Adopted	Rejected

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:

Delete the amendment made pursuant to Senate Rule 35(c) adopted January 23, 2012.

Page 11, line 27, after "of" insert "**IC 13-14,**".

Page 11, line 27, after "IC 13-23-11," insert "**and IC 13-30-2-1,**".

Page 14, delete lines 6 through 8, begin a new paragraph and insert:

"**(d) The rules adopted by the entities abolished under subsection (a) shall be treated, administered, and implemented as follows:**

(1) The rules adopted before January 1, 2013, by the air pollution control board abolished under subsection (a)(1):

(A) shall be treated as though the rules were adopted by the environmental rules board; and

(B) shall be administered and implemented by the air pollution control division of the department described in IC 13-13-3-2(1).

(2) The rules adopted before January 1, 2013, by the water

pollution control board abolished under subsection (a)(2):

(A) shall be treated as though the rules were adopted by the environmental rules board; and

(B) shall be administered and implemented by the water pollution control division of the department described in IC 13-13-3-2(2).

(3) The rules adopted before January 1, 2013, by the solid waste management board abolished under subsection (a)(3):

(A) shall be treated as though the rules were adopted by the environmental rules board; and

(B) shall be administered and implemented by the solid waste management division of the department described in IC 13-13-3-2(3).".

Page 14, line 15, delete "fifteen (15)" and insert "**sixteen (16)**".

Page 14, between lines 21 and 22, begin a new line double block indented and insert:

"**(E) The commissioner of the department of environmental management, who shall serve as a nonvoting member.**".

Page 14, line 22, delete "twelve (12)" and insert "**eleven (11)**".

Page 15, line 35, delete "Nine (9)" and insert "**Eight (8) voting**".

Page 15, line 35, delete "six (6)" and insert "**five (5)**".

Page 16, line 18, delete "who is not an employee of the state".

Page 16, line 19, after "board." insert **"The technical secretary of the board is an employee of the department.**".

Page 16, line 34, delete "who is not an employee of the state".

Page 16, line 35, after "counsel." insert "**The legal counsel to the board is an employee of the department.**".

Page 22, line 17, reset in roman "a".

Page 22, line 18, delete "the".

Page 34, between lines 19 and 20, begin a new paragraph and insert:

"SECTION 62. IC 13-18-3-2.4, AS AMENDED BY P.L.54-2005, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 2.4. An NPDES permit holder shall review the feasibility of implementing additional or ~~new~~ **modified** control ~~alternatives~~ **measures** to attain water quality standards ~~The NPDES permit holder shall conduct such a review periodically, but not less than every five (5) years after approval of the long term control plan by the department.~~ **if post-construction monitoring results indicate that**

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

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

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

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

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

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

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

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

subcategory is not attained, but for not more than four (4) days after the date the overflow discharge ends.

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

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

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

(2) the approved long term control plan:

(A) is incorporated into:

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

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

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

(C) specifies the water quality based requirements that apply to combined sewer overflows during and immediately following wet weather events, as provided in subsection (a)(1);

(3) the NPDES permit holder has implemented the approved long term control plan; and

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

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

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

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

(f) ~~In conjunction with~~ **If any additional or modified control**

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

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

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

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

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

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

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

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

Page 46, line 32, strike "or".

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

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

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

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

(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.

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Representative Wolkins