

First Regular Session of the 123rd General Assembly (2023)

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 2022 Regular Session of the General Assembly.

## HOUSE ENROLLED ACT No. 1639

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AN ACT to amend the Indiana Code concerning natural resources.

*Be it enacted by the General Assembly of the State of Indiana:*

SECTION 1. IC 14-8-2-48, AS AMENDED BY P.L.282-2019, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 48. (a) "Commission", except as provided in this section, refers to the natural resources commission.

(b) "Commission", for purposes of IC 14-13-1, has the meaning set forth in IC 14-13-1-1.

(c) "Commission", for purposes of IC 14-13-2, has the meaning set forth in IC 14-13-2-2.

(d) "Commission", for purposes of IC 14-13-4, has the meaning set forth in IC 14-13-4-1.

(e) "Commission", for purposes of IC 14-13-5, has the meaning set forth in IC 14-13-5-1.

(f) "Commission", for purposes of IC 14-13-6, has the meaning set forth in IC 14-13-6-2.

(g) "Commission", for purposes of IC 14-13-9, has the meaning set forth in IC 14-13-9-2.

(h) "Commission", for purposes of IC 14-20-11, has the meaning set forth in IC 14-20-11-1.

(i) "Commission", for purposes of IC 14-28-4, has the meaning set forth in IC 14-28-4-1.

(j) "Commission", for purposes of IC 14-30-2, has the meaning set

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forth in IC 14-30-2-2.

(k) "Commission", for purposes of IC 14-30-3, has the meaning set forth in IC 14-30-3-2.

(l) "Commission", for purposes of IC 14-30-4, has the meaning set forth in IC 14-30-4-2.

**(m) "Commission", for purposes of IC 14-30.5, has the meaning set forth in IC 14-30.5-1-2.**

~~(m)~~ (n) "Commission", for purposes of IC 14-33-20, has the meaning set forth in IC 14-33-20-2.

SECTION 2. IC 14-8-2-68.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: **Sec. 68.3. "Designated watershed", for purposes of IC 14-30.5, has the meaning set forth in IC 14-30.5-1-3.**

SECTION 3. IC 14-8-2-86.2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: **Sec. 86.2. "Executive", for purposes of IC 14-30-3-33 and IC 14-30.5, has the meaning set forth in IC 14-30.5-1-4.**

SECTION 4. IC 14-8-2-131.6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: **Sec. 131.6. "Indiana business", for purposes of IC 14-30.5, has the meaning set forth in IC 14-30.5-1-5.**

SECTION 5. IC 14-8-2-192.2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: **Sec. 192.2. "Out-of-state business", for purposes of IC 14-30.5, has the meaning set forth in IC 14-30.5-1-6.**

SECTION 6. IC 14-8-2-242.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: **Sec. 242.1. "Resident of Indiana", for purposes of IC 14-30.5, has the meaning set forth in IC 14-30.5-1-7.**

SECTION 7. IC 14-8-2-275.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: **Sec. 275.1. "Surface water outlet", for purposes of IC 14-30.5, has the meaning set forth in IC 14-30.5-1-8.**

SECTION 8. IC 14-8-2-279.8 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: **Sec. 279.8. "Taxable parcel", for purposes of IC 14-30.5, has the meaning set forth in IC 14-30.5-1-9.**

SECTION 9. IC 14-8-2-310, AS AMENDED BY P.L.106-2012, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: **Sec. 310. (a) "Watershed", for purposes of IC 14-25 through IC 14-29, means an area:**



(1) from which water drains to a common point; and

(2) for:

(A) a watercourse, that is measured to the mouth of the watercourse; and

(B) any part of a watercourse, that is measured to the farthest downstream point in question.

(b) For purposes of IC 14-13-2, "watershed" has the meaning set forth in IC 14-13-2-3.8.

**(c) For purposes of IC 14-30.5, "watershed" has the meaning set forth in IC 14-30.5-1-10.**

SECTION 10. IC 14-30-2-25 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: **Sec. 25. (a) The commission:**

**(1) may; but**

**(2) is not required to;**

**consider a proposal to transform the commission from a river basin commission subject to this chapter into a watershed development commission subject to IC 14-30.5.**

**(b) For the commission to be transformed from a river basin commission subject to this chapter into a watershed development commission subject to IC 14-30.5:**

**(1) the county executives of all participating counties:**

**(A) must approve the proposal described in subsection (a); and**

**(B) must adopt substantively identical ordinances that set forth the information required by IC 14-30.5-2-1(b), including, for the purposes of IC 14-30.5-2-0.5, the designated watershed within which the proposed watershed development commission would exercise its powers; and**

**(2) a majority of the voting members of the commission must vote in favor of the transformation of the commission into a watershed development commission in accordance with the ordinances adopted under subdivision (1)(B) and the provisions of this section.**

**(c) For the county executive of a participating county to approve a proposal described in subsection (a) under subsection (b)(1)(A), at least two (2) of the three (3) members of the county executive must vote in favor of the proposal.**

**(d) If a member of the county executive of a participating county has designated another individual under section 10 of this chapter to perform the member's duties on the commission, the**



individual designated to perform the duties of the member of the county executive may vote under subsection (b)(2) on the proposal described in subsection (a).

(e) If the county executives of all participating counties approve a proposal described in subsection (a) under subsection (b)(1)(A) and adopt substantively identical ordinances under subsection (b)(1)(B), a majority of the voting members of the commission vote in favor of the transformation of the commission into a watershed development commission under subsection (b)(2), and the natural resources commission approves the transformation of the commission into a watershed development commission with the purposes set forth in the ordinances adopted under subsection (b)(1)(B), the following apply:

(1) The commission shall notify the natural resources commission and the department of the approval of the proposal.

(2) The officers of the commission elected under section 11 of this chapter shall take the actions necessary and appropriate to the transformation of the commission from a river basin commission subject to this chapter into a watershed development commission subject to IC 14-30.5.

(3) The board of the watershed development commission consists of the following:

(A) The director of the department or the director's designee.

(B) The county surveyor of each county participating in the commission.

(C) An individual other than the county surveyor representing each county participating in the commission, appointed by the county executive.

(D) Either:

(i) one (1) individual appointed to represent each second class city that is located in a participating county and within the Maumee River basin; or

(ii) if a participating county does not include a second class city that is located within the Maumee River basin, one (1) individual appointed to represent the municipality that has the largest population of all municipalities that are located in the participating county and within the Maumee River basin.

An individual appointed to represent a second class city under item (i) shall be appointed by the board of storm



water management (as described in IC 8-1.5-5-4) of the second class city or, if the second class city has no board of storm water management, by the executive of the second class city. An individual appointed under item (ii) to represent the municipality that has the largest population of all municipalities that are located in the participating county and within the Maumee River basin shall be appointed by the board of storm water management (as described in IC 8-1.5-5-4) of the municipality or, if the municipality has no board of storm water management, by the executive of the municipality.

- (4) The director of the department or the director's designee:
- (A) shall advise the commission on the transformation of the commission into a watershed development commission subject to IC 14-30.5; and
  - (B) when the board of the watershed development commission is formed, shall assume the position on the board of the watershed development commission specified in IC 14-30.5-4-1(a)(1).
- (5) The watershed development commission board may not meet until the natural resources commission has given the approval referred to in this subsection. Upon the convening of the first meeting under IC 14-30.5-4 of the board of the watershed development commission:
- (A) the Maumee River basin commission ceases to exist as a separate municipal corporation under this chapter;
  - (B) the Maumee watershed development commission is established as a public body corporate and politic under IC 14-30.5;
  - (C) the participating counties of the Maumee River basin commission become member counties of the Maumee watershed development commission under IC 14-30.5; and
  - (D) each participating county of the Maumee River basin commission is authorized to appoint an individual under IC 14-30.5-4-1 to represent the county on the board of the Maumee watershed development commission.
- (f) If established under this section, the Maumee watershed development commission:
- (1) is a continuation of;
  - (2) retains the property and rights of; and
  - (3) is responsible for the actions and subject to the liabilities of;



the former Maumee River basin commission.

(g) If established under this section, the Maumee watershed development commission has all of the powers and duties of a watershed development commission under IC 14-30.5 in the areas of the watershed of the Maumee River and the tributaries of the Maumee River that are within the boundaries of the member counties of the Maumee watershed development commission. For the purposes of IC 14-30.5, the areas of the watershed of the Maumee River and the tributaries of the Maumee River that are within the boundaries of the member counties of the Maumee watershed development commission comprise the designated watershed of the Maumee watershed development commission.

(h) If the Maumee watershed development commission is established under this section, the board of the Maumee watershed development commission shall appoint an executive director under IC 14-30.5-4-2(e). An individual who was executive director of the Maumee River basin commission may be appointed executive director of the Maumee watershed development commission under this subsection.

(i) If the Maumee watershed development commission is established under this section, all property, records, and funds of the former Maumee River basin commission:

- (1) become property, records, and funds of the Maumee watershed development commission; and
- (2) shall be transmitted to the Maumee watershed development commission not more than sixty (60) days after the appointment of the executive director under subsection (h).

SECTION 11. IC 14-30-3-33 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 33. (a) The commission:

- (1) may; but
- (2) is not required to;

consider a proposal to transform the commission from a river basin commission subject to this chapter into a watershed development commission subject to IC 14-30.5.

(b) For the commission to be transformed from a river basin commission subject to this chapter into a watershed development commission subject to IC 14-30.5:

- (1) the county executives of all participating counties:
  - (A) must approve the proposal described in subsection (a);
 and



**(B) must adopt substantively identical ordinances that set forth the information required by IC 14-30.5-2-1(b), including, for the purposes of IC 14-30.5-2-0.5, the designated watershed within which the proposed watershed development commission would exercise its powers; and**

**(2) a majority of the voting members of the commission must vote in favor of the transformation of the commission into a watershed development commission in accordance with the ordinances adopted under subdivision (1)(B) and the provisions of this section.**

**(c) For the county executive of a participating county to approve a proposal described in subsection (a) under subsection (b)(1)(A), at least two (2) of the three (3) members of the county executive must vote in favor of the proposal.**

**(d) If a member of the county executive of a participating county has designated another individual under section 8(2) of this chapter to fill the member's position on the commission, the individual designated to fill the member's position may vote under subsection (b)(2) on the proposal described in subsection (a).**

**(e) If the county executives of all participating counties approve a proposal described in subsection (a) under subsection (b)(1)(A) and adopt substantively identical ordinances under subsection (b)(1)(B), a majority of the voting members of the commission vote in favor of the transformation of the commission into a watershed development commission under subsection (b)(2), and the natural resources commission approves the transformation of the commission into a watershed development commission with the purposes set forth in the ordinances adopted under subsection (b)(1)(B), the following apply:**

**(1) The commission shall notify the natural resources commission and the department of the approval of the proposal.**

**(2) The officers of the commission elected under section 11 of this chapter shall take the actions necessary and appropriate to the transformation of the commission from a river basin commission subject to this chapter into a watershed development commission subject to IC 14-30.5.**

**(3) The board of the watershed development commission consists of the following:**

**(A) The director of the department or the director's designee.**



**(B) The county surveyor of each county participating in the commission.**

**(C) An individual other than the county surveyor representing each county participating in the commission, appointed by the county executive.**

**(D) Either:**

**(i) one (1) individual appointed to represent each second class city that is located in a participating county and within the St. Joseph River basin; or**

**(ii) if a participating county does not include a second class city that is located within the St. Joseph River basin, one (1) individual appointed to represent the municipality that has the largest population of all municipalities that are located in the participating county and within the St. Joseph River basin.**

**An individual appointed to represent a second class city under item (i) shall be appointed by the board of storm water management (as described in IC 8-1.5-5-4) of the second class city or, if the second class city has no board of storm water management, by the executive of the second class city. An individual appointed under item (ii) to represent the municipality that has the largest population of all municipalities that are located in the participating county and within the St. Joseph River basin shall be appointed by the board of storm water management (as described in IC 8-1.5-5-4) of the municipality or, if the municipality has no board of storm water management, by the executive of the municipality.**

**(4) The director of the department or the director's designee:**

**(A) shall advise the commission on the transformation of the commission into a watershed development commission subject to IC 14-30.5; and**

**(B) when the board of the watershed development commission is formed, shall assume the position on the board of the watershed development commission specified in IC 14-30.5-4-1(a)(1).**

**(5) The watershed development commission board may not meet until the natural resources commission has given the approval referred to in this subsection. Upon the convening of the first meeting under IC 14-30.5-4 of the board of the watershed development commission:**

**(A) the St. Joseph River basin commission ceases to exist**





as a separate municipal corporation under this chapter;  
**(B) the St. Joseph watershed development commission is established as a public body corporate and politic under IC 14-30.5;**

**(C) the participating counties of the St. Joseph River basin commission become member counties of the St. Joseph watershed development commission under IC 14-30.5; and**

**(D) each participating county of the St. Joseph River basin commission is authorized to appoint an individual described in subdivision (3)(C) to represent the county on the board of the St. Joseph watershed development commission.**

**(f) If established under this section, the St. Joseph watershed development commission:**

**(1) is a continuation of;**

**(2) retains the property and rights of; and**

**(3) is responsible for the actions and subject to the liabilities of;**

**the former St. Joseph River basin commission.**

**(g) If established under this section, the St. Joseph watershed development commission has all of the powers and duties of a watershed development commission under IC 14-30.5 in the areas of the watershed of the St. Joseph River and the tributaries of the St. Joseph River that are within the boundaries of the member counties of the St. Joseph watershed development commission. For the purposes of IC 14-30.5, the areas of the watershed of the St. Joseph River and the tributaries of the St. Joseph River that are within the boundaries of the member counties of the St. Joseph watershed development commission comprise the designated watershed of the St. Joseph watershed development commission.**

**(h) If the St. Joseph watershed development commission is established under this section, the board of the St. Joseph watershed development commission shall appoint an executive director under IC 14-30.5-4-2(e). An individual who was executive director of the St. Joseph River basin commission may be appointed executive director of the St. Joseph watershed development commission under this subsection.**

**(i) If the St. Joseph watershed development commission is established under this section, the following apply:**

**(1) All property, records, and funds of the St. Joseph River basin commission:**

**(A) become property, records, and funds of the St. Joseph**



watershed development commission; and

(B) shall be transmitted to the St. Joseph watershed development commission not more than sixty (60) days after the appointment of the executive director under subsection (h).

(2) Any advisory committee appointed under section 13 of this chapter is dissolved.

(3) The individuals serving as members of the St. Joseph River basin commission under section 8 of this chapter become the members of the advisory committee of the St. Joseph watershed development commission. Upon the expiration under section 9 of this chapter or other termination of the term of office of an individual described in this subdivision, the office of the individual shall be filled by a successor according to subdivision (4).

(4) As provided in subdivision (3) and IC 14-30.5-4-5(c)(3), upon the termination of the terms of office of all of the individuals who become members of the advisory committee under subdivision (3), the advisory committee of the St. Joseph watershed development commission shall consist of the following members:

(A) From each participating county the following:

(i) The executive of each second class city that is located in the participating county and within the St. Joseph River basin, or the executive's designee.

(ii) If the county does not have a second class city that is located within the St. Joseph River basin, the executive of the municipality that has the largest population of all municipalities that are located in the participating county and within the St. Joseph River basin, or the executive's designee.

(B) A member of the county executive or the county executive's designee from each participating county.

(C) The county health officer or the health officer's designee from each participating county.

(D) The county surveyor of each participating county or the county surveyor's designee.

(E) A representative of each soil and water conservation district that:

(i) is subject to IC 14-32;

(ii) includes territory in a participating county; and

(iii) includes territory in the St. Joseph river basin.



**(F) The director of the St. Joseph watershed development commission or the director's designee.**

SECTION 12. IC 14-30-4-20 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: **Sec. 20. (a) The commission:**

- (1) may; but**
- (2) is not required to;**

**consider a proposal to transform the commission from a river basin commission subject to this chapter into a watershed development commission subject to IC 14-30.5.**

**(b) For the commission to be transformed from a river basin commission subject to this chapter into a watershed development commission subject to IC 14-30.5:**

- (1) the county executives of all participating counties:**
  - (A) must approve the proposal described in subsection (a); and**
  - (B) must adopt substantively identical ordinances that set forth the information required by IC 14-30.5-2-1(b), including, for the purposes of IC 14-30.5-2-0.5, the designated watershed within which the proposed watershed development commission would exercise its powers; and**
- (2) a majority of the voting members of the commission must vote in favor of the transformation of the commission into a watershed development commission in accordance with the ordinances adopted under subdivision (1)(B) and the provisions of this section.**

**(c) For the county executive of a participating county to approve a proposal described in subsection (a) under subsection (b)(1)(A), at least two (2) of the three (3) members of the county executive must vote in favor of the proposal.**

**(d) If a member of the county executive of a participating county has designated another individual under section 9(a)(1) of this chapter to perform the member's duties on the commission, the individual designated to perform the member's duties may vote under subsection (b)(2) on the proposal described in subsection (a).**

**(e) If the county executives of all participating counties approve a proposal described in subsection (a) under subsection (b)(1)(A) and adopt substantively identical ordinances under subsection (b)(1)(B), a majority of the voting members of the commission vote in favor of the transformation of the commission into a watershed development commission under subsection (b)(2), and the natural**



resources commission approves the transformation of the commission into a watershed development commission with the purposes set forth in the ordinances adopted under subsection (b)(1)(B), the following apply:

(1) The commission shall notify the natural resources commission and the department of the approval of the proposal.

(2) The officers of the commission elected under section 10 of this chapter shall take the actions necessary and appropriate to the transformation of the commission from a river basin commission subject to this chapter into a watershed development commission subject to IC 14-30.5.

(3) The board of the watershed development commission consists of the following:

(A) The director of the department or the director's designee.

(B) The county surveyor of each county participating in the commission.

(C) An individual other than the county surveyor representing each county participating in the commission, appointed by the county executive.

(D) Either:

(i) one (1) individual appointed to represent each second class city that is located in a participating county and within the upper Wabash River basin; or

(ii) if a participating county does not include a second class city that is located within the upper Wabash River basin, one (1) individual appointed to represent the municipality that has the largest population of all municipalities that are located in the participating county and within the upper Wabash River basin.

An individual appointed to represent a second class city under item (i) shall be appointed by the board of storm water management (as described in IC 8-1.5-5-4) of the second class city or, if the second class city has no board of storm water management, by the executive of the second class city. An individual appointed under item (ii) to represent the municipality that has the largest population of all municipalities that are located in the participating county and within the upper Wabash River basin shall be appointed by the board of storm water management (as described in IC 8-1.5-5-4) of the municipality or, if the



municipality has no board of storm water management, by the executive of the municipality.

(4) The director of the department or the director's designee: (A) shall advise the commission on the transformation of the commission into a watershed development commission subject to IC 14-30.5; and

(B) when the board of the watershed development commission is formed, shall assume the position on the board of the watershed development commission specified in IC 14-30.5-4-1(a)(1).

(5) The watershed development commission board may not meet until the natural resources commission has given the approval referred to in this subsection. Upon the convening of the first meeting under IC 14-30.5-4 of the board of the watershed development commission:

(A) the Upper Wabash River basin commission ceases to exist as a separate municipal corporation under this chapter;

(B) the Upper Wabash watershed development commission is established as a public body corporate and politic under IC 14-30.5;

(C) the participating counties of the Upper Wabash River basin commission become member counties of the Upper Wabash watershed development commission under IC 14-30.5; and

(D) each participating county of the Upper Wabash River basin commission is authorized to appoint an individual described in subdivision (3)(C) to represent the county on the board of the Upper Wabash watershed development commission.

(f) If established under this section, the Upper Wabash watershed development commission:

(1) is a continuation of;

(2) retains the property and rights of; and

(3) is responsible for the actions and subject to the liabilities of;

the former Upper Wabash River basin commission.

(g) If established under this section, the Upper Wabash watershed development commission has all of the powers and duties of a watershed development commission under IC 14-30.5 in the areas of the watershed of the Wabash River and the tributaries of the Wabash River that are within the boundaries of



the member counties of the Upper Wabash watershed development commission. For the purposes of IC 14-30.5, the areas of the watershed of the Wabash River and the tributaries of the Wabash River that are within the boundaries of the member counties of the Upper Wabash watershed development commission comprise the designated watershed of the Upper Wabash watershed development commission.

(h) If the Upper Wabash watershed development commission is established under this section, the board of the Upper Wabash watershed development commission shall appoint an executive director under IC 14-30.5-4-2(e). An individual who was executive director of the Upper Wabash River basin commission may be appointed executive director of the Upper Wabash watershed development commission under this subsection.

(i) If the Upper Wabash watershed development commission is established under this section, all property, records, and funds of the former Upper Wabash River basin commission:

- (1) become property, records, and funds of the Upper Wabash watershed development commission; and
- (2) shall be transmitted to the Upper Wabash watershed development commission not more than sixty (60) days after the appointment of the executive director under subsection (h).

SECTION 13. IC 14-30.5 IS ADDED TO THE INDIANA CODE AS A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]:

**ARTICLE 30.5. WATERSHED DEVELOPMENT COMMISSIONS**

**Chapter 1. Definitions**

**Sec. 1.** The definitions in this chapter apply throughout this article.

**Sec. 2.** "Commission" refers to a watershed development commission established under this article.

**Sec. 3.** "Designated watershed" means the watershed:

- (1) within which a watershed development commission may exercise the powers conferred by this article; and
- (2) after which a watershed development commission is named under IC 14-30.5-2-3(c).

**Sec. 4.** "Executive" refers to the following:

- (1) Except as provided in subdivision (2), in a county subject to IC 36-2-2, the county board of commissioners (as described in IC 36-2-2-2).



(2) In a county subject to IC 36-2-3.5, the county council (as described in IC 36-2-3.5-3).

Sec. 5. "Indiana business" has the meaning set forth in IC 5-22-15-20.5.

Sec. 6. "Out-of-state business" refers to a business that is not an Indiana business.

Sec. 7. (a) "Resident of Indiana" means an individual:

(1) who is at least eighteen (18) years of age; and

(2) who:

(A) holds a certificate of title for a motor vehicle registered in Indiana;

(B) is registered to vote in Indiana;

(C) is the parent or guardian of a child enrolled in an elementary or a secondary school located in Indiana; or

(D) except as provided in subsection (b), derives more than one-half (1/2) of the individual's gross income (as defined in Section 61 of the Internal Revenue Code) from sources in Indiana, according to the provisions applicable to determining the source of adjusted gross income that are set forth in IC 6-3-2-2.

(b) An individual who meets the condition set forth in subsection (a)(2)(D) is not a resident of Indiana if a preponderance of the evidence concerning the conditions set forth in subsection (a)(2)(A) through (a)(2)(C) proves that the individual is not a resident of Indiana.

Sec. 8. "Surface water outlet" means the river, stream, lake, impoundment, or other body of water into which the water in a watershed naturally drains.

Sec. 9. "Taxable parcel" means a parcel of real property that is not exempt from property taxation under IC 6-1.1-10.

Sec. 10. "Watershed" means the area of land from which water naturally drains into a particular surface water outlet.

Sec. 11. A reference in this article to "water infrastructure" or "water infrastructure purposes" excludes any drinking water project in a county, city, or town that is located inside or outside of a commission's designated watershed, unless the context clearly requires otherwise.

## Chapter 2. Establishing or Joining a Watershed Development Commission

Sec. 0.5. (a) Notwithstanding subsection (b), this chapter does not authorize the creation of a watershed development commission if the area in which the watershed development commission could



exercise the powers conferred by this article would include any part of the area in which a river basin commission established under:

- (1) IC 14-30-2;
- (2) IC 14-30-3; or
- (3) IC 14-30-4;

is authorized to exercise its powers.

(b) This section does not prohibit:

- (1) the transformation of the Maumee River basin commission into a watershed development commission under IC 14-30-2-25;
- (2) the transformation of the St. Joseph River basin commission into a watershed development commission under 14-30-3-33; or
- (3) the transformation of the upper Wabash River basin commission into a watershed development commission under IC 14-30-4-20;

on the grounds that the watershed development commission resulting from the transformation would be authorized to exercise its powers in all or any part of the area in which the transformed river basin commission was authorized to exercise its powers before the transformation.

Sec. 1. (a) The executive of a county may adopt an ordinance designating the county as a member of a proposed watershed development commission if at least ten percent (10%) of the surface of the designated watershed, as identified in the ordinance under subsection (b)(1), lies within the boundaries of the county.

(b) An ordinance adopted under this section must do the following:

- (1) Identify the designated watershed within which the proposed commission would exercise its powers by:
  - (A) identifying the surface water outlet of the designated watershed; and
  - (B) setting forth the geographic boundaries of the entire area, both inside and outside the county, from which water drains into the surface water outlet.
- (2) Specify the area or areas of the county that are inside the geographic boundaries of the designated watershed, as identified under subdivision (1).
- (3) Set forth the flood damage reduction, drainage, storm water management, recreation, or water infrastructure purposes for which the proposed commission would be





established.

(4) State the flood damage reduction, drainage, storm water management, recreation, or water infrastructure needs of the county that would be addressed through the county's membership in the proposed commission.

(c) A county executive that adopts an ordinance under this section designating a county as a member of a proposed watershed development commission must submit to the natural resources commission:

- (1) a copy of the ordinance; and
- (2) a written request for the natural resources commission's recognition of the proposed commission under section 2 of this chapter.

Sec. 2. (a) If one (1) county executive submits an ordinance and a written request for recognition of a proposed watershed development commission under section 1(c) of this chapter, the natural resources commission shall decide under subsections (c) through (e) whether to recognize the proposed commission.

(b) If the county executives of two (2) or more counties submit ordinances and written requests under section 1(c) of this chapter for recognition of a single proposed watershed development commission empowered to act in a single designated watershed that includes areas within both or all of the counties:

(1) the natural resources commission may not decide whether to recognize the proposed commission unless the provisions of the ordinances submitted under section 1(c)(1) of this chapter are essentially identical in:

- (A) identifying the designated watershed; and
- (B) stating the purposes of the proposed commission; and
- (2) if the natural resources commission determines that the requirement set forth in subdivision (1) is met, the natural resources commission shall decide under subsections (c) through (e) whether to recognize the proposed commission.

(c) Before making a decision whether to recognize a proposed commission under this section, the natural resources commission shall hold at least one (1) public hearing concerning the proposed commission in each county whose executive submitted an ordinance and a written request for recognition of the proposed commission under section 1(c) of this chapter. Any interested person attending a public hearing held under this subsection shall have the right to:

- (1) address the natural resources commission; and



(2) provide written comments;  
 on whether the proposed commission should be established. An officer or employee of the division of hearings of the natural resources commission may, on behalf of the natural resources commission, convene the meeting, record the testimony given, and receive the written comments provided.

(d) The natural resources commission shall give notice of a public hearing to be held under subsection (c):

(1) by publication at least one (1) time in one (1) newspaper of general circulation in the county in which the hearing will be held; and

(2) through the website of the natural resources commission.

(e) In deciding whether to recognize a proposed commission, the natural resources commission shall determine the answer to each of the following questions:

(1) Are the purposes for which the proposed commission would be established, as set forth in the ordinance or ordinances under section 1(b)(3) of this chapter, within the purposes set forth in IC 14-30.5-3-1 for which a watershed development commission may be established?

(2) Do the purposes of the proposed commission, as set forth in the ordinance or ordinances under section 1(b)(3) of this chapter, correspond to legitimate flood damage reduction, drainage, storm water management, recreation, or water infrastructure needs of each county seeking establishment of the commission, as set forth under section 1(b)(4) of this chapter?

(3) Is it reasonable to expect that the establishment of a commission having powers under this article only in the county or counties from which the ordinance or ordinances were submitted under section 1(c)(1) of this chapter would effectively address the flood damage reduction, drainage, storm water management, recreation, or water infrastructure needs of each county that submitted an ordinance under section 1(c)(1) of this chapter?

(4) Is it reasonable to expect that the establishment of a commission that has powers under this article only in the area or areas inside the geographic boundaries of the designated watershed would effectively address the flood damage reduction, drainage, storm water management, recreation, or water infrastructure needs of each county that submitted an ordinance under section 1(c)(1) of this chapter?



**(5) Is the territory of the proposed commission at least as large as the entirety of the same eight (8) digit U.S. Geological Survey hydrologic unit code?**

**(6) Has a regional watershed study or watershed management plan been conducted in consultation with the Indiana finance authority and the department of natural resources that assesses water use, water quality, drinking water systems, wastewater management systems, storm water management, flood control, drainage management, recreational uses, natural resources, and water infrastructure needs of the watershed of the proposed commission? If so, can the establishment of the proposed commission be expected to address the needs identified in that study or management plan?**

**(f) If:**

**(1) one (1) county's executive submits an ordinance and a request for recognition of a proposed commission under section 1(c) of this chapter; and**

**(2) the natural resources commission answers all of the questions set forth in subsection (e) favorably;**

**the natural resources commission shall issue an order recognizing the watershed development commission and recognizing the county referred to in subdivision (1) as a member of the watershed development commission.**

**(g) If:**

**(1) executives of two (2) or more counties submit ordinances and requests for recognition of a proposed watershed development commission under section 1(c) of this chapter; and**

**(2) the natural resources commission answers all of the questions set forth in subsection (e) favorably with respect to at least one (1) of the counties;**

**the natural resources commission shall issue an order recognizing the watershed development commission and recognizing as a member of the watershed development commission each county with respect to which the natural resources commission answered all of the questions set forth in subsection (e) favorably.**

**(h) If the natural resources commission does not answer all of the questions set forth in subsection (e) favorably with respect to a county, the natural resources commission shall:**

**(1) inform the executive of the county in writing of its decision; and**



(2) specify in the writing the reason or reasons for each unfavorable answer.

(i) The action of the natural resources commission under this section in declining to recognize a proposed watershed development commission for a particular watershed does not preclude the later submission of one (1) or more new ordinances and written requests for recognition of a proposed watershed development commission for the same designated watershed.

(j) An action of the natural resources commission under this section declining to recognize a particular county as a member of a watershed development commission does not preclude the later submission of:

- (1) another ordinance and written request under section 1(c) of this chapter for recognition of the county as a member of another proposed watershed development commission; or
- (2) an ordinance and written request under section 4 or 5 of this chapter proposing the county for membership in an established watershed development commission.

Sec. 3. (a) Upon the natural resources commission's issuance of an order recognizing a proposed watershed development commission under section 2 of this chapter:

- (1) the commission is established as a public body corporate and politic; and
- (2) each county recognized as a member of the commission under section 2(f) or 2(g) of this chapter becomes a member of the commission.

(b) A county recognized as a member of a commission under section 2(f) or 2(g) of this chapter is entitled to representation on the board of the commission under IC 14-30.5-4-1.

(c) A watershed development commission established under this chapter shall be named after the surface water outlet of the commission's designated watershed, in the following style: "(Name of Surface Water Outlet) Watershed Development Commission".

Sec. 4. (a) The executive of a county may adopt an ordinance proposing the county for membership in an established watershed development commission if at least ten percent (10%) of the surface of the commission's designated watershed lies within the boundaries of the county.

(b) An ordinance adopted under this section must do the following:

- (1) Identify the existing commission in which the county seeks membership.



(2) Specify the area or areas of the county that are within the designated watershed of the existing commission.

(3) State the flood damage reduction, drainage, storm water management, recreation, or water infrastructure needs of the county that would be addressed through the county's membership in the existing commission.

(c) A county executive that adopts an ordinance under this section proposing the county for membership in an existing commission must submit to the natural resources commission:

(1) a copy of the ordinance; and

(2) a written request for the natural resources commission's recognition of the county as a member of the existing commission.

**Sec. 5. (a)** The executive of a county may adopt an ordinance proposing the county for membership in an established watershed development commission even if less than ten percent (10%) of the surface of the designated watershed of the commission lies within the boundaries of the county.

(b) An ordinance adopted under this section must do the following:

(1) Identify the existing commission in which the county seeks membership.

(2) Specify the area or areas of the county that are within the designated watershed of the existing commission.

(3) State the flood damage reduction, drainage, storm water management, recreation, or water infrastructure needs of the county that would be addressed through the county's membership in the existing commission.

(c) A county executive that adopts an ordinance under this section proposing the county for membership in an existing watershed development commission must submit to the natural resources commission:

(1) a copy of the ordinance; and

(2) a written request for the natural resources commission's recognition of the county as a member of the existing commission.

(d) If a county to which this section applies becomes a member of an existing commission, the county is subject to section 7(c) of this chapter.

**Sec. 6. (a)** A county to which section 4 or 5 of this chapter applies may not become a member of an existing watershed development commission unless:



- (1) the executives of all of the counties that are members of the existing commission adopt ordinances accepting the county as a member county of the existing commission; and
- (2) the natural resources commission issues an order under this section recognizing the county as a member county of the existing commission.

(b) Before making a decision whether to recognize a county as a member county of an existing commission under this section, the natural resources commission shall hold at least one (1) public hearing in the county concerning the proposed membership of the county in the existing commission. Any interested person attending a public hearing held under this subsection shall have the right to:

- (1) address the natural resources commission; and
- (2) provide written comments;

concerning the proposed membership of the county in the existing commission. An officer or employee of the division of hearings of the natural resources commission may, on behalf of the natural resources commission, convene the meeting, record the testimony given, and receive the written comments provided.

(c) The natural resources commission shall give notice of a public hearing to be held under subsection (b):

- (1) by publication at least one (1) time in one (1) newspaper of general circulation in the county in which the hearing will be held; and
- (2) through the website of the natural resources commission.

(d) In deciding whether to recognize a county to which section 4 or 5 of this chapter applies as a member of an existing commission, the natural resources commission shall determine the answer to each of the following questions:

- (1) Do the stated purposes for which the watershed development commission was established correspond to the flood damage reduction, drainage, storm water management, recreation, or water infrastructure needs of the county, as stated under section 4(b)(3) or 5(b)(3) of this chapter?
- (2) Is it reasonable to expect that the county's flood damage reduction, drainage, storm water management, recreation, or water infrastructure needs, as stated under section 4(b)(3) or 5(b)(3) of this chapter, would be addressed more effectively if the county were a member of the existing commission than those needs have previously been addressed?
- (3) Would the county's membership in the existing commission diminish the effectiveness of the existing



watershed development commission in addressing the flood damage reduction, drainage, storm water management, recreation, or water infrastructure needs of other member counties?

(4) Is the territory of the proposed commission at least as large as the entirety of the same eight (8) digit U.S. Geological Survey hydrologic unit code?

(5) Has a regional watershed study or watershed management plan been conducted in consultation with Indiana finance authority and the department of natural resources that assesses water use, water quality, drinking water systems, wastewater management systems, storm water management, flood control, drainage management, recreational uses, natural resources, and water infrastructure needs of the watershed of the proposed commission? If so, can the establishment of the proposed commission be expected to address the needs identified in that study or management plan?

(e) If the natural resources commission answers all of the questions set forth in subsection (d) favorably, the natural resources commission shall issue an order recognizing the membership of the county in the existing commission.

(f) If the natural resources commission does not answer all of the questions set forth in subsection (d) favorably, the natural resources commission shall inform the executive of the county to which section 4 or 5 of this chapter applies in writing of its decision and specify in the writing the reason or reasons for each unfavorable answer.

(g) An action of the natural resources commission under this section declining to recognize a county as a member of an established watershed development commission does not preclude the later submission of another ordinance under section 4 or 5 of this chapter seeking membership for the county in an existing commission.

Sec. 7. (a) If:

(1) the executives of all of the counties that are members of an existing watershed development commission adopt ordinances under section 6(a)(1) of this chapter accepting a county to which section 4 or 5 of this chapter applies as a member county of the existing commission; and

(2) the natural resources commission recognizes the county as a member of the watershed development commission under



section 6(e) of this chapter;  
the county becomes a member of the existing commission upon the satisfaction of subdivision (1) or (2), whichever is satisfied later.

(b) If a county to which section 4 of this chapter applies becomes a member of an existing commission under this section, the county is entitled to representation on the board of the existing commission under IC 14-30.5-4-1.

(c) If a county to which section 5 of this chapter applies becomes a member of an existing commission under this section, the county is not entitled to representation on the board of the existing commission under IC 14-30.5-4-1 unless:

- (1) the natural resources commission, in the order issued under section 6(e) of this chapter recognizing the county as a member of the existing watershed development commission, recommends that the county be granted representation on the board of the existing commission; and
- (2) the executives of all of the counties that are members of the existing commission adopt ordinances granting the county representation on the board of the commission.

### **Chapter 3. Purposes, Powers, and Duties of a Watershed Development Commission**

**Sec. 1. (a) The flood damage reduction, drainage, storm water management, recreation, and water infrastructure purposes for which a watershed development commission may be established include the following:**

- (1) Planning, taking, and promoting action to prevent or mitigate flooding through generally accepted structural and nonstructural means, including the following:
  - (A) Bank stabilization.
  - (B) Expansion of water storage capacity.
  - (C) Erosion control.
  - (D) Sediment reduction.
  - (E) Logjam management.
  - (F) Selective construction, maintenance, and removal of berms.
  - (G) Construction of levees.
  - (H) Bridge and structure removal and replacement.
- (2) Taking and promoting action to enhance drainage in ways consistent with storm water management requirements.
- (3) Taking and promoting action to address water infrastructure needs related to flood damage reduction, storm water management, recreation, and drainage.





**(4) Setting voluntary water quality goals.**

**(b) Subject to subsection (c), the purposes for which a watershed development commission may be established, in addition to those set forth in subsection (a), may include one (1) or more purposes related to water quality within the boundaries of the designated watershed, such as:**

- (1) reducing the runoff of nutrients and soil into streams and bodies of water by promoting the use of improved ditch design and the reestablishment of strategically located wetlands; and**
- (2) reducing ground water contamination by promoting the use of improved septic system technology.**

**However, a water quality purpose, goal, or project does not convey water quality regulatory authority to a watershed development commission.**

**(c) A watershed development commission may not have a purpose described in subsection (b) unless:**

- (1) the board of the commission, in addition to developing a flood damage reduction and drainage plan under section 4 of this chapter, develops a water quality improvement plan that:**
  - (A) describes water quality problems within the boundaries of the designated watershed; and**
  - (B) proposes one (1) or more actions that the watershed development commission could take to address those problems;**
- (2) the board of the watershed development commission submits the water quality improvement plan to the natural resources commission; and**
- (3) the natural resources commission, after:**
  - (A) determining whether the water quality problems described in the water quality improvement plan truly exist within the boundaries of the watershed development commission's designated watershed; and**
  - (B) considering whether it is likely that the efforts of the watershed development commission would be a practically effective and cost effective means of addressing the water quality problems;**

**approves the commission's water quality improvement plan.**

**Sec. 2. A watershed development commission is granted powers by this chapter for the benefit of the people of Indiana and for the increase of their commerce, health, enjoyment, and prosperity. The operation, creation, development, and maintenance of the projects by a watershed development commission constitute the**



performance of essential governmental functions.

**Sec. 3.** A watershed development commission shall limit its activities to the commission's designated watershed.

**Sec. 4. (a)** The board of a watershed development commission shall develop a plan for flood damage reduction and drainage within the commission's designated watershed.

**(b)** A watershed development commission:

**(1)** subject to subsection (f), has exclusive authority to perform drainage and flood damage reduction activities within the channel of:

**(A)** the river that is the surface water outlet of the commission's designated watershed; or

**(B)** each river that flows directly into the surface water outlet, if the surface water outlet of the commission's designated watershed is a lake or impoundment;

and within the area extending seventy-five (75) feet from the top of each bank of the river;

**(2)** may participate in the flood control program established under IC 5-1.2-13; and

**(3)** may acquire interests in land, including easements, for the commission's use in:

**(A)** providing flood storage; and

**(B)** the construction of levees and other flood damage reduction improvements.

**(c)** The drainage and flood damage reduction activities that a watershed development commission has exclusive authority to perform under subsection (b)(1) include the following:

**(1)** Bank stabilization.

**(2)** Tree removal.

**(3)** Construction and operation of sand traps.

**(4)** Channel reconstruction.

**(5)** Sediment removal.

**(6)** The acquisition, construction, and maintenance of access roads to levees and the channel of a river to which subsection (b)(1) applies.

**(7)** Other actions that the board of the watershed development commission reasonably considers necessary to carry out this chapter.

**(d)** Subject to subsection (f), a county must obtain the authorization of the board of the watershed development commission before performing any:

**(1)** construction work; or



**(2) drainage or flood damage reduction activities; within the area described in subsection (b)(1) unless the work must be performed in response to an emergency.**

**(e) Subsection (f) applies if a governmental entity other than the watershed development commission has authority:**

**(1) to perform one (1) or more activities set forth in subsection (c) within any part of the watershed development commission's designated watershed; and**

**(2) to collect a tax or an assessment or to impose another duty of financial contribution upon the owners of property located in any part of the watershed development commission's designated watershed.**

**(f) The board of a watershed development commission may enter into an interlocal cooperation agreement under IC 36-1-7 with a governmental entity described in subsection (e):**

**(1) under which:**

**(A) the watershed development commission will perform, and the other governmental entity will relinquish its authority to perform, the activity or activities set forth in subsection (c) within the watershed development commission's designated watershed; and**

**(B) the governmental entity will cease collecting the tax or assessment or imposing the other duty of financial contribution described in subsection (e)(2) for performing the activity or activities set forth in subsection (c) within the watershed development commission's designated watershed; or**

**(2) under which:**

**(A) the governmental entity will continue to perform, and the watershed development commission will relinquish its authority to perform, the activity or activities set forth in subsection (c) within the part of the watershed development commission's designated watershed in which the governmental entity performs those activities;**

**(B) the governmental entity will continue collecting the tax or assessment or imposing the other duty of financial contribution described in subsection (e)(2) in the part of the watershed development commission's designated watershed in which the governmental entity performs the activity or activities set forth in subsection (c); and**

**(C) the watershed development commission will:**

**(i) relinquish its authority to receive; or**



(ii) appropriately reduce;  
 the annual special assessments or support by optional methods to which the watershed development commission is otherwise entitled under IC 14-30.5-5 with respect to taxable parcels of real property located in the part of the watershed development commission's designated watershed in which the governmental entity performs the activity or activities set forth in subsection (c).

**Sec. 5.** The board of a watershed development commission may do the following:

- (1) Conduct all studies necessary for the performance of the board's duties.
- (2) Publicize, advertise, and distribute reports on the commission's purposes, objectives, and findings.
- (3) Provide recommendations in matters related to the commission's functions and objectives to:
  - (A) a political subdivision located in the designated watershed; or
  - (B) any public or private agency; upon request from the political subdivision or agency.
- (4) Upon request, act as a coordinating agency for programs and activities of other public and private agencies that are related to the commission's objectives.

**Sec. 6. (a)** A watershed development commission may receive grants and appropriations from the following:

- (1) Federal, state, and local governments.
- (2) Individuals, foundations, and other organizations.

(b) A watershed development commission may enter into agreements or contracts regarding the acceptance or use of grants and appropriations for the purpose of carrying out the commission's activities under this chapter.

(c) A watershed development commission must expend money appropriated to the commission for the purpose for which the money is appropriated.

**Sec. 7. (a)** A watershed development commission may:

- (1) acquire and dispose of real or personal property by grant, gift, purchase, lease, devise, or otherwise; and
- (2) hold, use, improve, maintain, operate, own, manage, or lease as lessor or lessee real or personal property or any interest in that property;

for the purposes set forth in this chapter.

(b) A watershed development commission may exercise the



powers granted by this section for the development of the water resources of the commission's designated watershed.

**Sec. 8.** A watershed development commission may sue and be sued.

**Sec. 9. (a)** A watershed development commission, with the approval of:

- (1) the affected regional planning commission established under IC 36-7-7 or IC 36-7-7.6; and
- (2) the department;

may enter into agreements with agencies in another state that are responsible for the planning or development of flood damage reduction and drainage measures in the part of the commission's designated watershed that is located in the other state.

**(b)** If a watershed development commission has water quality purposes under section 1(b) of this chapter, the commission, with the approval of:

- (1) the affected regional planning commission established under IC 36-7-7 or IC 36-7-7.6; and
- (2) the department;

may enter into agreements with agencies in another state that are responsible for water quality in the part of the commission's designated watershed that is located in the other state. However, an agreement under this subsection does not convey water quality regulatory authority to a watershed development commission.

#### **Chapter 4. Governance of a Watershed Development Commission**

**Sec. 1. (a)** The board of a watershed development commission consists of the following individuals:

- (1) The director of the department or the director's designee.
- (2) The county surveyor of each county that:
  - (A) is a member of the commission; and
  - (B) is entitled to membership on the board.
- (3) An individual other than the county surveyor representing each county that:
  - (A) is a member of the commission; and
  - (B) is entitled to membership on the board;
 appointed by the county executive.
- (4) Either:

(A) one (1) individual appointed to represent each second class city that is located in a participating county and within the designated watershed of the watershed development commission; or



**(B) if a participating county does not include a second class city that is located within the designated watershed of the watershed development commission, one (1) individual appointed to represent the municipality that has the largest population of all municipalities that are located in the participating county and within the designated watershed of the watershed development commission.**

**An individual appointed to represent a second class city under clause (A) shall be appointed by the board of storm water management (as described in IC 8-1.5-5-4) of the second class city or, if the second class city has no board of storm water management, by the executive of the second class city. An individual appointed under clause (B) to represent the municipality that has the largest population of all municipalities that are located in the participating county and within the designated watershed of the watershed development commission shall be appointed by the board of storm water management (as described in IC 8-1.5-5-4) of the municipality or, if the municipality has no board of storm water management, by the executive of the municipality.**

**All of the members of the board of a commission to which this subsection applies are voting members.**

**(b) The executive of a county described in subsection (a)(3) shall appoint the individual to represent the county on the board of the commission under subsection (a)(3). However, if the position of an individual appointed under subsection (a)(3) becomes vacant, the county surveyor of the county shall represent the county on the board under subsection (a)(3) until a new appointment is made by the county executive under subsection (a)(3).**

**(c) An individual appointed to represent a county on the board of a watershed development commission under subsection (a)(3):**

**(1) must have a background in construction, project management, flood damage reduction, drainage, or a similar professional background; and**

**(2) must reside in the county.**

**(d) The term of office of an individual appointed under subsection (a)(3):**

**(1) is four (4) years; and**

**(2) continues until the individual's successor is appointed.**

**(e) An individual appointed under subsection (a)(2) is eligible for reappointment.**

**Sec. 2. (a) The voting members of the board of a watershed**



development commission shall elect the following officers:

- (1) A chair.
- (2) A vice chair.
- (3) A secretary-treasurer.

(b) When one (1) or more additional counties that are entitled to representation on the board of a watershed development commission under IC 14-30.5-2-7(b) or IC 14-30.5-2-7(c) become members of the commission, the offices referred to in subsection (a) become vacant and the members of the board shall elect new officers under subsection (a).

(c) The term of an individual elected to an office under subsection (a) may not exceed one (1) year, but the individual is eligible for reelection.

(d) An individual elected to an office under subsection (a) shall perform the duties usually pertaining to the office.

(e) The board of a watershed development commission:

- (1) shall appoint an executive director; and
- (2) may establish and fill other offices the board considers necessary.

Sec. 3. (a) The board of a watershed development commission shall meet:

- (1) at least four (4) times per calendar year; and
- (2) on the call of either of the following:
  - (A) The chair.
  - (B) A quorum of the members of the board.

(b) A majority of the voting members of a board constitutes a quorum.

(c) The affirmative votes of a majority of the voting members of a board are required for the board to take action.

(d) A board may adopt rules for the transaction of business.

(e) A board shall keep a record of its findings, resolutions, and transactions. The record kept under this subsection is a public record open to inspection and copying under IC 5-14-3.

Sec. 4. A member of the board of a watershed development commission is not entitled to receive any compensation for performance of the member's duties except that a member is entitled to a minimum salary per diem from the watershed development commission for the member's participation in board meetings. The amount of the per diem is equal to the amount of the per diem provided under IC 4-10-11-2.1(b).

Sec. 5. (a) There is established for each watershed development commission an advisory committee to provide counsel to the board



of the commission.

(b) Except as provided in subsection (c), a watershed development commission advisory committee established under this section consists of a member or representative of the board of supervisors of the soil and water conservation district of each county that is a member of the commission, selected by the board of supervisors.

(c) If the St. Joseph watershed development commission is established under IC 14-30-3-33:

(1) the individuals serving as members of the St. Joseph River basin commission under IC 14-30-3-8 become members of the advisory committee of the St. Joseph watershed development commission;

(2) the term of office of an individual who becomes a member of the advisory committee of the St. Joseph watershed development commission under subdivision (1) is as provided in IC 14-30-3-9; and

(3) upon:

(A) the expiration under IC 14-30-3-9; or

(B) the termination under any other circumstances;

of the term of office of an individual described in subdivision (1), the office of the individual shall be filled by a successor according to IC 14-30-3-33(i)(4).

Sec. 6. (a) The board of a watershed development commission may establish an ad hoc advisory committee other than the advisory committee established under section 5 of this chapter to advise the board on one (1) or more particular subjects.

(b) The board may appoint to an ad hoc advisory committee established under this section any individual whose knowledge, experience, training, or interest enables the individual to provide counsel to the board concerning the subject or subjects referred to in subsection (a).

Sec. 7. A member of an advisory committee established under section 5 of this chapter or a member of an ad hoc advisory committee established under section 6 of this chapter is not entitled to compensation for the member's services.

#### Chapter 5. Funding of a Watershed Development Commission

Sec. 1. (a) A watershed development commission is authorized to provide special benefits to taxpayers in the designated watershed by promoting public safety and economic development that is of public use and benefit through public funds provided by:

(1) the fiscal bodies of the Indiana counties that are members





of the watershed development commission; and

(2) the special assessments that may be imposed under subsection (b) or the optional methods of supporting the watershed development commission as set forth in subsection (d).

(b) Except as provided in subsections (c) and (d), a watershed development commission may impose in the designated watershed in each calendar year an annual special assessment against each taxable parcel of real property that is located in the county and within any part of the commission's designated watershed, as follows:

(1) For a residential parcel of real property, seven dollars (\$7).

(2) For an agricultural parcel of real property, the product of:

(A) one dollar (\$1); multiplied by

(B) the number of acres in the parcel.

(3) For a commercial parcel of real property on which no structures are situated, the product of:

(A) two dollars (\$2); multiplied by

(B) the number of acres in the parcel.

(4) For a commercial parcel of real property on which at least one (1) structure is situated, fifty dollars (\$50).

(5) For an industrial or public utility parcel of real property, three hundred sixty dollars (\$360).

(c) The amounts of the special assessment set forth in subsection (b) are maximum amounts. The annual special assessment that may be imposed in a calendar year against each taxable parcel of real property that is located in the county and within the watershed development commission's designated watershed may be set by the board of the watershed development commission at amounts lower than those set forth in subsection (b). If the board of a commission determines that the anticipated financial needs of the commission in the approaching calendar year do not require the full amount of revenue that would be generated by the special assessment at the amounts set forth in subsection (b), the board, before the first of the public informational meetings held under section 2 of this chapter, may adopt a resolution providing that the special assessment for the approaching calendar year for each class of property described in subsection (b)(1) through (b)(5) will be equal to the amount set forth in subsection (b)(1) through (b)(5) for the class of property, reduced by a percentage determined by the board. The same percentage shall be used to reduce all of the



assessment amounts set forth in subsection (b)(1) through (b)(5). The board shall set the reduction percentage so as to produce revenue expected to be sufficient to meet the anticipated financial needs of the watershed development commission in the approaching calendar year.

(d) The taxable parcels of real property located in a county are not subject to the special assessment imposed by subsection (b) or (c) if the fiscal body of the county adopts a resolution opting to implement one (1) of the following methods of supporting the watershed development commission:

(1) The county may pay direct support to the watershed development commission from any resources available to the county. Direct support paid under this subdivision in a calendar year must equal at least ninety percent (90%) of the total amount that would otherwise be due in the annual special assessment against taxable parcels of real property in the county under subsection (b) or (c).

(2) The county may:

(A) impose a special assessment against one (1) or more of the classes of property to which subsection (b)(1) through (b)(5) would otherwise apply that is less than the special assessment that would otherwise apply to the class or classes of property under subsection (b) or (c);

(B) consider the factors listed in IC 36-9-27-112(a) in preparing the allocation of special assessments under clause (A) to be imposed on each property within a class of property to which subsection (b)(1) through (b)(5) would otherwise apply, and use any methods authorized by IC 36-9-27-112(b) to make determinations related to those factors; and

(C) supplement the special assessments imposed under clause (A) by paying direct support to the watershed development commission from any resources available to the county;

if the total of the special assessment imposed under clause (A) and the direct support paid under clause (C) in a calendar year at least equals the total amount that would otherwise be due in the annual special assessment against taxable parcels of real property in the county under subsection (b) or (c).

(3) The county may impose a schedule of special assessments under which:

(A) a special assessment for one (1) or more of the classes



of property described in subsection (b)(1) through (b)(5) is greater than the special assessment that would otherwise apply to the class or classes of property under subsection (b) or (c);

(B) the county may consider the factors listed in IC 36-9-27-112(a) in preparing the allocation of special assessments under clause (A) to be imposed on each property within a class of property to which subsection (b)(1) through (b)(5) would otherwise apply, and use any methods authorized by IC 36-9-27-112(b) to make determinations related to those factors; and

(C) the total amount of revenue in the calendar year from the special assessment imposed under clause (A) is greater than the total amount of revenue that would otherwise be produced by the annual special assessment against taxable parcels of real property in the county under subsection (b) or (c).

(e) Payments of direct support under subsection (d)(1) are due at the same time that special assessments would otherwise be paid to the watershed development commission under section 3(e) of this chapter.

Sec. 2. (a) Before January 1 of a calendar year in which an annual special assessment will be imposed under section 1(b) of this chapter or the watershed development commission will be supported through another method under section 1(d) of this chapter, the board of the watershed development commission must hold at least two (2) public informational meetings in each county that is a member of the watershed development commission concerning:

(1) the nature and details of the special assessment imposed under section 1(b) or 1(c) of this chapter or the support provided under section 1(d) of this chapter; and

(2) a description of:

(A) the flood damage reduction projects;

(B) the administrative needs; and

(C) if the watershed district has water quality purposes under IC 14-30.5-3-1(b), the water quality projects and actions;

for which the revenue generated from the annual special assessment imposed under section 1(b) or 1(c) of this chapter or the support provided under section 1(d) of this chapter will be used.



(b) A majority of the members of the board of the watershed development commission, including the executive director of the board and the member or members of the board who were appointed from the county in which the meeting is being held, must be present for a meeting held under subsection (a).

Sec. 3. (a) In each calendar year in which an annual special assessment will be imposed under section 1(b), 1(c), 1(d)(2), or 1(d)(3) of this chapter, the county auditor shall do the following with respect to the property tax statement of the owner of a taxable parcel that is subject to the special assessment:

- (1) Add the amount of the special assessment.
- (2) Designate the special assessment in a manner distinct from general taxes.
- (3) Indicate that the full annual assessment is due in the year in which the statement is sent to the owner of the taxable parcel.

(b) A special assessment imposed under section 1(b), 1(c), 1(d)(2), or 1(d)(3) of this chapter shall be collected in the same manner as other special assessments are collected under IC 6-1.1. However, a delinquent special assessment is not subject to enforcement under IC 6-1.1-24 and IC 6-1.1-25. The following apply to the enforcement of a special assessment:

- (1) The assessment is not the personal obligation of the owner of the taxable parcel affected by the assessment.
- (2) A special assessment constitutes a lien against the taxable parcel.
- (3) The lien described in subdivision (2) is superior to all other liens except tax liens and first lien mortgages.

(c) At the time of each annual tax settlement, the county auditor shall certify the amount of the special assessments collected.

(d) The county auditor shall do the following:

- (1) In the case of special assessments imposed under section 1(b) or 1(c) of this chapter, the county auditor shall pay the total amount of the special assessments collected under this section to the watershed development commission for deposit under section 6 of this chapter.
- (2) In the case of a county in which the fiscal body adopts a resolution to impose special assessments under section 1(d)(2) of this chapter, the county auditor shall do the following:
  - (A) Retain from the special assessments collected under this section for the county's use under section 5 of this chapter an amount equal to ten percent (10%) of the



amount that would otherwise be due under section 1(b) of this chapter in the annual special assessment against taxable parcels of real property in the county that are located within any part of the watershed development commission's designated watershed.

(B) Pay the remainder of the special assessments collected under this section to the watershed development commission for deposit under section 6 of this chapter.

(3) In the case of a county in which the fiscal body adopts a resolution to impose special assessments under section 1(d)(3) of this chapter, the county auditor shall do the following:

(A) Retain from the special assessments collected under this section the following amounts for the county's use under section 5 of this chapter:

(i) The total amount of the special assessments imposed under section 1(d)(3) of this chapter that exceeds the amount that would otherwise be due in the annual special assessment against taxable parcels of real property in the county under section 1(b) or 1(c) of this chapter.

(ii) An amount equal to ten percent (10%) of the amount that would otherwise be due in the annual special assessment against taxable parcels of real property in the county under section 1(b) or 1(c) of this chapter.

(B) Pay the remainder of the special assessments collected under this section to the watershed development commission for deposit under section 6 of this chapter.

(e) The county auditor shall make the payments to the watershed development commission required by subsection (d) on the dates of the June and December settlement and apportionment of property taxes collected under IC 6-1.1.

Sec. 4. (a) If:

(1) a county fails to pay direct support or special assessments to the watershed development commission when due under section 1(e) or 3(e) of this chapter; and

(2) more than thirty (30) days have elapsed since the due date; the watershed development commission shall notify the auditor of state of the county's failure to pay and the amount due from the county. The commission may request that the auditor of state pay the amount due from local income taxes otherwise distributable to the county under IC 6-3.6. The auditor of state shall immediately contact the county auditor and the commission to confirm whether



the county is unable to make the required payment. Upon confirming the county's inability to make the payment, the auditor of state shall deduct the amount due from the next distribution of local income taxes allocated to the county under IC 6-3.6.

(b) This section shall be interpreted liberally to ensure that the obligations of the watershed development commission are paid to the extent legally valid. However, this section does not create a debt of the state.

**Sec. 5.** A county shall use money retained under section 3(d)(2) and 3(d)(3) of this chapter for the following purposes:

(1) To improve flood storage capacity along the rivers in the designated watershed of the watershed development commission.

(2) For flood damage reduction and drainage projects within the designated watershed of the commission.

However, money may not be used for highway bridge repairs or reconstruction.

**Sec. 6. (a)** A watershed development commission shall deposit special assessments received under section 3 of this chapter into a segregated account maintained by the commission. Except as provided in subsection (b), special assessments deposited into the account may not be transferred into other accounts belonging to the commission. Money in the account may be used only for the following purposes:

(1) To pay expenses directly related to the acquisition, construction, or improvement of real property, a facility, a betterment, or an improvement constituting part of a project of the commission, including acquisition of the site for a project.

(2) To pay expenses directly related to the operation, repair, and maintenance of flood protection systems within the commission's designated watershed.

(3) To pay the annual installment and interest on a loan or other financial assistance received by the commission under IC 5-1.2-13.

(4) To pay:

(A) the compensation of:

(i) the executive director of the commission appointed under IC 14-30.5-4-2(e)(1); and

(ii) the individuals holding any other offices of the commission established under IC 14-30.5-4-2(e)(2); and

(B) other administrative expenses of the commission.



Money in the account may not be used for highway bridge repairs or reconstruction.

(b) A watershed development commission that has:

- (1) obtained easements from landowners; or
- (2) entered into contracts with landowners;

allowing the use of land for flood storage purposes shall establish an account for reimbursing the landowners for the use of their land for flood storage. The account consists of money transferred from the segregated account described in subsection (a). A commission may transfer into the account established under this subsection amounts that the board of the commission considers appropriate.

Sec. 7. (a) The counties that are members of a watershed development commission may budget, appropriate, and disburse to the commission a sum of money each year to carry out the purposes of the commission under this article. A sum disbursed to the commission under this section must be in addition to payments made to the commission under sections 1 through 3 of this chapter.

(b) Upon request from a watershed development commission, a regional planning commission established under IC 36-7-7 or IC 36-7-7.6 may:

- (1) furnish support staff needed by the watershed development commission; and
- (2) collect a reasonable charge from the watershed development commission for the staff furnished.

Sec. 8. (a) The board of a watershed development commission shall do the following:

- (1) Prepare and adopt by majority vote an annual budget for the commission.
- (2) Submit the budget to each county, municipality, or agency appropriating money for the use of the commission.

(b) After the board of a watershed development commission approves an annual budget, the commission may expend money only as budgeted unless a majority vote of the board of the commission authorizes the expenditure other than according to the budget.

(c) Any appropriated amounts remaining unexpended or unencumbered at the end of a year become part of a nonreverting cumulative fund to be held in the name of the watershed development commission. The board of a commission may authorize unbudgeted expenditures from this fund by a majority vote of the board.

(d) A watershed development commission is responsible for the



safekeeping and deposit of money it receives under this chapter. The state board of accounts shall:

- (1) prescribe the methods and forms for keeping; and
- (2) periodically audit;

the accounts, records, and books of each watershed development commission.

(e) The secretary-treasurer of the board of a watershed development commission may receive, disburse, and handle money belonging to the commission, subject to the following:

- (1) Applicable statutes.
- (2) Procedures established by the board of the commission.

#### **Chapter 6. Public Works Projects of a Watershed Development Commission**

**Sec. 1. (a) For purposes of this section, "undeveloped public land" does not include the following:**

- (1) State parks established under IC 14-19.
- (2) Nature preserves established under IC 14-31.
- (3) Other public lands that must be used for purposes other than flood damage reduction storage as a condition of:
  - (A) federal or state law; or
  - (B) funding received from federal, state, or private sources.

(b) A watershed development commission shall coordinate its flood damage reduction activities with the department and other public agencies to ensure that undeveloped public land is used for providing flood storage to the greatest extent feasible before other lands are used.

**Sec. 2. (a) Before undertaking a flood damage reduction, drainage, storm water management, recreation, or water infrastructure public works project (or, if a watershed development commission has water quality purposes under IC 14-30.5-3-1(b), a water quality public works project) that:**

- (1) may be subject to regulation under:
  - (A) IC 14-26-5; or
  - (B) IC 14-28-1; or
- (2) may require an individual permit under Section 404 of the federal Clean Water Act (33 U.S.C. 1344);

a watershed development commission shall request a review of the project through a written notification to the department's division of water (referred to as "the division" in this section). The notification may include a request to schedule an onsite field review of the project.

(b) If an onsite field review is requested under subsection (a),





the division, not more than fourteen (14) days after receiving the request, shall contact:

(1) the county surveyor of each county that is a member of the watershed development commission; and

(2) the department of environmental management;

to establish a date, time, and location for the onsite field review.

(c) An onsite field review requested under subsection (a) shall be conducted by a team consisting of:

(1) one (1) or more representatives of each county that is a member of the watershed development commission;

(2) one (1) or more representatives of the department including an engineer from the division;

(3) one (1) or more representatives of the department of environmental management; and

(4) representatives of the soil and water conservation district of each county in which the project will be conducted.

(d) Not more than thirty (30) calendar days after the completion of an onsite field review under this section, the division shall provide to the county surveyor of each county that is a member of the watershed development commission a written summary of the onsite field review. The summary must contain the following:

(1) A narrative and map defining the project location.

(2) A description of the work proposed for the project.

(3) A statement of:

(A) the conditions that the department would place on a permit for the project to mitigate any unreasonable or detrimental effects that may occur as a result of the proposed work;

(B) the conditions that the department of environmental management would place on a certification for the project under Section 401 of the federal Clean Water Act (33 U.S.C. 1341), if it is possible to ensure compliance with Section 401 by placing conditions on the certification; or

(C) both sets of conditions described in clauses (A) and (B).

Sec. 3. (a) A watershed development commission may give a preference to an Indiana business that submits a bid under this article in connection with a public works project if both of the following apply:

(1) An out-of-state business also submits a bid.

(2) The out-of-state business is a business from a state that gives public works preferences unfavorable to Indiana businesses.



**(b) A watershed development commission shall establish criteria for determining the following:**

- (1) Whether a bidder qualifies as an Indiana business.**
- (2) Whether another state's public works preference is unfavorable to Indiana businesses.**
- (3) The method by which the preference for Indiana businesses is to be computed.**

**(c) The preference that a watershed development commission gives to an Indiana business over an out-of-state business under this section may not be more favorable to the Indiana business than the preference of the state of the out-of-state business is to that state's businesses.**

**Sec. 4. (a) Each contractor entering a bid for a public works project of a watershed development commission must provide the watershed development commission with information on:**

- (1) the number of residents of Indiana who will be employed by the contractor; and**
- (2) the number of residents of Indiana who will be employed by any subcontractor of the contractor.**

**(b) The goal for a contract awarded by a watershed development commission for a public works project is to award the contract to a contractor that:**

- (1) employs residents of Indiana as at least ninety percent (90%) of the employees who work on the contract; and**
- (2) enters into subcontracts only with subcontractors who employ residents of Indiana as at least ninety percent (90%) of the employees who work on the subcontract.**



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Speaker of the House of Representatives

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President of the Senate

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President Pro Tempore

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Governor of the State of Indiana

Date: \_\_\_\_\_ Time: \_\_\_\_\_

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