

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.

## SENATE ENROLLED ACT No. 365

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AN ACT to amend the Indiana Code concerning utilities.

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

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

**Chapter 42. Utility Relocations**

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

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

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

- (1) a highway, street, or road that is under the jurisdiction of the unit; and
- (2) the relocation of a facility.

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

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



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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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Speaker of the House of Representatives

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Governor of the State of Indiana

Date: \_\_\_\_\_ Time: \_\_\_\_\_

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