HOUSE BILL No. 1169

DIGEST OF INTRODUCED BILL

Citations Affected: IC 36-9-27-33.

Synopsis: Drainage issues. Provides that the drainage board of a county, upon the recommendation of the county surveyor, may reduce any tiled drain, including a tiled urban drain, to less than 15 feet from the center line as measured at right angles but not less than seven feet from each side of the center line or less than the recommendation made by the county surveyor.

Effective: July 1, 2013.

Heuer, GiaQuinta

January 10, 2013, read first time and referred to Committee on Local Government.

C o p y

Introduced

First Regular Session 118th General Assembly (2013)

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 2012 Regular Session of the General Assembly.

C o p y

HOUSE BILL No. 1169

A BILL FOR AN ACT to amend the Indiana Code concerning local government.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 36-9-27-33 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 33. (a) The county surveyor, the board, or an authorized representative of the surveyor or the board acting under this chapter has the right of entry over and upon land lying within seventy-five (75) feet of any regulated drain. The seventy-five (75) foot limit shall be measured at right angles to:

(1) the center line of any tiled drain; and

(2) the top edge of each bank of an open drain;

as determined by the surveyor.

(b) Spoil bank spreading resulting from the construction, reconstruction, or maintenance of an open drain may extend beyond the seventy-five (75) foot right-of-way if:

(1) the county surveyor finds that the extension is necessary; and

(2) the extension has been provided for in the engineer's report on the construction, reconstruction, or maintenance.

(c) All persons exercising the right given by this section shall, to the extent possible, use due care to avoid damage to crops, fences,

buildings, and other structures outside of the right-of-way, and to crops and approved structures inside the right-of-way. The county surveyor shall give oral or written notice of the entry on the land to the property owner of record, and in the case of a municipality, to the executive of that municipality. The notice must state the purpose for the entry.

(d) The owners of land over which the right-of-way runs may use the land in any manner consistent with this chapter and the proper operation of the drain. Permanent structures may not be placed on any right-of-way without the written consent of the board. Temporary structures may be placed upon or over the right-of-way without the written consent of the board, but shall be removed immediately by the owner when so ordered by the board or by the county surveyor. Crops grown on a right-of-way are at the risk of the owner, and, if necessary in the reconstruction or maintenance of the drain, may be damaged without liability on the part of the surveyor, the board, or their representatives. Trees, shrubs, and woody vegetation may not be planted in the right-of-way without the written consent of the board, and trees and shrubs may be removed by the surveyor if necessary to the proper operation or maintenance of the drain.

(e) This subsection applies to new regulated drains established after September 1, 1984, and to urban drains. **Except as provided in subsection (f),** the board may reduce the seventy-five (75) foot requirement of subsections (a) and (b) to any distance of not less than:

(1) twenty-five (25) feet from the top of each bank of an open ditch; and

(2) fifteen (15) feet from the center line of any tiled drain;

as measured at right angles.

(f) This subsection applies only to a platted subdivision. Upon the recommendation of the county surveyor, the board may further reduce the allowance under subsection (e)(2) for any tiled drain, including a tiled urban drain. The board may not make a reduction that results in an allowance that is:

(1) less than seven (7) feet from each side of the center line as measured at right angles; or

(2) less than the recommendation made by the county surveyor.

~~(f)~~ **(g)** The surveyor, the board, or an authorized representative of the surveyor or the board acting under this chapter does not commit criminal trespass under IC 35-43-2-2.

C o p y