



March 8, 2013

**ENGROSSED
SENATE BILL No. 365**

DIGEST OF SB 365 (Updated March 6, 2013 2:36 pm - DI 103)

Citations Affected: IC 36-9.

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 highway, street, or road project undertaken by the local unit. Requires that the agreement must include a date for relocation and conditions under which the utility is excused from meeting the date, including a force majeure clause. Specifies that a unit that is responsible for relocation costs shall pay the costs in arrears in accordance with the procedures of the state board of accounts.

Effective: July 1, 2013.

Crider, Randolph, Leising

(HOUSE SPONSORS — KOCH, BATTLES, DEVON, NIEZGODSKI)

January 8, 2013, read first time and referred to Committee on Utilities.
February 7, 2013, amended, reported favorably — Do Pass.
February 11, 2013, read second time, ordered engrossed.
February 12, 2013, engrossed. Read third time, passed. Yeas 49, nays 0.

HOUSE ACTION

February 26, 2013, read first time and referred to Committee on Utilities and Energy.
March 7, 2013, amended, reported — Do Pass.

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March 8, 2013

First Regular Session 118th General Assembly (2013)

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 2012 Regular Session of the General Assembly.

ENGROSSED SENATE BILL No. 365

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 36-9-42 IS ADDED TO THE INDIANA CODE AS
2 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2013]:

4 **Chapter 42. Utility Relocations**

5 **Sec. 1. As used in this chapter, "cost of relocation" has the**
6 **meaning set forth in IC 8-1-9-2(b).**

7 **Sec. 2. As used in this chapter, "facility" has the meaning set**
8 **forth in IC 8-1-26-7.**

9 **Sec. 3. As used in this chapter, "improvement project" means**
10 **a project undertaken by a unit that involves:**

11 (1) a highway, street, or road that is under the jurisdiction of
12 the unit; and

13 (2) the relocation of a facility.

14 **Sec. 4. As used in this chapter, "major project" means an**
15 **improvement project designated by a unit as a major project under**
16 **section 6 of this chapter.**

17 **Sec. 5. As used in this chapter, "utility" means the owner of a**

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facility.

Sec. 6. (a) A unit may designate an improvement project as a major project. The unit shall consider the scope, complexity, and duration of the project in making the designation.

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

(1) Identify each facility located in a public right of way within the geographical limits of the major project by:

- (A) investigating field conditions; and**
- (B) reviewing base map data that is:**

(i) maintained and updated by the association (as defined in IC 8-1-26-3) under IC 8-1-26-17(c); and

(ii) made available by the association to the unit.

(2) Notify each utility that owns a facility identified under subdivision (1) of the major project and the need, if any, to relocate the facility.

Sec. 7. A unit may enter into an agreement with a utility described in section 6(b)(2) of this chapter concerning the relocation of the facility. The agreement must include the following:

(1) A date certain by which the utility agrees to relocate the facility.

(2) Conditions under which the utility is excused from relocating the facility by the date described in subdivision (1), including the following:

(A) The facility relocation was affected by:

- (i) significantly differing site conditions;**
- (ii) unexpected impacts of other utilities; or**
- (iii) a force majeure event.**

(B) Severe weather, delays in acquiring a relocation area, or other factors beyond the control of the utility.

(3) Conditions under which the unit must notify the utility of cancellations, delays, or changes related to the major project.

Sec. 8. If, as part of an improvement project, a unit is responsible for relocation costs, the unit shall pay the relocation costs in arrears in accordance with accounting procedures established by the state board of accounts.

Sec. 9. This chapter does not limit or alter the authority of the Indiana utility regulatory commission under IC 8-1-2-101 to review a unit's determination, or the rights and duties of affected parties, with respect to use of a public right of way as set forth in IC 8-1-2-101.

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COMMITTEE REPORT

Madam President: The Senate Committee on Utilities, to which was referred Senate Bill No. 365, 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 1, delete lines 5 through 7.

Page 1, line 8, delete "2." and insert "1."

Page 1, line 10, delete "3." and insert "2."

Page 1, line 12, delete "4." and insert "3."

Page 1, line 13, delete "involves the relocation of a" insert "involves:

(1) a highway, street, or road that is under the jurisdiction of the unit; and

(2) the relocation of a facility."

Page 1, delete line 14.

Page 1, line 15, delete "5." and insert "4."

Page 1, line 17, delete "8" and insert "6".

Page 2, line 1, delete "6." and insert "5."

Page 2, line 1, delete "or".

Page 2, line 2, delete "operator".

Page 2, delete lines 3 through 14.

Page 2, line 15, delete "8." and insert "6."

Page 2, line 23, delete "provided" and insert "**made available under IC 8-1-26-17(c)**".

Page 2, line 25, delete "organization under IC 8-1-26-17(c)." and insert "**organization**".

Page 2, line 26, delete "or operates".

Page 2, line 29, delete "9. (a)" and insert "7."

Page 2, line 30, delete "8(b)(2)" and insert "**6(b)(2)**".

Page 2, line 31, delete "a" and insert "**the**".

Page 2, delete lines 41 through 42, begin a new line double block indented and insert:

"(B) Severe weather, delays in acquiring a relocation area, or other factors beyond the control of the utility.

(3) Conditions under which the unit must notify the utility of cancellations, delays, or changes related to the major project."

Page 3, line 1, delete "10." and insert "8."

Page 3, after line 4, begin a new paragraph and insert:

"Sec. 9. This chapter does not limit or alter the authority of the Indiana utility regulatory commission under IC 8-1-2-101 to

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review a unit's determination, or the rights and duties of affected parties, with respect to use of a public right of way as set forth in IC 8-1-2-101."

and when so amended that said bill do pass.

(Reference is to SB 365 as introduced.)

MERRITT, Chairperson

Committee Vote: Yeas 8, Nays 0.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Utilities and Energy, to which was referred Senate Bill 365, 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 2, delete lines 10 through 12, begin a new line double block indented and insert:

- "(B) reviewing base map data that is:**
- (i) maintained and updated by the association (as defined in IC 8-1-26-3) under IC 8-1-26-17(c); and**
- (ii) made available by the association to the unit."**

and when so amended that said bill do pass.

(Reference is to SB 365 as printed February 8, 2013.)

KOCH, Chair

Committee Vote: yeas 11, nays 0.

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