



INDIANA ASSOCIATION for FLOODPLAIN
and STORMWATER MANAGEMENT

Legislative Report
March 29, 2021

2021 Indiana General Assembly

Bills of INAFSM Interest

Senate Bill 389: *Repeal of State Regulated Wetlands Law*

House Bill 1055: *Watershed Development Commissions*

House Bill 1395: *Various Natural Resource Matters*

Senate Bill 389 Repeal of State Regulated Wetlands Law

<http://iga.in.gov/legislative/2021/bills/senate/389>

Introduced by Senators Garten, Messmer, Rogers Referred to Senate Committee on
Environmental Affairs

Committee Hearing Date: January 25, 2021 at 10:00 a.m. in the Senate Chamber

Committee Vote: 8-3 in favor of bill

2nd Reading Date: January 28, 2021

3rd Reading Date: February 1, 2021

Senate Vote: 29 – 19 in favor of bill

Bill assigned to House Committee on Environmental Affairs

House Committee Hearing: Monday March 22 at 10:30 a.m. in the Indiana Government Center South

House Committee Hearing:

2nd Reading Date:

3rd Reading Date:

House Vote:

Synopsis: Repeals state regulated wetlands law. Repeals the law requiring a permit from the department of environmental management for wetland activity in a state regulated wetland. Makes corresponding changes to eliminate references to that law. States that the repeal of that law is not intended to affect: (1) the regulation in Indiana under the federal Clean Water Act of the discharge of dredged or fill material into waters of the United States; or (2) the authorization of the state of Indiana to administer the National Pollutant Discharge Elimination System permit program.

What it Means: Those wetlands not protected by federal regulations, usually wetlands isolated in the landscape, are covered by the State Regulated Wetlands Law. This bill would eliminate those protections and allow impacts to these wetlands with no permitting or mitigation.

INAFSM Position: The elimination of protections for isolated wetlands will lead to these storage areas being filled and adverse impacts to streams, floodplains, and existing properties. With reduced storage in watersheds statewide, runoff will increase, and water quality will decrease.

After consideration, INAFM's position is that the issue of isolated wetlands and what changes, if any, should be made to the existing isolated wetlands program in Indiana should be carefully examined in a study committee. The issue is complicated and only a deliberate analysis of the matters surrounding isolated wetlands can provide reasonable solutions.

With regards to the legislative process, it appears this is as much an anti-IDEM bill as an anti-wetlands bill. Committee Chairman Messmer remarked after the bill passed out of the committee that he fully expects the bill to be revised as it moves through the legislative process. The three Democratic members of the committee recommended that the issues associated with isolated wetlands be studied for potential future action.

By the time the bill passed the Senate it had acquired 19 co-sponsors to go along with the three bill authors and the three original co-sponsors. However, the bill did have nine Republicans voting

against the bill at Third Reading in the Senate and the Governor has expressed some concerns with the bill.

Testimony supporting and opposing the bill was heard in the committee hearing on March 22. Testimony was limited to three minutes, questions from the committee members was limited, and 14 people spoke against the bill with five testifying in favor of the bill. Two amendments, Nos. 11 and 12 were also discussed to some degree. No vote was taken on the bill and the committee chair expected to bring the committee back on March 29 for further discussion and possible vote. However, it appears another amendment is being drafted and the committee will now meet on April 5 where it is likely that some action on the bill will be taken.

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House Bill 1055: Watershed Development Commissions

<http://iga.in.gov/legislative/2021/bills/house/1055>

Introduced by Representative Aylesworth Referred to House Committee on Natural Resources

Committee Hearing Date: February 9, 2021 in the Indiana Government Center South

Committee Vote: 10-2 in favor of bill and bill sent to House Committee on Ways and Means

Committee Hearing Date: February 16, 2021 in the State House of Representatives Chamber

Committee Vote: 17-1 in favor of bill; bill amended to send subject to Interim Study Committee

2nd Reading Date: February 18, 2021

3rd Reading Date: February 22, 2021

Senate Vote: 90 – 3 in favor of bill

Originally assigned to Senate Committee on Natural Resources but on March 9, 2021 bill was reassigned to Senate Committee on Appropriations

Senate Committee Hearing: **Not yet scheduled**

2nd Reading Date:

3rd Reading Date:

House Vote:

Synopsis: Watershed development commissions. Urges the legislative council to assign to an appropriate interim study committee the topic of watershed development commissions.

What it Means: Original bill was not carefully worded and caused confusion regarding existing watershed commissions, regulated drain watersheds and conservancy districts. Subject will be sent to Interim Study Committee.

INAFSM Position: No position taken. Bill progress will be monitored, and perhaps more information and action taken at interim study committee.

House Bill 1395: Various Natural Resource Matters

<http://iga.in.gov/legislative/2021/bills/house/1395>

Introduced by Representative Dvorak

Referred to House Committee on Natural Resources

Committee Hearing Date: February 9, 2021 in the Indiana Government Center South

Committee Vote: 11-0 in favor of bill

2nd Reading Date: February 17, 2021

3rd Reading Date: February 22, 2021

Senate Vote: 92 – 0 in favor of bill

Originally assigned to Senate Committee on Natural Resources but on March 9, 2021 bill was reassigned to Senate Committee on Tax and Fiscal Policy

Senate Committee Hearing: March 16, 2021 in Senate Chamber

Committee Vote: 13-1 in favor of bill

2nd Reading Date: March 22, 2021

3rd Reading Date: March 23, 2021

House Vote: 47 – 2 in favor of bill

Synopsis: Various natural resources matters, including the preservation or rehabilitation of a historic property, commercial fishing, provides that the natural resources commission (commission) may adopt rules to electronically notify the public of rules adopted by the commission, fishing licenses and child support arrearages, wild animal permits, provides that the department may impose and collect fees for regulating underground petroleum storage, provides standards for contracts for the purchase of timber, makes technical corrections. Bill amended to allow local floodplain administrator to issue variance for building in Hendricks County built 23 inches above the Base Flood Elevation (BFE) instead of 24 inches above the BFE without approval from IDNR. Bill later amended to allow projects by the Kankakee and Yellow River Development Commission to use the early coordination process approved for regulated drain projects.

What it Means: The bill now addresses issue from House Bill 1436. IDNR does not believe bill will jeopardize state's participation in National Flood Insurance Program.

INAFSM Position: No position taken. Bill progress will be monitored.