

HOUSE BILL No. 1514

DIGEST OF INTRODUCED BILL

Citations Affected: IC 13-14-8-7; IC 13-15-10; IC 13-16-1; IC 13-17-8-3; IC 13-18-12; IC 13-18-20-11.5.

Synopsis: Department of environmental management fees. Specifies that the environmental rules board (board) may adopt rules that prescribe fees. Provides that the department of environmental management (IDEM), rather than the board, is to deposit solid waste fees in the waste facility operator trust fund. Provides for IDEM to receive payment of solid waste fees by electronic fund transfer. Requires the board, in changing the amount of a fee, to take into account the cost to IDEM of amendments, modifications, and renewals of a permit, license, or approval. Provides that a fee established by the board for a type or class of permit: (1) may be set at a particular amount in consideration of the type and amount of discharge or emission to which the permit relates; and (2) may not be different in amount for public sector permit holders than for private sector permit holders unless the difference is specifically authorized by law. Requires IDEM, to assist the board in periodically reviewing fees, to: (1) arrange for an independent study of certain IDEM costs; (2) develop information on fees charged for equivalent activities in other states; and (3) develop information on activities, functions, and permits that have been added or eliminated since fees were last changed. Provides that the board may not increase any major confined feeding operation, water, solid waste, hazardous waste, or air permit fee: (1) more than once in five years; or (2) by more than 10%. Makes conforming changes. Requires the board to adopt rules to implement a one-time increase in fees before January 1, 2022. Provides that: (1) the pre-2022 fee increase may not raise the major confined feeding operation, water, solid waste, hazardous waste, and air permit fees by so much that
(Continued next page)

Effective: Upon passage.

Morris, Cook, Heine, Bartlett

January 17, 2019, read first time and referred to Committee on Environmental Affairs.



Digest Continued

IDEM's annual aggregate fee revenue is reasonably anticipated to rise by more than \$3,200,000; but (2) the restriction prohibiting a fee increase of more than 10% does not apply to the one-time, pre-2022 fee increase.



First Regular Session of the 121st General Assembly (2019)

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 2018 Regular and Special Session of the General Assembly.

HOUSE BILL No. 1514

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 13-14-8-7, AS AMENDED BY P.L.133-2012,
- 2 SECTION 88, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 3 UPON PASSAGE]: Sec. 7. (a) Without limiting the generality of the
- 4 regulatory authority of the board under this title, the board may adopt
- 5 rules under IC 4-22-2 and IC 13-14-9 prescribing the following:
- 6 (1) Standards or requirements for discharge or emission
- 7 specifying the maximum permissible short term and long term
- 8 concentrations of various contaminants of the air, water, or land.
- 9 (2) Procedures for the administration of a system of permits for:
- 10 (A) the discharge of any contaminants;
- 11 (B) the construction, installation, or modification of any:
- 12 (i) facility;
- 13 (ii) equipment; or
- 14 (iii) device;
- 15 that may be designed to control or prevent pollution; or



- 1 (C) the operation of any:
 - 2 (i) facility;
 - 3 (ii) equipment; or
 - 4 (iii) device;
- 5 to control or to prevent pollution.
- 6 (3) Standards and conditions for the use of any fuel or vehicle
- 7 determined to constitute an air pollution hazard.
- 8 (4) Standards for the filling or sealing of abandoned:
 - 9 (A) water wells;
 - 10 (B) water holes; and
 - 11 (C) drainage holes;
- 12 to protect ground water against contamination.
- 13 (5) Alert criteria and abatement standards for pollution episodes
- 14 or emergencies constituting an acute danger to health or to the
- 15 environment, including priority lists for terminating activities that
- 16 contribute to the hazard, whether or not the activities would meet
- 17 all discharge requirements of the board under normal conditions.
- 18 (6) Requirements and procedures for the inspection of any
- 19 equipment, facility, vehicle, vessel, or aircraft that may cause or
- 20 contribute to pollution.
- 21 (7) Requirements and standards for equipment and procedures
- 22 for:
 - 23 (A) monitoring contaminant discharges at their sources;
 - 24 (B) the collection of samples; and
 - 25 (C) the collection, reporting, and retention, in accordance with
 - 26 record retention schedules adopted under IC 5-15-5.1, of data
 - 27 resulting from that monitoring.
- 28 (8) Standards or requirements to control:
 - 29 (A) the discharge; or
 - 30 (B) the pretreatment;
- 31 of contaminants introduced or discharged into publicly owned
- 32 treatment works.
- 33 **(9) Fees, in accordance with IC 13-16-1.**
- 34 (b) If the board is required to adopt new rules or amend existing
- 35 rules to implement an amendment to the federal Resource Conservation
- 36 and Recovery Act or an amendment to or addition of a National
- 37 Emission Standard for Hazardous Air Pollutants under the federal
- 38 Clean Air Act, the board shall adopt the new rules or amend the
- 39 existing rules not more than nine (9) months after the date the federal
- 40 law becomes effective. This subsection does not limit the board's
- 41 authority to amend at any time the rules adopted under this subsection.
- 42 SECTION 2. IC 13-15-10-3, AS AMENDED BY P.L.133-2012,



SECTION 109, IS AMENDED TO READ AS FOLLOWS
[EFFECTIVE UPON PASSAGE]: Sec. 3. (a) The waste facility
operator trust fund is established. The ~~board~~ **department** shall deposit
fees collected under this chapter in the fund.

(b) Money in the fund shall be used for paying the expenses of the
training and certification program described in this chapter.

SECTION 3. IC 13-15-10-5, AS AMENDED BY P.L.133-2012,
SECTION 111, IS AMENDED TO READ AS FOLLOWS
[EFFECTIVE UPON PASSAGE]: Sec. 5. (a) The board shall establish
by rule and cause to be collected fees for the following:

- (1) Examination of applicants for certification.
- (2) Issuance, renewal, or transfer of a certificate.
- (3) Restoration of an expired certificate when that action is
authorized by law.
- (4) Issuance of certificates by reciprocity or endorsement for
out-of-state applicants.
- (5) Issuance of board or committee reciprocity or endorsements
for resident practitioners who apply to another state for a
certificate.

(b) A fee may not be less than fifty dollars (\$50) unless the fee is
collected under a rule adopted by the board that sets a fee for
miscellaneous expenses incurred by the department on behalf of ~~the~~
operators ~~the board regulates~~. **regulated under rules adopted by the
board.** The fees may not be less than are required to pay all of the
costs, both direct and indirect, of the operation of the department under
this chapter, **and are payable to the department in accordance with
section 6 of this chapter.**

(c) A fee may not be charged to an operator employed by a solid
waste facility that is wholly owned and operated by a unit of local
government.

SECTION 4. IC 13-15-10-6, AS AMENDED BY P.L.133-2012,
SECTION 112, IS AMENDED TO READ AS FOLLOWS
[EFFECTIVE UPON PASSAGE]: Sec. 6. (a) For the payment of fees
under this chapter, the ~~board~~ **department** shall accept **any of the
following:**

- (1) Cash.
- (2) A draft.
- (3) A money order.
- (4) A cashier's, ~~check~~, and a certified, or ~~other~~ personal check.
- (5) **An electronic fund transfer, if the department makes
payment by this means available.**

(b) If:



(1) the ~~board~~ **department** receives an uncertified personal check for the payment of a fee; and

(2) the check does not clear the bank;
the ~~board~~ **department** may void the license, registration, or certificate for which the check was received.

(c) Unless designated by rule, a fee is not refundable or transferable.

SECTION 5. IC 13-16-1-2, AS AMENDED BY P.L.113-2014, SECTION 68, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. To establish fees or change the amount of a fee, the board shall:

(1) follow the procedure required for the adoption of rules; and

(2) take into account:

(A) the cost ~~to the department~~ of the issuance of a permit, ~~or license, or approval;~~

(B) the cost ~~to the department~~ of the performance of services in connection with the supervision, review, and other necessary activities related to the ~~area involved;~~ **permit, license, or approval;**

(C) the cost ~~to the department~~ of the surveillance of the activity or property covered by the license, ~~or permit, or approval; and~~

(D) the cost to the department of amendments, modifications, and renewals of a permit, license, or approval; and

~~(E)~~ **(E)** fees charged for equivalent ~~permits or licenses~~ **activities** in other states.

SECTION 6. IC 13-16-1-3, AS AMENDED BY P.L.133-2012, SECTION 115, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. A fee established by the board under this chapter for a type or class of permit:

(1) may be based on the average of the costs specified in section 2 of this chapter for all permits of that type or class;

(2) may be set at a particular amount in consideration of the type and amount of discharge or emission to which the permit relates; and

(3) may not be different in amount for public sector permit holders than for private sector permit holders, unless the difference is specifically authorized by the Indiana Code.

SECTION 7. IC 13-16-1-4, AS AMENDED BY P.L.133-2012, SECTION 116, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. **(a)** The board shall periodically review the fees established under this chapter. The board



may ~~set or change the amount of~~ a fee if the board determines, based upon the ~~factors set forth in section 2~~ **information provided under subsections (b) and (c) and the provisions of section 3** of this chapter, that ~~a fee is necessary or~~ the amount of ~~the~~ a fee is not appropriate.

(b) To assist the board in the periodic review of fees required by this section, the department shall:

(1) arrange for an independent study of the costs referred to in section 2(2)(A) through 2(2)(D) of this chapter;

(2) develop information on fees charged for equivalent activities in other states, as applicable, as provided in section 2(2)(E) of this chapter; and

(3) periodically develop information on activities, functions, and permits that have been added or eliminated since the previous fee structure was adopted.

(c) The department shall:

(1) present the information described in subsection (b) to the board for consideration; and

(2) if so directed by the board, initiate a rulemaking under IC 13-14-9 to address fees.

SECTION 8. IC 13-16-1-6, AS AMENDED BY P.L.113-2014, SECTION 69, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. ~~(a) Notwithstanding sections 1 through 5 of this chapter or any other law, The board or the department may not: do any of the following:~~

~~(1) Except as provided in section 7 of this chapter, set or change the amount of a fee established by:~~

~~(A) IC 13-17-8;~~

~~(B) IC 13-18-10;~~

~~(C) IC 13-18-10.5;~~

~~(A) (D) IC 13-18-20;~~

~~(B) (E) IC 13-20-21; or~~

~~(C) (F) IC 13-22-12;~~

more than once in five (5) years; or

~~(2) Establish an additional fee that was not in effect on January 1, 1994, concerning the following:~~

~~(A) National Pollutant Discharge Elimination System programs;~~

~~(B) Solid waste programs;~~

~~(C) Hazardous waste programs;~~

~~(3) (2) require payment of a fee for material used as alternate daily cover pursuant to a permit issued by the department under~~



329 IAC 10-20-13.

(b) A change in a fee under subsection (a) may not increase the amount of the fee by more ten percent (10%).

SECTION 9. IC 13-17-8-3, AS AMENDED BY P.L.133-2012, SECTION 122, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. **In accordance with IC 13-16-1**, the board shall adopt fees to be collected under the operating permit program. The annual aggregate amount of fees collected under the operating permit program from all sources subject to the operating permit program must be sufficient to cover only the direct and indirect reasonable costs of the following permit program activities:

- (1) Preparing rules, regulations, and guidance regarding implementation and enforcement of the program.
- (2) Reviewing and acting on the following:
 - (A) An application for an operating permit.
 - (B) An operating permit revision.
 - (C) An operating permit renewal.
- (3) The general administrative cost of running the operating permit program.
- (4) Implementing and enforcing the terms of a permit granted under the operating permit program. However, court costs for enforcement actions are not included under this subdivision.
- (5) Emissions and ambient monitoring.
- (6) Modeling analyses and demonstrations.
- (7) Preparing inventories and tracking emissions.
- (8) Developing and administering a small business stationary source technical and environmental compliance assistance program.

SECTION 10. IC 13-18-12-2.5, AS AMENDED BY P.L.133-2012, SECTION 130, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2.5. (a) The department and the board may allow a person to use industrial waste products in a land application operation or as ingredients in a soil amendment or soil substitute to be land applied if:

- (1) the industrial waste products are not hazardous wastes;
- (2) the industrial waste products:
 - (A) have a beneficial use (as defined in 327 IAC 6.1-2-6); or
 - (B) otherwise provide a benefit to the process of creating the soil amendments or soil substitute or to the final soil amendment, soil substitute, or material to be land applied, such as bulking;



- (3) the finished soil amendment, soil substitute, or material to be land applied satisfies the applicable criteria in 327 IAC 6.1;
 - (4) the finished soil amendment, soil substitute, or material to be land applied has a beneficial use;
 - (5) the requirements of subsection (b) are satisfied; and
 - (6) the person pays a permit fee in an amount determined ~~by the department~~ **under rules adopted by the board** that does not exceed the costs incurred by the department to issue the permit.
- (b) The department:
- (1) may allow the use of industrial waste products:
 - (A) in a land application operation; or
 - (B) as ingredients in a soil amendment or soil substitute to be land applied;
 on the same basis as other materials under the rules concerning land application and marketing and distribution permits;
 - (2) may not:
 - (A) discriminate against the use of industrial waste products on the basis that the industrial waste products lack biological carbon;
 - (B) impose requirements beyond applicable criteria in 327 IAC 6.1, unless additional requirements are necessary for the protection of human health and the environment;
 - (C) require that the finished soil amendment, soil substitute, or material to be land applied must be of a particular economic value; or
 - (D) for any pollutant that has a pollutant limit or concentration in 327 IAC 6.1, require that an industrial waste product or the finished soil amendment, soil substitute, or material to be land applied satisfies:
 - (i) the department's ~~risk integrated system of closures nonrule policy document~~; **remediation closure guidance**;
 - or
 - (ii) any other standards other than criteria in 327 IAC 6.1;
 - (3) for any pollutant present in the industrial waste products that does not have a pollutant limit or concentration in 327 IAC 6.1, shall consider the benefits of the finished soil amendment, soil substitute, or material to be land applied as compared to the measurable risks to human health and the environment based on the anticipated use of the finished soil amendment, soil substitute, or material to be land applied; and
 - (4) shall require an application for a permit for the land application of industrial waste products to include



characterization of individual industrial waste products at the point of waste generation before mixing the waste streams.

(c) The board may adopt rules for pollutant limits or concentrations for pollutants for which limits or concentrations do not exist in 327 IAC 6.1 as of July 1, 2011.

SECTION 11. IC 13-18-12-5, AS AMENDED BY P.L.37-2012, SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) ~~Subject to subsections (b) and (c)~~; The board may adopt a fee schedule for the issuance of:

(1) septage management permits; and

(2) land application site approvals;

under this chapter **in accordance with IC 13-16-1.**

~~(b) A permit fee may not exceed one hundred dollars (\$100) per year.~~

~~(c) A land application approval fee may not exceed thirty dollars (\$30) per year per site.~~

~~(d)~~ **(b)** Whenever the board designates a county or city health agency as the board's agent to approve land application sites under this chapter, the county or city health agency shall collect and retain the land application approval fee.

SECTION 12. IC 13-18-20-11.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 11.5. (a) In addition to the fee under section 12 of this chapter, when a person files a notice of intent with the department concerning:

~~(1) an initial; or~~

~~(2) the renewal of a;~~

~~general NPDES permit for a CAFO, the person must remit a permit fee of one hundred dollars (\$100) to the department.~~

~~(b) In addition to the fee under section 12 of this chapter, when a person files an application with the department concerning:~~

~~(1) an initial NPDES permit for a CAFO; or~~

~~(2) the renewal of an individual NPDES permit for a CAFO;~~

~~the person must remit a permit fee of two hundred fifty dollars (\$250) to the department.~~

~~(c)~~ **(b)** If a person is subject to a fee for a CAFO under this section, no other fee under this chapter applies to the CAFO other than the fee under section 12 of this chapter.

SECTION 13. [EFFECTIVE UPON PASSAGE] **(a) The environmental rules board shall, before January 1, 2022, adopt rules under IC 4-22-2 and IC 13-14-9 to increase the amount of the fees referred to in subsection (b) in accordance with IC 13-16-1, as amended by this act.**



(b) The board may increase the fees established by:

- (1) IC 13-17-8;**
- (2) IC 13-18-10;**
- (3) IC 13-18-10.5;**
- (4) IC 13-18-20;**
- (5) IC 13-20-21; and**
- (6) IC 13-22-12;**

only one (1) time under this SECTION. The increase in annual aggregate fee revenue reasonably estimated to result from the one (1) time fee increase under this SECTION may be not more than three million two hundred thousand dollars (\$3,200,000) greater than the annual aggregate fee revenue actually received in the year immediately preceding the fee increase under this SECTION.

(c) Notwithstanding IC 13-16-1-6(b), as amended by this act, a fee may be increased under this SECTION by more than ten percent (10%).

(d) This SECTION expires on the earlier of the following:

- (1) The effective date of the rules adopted under this SECTION.**
- (2) January 1, 2022.**

SECTION 14. An emergency is declared for this act.

