

**LEGISLATIVE SERVICES AGENCY  
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**FISCAL IMPACT STATEMENT**

**LS 7217**

**BILL NUMBER: SB 414**

**NOTE PREPARED: Mar 28, 2023**

**BILL AMENDED: Mar 27, 2023**

**SUBJECT:** Onsite Sewage Systems and Holding Tanks.

**FIRST AUTHOR:** Sen. Byrne

**FIRST SPONSOR:** Rep. Engleman

**BILL STATUS:** As Passed House

**FUNDS AFFECTED:**  **GENERAL**  
 **DEDICATED**  
 **FEDERAL**

**IMPACT:** State & Local

**Summary of Legislation:** *Wetland Classification:* The bill changes the definition of class III wetlands.

*Onsite Residential Sewage Discharging Disposal Systems:* The bill defines "onsite residential sewage discharging disposal system" to provide that the term includes a system that employs advanced treatment components not used in standard septic systems to reduce the concentration of the pathogenic constituents of the effluent to an acceptable level before the effluent is discharged. It allows point source discharge of treated sewage from an onsite residential sewage discharging disposal system to provide that the law applies to any county onsite waste management district instead of applying only to one particular county.

The bill allows a local health department to issue an operating permit for an onsite residential sewage discharging disposal system within a county onsite waste management district:

- (1) to authorize the Technical Review Panel, the Indiana Department of Health (IDOH), or the Environmental Rules Board (ERB) to adopt guidelines for purposes of guiding local health departments in taking the actions and making the determinations required when issuing an operating permit for an onsite residential sewage discharging disposal system;
- (2) to provide that, if the amendment of the National Pollutant Discharge Elimination System (NPDES) general permit issued by the Department of Environmental Management (IDEM) for the purposes of the county onsite waste management district law is necessary or advisable to enable onsite waste management districts established after June 30, 2023, to function properly and effectively, the IDEM shall amend the general permit as soon as reasonably possible after June 30, 2023; and
- (3) to authorize the county executives of two or more counties to establish a single county onsite waste management district by entering into an interlocal cooperation agreement.

*Holding Tanks:* The bill provides that septage that originates from a residential or commercial source may be held in one or more holding tanks of not more than 10,000 gallons until removed and transported from the site. It establishes requirements for septage holding tanks. It requires a permit from the local health department for the operation of a septage holding tank. It requires a septage tank owner to enter into a written contract with a septage management vehicle operator for regular removal of septage from the tank, to provide a copy of the contract to the local health department, and to provide proof to the local health department that the tank owner is regularly paying for the removal of septage from the holding tank. It also requires a local health department to report to IDEM concerning the septage tanks in its jurisdiction.

**Effective Date:** Upon passage.

**Explanation of State Expenditures:**  *Onsite Residential Sewage Discharging Disposal Systems:* The bill could increase workload as it authorizes the adoption of guidelines or rules by the ERB, the IDOH's Technical Review Panel, or the IDOH (with guidance from their Technical Review Panel) for purposes of guiding local health departments regarding the issuance of operating permits for onsite residential sewage discharging disposal systems. Additionally, the bill requires the IDEM to amend the NPDES general permit, if necessary or advisable to enable the county onsite waste management districts to function properly.

*Holding Tanks:* The bill allows the ERB to adopt rules, or the IDEM to establish guidelines regarding the frequency and content of the reports required for permittees of holding tanks, to be submitted to local health departments. Local health departments would be required to report this information to the IDEM.

*Wetland Classification:* This bill modifies the definitions for class III isolated wetlands in the state. Impacts to regulated wetlands require state regulated wetland permits from the IDEM. The IDEM must review state isolated wetland permits (if an applicant wants to discharge pollutants into an isolated wetland) and applications for Section 401 Water Quality Certifications (for certain proposed projects occurring on a state wetland).

If this bill causes wetlands to change in class level, then the IDEM may be required to review fewer applications for permits and certifications related to wetlands. Additionally, state governmental entities may have a reduction in compensatory mitigation expenses for restoring or replacing wetland areas that are lost due to actions of the state governmental entity. Conversely, the IDEM may need to create and disperse guidance to assist regulators and wetland consultants in determining a wetland's class.

**Additional Information:** When a project is planned in Indiana that will impact a wetland, stream, river, lake, or other water of the US, the IDEM must issue a Section 401 Water Quality Certification, which is a required component of a federal permit and must be issued before a federal permit or license can be granted. Any person or company planning to discharge fill materials to Indiana wetlands must receive Section 401 Water Quality Certification authorization from the IDEM and must also receive a federal Section 404 Dredge and Fill Permit from the US Army Corp of Engineers (USACE).

If the USACE determines that wetlands or other water features are present, but determines that they are not waters of the US, then they are considered to be waters of the state. State regulated wetlands (those wetlands not regulated under the federal Clean Water Act) are regulated under Indiana's regulated wetlands law (Indiana Code 13-18-22).

**Explanation of State Revenues:**  *Onsite Residential Sewage Discharging Disposal Systems:* The bill could increase revenue for NPDES permits as it expands the allowable use of onsite residential sewage discharging

disposal systems to any county with a county onsite waste management district (currently allowed only in Allen County).

**Explanation of Local Expenditures:** *County Onsite Waste Management District:* The bill authorizes the county executives of two or more counties to establish a single onsite waste management district by entering into an interlocal cooperation agreement. Workload could increase for counties that choose to enter into such agreements.

*Local Health Departments:* The bill would increase workload and expenditures for any local health department that establishes a permitting program for onsite residential sewage discharging disposal systems. The bill may also increase workload for local health departments, as it allows them to establish requirements for the issuance of holding tank permits. If a local health department chooses to issue holding tank permits, they would be required to report to IDEM certain information (the content and frequency determined by the ERB or IDEM, if rules or guidelines are set).

*Wetland Classification:* If the bill causes wetlands to change in class level, then local governmental entities may have a reduction in compensatory mitigation expenses for restoring or replacing wetland areas that are lost due to actions of the local governmental entity.

**Explanation of Local Revenues:** *Local Health Departments:* The bill could increase permit fee revenue for local health departments for the issuing of permits for onsite residential sewage discharging disposal systems and permits for holding tanks.

**State Agencies Affected:** Department of Environmental Management; Environmental Rules Board; Department of Health Technical Review Panel.

**Local Agencies Affected:** Local health departments; county officials; county onsite waste management districts.

**Information Sources:** Indiana Department of Health, Onsite Sewage Systems Program and Testing Laboratories;

<https://www.in.gov/health/eph/onsite-sewage-systems-program/>;

<https://www.in.gov/health/laboratories/chemistry-laboratories/environmental-chemistry/>;

<https://www.in.gov/health/laboratories/files/CERTIFIED-IN-STATE-LABS.pdf>;

<https://www.in.gov/idem/wetlands/information-about/section-401-water-quality-certification/>;

<https://www.in.gov/idem/wetlands/information-about/state-regulated-wetlands-program/>;

<https://www.in.gov/idem/wetlands/information-about/state-regulated-wetlands-program/frequently-asked-questions/>;

<https://www.in.gov/idem/wetlands/information-about/section-401-water-quality-certification/frequently-asked-questions/>;

<https://www.in.gov/idem/wetlands/information-about/wetland-mitigation-banking/>.

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