

HOUSE BILL No. 1422

DIGEST OF INTRODUCED BILL

Citations Affected: IC 8-9.5-8-10; IC 8-23; IC 9-21-3-2.

Synopsis: Department of transportation property matters. Provides that the department of transportation (department) may seek recovery for certain costs related to the repair or replacement of damaged or destroyed roadway property. Prohibits depreciation from being used to determine the final repair or replacement cost of damaged or destroyed roadway property. Provides that the commissioner of the department may transfer certain real property owned by the department to a nonprofit land management organization without a prior appraisal if: (1) the real property is owned by the department in fee simple; and (2) the real property is nonmarketable due to environmental mitigation requirements imposed by federal or state regulations. Requires the department to establish rules for approving installation of traffic control signals.

Effective: July 1, 2017.

Pressel, Soliday

January 17, 2017, read first time and referred to Committee on Roads and Transportation.



First Regular Session of the 120th General Assembly (2017)

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 2016 Regular Session of the General Assembly.

HOUSE BILL No. 1422

A BILL FOR AN ACT to amend the Indiana Code concerning transportation.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 8-9.5-8-10 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 10. (a) Except as
3 provided in section 11 of this chapter, the authority may issue toll road
4 bonds under IC 8-15-2 or toll bridge bonds under IC 8-16-1 only:

- 5 (1) after obtaining the approval of the commissioner of the
6 Indiana department of transportation;
- 7 (2) after the general assembly has, based on the recommendations
8 of the commissioner of the Indiana department of transportation,
9 provided for the issuance of the bonds by establishing in an act
10 the maximum aggregate principal amount of bonds that the
11 authority may issue;
- 12 (3) after the authority has delivered to the budget agency a written
13 guarantee that the aggregate amount of attorney's fees for the
14 particular proposed bond issue will not exceed two-tenths of one
15 percent (0.2%) of the principal amount of the proposed issue of
16 toll road and toll bridge bonds; and
- 17 (4) with the approval of the budget committee, the budget agency,



1 and the governor.

2 (b) The authority may include money from the rural transportation
3 road fund as a source of revenue in the performance of contracts and
4 leases with the Indiana department of transportation under
5 ~~IC 8-23-2-6(a)(3)~~. **IC 8-23-2-6(b)(3)**. Revenues from that allocation
6 may be used in the determination of the feasibility of a toll road or toll
7 bridge project.

8 SECTION 2. IC 8-23-2-6, AS AMENDED BY P.L.135-2013,
9 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
10 JULY 1, 2017]: Sec. 6. (a) **As used in this section, "roadway
11 property" means:**

- 12 **(1) emergency equipment;**
13 **(2) installations;**
14 **(3) real property; or**
15 **(4) road safety equipment.**

16 ~~(a)~~ **(b)** The department, through the commissioner or the
17 commissioner's designee, may do the following:

- 18 (1) Acquire by purchase, gift, or condemnation, sell, abandon,
19 own in fee or a lesser interest, hold, or lease property in the name
20 of the state, or otherwise dispose of or encumber property to carry
21 out its responsibilities.
22 (2) Contract with persons outside the department to do those
23 things that in the commissioner's opinion cannot be adequately or
24 efficiently performed by the department.
25 (3) Enter into:
26 (A) a contract with the Indiana finance authority under
27 IC 8-9.5-8-7; or
28 (B) a lease with the Indiana finance authority under
29 IC 8-9.5-8-8;
30 for the construction, reconstruction, improvement, maintenance,
31 repair, or operation of toll road projects under IC 8-15-2 and toll
32 bridges under IC 8-16-1.
33 (4) Sue and be sued, including, with the approval of the attorney
34 general, the compromise of any claims of the department.
35 (5) Hire attorneys.
36 (6) Perform all functions pertaining to the acquisition of property
37 for transportation purposes, including the compromise of any
38 claims for compensation.
39 (7) Hold investigations and hearings concerning matters covered
40 by orders and rules of the department.
41 (8) Execute all documents and instruments necessary to carry out
42 its responsibilities.



- 1 (9) Make contracts and expenditures, perform acts, enter into
 2 agreements, and make rules, orders, and findings that are
 3 necessary to comply with all laws, rules, orders, findings,
 4 interpretations, and regulations promulgated by the federal
 5 government in order to:
 6 (A) qualify the department for; and
 7 (B) receive;
 8 federal government funding on a full or participating basis.
 9 (10) Adopt rules under IC 4-22-2 to carry out its responsibilities,
 10 including emergency rules in the manner provided under
 11 IC 4-22-2-37.1.
 12 (11) Establish regional offices.
 13 (12) Adopt a seal.
 14 (13) Perform all actions necessary to carry out the department's
 15 responsibilities.
 16 (14) Order a utility to relocate the utility's facilities and coordinate
 17 the relocation of customer service facilities if:
 18 (A) the facilities are located in a highway, street, or road; and
 19 (B) the department determines that the facilities will interfere
 20 with a planned highway or bridge construction or
 21 improvement project funded by the department.
 22 (15) Reimburse a utility:
 23 (A) in whole or in part for extraordinary costs of relocation of
 24 facilities;
 25 (B) in whole for unnecessary relocations;
 26 (C) in accordance with IC 8-23-26-12 and IC 8-23-26-13;
 27 (D) in whole for relocations covered by IC 8-1-9; and
 28 (E) to the extent that a relocation is a taking of property
 29 without just compensation.
 30 (16) Provide state matching funds and undertake any surface
 31 transportation project eligible for funding under federal law.
 32 However, money from the state highway fund and the state
 33 highway road construction and improvement fund may not be
 34 used to provide operating subsidies to support a public
 35 transportation system or a commuter transportation system.
 36 **(17) Seek recovery for the:**
 37 **(A) administrative;**
 38 **(B) labor;**
 39 **(C) repair; and**
 40 **(D) replacement;**
 41 **costs associated with damaged or destroyed roadway**
 42 **property. Depreciation may not be used when determining the**



final costs associated with the repair or replacement of damaged or destroyed roadway property.

(b) (c) In the performance of contracts and leases with the Indiana finance authority, the department has authority under IC 8-15-2, in the case of toll road projects and IC 8-16-1, in the case of toll bridges necessary to carry out the terms and conditions of those contracts and leases.

(e) (d) The department shall:

(1) classify as confidential any estimate of cost prepared in conjunction with analyzing competitive bids for projects until a bid below the estimate of cost is read at the bid opening;

(2) classify as confidential that part of the parcel files that contain appraisal and relocation documents prepared by the department's land acquisition division; and

(3) classify as confidential records that are the product of systems designed to detect collusion in state procurement and contracting that, if made public, could impede detection of collusive behavior in securing state contracts.

This subsection does not apply to parcel files of public agencies or affect IC 8-23-7-10.

SECTION 3. IC 8-23-7-13.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: **Sec. 13.5. (a) If the department determines that real property owned in fee simple by the department is nonmarketable due to environmental mitigation requirements imposed by federal or state regulations, the commissioner may, with the approval of the budget agency, issue an order declaring the real property nonmarketable.**

(b) The department may provide a certified copy of an order described in subsection (a) to the Indiana department of administration.

(c) Nonmarketable real property described in subsection (a) shall be transferred as described under IC 4-20.5-7, except that, after fulfilling the requirements of IC 4-20.5-7-6 through IC 4-20.5-7-7.3, the nonmarketable real property described in subsection (a) may be disposed of only by:

(1) soliciting proposed uses for the nonmarketable real property from nonprofit land management organizations; and

(2) transferring the nonmarketable real property to a chosen nonprofit land management organization for a use consistent with the tendered proposal.

Nonmarketable real property disposed of as described in this



1 subsection does not need to be appraised before the transfer of the
2 real property.

3 SECTION 4. IC 9-21-3-2 IS AMENDED TO READ AS FOLLOWS
4 [EFFECTIVE JULY 1, 2017]: Sec. 2. (a) Each traffic signal installation
5 on a street or highway within Indiana may be erected only after the
6 completion of traffic engineering studies that verify that the traffic
7 signal control is necessary as **must comply with the installation**
8 **guidelines** set forth in the Indiana Manual on Uniform Traffic Control
9 Devices for Streets and Highways.

10 (b) **The Indiana department of transportation shall adopt rules**
11 **under IC 4-22-2, including emergency rules adopted in the manner**
12 **provided under IC 4-22-2-37.1, to establish a procedure for**
13 **approving the installation of traffic control signals under this**
14 **chapter. The rules must include the following:**

15 (1) **A procedure that requires a traffic engineering study that**
16 **verifies that the installation of a traffic control signal at a**
17 **particular location is necessary.**

18 (2) **A procedure that does not require a traffic engineering**
19 **study that verifies that the installation of a traffic control**
20 **signal at a particular location is necessary.**

21 ~~(b)~~ (c) If:

22 (1) the proposed installation is in the immediate vicinity of a
23 school; and

24 (2) the installation does not meet the requirements of this section;
25 the governmental unit responsible for the control of traffic at the
26 location shall grant a special hearing on the question to a person who
27 has properly petitioned for the installation of a traffic signal.

