



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 1162: *Fertilizer Runoff and Lake Michigan Discharges*

House Bill 1395: *Various Natural Resource Matters*

House Bill 1463: *Flood Control Measures*

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

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.

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.

Once the bill has been sponsored in the House and assigned to a committee, I will reach out to see if the House sponsor(s) are amenable to revisions to the bill language.

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:

Senate Vote:

Senate Committee Hearing:

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: 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 1162: Fertilizer Runoff and Lake Michigan Discharges

<http://iga.in.gov/legislative/2021/bills/house/1162>

Introduced by Representative Dvorak

Referred to House Committee on Environmental Affairs

Committee Hearing Date: Not yet scheduled

Committee Vote:

2nd Reading Date:

3rd Reading Date:

Senate Vote:

Senate Committee Hearing:

2nd Reading Date:

3rd Reading Date:

House Vote:

Synopsis: Fertilizer runoff and Lake Michigan discharges. Amends the water pollution control law effective July 1, 2023, to: (1) eliminate an exception to the prohibition against causing water pollution that applies to fertilizer runoff from a field in a storm event or irrigation return flow if the fertilizer was applied to the land in compliance with rules of the state chemist; (2) eliminate a provision requiring the commissioner of the department of environmental management (commissioner) to allow for a mixing zone in a permit that involves a discharge into Lake Michigan if the permit applicant can demonstrate that the mixing zone will not cause harm to human health or aquatic life; and (3) eliminate a provision under which the commissioner, in issuing a permit authorizing a discharge into a mixing zone in Lake Michigan, is required to allow for mixing initiated by the use of submerged, high rate diffuser outfall structures (or their equivalent) that provide turbulent initial mixing and minimize organism exposure times.

What it Means: The bill would appear to strengthen regulations on discharges and pollution into Lake Michigan.

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

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:

Senate Vote:

Senate Committee Hearing:

2nd Reading Date:

3rd Reading Date:

House Vote:

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.

House Bill 1463: Flood Control Measures

<http://iga.in.gov/legislative/2021/bills/house/1463>

Introduced by Representative Lindauer

Referred to House Committee on Natural Resources

Committee Hearing Date: Not yet scheduled

Committee Vote:

2nd Reading Date:

3rd Reading Date:

Senate Vote:

Senate Committee Hearing:

2nd Reading Date:

3rd Reading Date:

House Vote:

Synopsis: Flood control measures. Provides that immediate action may be taken for the maintenance, alteration, repair, reconstruction, change in construction or location, or removal of a dike, floodwall, levee, or appurtenance to provide emergency protection to: (1) human life; or (2) property; if, in the opinion of the department of natural resources (DNR), there is not sufficient time for the maintenance, alteration, repair, reconstruction, change in construction or location, or removal to be effected through the issuance and enforcement of a notice of violation. (Under current law, danger to property alone is not sufficient cause for immediate action.) Provides that if, in the opinion of the DNR, immediate action is necessary, the DNR may: (1) undertake the action by itself or through a contractor engaged by the DNR; or (2) authorize the owner of the property on which the dike, floodwall, levee, or appurtenance is located to undertake the action. Provides that, before the natural resources commission or its agents may enter private property to investigate for flood control purposes, the owner or occupant of the property must be contacted and informed of the reason for the entry and the intended time and place of the entry by: (1) direct, in person verbal communication; (2) a telephone call; (3) certified mail with return receipt requested; or (4) first class mail or electronic mail followed by a response from the owner or occupant of the property; except when there is a need to enter the property immediately because of an emergency.

What it Means: The bill would allow IDNR to take immediate action, potentially without a landowner's approval, to perform emergency work on a flood control work.

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