



January 29, 2013

# HOUSE BILL No. 1289

DIGEST OF HB 1289 (Updated January 28, 2013 1:48 pm - DI 77)

**Citations Affected:** IC 14-27.

**Synopsis:** Levee repair and reimbursement. Requires a committee in charge of a levee to perform the maintenance of and repairs to the levee that are necessary to maintain federal certification of the levee. Provides that the maintenance costs shall be apportioned and assessed in the same manner as repair costs and expenses to a levee. Requires a committee in charge of a levee to apportion and assess costs of levee repairs not more than 90 days after the statement of costs and expenses for repairs is filed with the county auditor. Requires that if a committee in charge of a levee: (1) has filed the statement of costs and expenses for repairs; and (2) has not reimbursed the county for the costs and expenses for repairs to the levee or apportioned and assessed the costs; the committee shall apportion and assess the costs upon the land and corporations benefitted by the repairs before September 29, 2013. Allows the county council and county executive to appoint a voting member to the committee while the county is being reimbursed for the costs and expenses for repairs to the levee.

**Effective:** July 1, 2013.

**Messmer**

January 14, 2013, read first time and referred to Committee on Natural Resources.  
January 29, 2013, amended, reported — Do Pass.

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HB 1289—LS 7217/DI 77+



January 29, 2013

First Regular Session 118th General Assembly (2013)

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 2012 Regular Session of the General Assembly.

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## HOUSE BILL No. 1289

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 14-27-3-7 IS AMENDED TO READ AS  
2 FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 7. (a) The committee  
3 placed in charge of the levee may **perform maintenance and** make all  
4 necessary repairs to the levee that are necessary to keep the levee in  
5 original condition. **However, the committee shall perform the**  
6 **maintenance of and repairs to the levee that are necessary to**  
7 **maintain federal certification of the levee.** If it becomes necessary  
8 for the safety of the levee to change the line and location of the levee  
9 at any point in making the repairs, the committee may make the  
10 change. However, the committee may not change or relocate the  
11 general line or location of the levee.  
12 (b) The committee shall do the following:  
13 (1) Keep a record of the committee's proceedings.  
14 (2) Note in the record all expenses incurred in making the repairs.  
15 (3) File with the county auditor a statement showing the cost and  
16 expenses of making the repairs, specifying the amounts due each  
17 person.

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1 (c) The auditor shall draw a warrant on the county treasurer in favor  
 2 of each person for the amount due the person. The amounts shall be  
 3 paid out of the county revenue but reimbursed to the county.

4 **(d) Notwithstanding any other law, the cost and expenses of**  
 5 **performing maintenance on a levee under subsection (a) shall be**  
 6 **apportioned and assessed in the same manner as repair costs and**  
 7 **expenses to a levee.**

8 SECTION 2. IC 14-27-3-8 IS AMENDED TO READ AS  
 9 FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 8. **(a)** To raise the  
 10 necessary money to reimburse the county, the committee **in charge of**  
 11 **a levee** shall apportion and assess the costs upon the land and  
 12 corporations to be benefited by the repairs in proportion to the benefits  
 13 **not more than ninety (90) days after filing the statement of costs**  
 14 **and expenses for repairs under section 7(b)(3) of this chapter.** The  
 15 costs may not exceed the benefits. However, if the repairs have been  
 16 made necessary by the act or negligence of:

- 17 (1) the owner or occupant of land; or  
 18 (2) an employee or agent of the owner or occupant;

19 the cost of the repairs shall be assessed against that land alone.

20 **(b) If a committee in charge of a levee:**

- 21 **(1) before July 1, 2013, has filed the statement of costs and**  
 22 **expenses for repairs under section 7(b)(3) of this chapter; and**  
 23 **(2) has not:**

24 **(A) reimbursed the county for the costs and expenses for**  
 25 **repairs to the levee; or**

26 **(B) apportioned and assessed the costs upon the land and**  
 27 **corporations benefited by the repairs as required in**  
 28 **subsection (a);**

29 **the committee in charge of a levee shall, before September 29,**  
 30 **2013, apportion and assess the costs upon the land and**  
 31 **corporations benefited by the repairs as required by subsection (a).**

32 SECTION 3. IC 14-27-3-8.5 IS ADDED TO THE INDIANA CODE  
 33 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
 34 1, 2013]: Sec. 8.5. **(a) Notwithstanding any other law, during the**  
 35 **period:**

36 **(1) beginning when a committee in charge of a levee files a**  
 37 **statement of costs and expenses for repairs under section**  
 38 **7(b)(3) of this chapter; and**

39 **(2) ending when the county has been reimbursed for the costs**  
 40 **and expenses for repairs to the levee;**

41 **the county council and county executive may each appoint an**  
 42 **individual to serve as a voting member of the committee.**



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1           **(b) A member of a committee in charge of a levee appointed**  
2           **under this section serves at the pleasure of the appointing**  
3           **authority.**

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## COMMITTEE REPORT

Mr. Speaker: Your Committee on Natural Resources, to which was referred House Bill 1289, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 14-27-3-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 7. (a) The committee placed in charge of the levee may **perform maintenance and** make all necessary repairs to the levee that are necessary to keep the levee in original condition. **However, the committee shall perform the maintenance of and repairs to the levee that are necessary to maintain federal certification of the levee.** If it becomes necessary for the safety of the levee to change the line and location of the levee at any point in making the repairs, the committee may make the change. However, the committee may not change or relocate the general line or location of the levee.

(b) The committee shall do the following:

- (1) Keep a record of the committee's proceedings.
- (2) Note in the record all expenses incurred in making the repairs.
- (3) File with the county auditor a statement showing the cost and expenses of making the repairs, specifying the amounts due each person.

(c) The auditor shall draw a warrant on the county treasurer in favor of each person for the amount due the person. The amounts shall be paid out of the county revenue but reimbursed to the county.

**(d) Notwithstanding any other law, the cost and expenses of performing maintenance on a levee under subsection (a) shall be apportioned and assessed in the same manner as repair costs and expenses to a levee."**

Page 1, line 2, after "Sec. 8." insert "(a)".

Page 1, between lines 12 and 13, begin a new paragraph and insert:

**"(b) If a committee in charge of a levee:**

- (1) before July 1, 2013, has filed the statement of costs and expenses for repairs under section 7(b)(3) of this chapter; and**
- (2) has not:**
  - (A) reimbursed the county for the costs and expenses for repairs to the levee; or**
  - (B) apportioned and assessed the costs upon the land and corporations benefited by the repairs as required in subsection (a);**

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**the committee in charge of a levee shall, before September 29, 2013, apportion and assess the costs upon the land and corporations benefited by the repairs as required by subsection (a)."**

Page 2, line 5, delete "may" and insert "**and county executive may each**".

Page 2, line 8, delete "county council." and insert "**appointing authority**".

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1289 as introduced.)

EBERHART, Chair

Committee Vote: yeas 9, nays 0.

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