

COMMITTEE REPORT

MADAM PRESIDENT:

The Senate Committee on Local Government, to which was referred House Bill No. 1174, 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:

- 1 Page 1, strike line 13.
- 2 Page 2, line 32, strike "appraised value" and insert "**average of the**
- 3 **two (2) appraisals**".
- 4 Page 3, between lines 19 and 20, begin a new paragraph and insert:
- 5 "SECTION 2. IC 36-1-11-4.2 IS AMENDED TO READ AS
- 6 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 4.2. (a) This section
- 7 applies to a disposing agent who wants to sell or transfer real property
- 8 not acquired through eminent domain procedures for any of the
- 9 following purposes:
- 10 (1) To promote an economic development project.
- 11 (2) To facilitate compatible land use planning.
- 12 (b) The disposing agent shall first have the property appraised by
- 13 two (2) appraisers. The appraisers must be:
- 14 (1) professionally engaged in making appraisals;
- 15 (2) licensed under IC 25-34.1; or
- 16 (3) employees of the political subdivision familiar with the value
- 17 of the property.
- 18 ~~The appraisers shall make a joint appraisal of the property.~~
- 19 (c) **Subject to subsection (d)**, the disposing agent may:

1 (1) negotiate a sale or transfer; and
 2 (2) dispose of the real property;
 3 at a value that is not less than the ~~appraised value determined average~~
 4 **of the two (2) appraisals** under subsection (b).

5 **(d) The disposing agent may dispose of the real property for a**
 6 **value that is not less than the average of the two (2) appraisals**
 7 **under subsection (b) only after publishing a notice in accordance**
 8 **with IC 5-3-1 stating the amount of the offer to be accepted. The**
 9 **disposing agent may reject all offers. If the disposing agent rejects**
 10 **all offers, the disposing agent must make a written determination**
 11 **to reject all offers explaining why all offers were rejected.**

12 SECTION 3. IC 36-1-11-4.3 IS ADDED TO THE INDIANA CODE
 13 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 14 1, 2011]: **Sec. 4.3. Notwithstanding any provision of this chapter, a**
 15 **sale or transfer under this chapter of property constituting a public**
 16 **easement or right of way does not deprive a public utility of the use**
 17 **of all or part of the public easement or right of way that is sold or**
 18 **transferred if, at the time of the sale or transfer, the public utility**
 19 **is occupying and using all or part of that public easement or right**
 20 **of way for the location and operation of its facilities."**

21 Page 3, line 35, delete "apply:" and insert "**applies:**".

22 Page 5, after line 14, begin a new paragraph and insert:

23 "SECTION 5. IC 36-1-11-10 IS AMENDED TO READ AS
 24 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 10. (a) A disposing
 25 agent may lease property rather than sell, transfer, or exchange it under
 26 this chapter only if the disposing agent determines that a lease rather
 27 than a sale, transfer, or exchange would be in the best interest of the
 28 disposing agent's political subdivision or agency and the public. Except
 29 as provided in section 12 of this chapter, the disposing agent must
 30 proceed under this section in leasing property.

31 (b) The disposing agent shall first have the property appraised in the
 32 manner prescribed in section 4(b) of this chapter, except that the
 33 appraisers shall determine the fair market rental value of the property.

34 (c) The disposing agent shall receive bids in the manner prescribed
 35 in section 4 of this chapter and lease the property to the highest and
 36 best bidder. ~~However, the disposing agent may lease the property for~~
 37 ~~less than ninety percent (90%) of the appraised fair market rental value~~
 38 ~~only after having an additional notice of the lease published in~~

1 accordance with section 4(c) of this chapter. **The disposing agent may**
 2 **reject all bids. If the disposing agent rejects all bids, the disposing**
 3 **agent must make a written determination to reject all bids**
 4 **explaining why all bids were rejected.**

5 (d) The disposing agent shall determine the terms and conditions of
 6 any lease under this section, which may include options to renew and
 7 options to purchase. The property may not be leased to a person who
 8 is ineligible under section 16 of this chapter.

9 (e) The terms of a lease with option to purchase may provide that all
 10 or part of the rental payments under the lease apply to the purchase
 11 price. The purchase price must be equal to at least the minimum sale
 12 price determined under section 4(f) of this chapter.

13 (f) Property owned by a political subdivision or agency may be
 14 leased for a term longer than three (3) years if the lease is approved by
 15 the fiscal body of the political subdivision.

16 **(g) The disposing agent may lease the real property under this**
 17 **section for a value that is less than ninety percent (90%) of the**
 18 **appraised fair market rental value as determined by the average**
 19 **of the two (2) appraisals under section 4(b) of this chapter only**
 20 **after publishing an additional notice in accordance with IC 5-3-1,**
 21 **stating the amount of the bid to be accepted. If the disposing agent**
 22 **rejects all bids, the disposing agent must make a written**
 23 **determination to reject all bids explaining why all bids were**
 24 **rejected."**

25 Renumber all SECTIONS consecutively.

(Reference is to HB 1174 as reprinted February 15, 2011.)

and when so amended that said bill do pass.

Committee Vote: Yeas 6, Nays 0.

Lawson C

Chairperson