

# HOUSE BILL No. 1414

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 36-1-2; IC 36-9.

**Synopsis:** Barrett Law assessments for broadband development. Allows a county or municipality to use Barrett Law assessments to fund projects for the deployment of broadband infrastructure in areas in which there is not at least one provider of terrestrial broadband Internet service.

**Effective:** July 1, 2021.

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## Karickhoff, Miller D

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January 14, 2021, read first time and referred to Committee on Utilities, Energy and Telecommunications.

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First Regular Session of the 122nd General Assembly (2021)

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 2020 Regular Session of the General Assembly.

# HOUSE BILL No. 1414

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 36-1-2-4.3 IS ADDED TO THE INDIANA CODE  
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
3 1, 2021]: **Sec. 4.3. "Eligible broadband project" has the meaning**  
4 **set forth in IC 4-4-38.5-2.**

5 SECTION 2. IC 36-1-2-4.4 IS ADDED TO THE INDIANA CODE  
6 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
7 1, 2021]: **Sec. 4.4. "Eligible broadband service provider" has the**  
8 **meaning set forth in IC 4-4-38.5-4.**

9 SECTION 3. IC 36-9-36-2, AS AMENDED BY P.L.42-2006,  
10 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
11 JULY 1, 2021]: Sec. 2. (a) The following improvements may be made  
12 under this chapter by a county:

- 13 (1) Sanitary sewers and sanitary sewer tap-ins.
- 14 (2) Sidewalks.
- 15 (3) Curbs.
- 16 (4) Streets.
- 17 (5) Storm sewers.



1 (6) Lighting.

2 (7) Emergency warning systems.

3 (8) Any other structures necessary or useful for the collection,  
4 treatment, purification, and sanitary disposal of the liquid waste,  
5 sewage, storm drainage, and other drainage of a municipality.

6 **(9) Eligible broadband projects.**

7 (b) The following improvements may be made under this chapter by  
8 a municipality:

9 (1) Sidewalks.

10 (2) Curbs.

11 (3) Streets.

12 (4) Alleys.

13 (5) Paved public places.

14 (6) Lighting.

15 (7) A water main extension for a municipality that owns and  
16 operates a water utility.

17 (8) Emergency warning systems.

18 **(9) Eligible broadband projects.**

19 SECTION 4. IC 36-9-36-2.5 IS ADDED TO THE INDIANA CODE  
20 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
21 1, 2021]: **Sec. 2.5. (a) A county or municipality may enter into a  
22 contract with an eligible broadband service provider under which  
23 the broadband service provider is the contractor, for purposes of  
24 this chapter, for an eligible broadband project in the county or  
25 municipality.**

26 **(b) A works board is not required to advertise for bids under  
27 section 22 of this chapter for purposes of an eligible broadband  
28 project for which a county or municipality enters into a contract  
29 under this section if not more than one (1) eligible broadband  
30 service provider holds a certificate of territorial authority to  
31 provide communications service in the county or municipality  
32 under IC 8-1-32.5.**

33 SECTION 5. IC 36-9-36-22 IS AMENDED TO READ AS  
34 FOLLOWS [EFFECTIVE JULY 1, 2021]: **Sec. 22. (a) Except as  
35 provided in section 2.5 of this chapter, if the works board finally  
36 orders an improvement, the works board shall advertise for bids for the  
37 work as required by IC 36-1-12.**

38 (b) The advertisement must state the following:

39 (1) That on the date named, the unit will receive bids for the  
40 improvement according to the resolution as modified or  
41 confirmed.

42 (2) The part of the cost of the improvement, if any, that will be



- 1           paid by the unit.
- 2           (c) On the date named, all bids shall be publicly opened and  
3 considered.
- 4           SECTION 6. IC 36-9-37-11, AS AMENDED BY P.L.42-2006,  
5 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
6 JULY 1, 2021]: Sec. 11. If a municipal works board orders any of the  
7 following improvements and assessments are imposed after June 30,  
8 2001, to pay for the improvements or to repay bonds issued under this  
9 chapter after June 30, 2001, each owner of property assessed for that  
10 improvement may elect to pay the owner's assessment in installments  
11 with interest as described in section 8.5(a) of this chapter:
- 12           (1) Streets.
- 13           (2) Alleys.
- 14           (3) Other paved public places.
- 15           (4) Lighting.
- 16           (5) For municipalities that own and operate a water utility, water  
17 main extensions from the water utility.
- 18           (6) Sanitary sewers.
- 19           (7) Emergency warning systems.
- 20           **(8) Eligible broadband projects.**
- 21           SECTION 7. IC 36-9-37-46 IS AMENDED TO READ AS  
22 FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 46. (a) A Barrett Law  
23 revolving improvement fund may be established under the municipal  
24 fiscal officer. This fund shall be initially funded by transferring to the  
25 fund from the surplus Barrett Law account any amount approved by the  
26 municipal legislative body.
- 27           (b) If:
- 28           (1) the legislative body decides that payment from the Barrett  
29 Law revolving improvement fund will increase the probability  
30 that competent contractors will bid on the project; **or**
- 31           **(2) an advertisement for bids is not required for the project**  
32 **under IC 36-9-36-2.5;**
- 33 the fiscal officer may pay all or part of the cost of the project from the  
34 Barrett Law revolving improvement fund to the contractor who is to do  
35 the work or has done the work.
- 36           (c) The municipality shall levy a special assessment against property  
37 that benefits from the improvement project. The provisions of this  
38 chapter concerning special assessments to repay bonds also apply to  
39 special assessments for projects paid for from the Barrett Law  
40 revolving improvement fund.
- 41           (d) When the cost of an improvement is paid from the Barrett Law  
42 revolving improvement fund, collections from the special assessment



1 for the improvement shall be deposited in the surplus Barrett Law  
2 account.

3 (e) If the municipal works board determines that to do so will  
4 facilitate the initiation, progress, or completion of a public  
5 improvement project, the works board may ask the municipal  
6 legislative body to do the following:

7 (1) Approve the amount of money the works board will advance  
8 from the Barrett Law revolving improvement fund for the project.

9 (2) Decide upon what terms the works board will make the  
10 advancement.

11 (f) The municipal fiscal officer may invest the money in the Barrett  
12 Law revolving improvement fund in the same manner that money in the  
13 surplus Barrett Law account is invested.

14 SECTION 8. IC 36-9-38-2, AS AMENDED BY P.L.42-2006,  
15 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
16 JULY 1, 2021]: Sec. 2. The following improvements may be made  
17 under this chapter:

18 (1) Sidewalks.

19 (2) Streets.

20 (3) Pedestrian ways or malls that are set aside entirely or partly,  
21 or during restricted hours, for pedestrian rather than vehicular  
22 traffic.

23 (4) Parking facilities.

24 (5) Lighting.

25 (6) Electric signals.

26 (7) Landscaping, including trees, shrubbery, flowers, grass,  
27 fountains, benches, statues, floodlighting, gaslighting, and  
28 structures of a decorative, an educational, or a historical nature.

29 (8) Emergency warning systems.

30 **(9) Eligible broadband projects.**

31 SECTION 9. IC 36-9-38-2.5 IS ADDED TO THE INDIANA CODE  
32 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
33 1, 2021]: **Sec. 2.5. (a) A municipality may enter into a contract with  
34 an eligible broadband service provider under which the broadband  
35 service provider is the contractor, for purposes of this chapter, for  
36 an eligible broadband project in the municipality.**

37 **(b) A municipality is not required to advertise for bids under  
38 section 20 of this chapter for purposes of an eligible broadband  
39 project for which the municipality enters into a contract under this  
40 section if not more than one (1) eligible broadband service provider  
41 holds a certificate of territorial authority to provide  
42 communications service in the municipality under IC 8-1-32.5.**



1 SECTION 10. IC 36-9-38-20 IS AMENDED TO READ AS  
2 FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 20. (a) **Except as**  
3 **provided in section 2.5 of this chapter:**

4 (1) all contracts for construction of an improvement under this  
5 chapter shall be let by the municipal works board after  
6 advertisement as required for other contracts; **and**

7 ~~(b)~~ (2) all statutes applicable to the letting and performance of  
8 other contracts apply to contracts under this chapter.

9 ~~(c)~~ (b) The validity of a contract entered into under this chapter may  
10 not be questioned, except in an action to enjoin performance. The  
11 action must be brought not later than fifteen (15) days from the  
12 execution of the contract. If the action is not brought within the fifteen  
13 (15) day period, the contract is valid, conclusive, and binding upon all  
14 persons.

