person or entity charges a fee for, or imposes a term or**
 11 **condition on, access to tracks, conduits, subways, poles, or other**
 12 **equipment described in subsection (a) owned or controlled by the**
 13 **person or entity, the fee, term, or condition:**

14 **(1) must be nondiscriminatory, just, and reasonable; and**

15 **(2) may not be subject to a required franchise authority or a**
 16 **permitting requirement of a governmental entity.**

17 **(c) A pole attachment rental fee imposed under this section:**

18 **(1) must be calculated on an annual, per-pole basis;**

19 **(2) provides reasonable compensation and is**
 20 **nondiscriminatory, just, and reasonable if the fee is agreed**
 21 **upon by the parties or, in the absence of such an agreement,**
 22 **is based on cost; and**

23 **(3) may not be greater than the fee that would apply if the**
 24 **pole attachment rental fee were calculated in accordance with**
 25 **the formula set forth in 47 U.S.C. 224(d) for pole attachment**
 26 **by a cable television system solely to provide cable service, as**
 27 **applied by the Federal Communications Commission.**

28 **(b) (d)** In case of failure to agree upon such use or the terms and
 29 conditions or compensations for such use, any public utility, any
 30 communications service provider, or any person, association, limited
 31 liability company, or corporation interested may apply to the
 32 commission and if after investigation the commission shall ascertain
 33 that public convenience and necessity require such use, and that such
 34 use would not result in irreparable injury to the owner or other users of
 35 such equipment or the facilities of such public utilities, nor in any
 36 substantial detriment to the service to be rendered by such owner or
 37 other public utilities or other users of such equipment or facilities, it
 38 shall by order direct that such use be permitted and prescribe
 39 reasonable conditions and compensations for such joint use.

40 **(e) (e)** Such use so ordered shall be permitted, and such conditions
 41 and compensation so prescribed for such use shall be lawful conditions
 42 and compensations for such use, to be observed, followed, and paid,



1 subject to recourse to the courts upon the complaint of any interested
 2 party as provided in sections 73 and 74 of this chapter and IC 8-1-3,
 3 and such statute so far as applicable shall apply to any action arising on
 4 such complaint so made. Any such order of the commission may be
 5 from time to time revised by the commission upon application of any
 6 interested party or upon its own motion.

7 ~~(d)~~ **(f)** This section does not affect the commission's authority under
 8 IC 8-1-2.6.

9 SECTION 5. IC 8-1-2-101 IS AMENDED TO READ AS
 10 FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 101. (a) Every
 11 municipal council or county executive shall have power:

12 (1) To determine by ordinance the provisions, not inconsistent
 13 with **subsection (c), other provisions of** this chapter, or
 14 IC 8-1-11.1, upon which a public utility or department of public
 15 utilities created under IC 8-1-11.1 occupies the areas along,
 16 under, upon, and across the streets, highways, or other public
 17 property within such municipality or county. ~~and~~ Such ~~an~~
 18 ordinance or other determination of ~~such a~~ municipality or county
 19 executive shall be in force and prima facie reasonable **if the**
 20 **ordinance or determination complies with subsection (c).**
 21 Upon complaint made by such public utility ~~or~~ department of
 22 public utilities, or by any qualified complainant, as provided in
 23 section 54 of this chapter, the commission shall set a hearing, as
 24 provided in sections 54 to 67 of this chapter, and if it shall find
 25 such ordinance or other determination to be unreasonable, such
 26 ordinance or other determination shall be void.

27 (2) To require of any public utility, by ordinance, such additions
 28 and extensions to its physical plant within said municipality or
 29 county as shall be reasonable and necessary in the interest of the
 30 public, and to **reasonably** designate the location and nature of all
 31 such additions and extensions, the time within which they must be
 32 completed, and all conditions under which they must be
 33 constructed, subject to review by the commission as provided in
 34 subdivision (1).

35 (3) To provide for a penalty for noncompliance with the
 36 provisions of any ordinance or resolution adopted pursuant to the
 37 provisions of this section.

38 (4) The power and authority granted in this section shall exist and
 39 be vested in said municipalities or county executives, anything in
 40 this chapter to the contrary notwithstanding.

41 Provided, however, ~~whenever,~~ **after that if a public utility or**
 42 **department of public utilities makes** a request by petition in writing



1 of any public utility, department of public utilities, **and completes any**
 2 **required permit application, and** the city or other political
 3 subdivision or other body having jurisdiction of the matter ~~shall refuse~~
 4 ~~or fail, for a period of thirty (30) days, refuses~~ to give or grant to such
 5 public utility or department of public utilities permission and authority
 6 to construct, maintain, and operate any ~~additional construction,~~
 7 equipment or facility **within the public right-of-way as is** reasonably
 8 necessary for the transaction of the business of such public utility or
 9 department of public utilities and for the public convenience or
 10 interest, then such public utility or department of public utilities may
 11 file a petition with said commission for such right and permission.
 12 ~~which~~ **The** petition ~~shall must~~ state, with particularity, the
 13 ~~construction,~~ equipment or other facility desired to be constructed and
 14 operated, ~~and~~ show a reasonable public necessity therefor, and ~~also~~
 15 ~~state the failure or~~ refusal of such city, political subdivision, or other
 16 body to give or grant such right or permission. ~~and~~ **Upon receipt of the**
 17 **petition,** the commission shall ~~thereupon~~ give notice of the pendency
 18 of such petition, together with a copy thereof, to such city or other
 19 political subdivision or body, and of the time and place of hearing of
 20 the matter set forth in such petition. ~~and such~~ **The** commission shall
 21 have power to hear and determine such matters and to give or grant
 22 such right and permission and to impose such conditions in relation
 23 thereto as the necessity of such public utility or department of public
 24 utilities and the public convenience and interest may reasonably
 25 require, **subject to subsection (c).** Provided, further, that when the
 26 **construction, installation, maintenance, repair, relocation, or**
 27 **operation** by a public utility or department of public utilities of any of
 28 its construction, equipment, or ~~facility located~~ **facilities is requested**
 29 **to be performed** within the corporate limits of two (2) or more
 30 adjoining ~~cities~~ **political subdivisions** and is reasonably necessary for
 31 the public convenience or interest, and any or either of said ~~cities fail~~
 32 ~~or refuse~~ **political subdivisions refuses** to give or grant to such public
 33 utility or department of public utilities permission and authority to
 34 ~~relocate such construction, equipment, or facility,~~ **perform the**
 35 **requested work, the public utility, the department of public**
 36 **utilities, or any municipality which political subdivision that** has
 37 given or granted to such public utility or department of public utilities
 38 permission and authority to ~~relocate such construction, equipment, and~~
 39 ~~facility,~~ **the public utility or department of public utilities perform the**
 40 **work** may file a petition with said commission for such right and
 41 permission. ~~to which petition the city or cities failing or~~ **The political**
 42 **subdivision** refusing to give or grant the ~~same~~ **right and permission**



1 shall be made a respondent **to the petition**, and such public utility or
 2 department of public utilities, if not the petitioner, shall also be made
 3 a respondent. ~~and said~~ **The** commission shall have power to hear and
 4 determine such matter, ~~and~~ to give or grant such right and permission,
 5 and to impose such conditions in relation thereto as the public
 6 convenience and interest may reasonably require, ~~and~~ **subject to**
 7 **subsection (c)**. If said commission shall give or grant such right and
 8 permission, no further public authority **is required for the public**
 9 **utility or department of public utilities to make such relocation**
 10 **perform the work** as authorized or to go on any street, alley, road, or
 11 highway in said ~~city or cities~~ **political subdivision** necessary to be used
 12 therefor. ~~shall be required of said public utility or department of public~~
 13 ~~utilities~~. All orders entered before June 30, 1931, by the commission in
 14 cases within the provisions of this section are hereby declared legal and
 15 valid.

16 (b) Subject to the commission's authority under subsection (a)(1)
 17 with respect to an ~~unreasonable~~ ordinance or other determination **that**
 18 **is unreasonable or does not comply with subsection (c)**, the
 19 municipality or county executive may operate and maintain the streets,
 20 highways, and other public property in the municipality or county for
 21 the safety of the traveling public, and a municipality or county
 22 executive may manage the public right-of-way or require by ordinance
 23 fair and reasonable compensation on a competitively neutral and
 24 nondiscriminatory basis for occupation of the public right-of-way, ~~on~~
 25 ~~a nondiscriminatory basis~~, including occupation by the municipality or
 26 county executive, if the compensation required is publicly disclosed by
 27 the municipality or county executive. Fair and reasonable
 28 compensation may not exceed **the lesser of one hundred dollars**
 29 **(\$100) or** the municipality's or county executive's direct, actual,
 30 **documented**, and reasonably incurred costs of managing the public
 31 right-of-way **that are directly** caused by the public utility's or
 32 department of public utilities' occupancy. The management costs,
 33 which the municipality or county executive shall assign individually to
 34 the public utility or department of public utilities creating the
 35 management costs, must be limited to the direct, actual, **documented**,
 36 and reasonably incurred costs a municipality or county incurs in
 37 managing the public right-of-way. As used in this section, the term
 38 "management costs" includes but is not limited to the costs to the
 39 municipality or county of the following:

- 40 (1) ~~Registering occupants~~. **Reviewing written requests or**
 41 **applications for occupation.**
 42 (2) Verifying ~~public right-of-way~~ **that the requested** occupation



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- is within the public right-of-way.**
- (3) Updating municipal or county records to reflect the occupation.**
- ~~(3)~~ **(4) Inspecting job sites and restoration projects.**
- ~~(4)~~ **(5) Restoring Performing restoration** work inadequately performed after providing notice and the opportunity to correct the work.
- ~~(5)~~ **Administering a reasonable restoration ordinance that ensures that a public utility or department of public utilities adequately restores the right-of-way as near as is reasonably possible to the right-of-way's original condition.**
- ~~(6)~~ **Management costs associated with the implementation of an ordinance adopted under this section.**

However, as used in this section, direct, actual, **documented**, and reasonably incurred management costs do not include rents, franchise fees, or any other payment by a public utility or department of public utilities for occupation of the public right-of-way, **or any costs incurred by the municipality or county that are not directly associated with the public utility's or department of public utilities' occupation of the public right-of-way.** As used in this section, the term "public right-of-way" does not include the airwaves above the streets, highways, or other public property within the municipality or county as those airwaves are used for cellular or other nonwire telecommunications or broadcast service.

(c) A municipality or county executive may not unreasonably delay a public utility's or department of public utilities' access to or use of a street, highway, or other public property within the municipality or county. However, subsection (a)(1) and this subsection do not limit a municipality or county executive's right to advance notification of and review of a public utility's or department of public utilities' occupation of a street, highway, or other public property within the municipality or county to ensure and protect the safety of the public, **subject to the following:**

- (1) A municipality or county executive may not require a public utility or department of public utilities to:**
 - (A) obtain or file a bond covering the work to be performed or the occupation of the public right-of-way;**
 - (B) carry liability insurance covering the work or occupation of the public right-of-way in an amount greater than the cost of returning the public right-of-way to a condition equivalent to the public right-of-way's condition before the performance of the work.**



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- (2) A municipality or county executive may not require a public utility or department of public utilities to submit more than one (1) drawing or site plan showing:**
 - (A) the location of the facilities or equipment to be installed, maintained, or operated;**
 - (B) the size of and materials comprising the facilities or equipment to be installed;**
 - (C) the length of the installation; and**
 - (D) the number of road cuts, road bores, or bridge or other structural attachments required for the installation, maintenance, or operation of the equipment or facilities.**
- (3) A municipality or county executive may not require a public utility or department of public utilities to submit more than one (1) notice, request, or application packet for the work to be performed or the occupation of the public right-of-way. If the notice, request, or application requires the review of more than one (1) department, board, or other entity within the municipality or county, the municipality or county executive must coordinate the review among the departments, boards, or other entities before issuing a determination.**
- (4) A municipality or county executive may charge only one (1) fee for compensation under subsection (b), regardless of the number of departments, boards, or other entities that must review the request or application.**
- (5) A municipality or county executive may not specify the manner in which the work is performed in the right-of-way unless reasonable specifications are required to protect the safety of the public or the integrity of other utility facilities occupying the right-of-way. However, a municipality or county executive may set forth reasonable requirements concerning the state to which the right-of-way must be returned by the public utility or department of public utilities upon completion of the work.**
- (6) A municipality or county executive must issue a determination regarding an application or request for occupation of the right-of-way not later than fourteen (14) days after the date of the application or request. The determination must include confirmation that the requested occupation is within the public right-of-way of the municipality or county. If a municipality or county executive fails to issue a determination regarding an application or**



1 request for occupation of the right-of-way not later than
 2 fourteen (14) days after the submission of the application or
 3 request, the application or request is considered approved.

4 (7) Municipalities and county executives shall, to the extent
 5 practicable, establish notice, request, and application
 6 procedures and forms that are uniform, reasonable, and brief.
 7 If a municipality or county executive operates an interactive
 8 Internet web site or online portal for the submission of
 9 information from citizens, the Internet web site or online
 10 portal must also be used to receive and process notices,
 11 requests, and applications for public utilities' and
 12 departments of public utilities' occupation of the right-of-way.

13 (d) This section may not be construed to entitle a municipality
 14 or county executive the right to advance notification and review of
 15 work by a public utility or department of public utilities:

16 (1) that is performed on existing equipment or facilities
 17 located within the public right-of-way; and

18 (2) that:

19 (A) does not require ground disturbance activities; or

20 (B) is required due to a bona fide emergency that threatens
 21 injury to persons, loss of property, or loss or disturbance
 22 of utility service.

23 (d) (e) Nothing in this section may be construed to affect franchise
 24 agreements between a cable company and a municipality or county.

25 SECTION 6. IC 8-1-2.6-4, AS AMENDED BY P.L.53-2014,
 26 SECTION 76, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 27 JULY 1, 2021]: Sec. 4. (a) As used in this section, "committee" means
 28 the interim study committee on energy, utilities, and
 29 telecommunications established by IC 2-5-1.3-4.

30 (b) Subject to subsection (e), The commission shall, by July 1 of
 31 each year, report to the committee in an electronic format under
 32 IC 5-14-6 on the following:

33 (1) The effects of competition and technological change on
 34 universal service and on pricing of all telecommunications
 35 services offered in Indiana.

36 (2) The status of competition and technological change in the
 37 provision of video service (as defined in IC 8-1-34-14) available
 38 to Indiana customers, as including the following information:

39 (A) The number of multichannel video programming
 40 distributors offering video service to Indiana customers.

41 (B) The technologies used to provide video service to Indiana
 42 customers.



- 1 (C) The advertised programming and pricing options offered
 2 by video service providers to Indiana customers.
- 3 (3) Best practices concerning vertical location of underground
 4 facilities for purposes of IC 8-1-26. A report under this
 5 subdivision must address the viability and economic feasibility of
 6 technologies used to vertically locate underground facilities.
- 7 (c) In addition to reviewing the commission report prepared under
 8 subsection (b), the committee may also issue a report and
 9 recommendations to the legislative council by November 1 of each year
 10 that is based on a review of the following issues:
- 11 (1) The effects of competition and technological change in the
 12 telecommunications industry and impact of competition on
 13 available subsidies used to maintain universal service.
- 14 (2) The status of modernization of the publicly available
 15 telecommunications infrastructure in Indiana and the incentives
 16 required to further enhance this infrastructure.
- 17 (3) The effects on economic development and educational
 18 opportunities of the modernization described in subdivision (2).
- 19 (4) The current methods of regulating providers, at both the
 20 federal and state levels, and the effectiveness of the methods.
- 21 (5) The economic and social effectiveness of current
 22 telecommunications service pricing.
- 23 (6) All other telecommunications issues the committee deems
 24 appropriate.
- 25 The report and recommendations issued under this subsection to the
 26 legislative council must be in an electronic format under IC 5-14-6.
- 27 (d) The committee shall, with the approval of the commission, retain
 28 the independent consultants the committee considers appropriate to
 29 assist the committee in the review and study. The expenses for the
 30 consultants shall be paid by the commission.
- 31 (e) If the commission requests a communications service provider
 32 (as defined in section 13(b) of this chapter) to provide information for
 33 the commission to use in preparing a report under this section, the
 34 request must be limited to public information provided to the Federal
 35 Communications Commission and may be required to be provided only
 36 in the form in which it is provided to the Federal Communications
 37 Commission. However, the commission may request any public
 38 information from a communications service provider (as defined in
 39 section 13(b) of this chapter) upon a request from the committee's
 40 chairperson that specifically enumerates the public information sought.
- 41 SECTION 7. IC 8-1-2.6-13, AS AMENDED BY P.L.73-2020,
 42 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE



1 JULY 1, 2021]: Sec. 13. (a) As used in this section, "communications
2 service" has the meaning set forth in IC 8-1-32.5-3.

3 (b) As used in this section, "communications service provider"
4 means a person or an entity that offers communications service to
5 customers in Indiana, without regard to the technology or medium used
6 by the person or entity to provide the communications service. The
7 term includes a provider of commercial mobile service (as defined in
8 47 U.S.C. 332).

9 (c) Notwithstanding sections 1.2, 1.4, and 1.5 of this chapter, the
10 commission may do the following, except as otherwise provided in this
11 subsection:

12 (1) Enforce the terms of a settlement agreement approved by the
13 commission before July 29, 2004. The commission's authority
14 under this subdivision continues for the duration of the settlement
15 agreement.

16 (2) Fulfill the commission's duties under IC 8-1-2.8 concerning
17 the provision of dual party relay services to deaf, hard of hearing,
18 and speech impaired persons in Indiana.

19 (3) Fulfill the commission's responsibilities under IC 8-1-29 to
20 adopt and enforce rules to ensure that a customer of a
21 telecommunications provider is not:

22 (A) switched to another telecommunications provider unless
23 the customer authorizes the switch; or

24 (B) billed for services by a telecommunications provider that
25 without the customer's authorization added the services to the
26 customer's service order.

27 (4) Fulfill the commission's obligations under:

28 (A) the federal Telecommunications Act of 1996 (47 U.S.C.
29 151 et seq.); and

30 (B) IC 20-20-16;

31 concerning universal service and access to telecommunications
32 service and equipment, including the designation of eligible
33 telecommunications carriers under 47 U.S.C. 214.

34 (5) Perform any of the functions described in section 1.5(b) of this
35 chapter.

36 (6) Perform the commission's responsibilities under IC 8-1-32.5
37 to:

38 (A) issue; and

39 (B) maintain records of;

40 certificates of territorial authority for communications service
41 providers offering communications service to customers in
42 Indiana.



- 1 (7) Perform the commission's responsibilities under IC 8-1-34
 2 concerning the issuance of certificates of franchise authority to
 3 multichannel video programming distributors offering video
 4 service to Indiana customers.
- 5 (8) **Subject to subsection (f)**, require a communications service
 6 provider, other than a provider of commercial mobile service (as
 7 defined in 47 U.S.C. 332), to report to the commission on an
 8 annual basis, or more frequently at the option of the provider, ~~and~~
 9 ~~subject to section 4(c) of this chapter~~, any information needed by
 10 the commission to prepare the commission's report to the interim
 11 study committee on energy, utilities, and telecommunications
 12 under section 4 of this chapter.
- 13 (9) Perform the commission's duties under IC 8-1-32.4 with
 14 respect to telecommunications providers of last resort, to the
 15 extent of the authority delegated to the commission under federal
 16 law to perform those duties.
- 17 (10) Collect and maintain from a communications service
 18 provider the following information:
- 19 (A) The address of the provider's Internet web site.
- 20 (B) All toll free telephone numbers and other customer service
 21 telephone numbers maintained by the provider for receiving
 22 customer inquiries and complaints.
- 23 (C) An address and other contact information for the provider,
 24 including any telephone number not described in clause (B).
- 25 The commission shall make any information submitted by a
 26 provider under this subdivision available on the commission's
 27 Internet web site. The commission may also make available on the
 28 commission's Internet web site contact information for the Federal
 29 Communications Commission and the Cellular Telephone
 30 Industry Association.
- 31 (11) Fulfill the commission's duties under any state or federal law
 32 concerning the administration of any universally applicable
 33 dialing code for any communications service.
- 34 (d) The commission does not have jurisdiction over any of the
 35 following with respect to a communications service provider:
- 36 (1) Rates and charges for communications service provided by the
 37 communications service provider, including the filing of
 38 schedules or tariffs setting forth the provider's rates and charges.
- 39 (2) Depreciation schedules for any of the classes of property
 40 owned by the communications service provider.
- 41 (3) Quality of service provided by the communications service
 42 provider.



- 1 (4) Long term financing arrangements or other obligations of the
- 2 communications service provider.
- 3 (5) Except as provided in subsection (c), any other aspect
- 4 regulated by the commission under this title before July 1, 2009.
- 5 (e) The commission has jurisdiction over a communications service
- 6 provider only to the extent that jurisdiction is:
- 7 (1) expressly granted by state or federal law, including:
- 8 (A) a state or federal statute;
- 9 (B) a lawful order or regulation of the Federal
- 10 Communications Commission; or
- 11 (C) an order or a ruling of a state or federal court having
- 12 jurisdiction; or
- 13 (2) necessary to administer a federal law for which regulatory
- 14 responsibility has been delegated to the commission by federal
- 15 law.
- 16 **(f) The commission may not require a communications service**
- 17 **provider:**
- 18 **(1) to file a tariff; or**
- 19 **(2) except for purposes of the communications service**
- 20 **provider's application for a certificate of territorial authority**
- 21 **under IC 8-1-32.5, to report to the commission any**
- 22 **information that is:**
- 23 **(A) available to the public on the communications service**
- 24 **provider's Internet web site;**
- 25 **(B) filed with the Federal Communications Commission; or**
- 26 **(C) otherwise available to the public in any form or at any**
- 27 **level of detail;**
- 28 **including the communications service provider's rates, terms**
- 29 **and conditions of service, and service availability and maps of**
- 30 **the communications service provider's service areas.**
- 31 SECTION 8. IC 8-1-32.3-15, AS AMENDED BY P.L.23-2018,
- 32 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 33 JULY 1, 2021]: Sec. 15. (a) This chapter applies to permits issued by
- 34 a permit authority to a communications service provider, under local
- 35 law and consistent with IC 36-7, for the following:
- 36 (1) Construction of a new wireless support structure.
- 37 (2) Substantial modification of a wireless support structure.
- 38 (3) Collocation of wireless facilities on an existing structure.
- 39 (4) Construction, placement, and use of small cell facilities.
- 40 (b) A permit authority may not require an application or a permit
- 41 for, or charge fees for, any of the following:
- 42 (1) The routine maintenance of wireless facilities.



- 1 (2) The replacement of wireless facilities with wireless facilities
 2 that are:
 3 (A) substantially similar to; or
 4 (B) the same size or smaller than;
 5 the wireless facilities being replaced.
- 6 (3) The installation, placement, maintenance, or replacement of
 7 micro wireless facilities that are suspended on cables strung
 8 between existing utility poles in compliance with applicable codes
 9 by a communications service provider that is authorized to use the
 10 public rights-of-way. For purposes of this subdivision, "applicable
 11 codes" means uniform building, fire, electrical, plumbing, or
 12 mechanical codes that are:
 13 (A) adopted by a recognized national code organization; and
 14 (B) enacted solely to address imminent threats of destruction
 15 of property or injury to persons;
 16 including any local amendments to those codes.
- 17 (c) With respect to the construction, placement, or use of a small
 18 cell facility and the associated supporting structure, a permit authority
 19 may prohibit the placement of a new utility pole or a new wireless
 20 support structure in a right-of-way within an area that is designated
 21 strictly for underground or buried utilities, if all of the following apply:
 22 (1) The area is designated strictly for underground or buried
 23 utilities before May 1, 2017.
 24 **(2) No above ground:**
 25 **(A) wireless support structure;**
 26 **(B) utility pole; or**
 27 **(C) other utility superstructure;**
 28 **exists in the area.**
- 29 ~~(2)~~ **(3)** The permit authority does all of the following:
 30 (A) Allows the collocation of small cell facilities on existing:
 31 (i) utility poles; and
 32 (ii) wireless support structures;
 33 **as a permitted use** within the area.
 34 (B) Allows the replacement or improvement of existing:
 35 (i) utility poles; and
 36 (ii) wireless support structures;
 37 **as a permitted use** within the area.
 38 (C) Provides:
 39 (i) a waiver;
 40 (ii) a zoning process; or
 41 (iii) another procedure;
 42 that addresses requests to install new utility poles or new



- 1 wireless support structures within the area.
- 2 (D) Upon receipt of an application for the construction,
3 placement, or use of a small cell facility on one (1) or more
4 new utility poles or one (1) or more new wireless support
5 structures in an area that is designated strictly for underground
6 or buried utilities, posts notice of the application on the permit
7 authority's Internet web site, if the permit authority maintains
8 an Internet web site. The notice of the application required by
9 this clause must include a statement indicating that the
10 application is available to the public upon request.
- 11 ~~(3)~~ (4) The prohibition or other restrictions with respect to the
12 placement of new utility poles or new wireless support structures
13 within the area are applied in a nondiscriminatory manner.
- 14 ~~(4)~~ (5) The area is zoned strictly for residential land use before
15 May 1, 2017.
- 16 (d) A permit authority shall allow a neighborhood association or a
17 homeowners association to register with the permit authority to receive
18 notice by United States mail of any application filed with the permit
19 authority for the construction, placement, or use of a small cell facility
20 on one (1) or more new utility poles or one (1) or more new wireless
21 support structures in an area within the jurisdiction of the
22 neighborhood association or homeowners association. If the permit
23 authority maintains an Internet web site, the permit authority shall post
24 on the permit authority's Internet web site instructions for how a
25 neighborhood association or homeowners association may register to
26 receive notice under this subsection.
- 27 (e) Subject to section 26(b) of this chapter, with respect to the
28 construction, placement, or use of a small cell facility and the
29 associated supporting structure within an area:
- 30 (1) designated as a historic preservation district under IC 36-7-11;
31 (2) designated as a historic preservation area under IC 36-7-11.1;
32 or
33 (3) that is subject to the jurisdiction of the Meridian Street
34 preservation commission under IC 36-7-11.2;
- 35 a permit authority may apply any generally applicable procedures that
36 require applicants to obtain a certificate of appropriateness.
- 37 (f) An applicant for the placement of a small cell facility and an
38 associated supporting structure shall comply with applicable:
- 39 (1) Federal Communications Commission requirements; and
40 (2) industry standards;
41 for identifying the owner's name and contact information.
- 42 (g) A resolution, ordinance, or other regulation:



1 (1) adopted by a permit authority after April 14, 2017, and before
 2 May 2, 2017; and
 3 (2) that designates an area within the jurisdiction of the permit
 4 authority as strictly for underground or buried utilities;
 5 applies only to communications service providers and those geographic
 6 areas that are zoned residential and where all existing utility
 7 infrastructure is already buried.

8 SECTION 9. IC 8-1-32.3-17, AS ADDED BY P.L.145-2015,
 9 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 10 JULY 1, 2021]: Sec. 17. (a) A permit authority may not discriminate
 11 among communications service providers or public utilities with
 12 respect to the following:

- 13 (1) Approving applications, issuing permits, or otherwise
 14 establishing terms and conditions for construction of wireless or
 15 wireline communications facilities.
- 16 (2) Authorizing or approving tax incentives for wireless or
 17 wireline communications facilities.
- 18 (3) Providing access to rights-of-way, infrastructure, utility poles,
 19 river and bridge crossings, and other physical assets owned or
 20 controlled by the permit authority.
- 21 (b) A permit authority may not impose a fall zone requirement that:
 22 (1) applies to a wireless support structure; and
 23 (2) is larger than the area within which the wireless support
 24 structure is designed to collapse, as set forth in the applicant's
 25 engineering certification for the wireless support structure.

26 However, a permit authority may impose a fall zone requirement that
 27 is larger than the area described in subdivision (2) if the permit
 28 authority provides evidence that the applicant's engineering
 29 certification is flawed. The permit authority's evidence must include a
 30 study performed and certified by a professional engineer.

- 31 **(c) A permit authority may not impose:**
 32 **(1) a restriction on maximum height of a wireless support**
 33 **structure; or**
 34 **(2) a requirement regarding minimum separation distance**
 35 **between wireless support structures.**

36 SECTION 10. IC 8-1-32.5-3, AS AMENDED BY P.L.7-2015,
 37 SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 38 JULY 1, 2021]: Sec. 3. (a) As used in this chapter, "communications
 39 service" refers to any of the following:

- 40 (1) Telecommunications service (as defined in 47 U.S.C. 153).
- 41 (2) Information service (as defined in 47 U.S.C. 153).
- 42 **(3) Cable service (as defined in 47 U.S.C. 522).**



1 (b) The term includes:

- 2 (1) video service (as defined in IC 8-1-34-14);
 3 (2) broadband service;
 4 (3) advanced services (as defined in 47 CFR 51.5); and
 5 (4) Internet Protocol enabled services;

6 however classified by the Federal Communications Commission.

7 SECTION 11. IC 8-1-32.5-11, AS ADDED BY P.L.27-2006,
 8 SECTION 55, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 9 JULY 1, 2021]: Sec. 11. (a) The commission may not require a
 10 communications service provider to file a tariff in connection with, or
 11 as a condition of receiving, a certificate of territorial authority under
 12 this chapter.

13 (b) This subsection does not apply to a provider of commercial
 14 mobile service (as defined in 47 U.S.C. 332). The commission may
 15 require, in connection with the issuance of a certificate under this
 16 chapter, the communications service provider to provide advance
 17 notice to the provider's Indiana customers if the provider will do any of
 18 the following:

- 19 (1) Increase the rates and charges for any communications service
 20 that the provider offers in any of the provider's service areas in
 21 Indiana.
 22 (2) Offer new communications service in any of the provider's
 23 service areas in Indiana.
 24 (3) Cease to offer any communications service that the provider
 25 offers in any of the provider's service areas in Indiana.

26 The commission shall prescribe any customer notification requirements
 27 under this subsection in a rule of general application adopted under
 28 IC 4-22-2.

29 (c) **A tariff filed with the commission by a communications**
 30 **service provider is effective upon filing.**

31 SECTION 12. IC 8-1-32.5-14, AS AMENDED BY P.L.189-2019,
 32 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 33 JULY 1, 2021]: Sec. 14. A communications service provider that holds
 34 a certificate issued under this chapter:

- 35 (1) is exempt from local franchises and related fees to the same
 36 extent as a communications service provider that holds a
 37 certificate of territorial authority or an indeterminate permit
 38 issued under IC 8-1-2 before July 1, 2009;
 39 (2) may access public rights-of-way to the same extent as a public
 40 utility (as defined in IC 8-1-2-1(a)): ~~other than~~

41 (A) **including a public right-of-way under the control of a**
 42 **county or municipality as provided in IC 8-1-2-101; but**



1 **(B) not including** rights-of-way, property, or projects that are
 2 the subject of a public-private agreement under IC 8-15.5 or
 3 IC 8-15.7 or communications systems infrastructure, including
 4 all infrastructure used for wireless communications, owned by
 5 or under the jurisdiction of the Indiana finance authority or the
 6 state or any of its agencies, departments, boards, commissions,
 7 authorities, or instrumentalities; and

8 (3) shall be designated as a public utility solely as that term is
 9 used in 23 CFR 710.403(e)(2).

10 SECTION 13. IC 8-1-34-16, AS AMENDED BY P.L.53-2014,
 11 SECTION 81, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 12 JULY 1, 2021]: Sec. 16. (a) Except as provided in section 21 of this
 13 chapter, after June 30, 2006:

14 (1) the commission is the sole franchising authority (as defined in
 15 47 U.S.C. 522(10)) for the provision of video service in Indiana;
 16 and

17 (2) a unit may not:

18 (A) require a provider to obtain a separate franchise;

19 (B) impose any fee, gross receipt tax, licensing requirement,
 20 rate regulation, or build-out requirement on a provider;

21 (C) regulate a holder or provider; or

22 (D) establish, fund, or otherwise designate an agency, a board,
 23 or another subordinate entity to monitor, supervise, evaluate,
 24 or regulate the holder or provider;

25 except as authorized by this chapter.

26 (b) Except as provided in section 21 of this chapter, a person who
 27 seeks to provide video service in Indiana after June 30, 2006, shall file
 28 with the commission an application for a franchise. The application
 29 shall be made on a form prescribed by the commission and must
 30 include the following:

31 (1) A sworn affidavit, signed by an officer or another person
 32 authorized to bind the applicant, that affirms the following:

33 (A) That the applicant has filed or will timely file with the
 34 Federal Communications Commission all forms required by
 35 the Federal Communications Commission before offering
 36 video service in Indiana.

37 (B) That the applicant agrees to comply with all federal and
 38 state statutes, rules, and regulations applicable to the operation
 39 of the applicant's video service system.

40 (C) That the applicant agrees to:

41 (i) comply with any local ordinance or regulation governing
 42 the use of public rights-of-way in the delivery of video



- 1 service; and
 2 (ii) recognize the police powers of a unit to enforce the
 3 ordinance or regulation.
 4 (D) If the applicant will terminate an existing local franchise
 5 under section 21 of this chapter, that the applicant agrees to
 6 perform any obligations owed to any private person, as
 7 required by section 22 of this chapter.
 8 (2) The applicant's legal name and any name under which the
 9 applicant does or will do business in Indiana, as authorized by the
 10 secretary of state.
 11 (3) The address and telephone number of the applicant's principal
 12 place of business, along with contact information for the person
 13 responsible for ongoing communications with the commission.
 14 (4) The names and titles of the applicant's principal officers.
 15 (5) The legal name, address, and telephone number of the
 16 applicant's parent company, if any.
 17 (6) A description of each service area in Indiana to be served by
 18 the applicant. A service area described under this subdivision may
 19 include an unincorporated area in Indiana.
 20 (7) The expected date for the deployment of video service in each
 21 of the areas identified in subdivision (6).
 22 (8) A list of other states in which the applicant provides video
 23 service.
 24 (9) If the applicant will terminate an existing local franchise under
 25 section 21(b) of this chapter, a copy of the written notice sent to
 26 the municipality under section 21(c) of this chapter.
 27 (10) Any other information the commission considers necessary
 28 to:
 29 (A) monitor the provision of video service to Indiana
 30 customers; and
 31 (B) prepare, under IC 8-1-2.6-4, the commission's annual
 32 report to the interim study committee on energy, utilities, and
 33 telecommunications established by IC 2-5-1.3-4 in an
 34 electronic format under IC 5-14-6.
 35 (c) This section does not empower the commission to require:
 36 (1) an applicant to disclose confidential and proprietary business
 37 plans and other confidential information without adequate
 38 protection of the information; or
 39 (2) a provider to disclose more frequently than in each odd
 40 numbered year information regarding the areas in which an
 41 applicant has deployed, or plans to deploy, video services.
 42 The commission shall exercise all necessary caution to avoid disclosure



1 of confidential information supplied under this section.

2 (d) The commission may charge a fee for filing an application under
3 this section. Any fee charged by the commission under this subsection
4 may not exceed the commission's actual costs to process and review the
5 application under section 17 of this chapter.

6 (e) Nothing in this title may be construed to require an applicant or
7 a provider to disclose information that identifies by census block, street
8 address, or other similar level of specificity the areas in which the
9 applicant or provider has deployed, or plans to deploy, video service in
10 Indiana. The commission may not disclose, publish, or report by census
11 block, street address, or other similar level of specificity any
12 information identifying the areas in Indiana in which an applicant or a
13 provider has deployed, or plans to deploy, video service.

14 **(f) Nothing in this title may be construed to require an applicant**
15 **or provider to provide the commission with information describing**
16 **the applicant's or provider's service, including the applicant's or**
17 **provider's channel lineups or channel guides.**

18 SECTION 14. IC 8-20-1-28 IS AMENDED TO READ AS
19 FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 28. Public and
20 municipally owned utilities are authorized to construct, operate, and
21 maintain their poles, facilities, appliances, and fixtures upon, along,
22 under, and across any of the public roads, highways, and waters outside
23 of municipalities, as long as they do not interfere with the ordinary and
24 normal public use of the roadway, as defined in IC 9-13-2-157.
25 However, the utility shall review its plans with the county executive
26 before locating the pole, facility, appliance, or fixture, **and the county**
27 **executive shall comply with IC 8-1-2-101.** The utility may trim any
28 tree along the road or highway, but may not cut down and remove the
29 tree without the consent of the abutting property owners, unless the
30 cutting or removal is required by rule or order of the Indiana utility
31 regulatory commission. The utility may not locate a pole where it
32 interferes with the ingress or egress from adjoining land.

33 SECTION 15. IC 22-5-1.7-6, AS AMENDED BY P.L.28-2013,
34 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
35 JULY 1, 2021]: Sec. 6. **(a)** As used in this chapter, "public contract for
36 services" means any type of written agreement between a state agency
37 or political subdivision and a contractor for the procurement of
38 services.

39 **(b) The term does not include a contract for the lease of**
40 **property owned by the state under which no state expenditures are**
41 **required.**

42 SECTION 16. IC 36-1-11-1, AS AMENDED BY P.L.270-2019,



1 SECTION 24, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
2 JULY 1, 2021]: Sec. 1. (a) Except as provided in subsection (b), this
3 chapter applies to the disposal of property by:

- 4 (1) political subdivisions; and
5 (2) agencies of political subdivisions.

6 (b) This chapter does not apply to the following:

7 (1) The disposal of property under an urban homesteading
8 program under IC 36-7-17 or IC 36-7-17.1.

9 (2) The lease of school buildings under IC 20-47.

10 (3) The sale of land to a lessor in a lease-purchase contract under
11 IC 36-1-10.

12 (4) The disposal of property by a redevelopment commission
13 established under IC 36-7.

14 (5) The leasing of property by a board of aviation commissioners
15 established under IC 8-22-2 or an airport authority established
16 under IC 8-22-3.

17 (6) The disposal of a municipally owned utility under IC 8-1.5.

18 (7) Except as provided in sections 5.5 and 5.6 of this chapter, the
19 sale or lease of property by a unit to an Indiana nonprofit
20 corporation organized for educational, literary, scientific,
21 religious, or charitable purposes that is exempt from federal
22 income taxation under Section 501 of the Internal Revenue Code
23 or the sale or reletting of that property by the nonprofit
24 corporation.

25 (8) The disposal of surplus property by a hospital established and
26 operated under IC 16-22-1 through IC 16-22-5, IC 16-22-8,
27 IC 16-23-1, or IC 16-24-1.

28 (9) The sale or lease of property acquired under IC 36-7-13 for
29 industrial development.

30 (10) The sale, lease, or disposal of property by a local hospital
31 authority under IC 5-1-4.

32 (11) The sale or other disposition of property by a county or
33 municipality to finance housing under IC 5-20-2.

34 (12) The disposition of property by a soil and water conservation
35 district under IC 14-32.

36 (13) The sale, lease, or disposal of property by the health and
37 hospital corporation established and operated under IC 16-22-8.

38 (14) The disposal of personal property by a library board under
39 IC 36-12-3-5(c).

40 (15) The sale or disposal of property by the historic preservation
41 commission under IC 36-7-11.1.

42 (16) The disposal of an interest in property by a housing authority



- 1 under IC 36-7-18.
- 2 (17) The disposal of property under IC 36-9-37-26.
- 3 (18) The disposal of property used for park purposes under
- 4 IC 36-10-7-8.
- 5 (19) The disposal of curricular materials that will no longer be
- 6 used by school corporations under IC 20-26-12.
- 7 (20) The disposal of residential structures or improvements by a
- 8 municipal corporation without consideration to:
- 9 (A) a governmental entity; or
- 10 (B) a nonprofit corporation that is organized to expand the
- 11 supply or sustain the existing supply of good quality,
- 12 affordable housing for residents of Indiana having low or
- 13 moderate incomes.
- 14 (21) The disposal of historic property without consideration to a
- 15 nonprofit corporation whose charter or articles of incorporation
- 16 allows the corporation to take action for the preservation of
- 17 historic property. As used in this subdivision, "historic property"
- 18 means property that is:
- 19 (A) listed on the National Register of Historic Places; or
- 20 (B) eligible for listing on the National Register of Historic
- 21 Places, as determined by the division of historic preservation
- 22 and archeology of the department of natural resources.
- 23 (22) The disposal of real property without consideration to:
- 24 (A) a governmental agency; or
- 25 (B) a nonprofit corporation that exists for the primary purpose
- 26 of enhancing the environment;
- 27 when the property is to be used for compliance with a permit or
- 28 an order issued by a federal or state regulatory agency to mitigate
- 29 an adverse environmental impact.
- 30 (23) The disposal of property to a person under an agreement
- 31 between the person and a political subdivision or an agency of a
- 32 political subdivision under IC 5-23.
- 33 (24) The disposal of residential real property pursuant to a federal
- 34 aviation regulation (14 CFR 150) Airport Noise Compatibility
- 35 Planning Program as approved by the Federal Aviation
- 36 Administration.
- 37 **(25) The disposal of property by a political subdivision to a**
- 38 **public utility (as defined in IC 8-1-2-1) or to a**
- 39 **communications service provider (as defined in**
- 40 **IC 8-1-32.5-4).**
- 41 SECTION 17. IC 36-1-12-1, AS AMENDED BY P.L.91-2017,
- 42 SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE



1 JULY 1, 2021]: Sec. 1. (a) Except as provided in this section, this
2 chapter applies to all public work performed or contracted for by:

- 3 (1) political subdivisions; and
4 (2) their agencies;

5 regardless of whether it is performed on property owned or leased by
6 the political subdivision or agency.

7 (b) This chapter does not apply to an officer or agent who, on behalf
8 of a municipal utility **or a conservancy district described in**
9 **IC 14-33-1-1(a)(4) or IC 14-33-1-1(a)(5)**, maintains, extends, and
10 installs services of the utility **or district** if the necessary work is done
11 by the employees of the utility **or district**.

12 (c) This chapter does not apply to hospitals organized or operated
13 under IC 16-22-1 through IC 16-22-5 or IC 16-23-1, unless the public
14 work is financed in whole or in part with cumulative building fund
15 revenue.

16 (d) This chapter does not apply to tax exempt Indiana nonprofit
17 corporations leasing and operating a city market owned by a political
18 subdivision.

19 (e) As an alternative to this chapter, the governing body of a
20 political subdivision or its agencies may do the following:

- 21 (1) Enter into a design-build contract as permitted under IC 5-30.
22 (2) Participate in a utility efficiency program or enter into a
23 guaranteed savings contract as permitted under IC 36-1-12.5.

24 (f) This chapter does not apply to a person that has entered into an
25 operating agreement with a political subdivision or an agency of a
26 political subdivision under IC 5-23.

27 (g) This chapter does not apply to the extension or installation of
28 utility infrastructure by a private developer of land if all the following
29 apply:

30 (1) A municipality will acquire for the municipality's municipally
31 owned utility all of the utility infrastructure that is to be extended
32 or installed.

33 (2) Not more than fifty percent (50%) of the total construction
34 costs for the utility infrastructure to be extended or installed,
35 including any increased costs that result from any construction
36 specifications that:

37 (A) are required by the municipality; and

38 (B) specify a greater service capacity for the utility
39 infrastructure than would otherwise be provided for by the
40 private developer;

41 will be paid for out of a public fund or out of a special
42 assessment.



- 1 (3) The private developer agrees to comply with all local
- 2 ordinances and engineering standards applicable to the
- 3 construction, extension, or installation of the utility infrastructure.

