



February 23, 2010

**ENGROSSED
HOUSE BILL No. 1265**

DIGEST OF HB 1265 (Updated February 18, 2010 4:15 pm - DI 52)

Citations Affected: IC 14-8; IC 14-37; noncode.

Synopsis: Oil, gas, and coal bed methane property. Prohibits coal bed methane extraction before July 1, 2012, unless the owner of the coal from which the coal bed methane is extracted consents. Requires the natural resources study committee to study certain oil, gas, and coal bed methane issues.

Effective: Upon passage.

Battles, Koch

(SENATE SPONSORS — STEELE, HUME)

January 12, 2010, read first time and referred to Committee on Commerce, Energy, Technology and Utilities.

January 26, 2010, reported — Do Pass.

February 1, 2010, read second time, ordered engrossed. Engrossed.

February 2, 2010, read third time, passed. Yeas 90, nays 5.

SENATE ACTION

February 8, 2010, read first time and referred to Committee on Energy and Environmental Affairs.

February 22, 2010, amended, reported favorably — Do Pass.

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February 23, 2010

Second Regular Session 116th General Assembly (2010)

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 2009 Regular and Special Sessions of the General Assembly.

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ENGROSSED HOUSE BILL No. 1265

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 14-8-2-42.2 IS ADDED TO THE INDIANA CODE
- 2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE
- 3 UPON PASSAGE]: **Sec. 42.2. "Coal bed methane", for purposes of**
- 4 **IC 14-37-4-1, means gaseous substances of whatever character**
- 5 **lying within or emanating from:**
- 6 **(1) unmined coal seams, either naturally or as a result of**
- 7 **stimulation of the coal seam;**
- 8 **(2) the void created by mining out coal seams; or**
- 9 **(3) the gob created by longwall or other extraction methods of**
- 10 **coal mining.**
- 11 SECTION 2. IC 14-8-2-47 IS AMENDED TO READ AS
- 12 FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 47. (a)**
- 13 **"Commercially minable coal resource", for purposes of IC 14-37,**
- 14 **means a seam of coal that: ~~is~~**
- 15 **(1) can be mined using generally accepted underground**

EH 1265—LS 6771/DI 52+



- 1 practices and suitable equipment; and
- 2 (2) consists of coal in sufficient quantities and of sufficient
- 3 quality to be commercially saleable.
- 4 (b) The term includes a seam of coal to which one (1) or more of
- 5 the following apply:
- 6 (1) The seam is:
- 7 (A) associated with an underground mine permitted under
- 8 IC 14-34; and
- 9 (B) specifically intended to be mined under the permit.
- 10 (2) The seam is associated with an inactive underground
- 11 mining operation at which mining operations:
- 12 (A) have temporarily ceased; and
- 13 (B) are anticipated to be resumed by the person with the
- 14 right to develop the seam.
- 15 (3) The seam is identified as a commercially minable coal
- 16 resource by the owner or lessee of the seam by a map
- 17 accompanied by an affidavit that:
- 18 (A) is filed with the division of reclamation under
- 19 IC 14-37-7-8; and
- 20 (B) states that the coal in the seam is being held for later
- 21 commercial production.
- 22 (4) The seam:
- 23 (A) is not a seam to which subdivision (1), (2), or (3)
- 24 applies; and
- 25 (B) is verified by a professional geologist licensed under
- 26 IC 25-17.6 or a professional engineer licensed under
- 27 IC 25-31 to be:
- 28 (1) (i) at least ~~thirty-six (36)~~ **thirty (30)** inches thick; and
- 29 (2) (ii) located not more than ~~eight~~ **one thousand two**
- 30 ~~hundred (800)~~ **(1,200)** feet below the surface.
- 31 SECTION 3. IC 14-8-2-317 IS AMENDED TO READ AS
- 32 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 317. "Well for oil
- 33 and gas purposes", for purposes of IC 14-37, means a ~~hole~~ **well bore**
- 34 drilled, deepened, or converted for any purpose for which a permit is
- 35 required under IC 14-37. The term includes the following:
- 36 (1) An oil ~~or a natural~~ gas well.
- 37 (2) A natural gas well.
- 38 (3) A coal bed methane well.
- 39 (4) A Class II well.
- 40 (5) A structure test well.
- 41 (6) A well used for the sole purpose of supplying water for the
- 42 secondary recovery of petroleum resources.

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1 ~~(5)~~ (7) An underground gas storage well or underground gas
2 storage observation well.

3 SECTION 4. IC 14-37-4-1, AS AMENDED BY P.L.80-2005,
4 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
5 UPON PASSAGE]: Sec. 1. (a) **Subject to subsection (b)**, a person
6 may not drill, deepen, operate, or convert a well for oil and gas
7 purposes without a permit issued by the department.

- 8 **(b) Except as provided in subsection (c):**
- 9 **(1) the extraction of coal bed methane from a well for oil and**
- 10 **gas purposes on or after the effective date of this subsection**
- 11 **and before July 1, 2012, is prohibited; and**
- 12 **(2) the department may not issue a permit under this chapter**
- 13 **for the extraction of coal bed methane from a well for oil and**
- 14 **gas purposes before July 1, 2012, regardless of whether the**
- 15 **application for the permit was made to the department before**
- 16 **the effective date of this subsection.**

17 **(c) Subsection (b) does not apply if the owner of the right to the**
18 **coal from which the coal bed methane for which a permit is sought**
19 **under this chapter is derived consents in an instrument binding on**
20 **that owner to the extraction of the coal bed methane and to the**
21 **issuance of the permit.**

22 SECTION 5. [EFFECTIVE UPON PASSAGE] (a) **As used in this**
23 **SECTION, "committee" refers to the natural resources study**
24 **committee established by IC 2-5-5-1.**

- 25 **(b) As used in this SECTION:**
- 26 **(1) "coal bed methane" has the meaning set forth in**
- 27 **IC 14-8-2-42.2, as added by this act; and**
- 28 **(2) "commercially minable coal resources" has the meaning**
- 29 **set forth in IC 14-8-2-47, as amended by this act.**

30 **(c) During the 2010 interim, the committee shall study whether**
31 **new or amended statutes or rules are appropriate concerning the**
32 **following:**

- 33 **(1) The safety of miners who could be affected by coal bed**
- 34 **methane extraction activities.**
- 35 **(2) Coal bed methane well spacing, unit, and bonding**
- 36 **requirements.**
- 37 **(3) The relative interests with respect to real property of:**
- 38 **(A) the owner of the right to coal bed methane; and**
- 39 **(B) the owner or owners of the surface rights and other**
- 40 **mineral rights.**
- 41 **(4) Requirements with respect to real property for the owner**
- 42 **of the right to coal bed methane to give notice of coal bed**

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- 1 methane extraction activities to the owners of the surface
- 2 rights and other mineral rights.
- 3 (5) Requirements for the issuance of permits for the
- 4 extraction of coal bed methane, including public notice of the
- 5 filing of permit applications.
- 6 (6) Requirements for the protection of surface water and
- 7 ground water from any potential effects of coal bed methane
- 8 extraction activities.
- 9 (7) Encouragement of the development of coal bed methane
- 10 that adequately takes into account the protection of
- 11 commercially minable coal resources.
- 12 (8) The right of the person entitled to develop a well for oil
- 13 and gas purposes with respect to real property who is not the
- 14 owner of the surface rights to enter the property for
- 15 extraction activities and the responsibility of that person to
- 16 pay damages or compensation to the owner of the surface
- 17 rights.
- 18 (9) The adequacy of conventional oil and gas statutes and
- 19 rules to protect the owners of the surface rights to real
- 20 property, the public, and commercially minable coal
- 21 resources.
- 22 (10) Any other issue the committee considers appropriate.
- 23 (d) The committee shall issue reports and recommendations as
- 24 directed by the legislative council.
- 25 (e) This SECTION expires December 1, 2010.
- 26 SECTION 6. An emergency is declared for this act.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Commerce, Energy, Technology and Utilities, to which was referred House Bill 1265, 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.

MOSES, Chair

Committee Vote: yeas 9, nays 2.

 COMMITTEE REPORT

Madam President: The Senate Committee on Energy and Environmental Affairs, to which was referred House Bill No. 1265, 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, line 2, delete "JULY" and insert "UPON PASSAGE]:".

Page 1, line 3, delete "1, 2010]:".

Page 1, line 3, delete "this" and insert "IC 14-37-4-1,".

Page 1, line 4, delete "chapter, IC 14-37-3-14.5, and IC 14-37-11-3,".

Page 1, line 12, delete "JULY 1, 2010]:" and insert "UPON PASSAGE]:".

Page 2, line 32, delete "JULY 1, 2010]:" and insert "UPON PASSAGE]:".

Page 3, delete lines 3 through 42, begin a new paragraph and insert:
 "SECTION 4. IC 14-37-4-1, AS AMENDED BY P.L.80-2005, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. **(a) Subject to subsection (b)**, a person may not drill, deepen, operate, or convert a well for oil and gas purposes without a permit issued by the department.

(b) Except as provided in subsection (c):

(1) the extraction of coal bed methane from a well for oil and gas purposes on or after the effective date of this subsection and before July 1, 2012, is prohibited; and

(2) the department may not issue a permit under this chapter for the extraction of coal bed methane from a well for oil and gas purposes before July 1, 2012, regardless of whether the application for the permit was made to the department before the effective date of this subsection.

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(c) Subsection (b) does not apply if the owner of the right to the coal from which the coal bed methane for which a permit is sought under this chapter is derived consents in an instrument binding on that owner to the extraction of the coal bed methane and to the issuance of the permit.

SECTION 5. [EFFECTIVE UPON PASSAGE] (a) As used in this SECTION, "committee" refers to the natural resources study committee established by IC 2-5-5-1.

(b) As used in this SECTION:

- (1) "coal bed methane" has the meaning set forth in IC 14-8-2-42.2, as added by this act; and
- (2) "commercially minable coal resources" has the meaning set forth in IC 14-8-2-47, as amended by this act.

(c) During the 2010 interim, the committee shall study whether new or amended statutes or rules are appropriate concerning the following:

- (1) The safety of miners who could be affected by coal bed methane extraction activities.
- (2) Coal bed methane well spacing, unit, and bonding requirements.
- (3) The relative interests with respect to real property of:
 - (A) the owner of the right to coal bed methane; and
 - (B) the owner or owners of the surface rights and other mineral rights.
- (4) Requirements with respect to real property for the owner of the right to coal bed methane to give notice of coal bed methane extraction activities to the owners of the surface rights and other mineral rights.
- (5) Requirements for the issuance of permits for the extraction of coal bed methane, including public notice of the filing of permit applications.
- (6) Requirements for the protection of surface water and ground water from any potential effects of coal bed methane extraction activities.
- (7) Encouragement of the development of coal bed methane that adequately takes into account the protection of commercially minable coal resources.
- (8) The right of the person entitled to develop a well for oil and gas purposes with respect to real property who is not the owner of the surface rights to enter the property for extraction activities and the responsibility of that person to pay damages or compensation to the owner of the surface

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rights.

(9) The adequacy of conventional oil and gas statutes and rules to protect the owners of the surface rights to real property, the public, and commercially minable coal resources.

(10) Any other issue the committee considers appropriate.

(d) The committee shall issue reports and recommendations as directed by the legislative council.

(e) This SECTION expires December 1, 2010.

SECTION 6. An emergency is declared for this act."

Delete pages 4 through 15.

and when so amended that said bill do pass.

(Reference is to HB 1265 as printed January 26, 2010.)

GARD, Chairperson

Committee Vote: Yeas 10, Nays 0.

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