

Adopted	Rejected
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COMMITTEE REPORT

YES:	6
NO:	4

MR. SPEAKER:

*Your Committee on Environmental Affairs, to which was referred Senate Bill 130, 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:*

- 1 Delete the amendment made pursuant to Senate Rule 35(c) adopted
- 2 January 23, 2012.
- 3 Page 11, line 27, after "of" insert "**IC 13-14**,".
- 4 Page 11, line 27, after "IC 13-23-11," insert "**and IC 13-30-2-1**,".
- 5 Page 14, delete lines 6 through 8, begin a new paragraph and insert:
- 6 "**(d) The rules adopted by the entities abolished under**
- 7 **subsection (a) shall be treated, administered, and implemented as**
- 8 **follows:**
- 9 **(1) The rules adopted before January 1, 2013, by the air**
- 10 **pollution control board abolished under subsection (a)(1):**
- 11 **(A) shall be treated as though the rules were adopted by**
- 12 **the environmental rules board; and**
- 13 **(B) shall be administered and implemented by the air**
- 14 **pollution control division of the department described in**
- 15 **IC 13-13-3-2(1).**
- 16 **(2) The rules adopted before January 1, 2013, by the water**

- 1 **pollution control board abolished under subsection (a)(2):**
 2 **(A) shall be treated as though the rules were adopted by**
 3 **the environmental rules board; and**
 4 **(B) shall be administered and implemented by the water**
 5 **pollution control division of the department described in**
 6 **IC 13-13-3-2(2).**
- 7 **(3) The rules adopted before January 1, 2013, by the solid**
 8 **waste management board abolished under subsection (a)(3):**
 9 **(A) shall be treated as though the rules were adopted by**
 10 **the environmental rules board; and**
 11 **(B) shall be administered and implemented by the solid**
 12 **waste management division of the department described in**
 13 **IC 13-13-3-2(3)."**
- 14 Page 14, line 15, delete "fifteen (15)" and insert "**sixteen (16)**".
- 15 Page 14, between lines 21 and 22, begin a new line double block
 16 indented and insert:
- 17 **"(E) The commissioner of the department of environmental**
 18 **management, who shall serve as a nonvoting member."**
- 19 Page 14, line 22, delete "twelve (12)" and insert "**eleven (11)**".
- 20 Page 15, line 35, delete "Nine (9)" and insert "**Eight (8) voting**".
- 21 Page 15, line 35, delete "six (6)" and insert "**five (5)**".
- 22 Page 16, line 18, delete "who is not an employee of the state".
- 23 Page 16, line 19, after "board." insert "**The technical secretary of**
 24 **the board is an employee of the department."**
- 25 Page 16, line 34, delete "who is not an employee of the state".
- 26 Page 16, line 35, after "counsel." insert "**The legal counsel to the**
 27 **board is an employee of the department."**
- 28 Page 22, line 17, reset in roman "a".
- 29 Page 22, line 18, delete "the".
- 30 Page 34, between lines 19 and 20, begin a new paragraph and insert:
- 31 "SECTION 62. IC 13-18-3-2.4, AS AMENDED BY P.L.54-2005,
 32 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 33 JULY 1, 2012]: Sec. 2.4. An NPDES permit holder shall review the
 34 feasibility of implementing additional or ~~new~~ **modified** control
 35 ~~alternatives~~ **measures** to attain water quality standards ~~The NPDES~~
 36 ~~permit holder shall conduct such a review periodically, but not less~~
 37 ~~than every five (5) years after approval of the long term control plan by~~
 38 ~~the department. if post-construction monitoring results indicate that~~

1 **performance criteria established for CSO control measures**
 2 **constructed in accordance with the approved long term control**
 3 **plan will not be met.** The NPDES permit holder shall:

4 (1) document to the department that the long term control plan
 5 has been reviewed;

6 (2) update the long term control plan as necessary **to incorporate**
 7 **any additional or modified control measures selected as**
 8 **feasible, cost effective, affordable, and necessary for**
 9 **compliance with applicable performance criteria;**

10 (3) submit any amendments to the long term control plan to the
 11 department for approval; and

12 (4) implement **any additional or modified** control alternatives
 13 **determined to be measures approved by the department as**
 14 **feasible, cost effective, and affordable, and necessary for**
 15 **compliance with applicable performance criteria.**

16 Cost effectiveness may be determined, at the option of the NPDES
 17 permit holder, by using a knee of the curve analysis in accordance with
 18 section 402(q) of the federal Clean Water Act (33 U.S.C. 1342(q)) and
 19 59 FR 18688.

20 SECTION 63. IC 13-18-3-2.5, AS AMENDED BY P.L.54-2005,
 21 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 22 JULY 1, 2012]: Sec. 2.5. (a) A CSO wet weather limited use
 23 subcategory is established for waters affected by receiving combined
 24 sewer overflows, as specified in an approved long term control plan.
 25 The CSO wet weather limited use subcategory applies to a specific
 26 water body after implementation of an approved long term control plan
 27 for the combined sewer system whose overflow discharges affect those
 28 waters is implemented and the conditions of subsection (b) are
 29 satisfied. The following requirements apply to the CSO wet weather
 30 limited use subcategory:

31 (1) The water quality based requirements associated with the CSO
 32 wet weather limited use subcategory that apply to waters affected
 33 by wet weather combined sewer overflows are determined by an
 34 approved long term control plan for the combined sewer system.
 35 The water quality based requirements remain in effect during the
 36 time and to the physical extent that the recreational use
 37 designation that applied to the waters immediately before the
 38 application to the waters of the CSO wet weather limited use

- 1 subcategory is not attained, but for not more than four (4) days
 2 after the date the overflow discharge ends.
- 3 (2) At all times other than those described in subdivision (1), the
 4 water quality criteria associated with the appropriate recreational
 5 use designation that applied to the waters immediately before the
 6 application to the waters of the CSO wet weather limited use
 7 subcategory apply unless there is a change in the use designation
 8 as a result of a use attainability analysis.
- 9 (b) The CSO wet weather limited use subcategory applies if:
- 10 (1) the department has approved a long term control plan for the
 11 NPDES permit holder for the combined sewer system;
- 12 (2) the approved long term control plan:
- 13 (A) is incorporated into:
- 14 (i) the NPDES permit holder's NPDES permit; or
 15 (ii) an order of the commissioner under IC 13-14-2-6;
- 16 (B) satisfies the requirements of section 2.3 of this chapter;
 17 and
- 18 (C) specifies the water quality based requirements that apply
 19 to combined sewer overflows during and immediately
 20 following wet weather events, as provided in subsection (a)(1);
- 21 (3) the NPDES permit holder has implemented the approved long
 22 term control plan; and
- 23 (4) subject to subsection (c), 40 CFR 131.10, 40 CFR 131.20, and
 24 40 CFR 131.21 are satisfied.
- 25 (c) For purposes of subsection (b)(4), 40 CFR 131.10 may be
 26 satisfied by including appropriate data and information in the long term
 27 control plan.
- 28 (d) The department shall implement the CSO wet weather limited
 29 use subcategory and associated water quality based requirements under
 30 this section when the subcategory and requirements are approved by
 31 the United States Environmental Protection Agency. The department
 32 shall seek approval of the United States Environmental Protection
 33 Agency in a timely manner.
- 34 (e) The NPDES permit holder shall monitor its discharges and the
 35 water quality in the affected receiving stream periodically as provided
 36 in the long term control plan. The NPDES permit holder shall provide
 37 all such information to the department.
- 38 (f) ~~In conjunction with~~ **If any additional or modified control**

1 **measures are tentatively selected by an NPDES permit holder in a**
 2 **review of the NPDES permit holder's long term control plan under**
 3 **section 2.4 of this chapter and a use attainability analysis has been**
 4 **approved previously under this section with respect to waters**
 5 **affected by combined sewer overflows from the NPDES permit**
 6 **holder's combined sewer system, the NPDES permit holder, at the**
 7 **same time the NPDES permit holder conducts a long term control**
 8 **plan review under section 2.4 of this chapter, shall review consider**
 9 **information that pertains to the additional or modified control**
 10 **measures, along with any other relevant information** generated after
 11 the use attainability analysis was approved by the department, **in a**
 12 **review of the use attainability analysis to determine assess** whether:

13 (1) the conclusion of the ~~use attainability analysis is still valid;~~
 14 **would need to be revised if the new information were**
 15 **incorporated; and**

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

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

21 (g) The board shall adopt rules under IC 13-14-8 and IC 13-14-9 to
 22 implement this section before October 1, 2006."

23 Page 43, line 10, delete "." and insert ":".

24 Page 46, between lines 15 and 16, begin a new line double block
 25 indented and insert:

26 **"(E) A rule adopted by the underground storage tank**
 27 **financial assurance board."**

28 Page 46, line 32, strike "or".

29 Page 46, between lines 34 and 35, begin a new line double block
 30 indented and insert:

31 **"(F) a rule or standard adopted by the underground**
 32 **storage tank financial assurance board; or"**.

33 Page 47, line 10, delete "board" and insert "following".

34 Page 47, line 11, delete "." and insert ":".

35 **(1) The board.**

1 **(2) The underground storage tank financial assurance**
2 **board."**

3 Renumber all SECTIONS consecutively.

 (Reference is to SB 130 as reprinted January 20, 2012, and as
corrected under Senate Rule 35(c), January 23, 2012.)

and when so amended that said bill do pass.

Representative Wolkins