

HOUSE BILL No. 1438

DIGEST OF INTRODUCED BILL

Citations Affected: IC 2-5-44.2; IC 8-1-30.8; IC 13-14-14.

Synopsis: Water and wastewater infrastructure. Establishes the water infrastructure task force to examine an inventory and assessment of the water resources of the state and study other subjects related to water and wastewater infrastructure. Requires the water infrastructure task force to issue a report setting forth its findings and recommendations not later than December 1, 2019. Requires a water utility to submit a water loss audit report to the utility regulatory commission (commission) every year, beginning with the water loss audit report due before July 1, 2021. Requires the water loss audit report to be submitted in 2021 and the water loss audit reports to be submitted in each subsequent odd-numbered year to be accompanied by an independent, level one validation of the water loss audit report. Requires the commission to adopt rules concerning water loss audits. Requires the commission, after June 30, 2022, and before July 1, 2023, to consider adopting rules to require water utilities to meet certain performance standards for the volume of their water losses. Requires the department of environmental management to establish and maintain a water data collection hub in which all quantitative information concerning the water resources of the state that is gathered by or reported to state agencies will be stored. Requires the environmental rules board to adopt rules concerning the water data collection hub. Urges the governor to create a position or an office within the administrative branch of government to oversee and coordinate the water related programs and activities of the state.

Effective: Upon passage; July 1, 2019.

Soliday

January 15, 2019, read first time and referred to Committee on Utilities, Energy and Telecommunications.



First Regular Session of the 121st General Assembly (2019)

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 2018 Regular and Special Session of the General Assembly.

HOUSE BILL No. 1438

A BILL FOR AN ACT to amend the Indiana Code concerning state offices and administration.

Whereas, It is the intention of the general assembly that the state of Indiana should recognize and begin to address Indiana's water infrastructure needs in order to preserve the health and safety of its citizens, encourage business retention, and promote economic development in the state: Therefore,

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

1 SECTION 1. IC 2-5-44.2 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE
3 UPON PASSAGE]:
4 **Chapter 44.2. Water Infrastructure Task Force**
5 **Sec. 1. As used in this chapter, "task force" refers to the water**
6 **infrastructure task force established by section 2 of this chapter.**
7 **Sec. 2. The water infrastructure task force is established.**
8 **Sec. 3. The task force consists of the following:**
9 **(1) Two (2) members of the senate, of whom:**
10 **(A) one (1) shall be appointed by the president pro**
11 **tempore, and shall serve as co-chair of the task force; and**
12 **(B) one (1) shall be appointed by the minority leader.**



- 1 **(2) Two (2) members of the house of representatives, of**
 2 **whom:**
 3 **(A) one (1) shall be appointed by the speaker, and shall**
 4 **serve as co-chair of the task force; and**
 5 **(B) one (1) shall be appointed by the minority leader.**
 6 **(3) One (1) or more officers or employees of the state of**
 7 **Indiana appointed by the governor.**
 8 **(4) One (1) or more individuals appointed by the governor to**
 9 **represent the interests of the operators of:**
 10 **(A) drinking water systems;**
 11 **(B) wastewater management systems; or**
 12 **(C) storm water management systems.**
 13 **(5) One (1) or more engineers or other professionals who have**
 14 **the expertise in the design and construction of:**
 15 **(A) drinking water systems;**
 16 **(B) wastewater management systems; or**
 17 **(C) storm water management systems;**
 18 **necessary to the prudent operation of those systems and who**
 19 **are appointed by the governor.**
 20 **(6) One (1) or more individuals appointed by the governor to**
 21 **represent the interests of ratepayers and others who**
 22 **constitute the source of funding for:**
 23 **(A) drinking water systems;**
 24 **(B) wastewater management systems; or**
 25 **(C) storm water management systems.**
 26 **(7) Two (2) individuals appointed by the governor who have**
 27 **expertise in storm water management in the agricultural**
 28 **sector.**
 29 **(8) One (1) or more members of the general public who are**
 30 **not described in subdivisions (4) through (7) and who are**
 31 **appointed by the governor.**
 32 **Sec. 4. (a) A majority of the members of the task force**
 33 **constitutes a quorum.**
 34 **(b) The affirmative vote of at least a majority of the members at**
 35 **a meeting at which a quorum is present is necessary for the task**
 36 **force to take official action other than to meet and take testimony.**
 37 **(c) The task force shall meet at the call of the co-chairs.**
 38 **Sec. 5. All meetings of the task force shall be open to the public**
 39 **in accordance with and subject to IC 5-14-1.5. All records of the**
 40 **task force shall be subject to the requirements of IC 5-14-3.**
 41 **Sec. 6. The task force shall do the following:**
 42 **(1) Study:**



- 1 (A) storm water management;
 2 (B) the quality and quantity of Indiana's water resources;
 3 and
 4 (C) state-wide water supply and demand planning.
 5 (2) Examine an inventory and assessment of the water
 6 resources of the state.
 7 (3) Study the inclusion of non-municipal water users in
 8 municipal drinking water systems.
 9 (4) Study long range water supply needs based on:
 10 (A) anticipated population changes;
 11 (B) industry demands; and
 12 (C) hydrologic conditions.
 13 (5) Study water quality issues.
 14 (6) Study water and wastewater infrastructure needs and the
 15 funding and financing of water and wastewater
 16 infrastructure.
 17 (7) Consider how to meet water supply needs.
 18 (8) Study performance indicators of drinking water systems
 19 and wastewater management systems.
 20 (9) Study input into water and wastewater infrastructure
 21 decision making at the local level.

22 **Sec. 7. The task force shall:**

- 23 (1) issue a report setting forth its findings and
 24 recommendations under this chapter; and
 25 (2) not later than December 1, 2019, submit the report:
 26 (A) in an electronic format under IC 5-14-6 to the
 27 executive director of the legislative services agency for
 28 distribution to the members of the general assembly; and
 29 (B) to the governor.

30 **Sec. 8. The legislative services agency shall provide staff support**
 31 **to the task force.**

32 **Sec. 9. This chapter expires January 1, 2020.**

33 SECTION 2. IC 8-1-30.8 IS ADDED TO THE INDIANA CODE
 34 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
 35 JULY 1, 2019]:

36 **Chapter 30.8. Non-Revenue Water Auditing**

37 **Sec. 1. The general assembly makes the following findings:**

- 38 (1) Safe and affordable drinking water is essential to public
 39 health and economic development throughout Indiana.
 40 (2) The cost of providing reliable drinking water is
 41 increasing due to factors such as aging infrastructure,
 42 increased energy costs, and complex and costly changes in



- 1 the regulatory requirements for safe drinking water.
- 2 (3) Water main breaks are visible and disruptive
- 3 manifestations of the more widespread phenomenon of
- 4 leakage from water systems.
- 5 (4) Leakage of drinking water from water distribution
- 6 systems adds to the cost of service to customers and may
- 7 lead to increased raw water demands that harm the natural
- 8 environment.
- 9 (5) The failure of water utilities to recover revenue from
- 10 some of the water delivered to users due to:
- 11 (A) metering and billing inaccuracies; and
- 12 (B) theft;
- 13 increases the cost per unit of water that is billed to
- 14 customers.
- 15 (6) Best management practices suggest that drinking water
- 16 utilities should conduct an annual water loss audit in
- 17 accordance with the American Water Works Association
- 18 (AWWA) Manual of Water Supply Practices M36: Water
- 19 Audits and Loss Control Programs.
- 20 (7) The AWWA has published software for use in
- 21 categorizing and reporting water losses and has made the
- 22 software available without charge.
- 23 (8) AWWA M36 water audit protocol classifies water
- 24 volumes entering water distribution systems into revenue
- 25 water and non-revenue water, with:
- 26 (A) revenue water representing billed water
- 27 consumption; and
- 28 (B) non-revenue water consisting of the difference
- 29 between the volume entering the distribution system and
- 30 revenue water.
- 31 (9) Regular auditing of water volumes is a necessary
- 32 foundation for the adoption of cost effective strategies to
- 33 reduce the level of non-revenue water to economically
- 34 reasonable levels.
- 35 **Sec. 2. (a) The definitions in this section apply throughout**
- 36 **this chapter.**
- 37 (b) As used in this chapter, "commission" refers to the
- 38 Indiana utility regulatory commission created by IC 8-1-1-2.
- 39 (c) As used in this chapter, "non-revenue water" means the
- 40 difference between the annual volume of water entering a water
- 41 distribution system and the revenue water of the water
- 42 distribution system.



1 (d) As used in this chapter, "revenue water" means the
2 annual amount of water consumption billed to customers.

3 (e) As used in this chapter, "water loss audit" means an audit
4 performed by water utility staff or an independent third party
5 in accordance with:

6 (1) the American Water Works Association (AWWA)
7 Manual of Water Supply Practices M36: Water Audits and
8 Loss Control Programs; or

9 (2) another water loss audit guide or system accepted by
10 the commission;

11 to determine the amount and cause of a water utility's
12 non-revenue water.

13 (f) As used in this chapter, "water utility" means:

14 (1) a public utility (as defined in IC 8-1-2-1(a));

15 (2) a municipally owned utility (as defined in IC 8-1-2-1(h));

16 (3) a not-for-profit utility (as defined in IC 8-1-2-125(a));

17 (4) a cooperatively owned corporation;

18 (5) a conservancy district established under IC 14-33; or

19 (6) a regional water district established under IC 13-26;

20 that provides water service to the public in Indiana for a fee.

21 Sec. 3. (a) Before January 1, 2021, the commission shall
22 adopt rules under IC 4-22-2 concerning the following:

23 (1) The conduct of annual standardized water loss audits
24 by water utilities under this chapter in accordance with:

25 (A) the method adopted by the AWWA in the most
26 current edition of Water Audits and Loss Control
27 Programs, Manual M36, and by the AWWA's Free
28 Water Audit Software; or

29 (B) another method accepted by the commission.

30 (2) The performance of an independent, level one
31 validation of the water loss audit report of a water utility
32 under section 4(a) or 4(c) of this chapter before the audit
33 report is submitted to the commission.

34 (3) The:

35 (A) technical qualifications; and

36 (B) independence from the water utility;

37 required of a person who performs in a level one validation
38 of the water loss audit report of a water utility under
39 section 4(a) or 4(c) of this chapter.

40 (4) The reporting by a water utility of the steps taken by
41 the water utility to reduce the volume of the water utility's
42 apparent and real water losses.



- 1 **(5) The proper method of submitting a water loss audit**
2 **report to the commission.**
- 3 **(b) This subsection applies if the rules adopted by the**
4 **commission under subsection (a) incorporate or are based on**
5 **the AWWA's Water Audits and Loss Control Programs,**
6 **Manual M36. The commission shall consider amending the rules**
7 **not later than six (6) months after each release, after December**
8 **31, 2020, of a new edition of the AWWA's Water Audits and**
9 **Loss Control Programs, Manual M36, to make the rules**
10 **consistent with the newly released edition.**
- 11 **(c) The rules adopted by the commission under subsection (a)**
12 **must require an independent, level one validation of the water**
13 **loss audit report of a water utility to be performed under**
14 **section 4(a) or 4(c) of this chapter according to:**
- 15 **(1) the principles and terminology set forth in:**
- 16 **(A) the most current edition of Water Audits and Loss**
17 **Control Programs, Manual M36; and**
- 18 **(B) the AWWA's free water audit software; or**
- 19 **(2) another method accepted by the commission.**
- 20 **(d) A validated water loss audit report submitted to the**
21 **commission under section 4(a) or 4(c) of this chapter must**
22 **include the name and technical qualifications of the person who**
23 **performed the validation of the water loss audit report.**
- 24 **Sec. 4. (a) Before July 1, 2021, each water utility shall submit**
25 **to the commission, in accordance with the rules adopted under**
26 **section 3 of this chapter:**
- 27 **(1) a water loss audit report for calendar year 2020; and**
28 **(2) an independent, level one validation of the water loss**
29 **audit report.**
- 30 **(b) Before July 1 of each year after 2021, each water utility**
31 **shall submit to the commission, in accordance with the rules**
32 **adopted under section 3 of this chapter, a water loss audit**
33 **report concerning the previous calendar year.**
- 34 **(c) Before July 1 of every odd-numbered year beginning with**
35 **2023, each water utility shall submit to the commission, in**
36 **accordance with the rules adopted under section 3 of this**
37 **chapter, in addition to a water loss audit report concerning the**
38 **immediately preceding calendar year, an independent, level one**
39 **validation of the water loss audit report.**
- 40 **Sec. 5. Each water loss audit report submitted to the**
41 **commission under this chapter must be accompanied by**
42 **information, in a form specified in the rules adopted by the**



1 **commission under section 3 of this chapter, stating the steps**
 2 **taken by the water utility in the preceding year to reduce the**
 3 **volume of apparent and real water losses.**

4 **Sec. 6. At least one (1) of the following must attest to each**
 5 **water loss audit report submitted to the commission under this**
 6 **chapter:**

7 **(1) The chief financial officer of the water utility.**

8 **(2) The chief engineer of the water utility.**

9 **(3) The general manager of the water utility.**

10 **Sec. 7. (a) The commission shall return to the water utility**
 11 **any water loss audit report submitted to the commission under**
 12 **this chapter that the commission finds to be:**

13 **(1) incomplete;**

14 **(2) not validated, if an independent, level one validation of**
 15 **the water loss audit report is required under section 4(a) or**
 16 **4(c) of this chapter;**

17 **(3) not attested as required by section 6 of this chapter; or**

18 **(4) incongruent with known characteristics of the water**
 19 **system operations of the water utility.**

20 **(b) A water utility shall submit a new or revised water loss**
 21 **audit report to the commission within ninety (90) days after a**
 22 **water loss audit report of the water utility is returned under**
 23 **subsection (a).**

24 **Sec. 8. (a) The commission shall post all validated water loss**
 25 **audit reports on an Internet web site in a manner that allows**
 26 **for comparisons between water utilities.**

27 **(b) The commission shall make validated water loss audit**
 28 **reports available for public viewing in a timely manner after the**
 29 **validated water loss audit reports are submitted to the**
 30 **commission under this chapter.**

31 **Sec. 9. After June 30, 2022, and before July 1, 2023, the**
 32 **commission, considering the water loss audit reports submitted**
 33 **under this chapter with level one validation, shall consider**
 34 **adopting rules to:**

35 **(1) specify:**

36 **(A) a minimum data validity score; or**

37 **(B) a specific level of yearly improvement in the data**
 38 **validity score;**

39 **that a water utility must achieve, as reported in future**
 40 **water loss audit reports; and**

41 **(2) require water utilities to meet certain performance**
 42 **standards for the volume of their water losses.**



1 SECTION 3. IC 13-14-14 IS ADDED TO THE INDIANA CODE
 2 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
 3 JULY 1, 2019]:

4 **Chapter 14. Water Data Collection Hub**

5 **Sec. 1. (a)** As used in this chapter, "state agency" means any
 6 department, agency, commission, division, authority, board,
 7 bureau, or office of the state under the executive authority of
 8 the governor.

9 (b) The term does not include any state educational
 10 institution, except that the term includes the Indiana geological
 11 and water survey established as a part of Indiana University by
 12 IC 21-47-2.

13 **Sec. 2.** As used in this chapter, "water related data" means
 14 any quantitative information concerning the water resources of
 15 the state of Indiana that is:

16 (1) gathered by; or

17 (2) reported to;

18 a state agency.

19 **Sec. 3. (a)** The department shall:

20 (1) establish; and

21 (2) maintain;

22 a water data collection hub.

23 (b) The water data collection hub must meet the following
 24 requirements:

25 (1) It must be designed and established so as to
 26 accommodate all water related data that will be submitted
 27 to and recorded in the water data collection hub in the
 28 foreseeable future.

29 (2) It must record all water related data electronically.

30 (3) It must have electronic search and retrieval capabilities
 31 that will allow the recorded water related data in the water
 32 data collection hub to be easily located, gathered, and
 33 organized into useful form.

34 **Sec. 4.** The environmental rules board shall adopt rules
 35 under IC 4-22-2 and IC 13-14-9 to do the following:

36 (1) Identify all types of quantitative information
 37 concerning the water resources of the state that constitute
 38 water related data that must be submitted by state agencies
 39 for recording in the water data collection hub.

40 (2) Specify:

41 (A) who is responsible for submitting each type of water
 42 related data;



- 1 **(B) in what form the water related data must be**
 2 **submitted; and**
 3 **(C) when each item of water related data must be**
 4 **submitted.**
 5 **(3) Establish procedures for:**
 6 **(A) the collection of water data for;**
 7 **(B) the storage and organization of water data in; and**
 8 **(C) the retrieval of water data from;**
 9 **the water data collection hub established under this**
 10 **chapter.**
 11 **SECTION 4. [EFFECTIVE JULY 1, 2019] (a) The general**
 12 **assembly urges the governor to create:**
 13 **(1) a position; or**
 14 **(2) an office;**
 15 **within the administrative branch of government to oversee and**
 16 **coordinate the water related programs and activities of the**
 17 **state.**
 18 **(b) The holder of the position, if created under subsection**
 19 **(a)(1), or the office, if created under subsection (a)(2), should do**
 20 **the following:**
 21 **(1) Employ a consolidated procedure for the review of the**
 22 **funding of the state's water related programs so as to be**
 23 **able to:**
 24 **(A) coordinate funding streams;**
 25 **(B) use funds to their maximum effectiveness; and**
 26 **(C) coordinate incentives;**
 27 **in the manner most likely to achieve the goals of**
 28 **comprehensive water related data collection and regional**
 29 **collaboration in water and wastewater service.**
 30 **(2) In coordinating among state agencies involved in water**
 31 **related programs:**
 32 **(A) ensure that the goal of affordability of rates is**
 33 **pursued in contemplation of future ratepayers over a**
 34 **certain future time frame;**
 35 **(B) ensure that water supply, water demand,**
 36 **infrastructure needs, and the results of regional water**
 37 **studies are considered; and**
 38 **(C) ensure that regional collaboration is promoted by**
 39 **encouraging regional economic groups to bring together**
 40 **relevant stakeholders for the discussion of how local**
 41 **water and wastewater utilities may benefit from**
 42 **working together.**



1 **(c) This SECTION expires July 1, 2022.**
2 **SECTION 5. An emergency is declared for this act.**

