



## 2020 Indiana General Assembly Bills of INAFSM Interest – Final Report

~~Senate Bill 46: Stormwater Fee Exemptions (revised)~~

Senate Bill 100: Nonconforming Structures

Senate Bill 229: IDEM Permits for Regulated Drain Work in State Isolated Wetlands

~~Senate Bill 321: Public/Private Rights along Lake Michigan Shore~~

~~Senate Bill 338: Restrictions on New Conservancy Districts~~

Senate Bill 366: County Payments to the Kankakee River Yellow River Basin Development Commission

Senate Bill 430: Establishment of Reservoir Conservancy District

Senate Bill 433: Removal of a Residence from the Floodway

~~Senate Bill 450: Low Head Dams~~

~~House Bill 1031: Public/Private Rights along Lake Michigan Shore~~

House Bill 1099: Low Head Dams

~~House Bill 1245: Establishment of the Pigeon Creek Commission~~

~~House Bill 1254: Flood Control Improvement District Projects~~

~~House Bill 1318: Emergency Levee Repair; IDEM/IDNR Permitting Improvements Report~~

~~House Bill 1342: Removal of a Residence from the Floodway~~

~~House Bill 1415: Regulated Drains and Environmental Concerns~~

—————: Bills that died because did not pass out of originating chamber or died in second chamber if did not pass out of committee.

**Senate Bill 100: Nonconforming Structures**

<http://iga.in.gov/legislative/2020/bills/senate/100>

Introduced by Senator Doriot                      Referred to Senate Committee on Local Government

Committee Hearing Date:                      January 16, 2020                      9:00 a.m., Room 130  
Committee Vote:                                      10 – 0, Pass  
2<sup>nd</sup> Reading Date:                                      January 21, 2020  
3<sup>rd</sup> Reading Date:                                      January 23, 2020  
Senate Vote:                                              47 – 0

Referred to the House Committee on Local Government Affairs

House Committee Hearing:                      February 13, 2020                      8:30 a.m., Room 156B  
Committee Vote:                                      No Vote; Bill Held for Further Amendments  
House Committee Hearing:                      February 20, 2020                      8:30 a.m., Room 156B  
Committee Vote:                                      No Vote; Bill Held for Further Amendments  
House Committee Hearing:                      February 27, 2020                      8:30 a.m., Room 156B  
Committee Vote:                                      12 – 0, Pass  
2<sup>nd</sup> Reading Date:                                      March 2, 2020  
3<sup>rd</sup> Reading Date:                                      March 3, 2020  
House Vote:                                              74 – 19, Pass

Senate concurred with House amendments March 5, 2020 41 – 0.

Final Bill Language:

SECTION 1. IC 36-7-4-1019 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 1019. (a) In an enforcement action brought under this chapter, the party alleging the existence of a legal, nonconforming use or variance granted by a board of zoning appeals has the burden of proof on that issue. The nonexistence of a nonconforming use or variance need not be proved. (b) Except as provided in subsection (c), this subsection applies whenever a legal, nonconforming structure on a parcel of real property used for residential purposes is damaged or destroyed. The owner of the parcel shall be permitted to reconstruct, repair, or renovate the nonconforming structure if the reconstruction, repair, or renovation meets the following requirements:

- (1) The structure will continue to be used for residential purposes.
- (2) The new foundation of the reconstructed, repaired, or renovated structure may not exceed the square footage of the foundation of the damaged or destroyed structure.
- (c) The provisions of subsection (b) concerning the reconstruction, repair, or renovation of a damaged or destroyed nonconforming structure do not authorize the reconstruction, repair, or renovation of a damaged or destroyed nonconforming structure that is:
  - (1) subject to the jurisdiction of a preservation commission organized under:
    - (A) IC 36-7-11; (B) IC 36-7-11.1;
    - (C) IC 36-7-11.2; or
    - (D) IC 36-7-11.3; or
  - (2) located within a flood plain (as defined in IC 14-8-2-99).

**Senate Bill 229: IDEM Permits for Regulated Drain Work in State Isolated Wetlands**

<http://iga.in.gov/legislative/2020/bills/senate/229>

Introduced by Senator Spartz                      Referred to Senate Committee on Environmental Affairs

Committee Hearing Date:                      January 13, 2020                      10:00 a.m., Room 233  
Committee Vote:                                      6 – 2, Pass  
2<sup>nd</sup> Reading Date:                                      January 16, 2020  
3<sup>rd</sup> Reading Date:                                      January 21, 2020  
Senate Vote:                                              32 – 18

Referred to the House Committee on Local Government Affairs

Reassigned to the House Committee on Environmental Affairs on February 25, 2020

House Committee Hearing:                      February 26, 2020                      1:30 p.m., Room 156-B  
Committee Vote:                                      5 – 4, Pass  
2<sup>nd</sup> Reading Date:                                      March 2, 2020  
3<sup>rd</sup> Reading Date:                                      March 3, 2020  
House Vote:                                              58 – 37, Pass

Senate dissents with House amendments March 4, 2020 and bill assigned to conference committee.  
Conference Committee Report filed March 11, 2020.

Final Bill Language:

SECTION 1. IC 13-18-22-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 1. (a) Except as provided in subsection (b), a person proposing a wetland activity in a state regulated wetland must obtain a permit under this chapter to authorize the wetland activity. (b) A permit is not required for the following wetland activities: . . .

**new section** (4) The maintenance or reconstruction (as defined in IC 36-9-27-2) of a regulated drain in accordance with IC 36-9-27-29(2) as long as the work takes place within the current easement, and the reconstruction does not substantially change the characteristics of the drain to perform the function for which it was designed and constructed.

**Senate Bill 366: County Payments to the Kankakee River Yellow River Basin Development Commission**

<http://iga.in.gov/legislative/2020/bills/senate/366>

Introduced by Senator Niemeyer

Referred to Senate Committee on Tax and Fiscal Policy

|                               |                  |                     |
|-------------------------------|------------------|---------------------|
| Committee Hearing Date:       | January 21, 2020 | 9:00 a.m., Room 431 |
| Committee Vote:               | 13 – 0, Pass     |                     |
| 2 <sup>nd</sup> Reading Date: | January 23, 2020 |                     |
| 3 <sup>rd</sup> Reading Date: | January 27, 2020 |                     |
| Senate Vote:                  | 50 – 0           |                     |

Referred to the House Committee on Ways and Means

|                               |                                            |                     |
|-------------------------------|--------------------------------------------|---------------------|
| House Committee Hearing:      | February 12, 2020                          | 1:30 p.m., Room 404 |
| Committee Vote:               | 19 – 0, Pass                               |                     |
| 2 <sup>nd</sup> Reading Date: | February 17, 2020                          |                     |
| 3 <sup>rd</sup> Reading Date: | February 18, 2020                          |                     |
| House Vote:                   | 95 – 0, Pass (Returned without Amendments) |                     |

Synopsis: Kankakee River and Yellow River development. Provides that the auditor of state shall deduct amounts due from distributions of local income taxes allocated to (as opposed to payable to) the county when a county fails to pay direct support or special assessments to the Kankakee River basin and Yellow River basin development commission. Repeals language providing that the counties that comprise the Kankakee River basin and Yellow River basin may budget, appropriate, and disburse not more than \$50,000 to the commission.

Notes: I recommend INAFSM just monitor the progress of this bill.

**Senate Bill 430: *Establishment of Reservoir Conservancy District***

<http://iga.in.gov/legislative/2020/bills/senate/430>

Introduced by Senator Merritt                      Referred to Senate Committee on Environmental Affairs

|                               |                  |                     |
|-------------------------------|------------------|---------------------|
| Committee Hearing Date:       | January 27, 2020 | 4:30 p.m., Room 233 |
| Committee Vote:               | 7 – 4, Pass      |                     |
| 2 <sup>nd</sup> Reading Date: | February 3, 2020 |                     |
| 3 <sup>rd</sup> Reading Date: | February 4, 2020 |                     |
| Senate Vote:                  | 46 – 2, Pass     |                     |

Referred to the House Committee on Environmental Affairs

|                               |                                         |                       |
|-------------------------------|-----------------------------------------|-----------------------|
| House Committee Hearing:      | February 19, 2020                       | 1:30 p.m., Room 156-A |
| Committee Vote:               | 13 – 0, Pass                            |                       |
| 2 <sup>nd</sup> Reading Date: | February 25, 2020                       |                       |
| 3 <sup>rd</sup> Reading Date: | February 27, 2020                       |                       |
| House Vote:                   | 92 – 0, Pass (Returned with Amendments) |                       |

Senate concurred with House amendments March 4, 2020 46 – 3.

Notes:                      I recommend INAFSM just monitor the progress of this bill.

**Senate Bill 433: Removal of a Residence from the Floodway**

<http://iga.in.gov/legislative/2020/bills/senate/433>

Introduced by Senator Bassler                      Referred to Senate Committee on Natural Resources

Committee Hearing Date:                      January 27, 2020                      10:00 a.m., Room 130  
Committee Vote:                                      7 – 1, Pass  
2<sup>nd</sup> Reading Date:                                      January 30, 2020  
3<sup>rd</sup> Reading Date:                                      February 4, 2020  
Senate Vote:                                              48 – 1, Pass

Referred to the House Committee on Natural Resources

House Committee Hearing:                      February 26, 2020                      1:30 p.m., Room 156-A  
Committee Vote:                                      13 – 0, Pass  
2<sup>nd</sup> Reading Date:                                      March 2, 2020  
3<sup>rd</sup> Reading Date:                                      March 3, 2020  
House Vote:                                              91 – 0, Pass

Senate dissents with House amendments March 5, 2020 and bill assigned to conference committee.

Conference Committee Report filed March 10, 2020.

Conference Committee Report approved by Senate 40 – 8 March 10, 2020.

Conference Committee Report approved by House 93 – 1 March 10, 2020.

Final Bill Language:

SECTION 1. IC 14-28-1-23 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2020 (RETROACTIVE)]: Sec. 23. (a) The director may remove or eliminate a structure, an obstruction, a deposit, or an excavation in a floodway that:

- (1) adversely affects the efficiency of or unduly restricts the capacity of the floodway;
  - (2) constitutes an unreasonable hazard to the safety of life or property; or
  - (3) is unreasonably detrimental to fish, wildlife, or botanical resources;
- by an action in condemnation.

(b) In assessing the damages in the proceedings, the appraisers and the court shall take into consideration whether the structure, obstruction, deposit, or excavation is legally in or on the floodway.

**new section** (c) Beginning January 1, 2020, the director shall not exercise the authority under subsection (a) to remove or eliminate an abode or residence from a floodway if:

- (1) the abode or residence was constructed before January 1, 2020;
- (2) the owner of the abode or residence has taken necessary measures to elevate the lowest floor of the abode or residence, as reconstructed, including the basement, to at least two (2) feet above the one hundred (100) year flood elevation within two (2) years after receiving notification from the department concerning the abode or residence; and
- (3) the owner of the abode or residence has taken necessary measures to comply with all applicable local, state, and federal floodway regulations.

**House Bill 1099: Low Head Dams**

<http://iga.in.gov/legislative/2020/bills/house/1099>

Introduced by Representative Manning

Referred to House Committee on Natural Resources

|                               |                  |                        |
|-------------------------------|------------------|------------------------|
| Committee Hearing Date:       | January 21, 2020 | 10:30 a.m., Room 156-B |
| Committee Vote:               | 11 – 0, pass     |                        |
| 2 <sup>nd</sup> Reading Date: | January 27, 2020 |                        |
| 3 <sup>rd</sup> Reading Date: | January 28, 2020 |                        |
| House Vote:                   | 97 - 1           |                        |

Referred to the Senate Committee on Natural Resources

|                               |                                         |                      |
|-------------------------------|-----------------------------------------|----------------------|
| Senate Committee Hearing:     | February 17, 2020                       | 10:00 a.m., Room 130 |
| Committee Vote:               | 7 – 0, Pass                             |                      |
| 2 <sup>nd</sup> Reading Date: | February 20, 2020                       |                      |
| 3 <sup>rd</sup> Reading Date: | February 24, 2020                       |                      |
| Senate Vote:                  | 48 – 0, Pass (Returned with Amendments) |                      |

House concurred with Senate amendments March 5, 2020 81 – 0.

Synopsis: Low head dams. Requires the natural resources commission to establish a roster of low head dams in the state that are capable of creating hazardous currents that pose safety issues. Establishes requirements concerning low head dams for the department of natural resources (department) and owners of low head dams. Except for purposes of an inspection, maintenance, or removal, prohibits a person from accessing a low head dam. Prohibits wading, boating, swimming, or accessing the waters within 100 feet of a low head dam when warning signs are present. Provides that the state is not liable for any death or injury that occurs on or resulting from a low head dam that is not owned by the state. Provides for a penalty for violations. Requires the department to prepare a report that includes recommendations concerning the creation of a low head dam removal program and any recommendations concerning low head dam safety legislation.

Notes: I recommend INAFSM support this bill and possibly testify in favor of the bill if it gains a committee hearing.

Notes: Bill amended in House Committee to refine definition of low head dams and make other minor changes.