



February 8, 2022

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## ENGROSSED SENATE BILL No. 85

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DIGEST OF SB 85 (Updated February 7, 2022 11:24 am - DI 140)

**Citations Affected:** IC 2-5.

**Synopsis:** Drainage task force. Establishes a drainage task force consisting of six members of the senate, six members of the house of representatives, and seven other individuals. Requires the task force to: (1) review the responsibilities of landowners and state and local authorities under current laws relating to the drainage of land; (2) make certain determinations concerning drainage and regulatory matters; and (3) determine whether the balance between state authority and local authority over drainage of agricultural land favors state authority more in Indiana than in neighboring states. Authorizes the task force to make recommendations. Requires the task force to issue a report and, not later than December 1, 2023, submit the report to the executive director of the legislative services agency for distribution to the members of the general assembly and to the governor.

**Effective:** Upon passage.

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### Leising, Glick, Raatz, Doriot

(HOUSE SPONSORS — LEHE, EBERHART, BARRETT)

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January 4, 2022, read first time and referred to Committee on Natural Resources.  
January 11, 2022, amended, reported favorably — Do Pass.  
January 18, 2022, read second time, amended, ordered engrossed.  
January 19, 2022, engrossed.  
January 20, 2022, read third time, passed. Yeas 45, nays 2.

HOUSE ACTION

January 31, 2022, read first time and referred to Committee on Agriculture and Rural Development.  
February 8, 2022, reported — Do Pass.

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ES 85—LS 6388/DI 55





February 8, 2022

Second Regular Session of the 122nd General Assembly (2022)

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 2021 Regular Session of the General Assembly.

## ENGROSSED SENATE BILL No. 85

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

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

1 SECTION 1. IC 2-5-51 IS ADDED TO THE INDIANA CODE AS  
2 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON  
3 PASSAGE]:

4 **Chapter 51. Drainage Task Force**

5 **Sec. 1. As used in this chapter, "task force" refers to the**  
6 **drainage task force established by section 2 of this chapter.**

7 **Sec. 2. The drainage task force is established.**

8 **Sec. 3. (a) The task force consists of the following nineteen (19)**  
9 **members:**

10 **(1) Six (6) members of the senate, appointed as follows:**

11 **(A) Four (4) members shall be appointed by the president**  
12 **pro tempore.**

13 **(B) Two (2) members shall be appointed by the minority**  
14 **leader of the senate.**

15 **(2) Six (6) members of the house of representatives, appointed**  
16 **as follows:**

17 **(A) Four (4) members shall be appointed by the speaker.**

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- 1           **(B) Two (2) members shall be appointed by the minority**  
 2           **leader of the house of representatives.**
- 3           **(3) One (1) officer or employee of the department of**  
 4           **environmental management, appointed by the governor.**
- 5           **(4) One (1) officer or employee of the department of natural**  
 6           **resources, appointed by the governor.**
- 7           **(5) One (1) member of a county drainage board established by**  
 8           **IC 36-9-27-4, appointed by the governor.**
- 9           **(6) One (1) member of the governing body of a soil and water**  
 10           **conservation district who was appointed or elected under**  
 11           **IC 14-32-4-1, appointed by the governor.**
- 12           **(7) One (1) representative of the Indiana chapter of the**  
 13           **American Society of Farm Managers and Rural Appraisers,**  
 14           **Inc., appointed by the governor.**
- 15           **(8) One (1) representative of a statewide farm organization,**  
 16           **appointed by the governor.**
- 17           **(9) One (1) county surveyor, appointed by the governor.**
- 18           **(b) The president pro tempore shall designate one (1) of the**  
 19           **members appointed under subsection (a)(1)(A) as co-chair of the**  
 20           **task force.**
- 21           **(c) The speaker shall designate one (1) of the members**  
 22           **appointed under subsection (a)(2)(A) as co-chair of the task force.**
- 23           **Sec. 4. (a) Ten (10) members of the task force constitutes a**  
 24           **quorum.**
- 25           **(b) The affirmative vote of at least a majority of the members at**  
 26           **a meeting at which a quorum is present is necessary for the task**  
 27           **force to take official action other than to meet and take testimony.**
- 28           **(c) The task force shall meet at the call of the co-chairs.**
- 29           **Sec. 5. All meetings of the task force shall be open to the public**  
 30           **in accordance with and subject to IC 5-14-1.5. All records of the**  
 31           **task force shall be subject to the requirements of IC 5-14-3.**
- 32           **Sec. 6. The task force shall do the following:**
- 33           **(1) Review the responsibilities of landowners and state and**  
 34           **local authorities under current laws relating to the drainage**  
 35           **of land, including the following:**
- 36           **(A) IC 36-9-27, IC 36-9-27.4, and IC 14-27-8, the laws**  
 37           **concerning drains, drainage boards, and drainage**  
 38           **maintenance and repair districts.**
- 39           **(B) The law concerning federally regulated wetlands,**  
 40           **including Sections 404 and 401 of the federal Clean Water**  
 41           **Act (33 U.S.C. 1344 and 33 U.S.C. 1341).**
- 42           **(C) IC 13-18-22, the law regulating wetland activity in**



1 state regulated wetlands.  
 2 (D) IC 14-28, the Indiana flood control law.  
 3 (2) Determine:  
 4 (A) whether authority over drainage matters is shifting  
 5 from county drainage boards to state authorities;  
 6 (B) the extent to which the objective inherent in the  
 7 drainage law, that of simply draining agricultural land, is  
 8 yielding to conservation and pollution control objectives;  
 9 (C) whether the delays and costs associated with  
 10 regulatory requirements applying to farm conservation  
 11 projects are too great; and  
 12 (D) whether floodway permit requirements should apply  
 13 to the installation of fences and the removal of embedded  
 14 tree limbs and stumps on farmland located in floodways.  
 15 (3) Determine whether the balance between state authority  
 16 and local authority over drainage of agricultural land favors  
 17 state authority more in Indiana than in neighboring states.  
 18 Sec. 7. The task force may make recommendations based upon  
 19 the determinations it makes under section 6 of this chapter.  
 20 Sec. 8. The task force shall:  
 21 (1) issue a report setting forth the determinations and  
 22 recommendations it makes under this chapter; and  
 23 (2) not later than December 1, 2023, submit the report:  
 24 (A) in an electronic format under IC 5-14-6 to the  
 25 executive director of the legislative services agency for  
 26 distribution to the members of the general assembly; and  
 27 (B) to the governor.  
 28 Sec. 9. The legislative services agency shall provide staff support  
 29 to the task force.  
 30 Sec. 10. This chapter expires January 1, 2024.  
 31 SECTION 2. An emergency is declared for this act.



## COMMITTEE REPORT

Madam President: The Senate Committee on Natural Resources, to which was referred Senate Bill No. 85, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, line 8, delete "seventeen (17)" and insert "**eighteen (18)**".

Page 2, between lines 4 and 5, begin a new line block indented and insert:

**"(4) One (1) officer or employee of the department of natural resources, appointed by the governor."**

Page 2, line 5, delete "(4)" and insert "**(5)**".

Page 2, line 7, delete "(5)" and insert "**(6)**".

Page 2, line 10, delete "(6)" and insert "**(7)**".

Page 2, line 13, delete "(7)" and insert "**(8)**".

Page 2, line 20, delete "A majority of the" and insert "**Ten (10)**".

and when so amended that said bill do pass.

(Reference is to SB 85 as introduced.)

GLICK, Chairperson

Committee Vote: Yeas 6, Nays 0.

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 SENATE MOTION

Madam President: I move that Senate Bill 85 be amended to read as follows:

Page 1, line 8, delete "eighteen (18)" and insert "**nineteen (19)**".

Page 2, between lines 16 and 17, begin a new line block indented and insert:

**"(9) One (1) county surveyor, appointed by the governor."**

(Reference is to SB 85 as printed January 12, 2022.)

DORIOT



COMMITTEE REPORT

Mr. Speaker: Your Committee on Agriculture and Rural Development, to which was referred Senate Bill 85, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

(Reference is to SB 85 as reprinted January 19, 2022.)

LEHE

Committee Vote: Yeas 13, Nays 0

