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FISCAL IMPACT STATEMENT

LS 7340
BILL NUMBER: HB 1639

NOTE PREPARED: Jan 15, 2023
BILL AMENDED:

SUBJECT: Watershed Development Commissions.

FIRST AUTHOR: Rep. Aylesworth
FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: **GENERAL**
 DEDICATED
 FEDERAL

IMPACT: State & Local

Summary of Legislation: *Watershed Development Commissions:* The bill provides that the executives of one or more counties may adopt ordinances designating their counties as members of a proposed watershed development commission and that the proposed commission is established as a legal entity with the counties as its members if it is recognized by the Natural Resources Commission (NRC). It requires the NRC, in deciding whether to recognize a proposed commission, to answer certain questions. It provides that a nonmember county may become a member of an established commission if its membership is accepted by the member counties and recognized by the NRC. It requires the Department of Natural Resources (DNR), with the approval of the NRC, to certify the area of a member county that is within a commission's designated watershed. It sets forth certain flood damage reduction and drainage purposes for which a commission may be established. It provides that a commission may also have water quality purposes if the board develops a water quality improvement plan that is approved by the NRC.

Flood Control and Drainage Plan: The bill requires a commission to develop a flood damage reduction and drainage plan for its designated watershed and grants a commission exclusive authority to perform drainage and flood damage reduction activities within the channel of the river that is the surface water outlet of the commission's designated watershed. It authorizes, however, a commission to enter into an interlocal cooperation agreement with an existing local governmental entity having some flood damage reduction authority to apportion authority and financial support between the two entities.

Board and Advisory Committee: The bill provides for a commission to be governed by a board that includes the director of the DNR (or the director's designee) and one representative of each member county. It provides that the board of a single county commission also includes the county surveyor. It establishes an advisory committee for each commission to provide counsel to the board.

Funding: The bill provides for the funding of a commission through an annual special assessment against each taxable parcel of real property that is located: (1) in a member county; and (2) within the designated watershed of the commission. It establishes maximum assessment levels and allows the board of a commission to reduce the special assessment to lower levels. It authorizes a member county to adopt any of three alternative methods of funding the commission.

Indiana Business Preference: The bill authorizes a commission to give preference to an Indiana business over an out-of-state business in contracting for public works.

Current River Basin Commissions: The bill allows the Maumee River Basin Commission, the St. Joseph River Basin Commission, or the Upper Wabash River Basin Commission to transform into a watershed development commission if the county executives of all participating counties, by vote of at least two of the three members of the county executive, approve the proposed transformation. It also provides that if the St. Joseph River Basin Commission is transformed into a watershed development commission, the members of the St. Joseph River Basin Commission become members of the watershed development commission's advisory committee.

Effective Date: July 1, 2023.

Explanation of State Expenditures: *Summary:* Current law provides a mechanism by which landowners, through a circuit court process, can create conservancy districts (special taxing districts) to address local issues related to water resource management. The bill provides another option for the maintenance of watershed areas by allowing counties to form a watershed development commission. The bill also allows for the purpose of water quality, a purpose not currently allowed for conservancy districts or the river basin commissions. A watershed development commission, as provided for in the bill, is a public body corporate and politic. To the extent that this new process is implemented, it could potentially reduce the workload for the Department of Local Government Finance (DLGF) and have an indeterminate impact on the workload of the DNR and the NRC.

The bill provides a process for three existing river basin commissions to be transformed into watershed development commissions. The bill could increase expenditures from the Flood Control Fund, administered by the Indiana Finance Authority, as it allows a watershed development commission to participate in the Flood Control Program. This is currently allowed for conservancy districts, but not for the river basin commissions. It could also increase state expenditures, as it allows the Auditor of State to pay a watershed development commission if the county is unable to do so.

Additional Information:

Workload: The bill will have an indeterminate impact on the workload of the NRC and the DNR's Division of Hearings and Division of Water. To the extent that the bill streamlines the process, compared to the process of creating conservancy districts, the NRC's workload may be reduced. The new process does not require the NRC to prepare and file a fact-finding report with the circuit court or communicate with the court regarding recommendations, but the NRC's approval is required for the establishment of a watershed development commission. The director of the DNR (or designee) is to serve as a voting member of a watershed development commission. Current law requires the DLGF to approve budgets passed by a conservancy district board. The bill does not have this requirement for watershed development commissions.

Watershed Development Commissions: The bill provides a process for the Maumee River Basin Commission,

the St. Joseph River Basin Commission, and the Upper Wabash River Basin Commission to be transformed into watershed development commissions. The bill allows a watershed development commission to enter into an interlocal cooperation agreement with an existing local governmental entity having some flood damage reduction authority in order to apportion authority and financial support between the two entities. Watershed development commissions, with the approval of an affected regional planning commission and the DNR, may also enter into agreements with agencies in another state that are responsible for water quality or flood damage reduction and drainage in the designated watershed in that state.

A watershed development commission may request, and pay a reasonable charge for, staff support from a regional planning commission. The bill authorizes an Indiana business preference if certain conditions are met. To the extent that a watershed development commission gives preference to Indiana businesses that provide higher bids for public works projects, expenditures could increase.

Flood Control Project Review: The bill requires a watershed development commission to send a written request to the DNR for review of certain projects (the same method as used for a review of a project for reconstruction or maintenance of a regulated drain), which may also include a request for an onsite field review. This provision could streamline the process for the commission. An onsite field review is to be conducted by a team of one or more representatives of the county, the DNR (including an engineer from the Division of Water), the Department of Environmental Management, and representatives of the local soil and water conservation district (if applicable).

Explanation of State Revenues: The bill could increase revenue for the Maumee River Basin Commission, the St. Joseph River Basin Commission, and the Upper Wabash River Basin Commission, if they transform into watershed development commissions. A watershed development commission may impose special assessments (maximums set in the bill and shown in the following table), unless a county adopts a resolution for other funding options. Revenue could reduce if a watershed development commission enters into an interlocal cooperation agreement with an existing local governmental entity to apportion flood control authority and financial support between the two entities.

Parcel Category	Annual Amount
Residential	\$7 per parcel
Agricultural	\$1 per acre
Commercial, no structures	\$2 per acre
Commercial, with structure	\$50 per parcel
Industrial or Public Utility	\$360 per parcel

Revenue could also increase for the river basin commissions if they transform into watershed development commissions as the bill allows watershed development commissions to participate in the Flood Control Program, administered by the Indiana Finance authority. This is currently allowed for conservancy districts, but not for the river basin commissions.

Explanation of Local Expenditures: To the extent that watershed development commissions are created rather than conservancy districts, workload to circuit courts could potentially be reduced, as the bill does not require any work of the court for the watershed development commission process. The bill does not allow a request for a watershed development commission by a municipality, which is currently allowed for the

creation of conservancy districts. If a watershed development commission requests an onsite field review for a flood control project, workload could increase for representatives of the county and representatives of the local soil and water conservation district (if applicable). Workload could increase for a regional planning commission that furnishes staff support, upon request, to a watershed development commission.

Explanation of Local Revenues: County revenues could increase if a county adopts a resolution to fund a watershed development commission by either imposing a combination of reduced special assessments and direct support or by imposing special assessments above the per parcel/acre assessments. Counties would receive an amount equal to 10% of the maximum assessment (plus overage, if assessments are raised), to improve flood storage capacity, and for flood control and drainage projects within the watershed. The county must obtain the authorization of the watershed development commission to perform these activities.

A regional planning commission may collect a reasonable charge for furnishing staff support to a watershed development commission, upon request.

State Agencies Affected: Auditor of State; Department of Local Government Finance; Department of Natural Resources; Department of Environmental Management; Indiana Finance Authority; Maumee River Basin Commission; Natural Resources Commission; St. Joseph River Basin Commission; State Board of Accounts; Upper Wabash River Basin Commission.

Local Agencies Affected: Circuit courts; counties; regional planning commissions; soil and water conservation districts.

Information Sources:

DNR, Indiana Conservancy Districts Frequently Asked Questions:

<https://www.in.gov/dnr/water/files/wa-IndianaConservancyDistrictsFAQ.pdf> ;

NRC, Informational Bulletin #36, *Procedural Guidelines for the Interpretations of the Conservancy District Article:*

<https://www.in.gov/nrc/files/IB36.pdf>

https://www.in.gov/dnr/water/files/con_dist_dir.pdf

<https://www.in.gov/ifa/srf/files/IFA-Flood-Control-Fact-Sheet-October-2022.pdf>

<https://www.in.gov/ifa/srf/files/CWSRF-2022-Annual-Report-Final-11-2-2022.pdf>

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