



January 31, 2020

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## SENATE BILL No. 450

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DIGEST OF SB 450 (Updated January 30, 2020 9:24 am - DI 138)

**Citations Affected:** IC 14-8; IC 14-27; IC 34-30.

**Synopsis:** Low head dams. Requires the natural resources commission to establish a roster of low head dams in the state that are capable of creating hazardous currents that pose safety issues. Establishes requirements concerning low head dams for the department of natural resources (department) and owners of low head dams. Except for purposes of an inspection, maintenance, or removal, prohibits a person from accessing a low head dam. Prohibits wading, boating, swimming, or accessing the waters within 50 feet of a low head dam when warning signs are present. Provides that the state is not liable for any death or injury that occurs on or resulting from a low head dam that is not owned by the state. Provides for a penalty for violations. Requires the department to prepare a report that includes recommendations concerning the creation of a low head dam removal program and any recommendations concerning low head dam safety legislation.

**Effective:** July 1, 2020.

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### Busch, Doriot

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January 16, 2020, read first time and referred to Committee on Natural Resources.  
January 30, 2020, amended, reported favorably — Do Pass.

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SB 450—LS 6736/DI 139





January 31, 2020

Second Regular Session of the 121st General Assembly (2020)

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 2019 Regular Session of the General Assembly.

## SENATE BILL No. 450

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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 14-8-2-156.9 IS ADDED TO THE INDIANA  
2 CODE AS A **NEW** SECTION TO READ AS FOLLOWS  
3 [EFFECTIVE JULY 1, 2020]: **Sec. 156.9. "Low head dam", for**  
4 **purposes of IC 14-27-7.3, has the meaning set forth in**  
5 **IC 14-27-7.3-2.**

6 SECTION 2. IC 14-8-2-245.1 IS ADDED TO THE INDIANA  
7 CODE AS A **NEW** SECTION TO READ AS FOLLOWS  
8 [EFFECTIVE JULY 1, 2020]: **Sec. 245.1. "Roster", for purposes of**  
9 **IC 14-27-7.3, has the meaning set forth in IC 14-27-7.3-3.**

10 SECTION 3. IC 14-27-7.3 IS ADDED TO THE INDIANA CODE  
11 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE  
12 JULY 1, 2020]:

13 **Chapter 7.3. Low Head Dams**

14 **Sec. 1. This chapter does not apply to a dam that is regulated by**  
15 **the Federal Energy Regulatory Commission or owned by the Army**  
16 **Corps of Engineers.**

17 **Sec. 2. As used in this chapter, "low head dam" means a**

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1 manmade in-channel structure in a watercourse that is capable of  
 2 generating hazardous recirculating currents that pose a risk to  
 3 public health and safety and causes the watercourse to have a  
 4 vertical drop of twenty-five (25) feet or less.

5 Sec. 3. As used in this chapter, "roster" refers to the roster of  
 6 low head dams adopted under section 4 of this chapter.

7 Sec. 4. (a) Not later than July 1, 2021, the commission shall  
 8 adopt a roster of low head dams located in the state that are  
 9 capable of creating hazardous currents that pose safety issues to  
 10 swimmers, waders, or boaters. The roster must be updated  
 11 periodically.

12 (b) The roster of low head dams must include the following  
 13 information:

14 (1) The location of the low head dam.

15 (2) To the extent feasible, the name of each low head dam  
 16 owner. If an owner cannot be identified, the roster must list  
 17 the owner as unknown.

18 Sec. 5. The department shall do the following:

19 (1) Establish warning standards for low head dams that are  
 20 on the roster.

21 (2) Provide information on low head dam safety.

22 (3) Provide contact information for the department so that a  
 23 low head dam owner can discuss options for low head dam  
 24 removal or modification.

25 (4) Not more than ninety (90) days after the commission  
 26 adopts a roster, notify each identified owner of a low head  
 27 dam on the roster by certified mail of the requirements for a  
 28 low head dam under this chapter.

29 (5) Not more than ninety (90) days after the department  
 30 receives information of a new owner of a low head dam on the  
 31 roster, notify the new owner by certified mail of the  
 32 requirements for a low head dam under this chapter.

33 Sec. 6. A person who owns a low head dam that is on the roster  
 34 shall do the following:

35 (1) Comply with the warning standards established by the  
 36 department under section 5(1) of this chapter.

37 (2) Inform the department of any change of ownership of the  
 38 low head dam not more than thirty (30) days after the change.

39 (3) Except for a low head dam owned by the state, maintain  
 40 general liability insurance, with a general aggregate limit of  
 41 not less than one million dollars (\$1,000,000), to cover claims  
 42 from injuries and death that the low head dam may cause,



- 1           and before July 1 of each year provide the department with  
2           proof of insurance.
- 3           **Sec. 7. (a)** The owner of a low head dam that is on the roster and  
4           that has been damaged or breached shall notify the department  
5           within four (4) business days of becoming aware of the damage or  
6           breach.
- 7           **(b)** The department and the department's agents, engineers,  
8           geologists, and other employees may, for purposes of conducting an  
9           assessment of the low head dam that has been reported as damaged  
10          or breached, enter upon any land or water in Indiana without  
11          liability for trespass. The owner of the low head dam shall do the  
12          following:
- 13          **(1)** Cooperate with the department and the department's  
14          agents, engineers, geologists, and other employees in the  
15          conduct of the assessment.
- 16          **(2)** Facilitate access to the low head dam.
- 17          **(c)** After the low head dam has been assessed under subsection  
18          **(b)**, the department shall provide a written report to each owner of  
19          the low head dam.
- 20          **Sec. 8. (a)** A person may not access a low head dam or wade,  
21          boat, swim, or access the waters within fifty (50) feet of the low  
22          head dam when warning signs are present.
- 23          **(b)** Notwithstanding subsection (a), a person who is performing:  
24          **(1)** an assessment, inspection, or maintenance on or removal  
25          of a low head dam with the written permission of the owner;  
26          or  
27          **(2)** duties of the department;  
28          is exempt from this section.
- 29          **Sec. 9.** The department may use funds appropriated to the  
30          department to perform title searches to determine the owners of  
31          existing low head dams.
- 32          **Sec. 10. (a)** The state is not liable for any death or injury that  
33          occurs on or resulting from a low head dam that is not owned by  
34          the state.
- 35          **(b)** Nothing in this chapter limits an owner's liability for any  
36          damage, loss, or injury that is caused by a low head dam.
- 37          **Sec. 11.** The department may adopt rules under IC 4-22-2 to  
38          implement this chapter.
- 39          **Sec. 12.** A person who violates this chapter commits a Class C  
40          infraction.
- 41          **Sec. 13. (a)** A person may appeal an administrative decision or  
42          penalty assessed under this chapter to the commission.



1           **(b) IC 4-21.5 applies to proceedings by the commission under**  
2 **this section.**  
3           **Sec. 14. (a) Not later than October 1, 2020, the department**  
4 **shall:**  
5           **(1) prepare a report that includes recommendations**  
6 **concerning the creation of a low head dam removal program**  
7 **and any recommendations concerning low head dam safety**  
8 **legislation; and**  
9           **(2) submit the report required in this section in an electronic**  
10 **format under IC 5-14-6 to the executive director of the**  
11 **legislative services agency for distribution to the members of**  
12 **the general assembly.**  
13           **(b) This section expires July 1, 2021.**  
14           SECTION 4. IC 34-30-2-56.7 IS ADDED TO THE INDIANA  
15 CODE AS A NEW SECTION TO READ AS FOLLOWS  
16 [EFFECTIVE JULY 1, 2020]: **Sec. 56.7. IC 14-27-7.3-10 (Concerning**  
17 **state liability for low head dams not owned by the state).**



COMMITTEE REPORT

Madam President: The Senate Committee on Natural Resources, to which was referred Senate Bill No. 450, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, line 15, after "or" insert "**owned by**".

Page 2, delete line 1.

Page 2, line 2, delete "watercourse that" and insert "**manmade in-channel structure in a watercourse that is capable of generating hazardous recirculating currents that pose a risk to public health and safety and**".

Page 3, line 20, delete "one hundred (100)" and insert "**fifty (50)**".  
and when so amended that said bill do pass.

(Reference is to SB 450 as introduced.)

GLICK, Chairperson

Committee Vote: Yeas 8, Nays 0.

