



COMMITTEE REPORT

MADAM PRESIDENT:

The Senate Committee on Local Government, to which was referred House Bill No. 1106, 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:

- 1 Page 1, line 3, delete "3" and insert "**3, 8, 9, and 14**".
- 2 Page 1, line 4, delete "and 8".
- 3 Page 2, line 6, delete "IC 32-24-2.5-7" and insert "**IC 32-24-2.5-8**".
- 4 Page 3, line 27, delete "IC 32-24-2.5-12" and insert "**IC**
- 5 **32-24-2.5-13**".
- 6 Page 3, line 29, delete "clear and" and insert "**a preponderance of**
- 7 **the**".
- 8 Page 3, line 30, delete "convincing".
- 9 Page 3, line 38, delete "clear and" and insert "**a preponderance of**
- 10 **the**".
- 11 Page 3, line 39, delete "convincing".
- 12 Page 4, after line 42, begin a new paragraph and insert:
- 13 "SECTION 4. IC 32-24-1-9 IS AMENDED TO READ AS
- 14 FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 9. (a) Each appraiser
- 15 shall take an oath that:
- 16 (1) the appraiser has no interest in the matter; and
- 17 (2) the appraiser will honestly and impartially make the
- 18 assessment.
- 19 (b) After the appraisers are sworn as provided in subsection (a), the

- 1 judge shall instruct the appraisers as to:
- 2 (1) their duties as appraisers; and
- 3 (2) the measure of the damages and benefits, if any, they allow.
- 4 (c) The appraisers shall determine and report all of the following:
- 5 (1) The fair market value of each parcel of property sought to be
- 6 acquired and the value of each separate estate or interest in the
- 7 property.
- 8 (2) The fair market value of all improvements pertaining to the
- 9 property, if any, on the portion of the property to be acquired.
- 10 (3) The damages, if any, to the residue of the property of the
- 11 owner or owners caused by taking out the part sought to be
- 12 acquired.
- 13 (4) The other damages, if any, that will result to any persons from
- 14 the construction of the improvements in the manner proposed by
- 15 the plaintiff.
- 16 (d) If the property is sought to be acquired by the state or by a
- 17 county for a public highway or a municipal corporation for a public use
- 18 that confers benefits on any property of the owner, the report must also
- 19 state the benefits that will accrue to each parcel of property, set
- 20 opposite the description of each parcel of property whether described
- 21 in the complaint or not.
- 22 (e) Except as provided in subsection (f), in estimating the damages
- 23 specified in subsection (c), the appraisers may not deduct for any
- 24 benefits that may result from the improvement.
- 25 (f) In the case of a condemnation by the state or by a county for a
- 26 public highway or a municipal corporation for public use, the
- 27 appraisers shall deduct any benefits assessed from the amount of
- 28 damage allowed, if any, under subsection (c)(3) and (c)(4) and the
- 29 difference, if any, plus the damages allowed under subsection (c)(1)
- 30 and (c)(2) shall be the amount of the award. However, the damages
- 31 awarded may not be less than the damages allowed under subsection
- 32 (c)(1) and (c)(2). **In the case of a condemnation taking a fee simple**
- 33 **interest in the property, the damages allowed under subsection**
- 34 **(c)(1) and (c)(2) must be at least one hundred twenty percent**
- 35 **(120%) of the fair market value of the property.** Upon the trial of
- 36 exceptions to the award by either party, a like measure of damages
- 37 must be followed.
- 38 (g) For the purpose of assessing compensation and damages, the

1 right to compensation and damages is considered to have accrued as of
2 the date of the service of the notice provided in section 6 of this
3 chapter, and actual value of compensation and damages at that date
4 shall be:

- 5 (1) the measure of compensation for all property to be actually
- 6 acquired; and
- 7 (2) the basis of damages to property not actually acquired but
- 8 injuriously affected;

9 except as to the damages stated in subsection (c)(4).

10 **(h) In the case of a condemnation taking a fee simple interest in**
11 **property, the damages awarded under subsection (c)(1) and (c)(2)**
12 **must be at least one hundred twenty percent (120%) of the fair**
13 **market value of the property.**

14 SECTION 5. IC 32-24-1-14, AS AMENDED BY P.L.163-2006,
15 SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
16 JANUARY 1, 2023]: Sec. 14. (a) Except as provided in subsection (b),
17 the plaintiff shall pay the costs of the proceedings.

18 (b) If there is a trial, the additional costs caused by the trial shall be
19 paid as ordered by the court. However, if there is a trial and the amount
20 of damages awarded to the defendant by the judgment, exclusive of
21 interest and costs, is greater than the amount specified in the last offer
22 of settlement made by the plaintiff under section 12 of this chapter, the
23 court shall allow the defendant the defendant's litigation expenses,
24 including reasonable attorney's fees, in an amount not to exceed the
25 lesser of:

- 26 (1) twenty-five thousand dollars (\$25,000); or
- 27 (2) the fair market value of the defendant's property or easement
- 28 as determined under this chapter **or in the case of a**
- 29 **condemnation taking a fee simple interest in property, the**
- 30 **amount provided in section 9(f) or 9(h) of this chapter."**

31 Page 7, line 23, delete "This" and insert "**Except as provided in**
32 **section 3 of this chapter, this"**.

33 Page 7, between lines 27 and 28, begin a new paragraph and insert:

34 "**Sec. 3. This chapter does not apply to a condemnation of real**
35 **property by a municipality for the business of a municipally owned**
36 **utility (as defined in IC 8-1-2-1(h)) that:**

- 37 (1) **is not under the jurisdiction of the Indiana utility**
- 38 **regulatory commission for the approval of rates and charges;**

- 1 **or**
 - 2 **(2) provides water or wastewater service, or both, and is**
 - 3 **under the jurisdiction of the Indiana utility regulatory**
 - 4 **commission for the approval of rates and charges with respect**
 - 5 **to water service."**
 - 6 Page 7, line 28, delete "3." and insert "4."
 - 7 Page 7, line 30, delete "4." and insert "5."
 - 8 Page 7, line 32, delete "5." and insert "6."
 - 9 Page 7, line 33, delete "7" and insert "8".
 - 10 Page 7, line 34, delete "6." and insert "7."
 - 11 Page 7, line 41, delete "7." and insert "8."
 - 12 Page 8, line 11, delete "11" and insert "12".
 - 13 Page 8, line 12, delete "8." and insert "9."
 - 14 Page 8, line 17, delete "9." and insert "10."
 - 15 Page 8, line 23, delete "10." and insert "11."
 - 16 Page 8, line 38, delete "11." and insert "12."
 - 17 Page 9, line 5, delete "12." and insert "13."
 - 18 Page 9, line 7, delete "11" and insert "12".
 - 19 Page 9, line 10, delete "13." and insert "14."
 - 20 Page 9, line 12, delete "11" and insert "12".
 - 21 Page 9, line 18, delete "14." and insert "15."
 - 22 Re-number all SECTIONS consecutively.
- (Reference is to HB 1106 as printed January 20, 2022.)

and when so amended that said bill do pass.

Committee Vote: Yeas 6, Nays 4.

Buck

Chairperson