

# HOUSE BILL No. 1391

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 36-7-15.6.

**Synopsis:** Financing of flood control improvements. Authorizes certain redevelopment commissions (commissions), following a written recommendation from the board of public works and approval of the legislative body, to adopt an ordinance designating an area as a flood control improvement district (district) to capture incremental property tax revenue within the district to be used for the construction, replacement, repair, maintenance, or improvement of flood control works. Provides that only special flood hazard property may be included within the boundaries of a district. Defines "special flood hazard property" as property that on January 1, 2018, is situated in a special flood hazard area as designated by the Federal Emergency Management Agency. Provides that, before making a recommendation to the commission to establish a district, a board of public works must: (1) establish the boundaries for the district; (2) identify the owners of each parcel of property in the district; (3) create a proposed plan for flood control works within the district; and (4) hold a public hearing on the proposed district. Provides that the fiscal officer of a unit shall establish a flood control improvement fund (fund) for each district that is established within the jurisdiction of the unit. Provides that the commission shall administer the fund. Provides that the incremental property tax revenue from a district shall be deposited in the fund and used only for providing flood control works within the boundaries of that district. Provides that the commission may issue bonds payable from the fund for the purpose of construction, replacement, repair, maintenance, or improvement of flood control works. Provides that the proceeds from the sale of bonds issued for a district shall be deposited  
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**Effective:** May 1, 2018.

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## Moed, Porter

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January 16, 2018, read first time and referred to Committee on Ways and Means.

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Digest Continued

in the fund established for that district. Specifies the types of costs for flood control works that may be funded from a bond issue. Provides that a district expires 75 years after the date it is established. Requires a commission to make an annual report to the unit that established the commission and the board of public works.



Introduced

Second Regular Session 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 BILL No. 1391

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A BILL FOR AN ACT to amend the Indiana Code concerning local government.

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

1 SECTION 1. IC 36-7-15.6 IS ADDED TO THE INDIANA CODE  
2 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE  
3 MAY 1, 2018]:

4 **Chapter 15.6. Flood Control Improvement Districts**

5 **Sec. 1. This chapter applies only to the following units:**

6 (1) **A consolidated first class city.**

7 (2) **A second class city.**

8 **Sec. 2. As used in this chapter, "base assessed value" means the**  
9 **net assessed value of all the taxable property located in a flood**  
10 **control improvement district as finally determined for the**  
11 **assessment date immediately preceding the effective date of the**  
12 **resolution adopted under this chapter establishing the particular**  
13 **district.**

14 **Sec. 3. As used in this chapter, "board of public works" refers**  
15 **to the following:**

2018

IN 1391—LS 6943/DI 120



1           (1) The board of public works and safety established in a city  
2           under this title.

3           (2) The board of public works in a city that has established a  
4           separate board of public works and a separate board of public  
5           safety under this title.

6           The term includes the department of public works in a city in  
7           which a department of public works has been established under  
8           this title.

9           Sec. 4. As used in this chapter, "commission" refers to the  
10          following:

11          (1) The metropolitan development commission acting as the  
12          redevelopment commission of a consolidated first class city  
13          under IC 36-7-15.1.

14          (2) A redevelopment commission established under  
15          IC 36-7-14-3 by a second class city.

16          Sec. 5. As used in this chapter, "district" refers to a flood  
17          control improvement district established under this chapter.

18          Sec. 6. As used in this chapter, "flood control works" includes  
19          the following:

20          (1) The removal of obstructions and accumulated debris from  
21          channels of streams.

22          (2) The clearing and straightening of channels of streams.

23          (3) The creating of new and enlarged channels of streams,  
24          wherever required.

25          (4) The building, repairing, or maintenance of dikes, levees,  
26          retaining walls, or other flood protective works.

27          (5) The construction of bank protection works for streams.

28          (6) The establishment of floodways.

29          (7) Conducting all other activities that are permitted by the  
30          federal Flood Control Act and federal Clean Water Act.

31          Sec. 7. As used in this chapter, "fund" refers to the flood control  
32          improvement fund established under section 16 of this chapter.

33          Sec. 8. As used in this chapter, "special flood hazard property"  
34          means property that on January 1, 2018, is situated in a special  
35          flood hazard area as designated by the Federal Emergency  
36          Management Agency in which the mandatory purchase of flood  
37          insurance may apply.

38          Sec. 9. (a) A unit's board of public works may propose to  
39          establish a flood control improvement district under this chapter.

40          (b) A board of public works that proposes to establish a flood  
41          control improvement district shall do the following:

42          (1) Establish the boundaries for the district subject to section



- 1           **10 of this chapter.**
- 2           **(2) Identify the owner or owners of each parcel of special**
- 3           **flood hazard property in the district.**
- 4           **(3) Create a proposed plan for flood control works within the**
- 5           **district subject to the requirements of this chapter, including**
- 6           **the location, designs, and all necessary specifications for the**
- 7           **flood control works.**
- 8           **(c) The board of public works shall hold a public hearing on a**
- 9           **proposal to establish a district under this section. The hearing shall**
- 10           **be conducted in accordance with IC 5-14-1.5, and notice of the**
- 11           **hearing shall be published in accordance with IC 5-3-1. In addition,**
- 12           **the board of public works shall mail a copy of the notice to each**
- 13           **owner of special flood hazard property within the proposed**
- 14           **district. The notice must include the boundaries of the district, a**
- 15           **description and location of the proposed flood control works within**
- 16           **the district, and the date of the hearing.**
- 17           **(d) At the public hearing under subsection (c), the board of**
- 18           **public works shall hear all owners of real property in the proposed**
- 19           **district (who appear and request to be heard) upon the questions**
- 20           **of:**
- 21               **(1) the identification of the owner's property as special flood**
- 22               **hazard property as defined under section 8 of this chapter;**
- 23               **(2) the boundaries of the district; and**
- 24               **(3) the utility and benefit of the proposed plan for the flood**
- 25               **control works within the district.**
- 26           **The board of public works shall consider all evidence and**
- 27           **objections presented at the hearing and may modify the boundaries**
- 28           **of the district, or the proposed plan for flood control works within**
- 29           **the district, subject to the requirements of this chapter.**
- 30           **(e) After conducting a public hearing under this section, the**
- 31           **board of public works may submit a written recommendation to**
- 32           **the commission to establish a district within the boundaries of the**
- 33           **unit. A recommendation submitted to the commission under this**
- 34           **subsection must include:**
- 35               **(1) the geographic boundaries of the district; and**
- 36               **(2) the proposed plan for the flood control works within the**
- 37               **district.**
- 38           **(f) If the board of public works submits a written**
- 39           **recommendation to the commission under subsection (e) to**
- 40           **establish a district within the boundaries of the unit, then the board**
- 41           **of public works shall notify each owner of special flood hazard**
- 42           **property within the proposed district of its recommendation and**



1 include with the notification a statement of the manner in which  
 2 each owner of special flood hazard property may participate in  
 3 public hearings held by the commission as set forth under section  
 4 11 of this chapter regarding the designation of a district.

5 **Sec. 10. (a)** Only special flood hazard property may be included  
 6 within the boundaries of a flood control improvement district  
 7 established under this chapter.

8 (b) A flood control improvement district may only include those  
 9 special flood hazard properties that benefit directly from flood  
 10 control works within the district.

11 **Sec. 11. (a)** A commission shall review a recommendation  
 12 submitted by the board of public works under section 9(e) of this  
 13 chapter to establish a district within the boundaries of the unit.

14 (b) If the commission finds that the construction, replacement,  
 15 repair, maintenance, or improvement of flood control works  
 16 located within its jurisdiction is necessary for the general welfare,  
 17 safety, and security of an area and its inhabitants, the commission  
 18 may adopt a resolution described in subsection (c).

19 (c) Subject to the approval of the legislative body of the unit that  
 20 established the commission, the commission may adopt a resolution  
 21 designating one (1) or more flood control improvement districts as  
 22 an allocation area for purposes of the allocation and distribution  
 23 of property taxes.

24 (d) After adoption of the resolution under subsection (c), the  
 25 commission shall:

26 (1) publish notice of the adoption and substance of the  
 27 resolution in accordance with IC 5-3-1; and

28 (2) file the following information with each taxing unit that  
 29 has authority to levy property taxes in the geographic area  
 30 where the flood control improvement district is located:

31 (A) A copy of the notice required by subdivision (1).

32 (B) A statement disclosing the following:

33 (i) The necessity for providing flood protection for the  
 34 district, based on the history of floods that have affected  
 35 the district or can reasonably be anticipated to affect the  
 36 district.

37 (ii) The general character of the flood control works that  
 38 the commission considers necessary to afford proper  
 39 protection, and the general location and route of the  
 40 dikes, levees, retaining walls, and other structures that  
 41 the commission considers necessary as part of those  
 42 works.



- 1 (iii) The estimated economic benefits and costs incurred  
 2 by the flood control improvement district, as measured  
 3 by anticipated growth of real property assessed values.  
 4 (iv) The anticipated impact on tax revenues of each  
 5 taxing unit.

6 The notice must state the general boundaries of the flood control  
 7 improvement district and must state that written remonstrances  
 8 may be filed with the commission until the time designated for the  
 9 hearing. The notice must also name the place, date, and time when  
 10 the commission will receive and hear remonstrances and objections  
 11 from persons interested in or affected by the proceedings  
 12 pertaining to the proposed allocation area and will determine the  
 13 public utility and benefit of the proposed allocation area. The  
 14 commission shall file the information required by subdivision (2)  
 15 with the officers of the taxing unit who are authorized to fix  
 16 budgets, tax rates, and tax levies under IC 6-1.1-17-5 at least ten  
 17 (10) days before the date of the public hearing. All persons affected  
 18 in any manner by the hearing, including all taxpayers within the  
 19 taxing district of the commission, shall be considered notified of the  
 20 pendency of the hearing and of subsequent acts, hearings,  
 21 adjournments, and orders of the commission affecting the  
 22 allocation area if the commission gives the notice required by this  
 23 section.

24 (e) At the hearing, which may be recessed and reconvened  
 25 periodically, the commission shall hear all persons interested in the  
 26 proceedings and shall consider all written remonstrances and  
 27 objections that have been filed. After considering the evidence  
 28 presented, the commission shall take final action determining the  
 29 public utility and benefit of the proposed allocation area  
 30 confirming, modifying and confirming, or rescinding the  
 31 resolution. The final action taken by the commission shall be  
 32 recorded and is final and conclusive, except that an appeal may be  
 33 taken in the manner prescribed by section 12 of this chapter.

34 Sec. 12. (a) A person who files a written remonstrance with the  
 35 commission under section 11 of this chapter and who is aggrieved  
 36 by the final action taken may, within ten (10) days after that final  
 37 action, file with the office of the clerk of the circuit or superior  
 38 court of the county a copy of the commission's resolution and the  
 39 person's remonstrance against the resolution, together with the  
 40 person's bond as provided by IC 34-13-5-7.

41 (b) An appeal under this section shall be promptly heard by the  
 42 court without a jury. All remonstrances upon which an appeal has



1        **been taken shall be consolidated and heard and determined within**  
 2        **thirty (30) days after the time of filing of the appeal. The court**  
 3        **shall decide the appeal based on the record and evidence before the**  
 4        **commission, not by trial de novo, and may confirm the final action**  
 5        **of the commission or sustain the remonstrances. The judgment of**  
 6        **the court is final and conclusive, unless an appeal is taken as in**  
 7        **other civil actions.**

8        **Sec. 13. (a) An allocation provision adopted under this chapter**  
 9        **must:**

- 10        **(1) apply to the entire flood control improvement district; and**  
 11        **(2) require that any property tax on taxable property**  
 12        **subsequently levied by or for the benefit of any public body**  
 13        **entitled to a distribution of property taxes in the flood control**  
 14        **improvement district be allocated and distributed as provided**  
 15        **in subsections (b) and (c).**

16        **(b) Except as otherwise provided in this section:**

17        **(1) the proceeds of the taxes attributable to the lesser of:**

18        **(A) the assessed value of the taxable property for the**  
 19        **assessment date with respect to which the allocation and**  
 20        **distribution is made; or**

21        **(B) the base assessed value;**

22        **shall be allocated and, when collected, paid into the funds of**  
 23        **the respective taxing units; and**

24        **(2) the excess of the proceeds of the property taxes imposed**  
 25        **for the assessment date with respect to which the allocation**  
 26        **and distribution is made that are attributable to taxes not**  
 27        **otherwise included in subdivision (1) shall be allocated to and,**  
 28        **when collected, paid into the funds of the taxing unit for**  
 29        **which a referendum or local public question was conducted.**

30        **(c) Except as provided in subsection (d), all the property tax**  
 31        **proceeds that exceed those described in subsection (b) shall be**  
 32        **allocated to the commission, when collected, and paid into the flood**  
 33        **control improvement fund established for the district under section**  
 34        **16 of this chapter.**

35        **(d) Before July 15 of each year, the commission shall do the**  
 36        **following:**

37        **(1) Determine the amount, if any, by which the property tax**  
 38        **proceeds to be deposited in the flood control improvement**  
 39        **fund will exceed the amount of assessed value needed to**  
 40        **provide the property taxes necessary to make, when due,**  
 41        **principal and interest payments on bonds described in section**  
 42        **17 of this chapter, plus the amount necessary for other**





1 purposes described in section 17 of this chapter.

2 (2) Provide a written notice to the county auditor, the  
3 legislative body of the unit that established the commission,  
4 and the officers who are authorized to fix budgets, tax rates,  
5 and tax levies under IC 6-1.1-17-5 for each of the other taxing  
6 units that are wholly or partly located within the allocation  
7 area. The notice must:

8 (A) state the amount, if any, of excess tax proceeds that the  
9 commission has determined may be allocated to the  
10 respective taxing units in the manner prescribed in  
11 subsection (c); or

12 (B) state that the commission has determined that there is  
13 no excess assessed value that may be allocated to the  
14 respective taxing units in the manner prescribed in  
15 subdivision (1).

16 The county auditor shall allocate to the respective taxing units  
17 the amount, if any, of excess assessed value determined by the  
18 commission. The commission may not authorize an allocation  
19 of property tax proceeds under this subdivision if to do so  
20 would endanger the interests of the holders of bonds  
21 described in section 17 of this chapter.

22 (e) Notwithstanding any other law, the assessed value of all  
23 taxable property in the flood control improvement district, for  
24 purposes of tax limitation, property tax replacement, and  
25 formulation of the budget, tax rate, and tax levy for each political  
26 subdivision in which the property is located is the lesser of:

27 (1) the assessed value of the taxable property as valued  
28 without regard to this section; or

29 (2) the base assessed value.

30 Sec. 14. The commission may enter into a written agreement  
31 with a taxpayer who owns, or is otherwise obligated to pay  
32 property taxes on, tangible property that is or will be located in an  
33 allocation area established under this chapter in which the  
34 taxpayer waives review of any assessment of the taxpayer's  
35 tangible property that is located in the allocation area for an  
36 assessment date that occurs during the term of any specified bond  
37 obligations that are payable from property taxes in accordance  
38 with an allocation provision for the allocation area and any  
39 applicable statute, ordinance, or resolution. An agreement  
40 described in this section may precede the establishment of the  
41 allocation area or the determination to issue bonds payable from  
42 the allocated property taxes.



1           **Sec. 15.** After each reassessment under a reassessment plan  
 2 prepared under IC 6-1.1-4-4.2, the department of local government  
 3 finance shall adjust the base assessed value one (1) time to  
 4 neutralize any effect of the reassessment of the real property in the  
 5 area on the property tax proceeds allocated to the flood control  
 6 improvement fund under section 16 of this chapter. After each  
 7 annual adjustment under IC 6-1.1-4-4.5, the department of local  
 8 government finance shall adjust the base assessed value to  
 9 neutralize any effect of the annual adjustment on the property tax  
 10 proceeds allocated to the flood control improvement fund under  
 11 section 16 of this chapter.

12           **Sec. 16. (a)** The fiscal officer of the unit shall establish a flood  
 13 control improvement fund for each flood control improvement  
 14 district that is established within the jurisdiction of the unit.

15           **(b)** The fiscal officer of the unit shall deposit in the fund of a  
 16 district:

17           (1) property tax proceeds allocated from the district to the  
 18 fund under section 13 of this chapter; and

19           (2) proceeds from the sale of bonds under section 17 of this  
 20 chapter for flood control works within the boundaries of the  
 21 district for which the fund is established.

22           **(c)** The commission shall administer the fund.

23           **(d)** Money in a fund must be used only for flood control works  
 24 projects within boundaries of the district for which the fund was  
 25 established as set forth under this chapter.

26           **(e)** Money in a fund may be transferred or expended for the  
 27 purposes set forth in this chapter without further appropriation by  
 28 the fiscal body of the unit.

29           **(f)** Any money remaining in a fund after the expiration of the  
 30 flood control improvement district under section 19(a) of this  
 31 chapter shall be transferred to the general fund of the unit.

32           **Sec. 17. (a)** The commission may issue bonds for the purpose of  
 33 construction, replacement, repair, maintenance, or improvement  
 34 of flood control works within a district established under this  
 35 chapter.

36           **(b)** The bonds are payable solely from:

37           (1) property tax proceeds allocated to the district's flood  
 38 control improvement fund under section 13 of this chapter;

39           (2) other funds available to the commission; or

40           (3) a combination of the methods in subdivisions (1) through  
 41 (2).

42           **(c)** The bonds shall be authorized by a resolution of the



- 1 commission.
- 2 (d) The terms and form of the bonds shall be set out either in the  
3 resolution or in a form of trust indenture approved by the  
4 resolution.
- 5 (e) The bonds must mature within twenty-five (25) years.
- 6 (f) The commission shall sell the bonds at public or private sale  
7 upon such terms as determined by the commission.
- 8 (g) All money received from any bonds issued under this  
9 chapter shall be applied solely to the payment of the cost of  
10 providing flood control works within the flood control  
11 improvement district for which the bonds were issued, or the cost  
12 of refunding or refinancing outstanding bonds, for which the bonds  
13 are issued. The cost may include:
- 14 (1) planning and development of flood control works and all  
15 related buildings, facilities, structures, and improvements;
  - 16 (2) acquisition of a site and clearing and preparing the site for  
17 construction;
  - 18 (3) equipment, facilities, structures, and improvements that  
19 are necessary or desirable to make the flood control works  
20 suitable for use and operation;
  - 21 (4) architectural, engineering, consultant, and attorney's fees;
  - 22 (5) incidental expenses in connection with the issuance and  
23 sale of bonds;
  - 24 (6) reserves for principal and interest;
  - 25 (7) interest during construction and for a period thereafter  
26 determined by the commission;
  - 27 (8) financial advisory fees;
  - 28 (9) insurance during construction;
  - 29 (10) municipal bond insurance, debt service reserve  
30 insurance, letters of credit, or other credit enhancement; and
  - 31 (11) in the case of refunding or refinancing, payment of the  
32 principal of, redemption premiums, if any, for, and interest  
33 on, the bonds being refunded or refinanced.
- 34 Sec. 18. All bonds issued under this chapter, together with the  
35 interest on them, are exempt from taxation.
- 36 Sec. 19. (a) A flood control improvement district established  
37 under this chapter shall expire on the date that is seventy-five (75)  
38 years after the date on which the allocation provision is  
39 established.
- 40 (b) A commission shall not issue or reissue debt obligations for  
41 a district that extend beyond twenty-five (25) years after the date  
42 of the initial bond issue for the district.



1           **Sec. 20. (a) Not later than February 1 of each year, a**  
 2 **commission that administers a flood control improvement fund**  
 3 **established under section 16 of this chapter shall prepare a report**  
 4 **for the previous calendar year that includes the following:**

5           **(1) The amount of the assessed value allocated and paid into**  
 6 **the fund under section 16 of this chapter.**

7           **(2) A detailed statement of payments made from the fund for**  
 8 **purposes of providing flood control works within boundaries**  
 9 **of the district for which the fund was established, including**  
 10 **debt service on bonds or other obligations.**

11           **(3) The amount of all bonds or other obligations outstanding**  
 12 **and payable from the fund at the end of the calendar year.**

13 **The report is a public record and must be made available for**  
 14 **inspection to an owner of special flood hazard property that is**  
 15 **located within the district for which the report is made.**

16           **(b) The commission shall provide a copy of each report made**  
 17 **under this section to the following:**

18           **(1) The fiscal body of the unit that established the commission.**

19           **(2) The board of public works that recommended the**  
 20 **establishment of the district.**

21 **The fiscal body of a unit described in subdivision (1) or the board**  
 22 **of public works described in subdivision (2) may post a copy of the**  
 23 **commission's report on an Internet web site maintained by the unit**  
 24 **or the board of public works.**

25           **Sec. 21. This chapter may not be construed to prevent, hinder,**  
 26 **disrupt, or delay the completion of any public flood control project**  
 27 **for which there is a memorandum of agreement or that is ongoing**  
 28 **as of May 1, 2018, including the project located in Marion County**  
 29 **commonly referred to as the Indianapolis North Flood Damage**  
 30 **Reduction Project.**

31           **SECTION 2. An emergency is declared for this act.**

