



February 17, 1999

SENATE BILL No. 343

DIGEST OF SB 343 (Updated February 15, 1999 6:51 pm - DI 78)

Citations Affected: IC 13-11; IC 13-18; noncode.

Synopsis: Water pollution control. Provides specific criteria that the water pollution control board must consider before adopting a rule to designate a waterbody as an outstanding state resource water or outstanding national resource water. Requires the commissioner of the department of environmental management to present information that supports the designation to the environmental quality service council and requires the environmental quality service council to recommend legislation to the general assembly concerning waterbody designations. Allows the department of environmental management to issue National Pollutant Discharge Elimination System permits that include provisions that take into account the effect of wet weather events and drought conditions on certain aspects of the permit. Specifies that, after June 30, 1999, unless otherwise required by federal law, the air pollution control board, solid waste management board, water pollution control
(Continued next page)

Effective: July 1, 1999.

Gard

January 11, 1999, read first time and referred to Committee on Environmental Affairs.
February 16, 1999, amended, reported favorably — Do Pass.

SB 343—LS 6719/DI 69+



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Digest Continued

board, the department of environmental management, and the commissioner of the department may not take any action that creates or changes water quality standards concerning antidegradation, sediment criteria, or biocriteria until the earlier of: (1) July 1, 2000; or (2) the date the United States Environmental Protection Agency adopts regulations to revise the Water Quality Standards Regulation concerning the national water quality standards program as described in the Advance Notice of Proposed Rule Making published July 7, 1998, in the Federal Register.

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February 17, 1999

First Regular Session 111th General Assembly (1999)

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 1998 General Assembly.

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SENATE BILL No. 343

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

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

1 SECTION 1. IC 13-11-2-72.5 IS ADDED TO THE INDIANA
2 CODE AS A NEW SECTION TO READ AS FOLLOWS
3 [EFFECTIVE JULY 1, 1999]: **Sec. 72.5. "Excellent category", for**
4 **purposes of IC 13-18-3-2, refers to scoring criteria used in a**
5 **scientifically accepted model such as the Invertebrate Community**
6 **Index (Barbour et al. 1997) and the Index of Biotic Integrity (Karr**
7 **et al. 1986).**

8 SECTION 2. IC 13-18-3-2 IS AMENDED TO READ AS
9 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 2. (a) The board may
10 adopt rules under IC 4-22-2 that are necessary to the implementation
11 of:

- 12 (1) the Federal Water Pollution Control Act (33 U.S.C. 1251 et
13 seq.), as in effect January 1, 1988; and
14 (2) the federal Safe Drinking Water Act (42 U.S.C. 300f through
15 300j), as in effect January 1, 1988;

SB 343—LS 6719/DI 69+



1 except as provided in IC 14-37.

2 **(b) Before the board may adopt a rule designating a waterbody**
 3 **as an outstanding state resource water or an outstanding national**
 4 **resource water:**

5 **(1) the biological criteria scores for the waterbody, using**
 6 **factors that consider fish communities, macro invertebrate**
 7 **communities and chemical quality criteria, must be in the**
 8 **excellent category; and**

9 **(2) the board must consider the following:**

10 **(A) Economic impact analyses, taking into account future**
 11 **population and economic development growth.**

12 **(B) Representative biological data from the waterbody**
 13 **under consideration.**

14 **(C) The level of current urban and agricultural**
 15 **development in the watershed.**

16 **(c) In addition to the requirements set forth in subsection (b),**
 17 **before the board may adopt a rule designating a waterbody as an**
 18 **outstanding national resource water, the board must establish the**
 19 **following:**

20 **(1) The quality of the waterbody at the time the rule is**
 21 **adopted is in the excellent category.**

22 **(2) The waterbody has national importance.**

23 **(d) The commissioner shall present information that supports**
 24 **a waterbody designation to the environmental quality service**
 25 **council not later than:**

26 **(1) one hundred and twenty (120) days after the rule**
 27 **regarding the designation takes effect; or**

28 **(2) the first meeting of the environmental quality service**
 29 **council that follows the adoption of the rule;**

30 **whichever occurs first.**

31 **(e) The environmental quality service council shall make**
 32 **recommendations to the general assembly regarding legislation**
 33 **concerning waterbody designations.**

34 **SECTION 3. IC 13-18-19-2 IS ADDED TO THE INDIANA CODE**
 35 **AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY**
 36 **1, 1999]: Sec. 2. (a) The department may issue National Pollutant**
 37 **Discharge Elimination System (NPDES) permits that include**
 38 **provisions that take into account the effect of wet weather events**
 39 **and drought conditions on:**

40 **(1) normal permit effluent limits; and**

41 **(2) the ability of permit holders to attain required water**
 42 **quality standards.**

SB 343—LS 6719/DI 69+



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1 **(b) The water pollution control board may adopt rules under**
2 **IC 4-22-2 and IC 13-14-9 to implement this section.**

3 **SECTION 4. [EFFECTIVE JULY 1, 1999] (a) After June 30, 1999,**
4 **unless otherwise required by federal law, a board (as defined in**
5 **IC 13-11-2-17(a)), the commissioner (as defined in IC 13-11-2-35),**
6 **and the department (as defined in IC 13-11-2-51) may not adopt,**
7 **amend, or issue a rule, a standard, a determination, an order, or a**
8 **nonrule policy document or statement that creates or changes**
9 **water quality standards concerning antidegradation, sediment**
10 **criteria, or biocriteria until the earlier of the following dates:**

11 **(1) July 1, 2000.**

12 **(2) The date the United States Environmental Protection**
13 **Agency adopts regulations:**

14 **(A) to revise the Water Quality Standards Regulation at 40**
15 **CFR Part 131 concerning the national water quality**
16 **standards program; and**

17 **(B) as described in the Advance Notice of Proposed Rule**
18 **Making published July 7, 1998, in Volume 63, Number 129,**
19 **of the Federal Register on pages 36,741 to 36,806.**

20 **(b) This SECTION does not apply to rules, standards,**
21 **determinations, orders, or nonrule policy documents or statements**
22 **adopted or issued before July 1, 1999.**

23 **(c) This SECTION expires July 2, 2000.**

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COMMITTEE REPORT

Mr. President: The Senate Committee on Environmental Affairs, to which was referred Senate Bill No. 343, 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, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 13-11-2-72.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: **Sec. 72.5. "Excellent category", for purposes of IC 13-18-3-2, refers to scoring criteria used in a scientifically accepted model such as the Invertebrate Community Index (Barbour et al. 1997) and the Index of Biotic Integrity (Karr et al. 1986)."**

Page 1, delete lines 10 through 15, begin a new paragraph and insert:

"(b) Before the board may adopt a rule designating a waterbody as an outstanding state resource water or an outstanding national resource water:

- (1) the biological criteria scores for the waterbody, using factors that consider fish communities, macro invertebrate communities and chemical quality criteria, must be in the excellent category; and**
- (2) the board must consider the following:**
 - (A) Economic impact analyses, taking into account future population and economic development growth.**
 - (B) Representative biological data from the waterbody under consideration.**
 - (C) The level of current urban and agricultural development in the watershed.**

(c) In addition to the requirements set forth in subsection (b), before the board may adopt a rule designating a waterbody as an outstanding national resource water, the board must establish the following:

- (1) The quality of the waterbody at the time the rule is adopted is in the excellent category.**
- (2) The waterbody has national importance.**

(d) The commissioner shall present information that supports a waterbody designation to the environmental quality service council not later than:

- (1) one hundred and twenty (120) days after the rule regarding the designation takes effect; or**

SB 343—LS 6719/DI 69+



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(2) the first meeting of the environmental quality service council that follows the adoption of the rule; whichever occurs first.

(e) The environmental quality service council shall make recommendations to the general assembly regarding legislation concerning waterbody designations."

Page 2, line 2, before "NEW" insert "A".

Page 2, line 16, delete "a permit,".

Page 2, between lines 29 and 30, begin a new paragraph and insert:

"(b) This SECTION does not apply to rules, standards, determinations, orders, or nonrule policy documents or statements adopted or issued before July 1, 1999."

Page 2, line 30, delete "(b)" and insert "(c)".

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 343 as introduced.)

GARD, Chairperson

Committee Vote: Yeas 8, Nays 0.

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