

HOUSE BILL No. 1055

DIGEST OF INTRODUCED BILL

Citations Affected: IC 14-8-2; IC 14-30.5.

Synopsis: Watershed development commissions. Provides that the executives of one or more counties may adopt ordinances designating their counties as members of a proposed watershed development commission and that the watershed development commission is established as a legal entity with the counties as its members if it is recognized by the natural resources commission. Requires the natural resources commission, in deciding whether to recognize a proposed watershed development commission, to answer certain questions. Provides that a county may become a member of an established watershed development commission if its membership is accepted by the member counties and recognized by the natural resources commission. Sets forth certain flood control and drainage purposes for which a watershed development commission may be established. Requires a watershed development commission to develop a flood control and drainage plan for its designated watershed and grants a watershed development commission exclusive authority to perform drainage and flood control activities within the channel of the river that is the surface water outlet of the commission's designated watershed. Provides for a watershed development commission to be governed by a board. Provides for the funding of a watershed development commission through an annual special assessment against each taxable parcel of real property located: (1) in a member county; and (2) within the designated watershed of the watershed development commission. However, authorizes a member county to adopt any of three alternative methods of funding the watershed development commission. Authorizes a watershed development commission to give preference to an Indiana business over an out-of-state business in contracting for public works.

Effective: July 1, 2021.

Aylesworth

January 4, 2021, read first time and referred to Committee on Natural Resources.



First Regular Session of the 122nd General Assembly (2021)

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 2020 Regular Session of the General Assembly.

HOUSE BILL No. 1055

A BILL FOR AN ACT to amend the Indiana Code concerning natural resources.

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

- 1 SECTION 1. IC 14-8-2-48, AS AMENDED BY P.L.282-2019,
2 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2021]: Sec. 48. (a) "Commission", except as provided in this
4 section, refers to the natural resources commission.
5 (b) "Commission", for purposes of IC 14-13-1, has the meaning set
6 forth in IC 14-13-1-1.
7 (c) "Commission", for purposes of IC 14-13-2, has the meaning set
8 forth in IC 14-13-2-2.
9 (d) "Commission", for purposes of IC 14-13-4, has the meaning set
10 forth in IC 14-13-4-1.
11 (e) "Commission", for purposes of IC 14-13-5, has the meaning set
12 forth in IC 14-13-5-1.
13 (f) "Commission", for purposes of IC 14-13-6, has the meaning set
14 forth in IC 14-13-6-2.
15 (g) "Commission", for purposes of IC 14-13-9, has the meaning set
16 forth in IC 14-13-9-2.
17 (h) "Commission", for purposes of IC 14-20-11, has the meaning set



- 1 forth in IC 14-20-11-1.
- 2 (i) "Commission", for purposes of IC 14-28-4, has the meaning set
- 3 forth in IC 14-28-4-1.
- 4 (j) "Commission", for purposes of IC 14-30-2, has the meaning set
- 5 forth in IC 14-30-2-2.
- 6 (k) "Commission", for purposes of IC 14-30-3, has the meaning set
- 7 forth in IC 14-30-3-2.
- 8 (l) "Commission", for purposes of IC 14-30-4, has the meaning set
- 9 forth in IC 14-30-4-2.
- 10 **(m) "Commission", for purposes of IC 14-30.5, has the meaning**
- 11 **set forth in IC 14-30.5-1-2.**
- 12 ~~(m)~~ **(n) "Commission", for purposes of IC 14-33-20, has the**
- 13 **meaning set forth in IC 14-33-20-2.**
- 14 SECTION 2. IC 14-8-2-68.3 IS ADDED TO THE INDIANA CODE
- 15 AS A **NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY**
- 16 **1, 2021]: Sec. 68.3. "Designated watershed", for purposes of**
- 17 **IC 14-30.5, has the meaning set forth in IC 14-30.5-1-3.**
- 18 SECTION 3. IC 14-8-2-86.2 IS ADDED TO THE INDIANA CODE
- 19 AS A **NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY**
- 20 **1, 2021]: Sec. 86.2. "Executive", for purposes of IC 14-30.5, has the**
- 21 **meaning set forth in IC 14-30.5-1-4.**
- 22 SECTION 4. IC 14-8-2-131.6 IS ADDED TO THE INDIANA
- 23 CODE AS A **NEW SECTION TO READ AS FOLLOWS**
- 24 **[EFFECTIVE JULY 1, 2021]: Sec. 131.6. "Indiana business", for**
- 25 **purposes of IC 14-30.5, has the meaning set forth in IC 14-30.5-1-5.**
- 26 SECTION 5. IC 14-8-2-192.2 IS ADDED TO THE INDIANA
- 27 CODE AS A **NEW SECTION TO READ AS FOLLOWS**
- 28 **[EFFECTIVE JULY 1, 2021]: Sec. 192.2. "Out-of-state business",**
- 29 **for purposes of IC 14-30.5, has the meaning set forth in**
- 30 **IC 14-30.5-1-6.**
- 31 SECTION 6. IC 14-8-2-242.1 IS ADDED TO THE INDIANA
- 32 CODE AS A **NEW SECTION TO READ AS FOLLOWS**
- 33 **[EFFECTIVE JULY 1, 2021]: Sec. 242.1. "Resident of Indiana", for**
- 34 **purposes of IC 14-30.5, has the meaning set forth in IC 14-30.5-1-7.**
- 35 SECTION 7. IC 14-8-2-275.1 IS ADDED TO THE INDIANA
- 36 CODE AS A **NEW SECTION TO READ AS FOLLOWS**
- 37 **[EFFECTIVE JULY 1, 2021]: Sec. 275.1. "Surface water outlet", for**
- 38 **purposes of IC 14-30.5, has the meaning set forth in IC 14-30.5-1-8.**
- 39 SECTION 8. IC 14-8-2-279.8 IS ADDED TO THE INDIANA
- 40 CODE AS A **NEW SECTION TO READ AS FOLLOWS**
- 41 **[EFFECTIVE JULY 1, 2021]: Sec. 279.8. "Taxable parcel", for**
- 42 **purposes of IC 14-30.5, has the meaning set forth in IC 14-30.5-1-9.**



1 SECTION 9. IC 14-8-2-310, AS AMENDED BY P.L.106-2012,
 2 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 3 JULY 1, 2021]: Sec. 310. (a) "Watershed", for purposes of IC 14-25
 4 through IC 14-29, means an area:

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

6 (2) for:

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

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

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

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

15 SECTION 10. IC 14-30.5 IS ADDED TO THE INDIANA CODE
 16 AS A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY
 17 1, 2021]:

18 **ARTICLE 30.5. WATERSHED DEVELOPMENT**
 19 **COMMISSIONS**

20 **Chapter 1. Definitions**

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

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

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

26 **(1) after which a watershed development commission is**
 27 **named under IC 14-30.5-2-3(c); and**

28 **(2) within which a watershed development commission may**
 29 **exercise its powers.**

30 **Sec. 4. "Executive" has the meaning set forth in IC 36-1-2-5.**

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

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

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

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

37 **(2) who:**

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

40 **(B) is registered to vote in Indiana;**

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



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

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

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

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

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

19 Chapter 2. Establishing a Watershed Development Commission

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

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

27 (1) Identify the designated watershed within which the
 28 proposed watershed development commission would exercise
 29 its powers by:

30 (A) identifying the surface water outlet of the designated
 31 watershed; and

32 (B) setting forth the geographic boundaries of the entire
 33 area, both inside and outside the county, from which water
 34 drains into the surface water outlet.

35 (2) Specify the area or areas of the county that are inside the
 36 geographic boundaries of the designated watershed.

37 (3) Set forth the flood control, drainage, storm water
 38 management, or water infrastructure purposes for which the
 39 watershed development commission would be established.

40 (4) State the flood control, drainage, storm water
 41 management, or water infrastructure needs of the county that
 42 would be addressed through the county's membership in the



1 watershed development commission.

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

6 (1) a copy of the ordinance; and

7 (2) a written request for the natural resources commission's
8 recognition of the proposed watershed development
9 commission under section 2 of this chapter.

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

16 (b) If the county executives of two (2) or more counties submit
17 ordinances and written requests under section 1(c) of this chapter
18 for recognition of a single proposed watershed development
19 commission empowered to act in a single designated watershed
20 that includes areas within both or all of the counties, the natural
21 resources commission may not decide under subsections (c)
22 through (e) whether to recognize the watershed development
23 commission unless the provisions of the ordinances:

24 (1) identifying the designated watershed; and

25 (2) stating the purposes of the proposed watershed
26 development commission;

27 are essentially identical.

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

36 (1) address the natural resources commission; and

37 (2) provide written comments;

38 on whether the proposed watershed development commission
39 should be established. An officer or employee of the division of
40 hearings of the natural resources commission may, on behalf of the
41 natural resources commission, convene the meeting, record the
42 testimony given, and receive the written comments provided.



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

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

6 (2) through the Internet web site of the natural resources
7 commission.

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

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

16 (2) Do the purposes of the proposed watershed development
17 commission as set forth in the ordinance or ordinances under
18 section 1(b)(3) of this chapter correspond to legitimate flood
19 control, drainage, storm water management, or water
20 infrastructure needs of each county, as set forth under section
21 1(b)(4) of this chapter?

22 (3) Is it reasonable to expect that the establishment of a
23 watershed development commission:

24 (A) having powers only in the county or counties from
25 which the ordinance or ordinances have been submitted
26 under section 1(c)(1) of this chapter; and

27 (B) within the county or counties referred to in clause (A),
28 having powers only in the area or areas inside the
29 geographic boundaries of the designated watershed;
30 would effectively address the flood control, drainage, storm
31 water management, or water infrastructure needs of each
32 county?

33 (f) If:

34 (1) one (1) county's executive submitted an ordinance and a
35 request for recognition of a proposed watershed development
36 commission under section 1 of this chapter; and

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

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



1 (g) If:

2 (1) executives of two (2) or more counties submitted
3 ordinances and requests for recognition of a proposed
4 watershed development commission under section 1 of this
5 chapter; and

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

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

14 (h) If the natural resources commission does not answer all of
15 the questions set forth in subsection (e) favorably with respect to
16 a county, the natural resources commission shall inform the
17 executive of the county in writing of its decision and specify in the
18 writing the reason or reasons for each unfavorable answer.

19 (i) An action of the natural resources commission under this
20 section declining to recognize a proposed watershed development
21 commission for a particular designated watershed does not
22 preclude the later submission of a new ordinance and written
23 request for recognition of a proposed watershed development
24 commission for the same designated watershed.

25 (j) An action of the natural resources commission under this
26 section declining to recognize a particular county as a member of
27 a watershed development commission does not preclude the later
28 submission of a new ordinance and written request for recognition
29 of the county as a member of a watershed development commission
30 under section 4 or 5 of this chapter.

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

34 (1) the watershed development commission is established as
35 a legal entity; and

36 (2) each county recognized as a member of the commission
37 under section 2(f) or 2(g) of this chapter becomes a member
38 of the commission.

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



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

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

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

12 (1) Identify the existing watershed development commission.

13 (2) Specify the area or areas of the county that are within the
14 designated watershed of the watershed development
15 commission.

16 (3) State the flood control, drainage, storm water
17 management, or water infrastructure needs of the county that
18 would be addressed through the county's membership in the
19 watershed development commission.

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

24 (1) a copy of the ordinance; and

25 (2) a written request for the natural resources commission's
26 recognition of the county as a member of the watershed
27 development commission.

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

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

36 (1) Identify the existing or proposed watershed development
37 commission in which the county seeks membership.

38 (2) Specify the area or areas of the county that are within the
39 designated watershed of the existing or proposed watershed
40 development commission.

41 (3) State the flood control, drainage, storm water
42 management, or water infrastructure needs of the county that



- 1 would be addressed through the county's membership in the
 2 watershed development commission.
- 3 (c) A county executive that adopts an ordinance under this
 4 section proposing the county for membership in an existing
 5 watershed development commission must submit to the natural
 6 resources commission:
- 7 (1) a copy of the ordinance; and
 8 (2) a written request for the natural resources commission's
 9 recognition of the county as a member of the watershed
 10 development commission.
- 11 Sec. 6. (a) For a county to which section 4 or 5 of this chapter
 12 applies to become a member of an established watershed
 13 development commission:
- 14 (1) the executives of all of the counties that are members of
 15 the established watershed development commission must
 16 adopt ordinances accepting the county as a member county of
 17 the watershed development commission; and
 18 (2) the natural resources commission must issue an order
 19 under this section recognizing the county as a member county
 20 of the watershed development commission.
- 21 (b) Before making a decision whether to recognize a county as
 22 a member county of an established watershed development
 23 commission under this section, the natural resources commission
 24 shall hold at least one (1) public hearing in the county concerning
 25 the proposed membership of the county in the commission. Any
 26 interested person attending a public hearing held under this
 27 subsection shall have the right to:
- 28 (1) address the natural resources commission; and
 29 (2) provide written comments;
 30 concerning the proposed membership of the county in the
 31 commission. An officer or employee of the division of hearings of
 32 the natural resources commission may, on behalf of the natural
 33 resources commission, convene the meeting, record the testimony
 34 given, and receive the written comments provided.
- 35 (c) The natural resources commission shall give notice of a
 36 public hearing to be held under subsection (b):
- 37 (1) by publication at least one (1) time in one (1) newspaper of
 38 general circulation in the county in which the hearing will be
 39 held; and
 40 (2) through the Internet web site of the natural resources
 41 commission.
- 42 (d) In deciding whether to recognize a county to which section



1 4 or 5 of this chapter applies as a member of an established
 2 watershed development commission, the natural resources
 3 commission shall determine the answer to each of the following
 4 questions:

5 (1) Do the stated purposes for which the watershed
 6 development commission was established correspond to the
 7 flood control, drainage, storm water management, or water
 8 infrastructure needs of the county, as stated under section
 9 4(b)(3) or 5(b)(3) of this chapter?

10 (2) Is it reasonable to expect that the county's flood control,
 11 drainage, storm water management, or water infrastructure
 12 needs, as stated under section 4(b)(3) or 5(b)(3) of this
 13 chapter, would be addressed more effectively if the county
 14 were a member of the watershed development commission
 15 than the needs have been addressed before the county sought
 16 membership in the watershed development commission?

17 (3) Would the county's membership in the watershed
 18 development commission address the county's flood control,
 19 drainage, storm water management, or water infrastructure
 20 needs without diminishing the effectiveness of the watershed
 21 development commission in addressing the flood control,
 22 drainage, storm water management, or water infrastructure
 23 needs of other member counties?

24 (e) If the natural resources commission answers all of the
 25 questions set forth in subsection (d) favorably, the natural
 26 resources commission shall recognize the membership of the
 27 county in the established watershed development commission.

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

34 (g) An action of the natural resources commission under this
 35 section declining to recognize a county as a member of an
 36 established watershed development commission does not preclude
 37 the later submission of a new ordinance under section 4 or 5 of this
 38 chapter by the county seeking membership in the established
 39 watershed development commission.

40 Sec. 7. (a) If:

41 (1) the executives of all of the counties that are members of an
 42 established watershed development commission have adopted



1 ordinances accepting a county to which section 4 or 5 of this
 2 chapter applies as a member county of the watershed
 3 development commission; and
 4 (2) the natural resources commission recognizes the county as
 5 a member of the watershed development commission under
 6 section 6 of this chapter;
 7 the county becomes a member of the watershed development
 8 commission upon the natural resources commission's recognition
 9 of the county as a member of the watershed development
 10 commission under section 6 of this chapter.

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

16 (c) If a county to which section 5 of this chapter applies becomes
 17 a member of an established watershed development commission
 18 under this section, the county is not entitled to representation on
 19 the board of the watershed development commission under
 20 IC 14-30.5-4-1 unless:

- 21 (1) the executives of all of the counties that are members of
 22 the watershed development commission adopt ordinances
 23 granting the county representation on the board of the
 24 watershed development commission; and
- 25 (2) the natural resources commission, in the order recognizing
 26 the county as a member of the watershed development
 27 commission, recommends that the county be granted
 28 representation on the board of the watershed development
 29 commission.

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

32 **Sec. 1. A watershed development commission may be**
 33 **established for the following purposes:**

- 34 (1) **Planning, taking, and promoting action to prevent or**
 35 **mitigate flooding through generally accepted structural and**
 36 **nonstructural means, including the following:**
 - 37 (A) **Bank stabilization.**
 - 38 (B) **Expansion of water storage capacity.**
 - 39 (C) **Erosion control.**
 - 40 (D) **Sediment reduction.**
 - 41 (E) **Logjam management.**
 - 42 (F) **Selective construction, maintenance, and removal of**



- 1 berms.
- 2 **(G) Construction of levees.**
- 3 **(H) Bridge and structure removal and replacement.**
- 4 **(2) Taking and promoting action to enhance drainage in ways**
5 **consistent with storm water management requirements.**
- 6 **(3) Taking and promoting action to address water**
7 **infrastructure needs related to flood control and drainage.**
- 8 **Sec. 2. A watershed development commission is granted powers**
9 **by this chapter for the benefit of the people of Indiana and for the**
10 **increase of their commerce, health, enjoyment, and prosperity. The**
11 **operation, creation, development, and maintenance of the projects**
12 **by a watershed development commission constitute the**
13 **performance of essential governmental functions.**
- 14 **Sec. 3. A watershed development commission shall limit its**
15 **activities to the commission's designated watershed.**
- 16 **Sec. 4. (a) The board of a watershed development commission**
17 **shall develop a plan for flood control and drainage within the**
18 **commission's designated watershed.**
- 19 **(b) A watershed development commission:**
- 20 **(1) has exclusive authority to perform drainage and flood**
21 **control activities within the channel of:**
- 22 **(A) the river that is the surface water outlet of the**
23 **commission's designated watershed; or**
- 24 **(B) each river that flows directly into the surface water**
25 **outlet, if the surface water outlet of the commission's**
26 **designated watershed is a lake or impoundment;**
27 **and within the area extending seventy-five (75) feet from the**
28 **top of each bank of the river;**
- 29 **(2) may participate in the flood control program established**
30 **under IC 5-1.2-13; and**
- 31 **(3) may acquire interests in land, including easements, for the**
32 **commission's use in:**
- 33 **(A) providing flood storage; and**
- 34 **(B) the construction of levees and other flood control**
35 **improvements.**
- 36 **(c) The drainage and flood control activities that a commission**
37 **has exclusive authority to perform under subsection (b)(1) include**
38 **the following:**
- 39 **(1) Bank stabilization.**
- 40 **(2) Tree removal.**
- 41 **(3) Construction and operation of sand traps.**
- 42 **(4) Channel reconstruction.**



- 1 **(5) Sediment removal.**
- 2 **(6) The acquisition, construction, and maintenance of access**
- 3 **roads to levees and the channel of a river to which subsection**
- 4 **(b)(1) applies.**
- 5 **(7) Other actions that the commission reasonably considers**
- 6 **necessary to carry out this chapter.**
- 7 **(d) A county must obtain the authorization of the commission**
- 8 **before performing any:**
- 9 **(1) construction work; or**
- 10 **(2) drainage or flood control activities;**
- 11 **within the area described in subsection (b)(1) unless the work must**
- 12 **be performed in response to an emergency.**
- 13 **Sec. 5. The board of a watershed development commission may**
- 14 **do the following:**
- 15 **(1) Conduct all studies necessary for the performance of the**
- 16 **board's duties.**
- 17 **(2) Publicize, advertise, and distribute reports on the**
- 18 **commission's purposes, objectives, and findings.**
- 19 **(3) Provide recommendations in matters related to the**
- 20 **commission's functions and objectives to:**
- 21 **(A) a political subdivision located in the designated**
- 22 **watershed; or**
- 23 **(B) any public or private agency;**
- 24 **upon request from the political subdivision or agency.**
- 25 **(4) Upon request, act as a coordinating agency for programs**
- 26 **and activities of other public and private agencies that are**
- 27 **related to the commission's objectives.**
- 28 **Sec. 6. (a) A watershed development commission may receive**
- 29 **grants and appropriations from the following:**
- 30 **(1) Federal, state, and local governments.**
- 31 **(2) Individuals, foundations, and other organizations.**
- 32 **(b) A commission may enter into agreements or contracts**
- 33 **regarding the acceptance or use of these grants and appropriations**
- 34 **for the purpose of carrying out the commission's activities under**
- 35 **this chapter.**
- 36 **(c) A watershed development commission must expend money**
- 37 **appropriated to the commission for the purpose for which the**
- 38 **money is appropriated.**
- 39 **Sec. 7. (a) A watershed development commission may:**
- 40 **(1) acquire and dispose of real or personal property by grant,**
- 41 **gift, purchase, lease, devise, or otherwise; and**
- 42 **(2) hold, use, improve, maintain, operate, own, manage, or**



1 lease as lessor or lessee real or personal property or any
2 interest in that property;
3 for the purposes prescribed by this chapter.

4 (b) A commission may exercise the powers granted by this
5 section for the development of the water resources of the
6 designated watershed.

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

9 Sec. 9. A watershed development commission may, with the
10 approval of:

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

13 (2) the department;

14 enter into agreements with agencies in another state that are
15 responsible for the planning or development of flood control and
16 drainage measures in the part of the commission's designated
17 watershed that is located in the other state.

18 **Chapter 4. Board of a Watershed Development Commission**

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

21 (1) The director of the department of natural resources or the
22 director's designee, who is a voting member.

23 (2) Two (2) individuals representing each county that:

24 (A) is a member of the commission; and

25 (B) is entitled to membership on the board under
26 IC 14-30.5-2-3(b), IC 14-30.5-2-7(b), or IC 14-30.5-2-7(c);
27 each of whom is a voting member.

28 (b) The executive of each county that is a member of the
29 commission may appoint two (2) individuals to represent the
30 county on the board of the commission under subsection (a)(2).
31 However, if the position of an individual appointed under this
32 subsection becomes vacant, the county surveyor of the county shall
33 represent the county on the board under subsection (a)(2) until a
34 new appointment is made by the county executive under this
35 subsection.

36 (c) An individual appointed to represent a county on the board
37 of a commission under subsection (a)(2):

38 (1) must have a background in construction, project
39 management, flood control, drainage, or a similar
40 professional background; and

41 (2) must reside in the county.

42 (d) The term of office of an individual appointed to represent a



1 county on the board of a commission under subsection (a)(2):

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

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

4 (e) An individual appointed to represent a county on the board
5 of a commission under subsection (a)(2) is eligible for
6 reappointment.

7 (f) The board of a commission may elect one (1) or more
8 individuals as board members in addition to the members specified
9 in subsection (a). However, any member elected under this
10 subsection is not a voting member.

11 Sec. 2. (a) Except as provided in subsection (b), the voting
12 members of the board of a watershed development commission
13 shall elect the following officers:

14 (1) A chair.

15 (2) A vice chair.

16 (3) A secretary.

17 (4) A treasurer.

18 (b) If only one (1) county is a member of a watershed
19 development commission, the members of the board of the
20 commission shall elect the following officers:

21 (1) A chair.

22 (2) A secretary-treasurer.

23 When one (1) or more additional counties become members of a
24 commission to which this subsection applies, the offices established
25 by subdivisions (1) and (2) become vacant and the members of the
26 board shall elect officers under subsection (a).

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

30 (d) The board of a commission may establish and fill other
31 offices the board considers necessary.

32 (e) An individual elected to an office under subsection (a) or (b)
33 shall perform the duties usually pertaining to the office.

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

36 (1) at least four (4) times per calendar year; and

37 (2) on the call of either of the following:

38 (A) The chair.

39 (B) A quorum of the members of the board.

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

42 (c) The affirmative votes of a majority of the voting members of



1 a board are required for the board to take action.

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

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

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

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

16 (b) An advisory committee established under this section
17 consists of:

18 (1) the regional director of the Indiana Association of Soil and
19 Water Conservation Districts for the district in which all or
20 most of the commission's dedicated watershed is located; and

21 (2) the county surveyor of each county that is a member of the
22 commission.

23 However, if a county surveyor of a member county represents the
24 county on the board of a commission under section 1(b) of this
25 chapter, the county surveyor may not be a member of a
26 commission's advisory committee and the executive of the county
27 shall appoint an individual other than the county surveyor to
28 represent the county on the advisory committee.

29 (c) The board of a commission may appoint other advisory
30 committees consisting of individuals whose experience, training, or
31 interest in the program enables the individuals to assist the
32 commission.

33 (d) A member of an advisory committee is not entitled to
34 compensation for the member's services.

35 **Chapter 5. Funding of a Watershed Development Commission**

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

40 (1) the fiscal bodies of the Indiana counties that are members
41 of the commission; and

42 (2) the special assessments imposed under subsection (b) or



- 1 the optional methods of supporting the commission set forth
2 in subsection (c).
- 3 **(b) Except as provided in subsection (c), there is imposed in the**
4 **designated watershed of each watershed development commission**
5 **in each calendar year an annual special assessment against each**
6 **taxable parcel of real property that is located in the county and**
7 **within any part of the commission's designated watershed, as**
8 **follows:**
- 9 **(1) For a residential parcel of real property, seven dollars**
10 **(\$7).**
- 11 **(2) For an agricultural parcel of real property, the product of:**
12 **(A) one dollar (\$1); multiplied by**
13 **(B) the number of acres in the parcel.**
- 14 **(3) For a commercial parcel of real property on which no**
15 **structures are situated, the product of:**
16 **(A) two dollars (\$2); multiplied by**
17 **(B) the number of acres in the parcel.**
- 18 **(4) For a commercial parcel of real property on which at least**
19 **one (1) structure is situated, fifty dollars (\$50).**
- 20 **(5) For an industrial or public utility parcel of real property,**
21 **three hundred sixty dollars (\$360).**
- 22 **(c) The taxable parcels of real property located in a county are**
23 **not subject to the special assessment imposed by subsection (b) if**
24 **the fiscal body of the county adopts a resolution opting to**
25 **implement one (1) of the following methods of supporting the**
26 **commission:**
- 27 **(1) The county may pay direct support to the commission**
28 **from any resources available to the county. Direct support**
29 **paid under this subdivision in a calendar year must equal at**
30 **least ninety percent (90%) of the total amount that would**
31 **otherwise be due in the annual special assessment against**
32 **taxable parcels of real property in the county under**
33 **subsection (b).**
- 34 **(2) The county may:**
35 **(A) impose a special assessment against one (1) or more of**
36 **the classes of property to which subsection (b)(1) through**
37 **(b)(5) would otherwise apply that is less than the special**
38 **assessment provided for the class or classes of property in**
39 **subsection (b); and**
40 **(B) supplement the special assessments imposed under**
41 **clause (A) by paying direct support to the commission**
42 **from any resources available to the county;**



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

6 (3) The county may impose a schedule of special assessments
 7 in which:

8 (A) a special assessment for one (1) or more of the classes
 9 of property to which subsection (b)(1) through (b)(5) would
 10 otherwise apply is greater than the special assessment
 11 provided for the class or classes of property in subsection
 12 (b); and

13 (B) the total amount raised in a calendar year through the
 14 special assessment imposed under clause (A) is greater
 15 than the amount that would otherwise be due in the annual
 16 special assessment against taxable parcels of real property
 17 in the county under subsection (b).

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

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

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

31 (2) a description of the flood control projects and other
 32 projects for which the revenue generated from the annual
 33 special assessment imposed under section 1(b) of this chapter
 34 or the support provided under section 1(c) of this chapter will
 35 be used.

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

- 41 (1) Add the amount of the special assessment.
- 42 (2) Designate the special assessment in a manner distinct from



1 **general taxes.**

2 **(3) Indicate that the full annual assessment is due in the year**
 3 **in which the statement is sent to the owner of the taxable**
 4 **parcel.**

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

11 **(1) The assessment is not the personal obligation of the owner**
 12 **of the taxable parcel affected by the assessment.**

13 **(2) A special assessment constitutes a lien against the taxable**
 14 **parcel.**

15 **(3) The lien described in subdivision (2) is superior to all other**
 16 **liens except tax liens and first lien mortgages.**

17 **(c) At the time of each annual tax settlement, the county**
 18 **treasurer shall certify to the county auditor the amount of the**
 19 **special assessments collected.**

20 **(d) The county auditor shall do the following:**

21 **(1) In the case of special assessments imposed under section**
 22 **1(b) of this chapter, the county auditor shall pay the total**
 23 **amount of the special assessments collected by the county**
 24 **treasurer to the watershed development commission for**
 25 **deposit under section 6 of this chapter.**

26 **(2) In the case of a county in which the fiscal body adopts a**
 27 **resolution to impose special assessments under section 1(c)(2)**
 28 **of this chapter, the county auditor shall do the following:**

29 **(A) Retain from the special assessments collected by the**
 30 **county treasurer for the county's use under section 5 of**
 31 **this chapter an amount equal to ten percent (10%) of the**
 32 **amount that would otherwise be due under section 1(b) of**
 33 **this chapter in the annual special assessment against**
 34 **taxable parcels of real property in the county that are**
 35 **located within any part of the commission's designated**
 36 **watershed.**

37 **(B) Pay the remainder of the special assessments collected**
 38 **by the county treasurer under this section to the**
 39 **commission for deposit under section 6 of this chapter.**

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



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

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

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

13 (B) Pay the remainder of the special assessments collected
 14 by the county treasurer under this section to the
 15 commission for deposit under section 6 of this chapter.

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

20 Sec. 4. (a) If:

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

24 (2) more than thirty (30) days have elapsed since the due date;
 25 the commission shall notify the auditor of state of the county's
 26 failure to pay and the amount due from the county. The
 27 commission may request that the auditor of state pay the amount
 28 due from local income taxes otherwise distributable to the county
 29 under IC 6-3.6. The auditor of state shall immediately contact the
 30 county auditor and the commission to confirm whether the county
 31 is unable to make the required payment. Upon confirming the
 32 county's inability to make the payment, the auditor of state shall
 33 deduct the amount due from the next distribution of local income
 34 taxes allocated to the county under IC 6-3.6.

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

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

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



- 1 (2) For flood control and drainage projects within the
2 designated watershed.
- 3 **Sec. 6. (a)** A watershed development commission shall deposit
4 special assessments received under section 3 of this chapter into a
5 segregated account maintained by the commission. Except as
6 provided in subsection (b), special assessments deposited into the
7 account may not be transferred into other accounts belonging to
8 the commission. Money in the account may be used only for the
9 following purposes:
- 10 (1) To pay expenses directly related to the acquisition,
11 construction, or improvement of real property, a facility, a
12 betterment, or an improvement constituting part of a project
13 of the commission, including acquisition of the site for a
14 project.
- 15 (2) To pay expenses directly related to the operation, repair,
16 and maintenance of flood protection systems within the
17 designated watershed.
- 18 (3) To pay the annual installment and interest on a loan or
19 other financial assistance received under IC 5-1.2-13.
- 20 **(b)** A commission shall establish an account for reimbursing
21 landowners for damages incurred through the use of the
22 landowners' land for flood storage. The account consists of money
23 transferred from the segregated account described in subsection
24 (a). A commission may transfer into the account established under
25 this subsection amounts that the board of the commission considers
26 appropriate.
- 27 **Sec. 7. (a)** The counties that are members of a watershed
28 development commission may budget, appropriate, and disburse
29 an aggregate amount of not more than fifty thousand dollars
30 (\$50,000) per year to carry out the purposes of the commission
31 under this article. The amount appropriated and disbursed by each
32 member county under this subsection, in relation to the aggregate
33 amount, shall be proportional to the area of land of the county
34 lying within the commission's designated watershed compared to
35 the total area of land within the commission's designated
36 watershed.
- 37 **(b)** For the purposes of subsection (a), the department, after
38 consultation with:
- 39 (1) the county surveyors of the member counties of a
40 commission; and
- 41 (2) the United States Army Corps of Engineers;
- 42 shall certify the area of each member county that is within a



1 commission's designated watershed. The determination and
 2 certification shall be prepared under this subsection before
 3 submission of budgets to the appropriating bodies so that the
 4 correct amount can be appropriated.

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

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

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

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

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

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

26 (d) A commission is responsible for the safekeeping and deposit
 27 of money the commission receives under this chapter. The state
 28 board of accounts shall:

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

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

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

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

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

40 **Sec. 1. A watershed development commission shall coordinate**
 41 **its flood control activities with the department and other public**
 42 **agencies to ensure that undeveloped public land is used for**



1 providing flood storage to the greatest extent feasible before other
2 lands are used.

3 **Sec. 2. (a) A watershed development commission may give a**
4 **preference to an Indiana business that submits a bid under this**
5 **article if all of the following apply:**

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

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

10 (b) **The commission shall establish criteria for determining the**
11 **following:**

12 (1) **Whether a bidder qualifies as an Indiana business.**

13 (2) **Whether another state's public works preference is**
14 **unfavorable to Indiana businesses.**

15 (3) **The method by which the preference for Indiana**
16 **businesses is to be computed.**

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

21 **Sec. 3. (a) Each contractor entering a bid for a public works**
22 **project of a watershed development commission must provide the**
23 **commission with information on:**

24 (1) **the number of residents of Indiana who will be employed**
25 **by the contractor; and**

26 (2) **the number of residents of Indiana who will be employed**
27 **by any subcontractor of the contractor.**

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

30 (1) **employs residents of Indiana as at least ninety percent**
31 **(90%) of the employees who work on the contract; and**

32 (2) **enters into subcontracts only with subcontractors who**
33 **employ residents of Indiana as at least ninety percent (90%)**
34 **of the employees who work on the subcontract.**

