

SENATE BILL No. 156

DIGEST OF INTRODUCED BILL

Citations Affected: IC 8-1.

Synopsis: Rural utility cooperatives. Amends the statutes concerning rural telephone cooperative corporations (cooperative corporations) as follows: (1) Specifies that for purposes of the statute, a "member" of a cooperative corporation means a person admitted to membership both under law and under the cooperative corporation's bylaws. (Current law provides that a member means a person admitted to membership under law or the cooperative corporation's bylaws.) (2) Allows for electronic notice of a meeting of the cooperative corporation's members. (3) Authorizes a cooperative corporation to include a provision in its articles of incorporation or its bylaws to allow any votes cast: (A) after notice of a meeting is provided; and (B) before a meeting of its members; to count toward specified quorum requirements. Amends the statute concerning the merger or consolidation of rural electric membership corporations and rural telephone cooperative corporations to: (1) allow for electronic notice of a meeting of a surviving corporation's or successor corporation's members; (2) authorize a surviving corporation or successor corporation to include a provision in its articles of incorporation or its bylaws to allow any votes cast: (A) after notice of a meeting is provided; and (B) before a meeting of its members; to count toward specified quorum requirements; and (3) specify that a person may not become or remain a member of a surviving corporation or successor corporation unless the person uses energy, communications, or other services (rather than retail electric service or communications service, as specified in current law) supplied by the surviving corporation or successor corporation. Makes conforming amendments concerning voting requirements in the statute governing rural electric membership corporations.

Effective: July 1, 2018.

Houchin

January 3, 2018, read first time and referred to Committee on Utilities.



Second Regular Session 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.

SENATE BILL No. 156

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 8-1-13-8, AS AMENDED BY P.L.171-2017,
2 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2018]: Sec. 8. (a) A corporation may issue to its members
4 certificates of membership and each member shall be entitled to only
5 one (1) vote at any regular or special meeting of the corporation.
6 (b) Meetings of members may be held at such place as may be
7 provided in the by-laws. An annual meeting of the members shall be
8 held at such time as may be provided by the by-laws. Special meetings
9 may be called by the president, by the board of directors, by a petition
10 signed by not less than one-twentieth (1/20) of all the members, or by
11 such other officers or persons as may be provided in the articles of
12 incorporation or the by-laws.
13 (c) Written, printed, or electronic notice stating the place, day and
14 hour of the meeting of members, and, in the case of a special meeting,
15 the purpose or purposes for which the meeting is called, shall be
16 delivered not less than ten (10) nor more than sixty (60) days before the
17 date of the meeting, personally, by mail, or electronically, by or at the



1 direction of the president or the secretary, or the officers or persons
 2 calling the meeting, to each member of record entitled to vote at such
 3 meeting. If mailed, such notice shall be deemed to be delivered when
 4 deposited in the United States mails in a sealed envelope addressed to
 5 the member at the member's address as it appears on the records of the
 6 corporation, with postage thereon prepaid. If transmitted electronically,
 7 the notice is considered delivered when transmitted to the electronic
 8 mail address or other address provided by the member for electronic
 9 communications. Notice of meetings of members may be waived in
 10 writing.

11 (d) Unless otherwise provided in the articles of incorporation,
 12 one-fiftieth (1/50) of **the total of** all the corporation's members **who**
 13 **either:**

14 (1) ~~who~~ are present in person at any meeting of members; or

15 (2) ~~who, in accordance with~~ **as authorized under** subsection (f),
 16 cast votes before **the date of** any meeting of members;

17 of which meeting notice shall have been given as provided in
 18 subsection (c), shall constitute a quorum for the transaction of business
 19 at such meeting.

20 (e) Except as otherwise specifically provided in this chapter, a
 21 majority vote of ~~those~~ **the total number of** members who **either:**

22 (1) **are present in person and** voting at; or

23 (2) **as authorized under subsection (f), cast votes before the**
 24 **date of;**

25 any regular meeting, or at **or before the date of** any special meeting of
 26 the members called for that purpose, shall be necessary for the taking
 27 of any action, adoption of any resolution, or the election of any
 28 directors, or otherwise, as the case may be. Provided, that if more than
 29 two (2) persons are running for election as a director from the same
 30 district then the person receiving the most votes shall be elected.

31 (f) A corporation may include a provision in the corporation's
 32 articles of incorporation or in the corporation's bylaws to allow any
 33 votes cast:

34 (1) after notice of a meeting is provided in accordance with
 35 subsection (c); and

36 (2) before **the date of** a meeting of the members;

37 whether cast in person, by a written ballot mailed to the corporation's
 38 office, or by electronic ballot, to count toward the quorum requirement
 39 set forth in subsection (d) or toward any quorum requirement lawfully
 40 established in the corporation's articles of incorporation or in the
 41 corporation's bylaws.

42 SECTION 2. IC 8-1-13-16 IS AMENDED TO READ AS



1 FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 16. (a) Any corporation
 2 created under the provisions of this chapter may enter into an
 3 agreement for the consolidation or merger of such a corporation with:

- 4 (1) any other corporation organized under this chapter; or
 5 (2) any mutual benefit corporation that was organized before 1964
 6 under Acts 1935, c. 157, that engages in the generation,
 7 transmission, or distribution of electric energy.

8 (b) An agreement under subsection (a) must set forth the terms and
 9 conditions of the consolidation or merger, the name of the proposed
 10 consolidated or merged corporation, the number of its directors, not
 11 less than five (5), the time of the annual election and the names of the
 12 persons, not less than five (5), to be directors upon completing the
 13 consolidation or merger. The agreement must specify the terms the
 14 directors will serve. A corporation organized under this chapter shall
 15 duly call and hold a meeting of its members, as provided in section 8
 16 of this chapter, at which the proposal of such consolidation or merger
 17 shall be presented. A mutual benefit corporation must approve the
 18 merger in accordance with IC 23-17-19-3. With respect to such a
 19 merger, the agreement may provide that the surviving corporation may
 20 have one (1) or more members that are incorporated under the laws of
 21 a state other than Indiana. If at each such meeting, the aforesaid
 22 agreement is approved by a resolution duly adopted and receiving the
 23 affirmative vote of at least a majority of ~~at~~ the **total number of**
 24 **members of the respective corporation who either are present and**
 25 **voting at the meeting or, as authorized under section 8(f) of this**
 26 **chapter, cast a vote before the date of the meeting,** the directors
 27 named in the agreement shall subscribe and acknowledge articles
 28 conforming substantially to the original articles of incorporation,
 29 except that it shall be entitled and endorsed "Articles of consolidation
 30 (merger) of _____" (the blank space being filled in with the names
 31 of the corporations being consolidated or merged) and shall state:

- 32 (1) The names of the corporations being consolidated or merged.
 33 (2) The name of the consolidated or merged corporation.
 34 (3) The other items required or permitted to be stated in original
 35 articles of incorporation.

36 (c) Articles of consolidation or merger under this section or a
 37 certified copy or copies thereof shall be filed in the office of the
 38 secretary of state and thereupon the proposed consolidated or merged
 39 corporation, under its designated name, shall be and constitute a body
 40 corporate with all the powers of a corporation as originally formed
 41 hereunder. In the case of a merger of a corporation organized under this
 42 chapter and a mutual benefit corporation, IC 23-17-19-5 applies.



1 SECTION 3. IC 8-1-17-3, AS AMENDED BY P.L.7-2015,
 2 SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 3 JULY 1, 2018]: Sec. 3. As used in this chapter, the following terms
 4 have the following meanings unless a different meaning clearly appears
 5 from the context:

6 (1) "Acquire" means to obtain by construction, purchase, lease,
 7 devise, gift, eminent domain, or by any other lawful means.

8 (2) "Board" means the board of directors of a cooperative
 9 corporation.

10 (3) "Cooperative corporation" means a corporation formed under
 11 this chapter.

12 (4) "Facilities based local exchange carrier" has the meaning set
 13 forth in IC 8-1-32.4-5.

14 (5) "General cooperative corporation" means a cooperative
 15 corporation formed to render services to local cooperative
 16 corporations.

17 (6) "Improve" includes construct, reconstruct, extend, enlarge,
 18 alter, better, or repair.

19 (7) "Local cooperative corporation" means a cooperative
 20 corporation formed to render telephone services within Indiana.

21 (8) "Member" includes each individual signing the articles of
 22 incorporation of a cooperative corporation and each person
 23 admitted to membership of the cooperative corporation under law
 24 **or and** the corporation's bylaws.

25 (9) "Obligations" includes negotiable bonds, notes, debentures,
 26 interim certificates or receipts, and other evidences of
 27 indebtedness, either issued or the payment of which is assumed
 28 by a cooperative corporation.

29 (10) "Person" or "inhabitant" includes an individual, a firm, an
 30 association, a corporation, a limited liability company, a business
 31 trust, and a partnership.

32 (11) "Service" or "services", when not accompanied by the word
 33 "telephone", means construction, engineering, financial,
 34 accounting, or educational services incidental to telephone
 35 service.

36 (12) "System" includes any plant, works, system, facilities, or
 37 properties, together with all parts of and appurtenances to the
 38 plant, works, system, facilities, or properties, used or useful in
 39 telephone service.

40 (13) "Telephone facilities" includes all buildings, plants, works,
 41 structures, improvements, fixtures, apparatus, materials, supplies,
 42 machinery, tools, implements, poles, posts, crossarms, conduits,



1 ducts, underground or overhead lines, wires, cables, exchanges,
 2 switches, desks, testboards, frames, racks, motors, generators,
 3 batteries, and other items of central office equipment, paystations,
 4 protectors, instruments, connections, and appliances, office
 5 furniture and equipment, work equipment, and all other property
 6 used in connection with the provision of telephone and other
 7 telecommunications services.

8 (14) "Telephone service" refers to telecommunications service (as
 9 defined in 47 U.S.C. 153) provided by a telephone cooperative
 10 corporation. The term includes all facilities or systems used in the
 11 rendition of the service.

12 SECTION 4. IC 8-1-17-9, AS AMENDED BY P.L.14-2006,
 13 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 14 JULY 1, 2018]: Sec. 9. (a) A cooperative corporation may issue to its
 15 members certificates of membership and each member shall be entitled
 16 to only one (1) vote on each question or election at any regular or
 17 special meetings of the cooperative corporation.

18 (b) Meetings of members may be held at such place as may be
 19 provided in the bylaws. An annual meeting of the members shall be
 20 held at such time as may be provided by the bylaws. Special meetings
 21 may be called by the board of directors, by a petition signed by not less
 22 than five percent (5%) of all the members, or by such other officers or
 23 persons as may be provided in the articles of incorporation or by the
 24 bylaws.

25 (c) Written, ~~or~~ printed, **or electronic** notice stating the place, day,
 26 and hour of the meeting of members, and, in the case of a special
 27 meeting, the purpose or purposes for which the meeting is called, shall
 28 be delivered not less than ten (10) nor more than ~~thirty (30)~~ **sixty (60)**
 29 days before the date of the meeting, either personally, ~~or~~ by mail, **or**
 30 **electronically**, by or at the direction of the officers or persons calling
 31 the meeting, to each member of record entitled to vote at such meeting.
 32 If mailed, such notice shall be deemed to be delivered when deposited
 33 in the United States mails in a sealed envelope addressed to the
 34 member at the member's address as it appears on the records of the
 35 cooperative corporation, with postage prepaid. **If transmitted**
 36 **electronically, the notice is considered delivered when transmitted**
 37 **to the electronic mail address or other address provided by the**
 38 **member for electronic communications.** Notice of meetings of
 39 members may be waived in writing.

40 (d) Unless otherwise provided in the articles of incorporation, two
 41 percent (2%) of **the total of** all the **cooperative corporation's**
 42 members ~~of the cooperative corporation who either:~~



- 1 **(1) are present in person at any meeting of members; or**
 2 **(2) as authorized under subsection (g), cast votes before the**
 3 **date of any meeting of members;**

4 of which meeting notice shall have been given as provided in
 5 subsection (c), shall constitute a quorum for the transaction of business
 6 at such meeting.

7 (e) Except as provided in subsection (f), a majority vote of ~~those~~ **the**
 8 **total number of** members who **either:**

- 9 **(1) are present in person and voting at; or**
 10 **(2) as authorized under subsection (g), cast votes before the**
 11 **date of;**

12 any regular meeting, or at **or before the date of** any special meeting of
 13 the members called for that purpose, shall be necessary for the taking
 14 of any action, adoption of any resolution, or the election of any
 15 directors or officers, or otherwise, as the case may be.

16 (f) This subsection applies to an election for a director of a
 17 cooperative corporation held after March 20, 2006. A cooperative
 18 corporation may provide in the corporation's bylaws that if more than
 19 two (2) persons run for election as a director from the same district, the
 20 person receiving the most votes is elected, regardless of whether that
 21 person receives a majority of the total votes cast by those members
 22 **who either:**

- 23 **(1) are present in person and voting at; or**
 24 **(2) as authorized under subsection (g), cast votes before the**
 25 **date of;**

26 the meeting at which the election occurs, **with respect to the**
 27 **particular district.**

28 **(g) A cooperative corporation may include a provision in the**
 29 **cooperative corporation's articles of incorporation or in the**
 30 **cooperative corporation's bylaws to allow any votes cast:**

- 31 **(1) after notice of a meeting of members is provided in**
 32 **accordance with subsection (c); and**
 33 **(2) before the date of the meeting of members;**

34 **whether cast in person, by a written ballot mailed to the**
 35 **cooperative corporation's office, or by electronic ballot, to count**
 36 **toward the quorum requirement set forth in subsection (d) or**
 37 **toward any quorum requirement lawfully established in the**
 38 **cooperative corporation's articles of incorporation or in the**
 39 **cooperative corporation's bylaws.**

40 SECTION 5. IC 8-1-17-12 IS AMENDED TO READ AS
 41 FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 12. Each cooperative
 42 corporation is hereby vested with all powers necessary or requisite for



1 the accomplishment of its corporate purpose and capable of being
 2 delegated by the general assembly of the state of Indiana; and no
 3 enumeration of particular powers hereby granted shall be construed to
 4 impair any general grant of power ~~herein~~ contained **in this chapter**, nor
 5 to limit any such grant to a power or powers of the same class or
 6 classes as those so enumerated.

7 SECTION 6. IC 8-1-17-14, AS AMENDED BY P.L.27-2006,
 8 SECTION 44, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 9 JULY 1, 2018]: Sec. 14. A local cooperative corporation may not sell,
 10 lease, exchange, mortgage, pledge, or otherwise sell all, or substantially
 11 all, of its property unless the transaction is authorized by a resolution
 12 duly adopted at a meeting of the corporation's members duly called and
 13 held as provided in section 9 of this chapter. The resolution must
 14 receive the affirmative vote of at least three-fourths (3/4) of the **total**
 15 **number of the** corporation's members who **either:**

- 16 **(1) are present in person and voting at the meeting; or**
 17 **(2) as authorized under section 9(g) of this chapter, cast a vote**
 18 **before the date of the meeting;**

19 and the affirmative vote of at least three-fourths (3/4) of the
 20 corporation's directors who are present at a meeting of the board of
 21 directors duly called and held as provided in the corporation's bylaws.

22 SECTION 7. IC 8-1-17-18.2, AS ADDED BY P.L.3-2008,
 23 SECTION 72, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 24 JULY 1, 2018]: Sec. 18.2. (a) Any two (2) or more cooperative
 25 corporations created under this chapter and operating or authorized to
 26 operate in contiguous territory may enter into an agreement for the
 27 consolidation of the cooperative corporations, which agreement shall
 28 be submitted for the review of the commission in the manner provided
 29 for in section 5 of this chapter. The agreement must set forth the terms
 30 and conditions of the consolidation, the name of the proposed
 31 consolidated cooperative corporation, the number of its directors, not
 32 less than three (3), the time of the annual election, and the names of the
 33 persons, not less than three (3), to be directors until the first annual
 34 meeting. Each cooperative corporation participating in the
 35 consolidation shall call and hold a meeting of its members as provided
 36 in section 9 of this chapter, at which the proposal of the consolidation
 37 shall be presented. If at each meeting the consolidation agreement is
 38 approved by a resolution duly adopted and receiving the affirmative
 39 vote of at least three-fourths (3/4) of the **total number of** members
 40 who **either attend each and vote at the meeting or, as authorized**
 41 **under section 9(g) of this chapter, cast a vote before the date of the**
 42 **meeting**, the directors named in the agreement shall subscribe and



1 acknowledge articles conforming substantially to the original articles
 2 of incorporation. The new articles shall be entitled and endorsed
 3 "Articles of Consolidation of _____" (the blank space being
 4 filled in with the names of the cooperative corporations being
 5 consolidated) and must state:

- 6 (1) the names of the cooperative corporations being consolidated;
 7 (2) the name of the consolidated cooperative corporation;
 8 (3) a statement that each consolidating cooperative corporation
 9 agrees to the consolidation;
 10 (4) the names and addresses of the directors of the new
 11 cooperative corporation; and
 12 (5) the terms and conditions of the consolidation and the mode of
 13 carrying the consolidation into effect, including the manner in
 14 which members of the consolidating cooperative corporations
 15 may or shall become members of the new cooperative
 16 corporation.

17 The new articles of incorporation may contain any provisions not
 18 inconsistent with this chapter that are necessary or advisable for the
 19 conduct of the business of the new cooperative corporation.

20 (b) If the commission approves the articles of consolidation under
 21 section 5 of this chapter, the articles of consolidation or a certified copy
 22 or copies of the articles shall be filed, together with the attached copy
 23 of the order of the commission under section 5(e)(2) of this chapter, in
 24 the same place as the original articles of incorporation. Upon the filings
 25 required under section 5(g) of this chapter, the proposed consolidated
 26 cooperative corporation, under its designated name, is a body corporate
 27 with all the powers of a cooperative corporation as originally formed
 28 under this chapter.

29 SECTION 8. IC 8-1-17.5-10, AS AMENDED BY P.L.42-2011,
 30 SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 31 JULY 1, 2018]: Sec. 10. (a) If at each meeting of members at which a
 32 vote is taken on a plan of merger or consolidation, as required by
 33 section 9 of this chapter, the plan of merger or consolidation is
 34 approved by a resolution adopted and receiving the affirmative vote of
 35 at least a majority of the **total number of members who either:**

36 **(1) are present and voting at the meeting; or**

37 **(2) as authorized under:**

38 **(A) IC 8-1-13-8(f);**

39 **(B) IC 8-1-17-9(g); or**

40 **(C) section 14(e) of this chapter;**

41 **as applicable, cast a vote before the date of the meeting;**

42 the directors of the surviving corporation or successor corporation, as



1 identified in the plan of merger or consolidation, shall subscribe and
 2 acknowledge articles entitled and endorsed "Articles of merger
 3 (consolidation) of _____" (the blank space being filled in with
 4 the names of the corporations being merged or consolidated, as
 5 appropriate).

6 (b) The articles of merger or consolidation required by subsection
 7 (a) must include the following:

8 (1) The names of the corporations being merged or consolidated.

9 (2) The name of the surviving corporation or successor
 10 corporation.

11 (3) A statement that each merging or consolidating corporation
 12 agrees to the merger or consolidation.

13 (4) The maximum number of directors for the surviving
 14 corporation or successor corporation, which number may not be
 15 less than three (3).

16 (5) The names and addresses of the directors of the surviving
 17 corporation or successor corporation.

18 (6) The terms and conditions of the merger or consolidation and
 19 the mode of carrying the merger or consolidation into effect,
 20 including the manner in which members of the merging or
 21 consolidating corporations may or shall become members of the
 22 surviving corporation or successor corporation.

23 (7) The location of the surviving corporation's or successor
 24 corporation's principal office, along with the mailing address for
 25 the surviving corporation or successor corporation.

26 (8) A specified period for the duration of the surviving
 27 corporation or successor corporation or a statement that the
 28 duration of the surviving corporation or successor corporation is
 29 to be perpetual.

30 (c) In addition to the items required by subsection (b), the articles
 31 of merger or consolidation required by subsection (a) may include:

32 (1) provisions creating, defining, limiting, or regulating the
 33 powers of the surviving corporation or successor corporation; and

34 (2) any other provision that:

35 (A) is not contrary to law;

36 (B) is contained in the plan of merger or consolidation
 37 approved by the respective memberships of the merging or
 38 consolidating corporations; and

39 (C) concerns the regulation of the business or conduct of the
 40 affairs of the surviving corporation or successor corporation.

41 (d) Subject to subsection (f), the articles of merger or consolidation,
 42 or one (1) or more certified copies of the articles of merger or



1 consolidation, shall be filed in the office of the secretary of state. Upon
 2 filing with the secretary of state, the surviving corporation or successor
 3 corporation, under its designated name, constitutes a body corporate
 4 with all the powers of the merging or consolidating corporations as
 5 originally formed under:

- 6 (1) IC 8-1-13;
- 7 (2) IC 8-1-17; or
- 8 (3) this chapter;

9 as applicable.

10 (e) Upon being filed with the secretary of state under subsection (d),
 11 the articles of merger or consolidation are considered the articles of
 12 incorporation of the surviving corporation or successor corporation,
 13 and the surviving corporation or successor corporation may
 14 subsequently amend the articles of incorporation in accordance with
 15 IC 23-17-17.

16 (f) At any time after a plan of merger or consolidation is approved
 17 by the respective memberships of the corporations that seek to merge
 18 or consolidate, as described in subsection (a), and before articles of
 19 merger or consolidation are filed with the secretary of state under
 20 subsection (d), the plan of merger or consolidation may be abandoned
 21 without further action by the respective memberships, boards of
 22 directors, or other persons who proposed or approved the plan of
 23 merger or consolidation for the corporations that sought to merge or
 24 consolidate. A plan of merger or consolidation that is abandoned under
 25 this subsection must be abandoned:

- 26 (1) in accordance with any procedure set forth for that purpose in
 27 the plan of merger or consolidation; or
- 28 (2) in the manner determined by the boards of directors of the
 29 corporations that sought to merge or consolidate, if a procedure
 30 described in subdivision (1) is not set forth in the plan of merger
 31 or consolidation.

32 SECTION 9. IC 8-1-17.5-14, AS ADDED BY P.L.18-2010,
 33 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 34 JULY 1, 2018]: Sec. 14. (a) A surviving corporation or successor
 35 corporation may issue to its members certificates of membership, and
 36 each member is entitled to only one (1) vote on each question or
 37 election at any regular or special meeting of the surviving corporation
 38 or successor corporation.

39 (b) Meetings of members may be held at any place provided for in
 40 the bylaws. An annual meeting of the members shall be held at the time
 41 provided for in the bylaws.

42 (c) Unless otherwise provided in the bylaws or articles of



1 incorporation of the surviving corporation or successor corporation, the
2 following apply:

3 (1) Special meetings may be called:

4 (A) by the board of directors;

5 (B) upon a petition signed by at least five percent (5%) of all
6 the members; or

7 (C) by any other officers or persons as may be provided in the
8 articles of incorporation or the bylaws.

9 (2) Written, ~~or~~ printed, **or electronic** notice stating the place,
10 date, and time of a meeting of members and, in the case of a
11 special meeting, each purpose for which the meeting is called,
12 shall be delivered not less than ten (10) days or more than ~~thirty~~
13 ~~(30)~~ **sixty (60)** days before the date of the meeting, either
14 personally, ~~or~~ by mail, **or electronically**, by or at the direction of
15 the officers or persons calling the meeting, to each member of
16 record entitled to vote at the meeting. If mailed, the notice is
17 considered delivered when deposited in the United States mail in
18 a sealed envelope addressed to the member at the member's
19 address as it appears on the records of the surviving corporation
20 or successor corporation, with postage prepaid. **If transmitted**
21 **electronically, the notice is considered delivered when**
22 **transmitted to the electronic mail address or other address**
23 **provided by the member for electronic communications.**

24 Notice of meetings of members may be waived in writing.

25 (3) **Unless otherwise provided in the articles of incorporation,**
26 two percent (2%) of **the total of** all members **who either:**

27 (A) **are present in person at any meeting of members; or**

28 (B) **as authorized under subsection (e), cast votes before**
29 **the date of any meeting of members;**

30 for which notice has been given as provided in subdivision (2)
31 constitutes a quorum for the transaction of business at the
32 meeting.

33 (4) **Except as provided in subsection (d) or as otherwise**
34 **specifically provided in this chapter,** a majority vote of **those**
35 **the total number of** members **who either:**

36 (A) are present in person and voting at; **or**

37 (B) **as authorized under subsection (e), cast votes before**
38 **the date of;**

39 any regular meeting, or at **or before the date of** any special
40 meeting called at least in part for the purpose of the vote, is
41 necessary for the taking of any action, the adoption of any
42 resolution, or the election of any directors or officers, as



1 applicable.
 2 (d) As provided in section 12(c)(4) of this chapter, the bylaws or
 3 articles of incorporation of the surviving corporation or successor
 4 corporation may provide that if more than two (2) persons run for
 5 election as a director from the same district, the person receiving the
 6 most votes is elected, regardless of whether that person receives a
 7 majority of the total votes cast by those members **who either:**
 8 **(1) are present in person and voting at; or**
 9 **(2) as authorized under subsection (e), cast votes before the**
 10 **date of;**
 11 the meeting at which the election occurs, **with respect to the**
 12 **particular district.**

13 **(e) A surviving corporation or successor corporation may**
 14 **include a provision in the corporation's articles of incorporation or**
 15 **in the corporation's bylaws to allow any votes cast:**
 16 **(1) after notice of a meeting of members is provided in**
 17 **accordance with subsection (c)(2); and**
 18 **(2) before the date of the meeting of members;**
 19 **whether cast in person, by a written ballot mailed to the surviving**
 20 **corporation's or successor corporation's office, or by electronic**
 21 **ballot, to count toward the quorum requirement set forth in**
 22 **subsection (c)(3) or toward any quorum requirement lawfully**
 23 **established in the surviving corporation's or successor**
 24 **corporation's articles of incorporation or in the surviving**
 25 **corporation's or successor corporation's bylaws.**

26 SECTION 10. IC 8-1-17.5-15, AS ADDED BY P.L.18-2010,
 27 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 28 JULY 1, 2018]: Sec. 15. A person may not become or remain a member
 29 of a surviving corporation or successor corporation formed under this
 30 chapter unless the person:

31 (1) uses ~~retail electric service energy, or communications, service~~
 32 **or other services** supplied by the surviving corporation or
 33 successor corporation; and
 34 (2) complies with the terms and conditions:
 35 (A) concerning membership; and
 36 (B) set forth in the bylaws or articles of incorporation of the
 37 surviving corporation or successor corporation.

38 SECTION 11. IC 8-1-17.5-19, AS AMENDED BY P.L.42-2011,
 39 SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 40 JULY 1, 2018]: Sec. 19. A surviving corporation or successor
 41 corporation formed under this chapter may not sell, lease, exchange,
 42 mortgage, pledge, or otherwise sell all, or substantially all, of the



1 surviving corporation's or successor corporation's property unless the
2 transaction is authorized by a resolution adopted at a meeting of the
3 surviving corporation's or successor corporation's members duly called
4 and held as provided in section 14 of this chapter. Unless otherwise
5 provided in the surviving corporation's or successor corporation's
6 bylaws or articles of incorporation, the resolution must receive the
7 affirmative vote of:

8 (1) at least a majority of the **total number of the** surviving
9 corporation's or successor corporation's members who **either:**

10 (A) are present **in person and voting** at the meeting held
11 under this section; **or**

12 (B) **as authorized under section 14(e) of this chapter, cast**
13 **a vote before the date of the meeting;** and

14 (2) at least a majority of the corporation's directors who are
15 present at a meeting of the board of directors called and held as
16 provided in the surviving corporation's or successor corporation's
17 bylaws or articles of incorporation.

