

# COMMITTEE REPORT

## MADAM PRESIDENT:

**The Senate Committee on Utilities and Technology, to which was referred Senate Bill No. 212, 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 Delete the title and insert the following:
- 2 A BILL FOR AN ACT to amend the Indiana Code concerning
- 3 utilities.
- 4 Delete everything after the enacting clause and insert the following:
- 5 SECTION 1. IC 8-23-2-5, AS AMENDED BY P.L.35-2005,
- 6 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 7 JULY 1, 2012]: Sec. 5. (a) The department, through the commissioner
- 8 or the commissioner's designee, shall:
  - 9 (1) develop, continuously update, and implement:
  - 10 (A) long range comprehensive transportation plans;
  - 11 (B) work programs; and
  - 12 (C) budgets;
  - 13 to assure the orderly development and maintenance of an efficient
  - 14 statewide system of transportation;
  - 15 (2) implement the policies, plans, and work programs adopted by
  - 16 the department;
  - 17 (3) organize by creating, merging, or abolishing divisions;
  - 18 (4) evaluate and utilize whenever possible improved
  - 19 transportation facility maintenance and construction techniques;
  - 20 (5) carry out public transportation responsibilities, including:

- 1 (A) developing and recommending public transportation  
2 policies, plans, and work programs;
- 3 (B) providing technical assistance and guidance in the area of  
4 public transportation to political subdivisions with public  
5 transportation responsibilities;
- 6 (C) developing work programs for the utilization of federal  
7 mass transportation funds;
- 8 (D) furnishing data from surveys, plans, specifications, and  
9 estimates required to qualify a state agency or political  
10 subdivision for federal mass transportation funds;
- 11 (E) conducting or participating in any public hearings to  
12 qualify urbanized areas for an allocation of federal mass  
13 transportation funding;
- 14 (F) serving, upon designation of the governor, as the state  
15 agency to receive and disburse any state or federal mass  
16 transportation funds that are not directly allocated to an  
17 urbanized area;
- 18 (G) entering into agreements with other states, regional  
19 agencies created in other states, and municipalities in other  
20 states for the purpose of improving public transportation  
21 service to the citizens; and
- 22 (H) developing and including in its own proposed  
23 transportation plan a specialized transportation services plan  
24 for the elderly and persons with disabilities;
- 25 (6) provide technical assistance to units of local government with  
26 road and street responsibilities;
- 27 (7) develop, undertake, and administer the program of research  
28 and extension required under IC 8-17-7;
- 29 (8) allow public testimony in accordance with section 17 of this  
30 chapter whenever the department holds a public hearing (as  
31 defined in section 17 of this chapter); and
- 32 (9) adopt rules under IC 4-22-2 to reasonably and cost effectively  
33 manage the right-of-way of the state highway system by  
34 establishing a formal procedure for highway improvement  
35 projects that involve the relocation of utility facilities by  
36 providing for an exchange of information among the department,  
37 utilities, and the department's highway construction contractors.
- 38 (b) Rules adopted under subsection (a)(9):

1 (1) shall not unreasonably affect the cost, or impair the safety or  
2 reliability, of a utility service; and

3 (2) must require a utility to provide information concerning  
4 all authorized representatives of the utility for purposes of  
5 highway improvement projects and improvement projects  
6 undertaken by local units of government.

7 (c) A civil action may be prosecuted by or against the department,  
8 a department highway construction contractor, or a utility to recover  
9 costs and expenses directly resulting from willful violation of the rules.  
10 Nothing in this section or in subsection (a)(9) shall be construed as  
11 granting authority to the department to adopt rules establishing fines,  
12 assessments, or other penalties for or against utilities or the  
13 department's highway construction contractors.

14 (d) Based on information provided by utilities under rules  
15 described in subsection (b)(2), the department shall establish and  
16 publish on the department's Internet web site a searchable  
17 database of authorized representatives of utilities for purposes of  
18 improvement projects that involve the relocation of utility  
19 facilities. A utility that provides information described in  
20 subsection (b)(2) shall:

21 (1) update the information provided to the department on an  
22 annual basis; and

23 (2) notify the department of any change in the information not  
24 more than thirty (30) days after the change occurs.

25 SECTION 2. [EFFECTIVE UPON PASSAGE] (a) As used in this  
26 SECTION, "committee" refers to the regulatory flexibility  
27 committee established under IC 8-1-2.6-4.

28 (b) As used in this SECTION, "improvement project" means a  
29 project undertaken by a unit of local government that involves the  
30 relocation of a utility's facility.

31 (c) The general assembly urges the legislative council to assign  
32 the committee the task of studying the topic of utility facility  
33 relocation in improvement projects, including:

34 (1) the appropriate management of an improvement project,  
35 including preconstruction communications and planning,  
36 scheduling, development of work plans, and expectations and  
37 obligations of parties to the improvement project;

38 (2) the appropriateness of applying rules of the Indiana

1           department of transportation concerning utility facility  
2           relocation codified at 105 IAC 13 to improvement projects;  
3           and  
4           (3) the appropriateness of creating a civil right of action for  
5           purposes of improvement projects similar to the civil right of  
6           action created at IC 8-23-2-5(c) for highway improvement  
7           projects undertaken by the Indiana department of  
8           transportation.  
9           (d) If the committee is assigned the topic described in subsection  
10          (c), the committee shall issue a final report to the legislative council  
11          containing the commission's findings and recommendations, if any,  
12          not later than November 1, 2012.  
13          (e) This SECTION expires June 30, 2013.  
14          SECTION 3. An emergency is declared for this act.  
            (Reference is to SB 212 as introduced.)

**and when so amended that said bill do pass.**

Committee Vote: Yeas 9, Nays 0.

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Merritt

Chairperson