



January 27, 2017

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## SENATE BILL No. 213

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DIGEST OF SB 213 (Updated January 25, 2017 3:48 pm - DI MV)

**Citations Affected:** IC 8-1.

**Synopsis:** Support structures for wireless facilities. Makes the following changes to the statute concerning the local permitting of wireless support structures: (1) Amends the definition of "collocation" to include the placement or installation of wireless facilities on utility poles. (2) Amends the definition of "small cell facility" to: (A) increase the maximum specified antenna volume from three cubic feet to six cubic feet per antenna; (B) eliminate the maximum specified total volume for all antennas; and (C) increase the maximum specified primary equipment enclosure volume from 17 cubic feet to 28 cubic feet. (3) Amends the definition of "utility pole" to include structures designed and used to provide traffic control or signage. (4) Amends the definition of "wireless support structure" to include structures that are capable of supporting (in addition to those designed to support) wireless facilities. (5) Prohibits a permit authority from requiring an application or a permit for: (1) the routine maintenance of wireless facilities; or (2) the replacement of wireless facilities with others that are: (A) substantially similar to; or (B) the same size or smaller than; those being replaced. (6) Provides additional requirements for applications for the collocation of small cell facilities. (7) Provides specified limits on the rate for the collocation of small cell facilities on utility poles owned or controlled by a county or municipality.

**Effective:** July 1, 2017.

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### Hershman

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January 4, 2017, read first time and referred to Committee on Rules and Legislative Procedure.

January 26, 2017, amended; reassigned to Committee on Utilities.

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SB 213—LS 6015/DI 13





January 27, 2017

First Regular Session 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.

## SENATE BILL No. 213

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 8-1-32.3-4, AS ADDED BY P.L.145-2015,  
2 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 2017]: Sec. 4. As used in this chapter, "collocation" means the  
4 placement or installation of wireless facilities on:

- 5 (1) **utility poles; or**  
6 (2) existing structures, ~~that include a wireless facility or a~~  
7 **including:**  
8 (A) wireless support ~~structure, including structures;~~  
9 (B) water towers; and  
10 (C) other buildings or structures.

11 The term includes the placement, replacement, or modification of  
12 wireless facilities within an approved equipment compound.

13 SECTION 2. IC 8-1-32.3-9, AS ADDED BY P.L.145-2015,  
14 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
15 JULY 1, 2017]: Sec. 9. (a) As used in this chapter, "small cell facility"  
16 means:

- 17 (1) a personal wireless service facility (as defined by the Federal

SB 213—LS 6015/DI 13



1 Telecommunications Act of 1996 as in effect on July 1, 2015); or  
 2 (2) a wireless service facility that satisfies the following  
 3 requirements:

4 (A) Each antenna, including exposed elements, has a volume  
 5 of ~~three (3)~~ **six (6)** cubic feet or less.

6 ~~(B) All antennas, including exposed elements, have a total~~  
 7 ~~volume of six (6) cubic feet or less.~~

8 ~~(C) (B)~~ The primary equipment enclosure located with the  
 9 facility has a volume of ~~seventeen (17)~~ **twenty-eight (28)**  
 10 cubic feet or less.

11 (b) For purposes of subsection ~~(a)(2)(C)~~, **(a)(2)(B)**, the volume of  
 12 the primary equipment enclosure does not include the following  
 13 equipment that is located outside the primary equipment enclosure:

- 14 (1) Electric meters.
- 15 (2) Concealment equipment.
- 16 (3) Telecommunications demarcation boxes.
- 17 (4) Ground based enclosures.
- 18 (5) Back up power systems.
- 19 (6) Grounding equipment.
- 20 (7) Power transfer switches.
- 21 (8) Cut off switches.

22 SECTION 3. IC 8-1-32.3-12, AS ADDED BY P.L.145-2015,  
 23 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 24 JULY 1, 2017]: Sec. 12. As used in this chapter, "utility pole" means  
 25 a structure that is:

- 26 (1) owned or operated by:
  - 27 (A) a public utility;
  - 28 (B) a communications service provider;
  - 29 (C) a municipality;
  - 30 (D) an electric membership corporation; or
  - 31 (E) a rural electric cooperative; and
- 32 (2) designed and used to:
  - 33 (A) carry lines, cables, or wires for telephony, cable television,  
 34 or electricity; ~~or~~
  - 35 (B) provide lighting;
  - 36 **(C) provide traffic control; or**
  - 37 **(D) provide signage.**

38 The term does not include a wireless support structure or an electrical  
 39 transmission tower.

40 SECTION 4. IC 8-1-32.3-14, AS ADDED BY P.L.145-2015,  
 41 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 42 JULY 1, 2017]: Sec. 14. **(a)** As used in this chapter, "wireless support



1 structure" means a freestanding structure **that is:**

2 (1) designed to support; **or**

3 (2) **capable of supporting;**

4 wireless facilities.

5 (b) The term does not include a utility pole or an electrical  
6 transmission tower.

7 SECTION 5. IC 8-1-32.3-15, AS ADDED BY P.L.145-2015,  
8 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
9 JULY 1, 2017]: Sec. 15. (a) This chapter applies to permits issued by  
10 a permit authority, under local law and consistent with IC 36-7, for the  
11 following:

12 (1) Construction of a new wireless support structure.

13 (2) Substantial modification of a wireless support structure.

14 (3) Collocation of wireless facilities on an existing structure.

15 (b) **A permit authority may not require an application or a**  
16 **permit for:**

17 (1) **the routine maintenance of wireless facilities; or**

18 (2) **the replacement of wireless facilities with wireless facilities**  
19 **that are:**

20 (A) **substantially similar to; or**

21 (B) **the same size or smaller than;**

22 **the wireless facilities being replaced.**

23 SECTION 6. IC 8-1-32.3-16, AS ADDED BY P.L.145-2015,  
24 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
25 JULY 1, 2017]: Sec. 16. (a) **Subject to section 26(2) of this chapter**  
26 **with respect to applications for the collocation of small cell**  
27 **facilities,** a permit authority may not require an applicant to pay a fee  
28 associated with the submission, review, processing, or approval of an  
29 application for a permit unless the permit authority requires payment  
30 of the same or a similar fee for applications for permits for similar  
31 types of commercial development within the jurisdiction of the permit  
32 authority.

33 (b) A fee associated with the submission, review, processing, or  
34 approval of an application for a permit, including a fee imposed by a  
35 third party that provides review, technical, or consulting assistance to  
36 a permit authority, must be based on actual, direct, and reasonable  
37 costs incurred for the review, processing, and approval of the  
38 application.

39 (c) A fee described in this section may not include:

40 (1) travel expenses incurred by a third party in its review of an  
41 application; or

42 (2) direct payment or reimbursement of third party fees charged



- 1 on a contingency basis.
- 2 SECTION 7. IC 8-1-32.3-22, AS ADDED BY P.L.145-2015,  
 3 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 4 JULY 1, 2017]: Sec. 22. (a) An application for a permit for collocation  
 5 must include only the following:
- 6 (1) All information required by section 19 of this chapter.
  - 7 (2) Evidence of conformance with applicable building permit  
 8 requirements.
- 9 (b) An application for a permit for collocation:
- 10 (1) is not required to comply with zoning or land use  
 11 requirements; and
  - 12 (2) is not subject to public hearing.
- 13 (c) A permit authority shall allow an applicant to submit a single  
 14 consolidated application to collocate multiple wireless service facilities  
 15 that are located within the jurisdiction of the permit authority. The  
 16 permit authority shall issue a single permit for all wireless service  
 17 facilities included in the application rather than individual permits for  
 18 each wireless service facility.
- 19 (d) A permit authority shall review an application within ten (10)  
 20 business days of its receipt to determine if the application is complete.  
 21 If a permit authority determines that an application is not complete, the  
 22 permit authority shall notify the applicant in writing of all defects in the  
 23 application. If a permit authority does not notify an applicant in writing  
 24 of all defects in the application, the application is considered complete.
- 25 (e) An applicant that receives a written notice under subsection (d)  
 26 may cure the defects set forth in the notice and resubmit the corrected  
 27 application to the permit authority within fifteen (15) days of receiving  
 28 the notice. If an applicant is unable to cure the defects within the fifteen  
 29 (15) day period, the applicant shall notify the permit authority of the  
 30 additional time the applicant requires to cure the defects.
- 31 (f) Not more than forty-five (45) days after making an initial  
 32 determination of completeness under subsection (d), a permit authority  
 33 shall:
- 34 (1) review the application to determine its conformity with  
 35 applicable building permit requirements; and
  - 36 (2) notify the applicant in writing whether the application is  
 37 approved or denied.
- 38 However, if the applicant requested additional time under subsection  
 39 (e) to cure defects in the application, the forty-five (45) day period is  
 40 extended for a corresponding amount of time.
- 41 **(g) An application for the collocation of small cell facilities is**  
 42 **subject to the additional requirements set forth in section 26 of this**



- 1 **chapter.**  
 2 SECTION 8. IC 8-1-32.3-26, AS ADDED BY P.L.145-2015,  
 3 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 4 JULY 1, 2017]: Sec. 26. **(a) An application for the collocation of**  
 5 **small cell facilities is subject to the following:**  
 6 (1) A permit authority shall allow an applicant to submit a single  
 7 consolidated application for multiple small cell facilities that are  
 8 located within the permit authority's jurisdiction and constitute a  
 9 single small cell network. The permit authority shall issue a single  
 10 permit for the small cell network rather than multiple permits for  
 11 each small cell facility.  
 12 **(2) The total of any application fees allowed under section 16**  
 13 **of this chapter may not exceed the lesser of:**  
 14 **(A) the amount charged by the permit authority for an**  
 15 **application for a building permit for any similar type of**  
 16 **commercial:**  
 17 **(i) construction;**  
 18 **(ii) activity; or**  
 19 **(iii) land use development;**  
 20 **within the jurisdiction of the permit authority; or**  
 21 **(B) an amount equal to:**  
 22 **(i) for the first five (5) small cell facilities included in the**  
 23 **application, one hundred dollars (\$100) per small cell**  
 24 **facility included in the application; plus**  
 25 **(ii) for any additional small cell facility included in the**  
 26 **application above the first five (5) referenced in item (i),**  
 27 **fifty dollars (\$50) per small cell facility included in the**  
 28 **application.**  
 29 **(b) The rate for the collocation of small cell facilities on a utility**  
 30 **pole owned or controlled by a county or municipality may not**  
 31 **exceed the lesser of:**  
 32 **(1) the annual recurring rate that would apply under the**  
 33 **regulations adopted by the Federal Communications**  
 34 **Commission under 47 U.S.C. 224(e) if the rates were**  
 35 **regulated by the Federal Communications Commission; or**  
 36 **(2) twenty dollars (\$20) per utility pole per year.**



COMMITTEE REPORT

Madam President: The Senate Committee on Rules and Legislative Procedure, to which was referred Senate Bill No. 213, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Delete everything after the enacting clause and insert the following:

(SEE TEXT OF BILL)

and when so amended that said bill be reassigned to the Senate Committee on Utilities.

(Reference is to SB 213 as introduced.)

LONG, Chairperson

