

## SENATE BILL No. 212

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### DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 36-9-42.

**Synopsis:** Utility facility relocation. Authorizes a unit of local government to enter into an agreement with a utility concerning the relocation of the utility's facilities for a major project undertaken by the local unit. Requires that the agreement must include a date for relocation, a damages provision, and a force majeure clause. Requires a utility to provide a unit contact information for the utility's authorized representative. Specifies that a unit that is responsible for relocation costs may pay the costs in arrears in accordance with the procedures of the state board of accounts.

**Effective:** July 1, 2012.

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January 4, 2012, read first time and referred to Committee on Utilities & Technology.

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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.

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**SENATE BILL No. 212**



A BILL FOR AN ACT to amend the Indiana Code concerning local government.

*Be it enacted by the General Assembly of the State of Indiana:*

- 1 SECTION 1. IC 36-9-42 IS ADDED TO THE INDIANA CODE AS
- 2 A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
- 3 1, 2012]:
- 4 **Chapter 42. Utility Relocations**
- 5 **Sec. 1. As used in this chapter, "authorized representative"**
- 6 **means a person designated by a utility as a contact person for**
- 7 **purposes of an improvement project.**
- 8 **Sec. 2. As used in this chapter, "cost of relocation" has the**
- 9 **meaning set forth in IC 8-1-9-2(b).**
- 10 **Sec. 3. As used in this chapter, "facility" has the meaning set**
- 11 **forth in IC 8-1-26-7.**
- 12 **Sec. 4. As used in this chapter, "improvement project" means**
- 13 **a project undertaken by a unit that involves the relocation of a**
- 14 **facility.**
- 15 **Sec. 5. As used in this chapter, "major project" means an**
- 16 **improvement project designated by a unit as a major project under**
- 17 **section 8 of this chapter.**



1           **Sec. 6.** As used in this chapter, "utility" means the owner or  
2 operator of a facility.

3           **Sec. 7.** Beginning July 1, 2012, and not later than January 1 of  
4 each year thereafter, a utility shall submit the following  
5 information about its authorized representative to each unit:

- 6           (1) Name.
- 7           (2) Street address.
- 8           (3) Mailing address.
- 9           (4) Phone number.
- 10          (5) Fax number.
- 11          (6) Electronic mail address.

12 **If information submitted under this subsection to a unit changes,**  
13 **the utility shall notify the unit not more than thirty (30) days after**  
14 **the utility receives notice of the change.**

15           **Sec. 8. (a)** A unit may designate an improvement project as a  
16 major project. The unit shall consider the scope, complexity, and  
17 duration of the project in making the designation.

18           **(b)** Before undertaking a major project, a unit shall make a  
19 reasonable effort to do the following:

- 20           (1) Identify each facility located in a public right of way  
21 within the geographical limits of the major project by:
  - 22           (A) investigating field conditions; and
  - 23           (B) reviewing information provided by the Indiana  
24 Underground Plant Protection Service (IUPPS) or its  
25 successor organization under IC 8-1-26-17(c).
- 26           (2) Notify each utility that owns or operates a facility  
27 identified under subdivision (1) of the major project and the  
28 need, if any, to relocate the facility.

29           **Sec. 9. (a)** A unit may enter into an agreement with a utility  
30 described in section 8(b)(2) of this chapter concerning the  
31 relocation of a facility. The agreement must include the following:

- 32           (1) A date certain by which the utility agrees to relocate the  
33 facility.
- 34           (2) A damages clause that allows the unit to recover monetary  
35 damages in an amount not to exceed one thousand dollars  
36 (\$1,000) for each day the utility fails to relocate its facility by  
37 the date set forth in the agreement. Monetary damages  
38 recovered under this subdivision must be deposited in the  
39 account or fund from which expenses related to the major  
40 project expenses are paid.
- 41           (3) Conditions under which the utility is excused from  
42 relocating the facility by the date described in subdivision (1),

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1           **including the following:**  
2           **(A) The facility relocation was affected by:**  
3               **(i) significantly differing site conditions;**  
4               **(ii) unexpected impacts of other utilities; or**  
5               **(iii) a force majeure event.**  
6           **(B) Severe weather or another emergency directly affecting**  
7           **the major project.**  
8           **Sec. 10. If, as part of an improvement project, a unit is**  
9           **responsible for relocation costs, the unit shall pay the relocation**  
10           **costs in arrears in accordance with accounting procedures**  
11           **established by the state board of accounts.**

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