

# HOUSE BILL No. 1308

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 8-23-6.

**Synopsis:** Maintenance of infrastructure. Requires the department of transportation (department) to assume responsibility for the construction, improvement, or repair of the following structures in certain instances: (1) Catch basins. (2) Manholes. (3) Curbs and gutters. (4) Pipes. (5) Other necessary drainage structures. Exempts any structure that collects, channels, diverts, or transports storm drainage from department responsibility. Allows a city or town to seek reimbursement from the department in certain instances. Requires the department to reimburse a city or town in certain instances.

**Effective:** July 1, 2018.

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January 16, 2018, read first time and referred to Committee on Roads and Transportation.

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Second Regular Session of the 120th General Assembly (2018)

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 2017 Regular Session of the General Assembly.

## HOUSE BILL No. 1308

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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 8-23-6-1 IS AMENDED TO READ AS FOLLOWS  
2 [EFFECTIVE JULY 1, 2018]: Sec. 1. (a) The department shall select  
3 the route of highways in the system of highways under its control  
4 through cities and towns, and may change the routes as the department  
5 determines most convenient for public travel.  
6           (b) Notwithstanding subsection (a) and in or near the city of  
7 Mishawaka, Indiana, the portion of Capital Avenue lying between:  
8           (1) the most recently established US 20 bypass as of January 1,  
9           1997; and  
10           (2) the Indiana toll road;  
11 is designated state route number three hundred thirty-one (331).  
12           (c) The department, to the extent of the funds available for the  
13 purpose, shall maintain and, as it determines necessary and as the funds  
14 required are available, may construct and improve the roadway of the  
15 streets or a part of the streets to the width determined by the  
16 department. As part of the construction work, the department shall  
17 construct within the limits of a street the curbs and gutters, manholes,



1 catch basins, and the necessary drainage structures and facilities.

2 **(d) Except as provided in subsection (f), any curb, gutter,**  
 3 **manhole, catch basin, or drainage structure that is constructed,**  
 4 **improved, or repaired by the department under subsection (c)**  
 5 **must be maintained and repaired by the department.**

6 **(e) If:**

7 **(1) a city or town determines that construction, improvement,**  
 8 **maintenance, or repair of a structure described in subsection**  
 9 **(c) is necessary; and**

10 **(2) the department is unable to fund the construction,**  
 11 **improvement, maintenance, or repair described in subdivision**  
 12 **(1);**

13 **the responsible city or town may request reimbursement from the**  
 14 **department for any performed construction, improvement,**  
 15 **maintenance, or repair. The department must reimburse a city or**  
 16 **town seeking reimbursement under this subsection upon the**  
 17 **availability of funds.**

18 **(f) Notwithstanding subsection (d), the department is not**  
 19 **responsible for the construction, improvement, maintenance, or**  
 20 **repair of any drainage structure that:**

21 **(1) is responsible for storm or sewer drainage; and**

22 **(2) was originally constructed or installed by a city or town.**

23 ~~(d)~~ **(g) Notwithstanding subsection (c), funds for the construction or**  
 24 **improvement of the road designated as state route three hundred**  
 25 **thirty-one (331) under subsection (b), to the extent funds are available**  
 26 **for the construction or improvement, shall first be exhausted from:**

27 **(1) revenue declared excess by the Indiana toll road;**

28 **(2) federal aid designated for the local metropolitan planning**  
 29 **organization;**

30 **(3) city and county highway funds used for such purpose; and**

31 **(4) revenue generated from local incremental finance districts;**

32 **before any funds designated to the department are used for construction**  
 33 **or improvement of state route three hundred thirty-one (331).**

34 **SECTION 2. IC 8-23-6-3 IS AMENDED TO READ AS FOLLOWS**  
 35 **[EFFECTIVE JULY 1, 2018]: Sec. 3. (a) Whenever a street on the state**  
 36 **highway system is located within the boundaries of a city or town and**  
 37 **is occupied by the track or tracks of a street railway, interurban railway,**  
 38 **or steam railroad, the department is not required to maintain, construct,**  
 39 **or improve the part of the street between the track or tracks and for**  
 40 **eighteen (18) inches on the outside of the outer rails. The department**  
 41 **shall include as part of the construction cost and pay out of department**  
 42 **funds any expenditures necessitated by the acquisition of sufficient**



- 1 rights-of-way to construct the street.
- 2 (b) If there are any tracks, pipes, or conduits in a street, the  
3 department may, after determining to construct or improve the street,  
4 require the owner to restore to good condition or renew the tracks,  
5 pipes, or conduits. The owner, within ninety (90) days after being  
6 notified to do so, shall restore or renew the tracks, pipes, or conduits.  
7 For tracks, the owner shall pave the part of the street between the rails  
8 of the tracks and eighteen (18) inches on the outside in conformity with  
9 plans approved by the department.
- 10 (c) If the construction work on tracks, pipes, or conduits involves  
11 work of a nature as to be impractical or impossible of performance as  
12 a separate unit, the department may by agreement with the owner  
13 perform the work for which the owner shall reimburse the department  
14 for the cost.
- 15 **(d) After the performance of a restoration or renewal required**  
16 **under subsection (b), the department shall, except as provided in**  
17 **subsection (f), be responsible for the subsequent maintenance or**  
18 **repair of any pipe or conduit originally selected for restoration or**  
19 **renewal under subsection (b).**
- 20 (e) **If a city or town determines that it is necessary to maintain**  
21 **or repair a structure described under subsection (b) after**  
22 **performing the initial restoration or renewal required under**  
23 **subsection (b), the city or town may request reimbursement from**  
24 **the department for any performed maintenance or repair. The**  
25 **department shall reimburse a city or town requesting**  
26 **reimbursement under this subsection.**
- 27 (f) **The department is not responsible for the repair or**  
28 **restoration or renewal of any drainage structure that:**
- 29 **(1) is responsible for the storm or sewer drainage; and**  
30 **(2) was originally constructed or installed by a city or town.**
- 31 ~~(g)~~ (g) Upon the completion of a street, the department shall  
32 maintain the roadway of the street, including the curbs and gutters,  
33 catch basins, and inlets within the limits of the street or highway that  
34 form integral parts of the street or highway. The city or town shall  
35 maintain the sidewalks, grass plats, and the connecting drainage  
36 facilities.
- 37 ~~(h)~~ (h) Whenever the department has responsibility for maintenance  
38 of a street within a city or town, the department shall regulate traffic in  
39 accordance with IC 9-21 on the street and may remove any hazard to  
40 traffic.

