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**FISCAL IMPACT STATEMENT**

**LS 6944**

**BILL NUMBER:** HB 1394

**NOTE PREPARED:** Jan 10, 2024

**BILL AMENDED:**

**SUBJECT:** DNR Best Available Flood Hazard Data.

**FIRST AUTHOR:** Rep. Abbott

**FIRST SPONSOR:**

**BILL STATUS:** As Introduced

**FUNDS AFFECTED:**  GENERAL  
 DEDICATED  
 FEDERAL

**IMPACT:** State & Local

**Summary of Legislation:** *"DNR Best Available Data" Definition:* The bill defines "DNR Best Available Data" as: (1) flood hazard mapping data that were created by the Department of Natural Resources (DNR) and are available on January 1, 2024, on the Indiana Floodplain Information Portal; or (2) any other mapping data created by the DNR after October 2018 at least in part through the use of techniques other than direct observation and measurement by individuals physically present on the land that is the subject of the mapping data.

*Local Floodplain Construction Permits:* The bill amends the law under which a person applying to a county or municipality for a permit authorizing a structure or construction activity in or near a floodplain must be allowed to make an election as to the mapping data to be used by the local floodplain administrator when reviewing the person's permit application to provide that the person may elect to have the local floodplain administrator use the applicable Flood Insurance Rate Map (FIRM) if the county or municipality participates in the National Flood Insurance Program.

*Review of DNR Best Available Data:* The bill amends the law giving the holder of an interest in a parcel of property the right to obtain, at no cost, a detailed hydraulic modeling method review by the DNR of the DNR Best Available Data applying to the parcel to provide that, if a review results in a revision of the DNR Best Available Data applying to the parcel, the DNR: (1) shall incorporate the revised data applying to the parcel into the DNR Best Available Data accessible on the Indiana Floodplain Information Portal; and (2) shall ensure that the revised DNR Best Available Data is used in the preparation by the DNR of any new preliminary FIRM.

*DNR Best Available Data Notifications:* The bill provides that, after March 31, 2024, when the DNR makes

public any new DNR Best Available Data, the DNR shall provide a written notice about the new DNR Best Available Data by first class mail to the owners of parcels of property that were not previously included in a floodway or flood hazard area under the applicable FIRM or other mapping data but may be so included under the new DNR Best Available Data, or that were previously included in a floodway or flood hazard area under the applicable FIRM or other mapping data but may not be so included under the new DNR Best Available Data.

*DNR Participation in FIRM Updates:* The bill provides that, after March 31, 2024, the DNR may not participate in an action to prepare a new FIRM for a county or municipality participating in the National Flood Insurance Program based on DNR Best Available Data unless the DNR has: (1) provided a written notice by first class mail to an owner of each parcel that was not previously included in a floodway or flood hazard area under the existing FIRM but may be so included under the new FIRM based on the DNR Best Available Data, or was previously included in a floodway or flood hazard area under the existing FIRM but may not be so included under the new FIRM based on the DNR Best Available Data; and (2) held a public meeting about the DNR Best Available Data.

The bill provides that a parcel owner who is provided a written notice from the DNR about the potential preparation of a new FIRM based on the DNR Best Available Data may request a DNR review of the DNR Best Available Data applying to the parcel, but must do so not more than 120 days after the DNR holds the public meeting about the DNR Best Available Data. It provides that if a review by the DNR of the DNR Best Available Data applying to a parcel is requested, the DNR may not prepare a new FIRM based on the DNR Best Available Data applying to the parcel until the review is concluded.

**Effective Date:** Upon passage.

**Explanation of State Expenditures:** *Summary:* The bill will increase workload and expenditures for the DNR. If existing staff and resources are currently being used to capacity, they could be supplied from staffing and resources being used in another program or through additional appropriations.

*Additional Information-*

*DNR Best Available Data Notifications:* If the DNR makes public any new DNR Best Available Data, the bill requires the DNR to notify, by first class mail, at least one owner of each parcel that, according to the new DNR Best Available Data, is included in a floodway or flood hazard area, or that is no longer included. The bill specifies information that is to be provided in the notices, including information on the owner's right to a review by the DNR.

*Review of DNR Best Available Data:* Under current law, a person with an ownership, leasehold, or security interest in a parcel of real property may request a review of the DNR Best Available Data applying to the parcel. The bill adds the requirement for the DNR to conduct onsite ground-truthed verification, if needed. If a review results in a revision, the bill requires the DNR to update the Indiana Floodplain Information Portal to reflect the change.

*DNR Participation in FIRM Updates:* The bill prohibits the DNR from acting or participating in an action to prepare for FEMA a new preliminary FIRM that is based, at least in part, on DNR Best Available Data until the DNR first sends first class notifications, holds a public meeting, completes any requested review, and communicates the results of the review to the person who requested it. If the DNR chooses to participate in updating a FIRM, workload would increase to fulfill these requirements.

**Explanation of State Revenues:**

**Explanation of Local Expenditures:** The bill allows a person who applies to a local floodplain administrator for a permit for a structure or construction activity in or near a floodplain, to elect that the local floodplain administrator use the applicable FIRM when reviewing the permit application (in addition to the options of using the DNR Best Available Data or an engineering study provided by the applicant). This provision applies in a community that participates in the National Flood Insurance Program, and the bill prohibits the local floodplain administrator from issuing a permit that will result in the unit violating a condition of the unit's participation in the National Flood Insurance Program.

*Additional Information:* There are 451 communities in Indiana that participate in the National Flood Insurance Program and 68 communities that do not participate.

**Explanation of Local Revenues:**

**State Agencies Affected:** Department of Natural Resources.

**Local Agencies Affected:** Local floodplain administrators.

**Information Sources:**

<https://www.in.gov/dnr/water/surface-water/indiana-floodplain-mapping/indiana-floodplain-information-portal/>;  
[https://www.fema.gov/sites/default/files/2020-10/fema\\_application-for-participation-in-nfip\\_form-086-0-30\\_10-20-2020.pdf](https://www.fema.gov/sites/default/files/2020-10/fema_application-for-participation-in-nfip_form-086-0-30_10-20-2020.pdf);

<https://www.in.gov/dnr/water/files/wa-indiana-model-flood-damage-prevention-ordinance.pdf>;

<https://www.fema.gov/glossary/participation-nfip>;

[https://www.fema.gov/cis/IN.html#comm\\_not\\_part\\_id](https://www.fema.gov/cis/IN.html#comm_not_part_id);

<https://www.fema.gov/cis/IN.html>.

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