

HOUSE BILL No. 1432

DIGEST OF INTRODUCED BILL

Citations Affected: IC 13-23.

Synopsis: Underground petroleum storage tank liability fund. Requires the administrator of the department of environmental management (IDEM) to reimburse a claimant from the underground petroleum storage tank excess liability fund (ELTF) for compensation paid by the claimant to technicians for services performed in preparation of the claimant's ELTF claim. Prohibits IDEM from issuing or using a nonrule policy document that interprets or supplements the rules of the underground storage tank financial assurance board concerning the ELTF. Requires IDEM to permanently withdraw a particular nonrule policy document concerning ELTF claims. Requires IDEM to establish a system through which underground storage tank registration fees may be paid by a tank owner or a tank owner's representative through a secure connection over the Internet or through other electronic means.

Effective: July 1, 2017.

Eberhart

January 17, 2017, read first time and referred to Committee on Environmental Affairs.



First Regular Session of the 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.

HOUSE BILL No. 1432

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 13-23-9-1.5, AS ADDED BY P.L.96-2016,
2 SECTION 33, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2017]: Sec. 1.5. (a) The administrator may pay ELTF claims
4 only for costs that:
5 (1) are reasonable and cost effective; and
6 (2) result from **or reimburse the claimant for** the following:
7 (A) Work performed for site characterization.
8 (B) Development and implementation of a corrective action
9 plan that:
10 (i) is approved by the commissioner under rules adopted by
11 the environmental rules board; and
12 (ii) has not been suspended.
13 (C) Work performed as part of an emergency response
14 necessary to abate an immediate threat of harm to human
15 health, property, or the environment.
16 (D) Third party indemnification claims submitted in
17 accordance with section 3 of this chapter.



- 1 (E) Reasonable attorney's fees incurred in defense of third
 2 party claims.
 3 (F) Releases that occurred on or after April 1, 1988.
 4 **(G) Compensation paid by the claimant to technicians for**
 5 **services performed in preparation of the claimant's ELTF**
 6 **claim.**
 7 (b) The administrator may also pay ELTF claims for costs not
 8 described in subsection (a) if allowed under rules adopted by the
 9 financial assurance board.
 10 SECTION 2. IC 13-23-11-7, AS AMENDED BY P.L.96-2016,
 11 SECTION 40, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 12 JULY 1, 2017]: Sec. 7. (a) The board shall do the following:
 13 (1) Adopt rules under IC 4-22-2 and IC 13-14-9 necessary to do
 14 the following:
 15 (A) Carry out the duties of the board under this article.
 16 (B) Establish standards and procedures under which:
 17 (i) eligible parties may submit ELTF claims; and
 18 (ii) the administrator of the ELTF may pay ELTF claims.
 19 (C) Establish standards for determining the reasonableness and
 20 cost effectiveness of corrective action for purposes of
 21 reimbursement from the ELTF under IC 13-23-9-1.5(a)(1).
 22 (D) Establish standards for priorities in the payment of ELTF
 23 claims, including a priority for claims associated with releases
 24 from USTs that pose an immediate and significant threat to the
 25 environment.
 26 (2) Take testimony and receive a written report at every meeting
 27 of the board from the commissioner or the commissioner's
 28 designee regarding the financial condition and operation of the
 29 ELTF, including:
 30 (A) a detailed breakdown of contractual and administrative
 31 expenses the department is claiming from the ELTF under
 32 IC 13-23-7-1(a)(4); and
 33 (B) a claims statistics report consisting of:
 34 (i) the status and amounts of claims submitted to the ELTF;
 35 and
 36 (ii) ELTF claims payments made.
 37 Testimony shall be taken and a written report shall be received
 38 under this subdivision at every meeting of the board. However,
 39 the testimony and written report are not required more than one
 40 (1) time during any thirty (30) day period.
 41 (3) Consult with the department on administration of the ELTF in
 42 developing uniform policies and procedures for revenue



- 1 collection and claims administration of the ELTF.
- 2 (b) The department shall consult with the board on administration
3 of the ELTF. The consultation must include evaluation of alternative
4 means of administering the ELTF in a cost effective and efficient
5 manner.
- 6 (c) At each meeting of the board, the department shall provide the
7 board with a written report on the financial condition and operation of
8 the ELTF.
- 9 **(d) The department may not issue or use a nonrule policy
10 document described in IC 13-14-1-11.5 that interprets or
11 supplements the rules adopted under this section concerning the
12 ELTF.**
- 13 SECTION 3. IC 13-23-12-8 IS ADDED TO THE INDIANA CODE
14 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
15 1, 2017]: **Sec. 8. The department shall:**
- 16 **(1) establish a system through which fees due under this
17 chapter may be paid through a secure connection over the
18 Internet or through other electronic means; and**
- 19 **(2) accept the payment of fees under this chapter through the
20 system described in subdivision (1) from:**
- 21 **(A) the owner of an underground storage tank or
22 underground petroleum storage tank; or**
- 23 **(B) a representative of the owner of an underground
24 storage tank or underground petroleum storage tank.**
- 25 SECTION 4. [EFFECTIVE JULY 1, 2017] **(a) The department of
26 environmental management:**
- 27 **(1) shall permanently withdraw; and**
- 28 **(2) may not use;**
- 29 **the nonrule policy document number WASTE-0068-NPD effective
30 September 15, 2016, entitled "ELTF Task Descriptions for
31 Purposes of Labor Reimbursement".**
- 32 **(b) This SECTION expires January 1, 2019.**

