January 30, 2002

HOUSE BILL No. 1241

DIGEST OF HB 1241 (Updated January 28, 2002 8:36 PM - DI 47)

Citations Affected: IC 4-13; IC 14-8; IC 14-16; IC 14-22; IC 14-32; IC 23-14.

Synopsis: Natural resources matters. Changes the residency requirements for obtaining department of natural resources (DNR) fish and wildlife licenses or permits. Provides that it is a Class C infraction to violate the current statute prohibiting the operation of an off-road vehicle on public property without consent. Changes the fee for Ohio River commercial fishing licenses and gear tags. Changes the law concerning property damage by wild animals by expanding applicability of the law to: (1) the property of other legal entities and public bodies; (2) persons not owning but having an interest in the property; and (3) threatened damage. Requires the DNR director to prescribe the disposition of wild animals taken, killed, or captured under this law. Changes the reporting date for a soil conservation district to certify certain information to the division of soil conservation. Permits the state museum to pay for certain items in advance of receiving those items. Establishes procedures to be followed when removing human remains from a cemetery. (The introduced version of this bill was approved by the natural resources study committee.)

Effective: July 1, 2002.

Lytle, Mangus

January 14, 2002, read first time and referred to Committee on Agriculture, Natural Resources and Rural Development.
January 29, 2002, amended, reported — Do Pass.

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January 30, 2002

Second Regular Session 112th General Assembly (2002)

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 2001 General Assembly.

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HOUSE BILL No. 1241

A BILL FOR AN ACT to amend the Indiana Code concerning natural and cultural resources.

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

SECTION 1. IC 4-13-2-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 20. (a) Except as otherwise provided in this section, IC 20-1-1.8-17.2, or IC 12-8-10-7, payment for any services, supplies, materials, or equipment shall not be paid from any fund or state money in advance of receipt of such services, supplies, materials, or equipment by the state.

(b) With the prior approval of the budget agency, payment may be made in advance for any of the following:

(1) War surplus property.

(2) Property purchased or leased from the United States government or its agencies.

(3) Dues and subscriptions.

(4) License fees.

(5) Insurance premiums.

(6) Utility connection charges.

(7) Federal grant programs where advance funding is not prohibited and, except as provided in subsection (i), the

contracting party posts sufficient security to cover the amount advanced.

(8) Grants of state funds authorized by statute.

(9) Employee expense vouchers.

(10) Beneficiary payments to the administrator of a program of self-insurance.

(11) Services, supplies, materials, or equipment to be received from an agency or from a body corporate and politic.

(12) Expenses for the operation of offices that represent the state under contracts with the department of commerce and that are located outside Indiana.

(13) Services, supplies, materials, or equipment to be used for more than one (1) year under a discounted contractual arrangement funded through a designated leasing entity.

(14) Maintenance of equipment and maintenance of software not exceeding an annual amount of one thousand five hundred dollars ($1,500) for each piece of equipment or each software license.

(15) Exhibits, artifacts, specimens, or other unique items of cultural or historical value or interest purchased by the state museum.

(c) Any state agency and any state college or university supported in whole or in part by state funds may make advance payments to its employees for duly accountable expenses exceeding ten dollars ($10) incurred through travel approved by the employee's respective agency director in the case of a state agency and by a duly authorized person in the case of any such state college or university.

(d) The auditor of state may, with the approval of the budget agency and of the commissioner of the Indiana department of administration:

(1) appoint a special disbursing officer for any state agency or group of agencies where it is necessary or expedient that a special record be kept of a particular class of disbursements or where disbursements are made from a special fund; and

(2) approve advances to the special disbursing officer or officers from any available appropriation for the purpose.

(e) The auditor of state shall issue the auditor's warrant to the special disbursing officer to be disbursed by the disbursing officer as provided in this section. Special disbursing officers shall in no event make disbursements or payments for supplies or current operating expenses of any agency or for contractual services or equipment not purchased or contracted for in accordance with this chapter and IC 5-22. No special disbursing officer shall be appointed and no money shall be advanced until procedures covering the operations of special

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disbursing officers have been adopted by the Indiana department of administration and approved by the budget agency. These procedures must include the following provisions:

(1) Provisions establishing the authorized levels of special disbursing officer accounts and establishing the maximum amount which may be expended on a single purchase from special disbursing officer funds without prior approval.

(2) Provisions requiring that each time a special disbursing officer makes an accounting to the auditor of state of the expenditure of the advanced funds, the auditor of state shall request that the Indiana department of administration review the accounting for compliance with IC 5-22.

(3) A provision that, unless otherwise approved by the commissioner of the Indiana department of administration, the special disbursing officer must be the same individual as the procurements agent under IC 4-13-1.3-5.

(4) A provision that each disbursing officer be trained by the Indiana department of administration in the proper handling of money advanced to the officer under this section.

(f) The commissioner of the Indiana department of administration shall cite in a letter to the special disbursing officer the exact purpose or purposes for which the money advanced may be expended.

(g) A special disbursing officer may issue a check to a person without requiring a certification under IC 5-11-10-1 if the officer:

(1) is authorized to make the disbursement; and

(2) complies with procedures adopted by the state board of accounts to govern the issuance of checks under this subsection.

(h) A special disbursing officer is not personally liable for a check issued under subsection (g) if:

(1) the officer complies with the procedures described in subsection (g); and

(2) funds are appropriated and available to pay the warrant.

(i) For contracts entered into between the department of workforce development or the Indiana commission on vocational and technical education and:

(1) a school corporation (as defined in IC 20-10.1-1-1); or

(2) a state educational institution (as defined in IC 20-12-0.5-1);

the contracting parties are not required to post security to cover the amount advanced.

SECTION 2. IC 14-8-2-79.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: **Sec. 79.5. "Domiciled", for purposes of section 242 of this**

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chapter, means to be living in a place that:

(1) is a person's true, fixed, and permanent home and principal residence to which, whenever the person is temporarily absent, the person intends to return; and

(2) is a permanent building or a part of a building:

(A) including a house, a condominium, an apartment, a room in a house or complex, or a mobile home; and

(B) not including a vacant lot, second home, camp, cottage, or premises used solely for business.

SECTION 3. IC 14-8-2-202 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 202. (a) "Person" means, except as provided in subsections (b) through (j), an individual, a partnership, an association, a fiduciary, an executor or administrator, a limited liability company, or a corporation.

(b) "Person", for purposes of IC 14-12-2, has the meaning set forth in IC 14-12-2-3.

(c) "Person", for purposes of IC 14-16, **14-22-28,** IC 14-24, IC 14-26-2, IC 14-28-1, IC 14-28-3, IC 14-29-6, and IC 14-38-2, means an individual, a partnership, an association, a fiduciary, an executor or administrator, a limited liability company, a corporation, other legal entity, the state, or an agency, a political subdivision, or another instrumentality of the state.

(d) "Person", for purposes of IC 14-12-1, IC 14-12-2, IC 14-20-1, IC 14-21, IC 14-25 through IC 14-29, except as otherwise provided in this section, IC 14-33, IC 14-34, and IC 14-37, means an individual, a partnership, an association, a fiduciary, an executor or administrator, a limited liability company, a corporation, or a governmental entity.

(e) "Person", for purposes of IC 14-22-31.5, has the meaning set forth in IC 14-22-31.5-2.

(f) "Person", for purposes of IC 14-25-3, has the meaning set forth in IC 14-25-3-1.

(g) "Person", for the purposes of IC 14-25-7, has the meaning set forth in IC 14-25-7-5.

(h) "Person", for purposes of IC 14-34, means an individual, a partnership, a limited liability company, an association, a society, a joint stock company, a firm, a company, a corporation, or other business organization.

(i) "Person", for purposes of IC 14-38-1, has the meaning set forth in IC 14-38-1-2.

(j) "Person", for purposes of IC 14-24-12, has the meaning set forth in IC 14-24-12-4.

SECTION 4. IC 14-8-2-242 IS AMENDED TO READ AS

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FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 242. (a) "Resident", for purposes of IC 14-22, except as provided in subsection (b), means ~~an individual~~ **a person** who:

(1) ~~resides~~ **is domiciled** in Indiana ~~on;~~ ~~and~~

~~(2) has continuously resided within Indiana~~ for sixty (60) consecutive days immediately preceding the date of ~~application for~~ **the purchase of** a license or permit; ~~The term excludes all other individuals.~~ **and**

(2) does not claim residency for hunting, fishing, or trapping in any state other than Indiana or any country other than the United States.

(b) "Resident", for purposes of IC 14-22-17, has the meaning set forth in IC 14-22-17-1.

SECTION 5. IC 14-16-1-29 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 29. (a) A person who violates section 17, 23(2), or 24 of this chapter commits a Class B misdemeanor.

(b) A person who violates section 8, 9, 11, 12, 13, 14, 18, 19, 20, 21, 23(1), 23(3), 23(4), 23(5), 23(6), 23(7), 23(8), 23(9), 23(10), 23(11), 23(12), 23(13), ~~or~~ 23(14), **or 27** of this chapter commits a Class C infraction.

SECTION 6. IC 14-22-13-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 2. (a) This section applies to the Ohio River waters of Indiana.

(b) The department may issue to an individual who is a resident of Indiana or Kentucky a license to use in, and to possess for use in, the water seines, nets, or other commercial fishing gear under rules adopted under IC 4-22-2 upon payment of the following fee:

(1) For an Ohio River commercial fishing license and ten (10) Ohio River commercial gear tags, ~~seventy-two dollars ($72).~~ **one hundred twenty-five dollars ($125).**

(2) For each block of ten (10) Ohio River commercial fishing gear tags, ~~twenty-one dollars and fifty cents ($21.50).~~ **fifteen dollars ($15).**

SECTION 7. IC 14-22-28-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 1. The director may issue to ~~an owner of~~ **a person that owns or has an interest in** property being damaged **or threatened with damage** by a wild animal protected by this article a free permit to take, kill, or capture the wild animal.

SECTION 8. IC 14-22-28-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 2. **Notwithstanding**

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any other prohibition or requirement of this article or the rules adopted under this article, the director shall prescribe the following:

(1) The manner of taking the wild animal.

(2) The expiration of the permit.

(3) The rules the director considers necessary.

(4) The disposition of the animal.

SECTION 9. IC 14-32-8-8, AS ADDED BY P.L.160-1999, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 8. (a) In addition to funds provided to a district under section 7 of this chapter or from any other source the division of soil conservation shall pay to the district one dollar ($1) for every one dollar ($1) the district receives from a political subdivision.

(b) The state is not obligated to match more than ten thousand dollars ($10,000) under this section.

(c) In order to receive funding under this section, before April 15 of each year a district must certify to the division of soil conservation the amount of money the district received from all political subdivisions during the one (1) year period beginning ~~April 1~~ **January 1** of the previous year. The division of soil conservation shall make distributions under this section not later than July 15 of each year.

(d) Before making distributions under this section the division of soil conservation shall determine the total amount of money that has been certified by all districts as having been provided by political subdivisions. If the cumulative amount to be distributed to all districts exceeds the amount appropriated to the fund, the division of soil conservation shall reduce the distribution to each district proportionately.

(e) A district must spend money received under this section for the purposes of the district.

SECTION 10. IC 23-14-57-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 1. **(a) As used in this section, "removed" refers to the disinterment, disentombment, or disinurnment of the remains of a deceased human.**

(b) The remains, either cremated or uncremated, of a deceased human shall not be removed from a cemetery without:

(1) a written order ~~of~~ **issued by** the state department of health;

(2) the written consent of:

(A) the owner of the cemetery; or

(B) the owner's representative; and

(3) the written consent of:

(A) the spouse of the deceased; or

(B) the parents of the deceased in the case of a deceased minor

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child;

~~or a court order;~~

authorizing the disinterment, disentombment, or disinurnment.

(c) Before issuing a written authorization under subsection (b), the state department of health shall do the following:

(1) Obtain written evidence of the legal ownership of the property from which the remains will be removed.

(2) Send written notice to the department of natural resources, division of historic preservation and archaeology, of the time, date, and place from which the remains will be removed.

(3) Obtain written evidence that a licensed funeral director has agreed to:

(A) be present at the removal and at the reinterment, reentombment, or reinurnment of the remains; and

(B) cause the completed order of the state department of health to be recorded in the office of the county recorder of the county where the removal occurred.

(4) Obtain written evidence that a notice of the removal has been published at least five (5) days before the removal in a newspaper of general circulation in the county where the removal will occur.

(d) The state department of health may adopt rules under IC 4-22-2 to implement this section.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Agriculture, Natural Resources and Rural Development, to which was referred House Bill 1241, 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 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 4-13-2-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 20. (a) Except as otherwise provided in this section, IC 20-1-1.8-17.2, or IC 12-8-10-7, payment for any services, supplies, materials, or equipment shall not be paid from any fund or state money in advance of receipt of such services, supplies, materials, or equipment by the state.

(b) With the prior approval of the budget agency, payment may be made in advance for any of the following:

(1) War surplus property.

(2) Property purchased or leased from the United States government or its agencies.

(3) Dues and subscriptions.

(4) License fees.

(5) Insurance premiums.

(6) Utility connection charges.

(7) Federal grant programs where advance funding is not prohibited and, except as provided in subsection (i), the contracting party posts sufficient security to cover the amount advanced.

(8) Grants of state funds authorized by statute.

(9) Employee expense vouchers.

(10) Beneficiary payments to the administrator of a program of self-insurance.

(11) Services, supplies, materials, or equipment to be received from an agency or from a body corporate and politic.

(12) Expenses for the operation of offices that represent the state under contracts with the department of commerce and that are located outside Indiana.

(13) Services, supplies, materials, or equipment to be used for more than one (1) year under a discounted contractual arrangement funded through a designated leasing entity.

(14) Maintenance of equipment and maintenance of software not exceeding an annual amount of one thousand five hundred dollars ($1,500) for each piece of equipment or each software license.

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(15) Exhibits, artifacts, specimens, or other unique items of cultural or historical value or interest purchased by the state museum.

(c) Any state agency and any state college or university supported in whole or in part by state funds may make advance payments to its employees for duly accountable expenses exceeding ten dollars ($10) incurred through travel approved by the employee's respective agency director in the case of a state agency and by a duly authorized person in the case of any such state college or university.

(d) The auditor of state may, with the approval of the budget agency and of the commissioner of the Indiana department of administration:

(1) appoint a special disbursing officer for any state agency or group of agencies where it is necessary or expedient that a special record be kept of a particular class of disbursements or where disbursements are made from a special fund; and

(2) approve advances to the special disbursing officer or officers from any available appropriation for the purpose.

(e) The auditor of state shall issue the auditor's warrant to the special disbursing officer to be disbursed by the disbursing officer as provided in this section. Special disbursing officers shall in no event make disbursements or payments for supplies or current operating expenses of any agency or for contractual services or equipment not purchased or contracted for in accordance with this chapter and IC 5-22. No special disbursing officer shall be appointed and no money shall be advanced until procedures covering the operations of special disbursing officers have been adopted by the Indiana department of administration and approved by the budget agency. These procedures must include the following provisions:

(1) Provisions establishing the authorized levels of special disbursing officer accounts and establishing the maximum amount which may be expended on a single purchase from special disbursing officer funds without prior approval.

(2) Provisions requiring that each time a special disbursing officer makes an accounting to the auditor of state of the expenditure of the advanced funds, the auditor of state shall request that the Indiana department of administration review the accounting for compliance with IC 5-22.

(3) A provision that, unless otherwise approved by the commissioner of the Indiana department of administration, the special disbursing officer must be the same individual as the procurements agent under IC 4-13-1.3-5.

(4) A provision that each disbursing officer be trained by the

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Indiana department of administration in the proper handling of money advanced to the officer under this section.

(f) The commissioner of the Indiana department of administration shall cite in a letter to the special disbursing officer the exact purpose or purposes for which the money advanced may be expended.

(g) A special disbursing officer may issue a check to a person without requiring a certification under IC 5-11-10-1 if the officer:

(1) is authorized to make the disbursement; and

(2) complies with procedures adopted by the state board of accounts to govern the issuance of checks under this subsection.

(h) A special disbursing officer is not personally liable for a check issued under subsection (g) if:

(1) the officer complies with the procedures described in subsection (g); and

(2) funds are appropriated and available to pay the warrant.

(I) For contracts entered into between the department of workforce development or the Indiana commission on vocational and technical education and:

(1) a school corporation (as defined in IC 20-10.1-1-1); or

(2) a state educational institution (as defined in IC 20-12-0.5-1); the contracting parties are not required to post security to cover the amount advanced.".

Page 3, line 17, delete "dollars ($100)." and insert "**twenty-five dollars ($125).**".

Page 3, line 19, delete "**ten**" and insert "**fifteen**".

Page 3, line 20, delete "**($10).**" and insert "**($15).**".

Page 4, after line 15, begin a new paragraph and insert:

"SECTION 9. IC 23-14-57-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 1. **(a) As used in this section, "removed" refers to the disinterment, disentombment, or disinurnment of the remains of a deceased human.**

(b) The remains, either cremated or uncremated, of a deceased human shall not be removed from a cemetery without:

(1) a written order ~~of~~ **issued by** the state department of health;

(2) the written consent of:

(A) the owner of the cemetery; or

(B) the owner's representative; and

(3) the written consent of:

(A) the spouse of the deceased; or

(B) the parents of the deceased in the case of a deceased minor child;

~~or a court order;~~

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authorizing the disinterment, disentombment, or disinurnment.

(c) Before issuing a written authorization under subsection (b), the state department of health shall do the following:

(1) Obtain written evidence of the legal ownership of the property from which the remains will be removed.

(2) Send written notice to the department of natural resources, division of historic preservation and archaeology, of the time, date, and place from which the remains will be removed.

(3) Obtain written evidence that a licensed funeral director has agreed to:

(A) be present at the removal and at the reinterment, reentombment, or reinurnment of the remains; and

(B) cause the completed order of the state department of health to be recorded in the office of the county recorder of the county where the removal occurred.

(4) Obtain written evidence that a notice of the removal has been published at least five (5) days before the removal in a newspaper of general circulation in the county where the removal will occur.

(d) The state department of health may adopt rules under IC 4-22-2 to implement this section.".

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1241 as introduced.)

LYTLE, Chair

Committee Vote: yeas 11, nays 0.

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