

SENATE BILL No. 28

DIGEST OF INTRODUCED BILL

Citations Affected: IC 13-11-2-47.8; IC 13-17.

Synopsis: Local air pollution control agency contracts. Authorizes a county, city, or town to establish or designate an agency to act for the county, city, or town as a local air pollution control agency. Requires the commissioner of the department of environmental management (department) to enter into a contract with a county, city, or town air pollution control agency that is willing to enter into the contract. Provides that a contract between the department and a county, city, or town air pollution control agency must: (1) require the department to advise, cooperate with, and provide technical assistance to the air pollution control agency; (2) authorize the air pollution control agency to undertake air pollution control activities on behalf of the department or in enforcement of ordinances of the county, city, or town; and (3) provide for the payment of fair monetary compensation for the air pollution control activities performed by the air pollution control agency. Requires that the compensation paid to the air pollution control agency be at least sufficient to cover the agency's staffing and operating costs and that the rate of compensation be adjusted each year according to changes in the Consumer Price Index.

Effective: July 1, 2017.

Randolph Lonnie M

January 3, 2017, read first time and referred to Committee on Environmental Affairs.



First Regular Session 120th General Assembly (2017)

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 2016 Regular Session of the General Assembly.

SENATE BILL No. 28

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 13-11-2-47.8 IS ADDED TO THE INDIANA
2 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
3 [EFFECTIVE JULY 1, 2017]: **Sec. 47.8. "CPI-U", for purposes of**
4 **IC 13-17-3-9.5, means the All Items Consumer Price Index for All**
5 **Urban Consumers for the United States, as issued monthly by the**
6 **United States Bureau of Labor Statistics.**

7 SECTION 2. IC 13-17-3-9.5 IS ADDED TO THE INDIANA CODE
8 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
9 1, 2017]: **Sec. 9.5. (a) The commissioner shall enter into a contract**
10 **described in subsection (b) with a local air pollution control agency**
11 **that:**

12 (1) **is established or designated by a county, city, or town**
13 **under IC 13-17-12-1(b); and**

14 (2) **is willing to enter into the contract.**

15 (b) **A contract entered into under this section must do the**
16 **following:**

17 (1) **Require the department to:**



- 1 (A) advise, consult, and cooperate with; and
 2 (B) provide technical assistance to;
 3 the local air pollution control agency.
 4 (2) Either:
 5 (A) authorize the local air pollution control agency to
 6 undertake air pollution control activities, including:
 7 (i) monitoring of regional ambient air quality; and
 8 (ii) within the local air pollution control agency's
 9 jurisdiction, issuing operating permits and operating
 10 permit revisions, performing compliance inspections,
 11 responding to complaints and emergencies, and initiating
 12 enforcement actions;
 13 on behalf of the department; or
 14 (B) authorize the local air pollution control agency of a
 15 county, city, or town to:
 16 (i) issue operating permits and operating permit
 17 revisions;
 18 (ii) perform compliance inspections;
 19 (iii) respond to complaints and emergencies; and
 20 (iv) initiate enforcement actions;
 21 as authorized by local ordinances of the county, city, or
 22 town that are consistent with or more restrictive than the
 23 air pollution control laws.
 24 (3) Provide that the local air pollution control agency must be
 25 paid fair monetary compensation for the air pollution control
 26 activities described in subdivision (2) from funds available to
 27 the department for administration of the air pollution control
 28 laws, including the following:
 29 (A) United States Environmental Protection Agency
 30 federal grant funding for the purpose of air pollution
 31 control program support activities funded under Section
 32 105 of the federal Clean Air Act (42 U.S.C. 7405), as
 33 further described in Section 66.001 of the Catalog of
 34 Federal Domestic Assistance.
 35 (B) United States Environmental Protection Agency
 36 federal grant funding for the purpose of activities funded
 37 under Section 103 of the federal Clean Air Act (42 U.S.C.
 38 7403), as further described in Section 66.034 of the Catalog
 39 of Federal Domestic Assistance.
 40 (C) Revenue from annual operating fees established by 326
 41 IAC 2.
 42 (D) The environmental management special fund



1 established under IC 13-14-12.

2 (E) Any other source of funds approved by the governor
3 and the budget agency.

4 (c) If a local air pollution control agency that has entered into
5 a contract under this section applies for grant funding described in
6 subsection (b)(3)(A) or (b)(3)(B), the commissioner shall:

7 (1) review, advise the local air pollution control agency
8 concerning, and approve the application of the local air
9 pollution control agency; and

10 (2) facilitate the resulting grant funding agreement between
11 the United States Environmental Protection Agency and the
12 local air pollution control agency.

13 (d) The monetary compensation provided to a local air pollution
14 control agency under a contract entered into under this section:

15 (1) must be at least sufficient to cover the staffing and
16 operating costs incurred by the local air pollution control
17 agency in performing air pollution control activities described
18 in subsection (b)(2); and

19 (2) shall be adjusted each year according to the CPI-U.

20 (e) An adjustment under subsection (d)(2):

21 (1) must take place each year not more than thirty (30) days
22 after the release of the CPI-U for January of that year; and

23 (2) must adjust the rate of compensation in proportion to the
24 difference between the CPI-U released for January of that
25 year and the CPI-U released for January of the previous year.

26 SECTION 3. IC 13-17-12-1 IS AMENDED TO READ AS
27 FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 1. (a) Air pollution
28 control laws do not prevent towns, cities, or counties from:

29 (1) enforcing local air pollution ordinances consistent with air
30 pollution control laws; or

31 (2) adopting or enforcing more restrictive ordinances to further
32 the expressed purposes of air pollution control laws.

33 (b) To enforce local air pollution ordinances under subsection
34 (a), a county, city, or town must establish or designate an agency
35 to act for the county, city, or town as a local air pollution control
36 agency.

37 (c) A local air pollution control agency established or designated
38 by a county, city, or town under subsection (b) may:

39 (1) enforce the air pollution ordinances of the county, city, or
40 town referred to in subsection (a);

41 (2) undertake air pollution control efforts on behalf of the
42 department under a contract entered into under



1 **IC 13-17-3-9.5; and**
2 **(3) administer the air pollution control program of the county,**
3 **city, or town in cooperation with one (1) or more other**
4 **counties, cities, or towns within the same air quality basin**
5 **under section 3 of this chapter.**
6 SECTION 4. IC 13-17-12-4 IS AMENDED TO READ AS
7 FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 4. ~~At~~ **A local air**
8 **pollution control agency of a county, city, or town that has entered**
9 **into a contract with the commissioner under IC 13-17-3-9.5 shall**
10 submit annual reports as requested by the department.

