



February 21, 2012

**ENGROSSED
HOUSE BILL No. 1201**

DIGEST OF HB 1201 (Updated February 16, 2012 12:54 pm - DI 103)

Citations Affected: IC 8-1; IC 21-28.

Synopsis: State provision and use of communications service. Provides that after March 31, 2012, the I-Light communications network may not be used to offer or provide, directly or indirectly, communications service to the public or to any private or governmental entity. Provides exceptions to this prohibition to allow for the following: (1) The provision of communications service for 911 services or emergency or law enforcement purposes. (2) The provision of communications service to institutions of higher education in furtherance of education or research for the direct benefit of students, faculty, or staff, and, under certain conditions, to other persons with a research and development relationship with the institution. (3) The provision of communications service for the direct benefit of public broadcasting. Provides that after March 31, 2012, a person that is not: (1) a state educational institution; or (2) a private postsecondary educational institution; may not become a member of the I-Light network or otherwise connect to or use the I-Light network or any services made available through I-Light.

Effective: Upon passage.

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(SENATE SPONSORS — HOLDMAN, MERRITT, RANDOLPH)

January 9, 2012, read first time and referred to Committee on Utilities and Energy.
January 23, 2012, amended, reported — Do Pass.
January 26, 2012, read second time, ordered engrossed. Engrossed.
January 27, 2012, read third time, passed. Yeas 71, nays 20.

SENATE ACTION

February 1, 2012, read first time and referred to Committee on Utilities and Technology.
February 20, 2012, amended, reported favorably — Do Pass.

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February 21, 2012

Second Regular Session 117th General Assembly (2012)

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 2011 Regular Session of the General Assembly.

ENGROSSED HOUSE BILL No. 1201

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 8-1-32.7 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE
3 UPON PASSAGE]:

4 **Chapter 32.7. Use and Provision of Communications Service by**
5 **the State**

6 **Sec. 1. As used in this chapter, "communications service" has**
7 **the meaning set forth in IC 8-1-32.5-3.**

8 **Sec. 2. As used in this chapter, "communications service**
9 **provider" has the meaning set forth in IC 8-1-32.5-4.**

10 **Sec. 3. As used in this chapter, "I-Light" refers to the high speed**
11 **communications network that connects state educational**
12 **institutions and private postsecondary educational institutions**
13 **throughout Indiana. The term includes the networks, and any**
14 **successor networks, known at any time as I-Light or I-Light 2, or**
15 **any other version or iteration of those names, or by any other**
16 **designation.**

17 **Sec. 4. (a) As used in this chapter, "state" means the state of**

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1 Indiana and any officer, agency, department, board, bureau,
 2 commission, division, or institution of the state of Indiana, the
 3 trustees or board of directors of any instrumentality of the state of
 4 Indiana or body politic of the state of Indiana, and the trustees of
 5 any state educational institution.

6 (b) The term includes a state agency or other instrumentality of
 7 state government that holds the contract for the state's indefeasible
 8 right of use to I-Light.

9 Sec. 5. (a) Except as provided in subsections (b) and (c) and in
 10 IC 21-28-5, after March 31, 2012, I-Light may not be used to offer
 11 or provide, directly or indirectly, communications service to the
 12 public or to any private or governmental entity.

13 (b) This section does not prohibit the use of I-Light for any of
 14 the following:

15 (1) The provision of communications service to the extent used
 16 solely for 911 service, enhanced 911 service, or any other
 17 emergency or law enforcement purpose.

18 (2) The provision of communications service to a state
 19 educational institution or a private postsecondary educational
 20 institution in furtherance of education or research for the
 21 direct benefit of students, faculty, or staff. The provision of
 22 communications service under this subdivision may include
 23 the provision of communications service to a person that is
 24 not a state educational institution or a private postsecondary
 25 educational institution if:

26 (A) the person has a research and development
 27 relationship with a state educational institution or a
 28 private postsecondary educational institution; and

29 (B) the communications service required by and provided
 30 to the person:

31 (i) is a one (1) gigabit per second or greater network
 32 connection;

33 (ii) is used in furtherance of the research and
 34 development relationship only;

35 (iii) is provided only for a specific research and
 36 development project;

37 (iv) is provided only for the limited duration of the
 38 specific research and development project; and

39 (v) is not provided in competition with private sector
 40 communications service providers' provision of
 41 communications service.

42 (3) The provision of communications service to member

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1 licenses of Indiana Public Broadcasting Stations, Inc., for the
2 direct benefit of public broadcasting.

3 (c) Notwithstanding subsection (a), the state remains subject to
4 any contractual rights, duties, and obligations incurred by the state
5 and owed to any private person under a contract for the provision
6 of communications service that was entered into by the state before
7 April 1, 2012, and that remains in effect after March 31, 2012. All
8 liens, security interests, royalties, and other contracts, rights, and
9 interests owed to a private person under the contract continue in
10 full force and effect and must be paid or performed by the state in
11 the manner specified in the contract, subject to the right of the
12 state and all other contracting parties to renegotiate the terms of
13 the contract at any time before the expiration of the contract.

14 SECTION 2. IC 21-28-5-14 IS ADDED TO THE INDIANA CODE
15 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE
16 UPON PASSAGE]: Sec. 14. (a) This section does not apply to a
17 person that:

18 (1) is not a state educational institution or a private
19 postsecondary educational institution; and

20 (2) is a member of I-Light or is connected to or uses the
21 I-Light network or services made available through I-Light;
22 before April 1, 2012.

23 (b) As used in this section, "I-Light" refers to the high speed
24 communications network that connects state educational
25 institutions and private postsecondary educational institutions
26 throughout Indiana. The term includes the networks, and any
27 successor networks, known at any time as I-Light or I-Light 2.

28 (c) As used in this section, "person" means any individual,
29 corporation, limited liability company, partnership, firm,
30 association, public or private agency, or other organization.

31 (d) Notwithstanding section 10 of this chapter, and except as
32 provided in subsection (a) and IC 8-1-32.7-5(b)(2), after March 31,
33 2012, a person that is not:

34 (1) a state educational institution; or

35 (2) a private postsecondary educational institution;

36 may not become a member of I-Light or otherwise connect to or
37 use the I-Light network or any services made available through
38 I-Light.

39 SECTION 3. An emergency is declared for this act.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Utilities and Energy, to which was referred House Bill 1201, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, between lines 9 and 10, begin a new paragraph and insert:

"Sec. 3. As used in this chapter, "I-Light" refers to the high speed communications network that connects state educational institutions and private postsecondary educational institutions throughout Indiana. The term includes the networks, and any successor networks, known at any time as I-Light or I-Light 2, or any other version or iteration of those names, or by any other designation."

Page 1, line 10, delete "3." and insert "4."

Page 2, line 1, delete "I-Light (as defined in IC 21-28-5-14)." and insert "**I-Light**".

Page 2, line 2, delete "4." and insert "5."

Page 2, line 3, delete "the state may not" and insert "**I-Light may not be used to**".

Page 2, line 6, after "prohibit" insert "**the use of I-Light for**".

Page 2, line 7, delete "state from providing" and insert "**provision of**".

Page 2, line 10, delete "state from providing" and insert "**provision of**".

Page 2, delete lines 14 through 24.

Page 3, line 6, after "networks" insert ", **and any successor networks**".

and when so amended that said bill do pass.

(Reference is to HB 1201 as introduced.)

LUTZ, Chair

Committee Vote: yeas 7, nays 3.

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COMMITTEE REPORT

Madam President: The Senate Committee on Utilities and Technology, to which was referred House Bill No. 1201, 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 2, line 20, delete "for the direct benefit of students, faculty, and staff." and insert **"in furtherance of education or research for the direct benefit of students, faculty, or staff. The provision of communications service under this subdivision may include the provision of communications service to a person that is not a state educational institution or a private postsecondary educational institution if:**

(A) the person has a research and development relationship with a state educational institution or a private postsecondary educational institution; and

(B) the communications service required by and provided to the person:

(i) is a one (1) gigabit per second or greater network connection;

(ii) is used in furtherance of the research and development relationship only;

(iii) is provided only for a specific research and development project;

(iv) is provided only for the limited duration of the specific research and development project; and

(v) is not provided in competition with private sector communications service providers' provision of communications service.

(3) The provision of communications service to member licensees of Indiana Public Broadcasting Stations, Inc., for the direct benefit of public broadcasting."

Page 3, line 8, delete "(a)," and insert **"(a) and IC 8-1-32.7-5(b)(2),"**

and when so amended that said bill do pass.

(Reference is to HB 1201 as printed January 23, 2012.)

MERRITT, Chairperson

Committee Vote: Yeas 10, Nays 0.

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