

COMMITTEE REPORT

MR. PRESIDENT:

The Senate Committee on Planning and Economic Development, to which was referred House Bill No. 1223, 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 3, after line 5, begin a new paragraph and insert:
2 "SECTION 2. IC 8-1-13-6 IS AMENDED TO READ AS
3 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 6. (a) Each corporation
4 formed under this chapter shall have a board of directors that
5 constitutes the governing body of the corporation. The directors must
6 be members, **or if the corporation's bylaws so provide, a member's**
7 **officers, directors, or partners, or the owner of a member that is a**
8 **sole proprietorship may be directors** of the corporation. ~~and; other~~
9 ~~than those~~ **Directors other than those** named in its ~~the~~ corporation's
10 articles of incorporation shall be elected by the members entitled to
11 vote for the directors. Unless the bylaws of the corporation provide
12 otherwise, the directors shall be elected annually. The bylaws may
13 provide that:
14 (1) the directors may hold office for any stated period not
15 exceeding three (3) years;
16 (2) the directors be elected so that the terms of only part of the
17 directors expire at any one time; and
18 (3) only enough directors to succeed those whose terms are about

1 to expire are elected in any year.

2 (b) The bylaws may provide that the territory where the members of
3 the corporation reside be apportioned into districts and prescribe the
4 procedure by which the members residing in any one (1) district may
5 nominate a director.

6 (c) The bylaws may specify a fair remuneration for the time actually
7 spent by its officers, directors, and members of its executive committee
8 in the performance of their duties and provide that the remuneration be
9 paid to the officers, directors, and members of the executive committee.
10 The officers, directors, and members of the executive committee are
11 entitled to reimbursement for expenses incurred in the performance of
12 their duties whether or not the bylaws provide that they be remunerated
13 for their time spent in the performance of those duties. The board shall
14 annually designate and elect those officers it considers necessary.

15 SECTION 3. IC 8-1-17-6 IS AMENDED TO READ AS FOLLOWS
16 [EFFECTIVE JULY 1, 1999]: Sec. 6. At the time the commission
17 approves the articles of incorporation of any cooperative corporation,
18 it shall issue to it, and place on file a duplicate of, a certificate of public
19 convenience and necessity accurately describing the territory within
20 which such cooperative corporation shall be authorized to operate.
21 Thereafter, such territory may be changed by a new certificate issued
22 and filed by the commission:

23 (1) to harmonize with the result of proceedings pursuant to
24 section 21(c) of this chapter, or any other statute empowering the
25 commission to determine the territory within which any telephone
26 company or cooperative may operate; or

27 (2) to harmonize with findings made by the commission upon
28 petition for change of territory signed by the ~~president and~~
29 **secretary appropriate officers** of the cooperative corporation,
30 accompanied by a certified copy of a resolution authorizing the
31 same duly adopted by its board of directors and also by a map
32 showing clearly both the old and the proposed new territory and
33 filed with the commission.

34 Such findings as to a local cooperative corporation shall be made only
35 after the commission ascertains whether such petition proposed a
36 change in such territory as will affect territory being served by any
37 other cooperative corporation or any telephone company.

38 SECTION 4. IC 8-1-17-7 IS AMENDED TO READ AS FOLLOWS

1 [EFFECTIVE JULY 1, 1999]: Sec. 7. (a) Each cooperative corporation
 2 formed under this chapter shall have a board of directors, which board
 3 shall constitute the governing body of the cooperative corporation. The
 4 directors of a local cooperative corporation must be members, **or if the**
 5 **cooperative corporation's bylaws so provide, a member's officers,**
 6 **directors, or partners, or the owner of a member that is a sole**
 7 **proprietorship may be directors** of the same and; ~~except as~~
 8 **cooperative corporation. Directors other than those** named in its ~~the~~
 9 **cooperative corporation's** articles of incorporation ~~directors of any~~
 10 ~~cooperative corporation~~ shall be elected by its members.

11 (b) Unless the bylaws of the cooperative corporation provide
 12 otherwise, such directors shall be elected annually. The bylaws may
 13 provide that the directors may hold office for any stated period not
 14 exceeding three (3) years, and be so elected that the terms of only part
 15 of such directors shall expire at any one (1) time and that only enough
 16 directors to succeed those whose terms are about to expire need be
 17 elected in any year.

18 (c) The bylaws may provide that the area in which the members of
 19 the cooperative corporation reside shall be apportioned into districts
 20 and prescribe the procedure by which the members residing in any one
 21 (1) district may nominate a director.

22 (d) The bylaws may specify a fair remuneration for the time actually
 23 spent by its officers, directors, and members of its executive committee
 24 in the performance of their duties as such and provide that the same be
 25 paid them respectively. The officers, directors, and members of the
 26 executive committee shall be entitled to reimbursement for expenses
 27 incurred by them in the performance of their duties whether or not the
 28 bylaws provide that they be remunerated for their time spent in such
 29 performance.

30 (e) The board shall annually **designate and** elect a **president**; ~~a vice~~
 31 ~~president~~; ~~a secretary~~; and ~~a treasurer~~. ~~The president and vice president~~
 32 ~~shall be elected from the members of the board of directors. those~~
 33 **officers it considers necessary.**

34 SECTION 5. IC 8-1-17-9 IS AMENDED TO READ AS FOLLOWS
 35 [EFFECTIVE JULY 1, 1999]: Sec. 9. (a) A cooperative corporation
 36 may issue to its members certificates of membership and each member
 37 shall be entitled to only one (1) vote on each question or election at any
 38 regular or special meetings of the cooperative corporation.

1 (b) Meetings of members may be held at such place as may be
2 provided in the bylaws. An annual meeting of the members shall be
3 held at such time as may be provided by the bylaws. Special meetings
4 may be called ~~by the president~~; by the board of directors, by a petition
5 signed by not less than five percent (5%) of all the members, or by such
6 other officers or persons as may be provided in the articles of
7 incorporation or by the bylaws.

8 (c) Written or printed notice stating the place, day, and hour of the
9 meeting of members, and, in the case of a special meeting, the purpose
10 or purposes for which the meeting is called, shall be delivered not less
11 than ten (10) nor more than thirty (30) days before the date of the
12 meeting, either personally or by mail, by or at the direction of the
13 ~~president or the secretary~~; or the officers or persons calling the meeting,
14 to each member of record entitled to vote at such meeting. If mailed,
15 such notice shall be deemed to be delivered when deposited in the
16 United States mails in a sealed envelope addressed to the member at
17 his address as it appears on the records of the cooperative corporation,
18 with postage prepaid. Notice of meetings of members may be waived
19 in writing.

20 (d) Unless otherwise provided in the articles of incorporation, two
21 percent (2%) of all the members of the cooperative corporation present
22 in person at any meeting of members, of which meeting notice shall
23 have been given as provided in the foregoing subdivision (c) of this
24 section, shall constitute a quorum for the transaction of business at
25 such meeting.

26 (e) A majority vote of those members who are present in person at
27 any regular meeting, or at any special meeting of the members called
28 for that purpose, shall be necessary for the taking of any action,
29 adoption of any resolution, or the election of any officers, or otherwise,
30 as the case may be.

31 SECTION 6. IC 8-1-17-23 IS AMENDED TO READ AS
32 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 23. (a) A cooperative
33 corporation may amend its articles of incorporation to change its
34 corporate name, to increase or reduce the number of its directors, or
35 change any other provisions therein; provided, that any change of
36 location of the principal office may be effected in the manner set forth
37 in section 24 of this chapter, and further provided that no cooperative
38 corporation shall amend its articles of incorporation to embody therein

1 any purpose, power, or provision which would not be authorized if its
 2 original articles of incorporation, including such additional or changed
 3 purpose, power, or provision, were offered for filing at the time articles
 4 under this section are offered. Such amendment may be accomplished
 5 by filing articles of amendment which shall be entitled and endorsed
 6 "Articles of Amendment of _____" (the blank space being
 7 filled in with the name of the cooperative corporation) and state:

8 (1) The name of the cooperative corporation, and if it has been
 9 changed, the name under which it was originally incorporated.

10 (2) The date of filing the articles of incorporation in each public
 11 office where filed.

12 (3) Whether the statement of counties within which its operations
 13 are to be conducted is to be changed, and if so the new statement
 14 of such counties.

15 (4) The ~~president or vice president~~ **officer** executing such articles
 16 of amendment shall make and annex thereto an affidavit stating
 17 that the provisions of this section in respect to the amendment set
 18 forth in such articles were complied with.

19 (b) Such articles shall be subscribed in the name of the cooperative
 20 corporation by the ~~president or vice president, and by the secretary or~~
 21 ~~the assistant secretary, appropriate officers of the cooperative~~
 22 **corporation** who shall make and annex an affidavit stating that they
 23 have been authorized to execute and file such articles by a resolution
 24 duly adopted at a meeting of the cooperative corporation duly called
 25 and held as provided in section 9 of this chapter. If by any such
 26 amendment to articles of incorporation, the territory proposed to be
 27 served by the cooperative corporation is to be increased or decreased,
 28 the articles of amendment, together with a petition executed by the
 29 ~~president, or vice president, and by the secretary or the assistant~~
 30 ~~secretary~~ **appropriate officers** of the cooperative corporation and
 31 praying for the permission of the commission shall be submitted to the
 32 commission. Thereupon, the commission shall set said petition for
 33 public hearing and shall give notice of the time and place thereof one
 34 (1) time in at least one (1) newspaper published in each of the counties
 35 in which lies any of the territory proposed to be added or omitted by
 36 such amendment, which publication shall be at least ten (10) days
 37 before such hearing. The cost of publication shall be paid by the

1 petitioner when filing such petition. Also written notice of the time and
 2 place of such hearing shall be mailed to each telephone company
 3 operating in contiguous territory in the manner provided in section 5 of
 4 this chapter. Any interested person may appear, personally or by
 5 attorney, at such hearing and aid or oppose the prayer of the petition.
 6 After such hearing, the commission shall grant or deny the petition and
 7 make its order accordingly. No amendment increasing or decreasing
 8 the territory to be served by such cooperative corporation shall be filed
 9 in the office of the secretary of state or of any county recorder unless
 10 there be attached thereto a certified copy of an order of the commission
 11 consenting to such increase or decrease. Such articles shall be filed in
 12 the same places as the original articles of incorporation and thereupon
 13 the amendment shall be deemed to have been effected.

14 SECTION 7. IC 8-1-17-24 IS AMENDED TO READ AS
 15 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 24. A cooperative
 16 corporation formed hereunder may change the location of its principal
 17 office by filing in the office of the secretary of state a certificate
 18 reciting such change of principal office and setting forth the resolution
 19 by its board of directors authorizing such change and stating the time
 20 and place of its adoption, which certificate shall be executed and
 21 acknowledged by the **appropriate officers of the cooperative**
 22 **corporation's president or vice-president corporation** with the
 23 corporate seal attached and attested by the ~~secretary or assistant~~
 24 ~~secretary:~~ **appropriate officer of the cooperative corporation.**

25 SECTION 8. IC 8-1-17-25 IS AMENDED TO READ AS
 26 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 25. Any cooperative
 27 corporation may dissolve by filing in the office of the secretary of state
 28 articles of dissolution which shall be entitled and endorsed "Articles of
 29 Dissolution of _____" (the blank space being filled in with the name
 30 of the cooperative corporation) and shall state:

- 31 ~~(a)~~ **(1)** The name of the cooperative corporation, and if such
 32 cooperative corporation is a corporation resulting from the
 33 consolidation as provided in this chapter, the names of the
 34 original cooperative corporations.
 35 ~~(b)~~ **(2)** The date of filing of the articles of incorporation in the
 36 office of secretary of state and, if such cooperative corporation is
 37 a corporation resulting from a consolidation as provided in this

1 chapter, the dates on which the articles of incorporation of the
2 original cooperative corporations were filed in the office of
3 secretary of state.
4 ~~(c)~~ (3) That the cooperative corporation elects to dissolve.
5 ~~(d)~~ (4) The name and post office address of each of its directors,
6 and the name, title, and post office address of each of its officers.
7 Such articles shall be subscribed and acknowledged by the ~~president or~~
8 ~~a vice president and the secretary or an assistant secretary;~~ **appropriate**
9 **officers of the cooperative corporation** who shall make and annex an
10 affidavit stating that they have been authorized to execute and file such
11 articles by a resolution duly adopted by the members of the cooperative
12 corporation at a meeting thereof duly called and held as provided in
13 section 9 of this chapter. Articles of dissolution or a certified copy or
14 copies thereof shall be filed in the same places as original articles of
15 incorporation, and thereupon the cooperative corporation shall be
16 deemed to be dissolved. Such cooperative corporation shall continue
17 for the purpose of paying, satisfying, and discharging any existing
18 liabilities or obligations and collecting or liquidating its assets, and
19 doing all other acts required to adjust and wind up its business affairs,
20 and may sue and be sued in its corporate name. Any assets remaining
21 after all liabilities and obligations of the cooperative corporation have
22 been satisfied and discharged shall be refunded pro rata to the patrons,
23 their assignees, personal representatives, heirs, or legatees, who shall
24 have paid for telephone service rendered by the cooperative
25 corporation, within a five (5) year period next preceding such

1 dissolution. Any assets not so refunded within a two (2) year period
2 after such dissolution is completed shall pass to and become the
3 property of the state of Indiana."

(Reference is to HB 1223 as printed February 26, 1999.)

and when so amended that said bill do pass.

Committee Vote: Yeas 7, Nays 0.

Senator Lubbers, Chairperson