

SENATE BILL No. 356

DIGEST OF INTRODUCED BILL

Citations Affected: IC 14-8-2; IC 14-9-6-1; IC 14-25; IC 14-25.5-1; IC 14-26; IC 14-28-1; IC 14-29; IC 14-33; IC 14-40; IC 36-9-27.

Synopsis: Water management authority. Establishes the water management authority as an agency of state government. Requires the governor to appoint an administrator of the authority (administrator). Provides for the adoption and implementation of a statewide water management plan. Provides that, upon adoption of the statewide water management plan, the administrator assumes powers and duties related to: (1) water rights and emergency regulation of surface and ground water; (2) potable water rights; (3) water resources management; (4) the Great Lakes compact; (5) reservoirs; (6) preservation and legal action concerning lakes; (7) flood control; (8) construction of channels; and (9) conservancy districts. Establishes one regional water management council for each of nine hydrological regions in Indiana. Provides for the designation of a drainage project as a "drainage project of water management importance" if it meets certain conditions, and provides that a permit from the administrator is required for such a project. Requires an agency that constructs and repairs highways to consult with the administrator to limit sedimentation. Defines "wetlands". Establishes a process under which a landowner may petition to prevent a drainage board from draining wetlands on the owner's land. Requires a drainage board, in determining the benefit from the construction of a drain, to take the benefit provided by wetlands into account.

Effective: July 1, 2014.

Young R, Glick

January 14, 2014, read first time and referred to Committee on Environmental Affairs.



Second Regular Session 118th General Assembly (2014)

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 2013 Regular Session and 2013 First Regular Technical Session of the General Assembly.

SENATE BILL No. 356

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

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

- 1 SECTION 1. IC 14-8-2-2.3 IS ADDED TO THE INDIANA CODE
- 2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
- 3 1, 2014]: **Sec. 2.3. "Administrator", for purposes of IC 14-40, refers**
- 4 **to the executive and chief administrative officer of the water**
- 5 **management authority appointed under IC 14-40-4-1.**
- 6 SECTION 2. IC 14-8-2-16.4 IS ADDED TO THE INDIANA CODE
- 7 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
- 8 1, 2014]: **Sec. 16.4. "Authority", for purposes of IC 14-40, has the**
- 9 **meaning set forth in IC 14-40-2-3.**
- 10 SECTION 3. IC 14-8-2-77, AS AMENDED BY P.L.167-2011,
- 11 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 12 JULY 1, 2014]: **Sec. 77. "Division" has the following meaning:**
- 13 (1) For purposes of IC 14-9-8, the meaning set forth in
- 14 IC 14-9-8-2.
- 15 (2) For purposes of IC 14-21, the division of historic preservation
- 16 and archeology.



1 (3) For purposes of IC 14-22, the division of fish and wildlife.

2 (4) For purposes of IC 14-24, the division of entomology and
3 plant pathology.

4 (5) For purposes of IC 14-25.5, the ~~division of water~~. **meaning set
5 forth in IC 14-25.5-1-2.**

6 (6) For purposes of IC 14-31-2, the meaning set forth in
7 IC 14-31-2-4.

8 (7) For purposes of IC 14-32, the division of soil conservation of
9 the Indiana state department of agriculture established by
10 IC 15-11-4-1.

11 (8) For purposes of IC 14-37, the division of oil and gas.

12 SECTION 4. IC 14-8-2-79.7 IS ADDED TO THE INDIANA CODE
13 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
14 1, 2014]: **Sec. 79.7. "Drainage project of water management
15 importance", for purposes of IC 14-40, has the meaning set forth
16 in IC 14-40-2-4.**

17 SECTION 5. IC 14-8-2-94 IS AMENDED TO READ AS
18 FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 94. (a) "Flood control",
19 for purposes of IC 14-28-1 has the meaning set forth in IC 14-28-1-2.

20 (b) "Flood control", for purposes of IC 14-40, has the meaning
21 set forth in IC 14-40-2-5.

22 SECTION 6. IC 14-8-2-128.6 IS ADDED TO THE INDIANA
23 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
24 [EFFECTIVE JULY 1, 2014]: **Sec. 128.6. "Hydrological region", for
25 purposes of IC 14-40, has the meaning set forth in IC 14-40-2-6.**

26 SECTION 7. IC 14-8-2-167.5 IS ADDED TO THE INDIANA
27 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
28 [EFFECTIVE JULY 1, 2014]: **Sec. 167.5. "Mitigate", for purposes
29 of IC 14-40, has the meaning set forth in IC 14-40-2-7.**

30 SECTION 8. IC 14-8-2-235.6 IS ADDED TO THE INDIANA
31 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
32 [EFFECTIVE JULY 1, 2014]: **Sec. 235.6. "Regional water
33 management council", for purposes of IC 14-40, has the meaning
34 set forth in IC 14-40-2-8.**

35 SECTION 9. IC 14-8-2-266.9 IS ADDED TO THE INDIANA
36 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
37 [EFFECTIVE JULY 1, 2014]: **Sec. 266.9. "Statewide water
38 management plan", for purposes of IC 14-40, has the meaning set
39 forth in IC 14-40-2-9.**

40 SECTION 10. IC 14-8-2-306.4 IS ADDED TO THE INDIANA
41 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
42 [EFFECTIVE JULY 1, 2014]: **Sec. 306.4. "Water management", for**



1 **purposes of IC 14-40-8, has the meaning set forth in IC 14-40-8-1.**

2 SECTION 11. IC 14-8-2-306.6 IS ADDED TO THE INDIANA
3 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
4 [EFFECTIVE JULY 1, 2014]: **Sec. 306.6. "Water management**
5 **authority" refers to the water management authority established**
6 **by IC 14-40-3-1.**

7 SECTION 12. IC 14-9-6-1, AS AMENDED BY P.L.95-2006,
8 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
9 JULY 1, 2014]: Sec. 1. An advisory council is established to serve ~~both~~
10 ~~of the following:~~

11 (1) ~~The bureau of water and resource regulation;~~

12 (2) ~~the bureau of lands and cultural resources.~~

13 SECTION 13. IC 14-25-1-12 IS ADDED TO THE INDIANA
14 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
15 [EFFECTIVE JULY 1, 2014]: **Sec. 12. (a) Upon the adoption of the**
16 **statewide water management plan under IC 14-40-8:**

17 (1) **all powers and duties of the commission under this chapter**
18 **are transferred to the water management authority**
19 **established by IC 14-40-3-1; and**

20 (2) **the water management authority takes the place of the**
21 **commission as to:**

22 (A) **all contracts entered into and liabilities incurred by the**
23 **commission; and**

24 (B) **all legal actions commenced and causes of action**
25 **arising;**

26 **under this chapter.**

27 (b) **After the adoption of the statewide water management plan**
28 **under IC 14-40-8:**

29 (1) **a reference to the commission in this chapter or in a rule**
30 **or other document adopted by the commission under this**
31 **chapter shall be treated as a reference to the water**
32 **management authority; and**

33 (2) **a rule adopted under this chapter shall be treated for all**
34 **purposes as a rule adopted by the water management**
35 **authority.**

36 SECTION 14. IC 14-25-3-19 IS ADDED TO THE INDIANA
37 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
38 [EFFECTIVE JULY 1, 2014]: **Sec. 19. (a) Upon the adoption of the**
39 **statewide water management plan under IC 14-40-8:**

40 (1) **all powers and duties of the department under this chapter**
41 **are transferred to the water management authority**
42 **established by IC 14-40-3-1; and**



- 1 **(2) the water management authority takes the place of the**
- 2 **department as to:**
- 3 **(A) all contracts entered into and liabilities incurred by the**
- 4 **department; and**
- 5 **(B) all legal actions commenced and causes of action**
- 6 **arising;**
- 7 **under this chapter.**
- 8 **(b) After the adoption of the statewide water management plan**
- 9 **under IC 14-40-8:**
- 10 **(1) a reference to the commission in this chapter or in a rule**
- 11 **or other document adopted by the department under this**
- 12 **chapter shall be treated as a reference to the water**
- 13 **management authority; and**
- 14 **(2) a rule adopted under this chapter shall be treated for all**
- 15 **purposes as a rule adopted by the water management**
- 16 **authority.**

17 SECTION 15. IC 14-25-4-22 IS ADDED TO THE INDIANA
 18 CODE AS A NEW SECTION TO READ AS FOLLOWS
 19 [EFFECTIVE JULY 1, 2014]: **Sec. 22. (a) Upon the adoption of the**
 20 **statewide water management plan under IC 14-40-8:**

- 21 **(1) all powers and duties of the commission and the director**
- 22 **under this chapter are transferred to the water management**
- 23 **authority established by IC 14-40-3-1; and**
- 24 **(2) the water management authority takes the place of the**
- 25 **commission as to:**
- 26 **(A) all contracts entered into and liabilities incurred by the**
- 27 **commission and the director; and**
- 28 **(B) all legal actions commenced and causes of action**
- 29 **arising;**
- 30 **under this chapter.**
- 31 **(b) After the adoption of the statewide water management plan**
- 32 **under IC 14-40-8:**
- 33 **(1) a reference to the commission or the director in this**
- 34 **chapter or in a rule or other document adopted by the**
- 35 **commission or the director under this chapter shall be treated**
- 36 **as a reference to the water management authority; and**
- 37 **(2) a rule adopted under this chapter shall be treated for all**
- 38 **purposes as a rule adopted by the water management**
- 39 **authority.**

40 SECTION 16. IC 14-25-5-16 IS ADDED TO THE INDIANA
 41 CODE AS A NEW SECTION TO READ AS FOLLOWS
 42 [EFFECTIVE JULY 1, 2014]: **Sec. 16. (a) Upon the adoption of the**



1 statewide water management plan under IC 14-40-8:

2 (1) all powers and duties of the commission and the director
3 under this chapter are transferred to the water management
4 authority established by IC 14-40-3-1; and

5 (2) the water management authority takes the place of the
6 commission as to:

7 (A) all contracts entered into and liabilities incurred by the
8 commission and the director; and

9 (B) all legal actions commenced and causes of action
10 arising;

11 under this chapter.

12 (b) After the adoption of the statewide water management plan
13 under IC 14-40-8:

14 (1) a reference to the commission or the director in this
15 chapter or in a rule or other document adopted by the
16 commission or the director under this chapter shall be treated
17 as a reference to the water management authority; and

18 (2) a rule adopted under this chapter shall be treated for all
19 purposes as a rule adopted by the water management
20 authority.

21 SECTION 17. IC 14-25-6-7 IS ADDED TO THE INDIANA CODE
22 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
23 1, 2014]: Sec. 7. (a) Upon the adoption of the statewide water
24 management plan under IC 14-40-8:

25 (1) all powers and duties of the department under this chapter
26 are transferred to the water management authority
27 established by IC 14-40-3-1; and

28 (2) the water management authority takes the place of the
29 department as to:

30 (A) all contracts entered into and liabilities incurred by the
31 department; and

32 (B) all legal actions commenced and causes of action
33 arising;

34 under this chapter.

35 (b) After the adoption of the statewide water management plan
36 under IC 14-40-8:

37 (1) a reference to the commission in this chapter or in a rule
38 or other document adopted by the department under this
39 chapter shall be treated as a reference to the water
40 management authority; and

41 (2) a rule adopted under this chapter shall be treated for all
42 purposes as a rule adopted by the water management



1 **authority.**

2 SECTION 18. IC 14-25-7-10, AS AMENDED BY P.L.95-2006,
3 SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
4 JULY 1, 2014]: Sec. 10. (a) The commission shall administer this
5 chapter.

6 (b) The deputy director for water and resource regulation shall serve
7 as technical secretary to the commission. The deputy director shall
8 perform the duties that are required by this chapter or that the
9 commission directs.

10 (c) ~~The advisory council established by IC 14-9-6-1 shall serve in~~
11 ~~an advisory capacity to the commission with respect to the~~
12 ~~implementation of the commission's powers and duties; including the~~
13 ~~drafting of rules and development of inventories, assessments, and~~
14 ~~plans.~~

15 (d) For the time that the advisory council is involved in the drafting
16 of rules, the membership of the council shall be augmented as follows:

17 (1) ~~Two (2) members of the senate; not more than one (1) of~~
18 ~~whom may be of the same political party; shall be appointed for~~
19 ~~a term of two (2) years by the president pro tempore of the senate.~~

20 (2) ~~Two (2) members of the house of representatives; not more~~
21 ~~than one (1) of whom may be of the same political party; shall be~~
22 ~~appointed for a term of two (2) years by the speaker of the house~~
23 ~~of representatives.~~

24 These members are entitled to travel expenses and a per diem
25 allowance as determined by the budget agency for members of boards
26 and commissions generally.

27 ~~(c)~~ (c) The department shall provide professional, technical, and
28 clerical personnel, equipment, supplies, and support services
29 reasonably required to assist the commission in the exercise of the
30 commission's powers and duties under this chapter. The department
31 shall include money for this purpose in the regular operating budget
32 requests of the department.

33 SECTION 19. IC 14-25-7-18 IS ADDED TO THE INDIANA
34 CODE AS A NEW SECTION TO READ AS FOLLOWS
35 [EFFECTIVE JULY 1, 2014]: **Sec. 18. (a) Upon the adoption of the**
36 **statewide water management plan under IC 14-40-8:**

37 (1) **all powers and duties of the commission under this chapter**
38 **are transferred to the water management authority**
39 **established by IC 14-40-3-1; and**

40 (2) **the water management authority takes the place of the**
41 **commission as to:**

42 (A) **all contracts entered into and liabilities incurred by the**



- 1 commission; and
 2 **(B) all legal actions commenced and causes of action**
 3 **arising;**
 4 **under this chapter.**
 5 **(b) After the adoption of the statewide water management plan**
 6 **under IC 14-40-8:**
 7 **(1) a reference to the commission in this chapter or in a rule**
 8 **or other document adopted by the commission under this**
 9 **chapter shall be treated as a reference to the water**
 10 **management authority; and**
 11 **(2) a rule adopted under this chapter shall be treated for all**
 12 **purposes as a rule adopted by the water management**
 13 **authority.**
 14 **(c) The advisory council established by IC 14-9-6-1 shall serve**
 15 **in an advisory capacity to the administrator for the purposes of**
 16 **this chapter.**
 17 SECTION 20. IC 14-25-15-14 IS ADDED TO THE INDIANA
 18 CODE AS A NEW SECTION TO READ AS FOLLOWS
 19 [EFFECTIVE JULY 1, 2014]: **Sec. 14. (a) Upon the adoption of the**
 20 **statewide water management plan under IC 14-40-8:**
 21 **(1) all powers and duties of the department and the natural**
 22 **resources commission under this chapter are transferred to**
 23 **the water management authority established by IC 14-40-3-1;**
 24 **and**
 25 **(2) the water management authority takes the place of the**
 26 **department and the natural resources commission as to:**
 27 **(A) the compact;**
 28 **(B) all contracts entered into and liabilities incurred by the**
 29 **department or the natural resources commission; and**
 30 **(C) all legal actions commenced and causes of action**
 31 **arising;**
 32 **under this chapter.**
 33 **(b) After the adoption of the statewide water management plan**
 34 **under IC 14-40-8:**
 35 **(1) a reference to the department or the natural resources**
 36 **commission in this chapter or in a rule or other document**
 37 **adopted by the department or the natural resources**
 38 **commission under this chapter shall be treated as a reference**
 39 **to the water management authority; and**
 40 **(2) a rule adopted under this chapter shall be treated for all**
 41 **purposes as a rule adopted by the water management**
 42 **authority.**



1 SECTION 21. IC 14-25.5-1-1 IS AMENDED TO READ AS
 2 FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 1. This article applies
 3 to actions to enforce the following articles:

4 (1) IC 14-26.

5 (2) IC 14-27.

6 (3) IC 14-28.

7 (4) IC 14-29.

8 **(5) IC 14-40.**

9 SECTION 22. IC 14-25.5-1-2 IS AMENDED TO READ AS
 10 FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 2. **(a) Subject to**
 11 **subsection (b)**, as used in this article, "division" refers to the division
 12 of water of the department.

13 **(b) For the purposes of an enforcement action taken under**
 14 **IC 14-40, "division" refers to the water management authority**
 15 **established by IC 14-40-3-1.**

16 SECTION 23. IC 14-26-1-13 IS ADDED TO THE INDIANA
 17 CODE AS A NEW SECTION TO READ AS FOLLOWS
 18 [EFFECTIVE JULY 1, 2014]: **Sec. 13. (a) Upon the adoption of the**
 19 **statewide water management plan under IC 14-40-8:**

20 **(1) all powers and duties of the commission and the**
 21 **department under this chapter are transferred to the water**
 22 **management authority established by IC 14-40-3-1; and**

23 **(2) the water management authority takes the place of the**
 24 **commission and the department as to:**

25 **(A) all contracts entered into and liabilities incurred by the**
 26 **commission or the department; and**

27 **(B) all legal actions commenced and causes of action**
 28 **arising;**

29 **under this chapter.**

30 **(b) After the adoption of the statewide water management plan**
 31 **under IC 14-40-8:**

32 **(1) a reference to the commission or the department in this**
 33 **chapter or in a rule or other document adopted by the**
 34 **commission or the department under this chapter shall be**
 35 **treated as a reference to the water management authority;**
 36 **and**

37 **(2) a rule adopted under this chapter shall be treated for all**
 38 **purposes as a rule adopted by the water management**
 39 **authority.**

40 SECTION 24. IC 14-26-2-26 IS ADDED TO THE INDIANA
 41 CODE AS A NEW SECTION TO READ AS FOLLOWS
 42 [EFFECTIVE JULY 1, 2014]: **Sec. 26. (a) Upon the adoption of the**



1 statewide water management plan under IC 14-40-8:

2 (1) all powers and duties of the department and the
3 commission under this chapter are transferred to the water
4 management authority established by IC 14-40-3-1; and

5 (2) the water management authority takes the place of the
6 department and the commission as to:

7 (A) all contracts entered into and liabilities incurred by the
8 commission or the department; and

9 (B) all legal actions commenced and causes of action
10 arising;

11 under this chapter.

12 (b) After the adoption of the statewide water management plan
13 under IC 14-40-8:

14 (1) a reference to the department or the commission in this
15 chapter or in a rule or other document adopted by the
16 commission or the department under this chapter shall be
17 treated as a reference to the water management authority;
18 and

19 (2) a rule adopted under this chapter shall be treated for all
20 purposes as a rule adopted by the water management
21 authority.

22 SECTION 25. IC 14-26-3-7 IS ADDED TO THE INDIANA CODE
23 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
24 1, 2014]: Sec. 7. (a) Upon the adoption of the statewide water
25 management plan under IC 14-40-8:

26 (1) all powers and duties of the department under this chapter
27 are transferred to the water management authority
28 established by IC 14-40-3-1; and

29 (2) the water management authority takes the place of the
30 department as to:

31 (A) all contracts entered into and liabilities incurred by the
32 department; and

33 (B) all legal actions commenced and causes of action
34 arising;

35 under this chapter.

36 (b) After the adoption of the statewide water management plan
37 under IC 14-40-8:

38 (1) a reference to the department in this chapter or in a rule
39 or other document adopted by the department under this
40 chapter shall be treated as a reference to the water
41 management authority; and

42 (2) a rule adopted under this chapter shall be treated for all



- 1 **purposes as a rule adopted by the water management**
 2 **authority.**
 3 SECTION 26. IC 14-28-1-22, AS AMENDED BY P.L.76-2010,
 4 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 5 JULY 1, 2014]: Sec. 22. (a) As used in subsection (b)(1) with respect
 6 to a stream, "total length" means the length of the stream, expressed in
 7 miles, from the confluence of the stream with the receiving stream to
 8 the upstream or headward extremity of the stream, as indicated by the
 9 solid or dashed, blue or purple line depicting the stream on the most
 10 current edition of the seven and one-half (7 1/2) minute topographic
 11 quadrangle map published by the United States Geological Survey,
 12 measured along the meanders of the stream as depicted on the map.
- 13 (b) This section does not apply to the following:
- 14 (1) A reconstruction or maintenance project (as defined in
 15 IC 36-9-27) on a stream or an open regulated drain if the total
 16 length of the stream or open drain is not more than ten (10) miles.
 17 (2) A construction or reconstruction project on a state or county
 18 highway bridge in a rural area that crosses a stream having an
 19 upstream drainage area of not more than fifty (50) square miles
 20 and the relocation of utility lines associated with the construction
 21 or reconstruction project if confined to an area not more than one
 22 hundred (100) feet from the limits of the highway construction
 23 right-of-way.
 24 (3) The performance of an activity described in subsection (c)(1)
 25 or (c)(2) by a surface coal mining operation that is operated under
 26 a permit issued under IC 14-34.
 27 (4) Any other activity that is determined by the commission,
 28 according to rules adopted under IC 4-22-2, to pose not more than
 29 a minimal threat to floodway areas.
 30 (5) An activity in a boundary river floodway to which section 26.5
 31 of this chapter applies.
 32 (6) The removal of a logjam or mass of wood debris that has
 33 accumulated in a river or stream, subject to the following
 34 conditions:
- 35 (A) Work must not be within a salmonid stream designated
 36 under 327 IAC 2-1.5-5 without the prior written approval of
 37 the department's division of fish and wildlife.
 38 (B) Work must not be within a natural, scenic, or recreational
 39 river or stream designated under 312 IAC 7-2.
 40 (C) Except as otherwise provided in Indiana law, free logs or
 41 affixed logs that are crossways in the channel must be cut,
 42 relocated, and removed from the floodplain. Logs may be



- 1 maintained in the floodplain if properly anchored or otherwise
 2 secured so as to resist flotation or dislodging by the flow of
 3 water and placement in an area that is not a wetland. Logs
 4 must be removed and secured with a minimum of damage to
 5 vegetation.
- 6 (D) Isolated or single logs that are embedded, lodged, or
 7 rooted in the channel, and that do not span the channel or
 8 cause flow problems, must not be removed unless the logs are
 9 either of the following:
- 10 (i) Associated with or in close proximity to larger
 11 obstructions.
- 12 (ii) Posing a hazard to navigation.
- 13 (E) A leaning or severely damaged tree that is in immediate
 14 danger of falling into the waterway may be cut and removed if
 15 the tree is associated with or in close proximity to an
 16 obstruction. The root system and stump of the tree must be left
 17 in place.
- 18 (F) To the extent practicable, the construction of access roads
 19 must be minimized, and should not result in the elevation of
 20 the floodplain.
- 21 (G) To the extent practicable, work should be performed
 22 exclusively from one (1) side of a waterway. Crossing the bed
 23 of a waterway is prohibited.
- 24 (H) To prevent the flow of sediment laden water back into the
 25 waterway, appropriate sediment control measures must be
 26 installed.
- 27 (I) Within fifteen (15) days, all bare and disturbed areas must
 28 be revegetated with a mixture of grasses and legumes. Tall
 29 fescue must not be used under this subdivision, except that low
 30 endophyte tall fescue may be used in the bottom of the
 31 waterway and on side slopes.
- 32 (c) A person who desires to:
- 33 (1) erect, make, use, or maintain a structure, an obstruction, a
 34 deposit, or an excavation; or
- 35 (2) suffer or permit a structure, an obstruction, a deposit, or an
 36 excavation to be erected, made, used, or maintained;
- 37 in or on a floodway must file with the director a verified written
 38 application for a permit accompanied by a nonrefundable fee of two
 39 hundred dollars (\$200).
- 40 (d) The application for a permit must set forth the material facts
 41 together with plans and specifications for the structure, obstruction,
 42 deposit, or excavation.



1 (e) An applicant must receive a permit from the director for the
 2 work before beginning construction. The director shall issue a permit
 3 only if in the opinion of the director the applicant has clearly proven
 4 that the structure, obstruction, deposit, or excavation will not do any of
 5 the following:

6 (1) Adversely affect the efficiency of or unduly restrict the
 7 capacity of the floodway.

8 (2) Constitute an unreasonable hazard to the safety of life or
 9 property.

10 (3) Result in unreasonably detrimental effects upon fish, wildlife,
 11 or botanical resources.

12 (f) In deciding whether to issue a permit under this section, the
 13 director shall consider the cumulative effects of the structure,
 14 obstruction, deposit, or excavation. The director may incorporate in and
 15 make a part of an order of authorization conditions and restrictions that
 16 the director considers necessary for the purposes of this chapter.

17 (g) **Except as provided in subsection (h)**, a permit issued under
 18 this section ~~(f)~~ is void if construction is not commenced within two (2)
 19 years after the issuance of the permit. ~~and~~

20 **(h) A permit issued under this section ~~(g)~~ to:**

21 ~~(A)~~ **(1)** the Indiana department of transportation or a county
 22 highway department if there is any federal funding for the project;
 23 or

24 ~~(B)~~ **(2)** an electric utility for the construction of a power
 25 generating facility;

26 is valid for five (5) years from the date of issuance and remains valid
 27 indefinitely if construction is commenced within five (5) years after the
 28 permit is issued.

29 ~~(h)~~ **(i)** The director shall send a copy of each permit issued under
 30 this section to each river basin commission organized under:

31 (1) IC 14-29-7 or IC 13-2-27 (before its repeal); or

32 (2) IC 14-30-1 or IC 36-7-6 (before its repeal);

33 that is affected.

34 ~~(i)~~ **(j)** The permit holder shall post and maintain a permit issued
 35 under this section at the authorized site.

36 ~~(j)~~ **(k)** For the purposes of this chapter, the lowest floor of a
 37 building, including a residence or abode, that is to be constructed or
 38 reconstructed in the one hundred (100) year floodplain of an area
 39 protected by a levee that is:

40 (1) inspected; and

41 (2) found to be in good or excellent condition;

42 by the United States Army Corps of Engineers shall not be lower than



1 the one hundred (100) year frequency flood elevation plus one (1) foot.

2 **(l) A permit is not required under this section for a construction,**
 3 **reconstruction, or maintenance project proposed under IC 36-9-27**
 4 **that constitutes a drainage project of water management**
 5 **importance, as defined in IC 14-40-2-4.**

6 SECTION 27. IC 14-28-1-37 IS ADDED TO THE INDIANA
 7 CODE AS A NEW SECTION TO READ AS FOLLOWS
 8 [EFFECTIVE JULY 1, 2014]: **Sec. 37. (a) Upon the adoption of the**
 9 **statewide water management plan under IC 14-40-8:**

10 **(1) all powers and duties of the director, the department, and**
 11 **the commission under this article are transferred to the water**
 12 **management authority established by IC 14-40-3-1; and**

13 **(2) the water management authority takes the place of the**
 14 **director, the department, and the commission as to:**

15 **(A) all contracts entered into and liabilities incurred by the**
 16 **department; and**

17 **(B) all legal actions commenced and causes of action**
 18 **arising;**

19 **under this article.**

20 **(b) After the adoption of the statewide water management plan**
 21 **under IC 14-40-8:**

22 **(1) a reference to the director, the department, or the**
 23 **commission in this chapter or in a rule or other document**
 24 **adopted by the department or the commission under this**
 25 **article shall be treated as a reference to the water**
 26 **management authority; and**

27 **(2) a rule adopted under this article shall be treated for all**
 28 **purposes as a rule adopted by the water management**
 29 **authority.**

30 SECTION 28. IC 14-29-4-10 IS ADDED TO THE INDIANA
 31 CODE AS A NEW SECTION TO READ AS FOLLOWS
 32 [EFFECTIVE JULY 1, 2014]: **Sec. 10. (a) Upon the adoption of the**
 33 **statewide water management plan under IC 14-40-8:**

34 **(1) all powers and duties of the commission under this chapter**
 35 **are transferred to the water management authority**
 36 **established by IC 14-40-3-1; and**

37 **(2) the water management authority takes the place of the**
 38 **commission as to:**

39 **(A) all contracts entered into and liabilities incurred by the**
 40 **department; and**

41 **(B) all legal actions commenced and causes of action**
 42 **arising;**



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under this chapter.

(b) After the adoption of the statewide water management plan under IC 14-40-8:

(1) a reference to the commission in this chapter or in a rule or other document adopted by the commission under this chapter shall be treated as a reference to the water management authority; and

(2) a rule adopted under this chapter shall be treated for all purposes as a rule adopted by the water management authority.

SECTION 29. IC 14-29-5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 1. (a) The governing bodies or agencies of the state charged with the duties of the construction, maintenance, and repair of public highways may, to the extent money is available and subject to ~~subsection~~ **subsections (b) and (c)**, do the following:

(1) Change the course of a stream, watercourse, or drainage ditch.

(2) Restore to the original or former channel a stream, watercourse, or drainage ditch if the stream, watercourse, or drainage ditch has meandered from the original or former course.

(3) The construction work that is necessary to protect the banks or slopes of a stream, watercourse, or ditch to prevent wash, caving, slides, or erosion if the water of the stream, watercourse, or ditch is causing or threatening injury to, damage to, or destruction of a public highway or bridge by erosion, wash, slides, change of course, or overflow.

(4) Construct walls or levees for the purposes of subdivision (3) if it is determined by an engineering survey that this method would be more practicable or less expensive.

(5) Exercise the authority granted in this section to protect public highways against injury, damage, or destruction caused or threatened by landslides.

(b) If a navigable stream is under the jurisdiction of a federal authority or an agency and the proposed work of the highway officials under this section conflicts or interferes with the jurisdiction of the federal agency, the consent or waiver of the federal agency must be procured by the highway officials before the beginning of the proposed work.

(c) Before taking an action under subsection (a), a governing body or agency of the state shall consult with the administrator of the water management authority established by IC 14-40-3-1 to ensure that the action does not:



- 1 **(1) result in an increase of sedimentation, erosion, or nutrient**
- 2 **transfer that can be practicably avoided;**
- 3 **(2) cause harm to fish, wildlife, or botanical resources that can**
- 4 **practicably be avoided; or**
- 5 **(3) result in substantial adverse effects upon a drainage**
- 6 **system beneficial to agricultural land.**

7 SECTION 30. IC 14-33-2-31 IS ADDED TO THE INDIANA
 8 CODE AS A NEW SECTION TO READ AS FOLLOWS
 9 [EFFECTIVE JULY 1, 2014]: **Sec. 31. (a) Upon the adoption of the**
 10 **statewide water management plan under IC 14-40-8:**

- 11 **(1) all powers and duties of the commission under this chapter**
- 12 **are transferred to the water management authority**
- 13 **established by IC 14-40-3-1; and**
- 14 **(2) the water management authority takes the place of the**
- 15 **commission as to:**
 - 16 **(A) all contracts entered into and liabilities incurred by the**
 - 17 **department; and**
 - 18 **(B) all legal actions commenced and causes of action**
 - 19 **arising;**
- 20 **under this chapter.**

21 **(b) After the adoption of the statewide water management plan**
 22 **under IC 14-40-8:**

- 23 **(1) a reference to the commission in this chapter or in a rule**
- 24 **or other document adopted by the commission under this**
- 25 **chapter shall be treated as a reference to the water**
- 26 **management authority; and**
- 27 **(2) a rule adopted under this chapter shall be treated for all**
- 28 **purposes as a rule adopted by the water management**
- 29 **authority.**

30 SECTION 31. IC 14-33-6-15 IS ADDED TO THE INDIANA
 31 CODE AS A NEW SECTION TO READ AS FOLLOWS
 32 [EFFECTIVE JULY 1, 2014]: **Sec. 15. (a) Upon the adoption of the**
 33 **statewide water management plan under IC 14-40-8:**

- 34 **(1) all powers and duties of the commission under this chapter**
- 35 **are transferred to the water management authority**
- 36 **established by IC 14-40-3-1; and**
- 37 **(2) the water management authority takes the place of the**
- 38 **commission as to:**
 - 39 **(A) all contracts entered into and liabilities incurred by the**
 - 40 **department; and**
 - 41 **(B) all legal actions commenced and causes of action**
 - 42 **arising;**



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under this chapter.

(b) After the adoption of the statewide water management plan under IC 14-40-8:

(1) a reference to the commission in this chapter or in a rule or other document adopted by the commission under this chapter shall be treated as a reference to the water management authority; and

(2) a rule adopted under this chapter shall be treated for all purposes as a rule adopted by the water management authority.

SECTION 32. IC 14-40 IS ADDED TO THE INDIANA CODE AS A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]:

ARTICLE 40. WATER MANAGEMENT AUTHORITY

Chapter 1. Legislative Policy

Sec. 1. (a) The following are declared as a matter of legislative determination:

(1) That the water resources of Indiana are essential to the continued development and prosperity of the people of Indiana.

(2) That securing an adequate water supply for the people of Indiana and for industrial and commercial use is of paramount importance.

(3) That it is essential to initiate appropriate planning and to take action before the water supply of Indiana becomes critically threatened.

(4) That the lack of coordination among authorities and governmental bodies that manage elements of the water policy of Indiana exacerbates the effects of downstream flooding and nutrient transport, places unnecessary stress on water dependent wildlife, and prevents the state from securing the benefits of policies adopted to optimize the management of water.

(b) In light of the determinations set forth in subsection (a), it is the purpose of the general assembly to provide for the:

(1) proper coordination; and

(2) consolidation;

of management of the water supply and excess water of Indiana.

Chapter 2. Definitions

Sec. 1. Except as otherwise provided, the definitions in this chapter apply throughout this article.

Sec. 2. "Administrator" refers to the executive and chief



1 administrative officer of the authority appointed under
2 IC 14-40-4-1.

3 Sec. 3. "Authority" refers to the water management authority
4 established by IC 14-40-3-1.

5 Sec. 4. "Drainage project of water management importance"
6 means any construction, reconstruction, or maintenance proposed
7 under IC 36-9-27 that:

8 (1) would constitute a substantial alteration to the course of a
9 stream or open regulated drain;

10 (2) would cause a significant increase of sedimentation in the
11 waterway during the execution of the project;

12 (3) would cause an increase in sedimentation or nutrient
13 transfer in the waters of the state;

14 (4) would constitute a substantial deviation from the best
15 management practices as described in the technical and
16 administrative handbook for drainage projects maintained
17 under IC 14-40-8-5; or

18 (5) has any other characteristic that, according to the county
19 surveyor, would establish the drainage project as one of water
20 management importance.

21 Sec. 5. "Flood control" has the meaning set forth in
22 IC 14-28-1-2.

23 Sec. 6. "Hydrological region" means an area that:

24 (1) is bounded by county lines; and

25 (2) consists of:

26 (A) at least three (3); and

27 (B) not more than five (5);

28 contiguous hydrological units, as defined by the eight (8) digit
29 hydrological unit code of the United States Geological Survey,
30 that have similar characteristics for purposes of water
31 management.

32 Sec. 7. "Mitigate" means to undertake a remedial activity
33 designated by the administrator to offset unavoidable adverse
34 effects of a water management program.

35 Sec. 8. "Regional water management council" refers to the
36 council of a hydrological region established by IC 14-40-7-1.

37 Sec. 9. "Statewide water management plan" refers to the plan
38 to manage the water supply of Indiana under IC 14-40-8.

39 Sec. 10. "Water management authority" refers to the water
40 management authority established by IC 14-40-3-1.

41 Chapter 3. Establishment of the Water Management Authority

42 Sec. 1. The water management authority is established.



1 **Sec. 2. For purposes of IC 4-21.5, the water management**
 2 **authority is an agency, as defined in IC 4-21.5-1-3.**

3 **Chapter 4. Administrator of the Water Management Authority**

4 **Sec. 1. (a) The governor shall appoint an individual with**
 5 **appropriate training and experience as administrator of the water**
 6 **management authority. The administrator:**

7 **(1) is the executive and chief administrative officer of the**
 8 **water management authority; and**

9 **(2) may delegate the administrator's authority to:**

10 **(A) appropriate members of the staff of the authority; or**

11 **(B) a regional water management council established by**
 12 **IC 14-40-7-1.**

13 **(b) The administrator:**

14 **(1) serves at the governor's pleasure; and**

15 **(2) is entitled to receive compensation in an amount set by the**
 16 **governor.**

17 **(c) The administrator or the authority may adopt, amend, and**
 18 **repeal rules under IC 4-22-2 to implement the following:**

19 **(1) This article.**

20 **(2) After the adoption of the statewide water management**
 21 **plan under IC 14-40-8, the following:**

22 **(A) IC 14-25-1 (Water Rights; Surface Water).**

23 **(B) IC 14-25-3 (Water Rights; Ground Water).**

24 **(C) IC 14-25-4 (Emergency Regulation of Ground Water**
 25 **Rights).**

26 **(D) IC 14-25-5 (Emergency Regulation of Surface Water**
 27 **Rights).**

28 **(E) IC 14-25-6 (Water Rights; Potable Water).**

29 **(F) IC 14-25-7 (Water Resource Management).**

30 **(G) IC 14-25-15 (Great Lakes—St. Lawrence River Basin**
 31 **Water Resources Compact).**

32 **(H) IC 14-26-1 (Reservoirs; Land Acquisition and**
 33 **Creation).**

34 **(I) IC 14-26-2 (Lake Preservation).**

35 **(J) IC 14-26-3 (Lakes, Rivers, and Streams Preservation**
 36 **Suits; Parties).**

37 **(K) IC 14-28 (Flood Control).**

38 **(L) IC 14-29-4 (Construction of Channels).**

39 **(M) IC 14-33-2 (Establishment of Conservancy Districts).**

40 **(N) IC 14-33-6 (District Plan of Conservancy Districts).**

41 **(O) IC 36-9-27 (Drainage Law).**

42 **(3) A program related to water management, the**



1 administration of which is transferred or delegated to the
2 authority under IC 14-40-6-1.

3 The authority shall adopt, amend, and repeal rules under this
4 subsection in a manner consistent with this article and the
5 statewide water management plan adopted under IC 14-40-8.

6 **Chapter 5. Employees of the Water Management Authority**

7 **Sec. 1. (a)** The administrator shall appoint individuals to the
8 other positions within the water management authority.

9 **(b)** In making appointments under subsection (a), the
10 administrator:

11 (1) may consider only those technical and professional
12 qualifications of an individual that support the individual's
13 ability to perform the duties of the position for which the
14 individual is considered;

15 (2) shall select an individual for the individual's professional
16 or practical fitness to perform, irrespective of the individual's
17 political beliefs or affiliations, as the nature of the position
18 may require; and

19 (3) shall establish qualifications for employees of the authority
20 relating to knowledge, ability, education, and experience, and
21 develop procedures necessary to ensure that individuals
22 selected to be employees of the authority meet those
23 qualifications.

24 **Chapter 6. General Powers and Duties**

25 **Sec. 1. (a)** This section does not apply to a federal water
26 management statute or program if the administration or
27 enforcement of the statute or program is delegated under federal
28 law to a particular entity of state government other than the water
29 management authority.

30 **(b)** Upon adoption of the statewide water management plan
31 under IC 14-40-8, the director and officials of a state entity that
32 administers a program related to water management shall transfer
33 or delegate the administration of the program to the water
34 management authority if the administrator decides that the
35 transfer or delegation of the program will promote:

36 (1) the consolidation and optimization of the water
37 management effort; and

38 (2) the efficient use of administrative resources.

39 **Sec. 2. (a)** The administrator may do the following:

40 (1) Investigate whether the implementation of a water
41 management project complies with the terms of the project's
42 permit or approval, rules adopted under this article, and any



- 1 applicable provision of law.
- 2 (2) Require the production of information the administrator
- 3 considers relevant to the investigation.
- 4 (3) Take sworn testimony.
- 5 (4) Conduct reasonable onsite investigations of water
- 6 management projects.

7 The authority of the administrator under this subsection is
 8 enforceable by court order.

9 (b) If the administrator conducts an investigation under
 10 subsection (a), the administrator shall:

- 11 (1) provide notice to the owner of the land subject to the
- 12 investigation not less than ten (10) days before entering the
- 13 land; and
- 14 (2) exercise care to avoid damage to crops, structures, and
- 15 other property.

16 An authorized representative of the administrator who enters upon
 17 land in compliance with this section does not commit criminal
 18 trespass under IC 35-43-2-2 and is liable only for actual damage to
 19 property caused by the authorized representative's entry upon the
 20 land.

21 Sec. 3. At the request of the administrator:

- 22 (1) the Indiana attorney general shall provide legal services;
- 23 and
- 24 (2) a county engineer, county surveyor, drainage board, or
- 25 state agency shall provide information;

26 that the water management authority needs.

27 Sec. 4. At the request of the administrator, the supervising
 28 officer of a state agency shall do the following:

- 29 (1) Assign or transfer to the water management authority any
- 30 personnel of the agency, taking into account available
- 31 appropriations and the needs of the state agency to which the
- 32 request is directed.
- 33 (2) Arrange for the production of special reports, surveys, and
- 34 studies.

35 Sec. 5. Before the water management authority takes a proposed
 36 action affecting the control of:

- 37 (1) soil erosion;
- 38 (2) reduction of sedimentation; or
- 39 (3) nutrient transfer;

40 the administrator shall consult with the soil conservation board
 41 established by IC 14-32-2-1 and the division of soil conservation
 42 established by IC 15-11-4-1 within the department of agriculture



1 to ensure that the proposed action promotes the legislative
 2 determinations set forth in IC 14-32-1-1 and the policies set forth
 3 in IC 14-32-1-2.

4 **Sec. 6. (a) The administrator shall not take an action if the**
 5 **action:**

6 (1) is inconsistent with the policies of the statewide water
 7 management plan;

8 (2) results in increased sedimentation, erosion, or nutrient
 9 transfer that can practicably be avoided;

10 (3) causes harm to fish, wildlife, or botanical resources that
 11 can practicably be avoided; or

12 (4) results in substantial adverse effects upon a drainage
 13 system that is beneficial to agricultural land.

14 (b) For purposes of subsection (a), an undesirable result or
 15 cause can practicably be avoided if it is possible to avoid the result
 16 or cause without irredeemably compromising the economic
 17 viability of the related project.

18 (c) In determining for purposes of this section whether a result
 19 or cause associated with a project can practicably be avoided, the
 20 administrator shall consider the particular circumstances and
 21 resources of the person proposing the project.

22 (d) A person proposing a project has the burden of establishing
 23 that a favorable action of the administrator with respect to the
 24 project will not violate subsection (a)(2) or (a)(3).

25 **Sec. 7. IC 14-25.5 governs enforcement actions of the water**
 26 **management authority.**

27 **Chapter 7. Regional Water Management Councils**

28 **Sec. 1. (a) A regional water management council is established**
 29 **for each hydrological region.**

30 (b) The regional water management council of a hydrological
 31 region consists of:

32 (1) the chairperson of the drainage board established under
 33 IC 36-9-27-4; and

34 (2) the chairperson of the board of supervisors of the soil and
 35 water conservation district established under IC 14-32;

36 of each county located in the hydrological region.

37 (c) Subject to subsection (e), a regional water management
 38 council is established in each of the following provisional
 39 hydrological regions:

40 (1) Region One:

41 (A) Lake County;

42 (B) Porter County;



- 1 (C) LaPorte County;
 2 (D) St. Joseph County;
 3 (E) Newton County;
 4 (F) Jasper County;
 5 (G) Starke County; and
 6 (H) Marshall County.
 7 (2) Region Two:
 8 (A) Elkhart County;
 9 (B) LaGrange County;
 10 (C) Steuben County;
 11 (D) Noble County;
 12 (E) DeKalb County;
 13 (F) Allen County; and
 14 (G) Adams County.
 15 (3) Region Three:
 16 (A) Kosciusko County;
 17 (B) Pulaski County;
 18 (C) Fulton County;
 19 (D) White County;
 20 (E) Cass County;
 21 (F) Carroll County;
 22 (G) Howard County;
 23 (H) Clinton County; and
 24 (I) Tipton County.
 25 (4) Region Four:
 26 (A) Whitley County;
 27 (B) Miami County;
 28 (C) Wabash County;
 29 (D) Huntington County;
 30 (E) Wells County;
 31 (F) Grant County;
 32 (G) Blackford County;
 33 (H) Jay County; and
 34 (I) Randolph County.
 35 (5) Region Five:
 36 (A) Benton County;
 37 (B) Warren County;
 38 (C) Tippecanoe County;
 39 (D) Fountain County;
 40 (E) Montgomery County;
 41 (F) Boone County;
 42 (G) Vermillion County;



- 1 **(H) Parke County;**
 2 **(I) Putnam County;**
 3 **(J) Hendricks County; and**
 4 **(K) Clay County.**
 5 **(6) Region Six:**
 6 **(A) Hamilton County;**
 7 **(B) Madison County;**
 8 **(C) Delaware County;**
 9 **(D) Marion County;**
 10 **(E) Hancock County;**
 11 **(F) Henry County;**
 12 **(G) Wayne County;**
 13 **(H) Morgan County;**
 14 **(I) Johnson County;**
 15 **(J) Shelby County;**
 16 **(K) Rush County;**
 17 **(L) Fayette County;**
 18 **(M) Union County; and**
 19 **(N) Franklin County.**
 20 **(7) Region Seven:**
 21 **(A) Vigo County;**
 22 **(B) Sullivan County;**
 23 **(C) Knox County;**
 24 **(D) Gibson County;**
 25 **(E) Posey County; and**
 26 **(F) Vanderburgh County.**
 27 **(8) Region Eight:**
 28 **(A) Owen County;**
 29 **(B) Monroe County;**
 30 **(C) Brown County;**
 31 **(D) Greene County;**
 32 **(E) Lawrence County;**
 33 **(F) Daviess County;**
 34 **(G) Martin County;**
 35 **(H) Orange County;**
 36 **(I) Washington County;**
 37 **(J) Pike County;**
 38 **(K) Dubois County;**
 39 **(L) Crawford County;**
 40 **(M) Harrison County;**
 41 **(N) Floyd County;**
 42 **(O) Warrick County;**



- 1 (P) Spencer County; and
- 2 (Q) Perry County.
- 3 (9) Region Nine:
- 4 (A) Bartholomew County;
- 5 (B) Decatur County;
- 6 (C) Jackson County;
- 7 (D) Jennings County;
- 8 (E) Ripley County;
- 9 (F) Dearborn County;
- 10 (G) Scott County;
- 11 (H) Jefferson County;
- 12 (I) Switzerland County;
- 13 (J) Clark County; and
- 14 (K) Ohio County.

15 A regional water management council established in a provisional
 16 hydrological region under this subsection shall comply with
 17 subsection (d).

18 (d) A regional water management council shall:

- 19 (1) participate in the development of the statewide water
- 20 management plan;
- 21 (2) assist in the implementation of the statewide water
- 22 management plan for the hydrological region for which the
- 23 council is responsible;
- 24 (3) hold annual public hearings related to water management;
- 25 (4) submit to the administrator a written report on the issues
- 26 discussed during the public hearings held under subdivision
- 27 (3), including any findings and recommendations made by the
- 28 council concerning the issues; and
- 29 (5) assist the administrator with revisions to the statewide
- 30 water management plan.

31 (e) The statewide water management plan adopted under
 32 IC 14-40-8 may provide that the hydrological regions consist of
 33 different counties than are assigned to the provisional hydrological
 34 regions under subsection (c). If the statewide water management
 35 plan revises the assignment of counties under this subsection, the
 36 hydrological regions as revised by the statewide water
 37 management plan replace the provisional hydrological regions set
 38 forth in subsection (c).

39 Sec. 2. (a) A decision of a regional water management council
 40 may be appealed to the administrator.

41 (b) An appeal of a decision of the administrator is governed by
 42 IC 4-21.5.



1 **Chapter 8. Statewide Water Management Plan**

2 **Sec. 1. For purposes of this chapter, water management includes**
 3 **any action taken:**

4 (1) to oversee, supply, store, or alter the natural flow of
 5 surface or ground water; or

6 (2) for the withdrawal from, or recharge of, aquifers.

7 **Sec. 2. (a) The administrator shall develop, adopt, and**
 8 **implement a statewide water management plan not later than July**
 9 **1, 2015.**

10 (b) The statewide water management plan must include the
 11 following:

12 (1) Analysis of current water management practices,
 13 including drainage, flood control, and water supply
 14 management.

15 (2) Recommendations for future water management practices
 16 that integrate and optimize drainage, flood control, and water
 17 supply management efforts.

18 (3) A baseline estimate of current water demand in the
 19 categories of:

20 (A) domestic;

21 (B) agricultural;

22 (C) municipal;

23 (D) industrial;

24 (E) power;

25 (F) transportation;

26 (G) recreation;

27 (H) ecosystem and habitat; and

28 (I) other beneficial uses.

29 (4) A forecast of future water demand for each category of
 30 water use set forth in subdivision (3)(A) through (3)(I) and
 31 recommendations for managing shortfalls in available water.

32 (5) Confirmation or revision of the assignment of counties to
 33 provisional hydrological regions under IC 14-40-7-1(c), and
 34 identification of the unique water management characteristics
 35 of each hydrological region.

36 (c) In conducting the analysis under subsection (b)(1), the
 37 administrator shall:

38 (1) identify any provisions of IC 36-9-27 and IC 14-28 that are
 39 in conflict with this article;

40 (2) consider whether it is beneficial to include any person that
 41 withdraws ground water, regardless of the quantity of water
 42 withdrawn, in an area designated as a restricted use area



1 under IC 14-25-3; and

2 (3) submit a report with findings and recommendations to a
3 legislative committee of the general assembly that is assigned
4 to the subject of water resources.

5 (d) The administrator shall complete a review and update of the
6 statewide water management plan at least once every five (5) years
7 after the date on which the plan is adopted.

8 **Sec. 3. In developing the statewide water management plan**
9 **under this chapter, the administrator shall do the following:**

10 (1) To obtain information on water management projects and
11 activities in Indiana, secure the assistance of any state or local
12 government agency, including:

13 (A) the department;

14 (B) the commission;

15 (C) county drainage boards established by IC 36-9-27-4;

16 (D) regional water management councils established by
17 IC 14-40-7;

18 (E) the department of environmental management;

19 (F) the soil conservation board established within the
20 department of agriculture by IC 14-32-2-1;

21 (G) the department of agriculture established by
22 IC 15-11-2-1;

23 (H) the Indiana utility regulatory commission created by
24 IC 8-1-1-2;

25 (I) local water utilities;

26 (J) watershed groups that receive funding under 33 U.S.C.
27 1329(h); and

28 (K) any other entity whose participation, in the view of the
29 administrator, would serve the purposes of this article.

30 (2) Consider:

31 (A) the long term stability of the clean water supply;

32 (B) the water availability for each category of water use
33 listed in section 2(b)(3) of this chapter;

34 (C) the unique characteristics of each hydrological region;
35 and

36 (D) the potential effects of climate change on the water
37 supply, precipitation regimes, and resources of Indiana.

38 (3) Conduct investigations and update surveys of the water
39 resources of Indiana, and consider:

40 (A) the need for; and

41 (B) appropriate sources of;

42 suitable water supplies for each category of water use listed



- 1 in section 2(b)(3) of this chapter.
- 2 (4) Incorporate in the statewide water management plan
- 3 findings and recommendations for further development,
- 4 protection, and preservation of these resources.
- 5 (5) Incorporate in the statewide water management plan the
- 6 results of the reports submitted to the utility regulatory
- 7 commission by water utilities under IC 8-1-30.5-3 concerning
- 8 the utilities' use of water resources.
- 9 Sec. 4. Consistent with the statewide water management plan,
- 10 the administrator shall administer and implement a water shortage
- 11 plan for Indiana.
- 12 Sec. 5. (a) The administrator shall maintain a technical and
- 13 administrative handbook for drainage projects.
- 14 (b) The handbook must contain at least the following:
- 15 (1) Technical descriptions of drainage project construction
- 16 techniques.
- 17 (2) Best management practices for drainage projects that are
- 18 protective of the environment and take into account onsite
- 19 and offsite effects, cumulative effects, and downstream
- 20 impacts, including sedimentation, erosion, and nutrient
- 21 transfer.
- 22 (3) Explanations of:
- 23 (A) water management authority permitting processes;
- 24 and
- 25 (B) procedures to be followed by permittees to ensure
- 26 compliance with all applicable statutes, rules, and
- 27 regulations.
- 28 (4) Descriptions of compensatory measures and required
- 29 mitigation for environmental damage that cannot be
- 30 practicably avoided.
- 31 (5) Descriptions of projects that are exempt from state or
- 32 federal regulation.
- 33 (6) A description of the process by which permit applicants
- 34 may contact program administrators.
- 35 Sec. 6. Upon adoption of the statewide water management plan,
- 36 the administrator shall:
- 37 (1) consult with governing bodies or agencies of the state that
- 38 take action under IC 14-29-5-1;
- 39 (2) consider water withdrawal permits related to the Great
- 40 Lakes—St. Lawrence River Basin Water Resources Compact
- 41 in accordance with IC 14-25-15, and adopt relevant rules;
- 42 (3) adopt rules to establish minimum technical standards for



1 all drainage and flood control projects, including the removal
2 of obstructions under IC 36-9-27.4;

3 (4) administer the water supply policies of the statewide water
4 management plan; and

5 (5) maintain:

6 (A) a registry of significant water withdrawal facilities;
7 and

8 (B) a water well record data base.

9 Sec. 7. The administrator shall issue a written notice requiring
10 a person to mitigate damage through remedial programs approved
11 by the administrator if an action taken by the person causes or is
12 likely to cause:

13 (1) a substantial adverse effect on fish, wildlife, or botanical
14 resources;

15 (2) an adverse effect in any species listed by the department as
16 endangered, threatened, rare, significant, or of concern; or

17 (3) substantial erosion, sedimentation, or nutrient transfer.

18 The written notice must include a description of any mitigation
19 requirements.

20 Chapter 9. Water Management Permits

21 Sec. 1. (a) Upon the adoption of the statewide water
22 management plan under IC 14-40-8, the administrator may issue
23 water management permits that allow a permittee to do the
24 following:

25 (1) Engage in activities governed by IC 14-28-1.

26 (2) Undertake a drainage project of water management
27 importance under IC 36-9-27-35.5.

28 (3) Engage in water withdrawals governed by IC 14-25-15-7
29 or IC 14-25-3.

30 (4) Engage in the introduction of potable water into
31 underground formations, as governed by IC 14-25-6.

32 (5) Construct a channel under IC 14-29-4.

33 (6) Engage in activities affecting public freshwater lakes
34 under IC 14-26-2.

35 (b) In issuing a permit, the administrator shall consider the
36 following:

37 (1) The best management practices as described in the
38 technical and administrative handbook for drainage projects
39 maintained under IC 14-40-8-5.

40 (2) The legislative determinations set forth in IC 14-32-1-1
41 and the policies set forth in IC 14-32-1-2, including the
42 reduction of sedimentation and erosion.



- 1 **(3) The agricultural interests, if any, of landowners affected**
 2 **by the proposed action.**
 3 **(4) The legislative declarations set forth in IC 14-28-1-1 and**
 4 **the legislative findings set forth in IC 14-28-3-1.**
 5 **Sec. 2. The administrator shall issue a written notice granting**
 6 **or denying a permit, including:**
 7 **(1) the grounds for the decision; and**
 8 **(2) the dispositive factors on which the decision is based.**
 9 SECTION 33. IC 36-9-27-2 IS AMENDED TO READ AS
 10 FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 2. (a) ~~As used in The~~
 11 **definitions set forth in this section apply throughout** this chapter.
 12 **(b) "Affected land"** means land within a watershed that is affected
 13 by the construction, reconstruction, or maintenance of a regulated
 14 drain.
 15 **(c) "Board"** refers to the drainage board of a county.
 16 **(d) "Crossing"** means a drainage structure that passes over, under,
 17 or through a location used for the passage of people, livestock, or
 18 vehicles.
 19 **(e) "Dam"** means a dam or other structure and its appurtenances that
 20 impounds a small lake at the lake's outlet.
 21 **(f) "Maintenance"** means work on a drain as described in section
 22 34(c) of this chapter for any of the purposes stated in that section.
 23 **(g) "Mutual drain"** means a drain that:
 24 (1) is located on two (2) or more tracts of land that are under
 25 different ownership;
 26 (2) was established by the mutual consent of all the owners; and
 27 (3) was not established under or made subject to any drainage
 28 statute.
 29 **(h) "Open drain"** means a natural or artificial open channel that:
 30 (1) carries surplus water; and
 31 (2) was established under or made subject to any drainage statute.
 32 **(i) "Owner"** refers to the owner of any interest in land.
 33 **(j) "Private drain"** means a drain that:
 34 (1) is located on land owned by one (1) person or by two (2) or
 35 more persons jointly; and
 36 (2) was not established under or made subject to any drainage
 37 statute.
 38 **(k) "Reconstruction"** means work on a drain as described in section
 39 34(b) of this chapter to correct any of the problems with the drain that
 40 are enumerated in that section up to and including the discharge
 41 portion of the drain.
 42 **(l) "Regulated drain"** means an open drain, a tiled drain, or a



- 1 combination of the two.
- 2 **(m)** "Rural drain" means a regulated drain that provides adequate
3 drainage or impounds water for rural land.
- 4 **(n)** "Rural land" means affected land that:
5 (1) will not appreciably benefit from more drainage than is
6 necessary to expediently remove water after frequent or periodic
7 flooding; and
8 (2) is generally used for crop production, pasture, forest, or
9 similar purposes.
- 10 **(o)** "Small lake" means a lake, pond, or similar body of water that:
11 (1) covers less than twenty (20) acres;
12 (2) is surrounded by two (2) or more tracts of affected land that
13 are under different ownership or a tract of land that is owned by
14 a not-for-profit corporation having more than one (1) member;
15 (3) is not constructed, reconstructed, or maintained under this
16 chapter as part of an open drain;
17 (4) is not a private crossing, control dam, or other permanent
18 structure referred to under section 72 of this chapter;
19 (5) is not owned by a state or any of its political subdivisions; and
20 (6) is not designed and constructed primarily for reduction or
21 control of pollutants or cooling before discharge of a liquid.
- 22 **(p)** "Tiled drain" means a tiled channel that:
23 (1) carries surplus water; and
24 (2) was established under or made subject to any drainage statute.
- 25 **(q)** "Urban land" means affected land that:
26 (1) will appreciably benefit from drainage that will provide the
27 maximum practicable protection against flooding or the
28 impounding of water in a small lake; and
29 (2) is used or will in the reasonably foreseeable future be used
30 generally for commercial, industrial, large estate, higher density
31 residential, or similar purposes.
- 32 **(r)** "Watershed" means an area of land from which all runoff water
33 drains to a given point or that is affected by a small lake.
- 34 **(s)** "**Wetlands**" means an area that is inundated or saturated by
35 surface or ground water at a frequency and duration sufficient to
36 support vegetation typically adapted for life in saturated soil
37 conditions. The term includes swamps, marshes, bogs, and similar
38 areas.
- 39 SECTION 34. IC 36-9-27-35.5 IS ADDED TO THE INDIANA
40 CODE AS A NEW SECTION TO READ AS FOLLOWS
41 [EFFECTIVE JULY 1, 2014]: **Sec. 35.5. (a) Before a county surveyor**
42 **submits a report to the board under section 35(a) of this chapter,**



1 the county surveyor shall:

2 (1) identify any proposed construction, reconstruction, or
3 maintenance project described in the report that, in the
4 opinion of the county surveyor, would constitute a drainage
5 project of water management importance, as defined in
6 IC 14-40-2-4; and

7 (2) notify the administrator of the water management
8 authority appointed under IC 14-40-4-1 of the project
9 identified under subdivision (1) as a drainage project of water
10 management importance.

11 (b) A proposed construction, reconstruction, or maintenance
12 project that would constitute a drainage project of water
13 management importance, as defined in IC 14-40-2-4, shall not be
14 performed unless the administrator of the water management
15 authority issues a permit for the project under IC 14-40-9-1.

16 (c) A person who owns land that would be affected by a
17 proposed construction, reconstruction, or maintenance project
18 may petition the administrator of the water management authority
19 for:

20 (1) the designation of the proposed project as a drainage
21 project of water management importance, as defined in
22 IC 14-40-2-4, for which a permit is required under subsection
23 (b); or

24 (2) a review by the administrator of the designation by the
25 county surveyor of the proposed project as a drainage project
26 of water management importance, as defined in IC 14-40-2-4.

27 (d) A permit under IC 14-28-1-22 is not required for a drainage
28 project of water management importance, as defined in
29 IC 14-40-2-4.

30 SECTION 35. IC 36-9-27-60.5 IS ADDED TO THE INDIANA
31 CODE AS A NEW SECTION TO READ AS FOLLOWS
32 [EFFECTIVE JULY 1, 2014]: Sec. 60.5. (a) For purposes of this
33 section, "administrator" has the meaning set forth in IC 14-40-2-2.

34 (b) A landowner may file a petition with the administrator to
35 prevent the drainage of wetlands on land owned by the landowner.
36 The petition must establish the following:

37 (1) The wetland is wholly located within the boundaries of
38 land owned by the landowner.

39 (2) The proposed construction, reconstruction, maintenance,
40 or other drainage project may result in the modification or
41 removal of the wetland.

42 (3) If left unmodified, the wetland does not adversely affect



1 **the productivity or value of surrounding lands at water levels**
 2 **produced by a one hundred (100) year frequency flood.**

3 **(c) Upon receipt of a landowner petition, the administrator**
 4 **shall:**

5 **(1) provide the county drainage board responsible for the**
 6 **proposed drainage project with written notice that the**
 7 **petition has been filed under subsection (b); and**

8 **(2) provide an opportunity for the drainage board to respond**
 9 **to the petition.**

10 **(d) If the administrator determines that the petition establishes**
 11 **the requirements of subsection (b), the administrator shall direct**
 12 **the county surveyor and county drainage board to make any**
 13 **changes necessary to allow the wetland to remain unmodified.**

14 SECTION 36. IC 36-9-27-112 IS AMENDED TO READ AS
 15 FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 112. (a) In determining
 16 benefits to land under sections 39, 50, and 62 of this chapter, the board
 17 may consider:

18 (1) the watershed affected by the drain to be constructed,
 19 reconstructed, or maintained;

20 (2) the number of acres in each tract;

21 (3) the total volume of water draining into or through the drain to
 22 be constructed, reconstructed, or maintained, and the amount of
 23 water contributed by each land owner;

24 (4) the land use;

25 (5) the increased value accruing to each tract of land from the
 26 construction, reconstruction, or maintenance;

27 (6) whether the various tracts are adjacent, upland, upstream, or
 28 downstream in relation to the main trunk of the drain;

29 (7) elimination or reduction of damage from floods;

30 (8) the soil type; and

31 (9) any other factors affecting the construction, reconstruction, or
 32 maintenance.

33 (b) In determining benefits or damages to land under sections 39,
 34 50, and 62 of this chapter, the board may examine aerial photographs
 35 and topographical or other maps, and may adjourn the hearing to the
 36 site of the construction, reconstruction, or maintenance in order to
 37 personally view the affected land.

38 (c) In determining percentages of benefit under sections 39, 50, and
 39 62 of this chapter, the board may consider the percentage of the total
 40 cost that was assessed to each tract in the initial construction or in any
 41 reconstruction of the drain. However, that percentage is not binding on
 42 the board in its current determination, and the board may vary from it



1 as justice requires.
2 **(d) In determining benefits or damages to a tract of land under**
3 **sections 39, 50, and 62 of this chapter from the construction of a**
4 **proposed drain or from the maintenance or reconstruction of an**
5 **existing drain, the board:**
6 **(1) shall take into account the presence of wetlands on a tract**
7 **of land;**
8 **(2) shall reduce the benefit percentage that would otherwise**
9 **be assigned to a tract of land if the tract contains existing**
10 **wetlands that provide natural drainage or retention services**
11 **to other benefited tracts of land, in recognition of the natural**
12 **benefit provided by the existing wetlands; and**
13 **(3) may revise a previous determination of benefits or**
14 **damages if the wetlands on a tract of land are removed or**
15 **modified, in recognition of the loss of the natural benefit that**
16 **the wetlands provided.**

