



January 20, 2012

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## SENATE BILL No. 212

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DIGEST OF SB 212 (Updated January 19, 2012 12:01 pm - DI 103)

**Citations Affected:** IC 8-23; noncode.

**Synopsis:** Utility facility relocation. Requires the Indiana department of transportation (INDOT) to amend its rules concerning utility facility relocation to require utilities to provide contact information for authorized representatives for purposes of highway and local improvement projects. Requires INDOT to publish and update an electronic database of authorized utility representatives for purposes of utility facility relocation. Urges the legislative council to assign to the regulatory flexibility committee the task of studying utility facility relocation in local improvement projects.

**Effective:** Upon passage; July 1, 2012.

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**Gard, Leising, Randolph, Kruse**

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January 4, 2012, read first time and referred to Committee on Utilities & Technology.  
January 19, 2012, amended, reported favorably — Do Pass.

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SB 212—LS 6751/DI 103+



January 20, 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.

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## SENATE BILL No. 212

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 8-23-2-5, AS AMENDED BY P.L.35-2005,  
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 2012]: Sec. 5. (a) The department, through the commissioner  
4 or the commissioner's designee, shall:  
5 (1) develop, continuously update, and implement:  
6 (A) long range comprehensive transportation plans;  
7 (B) work programs; and  
8 (C) budgets;  
9 to assure the orderly development and maintenance of an efficient  
10 statewide system of transportation;  
11 (2) implement the policies, plans, and work programs adopted by  
12 the department;  
13 (3) organize by creating, merging, or abolishing divisions;  
14 (4) evaluate and utilize whenever possible improved  
15 transportation facility maintenance and construction techniques;  
16 (5) carry out public transportation responsibilities, including:  
17 (A) developing and recommending public transportation

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

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1           **undertaken by local units of government.**

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

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

- 16           **(1) update the information provided to the department on an**  
17 **annual basis; and**  
18           **(2) notify the department of any change in the information not**  
19 **more than thirty (30) days after the change occurs.**

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

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

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

- 29           **(1) the appropriate management of an improvement project,**  
30 **including preconstruction communications and planning,**  
31 **scheduling, development of work plans, and expectations and**  
32 **obligations of parties to the improvement project;**  
33           **(2) the appropriateness of applying rules of the Indiana**  
34 **department of transportation concerning utility facility**  
35 **relocation codified at 105 IAC 13 to improvement projects;**  
36 **and**  
37           **(3) the appropriateness of creating a civil right of action for**  
38 **purposes of improvement projects similar to the civil right of**  
39 **action created at IC 8-23-2-5(c) for highway improvement**  
40 **projects undertaken by the Indiana department of**  
41 **transportation.**

42           **(d) If the committee is assigned the topic described in subsection**

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1 (c), the committee shall issue a final report to the legislative council  
2 containing the commission's findings and recommendations, if any,  
3 not later than November 1, 2012.  
4 (e) This SECTION expires June 30, 2013.  
5 SECTION 3. An emergency is declared for this act.

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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:

Delete the title and insert the following:

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

Delete everything after the enacting clause and insert the following:

(SEE TEXT OF BILL)

and when so amended that said bill do pass.

(Reference is to SB 212 as introduced.)

MERRITT, Chairperson

Committee Vote: Yeas 9, Nays 0.

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