

Second Regular Session of the 120th General Assembly (2018)

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 2017 Regular Session of the General Assembly.

HOUSE ENROLLED ACT No. 1089

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 14-8-2-208, AS AMENDED BY P.L.106-2012, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 208. "Political subdivision" has the following meaning:

- (1) For purposes of IC 14-12-1, the meaning set forth in IC 14-12-1-2.
- (2) For purposes of IC 14-13-2 **and IC 14-30-3**, the meaning set forth in IC 36-1-2-13.
- (3) For purposes of IC 14-32-8, the meaning set forth in IC 14-32-8-2.

SECTION 2. IC 14-8-2-304 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 304. (a) "Watercourse", for purposes of IC 14-25 through ~~IC 14-29~~, **IC 14-30**, means a channel that:

- (1) has defined banks;
- (2) is cut by erosion of running water through turf, soil, rock, or other material; and
- (3) has a bottom over which water flows for substantial periods of the year.

(b) The term includes the following:

- (1) The upstream and downstream parts of a watercourse that is lost in a swamp or a lake if the watercourse emerges from the



swamp or lake in a well defined channel.

(2) A watercourse that has been improved by confining the watercourse in an artificial channel.

SECTION 3. IC 14-30-3-3.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: **Sec. 3.5. As used in this chapter, "plan" refers to a plan described in section 26(1) of this chapter.**

SECTION 4. IC 14-30-3-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 8. The commission consists of the following individuals:

- (1) From each participating county the following:
 - (A) The executive of each second class city or the executive's designee.
 - (B) If the county does not have a second class city, the executive of the municipality with the largest population or the executive's designee.
- (2) A member of the county executive or the county executive's designee from each participating county.
- (3) The county health officer or the health officer's designee from each participating county.
- ~~(4) An individual appointed by the governor who is a member of the board of supervisors of a soil and water conservation district that contains a part of the basin within all or part of the district's boundaries.~~
- (4) The county surveyor of each participating county or the county surveyor's designee.**
- (5) A representative of each soil and water conservation district that:**
 - (A) is subject to IC 14-32;**
 - (B) includes territory in a participating county; and**
 - (C) includes territory in the basin.**

~~(5) (6) The director or the director's designee.~~

SECTION 5. IC 14-30-3-15 IS REPEALED [EFFECTIVE JULY 1, 2018]. ~~Sec. 15: (a) A majority of all the members of the commission constitutes a quorum:~~

~~(b) An affirmative vote of a majority of the entire membership is required for the commission to take action.~~

SECTION 6. IC 14-30-3-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 19. The commission may do the following:

- (1) Provide a forum for the discussion, study, and evaluation of water resource issues of common concern in the basin.



- (2) Facilitate and foster cooperative planning and coordinated management of the basin's water and related land resources.
- (3) Develop positions on major water resource issues and serve as an advocate of the basin's interests before Congress and federal, state, and local governmental agencies.
- (4) Develop plans **and tools** to improve water quality **or mitigate flooding** in the basin.
- (5) Publicize, advertise, and distribute reports on the commission's purposes, objectives, studies, and findings.
- (6) When requested, make recommendations in matters related to the commission's functions and objectives to political subdivisions in the basin and to other public and private agencies.
- (7) When requested, act as a coordinating agency for programs and activities of other public and private agencies that are related to the commission's objectives.
- (8) Employ staff.**
- (9) Enter into contracts for the purposes of this chapter.**
- (10) Exercise the powers of a political subdivision specified in a cooperative agreement described in section 26 of this chapter.**

SECTION 7. IC 14-30-3-26 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: **Sec. 26. A political subdivision in a participating county may under IC 36-1-7 enter into a cooperative agreement with the commission and at least one (1) other legal entity to authorize the commission to:**

- (1) develop a plan to improve water quality or mitigate flooding in the part of the basin that is described in the cooperative agreement;**
- (2) exercise any of the other powers of the political subdivision to regulate watercourses in the basin; or**
- (3) develop and promote good soil and water conservation practices and procedures.**

SECTION 8. IC 14-30-3-27 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: **Sec. 27. In developing a plan to improve water quality or mitigate flooding in the part of the basin described in a cooperative agreement entered into under section 26 of this chapter, the commission shall determine the best method and manner of improving water quality or mitigating flooding, giving consideration to the following:**

- (1) The increase infiltration method.**



- (2) **The channel improvement method.**
- (3) **The wetland restoration method.**
- (4) **Flood plain regulation.**
- (5) **All nonstructural methods.**

SECTION 9. IC 14-30-3-28 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: **Sec. 28. (a) The commission shall schedule a public meeting in accordance with IC 5-14-1.5 in each participating county containing a political subdivision that has entered into a cooperative agreement under section 26(1) of this chapter authorizing the commission to develop a plan. The purpose of the public meeting shall be to gain input regarding the development of the plan before the plan is implemented in accordance with this chapter.**

(b) The commission shall do the following:

- (1) At least ten (10) days before the public meeting in each participating county described in subsection (a), post a copy of the proposed plan on the commission's Internet web site or the Internet web site of the participating county (if the county maintains an Internet web site).**
- (2) Publish notice of each public meeting in a participating county described in subsection (a) in accordance with IC 5-3-1 at least ten (10) days before the public meeting.**
- (3) Include the following information in the notice described in subdivision (2):**
 - (A) The date, time, and place of the meeting in each participating county described in subsection (a).**
 - (B) A synopsis of the subject matter of the meeting.**
 - (C) How an individual may obtain a copy of the proposed plan from the commission.**
 - (D) That the public is encouraged to make comments at the meeting.**

(c) At the meeting, the commission shall allow the public to be heard on the proposed plan.

SECTION 10. IC 14-30-3-29 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: **Sec. 29. Before a plan is implemented by a political subdivision, the plan must be approved by the state in accordance with IC 14-25 through IC 14-29.**

SECTION 11. IC 14-30-3-30 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: **Sec. 30. The commission may adopt**



rules to do the following:

- (1) Require that increased water runoff resulting from new construction be impounded on the construction site.
- (2) Permit the requirement of onsite water impoundment under subdivision (1) to be waived upon payment of a reasonable fee by the developer of the new construction.

SECTION 12. IC 14-30-3-31 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: **Sec. 31. (a) For the purposes of this chapter, the commission may do the following:**

- (1) Acquire by grant, gift, purchase, or devise, and dispose of, conservation easements under IC 32-23-5 in land within the one hundred (100) year flood plains and the wetlands in the basin.
- (2) Acquire, by grant, gift, purchase, or devise, improvements within the one hundred (100) year flood plains of the basin for the purpose of removing those improvements.
- (3) Adopt rules that restrict construction within the one hundred (100) year flood plains of the basin.
- (4) Acquire, dispose of, hold, use, improve, maintain, operate, own, manage, or lease real or personal property by grant, gift, purchase, or devise.

(b) The commission may exercise the powers granted by this section as follows:

- (1) For purposes of IC 32-23-5.
- (2) To contribute to the following:
 - (A) Flood mitigation.
 - (B) Flood damage reduction.
 - (C) Improvements in water quality.
 - (D) Soil conservation.

SECTION 13. IC 14-30-3-32 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: **Sec. 32. (a) The commission, the executive board, or employees or authorized representatives of the commission acting under this chapter may:**

- (1) enter the land lying within the one hundred (100) year flood plain of any watercourse in the basin; and
- (2) enter land lying outside the one hundred (100) year flood plain to gain access to land lying within the one hundred (100) year flood plain in the basin;

if necessary to investigate, examine, or survey the land or investigate suspected violations of the Indiana flood control laws.



(b) The commission must give twenty-one (21) days written notice to:

- (1) an owner of the affected land;**
- (2) a contract purchaser of the affected land; or**
- (3) if the land is municipal property (as described in IC 6-1.1-10-5(a)), the executive of the municipality;**

before exercising the right to enter land under this section. The notice must state the purpose of the entry and that there is a right of appeal under this section.

(c) A person described in subsection (b)(1) through (b)(3) may, within the twenty-one (21) day notice period required by subsection (b), appeal the proposed entry under subsection (a) to the commission on the grounds that the proposed entry is not necessary. If a person appeals under this subsection, the commission shall hold a hearing on the necessity of the entry before the right of entry is exercised.

(d) A person entering land under this section must use due care to avoid damage to crops or to fences, buildings, and other structures.

(e) Neither the commission, the executive board, nor employees or authorized representatives of the commission acting under this chapter commits criminal trespass under IC 35-43-2-2 by entering land described in subsection (a) for a purpose set forth in subsection (a).



Speaker of the House of Representatives

President of the Senate

President Pro Tempore

Governor of the State of Indiana

Date: _____ Time: _____

HEA 1089 — CC 1

