

HOUSE BILL No. 1099

DIGEST OF INTRODUCED BILL

Citations Affected: IC 14-8-2; IC 14-27-7.3; IC 34-30-2-56.7.

Synopsis: Low head dams. Requires the natural resources commission to establish a roster of low head dams in the state that are capable of creating hazardous currents that pose safety issues. Establishes requirements concerning low head dams for the department of natural resources (department) and owners of low head dams. Except for purposes of an inspection, maintenance, or removal, prohibits a person from accessing a low head dam. Prohibits wading, boating, swimming, or accessing the waters within 100 feet of a low head dam when warning signs are present. Provides that the state is not liable for any death or injury that occurs on or resulting from a low head dam that is not owned by the state. Provides for a penalty for violations. Requires the department to prepare a report that includes recommendations concerning the creation of a low head dam removal program and any recommendations concerning low head dam safety legislation.

Effective: July 1, 2020.

Manning

January 7, 2020, read first time and referred to Committee on Natural Resources.



Introduced

Second Regular Session of the 121st General Assembly (2020)

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 2019 Regular Session of the General Assembly.

HOUSE BILL No. 1099

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

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

1 SECTION 1. IC 14-8-2-156.9 IS ADDED TO THE INDIANA
2 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
3 [EFFECTIVE JULY 1, 2020]: **Sec. 156.9. "Low head dam", for**
4 **purposes of IC 14-27-7.3, has the meaning set forth in**
5 **IC 14-27-7.3-2.**

6 SECTION 2. IC 14-8-2-245.1 IS ADDED TO THE INDIANA
7 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
8 [EFFECTIVE JULY 1, 2020]: **Sec. 245.1. "Roster", for purposes of**
9 **IC 14-27-7.3, has the meaning set forth in IC 14-27-7.3-3.**

10 SECTION 3. IC 14-27-7.3 IS ADDED TO THE INDIANA CODE
11 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE
12 JULY 1, 2020]:

13 **Chapter 7.3. Low Head Dams**

14 **Sec. 1. This chapter does not apply to a dam that is regulated by**
15 **the Federal Energy Regulatory Commission or the Army Corps of**
16 **Engineers.**

17 **Sec. 2. As used in this chapter, "low head dam" means a**

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1 manmade dam, regardless of when it was constructed, in a
2 watercourse that causes the watercourse to have a vertical drop of
3 twenty-five (25) feet or less.

4 Sec. 3. As used in this chapter, "roster" refers to the roster of
5 low head dams adopted under section 4 of this chapter.

6 Sec. 4. (a) Not later than July 1, 2021, the commission shall
7 adopt a roster of low head dams located in the state that are
8 capable of creating hazardous currents that pose safety issues to
9 swimmers, waders, or boaters. The roster must be updated
10 periodically.

11 (b) The roster of low head dams must include the following
12 information:

13 (1) The location of the low head dam.

14 (2) To the extent feasible, the name of each low head dam
15 owner. If an owner cannot be identified, the roster must list
16 the owner as unknown.

17 Sec. 5. The department shall do the following:

18 (1) Establish warning standards for low head dams that are
19 on the roster.

20 (2) Provide information on low head dam safety.

21 (3) Provide contact information for the department so that a
22 low head dam owner can discuss options for low head dam
23 removal or modification.

24 (4) Not more than ninety (90) days after the commission
25 adopts a roster, notify each identified owner of a low head
26 dam on the roster by certified mail of the requirements for a
27 low head dam under this chapter.

28 (5) Not more than ninety (90) days after the department
29 receives information of a new owner of a low head dam on the
30 roster, notify the new owner by certified mail of the
31 requirements for a low head dam under this chapter.

32 Sec. 6. A person who owns a low head dam that is on the roster
33 shall do the following:

34 (1) Comply with the warning standards established by the
35 department under section 5(1) of this chapter.

36 (2) Inform the department of any change of ownership of the
37 low head dam not more than thirty (30) days after the change.

38 (3) Except for a low head dam owned by the state, maintain
39 general liability insurance, with a general aggregate limit of
40 not less than one million dollars (\$1,000,000), to cover claims
41 from injuries and death that the low head dam may cause,
42 and before July 1 of each year provide the department with



- 1 **proof of insurance.**
- 2 **Sec. 7. (a) The owner of a low head dam that is on the roster and**
- 3 **that has been damaged or breached shall notify the department**
- 4 **within four (4) business days of becoming aware of the damage or**
- 5 **breach.**
- 6 **(b) The department and the department's agents, engineers,**
- 7 **geologists, and other employees may, for purposes of conducting an**
- 8 **assessment of the low head dam that has been reported as damaged**
- 9 **or breached, enter upon any land or water in Indiana without**
- 10 **liability for trespass. The owner of the low head dam shall do the**
- 11 **following:**
- 12 **(1) Cooperate with the department and the department's**
- 13 **agents, engineers, geologists, and other employees in the**
- 14 **conduct of the assessment.**
- 15 **(2) Facilitate access to the low head dam.**
- 16 **(c) After the low head dam has been assessed under subsection**
- 17 **(b), the department shall provide a written report to each owner of**
- 18 **the low head dam.**
- 19 **Sec. 8. (a) A person may not access a low head dam or wade,**
- 20 **boat, swim, or access the waters within one hundred (100) feet of**
- 21 **the low head dam when warning signs are present.**
- 22 **(b) Notwithstanding subsection (a), a person who is performing:**
- 23 **(1) an assessment, inspection, or maintenance on or removal**
- 24 **of a low head dam with the written permission of the owner;**
- 25 **or**
- 26 **(2) duties of the department;**
- 27 **is exempt from this section.**
- 28 **Sec. 9. The department may use funds appropriated to the**
- 29 **department to perform title searches to determine the owners of**
- 30 **existing low head dams.**
- 31 **Sec. 10. (a) The state is not liable for any death or injury that**
- 32 **occurs on or resulting from a low head dam that is not owned by**
- 33 **the state.**
- 34 **(b) Nothing in this chapter limits an owner's liability for any**
- 35 **damage, loss, or injury that is caused by a low head dam.**
- 36 **Sec. 11. The department may adopt rules under IC 4-22-2 to**
- 37 **implement this chapter.**
- 38 **Sec. 12. A person who violates this chapter commits a Class C**
- 39 **infraction.**
- 40 **Sec. 13. (a) A person may appeal an administrative decision or**
- 41 **penalty assessed under this chapter to the commission.**
- 42 **(b) IC 4-21.5 applies to proceedings by the commission under**



1 this section.
2 Sec. 14. (a) Not later than October 1, 2020, the department
3 shall:
4 (1) prepare a report that includes recommendations
5 concerning the creation of a low head dam removal program
6 and any recommendations concerning low head dam safety
7 legislation; and
8 (2) submit the report required in this section in an electronic
9 format under IC 5-14-6 to the executive director of the
10 legislative services agency for distribution to the members of
11 the general assembly.
12 (b) This section expires July 1, 2021.
13 SECTION 4. IC 34-30-2-56.7 IS ADDED TO THE INDIANA
14 CODE AS A NEW SECTION TO READ AS FOLLOWS
15 [EFFECTIVE JULY 1, 2020]: **Sec. 56.7. IC 14-27-7.3-10 (Concerning**
16 **state liability for low head dams not owned by the state).**

