



March 30, 2007

**ENGROSSED  
HOUSE BILL No. 1738**

DIGEST OF HB 1738 (Updated March 29, 2007 11:21 am - DI 101)

**Citations Affected:** IC 14-25; noncode.

**Synopsis:** Use of outside water resources by water utilities. Provides that the natural resources commission (commission) may not contract with a person to: (1) provide the person with certain minimum quantities of stream flow; or (2) sell water to the person; from reservoir impoundments financed by the state unless the department of natural resources and the advisory council follow certain procedures, including providing notice of the proposed contract and holding public meetings on the proposed contract. Requires the water resources study committee (committee) to study and make findings and recommendations concerning: (1) current processes and methods for water resource allocation and distribution in Indiana; and (2) appropriate policies governing future water resource allocation and distribution planning in Indiana. Requires the committee to report its findings and recommendations to the legislative council not later than November 1, 2007.

**Effective:** Upon passage.

**Welch, Pierce, Koch, Crooks**

(SENATE SPONSORS — GARD, SIMPSON)

January 26, 2007, read first time and referred to Committee on Commerce, Energy and Utilities.

February 6, 2007, reported — Do Pass.

February 13, 2007, read second time, amended, ordered engrossed.

February 14, 2007, engrossed.

February 15, 2007, read third time, passed. Yeas 68, nays 24.

SENATE ACTION

February 19, 2007, read first time and referred to Committee on Utilities and Regulatory Affairs.

March 29, 2007, amended, reported favorably — Do Pass.

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EH 1738—LS 7851/DI 101+



March 30, 2007

First Regular Session 115th General Assembly (2007)

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 2006 Regular Session of the General Assembly.

## ENGROSSED HOUSE BILL No. 1738

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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:*

- 1 SECTION 1. IC 14-25-2-2 IS AMENDED TO READ AS  
2 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) Except as  
3 provided in section 8 of this chapter **and subject to section 2.5 of this**  
4 **chapter**, the commission may contract with a person for the provision  
5 of certain minimum quantities of stream flow or for the sale of water on  
6 a unit pricing basis. A contract for the provision of minimum stream  
7 flows or for the sale of water on a unit pricing basis:  
8 (1) must be executed by the commission; and  
9 (2) is subject to approval by the following:  
10 (A) The attorney general.  
11 (B) The governor.  
12 (C) The person desiring the use.  
13 (b) A contract entered into under this chapter may not cover a  
14 period of more than fifty (50) years.  
15 (c) Before the submission of the contract to the governor for  
16 approval, the commission shall submit a copy of the contract to the  
17 department. The department shall, within twenty (20) days of receipt,

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1 do the following:

2 (1) Prepare a memorandum relative to the effect that the contract

3 might have on recreational facilities.

4 (2) Submit the memorandum to the governor for the governor's

5 consideration.

6 SECTION 2. IC 14-25-2-2.5 IS ADDED TO THE INDIANA CODE

7 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE

8 UPON PASSAGE]: **Sec. 2.5. (a) A person that seeks to contract with**

9 **the commission for the provision of certain minimum quantities of**

10 **stream flow or the sale of water on a unit pricing basis under**

11 **section 2 of this chapter must submit a request to the commission**

12 **and the department. The commission shall not make a**

13 **determination as to whether to enter into a contract with the**

14 **person making the request until:**

15 (1) the procedures set forth in this section have been followed;

16 and

17 (2) the commission has reviewed and considered each report

18 submitted to the commission under subsection (f).

19 (b) Not later than thirty (30) days after receiving a request

20 under subsection (a), the department shall provide, by United

21 States mail, written notice of the request to the following:

22 (1) Each person with whom the commission holds a contract

23 for:

24 (A) the provision of certain minimum quantities of stream

25 flow; or

26 (B) the sale of water on a unit pricing basis;

27 as of the date of the request.

28 (2) The executive and legislative body of each:

29 (A) county; and

30 (B) municipality, if any;

31 in which the water sought in the request would be used.

32 (c) In addition to the mailed notice required under subsection

33 (b), the department shall publish notice of the request, in

34 accordance with IC 5-3-1, in each county:

35 (1) in which the affected reservoir is located; and

36 (2) in which the water sought in the request would be used.

37 In each county in which publication is required under this

38 subsection, notice shall be published in the general circulation

39 newspaper that has the largest circulation in the county.

40 (d) A notice required under subsection (b) or (c) must:

41 (1) identify the person making the request;

42 (2) include a brief description of:

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1 (A) the nature of the pending request; and  
 2 (B) the process by which the commission will determine  
 3 whether to enter into a contract with the person making  
 4 the request; and  
 5 (3) set forth the date, time, and location of the public meeting  
 6 required under subsection (e).  
 7 (e) The advisory council established by IC 14-9-6-1 shall hold a  
 8 public meeting in each county in which notice is published under  
 9 subsection (c). A public meeting required under this subsection  
 10 must include the following:  
 11 (1) A presentation by the department describing:  
 12 (A) the nature of the pending request; and  
 13 (B) the process by which the commission will determine  
 14 whether to enter into a contract with the person making  
 15 the request.  
 16 (2) An opportunity for public comment on the pending  
 17 request.  
 18 The advisory council may appoint a hearing officer to assist with  
 19 a public meeting held under this subsection.  
 20 (f) Not later than thirty (30) days after a public meeting is held  
 21 under subsection (e), the advisory council shall submit to the  
 22 commission a report summarizing the public meeting.  
 23 SECTION 3. [EFFECTIVE UPON PASSAGE] (a) As used in this  
 24 SECTION, "committee" refers to the water resources study  
 25 committee established by IC 2-5-25-1.  
 26 (b) The committee shall study and make findings and  
 27 recommendations concerning the following:  
 28 (1) Current processes and methods used in determining water  
 29 resource allocation and distribution in Indiana.  
 30 (2) Appropriate policies governing future water resource  
 31 allocation and distribution planning in Indiana.  
 32 (c) The committee shall report its finding and recommendations  
 33 to the legislative council in an electronic format under IC 5-14-6  
 34 not later than November 1, 2007.  
 35 SECTION 4. An emergency is declared for this act.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Commerce, Energy and Utilities, to which was referred House Bill 1738, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

CROOKS, Chair

Committee Vote: yeas 9, nays 2.

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HOUSE MOTION

Mr. Speaker: Stemler

I move that House Bill 1738 be amended to read as follows:

Page 9, between lines 2 and 3, begin a new paragraph and insert:

**"SECTION 2. [EFFECTIVE UPON PASSAGE] (a) The following definitions apply throughout this SECTION:**

**(1) "Authority" refers to the River Ridge Development Authority or its successor.**

**(2) "Department" refers to the department of natural resources, the governor, or any other office, commission, or department in the executive department of Indiana state government, regardless of name, that has authority to manage park property, control the use of park property, or sell, lease, exchange, or transfer park property or an interest in park property.**

**(3) "Park property" refers to the Charlestown State Park and all water rights to water under Charlestown State Park.**

**(4) "Water facilities" refers to water wells and the water system at River Ridge Commerce Center and the park property.**

**(b) The department may not sell, lease, exchange, or transfer property or an interest in a property to another person for the purpose of allowing the selling of water from water wells located on park property without the prior approval of the authority.**

**(c) The department shall maintain and operate the water wells associated with the park property in a manner that will assure that sufficient capacity exists to provide the amount of water needed by the authority.**

**(d) To the extent residual water capacity exists in excess of the obligations set forth in subsection (c), the department shall act in**

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accordance with the following priorities for the use of excess water capacity:

(1) If sufficient residual capacity exists, the department shall provide water to utilities that abut River Ridge Commerce Center and that request water be supplied from the water facilities, including the foreseeable growth.

(2) If sufficient residual capacity exists, the department shall provide water to the Indiana communities and water utilities in Clark County that do not abut River Ridge Commerce Center to the extent that the water utilities request that water be supplied from the water facilities.

(3) If sufficient residual capacity exists, the department shall provide water to Indiana communities and water utilities outside Clark County.

(4) Only after the priorities specified in subdivisions (1) through (3) are satisfied may the department provide water to communities and water utilities outside Indiana.

(e) A contract or other agreement that is inconsistent with this SECTION is void to the extent of the inconsistency."

Renumber all SECTIONS consecutively.

(Reference is to HB 1738 as printed February 7, 2007.)

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COMMITTEE REPORT

Madam President: The Senate Committee on Utilities and Regulatory Affairs, to which was referred House Bill No. 1738, 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:

Delete the title and insert the following:

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

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Delete everything after the enacting clause and insert the following:

(SEE TEXT OF BILL)

and when so amended that said bill do pass.

(Reference is to HB 1738 as reprinted February 14, 2007.)

HERSHMAN, Chairperson

Committee Vote: Yeas 8, Nays 0.

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