

PREVAILED

Roll Call No. _____

FAILED

Ayes _____

WITHDRAWN

Noes _____

RULED OUT OF ORDER

HOUSE MOTION _____

MR. SPEAKER:

I move that Engrossed Senate Bill 131 be amended to read as follows:

- 1 Page 7, between lines 10 and 11, begin a new paragraph and insert:
2 "SECTION 20. IC 13-18-3-2.4, AS AMENDED BY P.L.54-2005,
3 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
4 JULY 1, 2012]: Sec. 2.4. An NPDES permit holder shall review the
5 feasibility of implementing additional or **new modified** control
6 **alternatives measures** to attain water quality standards ~~The NPDES~~
7 ~~permit holder shall conduct such a review periodically, but not less~~
8 ~~than every five (5) years after approval of the long term control plan by~~
9 ~~the department. if post-construction monitoring results indicate that~~
10 **performance criteria established for CSO control measures**
11 **constructed in accordance with the approved long term control**
12 **plan will not be met.** The NPDES permit holder shall:
13 (1) document to the department that the long term control plan
14 has been reviewed;
15 (2) update the long term control plan as necessary **to incorporate**
16 **any additional or modified control measures selected as**
17 **feasible, cost effective, affordable, and necessary for**
18 **compliance with applicable performance criteria following a**
19 **review of a reasonable range of alternative additional or**
20 **modified control measures consistent with Section 402(q) of**
21 **the federal Clean Water Act (33 U.S.C. 1342 (q)) and 59 FR**
22 **18688;**
23 (3) submit any amendments to the long term control plan to the
24 department for approval; and

- 1 (4) implement **any additional or modified** control alternatives
 2 **determined to be measures approved by the department as**
 3 **feasible**, cost effective, ~~and~~ affordable, **and necessary for**
 4 **compliance with applicable performance criteria.**

5 Cost effectiveness may be determined, at the option of the NPDES
 6 permit holder, by using a knee of the curve analysis in accordance with
 7 section 402(q) of the federal Clean Water Act (33 U.S.C. 1342(q)) and
 8 59 FR 18688.

9 SECTION 21. IC 13-18-3-2.5, AS AMENDED BY P.L.54-2005,
 10 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 11 JULY 1, 2012]: Sec. 2.5. (a) A CSO wet weather limited use
 12 subcategory is established for waters affected by receiving combined
 13 sewer overflows, as specified in an approved long term control plan.
 14 The CSO wet weather limited use subcategory applies to a specific
 15 water body after implementation of an approved long term control plan
 16 for the combined sewer system whose overflow discharges affect those
 17 waters is implemented and the conditions of subsection (b) are
 18 satisfied. The following requirements apply to the CSO wet weather
 19 limited use subcategory:

20 (1) The water quality based requirements associated with the CSO
 21 wet weather limited use subcategory that apply to waters affected
 22 by wet weather combined sewer overflows are determined by an
 23 approved long term control plan for the combined sewer system.
 24 The water quality based requirements remain in effect during the
 25 time and to the physical extent that the recreational use
 26 designation that applied to the waters immediately before the
 27 application to the waters of the CSO wet weather limited use
 28 subcategory is not attained, but for not more than four (4) days
 29 after the date the overflow discharge ends.

30 (2) At all times other than those described in subdivision (1), the
 31 water quality criteria associated with the appropriate recreational
 32 use designation that applied to the waters immediately before the
 33 application to the waters of the CSO wet weather limited use
 34 subcategory apply unless there is a change in the use designation
 35 as a result of a use attainability analysis.

36 (b) The CSO wet weather limited use subcategory applies if:

37 (1) the department has approved a long term control plan for the
 38 NPDES permit holder for the combined sewer system;

39 (2) the approved long term control plan:

40 (A) is incorporated into:

41 (i) the NPDES permit holder's NPDES permit; or

42 (ii) an order of the commissioner under IC 13-14-2-6;

43 (B) satisfies the requirements of section 2.3 of this chapter;

44 and

45 (C) specifies the water quality based requirements that apply
 46 to combined sewer overflows during and immediately

1 following wet weather events, as provided in subsection (a)(1);
 2 (3) the NPDES permit holder has implemented the approved long
 3 term control plan; and

4 (4) subject to subsection (c), 40 CFR 131.10, 40 CFR 131.20, and
 5 40 CFR 131.21 are satisfied.

6 (c) For purposes of subsection (b)(4), 40 CFR 131.10 may be
 7 satisfied by including appropriate data and information in the long term
 8 control plan.

9 (d) The department shall implement the CSO wet weather limited
 10 use subcategory and associated water quality based requirements under
 11 this section when the subcategory and requirements are approved by
 12 the United States Environmental Protection Agency. The department
 13 shall seek approval of the United States Environmental Protection
 14 Agency in a timely manner.

15 (e) The NPDES permit holder shall monitor its discharges and the
 16 water quality in the affected receiving stream periodically as provided
 17 in the long term control plan. The NPDES permit holder shall provide
 18 all such information to the department.

19 (f) ~~In conjunction with~~ **If any additional or modified control**
 20 **measures are tentatively selected by an NPDES permit holder in a**
 21 **review of its the NPDES permit holder's long term control plan under**
 22 **section 2.4 of this chapter and a use attainability analysis has been**
 23 **approved previously under this section with respect to waters**
 24 **affected by combined sewer overflows from the NPDES permit**
 25 **holder's combined sewer system, the NPDES permit holder, at the**
 26 **same time the NPDES permit holder conducts a long term control**
 27 **plan review under section 2.4 of this chapter, shall review consider**
 28 **information that pertains to the additional or modified control**
 29 **measures, along with any other relevant information** generated after
 30 the use attainability analysis was approved by the department, **in a**
 31 **review of the use attainability analysis to determine assess** whether:

32 (1) the conclusion of the ~~use attainability analysis is still valid;~~
 33 **would need to be revised if the new information was**
 34 **incorporated; and**

35 (2) **the additional or modified control measures would be**
 36 **feasible under the relevant criteria of 40 CFR 131.10(g).**

37 The NPDES permit holder shall provide the results of the review to the
 38 department **for consideration in the department's decisions under**
 39 **section 2.4 of this chapter.**

- 1 (g) The board shall adopt rules under IC 13-14-8 and IC 13-14-9 to
- 2 implement this section before October 1, 2006."
- 3 Renumber all SECTIONS consecutively.
(Reference is to ESB 131 as printed February 24, 2012.)

Representative Wolkins