



February 5, 2019

SENATE BILL No. 460

DIGEST OF SB 460 (Updated February 4, 2019 3:40 pm - DI 119)

Citations Affected: IC 8-1; IC 8-23; noncode.

Synopsis: Broadband development. Provides that a communications service provider that holds a certificate of territorial authority shall be designated as a public utility solely as that term is used in federal law that allows a state to exempt a public utility from the federal law's requirement that the state must charge fair market value for the use of real property acquired by the state using federal transportation funding. Provides that the department of transportation (department) may not charge an access rate or any other charge or fee, on an annual basis or otherwise, for certain communications infrastructure that is located before March 14, 2019, in any rights-of-way that are owned or controlled by the department. Provides that, before July 1, 2020, the department shall adopt rules to provide that, as used throughout the department's administrative code regarding utility facility relocation for purposes of construction contracts, "utility" has the meaning set forth in federal law concerning utility relocations, adjustments, and reimbursement.

Effective: January 1, 2019 (retroactive); July 1, 2019.

Messmer, Houchin, Leising, Koch

January 14, 2019, read first time and referred to Committee on Utilities.
February 4, 2019, amended, reported favorably — Do Pass.

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February 5, 2019

First Regular Session of the 121st General Assembly (2019)

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 2018 Regular and Special Session of the General Assembly.

SENATE BILL No. 460

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 8-1-32.5-14, AS AMENDED BY P.L.145-2015,
2 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2019]: Sec. 14. A communications service provider that holds
4 a certificate issued under this chapter:
5 (1) is exempt from local franchises and related fees to the same
6 extent as a communications service provider that holds a
7 certificate of territorial authority or an indeterminate permit
8 issued under IC 8-1-2 before July 1, 2009; ~~and~~
9 (2) may access public rights-of-way to the same extent as a public
10 utility (as defined in IC 8-1-2-1(a)), other than rights-of-way,
11 property, or projects that are the subject of a public-private
12 agreement under IC 8-15.5 or IC 8-15.7 or communications
13 systems infrastructure, including all infrastructure used for
14 wireless communications, owned by or under the jurisdiction of
15 the Indiana finance authority or the state or any of its agencies,

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1 departments, boards, commissions, authorities, or
2 instrumentalities; and

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

5 SECTION 2. IC 8-23-2-20 IS ADDED TO THE INDIANA CODE
6 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE
7 JANUARY 1, 2019 (RETROACTIVE)]: **Sec. 20. (a) As used in this**
8 **section, "communications infrastructure" includes all facilities and**
9 **equipment used to provide communications service (as defined in**
10 **IC 8-1-32.5-3). The term:**

11 **(1) includes fiber optic, cable, and other broadband facilities;**
12 **and**

13 **(2) does not include wireless or cellular communication**
14 **towers, vertical structures, or related facilities or equipment**
15 **used to provide wireless or cellular communications service.**

16 **(b) The department shall not charge an access rate or any other**
17 **charge or fee, on an annual basis or otherwise, for communications**
18 **infrastructure that is located before March 14, 2019, in any**
19 **rights-of-way that are owned or controlled by the department.**

20 SECTION 3. [EFFECTIVE JULY 1, 2019] **(a) As used in this**
21 **SECTION, "department" refers to the Indiana department of**
22 **transportation.**

23 **(b) Before July 1, 2020, the department shall adopt rules under**
24 **IC 4-22-2 to amend 105 IAC 13-2-18 to provide that, as used**
25 **throughout 105 IAC, "utility" has the meaning set forth in 23 CFR**
26 **645.105.**

27 **(c) This SECTION expires December 31, 2020.**

28 SECTION 4. An emergency is declared for this act.



COMMITTEE REPORT

Madam President: The Senate Committee on Utilities, to which was referred Senate Bill No. 460, 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:

Page 1, delete lines 1 through 15.

Delete pages 2 through 5.

Page 6, delete lines 1 through 9.

Page 6, delete lines 10 through 32, begin a new paragraph and insert:

"SECTION 1. IC 8-1-32.5-14, AS AMENDED BY P.L.145-2015, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 14. A communications service provider that holds a certificate issued under this chapter:

(1) is exempt from local franchises and related fees to the same extent as a communications service provider that holds a certificate of territorial authority or an indeterminate permit issued under IC 8-1-2 before July 1, 2009; ~~and~~

(2) may access public rights-of-way to the same extent as a public utility (as defined in IC 8-1-2-1(a)), other than rights-of-way, property, or projects that are the subject of a public-private agreement under IC 8-15.5 or IC 8-15.7 or communications systems infrastructure, including all infrastructure used for wireless communications, owned by or under the jurisdiction of the Indiana finance authority or the state or any of its agencies, departments, boards, commissions, authorities, or instrumentalities; **and**

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

SECTION 2. IC 8-23-2-20 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2019 (RETROACTIVE)]: **Sec. 20. (a) As used in this section, "communications infrastructure" includes all facilities and equipment used to provide communications service (as defined in IC 8-1-32.5-3). The term:**

(1) includes fiber optic, cable, and other broadband facilities; and

(2) does not include wireless or cellular communication towers, vertical structures, or related facilities or equipment used to provide wireless or cellular communications service.

(b) The department shall not charge an access rate or any other charge or fee, on an annual basis or otherwise, for communications



infrastructure that is located before March 14, 2019, in any rights-of-way that are owned or controlled by the department."

Page 6, delete lines 33 through 42.

Delete pages 7 through 9.

Page 10, delete lines 1 through 4.

Page 10, after line 12, begin a new paragraph and insert:

"SECTION 12. An emergency is declared for this act."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 460 as introduced.)

MERRITT, Chairperson

Committee Vote: Yeas 10, Nays 0.

