

HOUSE BILL No. 1245

DIGEST OF INTRODUCED BILL

Citations Affected: IC 14-8-2; IC 14-13-10.

Synopsis: Pigeon Creek. Defines "Pigeon Creek basin" as the area in Gibson County, Vanderburgh County, and Warrick County that is drained by Pigeon Creek. Establishes the Pigeon Creek commission (commission) as a public body corporate and politic composed of the following voting members: (1) The director of the department of natural resources or the director's designee. (2) Two representatives appointed by the county executive of each county in the basin. Allows the county executive of Pike County to appoint one individual to serve as a nonvoting member of the commission. Authorizes the commission to implement certain activities related to flood control, drainage, public use, public safety, and wildlife management within the channels of Pigeon Creek and within the area extending 75 feet from the top of each bank of the creek. Allows the commission to establish advisory committees to the commission.

Effective: July 1, 2020.

Sullivan, Bacon, McNamara

January 13, 2020, read first time and referred to Committee on Natural Resources.



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. 1245

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 14-8-2-20, AS AMENDED BY P.L.282-2019,
2 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2020]: Sec. 20. "Basin" has the following meaning:
4 (1) For purposes of IC 14-13-9, the meaning set forth in
5 IC 14-13-9-1.
6 **(2) For purposes of IC 14-13-10, the meaning set forth in**
7 **IC 14-13-10-1.**
8 ~~(3)~~ **(3)** For purposes of IC 14-25-1, the meaning set forth in
9 section 1.2 of IC 14-25-15-1.
10 ~~(4)~~ **(4)** For purposes of IC 14-30-2, the meaning set forth in
11 IC 14-30-2-1.
12 ~~(5)~~ **(5)** For purposes of IC 14-30-3, the meaning set forth in
13 IC 14-30-3-1.
14 ~~(6)~~ **(6)** For purposes of IC 14-30-4, the meaning set forth in
15 IC 14-30-4-1.
16 SECTION 2. IC 14-8-2-48, AS AMENDED BY P.L.282-2019,
17 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE



- 1 JULY 1, 2020]: Sec. 48. (a) "Commission", except as provided in this
 2 section, refers to the natural resources commission.
- 3 (b) "Commission", for purposes of IC 14-13-1, has the meaning set
 4 forth in IC 14-13-1-1.
- 5 (c) "Commission", for purposes of IC 14-13-2, has the meaning set
 6 forth in IC 14-13-2-2.
- 7 (d) "Commission", for purposes of IC 14-13-4, has the meaning set
 8 forth in IC 14-13-4-1.
- 9 (e) "Commission", for purposes of IC 14-13-5, has the meaning set
 10 forth in IC 14-13-5-1.
- 11 (f) "Commission", for purposes of IC 14-13-6, has the meaning set
 12 forth in IC 14-13-6-2.
- 13 (g) "Commission", for purposes of IC 14-13-9, has the meaning set
 14 forth in IC 14-13-9-2.
- 15 **(h) "Commission", for purposes of IC 14-13-10, has the meaning
 16 set forth in IC 14-13-10-2.**
- 17 ~~(h)~~ (i) "Commission", for purposes of IC 14-20-11, has the meaning
 18 set forth in IC 14-20-11-1.
- 19 ~~(i)~~ (j) "Commission", for purposes of IC 14-28-4, has the meaning
 20 set forth in IC 14-28-4-1.
- 21 ~~(j)~~ (k) "Commission", for purposes of IC 14-30-2, has the meaning
 22 set forth in IC 14-30-2-2.
- 23 ~~(k)~~ (l) "Commission", for purposes of IC 14-30-3, has the meaning
 24 set forth in IC 14-30-3-2.
- 25 ~~(l)~~ (m) "Commission", for purposes of IC 14-30-4, has the meaning
 26 set forth in IC 14-30-4-2.
- 27 ~~(m)~~ (n) "Commission", for purposes of IC 14-33-20, has the
 28 meaning set forth in IC 14-33-20-2.
- 29 SECTION 3. IC 14-8-2-204.7 IS ADDED TO THE INDIANA
 30 CODE AS A NEW SECTION TO READ AS FOLLOWS
 31 [EFFECTIVE JULY 1, 2020]: **Sec. 204.7. "Pigeon Creek basin", for
 32 purposes of IC 14-13-10, has the meaning set forth in
 33 IC 14-13-10-3.**
- 34 SECTION 4. IC 14-13-10 IS ADDED TO THE INDIANA CODE
 35 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
 36 JULY 1, 2020]:
- 37 **Chapter 10. Pigeon Creek Commission**
- 38 **Sec. 1. As used in this chapter, "basin" refers to the Pigeon
 39 Creek basin.**
- 40 **Sec. 2. As used in this chapter, "commission" refers to the
 41 Pigeon Creek commission established by this chapter.**
- 42 **Sec. 3. As used in this chapter, "Pigeon Creek basin" means the**



1 area in Gibson County, Vanderburgh County, and Warrick
2 County that is drained by Pigeon Creek.

3 Sec. 4. The Pigeon Creek commission is established as a public
4 body corporate and politic.

5 Sec. 5. The exercise of the powers granted by this chapter is for
6 the benefit of the people of Indiana and for the increase of their
7 commerce, health, enjoyment, and prosperity. The operation,
8 creation, development, and maintenance of the projects by the
9 commission constitute the performance of essential governmental
10 functions.

11 Sec. 6. The commission shall limit the commission's activities to
12 the Pigeon Creek basin.

13 Sec. 7. (a) The commission consists of the following individuals:

14 (1) The director, or the director's designee, who is a voting
15 member.

16 (2) Two (2) representatives appointed by the county executive
17 of each county in the basin, each of whom is a voting member.

18 (b) In addition to the members described in subsection (a), the
19 county executive of Pike County may appoint one (1) individual to
20 serve as a nonvoting member of the commission.

21 (c) A member appointed under subsection (a)(2) must reside in
22 the county within the basin for which the member is appointed.

23 Sec. 8. Each member of the commission appointed under section
24 7(a)(2) of this chapter must have a background in:

25 (1) state or local government;

26 (2) construction;

27 (3) project management;

28 (4) flood control;

29 (5) drainage; or

30 (6) another similar professional background.

31 Sec. 9. The term of office of a member of the commission is four
32 (4) years and continues until a successor is appointed.

33 Sec. 10. (a) An individual appointed to the commission is eligible
34 for reappointment.

35 (b) If a vacancy occurs in the position of a member of the
36 commission, the authority that appointed the member shall appoint
37 a new member to fill the vacancy in the same way that the member
38 to be replaced was appointed.

39 (c) If an appointee is appointed to serve an unexpired term, the
40 appointee serves only until the end of the unexpired term.

41 Sec. 11. (a) The commission shall elect the following officers:

42 (1) A chairperson.



- 1 (2) A vice chairperson.
 2 (3) A secretary.
 3 (4) A treasurer.
 4 (b) The:
 5 (1) terms of the officers elected under subsection (a) may not
 6 exceed one (1) year; and
 7 (2) officers are eligible for reelection.
 8 (c) The commission may establish and fill other offices the
 9 commission considers necessary.
 10 (d) Each officer of the commission shall perform the duties
 11 usually pertaining to the office.
 12 Sec. 12. The commission shall meet:
 13 (1) at least four (4) times per calendar year; and
 14 (2) on the call of any of the following:
 15 (A) The chairperson.
 16 (B) The director.
 17 (C) A quorum of the members of the commission.
 18 Sec. 13. (a) The following apply to proceedings of the
 19 commission:
 20 (1) A majority of voting members constitutes a quorum.
 21 (2) The affirmative votes of a majority of the voting members
 22 appointed to the commission are required for the commission
 23 to take action.
 24 (3) The commission shall keep a record of the commission's
 25 resolutions, transactions, and findings. This record is a public
 26 record.
 27 (b) The commission may adopt additional rules for the
 28 transaction of business.
 29 Sec. 14. (a) Each commission member is entitled to
 30 reimbursement for traveling and other expenses as provided in the
 31 state travel policies and procedures established by the Indiana
 32 department of administration and approved by the budget agency.
 33 (b) Each appointed commission member is entitled to the
 34 minimum salary per diem set by the commission and approved by
 35 the fiscal body of each county in the basin. However, if an
 36 appointed commission member is also a local elected official, the
 37 member is not entitled to a payment from the commission of the
 38 minimum salary per diem established under this subsection.
 39 Sec. 15. (a) The commission:
 40 (1) shall develop a plan regarding:
 41 (A) flood control;
 42 (B) drainage;



- 1 (C) public use;
 2 (D) public safety; and
 3 (E) wildlife management;
 4 within the basin;
 5 (2) shall, after June 30, 2020, have exclusive authority to
 6 implement the activities described in subdivision (1) within
 7 the channels of Pigeon Creek and within the area extending
 8 seventy-five (75) feet from the top of each bank of the creek;
 9 (3) shall consider opportunities for economic development
 10 within the basin; and
 11 (4) may acquire interests in land, including easements, for the
 12 commission's use in providing flood storage.
 13 (b) The commission does not have the authority to exercise the
 14 power of eminent domain. However, after other attempts to
 15 acquire property or a property interest have failed, the commission
 16 shall determine the necessity of acquiring by eminent domain any
 17 property or property interest that is necessary for the
 18 implementation of the commission's powers under this chapter. If
 19 the commission determines that it is necessary to initiate an
 20 eminent domain proceeding, the commission shall refer a request
 21 to initiate the eminent domain proceeding to the county executive
 22 of the county where the property is located. The county executive
 23 has ninety (90) days after receiving the request from the
 24 commission to approve or deny a request to initiate an eminent
 25 domain proceeding for a proposed property or property interest.
 26 (c) The commission's exclusive authority to implement activities
 27 under subsection (a)(2) includes the authority to do or undertake
 28 the following:
 29 (1) Bank stabilization.
 30 (2) Tree removal.
 31 (3) Channel reconstruction.
 32 (4) Sediment removal.
 33 (5) Acquire, construct, and maintain access roads to levees
 34 and the channel of the creek.
 35 (6) Other actions considered necessary by the commission to
 36 carry out this chapter.
 37 (d) A county must first obtain authorization of the commission
 38 before performing any work within the area described in
 39 subsection (a)(2), unless the county must perform the work in
 40 response to an emergency (as defined in IC 36-1-2-4.5).
 41 Sec. 16. The commission may do the following:
 42 (1) Conduct all studies necessary for the performance of the



- 1 commission's duties.
- 2 (2) Publicize, advertise, and distribute reports on the
- 3 commission's purposes, objectives, and findings.
- 4 (3) When requested, provide recommendations in matters
- 5 related to the commission's functions and objectives to the
- 6 following:
- 7 (A) Political subdivisions in the basin.
- 8 (B) Other public and private agencies.
- 9 (4) When requested, act as a coordinating agency for
- 10 programs and activities of other public and private agencies
- 11 that are related to the commission's objectives.
- 12 Sec. 17. (a) The commission may receive grants and
- 13 appropriations from the following:
- 14 (1) Federal, state, and local governments.
- 15 (2) Individuals, foundations, and other organizations.
- 16 (b) The commission may enter into agreements or contracts
- 17 regarding the acceptance or use of these grants and appropriations
- 18 for the purpose of carrying out the commission's activities under
- 19 this chapter.
- 20 (c) The commission must expend money appropriated to the
- 21 commission for the purpose for which the money is appropriated.
- 22 Sec. 18. (a) The commission may:
- 23 (1) acquire and dispose of real or personal property by grant,
- 24 gift, purchase, lease, devise, or otherwise; and
- 25 (2) hold, use, improve, maintain, operate, own, manage, or
- 26 lease as lessor or lessee real or personal property or any
- 27 interest in that property;
- 28 for the purposes prescribed by this chapter.
- 29 (b) The commission may exercise the powers granted by this
- 30 section for the development of the water resources of the basin.
- 31 Sec. 19. The commission may sue and be sued.
- 32 Sec. 20. (a) The commission may establish an advisory
- 33 committee. If the commission establishes an advisory committee
- 34 under this subsection, the advisory committee shall consist of:
- 35 (1) the south-southwest regional director of the Indiana
- 36 Association of Soil and Water Conservation Districts;
- 37 (2) the county surveyor of each Indiana county within the
- 38 basin; and
- 39 (3) one (1) member from the largest municipality located
- 40 within the basin.
- 41 However, a county surveyor may not be a member of the advisory
- 42 committee if the county surveyor represents the county on the



1 commission. The county executive of a county represented on the
 2 commission by the county surveyor shall appoint an individual
 3 other than the county surveyor to represent the county on the
 4 advisory committee.

5 (b) Subsection (a) may not be construed to prohibit the
 6 commission from appointing other advisory committees consisting
 7 of individuals whose experience, training, or interest in the
 8 program enables the individuals to assist the commission.

9 (c) A member of an advisory committee is not entitled to
 10 compensation for the member's services.

11 Sec. 21. (a) Each county in the basin may budget, appropriate,
 12 and disburse money to carry out the purposes of the commission
 13 under this chapter. The amount of the appropriation from each
 14 county may be apportioned among the counties in the basin in
 15 direct relationship to the amount of land area lying within the
 16 basin boundaries.

17 (b) The department shall certify the boundaries and the
 18 drainage area of each county within the basin after consultation
 19 with the respective county surveyors before submission of budgets
 20 to the appropriating bodies so that the correct amount can be
 21 appropriated.

22 (c) The commission may hire the support staff necessary for the
 23 commission.

24 Sec. 22. (a) The commission shall do the following:

25 (1) Prepare and adopt by majority vote in accordance with
 26 section 13 of this chapter an annual budget.

27 (2) Submit the budget to each county, municipality, or agency
 28 appropriating money for the use of the commission.

29 (b) After approval of the budget by the commission, money may
 30 be expended only as budgeted unless a majority vote of the
 31 commission authorizes other expenditures.

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

37 (d) The commission is responsible for the safekeeping and
 38 deposit of money the commission receives under this chapter. The
 39 state board of accounts shall:

40 (1) prescribe the methods and forms for keeping; and

41 (2) periodically audit;

42 the accounts, records, and books of the commission.



- 1 **(e) The treasurer of the commission may receive, disburse, and**
- 2 **handle money belonging to the commission, subject to the**
- 3 **following:**
- 4 **(1) Applicable statutes.**
- 5 **(2) Procedures established by the commission.**

