

## **IC 13-18-8**

### **Chapter 8. Compliance With Orders**

#### **IC 13-18-8-1**

##### **Final order**

Sec. 1. A person upon whom a final order is served under the water pollution control laws shall take the steps that are necessary to comply with the final order.

*As added by P.L.1-1996, SEC.8.*

#### **IC 13-18-8-2**

##### **Compliance by municipality; bond issue**

Sec. 2. (a) If the offender is a municipal corporation, the cost of:

- (1) acquisition, construction, repair, alteration, or extension of the necessary plants, machinery, or works; or
- (2) taking other steps that are necessary to comply with the order;

shall be paid out of money on hand available for these purposes or out of the general money of the municipal corporation not otherwise appropriated.

(b) If there is not sufficient money on hand or unappropriated, the necessary money shall be raised by the issuance of bonds. The bond issue is subject only to the approval of the department of local government finance (before July 1, 2008).

*As added by P.L.1-1996, SEC.8. Amended by P.L.90-2002, SEC.367; P.L.224-2007, SEC.103; P.L.146-2008, SEC.421.*

#### **IC 13-18-8-3**

##### **Issuance of bonds as direct obligation of municipal corporation**

Sec. 3. If the estimated cost of the steps necessary for a municipal corporation to comply with a final order is great enough that the bond issue necessary to finance the project would not raise the total outstanding bonded indebtedness of the municipal corporation in excess of the constitutional limit, the necessary bonds:

- (1) may be issued as a direct obligation of the municipal corporation; and
- (2) may be retired by a general tax levy against all the property within the limit of the municipal corporation listed and assessed for taxation.

*As added by P.L.1-1996, SEC.8.*

#### **IC 13-18-8-4**

##### **Revenue bonds**

Sec. 4. (a) Subject to subsection (b), if:

- (1) the amount of the bonds necessary to be issued would raise the total outstanding bonded indebtedness of the municipal corporation above the constitutional limitation; or
- (2) the municipal corporation determines against the issuance of direct obligation bonds;

the municipal corporation shall issue revenue bonds and provide for

the retirement of the bonds in the same manner and subject to the same conditions provided for the issuance and retirement of bonds in IC 36-9-23 to the extent that the provisions of that statute are applicable and not in conflict with any of the express provisions of the water pollution control laws.

(b) IC 36-9-23-12 does not apply to bond issues proposed by a municipal corporation to comply with a final order issued under the authority of the water pollution control laws or IC 13-1-3 (before its repeal) and objections or submission to the qualified voters of the municipal corporation:

- (1) may not be authorized; and
- (2) if objections are made, do not operate to justify or excuse failure to comply with the final order.

*As added by P.L.1-1996, SEC.8.*

### **IC 13-18-8-5**

#### **Sanitary fund**

Sec. 5. The money made available by the issuance of either direct obligation bonds or revenue bonds as provided by the water pollution control laws or IC 13-1-3 (before its repeal):

- (1) constitutes a sanitary fund; and
- (2) shall be used for no other purpose than for carrying out an order issued under the water pollution control laws or IC 13-1-3 (before its repeal).

*As added by P.L.1-1996, SEC.8.*

### **IC 13-18-8-6**

#### **Municipal pollution control works; governing law**

Sec. 6. (a) Subject to subsection (b):

- (1) the construction, acquisition, improvement, equipment, custody, operation, repair, and maintenance of a plant, machinery, or works by a municipal corporation in compliance with a final order of the commissioner, other than the financing; and
- (2) the rights, powers, and duties of the municipal corporation and the respective officers and departments of the municipal corporation, whether the plant, machinery, or works is financed by the issuance of revenue or direct obligation bonds;

is governed by IC 36-9-23 to the extent that the provisions of IC 36-9-23 are applicable and do not conflict with any of the express provisions of the water pollution control laws.

(b) IC 36-9-23-12 does not apply to the construction, acquisition, equipping, improvement, repair, or maintenance of a plant, machinery, or works by any municipal corporation in compliance with a final order issued under the water pollution control laws or IC 13-1-3 before its repeal, and the objections or submission to the qualified voters of the municipal corporation:

- (1) may not be authorized; and
- (2) if objections are made, do not operate to justify or excuse failure to comply with the final order.

(c) IC 36-9-23 may not be construed to allow the municipal corporation or any of the officers of the municipal corporation discretion in the manner of complying with the order since complying with the order is mandatory.

*As added by P.L.1-1996, SEC.8.*

#### **IC 13-18-8-7**

##### **Failure to comply with final order**

Sec. 7. Failure of:

- (1) a municipal corporation; or
- (2) the board of directors or other governing body of a private corporation, association, or other legal entity;

to provide for the financing and construction of the works that are necessary to carry out a final order issued under the water pollution control laws or IC 13-1-3 (before its repeal) by appropriate ordinance or resolution constitutes failure to begin appropriate action or proceedings to comply with the order.

*As added by P.L.1-1996, SEC.8.*

#### **IC 13-18-8-8**

##### **Extensions of time; penalties**

Sec. 8. (a) The commissioner may extend the time fixed in a final order issued under the water pollution control laws or IC 13-1-3 (before its repeal) within which any offender is ordered to correct or abate a condition of pollution of any water upon written petition filed with the department not less than thirty (30) days before the time fixed in the order if it appears that:

- (1) a good faith effort to comply with the order is being made; and
- (2) it will be impossible for the offender to complete the project of work undertaken within the time fixed.

(b) A person who fails or refuses to correct or abate the polluted condition in compliance with the order:

- (1) within the time fixed; or
- (2) within the time additionally granted under this section;

is subject to the penalties imposed by IC 13-30-4, IC 13-30-5, and IC 13-30-8, and may be subject to criminal prosecution under IC 13-30-10.

*As added by P.L.1-1996, SEC.8. Amended by P.L.137-2007, SEC.10.*

#### **IC 13-18-8-9**

##### **Violations**

Sec. 9. A person who fails to discharge a duty imposed upon the person by the water pollution control laws commits a Class B misdemeanor.

*As added by P.L.1-1996, SEC.8.*