



January 17, 2020

HOUSE BILL No. 1309

DIGEST OF HB 1309 (Updated January 15, 2020 5:39 pm - DI 129)

Citations Affected: IC 6-1.1; IC 13-11; IC 13-14; IC 13-18; noncode.

Synopsis: Department of environmental management. Amends the law concerning the property tax exemption for industrial waste control facilities to: (1) require the property owner seeking the exemption to certify that the property for which the exemption is claimed meets the exemption requirements; and (2) provide for the township assessor or county assessor, instead of the department of environmental management (department), to allow or deny the claimed exemption. Amends the law concerning assessed value deductions for hydroelectric power devices and geothermal energy heating or cooling devices to: (1) eliminate the requirement that the department determine whether a system or device qualifies for the deduction; and (2) provide that the township assessor or county assessor may consult with the department in determining whether to verify the certified statement of the property owner concerning a claimed deduction. Eliminates the requirement that the department itself, at least once per year, administer a certification examination for operators of water treatment plants, water distribution systems, and wastewater treatment plants. Requires instead the department to ensure that the examination is administered at least once per year, and allows the examination to be administered by independent third parties authorized by the commissioner of the department.

Effective: July 1, 2020.

Wolkins

January 13, 2020, read first time and referred to Committee on Environmental Affairs.
January 16, 2020, amended, reported — Do Pass.

HB 1309—LS 6544/DI 55



January 17, 2020

Second Regular Session of the 121st General Assembly (2020)

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 2019 Regular Session of the General Assembly.

HOUSE BILL No. 1309

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

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

1 SECTION 1. IC 6-1.1-10-10, AS AMENDED BY P.L.146-2008,
2 SECTION 104, IS AMENDED TO READ AS FOLLOWS
3 [EFFECTIVE JULY 1, 2020]: Sec. 10. (a) The owner of an industrial
4 waste control facility who wishes to obtain the exemption provided in
5 section 9 of this chapter ~~shall must:~~
6 (1) file, ~~an exemption claim~~ along with the owner's annual
7 personal property return, ~~The an exemption claim shall: that:~~
8 ~~describe~~
9 (A) ~~describes;~~ and state
10 (B) ~~states~~ the assessed value of;
11 the property for which an exemption is claimed; ~~and~~
12 (2) ~~certify that the property for which the exemption is~~
13 ~~claimed meets the requirements of section 9 of this chapter for~~
14 ~~the exemption from property taxation.~~
15 (b) ~~The owner shall, by registered or certified mail, forward a copy~~
16 ~~of the exemption claim to the department of environmental~~
17 ~~management. The department shall acknowledge its receipt of the~~

HB 1309—LS 6544/DI 55



- 1 claim:
- 2 (e) ~~(b)~~ The department of environmental management township
- 3 assessor or county assessor shall:
- 4 (1) may investigate any claim filed under subsection (a); The
- 5 department
- 6 (2) may also determine if whether the property for which the
- 7 exemption is claimed is being utilized as an industrial waste
- 8 control facility; and
- 9 (3) within one hundred twenty ~~(120)~~ days after a claim is mailed
- 10 to the department; the department may certify its written
- 11 determination to the township or county assessor with whom the
- 12 claim was filed: allow or deny the claim.
- 13 ~~(d)~~ (c) The determination of the ~~department~~ township assessor or
- 14 county assessor to allow a claim remains in effect:
- 15 (1) as long as the owner owns the property and uses the property
- 16 as an industrial waste control facility; or
- 17 (2) for five (5) years;
- 18 whichever is less. ~~In addition;~~
- 19 (d) During the five (5) years after the ~~department's~~ determination of
- 20 the township assessor or county assessor to allow a claim under
- 21 subsection (b), the owner of the property must notify the township
- 22 assessor or county assessor and the department in writing if any of the
- 23 property on which the ~~department's~~ determination was based is
- 24 disposed of or removed from service as an industrial waste control
- 25 facility.
- 26 (e) The ~~department~~ township assessor or county assessor may
- 27 revoke a determination under subsection (b) if the ~~department~~
- 28 township assessor or county assessor finds that the property is not
- 29 predominantly used as an industrial waste control facility.
- 30 (f) The township assessor or county assessor ~~in accord with the~~
- 31 ~~determination of the department;~~ shall allow or deny in whole or in part
- 32 each exemption claim. However; if the owner provides the assessor
- 33 with proof that a copy of the claim has been mailed to the department;
- 34 and if the department has not certified a determination to the assessor
- 35 within one hundred twenty ~~(120)~~ days after the claim has been mailed
- 36 to the department; the assessor shall allow the total exemption claimed
- 37 by the owner: claimed under subsection (a).
- 38 (g) The township assessor or county assessor shall reduce the
- 39 assessed value of the owner's personal property for the year for which
- 40 an exemption is claimed by the amount of exemption allowed.
- 41 SECTION 2. IC 6-1.1-10-11, AS AMENDED BY P.L.84-2016,
- 42 SECTION 28, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE



1 JULY 1, 2020]: Sec. 11. A determination by the department of
 2 ~~environmental management township assessor or county assessor to~~
 3 ~~deny an exemption~~ under section ~~10~~ **10(b)(3)** of this chapter may be
 4 appealed by the property owner to the circuit court, superior court, or
 5 probate court of the county in which the property is located. The court
 6 shall try the appeal without a jury. Either party may appeal the court's
 7 decision in the same manner that other civil cases may be appealed.

8 SECTION 3. IC 6-1.1-12-35.5, AS AMENDED BY P.L.214-2019,
 9 SECTION 14, AND P.L.257-2019, SECTION 27, IS AMENDED TO
 10 READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 35.5. (a)
 11 Except as provided in section 36 or 44 of this chapter and subject to
 12 section 45 of this chapter, a person who desires to claim the deduction
 13 provided by section 33 or 34 of this chapter must file a certified
 14 statement in duplicate, on forms prescribed by the department of local
 15 government finance, ~~and proof of certification under subsection (b)~~
 16 with the auditor of the county in which the property for which the
 17 deduction is claimed is subject to assessment. To obtain the deduction
 18 for a desired calendar year in which property taxes are first due and
 19 payable, the person must complete and date the certified statement in
 20 the immediately preceding calendar year and file the certified statement
 21 with the county auditor on or before January 5 of the calendar year in
 22 which the property taxes are first due and payable. The statement may
 23 be filed in person or by mail. If mailed, the mailing must be postmarked
 24 on or before the last day for filing. On verification of the statement by
 25 the assessor of the township in which the property for which the
 26 deduction is claimed is subject to assessment, ~~or by~~ the county assessor
 27 if there is no township assessor for the township, the county auditor
 28 shall allow the deduction.

29 (b) ~~The department of environmental management, upon application~~
 30 ~~by~~ A property owner **claiming a deduction for a system or device**
 31 **under this section** shall determine whether a ~~the~~ system or device
 32 qualifies for a deduction ~~provided by~~ **under** section 33 or 34 of this
 33 chapter. ~~If the department determines that a system or device qualifies~~
 34 ~~for a deduction, it shall certify the system or device and provide proof~~
 35 ~~of the certification to the property owner. The department shall~~
 36 ~~prescribe the form and manner of the certification process required by~~
 37 ~~this subsection:~~

38 (c) ~~If the department of environmental management receives an~~
 39 ~~application for certification, the department shall determine whether~~
 40 ~~the system or device qualifies for a deduction. If the department fails~~
 41 ~~to make a determination under this subsection before December 31 of~~
 42 ~~the year in which the application is received, the system or device is~~



1 considered certified. A township assessor or county assessor may:
 2 (1) investigate any claim of a deduction under this section;
 3 and
 4 (2) consult with the department of environmental
 5 management in determining whether to verify the certified
 6 statement concerning the claim under subsection (a).

7 (d) A denial of a deduction claimed under section 33 or 34 of this
 8 chapter may be appealed as provided in IC 6-1.1-15. The appeal is
 9 limited to a review of a determination made by the township assessor
 10 or county assessor, county property tax assessment board of appeals,
 11 or department of local government finance.

12 SECTION 4. IC 13-11-2-91.5 IS ADDED TO THE INDIANA
 13 CODE AS A NEW SECTION TO READ AS FOLLOWS
 14 [EFFECTIVE JULY 1, 2020]: Sec. 91.5. "Great Lakes system", for
 15 purposes of IC 13-14-8-9, means all of the streams, rivers, lakes,
 16 and other bodies of water within the drainage basin of the Great
 17 Lakes within the United States.

18 SECTION 5. IC 13-14-8-9, AS AMENDED BY P.L.147-2015,
 19 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 20 JULY 1, 2020]: Sec. 9. (a) A variance from a water quality standard
 21 that is at least in part the basis of a National Pollutant Discharge
 22 Elimination System (NPDES) permit issued under this title must meet
 23 the conditions specified in:

24 (1) 40 CFR Part 132, Appendix F, Procedure ~~2.C~~; 2, in the case
 25 of waters within the Great Lakes system; and

26 (2) 40 CFR 131.14; and

27 ~~(3)~~ (3) rules adopted by the board.

28 (b) A variance from a water quality standard issued for waters
 29 within the Great Lakes system must meet the requirements of:

30 (1) 40 CFR 131.14; and

31 (2) 40 CFR 132;

32 as applicable. If two (2) or more inconsistent requirements could
 33 apply under 40 CFR 131.14 and 40 CFR 132 to a variance for
 34 waters within the Great Lakes system, the more stringent
 35 requirement applies to the variance.

36 ~~(b)~~ (c) With respect to a variance relating to an NPDES permit for
 37 a combined sewer overflow discharge, this subsection is satisfied if the
 38 NPDES permit holder has prepared a long term control plan and is
 39 implementing the nine (9) minimum controls pursuant to:

40 (1) 33 U.S.C. 1342(q); and

41 (2) 59 FR 18688.

42 ~~(c)~~ (d) Subject to subsection (d); A variance described in subsection



1 (a) may be granted **under this section** for a period ~~not to exceed the~~
 2 ~~term of the NPDES permit affected by the variance. as follows:~~

3 (1) **For waters within the Great Lakes system, not more than**
 4 **five (5) years.**

5 (2) **For waters outside the Great Lakes system, any period**
 6 **that does not exceed a term authorized under 40 CFR 131.14.**

7 **However, a variance issued under this section for a period of more**
 8 **than five (5) years must be reevaluated in accordance with the**
 9 **requirements of 40 CFR 131.14.**

10 ~~(d)~~ (e) **Except as provided in subsection (d)**, if an NPDES permit
 11 remains in effect beyond its stated term under IC 13-15-3-6, a variance
 12 **described in subsection (a) issued under this section** remains in effect
 13 for as long as the NPDES permit requirements affected by the variance
 14 are in effect.

15 (e) (f) **A variance described in subsection (a) may be renewed each**
 16 **time the NPDES permit affected by the variance is renewed if the**
 17 **conditions of subsections (a) and (b) continue to be met. An**
 18 **application for a variance relating to an NPDES permit may be**
 19 **submitted under this section at any time before or after the**
 20 **issuance, renewal, or modification of the NPDES permit.**

21 SECTION 6. IC 13-18-11-4, AS AMENDED BY P.L.147-2015,
 22 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 23 JULY 1, 2020]: Sec. 4. (a) The commissioner shall issue certificates
 24 attesting to the competency of operators. A certificate must indicate the
 25 classification of works, plant, or system that the operator is qualified to
 26 supervise.

27 (b) If the successful passage of a certification examination is
 28 generally required for the issuance of a particular certificate under this
 29 chapter, the department shall ~~administer~~ **ensure that** the certification
 30 examination **is administered** to candidates for the certificate at least
 31 once per year.

32 (c) The commissioner may authorize an independent third party to
 33 administer certification examinations ~~in addition to the examinations~~
 34 ~~administered by the department under described in~~ subsection (b). A
 35 third party administering an examination under this subsection may
 36 require a candidate taking the examination to pay the third party a fee
 37 in addition to paying the department the fee required by section 5 of
 38 this chapter.

39 SECTION 7. [EFFECTIVE JULY 1, 2020] (a) **IC 6-1.1-10-10, as**
 40 **amended by this act, applies to assessment dates after June 30,**
 41 **2020.**

42 (b) **IC 6-1.1-12-35.5, as amended by this act, applies to**



1 **assessment dates after June 30, 2020.**
2 **(c) This SECTION expires July 1, 2022.**



COMMITTEE REPORT

Mr. Speaker: Your Committee on Environmental Affairs, to which was referred House Bill 1309, 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:

Page 4, line 2, delete "an exemption" and insert "**a deduction**".

Page 5, line 9, delete "IC".

and when so amended that said bill do pass.

(Reference is to HB 1309 as introduced.)

WOLKINS

Committee Vote: yeas 10, nays 0.

