

HOUSE BILL No. 1270

DIGEST OF INTRODUCED BILL

Citations Affected: IC 14-8-2; IC 14-13-9; IC 14-28-1; IC 14-30-1.

Synopsis: Kankakee River basin development. Repeals the Kankakee River basin commission (KRBC). Establishes the Kankakee River basin development commission (commission) as a public body corporate and politic. Transfers, with modifications, provisions concerning the membership, duties, powers, and other matters concerning the KRBC to the commission.

Effective: July 1, 2019.

Gutwein

January 10, 2019, read first time and referred to Select Committee on Government Reduction.



First Regular Session of the 121st General Assembly (2019)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2018 Regular and Special Session of the General Assembly.

HOUSE BILL No. 1270

A BILL FOR AN ACT to amend the Indiana Code concerning natural and cultural resources.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 14-8-2-20, AS AMENDED BY P.L.4-2008,
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2019]: Sec. 20. "Basin" has the following meaning:
4 (1) For purposes of IC 14-13-9, the meaning set forth in
5 IC 14-13-9-1.
6 (†) (2) For purposes of IC 14-25-1, the meaning set forth in
7 section 1.2 of IC 14-25-15-1.
8 (2) For purposes of ~~IC 14-30-1~~, the meaning set forth in
9 ~~IC 14-30-1-1~~.
10 (3) For purposes of IC 14-30-2, the meaning set forth in
11 IC 14-30-2-1.
12 (4) For purposes of IC 14-30-3, the meaning set forth in
13 IC 14-30-3-1.
14 (5) For purposes of IC 14-30-4, the meaning set forth in
15 IC 14-30-4-1.
16 SECTION 2. IC 14-8-2-48, AS AMENDED BY P.L.189-2018,
17 SECTION 129, IS AMENDED TO READ AS FOLLOWS



- 1 [EFFECTIVE JULY 1, 2019]: Sec. 48. (a) "Commission", except as
 2 provided in this section, refers to the natural resources commission.
 3 (b) "Commission", for purposes of IC 14-13-1, has the meaning set
 4 forth in IC 14-13-1-1.
 5 (c) "Commission", for purposes of IC 14-13-2, has the meaning set
 6 forth in IC 14-13-2-2.
 7 (d) "Commission", for purposes of IC 14-13-4, has the meaning set
 8 forth in IC 14-13-4-1.
 9 (e) "Commission", for purposes of IC 14-13-5, has the meaning set
 10 forth in IC 14-13-5-1.
 11 (f) "Commission", for purposes of IC 14-13-6, has the meaning set
 12 forth in IC 14-13-6-2.
 13 **(g) "Commission", for purposes of IC 14-13-9, has the meaning**
 14 **set forth in IC 14-13-9-2.**
 15 ~~(g)~~ **(h)** "Commission", for purposes of IC 14-20-11, has the meaning
 16 set forth in IC 14-20-11-1.
 17 ~~(h)~~ **(i)** "Commission", for purposes of IC 14-28-4, has the meaning
 18 set forth in IC 14-28-4-1.
 19 ~~(i)~~ "Commission", for purposes of IC 14-30-1, has the meaning set
 20 forth in IC 14-30-1-2.
 21 (j) "Commission", for purposes of IC 14-30-2, has the meaning set
 22 forth in IC 14-30-2-2.
 23 (k) "Commission", for purposes of IC 14-30-3, has the meaning set
 24 forth in IC 14-30-3-2.
 25 (l) "Commission", for purposes of IC 14-30-4, has the meaning set
 26 forth in IC 14-30-4-2.
 27 (m) "Commission", for purposes of IC 14-33-20, has the meaning
 28 set forth in IC 14-33-20-2.
 29 SECTION 3. IC 14-8-2-136 IS AMENDED TO READ AS
 30 FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 136. "Kankakee River
 31 basin", for purposes of ~~IC 14-30-1~~, **IC 14-13-9**, has the meaning set
 32 forth in ~~IC 14-30-1-3~~. **IC 14-13-9-3.**
 33 SECTION 4. IC 14-13-9 IS ADDED TO THE INDIANA CODE AS
 34 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
 35 1, 2019]:
 36 **Chapter 9. Kankakee River Basin Development Commission**
 37 **Sec. 0.5. (a) The Kankakee River basin commission is abolished.**
 38 **Notwithstanding IC 14-30-1, as in effect June 30, 2019, the term of**
 39 **any member serving on the Kankakee River basin commission**
 40 **expires July 1, 2019.**
 41 **(b) The governor shall appoint the member described in section**
 42 **9(a)(1) of this chapter before July 1, 2019.**



1 (c) The county executive of each county in the basin in Indiana
2 shall appoint the member described in section 9(a)(2) of this
3 chapter before July 1, 2019.

4 (d) The initial terms for a member of the commission appointed
5 under subsections (b) and (c) begin July 1, 2019.

6 (e) On July 1, 2019, all powers, duties, agreements, and
7 liabilities of the Kankakee River basin commission are transferred
8 to the commission.

9 (f) On July 1, 2019, all records and property, including
10 appropriations and other funds, under the control of the Kankakee
11 River basin commission are transferred to the commission.

12 (g) Employees of the Kankakee River basin commission on June
13 30, 2019, become employees of the commission on July 1, 2019,
14 without change in compensation, seniority, or benefits and are
15 entitled to have their service under the commission included for
16 purposes of computing any applicable employment and retirement
17 benefits.

18 (h) After June 30, 2019, a reference to the Kankakee River basin
19 commission in any statute, rule, or other document is considered
20 a reference to the commission.

21 (i) This section expires July 1, 2024.

22 Sec. 1. As used in this chapter, "basin" refers to the Kankakee
23 River basin.

24 Sec. 2. As used in this chapter, "commission" refers to the
25 Kankakee River basin development commission established by this
26 chapter.

27 Sec. 3. (a) As used in this chapter, "Kankakee River basin"
28 means the area in Jasper County, LaPorte County, Lake County,
29 Marshall County, Newton County, Porter County, St. Joseph
30 County, and Starke County that is drained by the Kankakee River
31 and tributaries of the Kankakee River in Indiana.

32 (b) The term includes the area in Kankakee County and
33 Iroquois County in Illinois that is drained by the Kankakee River
34 and the tributaries of the Kankakee River in Illinois.

35 Sec. 4. The general purposes of this chapter are to do the
36 following:

37 (1) Promote the general health and welfare of citizens of
38 Indiana.

39 (2) Provide for the creation, development, maintenance,
40 administration, and operation of flood control, drainage, and
41 other public works projects, including levees.

42 (3) Create a commission with the authority to carry out the



1 purposes of this chapter.

2 (4) Create a commission capable of entering into and fulfilling
3 the requirements of a nonfederal interest (as defined by 42
4 U.S.C. 1962d-5b).

5 Sec. 5. The Kankakee River basin development commission is
6 established as a public body corporate and politic.

7 Sec. 6. The exercise of the powers granted by this chapter is for
8 the benefit of the people of Indiana and for the increase of their
9 commerce, health, enjoyment, and prosperity. The operation,
10 creation, development, and maintenance of the projects by the
11 commission constitutes the performance of essential governmental
12 functions.

13 Sec. 7. The commission is responsible for the safekeeping and
14 deposit of money the commission receives under this chapter. The
15 state board of accounts shall:

- 16 (1) prescribe the methods and forms for the keeping of; and
- 17 (2) audit;

18 the accounts, records, and books of the commission and fund.

19 Sec. 8. The commission shall limit the commission's activities to
20 the Kankakee River basin.

21 Sec. 9. (a) The commission consists of the following individuals:

- 22 (1) One (1) representative appointed by the governor, who is
23 a voting member.
- 24 (2) One (1) representative appointed by the county executive
25 of each county in the basin in Indiana, who is a voting
26 member.

27 (b) A member appointed under subsection (a)(2) must reside in
28 the Indiana county within the basin for which the member is
29 appointed.

30 Sec. 10. (a) The commission may invite the executives of the
31 counties located in the basin in Illinois to appoint one (1) member
32 who meets the qualifications described in section 11 of this chapter
33 to the commission.

34 (b) If a member is appointed under this section, the member
35 serves as a nonvoting advisory member of the commission.

36 (c) If a member is appointed under this section, the member:

- 37 (1) is not entitled to reimbursement for traveling expenses or
38 a salary per diem as provided in section 17 of this chapter;
39 and
- 40 (2) may not be elected as an officer of the commission as
41 provided in section 14 of this chapter.

42 Sec. 11. Each member of the commission appointed under



1 section 9(a) of this chapter must have a background in:

- 2 (1) construction;
 3 (2) project management;
 4 (3) flood control; or
 5 (4) another similar professional background.

6 Sec. 12. The term of office of a member of the commission is
 7 four (4) years and continues until a successor is appointed.

8 Sec. 13. (a) An individual who is appointed to the commission is
 9 eligible for reappointment.

10 (b) If a vacancy occurs in the position of a member of the
 11 commission, the authority that appointed the member shall appoint
 12 a new member to fill the vacancy in the same way that the member
 13 to be replaced was appointed.

14 (c) If an appointee is appointed to serve an unexpired term, the
 15 appointee serves only until the end of the unexpired term.

16 Sec. 14. (a) This section does not apply to a member appointed
 17 under section 10 of this chapter.

18 (b) The commission shall elect the following officers:

- 19 (1) A chairman.
 20 (2) A vice chairman.
 21 (3) A secretary.
 22 (4) A treasurer.

23 (c) The:

- 24 (1) terms of the officers elected under subsection (b) may not
 25 exceed one (1) year; and
 26 (2) officers are eligible for reelection.

27 (d) The commission may establish and fill other offices the
 28 commission considers necessary.

29 (e) Each officer of the commission shall perform the duties
 30 usually pertaining to the office.

31 Sec. 15. The commission shall meet:

- 32 (1) at least four (4) times per calendar year; and
 33 (2) on the call of any of the following:
 34 (A) The chairman.
 35 (B) The executive director.
 36 (C) A quorum of the members of the commission.

37 Sec. 16. (a) The following rules apply to proceedings of the
 38 commission:

- 39 (1) Five (5) voting members constitute a quorum.
 40 (2) At least five (5) affirmative votes are required for the
 41 commission to take action.
 42 (3) The commission shall keep a record of the commission's



- 1 resolutions, transactions, and findings. This record is a public
2 record.
- 3 (b) The commission may adopt additional rules for the
4 transaction of business.
- 5 Sec. 17. (a) This section does not apply to a member appointed
6 under section 10 of this chapter.
- 7 (b) Each commission member is entitled to reimbursement for
8 traveling and other expenses as provided in the state travel policies
9 and procedures established by the Indiana department of
10 administration and approved by the budget agency.
- 11 (c) Each appointed commission member is entitled to the
12 minimum salary per diem as provided in IC 4-10-11-2.1(b).
- 13 Sec. 18. (a) The commission may acquire, by purchase or by
14 lease:
- 15 (1) any land, property, rights, rights-of-way, franchises,
16 easements, and other interests in real property, including land
17 under water and riparian rights; and
- 18 (2) any existing facilities, betterments, and improvements;
19 that the commission considers necessary or convenient for the
20 establishment, development, construction, improvement, or
21 operation of any projects.
- 22 (b) The commission may also acquire land and other interests
23 in real property by:
- 24 (1) gift; or
25 (2) bequest.
- 26 (c) The commission shall take and hold title to land and other
27 interests in the name of the state of Indiana.
- 28 (d) When acquiring land under this section, the commission
29 shall follow the procedures for the acquisition of land by the
30 Indiana department of transportation.
- 31 Sec. 19. The commission may acquire by appropriation under
32 Indiana eminent domain law:
- 33 (1) any land, property, rights, rights-of-way, franchises,
34 easements, or other interests in real property, including land
35 under water and riparian rights; or
- 36 (2) any existing facilities, betterments, and improvements, or
37 other property;
38 necessary and proper for the creation, development, establishment,
39 maintenance, or operation of a project or any part of a project.
- 40 Sec. 20. Each:
- 41 (1) county, city, town, township, and other political
42 subdivision of the state; and



1 (2) public agency, department, and commission;
 2 may, upon the terms and conditions that the proper authorities of
 3 the entity and the commission consider reasonable and
 4 appropriate, lease, lend, grant, or convey to the commission, at the
 5 commission's request, real or personal property, including an
 6 interest in the property, owned by the entity that is necessary or
 7 convenient to achieving the purposes of this chapter.

8 **Sec. 21.** In establishing and developing projects, the commission
 9 may:

10 (1) construct, reconstruct, establish, build, repair, remodel,
 11 enlarge, extend, or add to facilities, betterments, and
 12 improvements; and

13 (2) clear and prepare any site for construction;

14 that the commission considers appropriate in furtherance of the
 15 purposes of this chapter.

16 **Sec. 22. (a)** The commission may sell, transfer, or convey to:

17 (1) a political subdivision of the state; or

18 (2) a public agency, department, or agency;

19 for the consideration and upon the terms that the commission
 20 considers appropriate real property, including a facility, a
 21 betterment, or an improvement, within the projects or acquired
 22 under this chapter, if the sale, transfer, or conveyance and
 23 ownership by the transferee furthers the purposes of this chapter.

24 (b) Transfer is subject to the restrictions that the commission
 25 considers appropriate in furtherance of the purposes of this
 26 chapter.

27 **Sec. 23. (a)** The commission may provide for the construction,
 28 improvement, development, operation, and management of
 29 projects, including any facilities, betterments, and improvements
 30 that are a part of projects, in the manner that the commission
 31 considers appropriate in furtherance of the purposes of this
 32 chapter.

33 (b) The commission may enter into:

34 (1) a lease agreement as lessor or sublessor; or

35 (2) an operation or a license agreement;

36 with respect to all or part of a site, a facility, a betterment, or an
 37 improvement that is a part of projects with at least one (1) public
 38 or private person or entity, including political subdivisions of the
 39 state and public agencies, departments, and agencies, on the terms
 40 and conditions that the commission considers appropriate in
 41 furtherance of the purposes of this chapter.

42 (c) The commission shall provide for the training and



1 instruction of persons who are responsible for maintaining any
 2 levees or other improvements related to flood control under this
 3 article. The training and instruction must be sufficient to enable
 4 those persons to properly maintain the levees or other
 5 improvements related to flood control.

6 **Sec. 24. The commission may do the following:**

7 (1) Adopt bylaws for the regulation of the commission's
 8 affairs and the conduct of the commission's business.

9 (2) Adopt an official seal, which may not be the seal of the
 10 state.

11 (3) Maintain a principal office and other offices that the
 12 commission designates.

13 (4) Sue and be sued in the name and style of "Kankakee River
 14 Basin Development Commission", with service of process
 15 being made upon the chairman of the commission by leaving
 16 a copy at the principal office of the commission.

17 (5) Acquire by grant, purchase, gift, devise, lease, eminent
 18 domain, or otherwise and hold, use, sell, lease, or dispose of:

19 (A) real and personal property of every kind and nature;
 20 and

21 (B) any right and interest;

22 necessary for the full exercise or convenient or useful for the
 23 carrying on of any of the commission's powers under this
 24 chapter.

25 (6) Exercise within Indiana and in the name of the state of
 26 Indiana the power of eminent domain under Indiana law
 27 governing the exercise of the power of eminent domain for
 28 any public purposes.

29 (7) Acquire by fee or by lease, obtain option on, hold, and
 30 dispose of real and personal property reasonably necessary
 31 and proper to the exercise of the commission's powers and the
 32 performance of the commission's duties under this chapter.

33 (8) Make and enter into all contracts, undertakings, and
 34 agreements necessary or incidental to the performance of the
 35 commission's duties and the execution of the commission's
 36 powers under this chapter, including agreements with the
 37 state of Illinois or a political subdivision (or its equivalent) of
 38 the state of Illinois to administer projects within the basin in
 39 Illinois.

40 (9) Employ and fix the compensation of an executive director
 41 or manager, consulting engineers, superintendents, and other
 42 engineers, construction and accounting experts, attorneys,



- 1 and other employees and agents necessary in the commission's
 2 judgment.
- 3 **(10) Conduct studies of the financial feasibility of the flood**
 4 **control projects and facilities, betterments, and improvements**
 5 **within those projects.**
- 6 **(11) Avail itself of the services of professional and other**
 7 **personnel employed by an agency, a department, or a**
 8 **commission of the state for purposes of studying the feasibility**
 9 **of or designing, constructing, or maintaining the projects or**
 10 **a facility within those projects.**
- 11 **(12) Receive and accept:**
- 12 **(A) from the federal government, or a federal agency or**
 13 **department, grants for or in aid of the acquisition,**
 14 **construction, improvement, or development of any part of**
 15 **the projects of the commission; and**
- 16 **(B) aid or contributions from any source of money,**
 17 **property, labor, or other things of value;**
 18 **to be held, used, and applied only for the purposes, consistent**
 19 **with the purposes of this chapter, for which the grants and**
 20 **contributions may be made.**
- 21 **(13) Hold, use, administer, and expend money that is**
 22 **appropriated or transferred to the commission.**
- 23 **(14) Assist or cooperate with a political subdivision or public**
 24 **agency, department, or commission, including the payment of**
 25 **money or the transfer of property to the political subdivision**
 26 **or public agency, department, or commission by the**
 27 **commission if the commission considers the assistance or**
 28 **cooperation appropriate in furtherance of the purposes of this**
 29 **chapter.**
- 30 **(15) Accept assistance and cooperation from a political**
 31 **subdivision or public agency, department, or commission,**
 32 **including the acceptance of money or property by the**
 33 **commission from the political subdivision or public agency,**
 34 **department, or commission, if the commission considers the**
 35 **assistance or cooperation appropriate in furtherance of the**
 36 **purposes of this chapter.**
- 37 **(16) Do all acts and things necessary or proper to carry out**
 38 **the powers expressly granted in this chapter.**
- 39 **(17) Enter into and carry out the terms of a nonfederal**
 40 **interest (as defined by 42 U.S.C. 1962d-5b).**
- 41 **(18) Make contracts and leases for facilities and services.**
- 42 **(19) Appoint the administrative officers and employees**



1 necessary to carry out the work of the commission, fix their
2 duties and compensation, and delegate authority to perform
3 ministerial acts in all cases except where final action of the
4 commission is necessary.

5 (20) Engage in self-supporting activities.

6 (21) Contract for special and temporary services and for
7 professional assistance.

8 (22) Invoke any legal, equitable, or special remedy for the
9 enforcement of this chapter.

10 Sec. 25. The commission is not required to pay any taxes or
11 assessments upon any of the following:

12 (1) A project of the commission.

13 (2) A facility, a betterment, or an improvement within a
14 project.

15 (3) Property acquired or used by the commission under this
16 chapter.

17 (4) The income or revenue from the property.

18 Sec. 26. (a) Before November 1 of each year, the commission
19 shall make a report of the commission's activities to the following:

20 (1) The governor.

21 (2) The legislative council.

22 (3) The county executive of each county in the basin in
23 Indiana.

24 (b) A report made to the legislative council under this section
25 must be in an electronic format under IC 5-14-6.

26 SECTION 5. IC 14-28-1-22, AS AMENDED BY P.L.195-2017,
27 SECTION 45, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
28 JULY 1, 2019]: Sec. 22. (a) As used in subsection (b)(1) with respect
29 to a stream, "total length" means the length of the stream, expressed in
30 miles, from the confluence of the stream with the receiving stream to
31 the upstream or headward extremity of the stream, as indicated by the
32 solid or dashed, blue or purple line depicting the stream on the most
33 current edition of the seven and one-half (7 1/2) minute topographic
34 quadrangle map published by the United States Geological Survey,
35 measured along the meanders of the stream as depicted on the map.

36 (b) This section does not apply to the following:

37 (1) A reconstruction or maintenance project (as defined in
38 IC 36-9-27) on a stream or an open regulated drain if the total
39 length of the stream or open drain is not more than ten (10) miles.

40 (2) A construction or reconstruction project on a state or county
41 highway bridge in a rural area that crosses a stream having an
42 upstream drainage area of not more than fifty (50) square miles



- 1 and the relocation of utility lines associated with the construction
- 2 or reconstruction project if confined to an area not more than one
- 3 hundred (100) feet from the limits of the highway construction
- 4 right-of-way.
- 5 (3) The performance of an activity described in subsection (c)(1)
- 6 or (c)(2) by a surface coal mining operation that is operated under
- 7 a permit issued under IC 14-34.
- 8 (4) Any other activity that is determined by the commission,
- 9 according to rules adopted under IC 4-22-2, to pose not more than
- 10 a minimal threat to floodway areas.
- 11 (5) An activity in a boundary river floodway to which section 26.5
- 12 of this chapter applies.
- 13 (6) The removal of a logjam or mass of wood debris that has
- 14 accumulated in a river or stream, subject to the following
- 15 conditions:
- 16 (A) Work must not be within a salmonid stream designated
- 17 under 327 IAC 2-1.5-5 without the prior written approval of
- 18 the department's division of fish and wildlife.
- 19 (B) Work must not be within a natural, scenic, or recreational
- 20 river or stream designated under 312 IAC 7-2.
- 21 (C) Except as otherwise provided in Indiana law, free logs or
- 22 affixed logs that are crossways in the channel must be cut,
- 23 relocated, and removed from the floodplain. Logs may be
- 24 maintained in the floodplain if properly anchored or otherwise
- 25 secured so as to resist flotation or dislodging by the flow of
- 26 water and placement in an area that is not a wetland. Logs
- 27 must be removed and secured with a minimum of damage to
- 28 vegetation.
- 29 (D) Isolated or single logs that are embedded, lodged, or
- 30 rooted in the channel, and that do not span the channel or
- 31 cause flow problems, must not be removed unless the logs are
- 32 either of the following:
- 33 (i) Associated with or in close proximity to larger
- 34 obstructions.
- 35 (ii) Posing a hazard to navigation.
- 36 (E) A leaning or severely damaged tree that is in immediate
- 37 danger of falling into the waterway may be cut and removed if
- 38 the tree is associated with or in close proximity to an
- 39 obstruction. The root system and stump of the tree must be left
- 40 in place.
- 41 (F) To the extent practicable, the construction of access roads
- 42 must be minimized, and should not result in the elevation of



- 1 the floodplain.
- 2 (G) To the extent practicable, work should be performed
- 3 exclusively from one (1) side of a waterway. Crossing the bed
- 4 of a waterway is prohibited.
- 5 (H) To prevent the flow of sediment laden water back into the
- 6 waterway, appropriate sediment control measures must be
- 7 installed.
- 8 (I) Within fifteen (15) days, all bare and disturbed areas must
- 9 be revegetated with a mixture of grasses and legumes. Tall
- 10 fescue must not be used under this subdivision, except that low
- 11 endophyte tall fescue may be used in the bottom of the
- 12 waterway and on side slopes.
- 13 (c) A person who desires to:
- 14 (1) erect, make, use, or maintain a structure, an obstruction, a
- 15 deposit, or an excavation; or
- 16 (2) suffer or permit a structure, an obstruction, a deposit, or an
- 17 excavation to be erected, made, used, or maintained;
- 18 in or on a floodway must file with the director a verified written
- 19 application for a permit accompanied by a nonrefundable minimum fee
- 20 of two hundred dollars (\$200).
- 21 (d) The application for a permit must set forth the material facts
- 22 together with plans and specifications for the structure, obstruction,
- 23 deposit, or excavation.
- 24 (e) An applicant must receive a permit from the director for the
- 25 work before beginning construction. The director shall issue a permit
- 26 only if in the opinion of the director the applicant has clearly proven
- 27 that the structure, obstruction, deposit, or excavation will not do any of
- 28 the following:
- 29 (1) Adversely affect the efficiency of or unduly restrict the
- 30 capacity of the floodway.
- 31 (2) Constitute an unreasonable hazard to the safety of life or
- 32 property.
- 33 (3) Result in unreasonably detrimental effects upon fish, wildlife,
- 34 or botanical resources.
- 35 (f) In deciding whether to issue a permit under this section, the
- 36 director shall consider the cumulative effects of the structure,
- 37 obstruction, deposit, or excavation. The director may incorporate in and
- 38 make a part of an order of authorization conditions and restrictions that
- 39 the director considers necessary for the purposes of this chapter.
- 40 (g) A permit issued under this section:
- 41 (1) is valid for two (2) years after the issuance of the permit; and
- 42 (2) to:



- 1 (A) the Indiana department of transportation or a county
 2 highway department if there is any federal funding for the
 3 project; or
 4 (B) an electric utility for the construction of a power
 5 generating facility;
 6 is valid for five (5) years from the date of issuance.
 7 A permit that is active and was issued under subdivision (1) before July
 8 1, 2014, is valid for two (2) years beginning July 2014, and a permit
 9 that is active and was issued under subdivision (2) before July 1, 2014,
 10 is valid for five (5) years beginning July 2014.
 11 (h) A permit issued under:
 12 (1) subsection (g)(1) may be renewed one (1) time for a period not
 13 to exceed two (2) additional years; and
 14 (2) subsection (g)(2) may be renewed one (1) time for a period not
 15 to exceed five (5) additional years.
 16 (i) The director shall send a copy of each permit issued under this
 17 section to each river basin commission organized under:
 18 (1) IC 14-29-7 or IC 13-2-27 (before its repeal); or
 19 (2) **IC 14-13-19**, IC 14-30-1 (**before its repeal**), or IC 36-7-6
 20 (before its repeal);
 21 that is affected.
 22 (j) The permit holder shall post and maintain a permit issued under
 23 this section at the authorized site.
 24 (k) For the purposes of this chapter, the lowest floor of a building,
 25 including a residence or abode, that is to be constructed or
 26 reconstructed in the one hundred (100) year floodplain of an area
 27 protected by a levee that is:
 28 (1) inspected; and
 29 (2) found to be in good or excellent condition;
 30 by the United States Army Corps of Engineers shall not be lower than
 31 the one hundred (100) year frequency flood elevation plus one (1) foot.
 32 SECTION 6. IC 14-28-1-24, AS AMENDED BY P.L.195-2017,
 33 SECTION 46, IS AMENDED TO READ AS FOLLOWS
 34 [[EFFECTIVE JULY 1, 2019]: Sec. 24. (a) This section does not apply
 35 to the reconstruction of a residence located in a boundary river
 36 floodway.
 37 (b) A person may not begin the reconstruction of an abode or a
 38 residence that is located in a floodway and is substantially damaged (as
 39 defined in 44 CFR 59.1, as in effect on January 1, 1993) unless the
 40 person has:
 41 (1) obtained a permit under this section or section 26.5 of this
 42 chapter; or



1 (2) demonstrated to the department through the submission of
2 material facts, plans, and specifications that the material used to
3 elevate the reconstructed abode or residence:

4 (A) does not extend beyond the original foundation of the
5 abode or residence; and

6 (B) meets the criteria set forth in subsection (d)(2) through
7 (d)(7).

8 (c) A person who desires to reconstruct an abode or a residence that
9 does not meet the requirements under subsection (b)(2) must file with
10 the director a verified written application for a permit accompanied by
11 a nonrefundable minimum fee of fifty dollars (\$50). An application
12 submitted under this section must do the following:

13 (1) Set forth the material facts concerning the proposed
14 reconstruction.

15 (2) Include the plans and specifications for the reconstruction.

16 (d) The director may issue a permit to an applicant under this
17 section only if the applicant has clearly proven all of the following:

18 (1) The abode or residence will be reconstructed:

19 (A) in the area of the original foundation and in substantially
20 the same configuration as the former abode or residence; or

21 (B) in a location that is, as determined by the director, safer
22 than the location of the original foundation.

23 (2) The lowest floor elevation of the abode or residence as
24 reconstructed, including the basement, will be at least two (2) feet
25 above the one hundred (100) year flood elevation.

26 (3) The abode or residence will be designed or modified and
27 adequately anchored to prevent flotation, collapse, or lateral
28 movement of the structure resulting from hydrodynamic and
29 hydrostatic loads, including the effects of buoyancy.

30 (4) The abode or residence will be reconstructed with materials
31 resistant to flood damage.

32 (5) The abode or residence will be reconstructed by methods and
33 practices that minimize flood damages.

34 (6) The abode or residence will be reconstructed with electrical,
35 heating, ventilation, plumbing, and air conditioning equipment
36 and other service facilities that are designed and located to
37 prevent water from entering or accumulating within the
38 components during conditions of flooding.

39 (7) The abode or residence, as reconstructed, will comply with the
40 minimum requirements for floodplain management set forth in 44
41 CFR Part 60, as in effect on January 1, 1993.

42 (e) When granting a permit under this section, the director may



1 establish and incorporate into the permit certain conditions and
 2 restrictions that the director considers necessary for the purposes of this
 3 chapter.

4 (f) A permit issued by the director under this section is void if the
 5 reconstruction authorized by the permit is not commenced within two
 6 (2) years after the permit is issued.

7 (g) The director shall send a copy of each permit issued under this
 8 section to each river basin commission organized under:

9 (1) IC 14-29-7 or IC 13-2-27 (before its repeal); or

10 (2) **IC 14-13-9**, IC 14-30-1 (**before its repeal**), or IC 36-7-6
 11 (before its repeal);

12 that is affected by the permit.

13 (h) The person to whom a permit is issued under this section shall
 14 post and maintain the permit at the site of the reconstruction authorized
 15 by the permit.

16 (i) A person who knowingly:

17 (1) begins the reconstruction of an abode or a residence in
 18 violation of subsection (b);

19 (2) violates a condition or restriction of a permit issued under this
 20 section; or

21 (3) fails to post and maintain a permit at a reconstruction site in
 22 violation of subsection (h);

23 commits a Class B infraction. Each day that the person is in violation
 24 of subsection (b), the permit, or subsection (h) constitutes a separate
 25 infraction.

26 SECTION 7. IC 14-30-1 IS REPEALED [EFFECTIVE JULY 1,
 27 2019]. (Kankakee River Basin Commission).

