



Reprinted  
February 28, 2014

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## ENGROSSED HOUSE BILL No. 1217

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DIGEST OF HB 1217 (Updated February 27, 2014 5:22 pm - DI 55)

**Citations Affected:** IC 13-11; IC 13-17; IC 13-18; IC 14-28; noncode.

**Synopsis:** Environmental permits concerning agriculture, wetlands, and parks. Provides that a permit from the department of environmental management (IDEM) is not required for the construction or operation of an agricultural waste-to-energy system that is located on the site of a confined feeding operation (CFO) or concentrated animal feeding operation (CAFO) and that annually processes at least 50% of the manure produced by the CFO or CAFO, unless: (1) the total actual emissions of any pollutant from of the waste-to-energy system exceed the threshold limit beyond which a permit is required for emissions of the pollutant under the federal Clean Air Act; or (2) the area in which the waste-to-energy system is located is designated by the U.S. Environmental Protection Agency as a nonattainment area with respect to a pollutant emitted by the waste-to-energy system. Provides that a municipal park water feature meeting certain conditions is not a point source discharge for which an NPDES operating permit is required if  
(Continued next page)

**Effective:** Upon passage; July 1, 2014.

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### Davisson, Lehe

(SENATE SPONSORS — YODER, RANDOLPH)

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January 15, 2014, read first time and referred to Committee on Environmental Affairs.  
January 23, 2014, reported — Do Pass.  
January 27, 2014, read second time, amended, ordered engrossed.  
January 28, 2014, engrossed. Read third time, passed. Yeas 92, nays 0.

SENATE ACTION

February 4, 2014, read first time and referred to Committee on Environmental Affairs.  
February 18, 2014, reported favorably — Do Pass.  
February 27, 2014, read second time, amended, ordered engrossed.

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Digest Continued

the municipality so elects and annually informs IDEM of the steps taken to ensure that the municipal park water feature does not become a source of pollution. Requires the department of natural resources (DNR) and IDEM to develop and implement a process to improve efficiency and transparency in programs for: (1) water quality certifications from IDEM under Section 401 of the federal Clean Water Act, (2) permits from IDEM for wetland activity in a state regulated wetland, and (3) permits from the director of the DNR for a structure, obstruction, deposit, or excavation in a floodway.



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Second Regular Session 118th General Assembly (2014)

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 2013 Regular Session and 2013 First Regular Technical Session of the General Assembly.

## ENGROSSED HOUSE BILL No. 1217

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A BILL FOR AN ACT to amend the Indiana Code concerning environmental regulation.

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

1 SECTION 1. IC 13-11-2-2.5 IS ADDED TO THE INDIANA CODE  
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE  
3 UPON PASSAGE]: **Sec. 2.5. "Agricultural waste-to-energy  
4 system", for purposes of IC 13-17-3-16, has the meaning set forth  
5 in IC 13-17-3-16(b).**

6 SECTION 2. IC 13-17-3-16 IS ADDED TO THE INDIANA CODE  
7 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE  
8 UPON PASSAGE]: **Sec. 16. (a) This section applies to an  
9 agricultural waste-to-energy system that:**

10 **(1) is located on the site of:**  
11 **(A) a confined feeding operation; or**  
12 **(B) a concentrated animal feeding operation; and**  
13 **(2) each year, processes at least fifty percent (50%) of the**  
14 **manure produced by the confined feeding operation or**  
15 **concentrated animal feeding operation referred to in**  
16 **subdivision (1).**

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1 (b) As used in this section, "agricultural waste-to-energy  
2 system" means a system that:

- 3 (1) converts manure into energy; and  
4 (2) may produce other useful products.

5 The term includes an anaerobic digester system that converts  
6 manure into methane that can be used in the generation of  
7 electricity.

8 (c) For purposes of this section, an agricultural waste-to-energy  
9 system consisting of an anaerobic digester system described in  
10 subsection (b) includes the following parts of the anaerobic digester  
11 system:

- 12 (1) The manure digester.  
13 (2) Any flares or associated burners.  
14 (3) Any generator engines.

15 (d) A permit is not required for the construction or operation of  
16 an agricultural waste-to-energy system described in subsection (a)  
17 unless:

- 18 (1) the total actual emissions (rather than potential emissions)  
19 of the agricultural waste-to-energy system of any pollutant  
20 that is a regulated air pollutant under the federal Clean Air  
21 Act (42 U.S.C. 7401 et seq.) exceeds the threshold limit beyond  
22 which a permit is required for emissions of the pollutant  
23 under Title V of the federal Clean Air Act (42 U.S.C. 7661  
24 through 7661f); or  
25 (2) the area in which the agricultural waste-to-energy system  
26 is located is designated by the U.S. Environmental Protection  
27 Agency as a nonattainment area with respect to a pollutant  
28 emitted by the agricultural waste-to-energy system.

29 SECTION 3. IC 13-18-19-3 IS ADDED TO THE INDIANA CODE  
30 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE  
31 UPON PASSAGE]: Sec. 3. (a) A municipal park water feature that:

- 32 (1) was initially operated before January 1, 2010;  
33 (2) uses water from a municipal potable water supply  
34 (whether provided by the municipality or by a utility) as its  
35 primary source of water;  
36 (3) operates with flowing water from the municipal potable  
37 water supply for six (6) or fewer months in any calendar year;  
38 and  
39 (4) is located in a municipality having a population of between  
40 twenty thousand (20,000) and thirty-five thousand (35,000);  
41 is not a point source discharge, and an NPDES permit may not be  
42 required for the operation of the municipal park water feature, if



1 the municipality in which the municipal park water feature is  
 2 located, or the parks board of the municipality, notifies the  
 3 department before August 1, 2014, that it wishes the municipal  
 4 park water feature to be subject to this section.

5 (b) Before December 31 of each calendar year, a municipality or  
 6 municipal parks board that has notified the department under  
 7 subsection (a) that it wishes a municipal park water feature to be  
 8 subject to this section shall transmit to the department a statement  
 9 setting forth the steps taken by the municipality or board during  
 10 the year to ensure that the municipal park water feature did not  
 11 become a source of pollution.

12 SECTION 4. IC 14-28-1-37 IS ADDED TO THE INDIANA CODE  
 13 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
 14 1, 2014]: **Sec. 37. The department and the department of  
 15 environmental management shall, not later than January 1, 2015,  
 16 develop and implement a process to improve efficiency and  
 17 transparency in programs for:**

- 18 (1) water quality certifications from the department of  
 19 environmental management under IC 13-13-5-1(1) and  
 20 Section 401 of the federal Clean Water Act (33 U.S.C. 1341);  
 21 (2) permits from the department of environmental  
 22 management for wetland activity in a state regulated wetland  
 23 under IC 13-18-22; and  
 24 (3) permits from the director for a structure, obstruction,  
 25 deposit, or excavation in a floodway under IC 14-28-1.

26 SECTION 5. IC 14-28-1-38 IS ADDED TO THE INDIANA CODE  
 27 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
 28 1, 2014]: **Sec. 38. In establishing the process required under section  
 29 37 of this chapter, the department and the department of  
 30 environmental management shall do the following:**

- 31 (1) Determine:  
 32 (A) how to inform a person who proposes to perform work  
 33 described in section 37 of this chapter of the need to seek  
 34 a permit for the work; and  
 35 (B) how to ensure that a person proposing to perform  
 36 wetland work is informed of every state permit the person  
 37 needs in order to do the work.  
 38 (2) Change the:  
 39 (A) application forms;  
 40 (B) application processes; or  
 41 (C) application forms and application processes;  
 42 used by the department and the department of environmental



- 1 management for purposes of permits as necessary to ensure  
 2 that a person proposing the work is not required to provide  
 3 the same information separately to the department and the  
 4 department of environmental management.  
 5 (3) Determine how either the department or the department  
 6 of environmental management may serve as the single point  
 7 of contact for applicants who do not need to have independent  
 8 contact with the department or the department of  
 9 environmental management for purposes of:  
 10 (A) distributing and receiving permit applications;  
 11 (B) obtaining information needed to complete the  
 12 processing of permit applications; and  
 13 (C) issuing permits.  
 14 (4) Create an internal process to ensure that the appropriate  
 15 office within the department and the department of  
 16 environmental management receives and timely reviews each  
 17 permit application.  
 18 (5) Ensure that the processing of each permit application is  
 19 monitored.  
 20 SECTION 6. [EFFECTIVE UPON PASSAGE] (a) The general  
 21 assembly urges the legislative council to assign to the appropriate  
 22 committee for study during the 2014 legislative interim the topic of  
 23 state regulation of water park features.  
 24 (b) This SECTION expires December 31, 2014.  
 25 SECTION 7. An emergency is declared for this act.



## COMMITTEE REPORT

Mr. Speaker: Your Committee on Environmental Affairs, to which was referred House Bill 1217, 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.

(Reference is to HB 1217 as introduced.)

Committee Vote: Yeas 9, Nays 2

Representative Wolkins

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 HOUSE MOTION

Mr. Speaker: I move that House Bill 1217 be amended to read as follows:

Page 1, between lines 5 and 6, begin a new line block indented and insert:

**"(1) "Agency" refers to:**

- (A) the department of natural resources; or**
- (B) the department of environmental management.**

**(2) "Agencies" refers to:**

- (A) the department of natural resources; and**
- (B) the department of environmental management."**

Page 1, line 6, delete "(1)" and insert "(3)".

Page 1, line 13, delete "(2)" and insert "(4)".

Page 2, line 8, delete "(3)" and insert "(5)".

Page 2, delete lines 11 through 42, begin a new paragraph and insert:

**"Sec. 2. The department of natural resources and the department of environmental management shall, not later than January 1, 2015, develop and implement a program under which the agencies will jointly accept and process applications for:**

- (1) water quality certifications from the department of environmental management under IC 13-13-5-1(1) and Section 401 of the federal Clean Water Act (33 U.S.C. 1341);**
- (2) permits from the department of environmental management for wetland activity in a state regulated wetland under IC 13-18-22; and**
- (3) permits from the director of the department of natural resources for a structure, obstruction, deposit, or excavation in a floodway under IC 14-28-1.**

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**Sec. 3. In establishing the program required under section 2 of this chapter, the agencies shall do the following:**

**(1) Determine:**

**(A) how to inform a person who proposes to perform wetland work of the need to seek a permit for the wetland work; and**

**(B) how to ensure that a person proposing to perform wetland work is informed of every permit the person needs in order to do the wetland work.**

**(2) Change the:**

**(A) application forms; and**

**(B) application processes;**

**used by the agencies for purposes of permits as necessary to ensure that a person proposing to perform wetland work is not required to provide the same information separately to both agencies.**

**(3) Determine how one (1) agency will serve as the single point of contact for applicants for purposes of:**

**(A) distributing and receiving permit applications;**

**(B) obtaining information needed to complete the processing of permit applications; and**

**(C) issuing permits.**

**(4) Create an internal process to ensure that the appropriate office within each agency receives and timely reviews each permit application.**

**(5) Ensure that the processing of each permit application is monitored."**

Page 3, delete lines 1 through 19.

(Reference is to HB 1217 as printed January 24, 2014.)

LEHE





## COMMITTEE REPORT

Madam President: The Senate Committee on Environmental Affairs, to which was referred House Bill No. 1217, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is to HB 1217 as printed January 28, 2014.)

Committee Vote: Yeas 9, Nays 0

Senator Charbonneau, Chairperson

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 SENATE MOTION

Madam President: I move that Engrossed House Bill 1217 be amended to read as follows:

Delete the title and insert the following:

A BILL FOR AN ACT to amend the Indiana Code concerning environmental regulation.

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 13-18-19-3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 3. (a) A municipal park water feature that:**

**(1) was initially operated before January 1, 2010;**

**(2) uses water from a municipal potable water supply (whether provided by the municipality or by a utility) as its primary source of water;**

**(3) operates with flowing water from the municipal potable water supply for six (6) or fewer months in any calendar year; and**

**(4) is located in a municipality having a population of between twenty thousand (20,000) and thirty-five thousand (35,000); is not a point source discharge, and an NPDES permit may not be required for the operation of the municipal park water feature, if the municipality in which the municipal park water feature is located, or the parks board of the municipality, notifies the department before August 1, 2014, that it wishes the municipal park water feature to be subject to this section.**

**(b) Before December 31 of each calendar year, a municipality or municipal parks board that has notified the department under subsection (a) that it wishes a municipal park water feature to be**

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**subject to this section shall transmit to the department a statement setting forth the steps taken by the municipality or board during the year to ensure that the municipal park water feature did not become a source of pollution."**

Page 3, after line 21, begin a new paragraph and insert:

**"SECTION 3. [EFFECTIVE UPON PASSAGE] (a) The general assembly urges the legislative council to assign to the appropriate committee for study during the 2014 legislative interim the topic of state regulation of water park features.**

**(b) This SECTION expires December 31, 2014.**

**SECTION 8. An emergency is declared for this act."**

Re-number all SECTIONS consecutively.

(Reference is to EHB 1217 as printed February 19, 2014.)

HERSHMAN

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#### SENATE MOTION

Madam President: I move that Engrossed House Bill 1217 be amended to read as follows:

Delete the title and insert the following:

A BILL FOR AN ACT to amend the Indiana Code concerning natural resources.

Page 1, delete lines 1 through 16.

Page 2, delete lines 1 through 16.

Page 2, line 17, delete "Sec. 2." and insert "SECTION 1. IC 14-28-1-37 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: **Sec. 37.**"

Page 2, line 17, delete "of natural resources".

Page 2, line 19, delete "program under which the agencies".

Page 2, line 20, delete "will jointly accept and process applications" and insert "**process to improve efficiency and transparency in programs**".

Page 2, line 27, delete "of the department of natural".

Page 2, line 28, delete "resources".

Page 2, line 30, delete "Sec. 3." and insert "SECTION 2. IC 14-28-1-38 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: **Sec. 38.**"

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Page 2, line 30, delete "program" and insert "**process**".

Page 2, line 30, delete "2" and insert "**37**".

Page 2, line 31, delete "agencies" and insert "**department and the department of environmental management**".

Page 2, line 34, delete "wetland work" and insert "**work described in section 37 of this chapter**".

Page 2, line 34, after "for the" delete "wetland".

Page 2, line 37, delete "wetland".

Page 2, line 37, after "every" insert "**state**".

Page 2, line 38, delete "wetland".

Page 2, line 40, delete "and".

Page 2, line 41, after "processes;" insert "**or**".

Page 2, between lines 41 and 42, begin a new line double block indented and insert:

**"(C) application forms and application processes;"**.

Page 2, line 42, delete "agencies" and insert "**department and the department of environmental management**".

Page 3, line 1, delete "to perform wetland" and insert "**the**".

Page 3, line 3, delete "both agencies." and insert "**the department and the department of environmental management.**".

Page 3, line 4, delete "one (1) agency will" and insert "**either the department or the department of environmental management may**".

Page 3, line 5, after "applicants" insert "**who do not need to have independent contact with the department or the department of environmental management**".

Page 3, line 11, delete "each agency" and insert "**the department and the department of environmental management**".

Page 3, delete lines 15 through 21.

Re-number all SECTIONS consecutively.

(Reference is to EHB 1217 as printed February 19, 2014.)

YODER



## SENATE MOTION

Madam President: I move that Engrossed House Bill 1217 be amended to read as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 13-11-2-2.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 2.5. "Agricultural waste-to-energy system", for purposes of IC 13-17-3-16, has the meaning set forth in IC 13-17-3-16(b).**

SECTION 9. IC 13-17-3-16 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 16. (a) This section applies to an agricultural waste-to-energy system that:**

**(1) is located on the site of:**

**(A) a confined feeding operation; or**

**(B) a concentrated animal feeding operation; and**

**(2) each year, processes at least fifty percent (50%) of the manure produced by the confined feeding operation or concentrated animal feeding operation referred to in subdivision (1).**

**(b) As used in this section, "agricultural waste-to-energy system" means a system that:**

**(1) converts manure into energy; and**

**(2) may produce other useful products.**

**The term includes an anaerobic digester system that converts manure into methane that can be used in the generation of electricity.**

**(c) For purposes of this section, an agricultural waste-to-energy system consisting of an anaerobic digester system described in subsection (b) includes the following parts of the anaerobic digester system:**

**(1) The manure digester.**

**(2) Any flares or associated burners.**

**(3) Any generator engines.**

**(d) A permit is not required for the construction or operation of an agricultural waste-to-energy system described in subsection (a) unless:**

**(1) the total actual emissions (rather than potential emissions) of the agricultural waste-to-energy system of any pollutant that is a regulated air pollutant under the federal Clean Air Act (42 U.S.C. 7401 et seq.) exceeds the threshold limit beyond**



**which a permit is required for emissions of the pollutant under Title V of the federal Clean Air Act (42 U.S.C. 7661 through 7661f); or**

**(2) the area in which the agricultural waste-to-energy system is located is designated by the U.S. Environmental Protection Agency as a nonattainment area with respect to a pollutant emitted by the agricultural waste-to-energy system."**

Page 3, after line 21, begin a new paragraph and insert:

**"SECTION 4. An emergency is declared for this act."**

Renumber all SECTIONS consecutively.

(Reference is to EHB 1217 as printed February 19, 2014.)

HERSHMAN

