



April 3, 2019

ENGROSSED HOUSE BILL No. 1279

DIGEST OF HB 1279 (Updated April 1, 2019 2:33 pm - DI 55)

Citations Affected: IC 14-8; IC 14-33; IC 34-30; noncode.

Synopsis: Conservancy districts. Changes the minimum number of freeholders owning land in a proposed conservancy district who must sign a petition to establish the conservancy district to: (1) 30% of the freeholders if the proposed conservancy district contains not more than 5,000 freeholds; (2) 15% (but not less than 1,000) of the freeholders if the proposed conservancy district contains more than 5,000 but not more than 25,000 freeholds; and (3) 10% (but not less than 3,000) of the freeholders if the proposed conservancy district contains more than 25,000 freeholds. Allows a conservancy district to be established as a "reservoir conservancy district" if: (1) the conservancy district will be established for certain purposes, including the operation, maintenance, and improvement of a work for water based recreational purposes; (2) the boundaries of the conservancy district will encompass part or all of a reservoir located partly within a consolidated city; and (3) at least 25% of the surface of the reservoir is owned by a utility governed by a board of directors for utilities of a consolidated city. Requires the board of directors of a reservoir conservancy district and the utility that owns the reservoir to enter into an operating agreement that includes an
(Continued next page)

Effective: July 1, 2019.

Wolkins, Klinker, Miller D

(SENATE SPONSOR — ZAY)

January 10, 2019, read first time and referred to Committee on Environmental Affairs.
January 31, 2019, amended, reported — Do Pass.
February 4, 2019, read second time, ordered engrossed.
February 5, 2019, engrossed. Read third time, passed. Yeas 93, nays 1.

SENATE ACTION

March 4, 2019, read first time and referred to Committee on Environmental Affairs.
April 2, 2019, amended, reported favorably — Do Pass.

EH 1279—LS 7231/DI 109



Digest Continued

operating plan describing all works of improvement and modification and maintenance of improvements relating to access to and use of the reservoir that the reservoir conservancy district proposes to perform. Requires that all such work be approved by the utility before the work is begun. Provides that a reservoir conservancy district has all of the powers granted to other conservancy districts with certain exceptions, including: (1) the district plan of a reservoir conservancy district must be provided to the utility that owns the reservoir at least 30 days before it is presented to the natural resources commission; (2) a reservoir conservancy district does not have the power of eminent domain with respect to property of the utility that owns the reservoir or the property of a person that manages the reservoir under a contract with the utility; and (3) the utility that owns the reservoir is exempt from all assessments, taxes, and fees imposed by the reservoir conservancy district. Authorizes a reservoir conservancy district to: (1) impose and collect fees for the recreational use of motorized watercraft on the reservoir; (2) install catch basins and filtration systems on or near the tributaries of the reservoir; (3) implement streambank remediation and erosion control measures within the reservoir conservancy district's boundaries; and (4) take other actions. Provides that the utility that owns the reservoir has sole authority and control over all activities to control the water level and water quality of the reservoir. Makes other changes. Provides that, except in a case of intentional or willful and wanton misconduct, a reservoir conservancy district and the utility that owns the reservoir are not liable for any personal injury, death, property damage, or other loss that an individual incurs while present on or in the reservoir, regardless of whether the individual or another person with whom the individual is associated paid a fee to the reservoir conservancy district for the recreational use of the reservoir.



April 3, 2019

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.

ENGROSSED HOUSE BILL No. 1279

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 14-8-2-169.6 IS ADDED TO THE INDIANA
2 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
3 [EFFECTIVE JULY 1, 2019]: **Sec. 169.6. "Motorized watercraft",**
4 **as used in IC 14-33-24, has the meaning set forth in IC 14-33-24-1.**

5 SECTION 2. IC 14-8-2-212.5 IS ADDED TO THE INDIANA
6 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
7 [EFFECTIVE JULY 1, 2019]: **Sec. 212.5. "Primary water recreation**
8 **facility", as used in IC 14-33-24, has the meaning set forth in**
9 **IC 14-33-24-2.**

10 SECTION 3. IC 14-8-2-240 IS AMENDED TO READ AS
11 FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 240. **(a) "Reservoir",**
12 **for purposes of IC 14-33-24, has the meaning set forth in**
13 **IC 14-33-24-3.**

14 **(b) "Reservoir",** for purposes of IC 14-37, means an underground
15 geological formation that contains oil or natural gas.

16 SECTION 4. IC 14-8-2-240.2 IS ADDED TO THE INDIANA
17 CODE AS A **NEW** SECTION TO READ AS FOLLOWS

EH 1279—LS 7231/DI 109



1 [EFFECTIVE JULY 1, 2019]: **Sec. 240.2. "Reservoir conservancy**
 2 **district", as used in IC 14-33-24, has the meaning set forth in**
 3 **IC 14-33-24-4.**

4 SECTION 5. IC 14-8-2-294.6 IS ADDED TO THE INDIANA
 5 CODE AS A NEW SECTION TO READ AS FOLLOWS
 6 [EFFECTIVE JULY 1, 2019]: **Sec. 294.6. "Utility owner", as used in**
 7 **IC 14-33-24, has the meaning set forth in IC 14-33-24-5.**

8 SECTION 6. IC 14-33-2-2 IS AMENDED TO READ AS
 9 FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 2. A petition filed
 10 under section 1 of this chapter must be signed by freeholders owning
 11 land in the proposed district in the minimum number or proportion of
 12 all the freeholders in the proposed district as follows:

13 (1) Districts of not more than ~~one thousand (1,000)~~ **five thousand**
 14 **(5,000)** freeholds, thirty percent (30%) of the freeholders.

15 (2) ~~Districts of at least one thousand one (1,001) and not more~~
 16 ~~than five thousand (5,000) freeholds, fifteen percent (15%) of the~~
 17 ~~freeholders but not less than three hundred (300) signatures.~~

18 ~~(3) (2) Districts of at least five thousand one (5,001) and not more~~
 19 ~~than twenty-five thousand (25,000) freeholds, ten percent (10%)~~
 20 **fifteen percent (15%)** of the freeholders but not less than ~~seven~~
 21 ~~hundred fifty (750)~~ **one thousand (1,000)** signatures.

22 ~~(4) (3) Districts of at least twenty-five thousand one (25,001)~~
 23 ~~freeholds, five percent (5%)~~ **ten percent (10%)** of the freeholders
 24 but not less than ~~two thousand five hundred (2,500)~~ **three**
 25 **thousand (3,000)** signatures.

26 SECTION 7. IC 14-33-6-13, AS AMENDED BY P.L.52-2012,
 27 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 28 JULY 1, 2019]: Sec. 13. (a) The board shall place the district plan in
 29 operation by constructing all works and maintaining the works in
 30 accordance with the district plan.

31 (b) If necessary to discharge these responsibilities, the board may do
 32 the following:

33 (1) **Except as provided in IC 14-33-24-8(d),** levy taxes on the
 34 real property in the district.

35 (2) **Except as provided in IC 14-33-24-8(d),** make assessments
 36 on the real property in the district, except the property that is
 37 exempt under IC 14-33-7-4, for exceptional benefits to the
 38 property and further assessments pro rata for maintenance and
 39 operation of the works of improvement.

40 (3) Issue bonds and short and long term notes.

41 (4) Incur other debts and liabilities.

42 (5) **Except as provided in IC 14-33-24-8(c),** exercise the power



- 1 of eminent domain, both inside and outside the boundaries of the
 2 district, in accordance with this article or another eminent domain
 3 statute. In the exercise of this power, due care shall be taken to
 4 minimize interference with other public interests involved.
- 5 (6) Make payments for the fair value of all property taken under
 6 eminent domain proceedings, and in cases that are appealed,
 7 make the payments into court and proceed promptly in placing the
 8 district plan in operation.
- 9 (7) Institute any type of civil legal proceedings in a court having
 10 jurisdiction over the person or property in question.
- 11 (8) Purchase or rent property.
- 12 (9) Sell services or property that are produced incident to the
 13 district plan at a fair and reasonable price.
- 14 (10) Make contracts or otherwise enter into agreements with
 15 persons or federal, state, or local governmental agencies for
 16 construction, maintenance, operation, or security of any part of
 17 the district.
- 18 (11) Receive and disburse money.
- 19 (12) Lease land and other assets to municipalities, counties, and
 20 park boards of municipalities or counties, with the term and
 21 annual rental adequate to meet the district's repayment schedule
 22 for financing, if any, of the land and other assets leased.
 23 Municipalities, counties, and park boards of municipalities or
 24 counties may enter into leases without limitations of other statutes
 25 regarding the receipt of petitions, the duration of the term of the
 26 lease, or the distance of the land and other assets from the
 27 corporate boundaries. The municipalities, counties, and park
 28 boards may enter into leases:
- 29 (A) for terms as long as fifty (50) years;
 30 (B) at locations that the municipalities, counties, and park
 31 boards determine would benefit the municipalities or counties;
 32 and
 33 (C) upon terms, conditions, and covenants that are fair and
 34 reasonable.
- 35 The board may pledge the rental income from the lease as revenue
 36 for services or property produced incident to the operation of the
 37 district.
- 38 (13) Perform necessary construction and maintenance work as
 39 follows:
- 40 (A) Outside the district.
 41 (B) Outside Indiana if:
 42 (i) there is voluntary agreement on the part of persons



1 outside Indiana; and

2 (ii) the work will confer benefits to the real property in the
3 district in excess of costs and damages to be paid by the
4 district.

5 SECTION 8. IC 14-33-7-3 IS AMENDED TO READ AS
6 FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 3. **(a) This section
7 does not apply to a reservoir conservancy district established
8 under IC 14-33-24.**

9 **(b)** In all districts described in IC 14-33-9-4, the special benefits tax
10 rate may not exceed six and sixty-seven hundredths cents (\$0.0667) on
11 each one hundred dollars (\$100) of assessed valuation of property in
12 the taxing district.

13 SECTION 9. IC 14-33-24 IS ADDED TO THE INDIANA CODE
14 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
15 JULY 1, 2019]:

16 **Chapter 24. Reservoir Conservancy Districts**

17 **Sec. 1. (a) As used in this chapter, "motorized watercraft"**
18 **means any instrumentality or device in or by means of which a**
19 **person may be transported upon a body of water that is:**

- 20 (1) equipped with an internal combustion, steam, or electrical
21 motor or engine that is inboard or outboard; or
22 (2) propelled by any mechanical means.

23 **(b) The term includes the following:**

- 24 (1) A motorboat, as defined in IC 14-8-2-169(a).
25 (2) A personal watercraft, as defined in IC 14-8-2-202.5.
26 (3) A flat bottomed boat supported by floats, commonly called
27 a pontoon boat, that is equipped with a motor or engine
28 described in subsection (a)(1).
29 (4) A sailboat that is equipped with a motor or engine
30 described in subsection (a)(1).

31 **Sec. 2. As used in this chapter, "primary water recreation**
32 **facility" means the part or parts of the reservoir located within the**
33 **boundaries of a reservoir conservancy district that are suitable for**
34 **recreational use by motorized watercraft.**

35 **Sec. 3. As used in this chapter, "reservoir" means a body of**
36 **water created by the construction of a dam, embankment, or other**
37 **structure.**

38 **Sec. 4. As used in this chapter, "reservoir conservancy district"**
39 **refers to a conservancy district established under this chapter.**

40 **Sec. 5. (a) As used in this chapter, "utility owner" refers to a**
41 **utility that:**

- 42 (1) owns at least twenty-five percent (25%) of the surface of



1 the reservoir located within the boundaries of a reservoir
2 conservancy district; and

3 (2) is governed by a board of directors for utilities under
4 IC 8-1-11.1-3.

5 (b) For purposes of this chapter, the utility owner of the
6 reservoir located within the boundaries of a reservoir conservancy
7 district is the utility owner that owns at least twenty-five percent
8 (25%) of the surface of the reservoir located within the boundaries
9 of the reservoir conservancy district.

10 Sec. 6. A proposed conservancy district may be established as a
11 reservoir conservancy district under this chapter if:

12 (1) the proposed conservancy district will be established for
13 the purposes of:

14 (A) developing forests, wildlife areas, parks, and
15 recreational facilities if feasible in connection with
16 beneficial water management, as provided in
17 IC 14-33-1-1(a)(6);

18 (B) the operation, maintenance, and improvement of:

19 (i) a work of improvement for water based recreational
20 purposes; or

21 (ii) another work of improvement that could have been
22 built for any other purpose authorized by IC 14-33-1-1;
23 as provided in IC 14-33-1-1(a)(9); or

24 (C) both of the purposes set forth in clauses (A) and (B);

25 (2) the boundaries of the proposed conservancy district will
26 encompass part or all of a reservoir located partly within a
27 consolidated city; and

28 (3) at least twenty-five percent (25%) of the surface of the
29 reservoir located within the boundaries of the proposed
30 conservancy district is owned by a utility governed by a board
31 of directors for utilities under IC 8-1-11.1-3.

32 Sec. 7. (a) After the court issues an order establishing a
33 reservoir conservancy district under IC 14-33-2-17 and the initial
34 board of directors of the reservoir conservancy district is
35 appointed under IC 14-33-5-1, the board of directors and the utility
36 owner of the reservoir located within the boundaries of the
37 reservoir conservancy district shall enter into an operating
38 agreement.

39 (b) The operating agreement entered into under this section
40 shall include an operating plan that describes all:

41 (1) works of improvement; and

42 (2) modifications and maintenance of improvements;



1 relating to access to and use of the reservoir located within the
 2 boundaries of the reservoir conservancy district that are proposed
 3 to be performed by the reservoir conservancy district. Any
 4 proposed work by the reservoir conservancy district pursuant to
 5 the operating plan or the district plan that involves the reservoir
 6 must be approved by the utility owner of the reservoir located
 7 within the boundaries of the reservoir conservancy district before
 8 the work begins. The process and procedures for the utility owner's
 9 approval of the reservoir conservancy district's proposed work
 10 shall be established pursuant to the operating agreement.

11 (c) An operating agreement shall be entered into under this
 12 section before the district plan of the reservoir conservancy district
 13 is submitted to or approved by the natural resources commission
 14 and the court under IC 14-33-6.

15 Sec. 8. (a) Except as provided in subsections (b) through (e) or
 16 another provision of this chapter, a reservoir conservancy district
 17 has all of the powers granted to other conservancy districts by this
 18 article.

19 (b) The district plan of a reservoir conservancy district shall be
 20 provided to the utility owner of the reservoir located within the
 21 boundaries of the reservoir conservancy district at least thirty (30)
 22 days before it is presented to the natural resources commission
 23 under IC 14-33-6-3.

24 (c) A reservoir conservancy district does not have the power of
 25 eminent domain with respect to property of:

26 (1) the utility owner of the reservoir located within the
 27 boundaries of the reservoir conservancy district; or

28 (2) a person that manages the reservoir pursuant to a contract
 29 between the person and the utility owner of the reservoir
 30 located within the boundaries of the reservoir conservancy
 31 district.

32 (d) The utility owner of the reservoir located within the
 33 boundaries of the reservoir conservancy district is exempt from all
 34 assessments, taxes, and fees imposed under this article by the
 35 reservoir conservancy district.

36 (e) A reservoir conservancy district has authority to:

37 (1) establish, through the action of the board of directors; and
 38 (2) enforce;

39 reasonable rules concerning safety, welfare, and the maintenance
 40 of resources within the boundaries of the reservoir conservancy
 41 district. However, the rules established under this subsection may
 42 not interfere with the use of the reservoir for water supply



1 purposes by the utility owner of the reservoir located within the
2 boundaries of the reservoir conservancy district.

3 Sec. 9. (a) A reservoir conservancy district may impose and
4 collect recreation fees for the recreational use of motorized
5 watercraft on the primary water recreation facility of the reservoir
6 located within the boundaries of the reservoir conservancy district.

7 (b) The recreation fees imposed under this section must include:

8 (1) a fee charged to every owner of real property within the
9 reservoir conservancy district who uses a motorized
10 watercraft on the primary water recreation facility for
11 recreational purposes; and

12 (2) a fee charged to every person who does not own real
13 property within the reservoir conservancy district but uses a
14 motorized watercraft on the primary water recreation facility
15 for recreational purposes.

16 (c) The reservoir conservancy district may establish different
17 types of recreation fees under this section based on:

18 (1) the type of motorized watercraft used;

19 (2) whether the person using the motorized watercraft owns
20 real property within the boundaries of the reservoir
21 conservancy district;

22 (3) the length of time during which the person using the
23 motorized watercraft would be authorized to use the
24 motorized watercraft on the primary water recreation
25 facility; and

26 (4) any other reasonable factors that the board of directors of
27 the reservoir conservancy district may decide to use.

28 (d) The recreation fee charged under this section for the
29 recreational use of a motorized watercraft by a person who does
30 not own real property within the reservoir conservancy district
31 may not be more than twenty-five percent (25%) higher than the
32 recreation fee that would be charged under the same conditions if
33 the person was an owner of real property within the reservoir
34 conservancy district.

35 (e) A reservoir conservancy district that imposes recreation fees
36 under this section:

37 (1) is authorized to take reasonable actions to administer and
38 enforce the requirement that a recreation fee be paid for the
39 recreational use of motorized watercraft on the primary
40 water recreation facility of the reservoir conservancy district,
41 including:

42 (A) issuing and requiring the display of an emblem or



1 other device on a motorized watercraft to signify that the
2 fee has been paid; and
3 **(B) monitoring the use of motorized watercraft on the**
4 **primary water recreation facility of the reservoir**
5 **conservancy district to ensure compliance with the**
6 **recreation fee requirement; and**
7 **(2) shall use the revenue derived from the recreation fees**
8 **collected under this section for:**
9 **(A) the preservation and maintenance of the primary**
10 **water recreation facility; and**
11 **(B) the administration of the reservoir conservancy**
12 **district.**
13 **Sec. 10. (a) A reservoir conservancy district, subject to sections**
14 **7 and 11 of this chapter and the district plan of the reservoir**
15 **conservancy district, is authorized to do the following:**
16 **(1) Install:**
17 **(A) catch basins;**
18 **(B) vegetative or constructed filtration systems; or**
19 **(C) both catch basins and vegetative or constructed**
20 **filtration systems;**
21 **on or near the tributaries of the primary water recreation**
22 **facility of the reservoir located within the boundaries of the**
23 **reservoir conservancy district.**
24 **(2) Implement streambank remediation and erosion control**
25 **measures:**
26 **(A) on the tributaries of the reservoir; and**
27 **(B) in the watershed of the reservoir;**
28 **within the boundaries of the reservoir conservancy district.**
29 **(3) Take action to control or remove algae and undesirable**
30 **aquatic vegetation throughout the primary water recreation**
31 **facility of the reservoir located within the boundaries of the**
32 **reservoir conservancy district.**
33 **(4) Dredge throughout the primary water recreation facility**
34 **of the reservoir located within the boundaries of the reservoir**
35 **conservancy district to maintain sufficient depths for water**
36 **recreation purposes.**
37 **(5) Perform any other acts of remediation, rehabilitation, or**
38 **improvement that are necessary or useful to maintain the**
39 **primary water recreation facility of the reservoir located**
40 **within the boundaries of the reservoir conservancy district.**
41 **(b) Any chemicals used by the reservoir conservancy district**
42 **under subsection (a)(3) must be approved for use by:**



1 (1) the governing federal and state agencies; and
2 (2) the utility owner of the reservoir located within the
3 boundaries of the reservoir conservancy district.
4 (c) Any dredging by the reservoir conservancy district under
5 subsection (a)(4) may be conducted only with the necessary
6 authorization from the governing state and federal agencies.
7 Sec. 11. The utility owner of the reservoir located within the
8 boundaries of the reservoir conservancy district has sole authority
9 and control over all activities to control:
10 (1) the water level of;
11 (2) the water quality of; and
12 (3) the availability of water from;
13 the reservoir located within the boundaries of the reservoir
14 conservancy district.
15 SECTION 10. IC 34-30-32 IS ADDED TO THE INDIANA CODE
16 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
17 JULY 1, 2019]:
18 **Chapter 32. Immunity of Reservoir Conservancy District and**
19 **Utility Owner**
20 Sec. 1. As used in this chapter, "reservoir conservancy district"
21 means a reservoir conservancy district established under
22 IC 14-33-24.
23 Sec. 2. As used in this chapter, "utility owner of the reservoir
24 located within the boundaries of the reservoir conservancy
25 district" has the meaning described in IC 14-33-24-5.
26 Sec. 3. As used in this chapter, "watercraft" means any
27 instrumentality or device in or by means of which a person may be
28 transported upon a body of water, including:
29 (1) a motorboat, sailboat, rowboat, personal watercraft (as
30 defined in IC 14-8-2-202.5), kayak, canoe, pontoon boat, stand
31 up paddle board, or jon boat of any length or size; and
32 (2) a floating object, whether or not connected to a watercraft
33 described in subdivision (1).
34 Sec. 4. (a) Except as provided in subsection (b):
35 (1) a reservoir conservancy district;
36 (2) the members of the board of directors of a reservoir
37 conservancy district;
38 (3) the owners of real property located within the boundaries
39 of a reservoir conservancy district; and
40 (4) the utility owner of the reservoir located within the
41 boundaries of the reservoir conservancy district;
42 are not liable for any personal injury, death, property damage, or



1 other loss of any nature that an individual incurs while present on
2 or in the reservoir of a reservoir conservancy district, regardless
3 of whether the individual is in a watercraft at the time of the
4 incident causing the personal injury, death, property damage, or
5 other loss, and regardless of whether the individual or any other
6 person with whom the individual was associated paid a recreation
7 fee as described in IC 14-33-24-9 to the reservoir conservancy
8 district for the privilege of using the reservoir of the reservoir
9 conservancy district for recreational purposes.
10 (b) Subsection (a) does not apply to personal injury, death,
11 property damage, or other loss caused by the intentional or willful
12 and wanton misconduct of:
13 (1) the reservoir conservancy district;
14 (2) the members of the board of directors of a reservoir
15 conservancy district;
16 (3) an owner of real property located within the boundaries of
17 a reservoir conservancy district; or
18 (4) the utility owner of the reservoir located within the
19 boundaries of the reservoir conservancy district.
20 SECTION 11. [EFFECTIVE JULY 1, 2019] (a) IC 14-33-2-2, as
21 amended by this act, does not apply to the establishment of a
22 conservancy district under IC 14-33-2 pursuant to a petition filed
23 with a circuit court under IC 14-33-2-2 before July 1, 2019.
24 (b) This SECTION expires July 1, 2020.



COMMITTEE REPORT

Mr. Speaker: Your Committee on Environmental Affairs, to which was referred House Bill 1279, 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 2, after line 1, begin a new paragraph and insert:

"SECTION 2. [EFFECTIVE JULY 1, 2019] **(a) IC 14-33-2-2, as amended by this act, does not apply to the establishment of a conservancy district under IC 14-33-2 pursuant to a petition filed with a circuit court under IC 14-33-2-2 before July 1, 2019.**

(b) This SECTION expires July 1, 2020."

and when so amended that said bill do pass.

(Reference is to HB 1279 as introduced.)

WOLKINS

Committee Vote: yeas 11, nays 1.

COMMITTEE REPORT

Madam President: The Senate Committee on Environmental Affairs, to which was referred House Bill No. 1279, 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, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 14-8-2-169.6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: **Sec. 169.6. "Motorized watercraft", as used in IC 14-33-24, has the meaning set forth in IC 14-33-24-1.**

SECTION 2. IC 14-8-2-212.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: **Sec. 212.5. "Primary water recreation facility", as used in IC 14-33-24, has the meaning set forth in IC 14-33-24-2.**

SECTION 3. IC 14-8-2-240 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: **Sec. 240. (a) "Reservoir", for purposes of IC 14-33-24, has the meaning set forth in IC 14-33-24-3.**

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(b) "Reservoir", for purposes of IC 14-37, means an underground geological formation that contains oil or natural gas.

SECTION 4. IC 14-8-2-240.2 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 240.2. "Reservoir conservancy district", as used in IC 14-33-24, has the meaning set forth in IC 14-33-24-4.**

SECTION 5. IC 14-8-2-294.6 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 294.6. "Utility owner", as used in IC 14-33-24, has the meaning set forth in IC 14-33-24-5."**

Page 2, between lines 1 and 2, begin a new paragraph and insert:

"SECTION 7. IC 14-33-6-13, AS AMENDED BY P.L.52-2012, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 13. (a) The board shall place the district plan in operation by constructing all works and maintaining the works in accordance with the district plan.

(b) If necessary to discharge these responsibilities, the board may do the following:

- (1) **Except as provided in IC 14-33-24-8(d)**, levy taxes on the real property in the district.
- (2) **Except as provided in IC 14-33-24-8(d)**, make assessments on the real property in the district, except the property that is exempt under IC 14-33-7-4, for exceptional benefits to the property and further assessments pro rata for maintenance and operation of the works of improvement.
- (3) Issue bonds and short and long term notes.
- (4) Incur other debts and liabilities.
- (5) **Except as provided in IC 14-33-24-8(c)**, exercise the power of eminent domain, both inside and outside the boundaries of the district, in accordance with this article or another eminent domain statute. In the exercise of this power, due care shall be taken to minimize interference with other public interests involved.
- (6) Make payments for the fair value of all property taken under eminent domain proceedings, and in cases that are appealed, make the payments into court and proceed promptly in placing the district plan in operation.
- (7) Institute any type of civil legal proceedings in a court having jurisdiction over the person or property in question.
- (8) Purchase or rent property.
- (9) Sell services or property that are produced incident to the district plan at a fair and reasonable price.



(10) Make contracts or otherwise enter into agreements with persons or federal, state, or local governmental agencies for construction, maintenance, operation, or security of any part of the district.

(11) Receive and disburse money.

(12) Lease land and other assets to municipalities, counties, and park boards of municipalities or counties, with the term and annual rental adequate to meet the district's repayment schedule for financing, if any, of the land and other assets leased. Municipalities, counties, and park boards of municipalities or counties may enter into leases without limitations of other statutes regarding the receipt of petitions, the duration of the term of the lease, or the distance of the land and other assets from the corporate boundaries. The municipalities, counties, and park boards may enter into leases:

(A) for terms as long as fifty (50) years;

(B) at locations that the municipalities, counties, and park boards determine would benefit the municipalities or counties; and

(C) upon terms, conditions, and covenants that are fair and reasonable.

The board may pledge the rental income from the lease as revenue for services or property produced incident to the operation of the district.

(13) Perform necessary construction and maintenance work as follows:

(A) Outside the district.

(B) Outside Indiana if:

(i) there is voluntary agreement on the part of persons outside Indiana; and

(ii) the work will confer benefits to the real property in the district in excess of costs and damages to be paid by the district.

SECTION 8. IC 14-33-7-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 3. **(a) This section does not apply to a reservoir conservancy district established under IC 14-33-24.**

(b) In all districts described in IC 14-33-9-4, the special benefits tax rate may not exceed six and sixty-seven hundredths cents (\$0.0667) on each one hundred dollars (\$100) of assessed valuation of property in the taxing district.

SECTION 9. IC 14-33-24 IS ADDED TO THE INDIANA CODE



AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]:

Chapter 24. Reservoir Conservancy Districts

Sec. 1. (a) As used in this chapter, "motorized watercraft" means any instrumentality or device in or by means of which a person may be transported upon a body of water that is:

- (1) equipped with an internal combustion, steam, or electrical motor or engine that is inboard or outboard; or
- (2) propelled by any mechanical means.

(b) The term includes the following:

- (1) A motorboat, as defined in IC 14-8-2-169(a).
- (2) A personal watercraft, as defined in IC 14-8-2-202.5.
- (3) A flat bottomed boat supported by floats, commonly called a pontoon boat, that is equipped with a motor or engine described in subsection (a)(1).
- (4) A sailboat that is equipped with a motor or engine described in subsection (a)(1).

Sec. 2. As used in this chapter, "primary water recreation facility" means the part or parts of the reservoir located within the boundaries of a reservoir conservancy district that are suitable for recreational use by motorized watercraft.

Sec. 3. As used in this chapter, "reservoir" means a body of water created by the construction of a dam, embankment, or other structure.

Sec. 4. As used in this chapter, "reservoir conservancy district" refers to a conservancy district established under this chapter.

Sec. 5. (a) As used in this chapter, "utility owner" refers to a utility that:

- (1) owns at least twenty-five percent (25%) of the surface of the reservoir located within the boundaries of a reservoir conservancy district; and
- (2) is governed by a board of directors for utilities under IC 8-1-11.1-3.

(b) For purposes of this chapter, the utility owner of the reservoir located within the boundaries of a reservoir conservancy district is the utility owner that owns at least twenty-five percent (25%) of the surface of the reservoir located within the boundaries of the reservoir conservancy district.

Sec. 6. A proposed conservancy district may be established as a reservoir conservancy district under this chapter if:

- (1) the proposed conservancy district will be established for the purposes of:



(A) developing forests, wildlife areas, parks, and recreational facilities if feasible in connection with beneficial water management, as provided in IC 14-33-1-1(a)(6);

(B) the operation, maintenance, and improvement of:

(i) a work of improvement for water based recreational purposes; or

(ii) another work of improvement that could have been built for any other purpose authorized by IC 14-33-1-1; as provided in IC 14-33-1-1(a)(9); or

(C) both of the purposes set forth in clauses (A) and (B);

(2) the boundaries of the proposed conservancy district will encompass part or all of a reservoir located partly within a consolidated city; and

(3) at least twenty-five percent (25%) of the surface of the reservoir located within the boundaries of the proposed conservancy district is owned by a utility governed by a board of directors for utilities under IC 8-1-11.1-3.

Sec. 7. (a) After the court issues an order establishing a reservoir conservancy district under IC 14-33-2-17 and the initial board of directors of the reservoir conservancy district is appointed under IC 14-33-5-1, the board of directors and the utility owner of the reservoir located within the boundaries of the reservoir conservancy district shall enter into an operating agreement.

(b) The operating agreement entered into under this section shall include an operating plan that describes all:

(1) works of improvement; and

(2) modifications and maintenance of improvements;

relating to access to and use of the reservoir located within the boundaries of the reservoir conservancy district that are proposed to be performed by the reservoir conservancy district. Any proposed work by the reservoir conservancy district pursuant to the operating plan or the district plan that involves the reservoir must be approved by the utility owner of the reservoir located within the boundaries of the reservoir conservancy district before the work begins. The process and procedures for the utility owner's approval of the reservoir conservancy district's proposed work shall be established pursuant to the operating agreement.

(c) An operating agreement shall be entered into under this section before the district plan of the reservoir conservancy district is submitted to or approved by the natural resources commission



and the court under IC 14-33-6.

Sec. 8. (a) Except as provided in subsections (b) through (e) or another provision of this chapter, a reservoir conservancy district has all of the powers granted to other conservancy districts by this article.

(b) The district plan of a reservoir conservancy district shall be provided to the utility owner of the reservoir located within the boundaries of the reservoir conservancy district at least thirty (30) days before it is presented to the natural resources commission under IC 14-33-6-3.

(c) A reservoir conservancy district does not have the power of eminent domain with respect to property of:

- (1) the utility owner of the reservoir located within the boundaries of the reservoir conservancy district; or**
- (2) a person that manages the reservoir pursuant to a contract between the person and the utility owner of the reservoir located within the boundaries of the reservoir conservancy district.**

(d) The utility owner of the reservoir located within the boundaries of the reservoir conservancy district is exempt from all assessments, taxes, and fees imposed under this article by the reservoir conservancy district.

(e) A reservoir conservancy district has authority to:

- (1) establish, through the action of the board of directors; and**
- (2) enforce;**

reasonable rules concerning safety, welfare, and the maintenance of resources within the boundaries of the reservoir conservancy district. However, the rules established under this subsection may not interfere with the use of the reservoir for water supply purposes by the utility owner of the reservoir located within the boundaries of the reservoir conservancy district.

Sec. 9. (a) A reservoir conservancy district may impose and collect recreation fees for the recreational use of motorized watercraft on the primary water recreation facility of the reservoir located within the boundaries of the reservoir conservancy district.

(b) The recreation fees imposed under this section must include:

- (1) a fee charged to every owner of real property within the reservoir conservancy district who uses a motorized watercraft on the primary water recreation facility for recreational purposes; and**
- (2) a fee charged to every person who does not own real property within the reservoir conservancy district but uses a**



motorized watercraft on the primary water recreation facility for recreational purposes.

(c) The reservoir conservancy district may establish different types of recreation fees under this section based on:

- (1) the type of motorized watercraft used;
- (2) whether the person using the motorized watercraft owns real property within the boundaries of the reservoir conservancy district;
- (3) the length of time during which the person using the motorized watercraft would be authorized to use the motorized watercraft on the primary water recreation facility; and
- (4) any other reasonable factors that the board of directors of the reservoir conservancy district may decide to use.

(d) The recreation fee charged under this section for the recreational use of a motorized watercraft by a person who does not own real property within the reservoir conservancy district may not be more than twenty-five percent (25%) higher than the recreation fee that would be charged under the same conditions if the person was an owner of real property within the reservoir conservancy district.

(e) A reservoir conservancy district that imposes recreation fees under this section:

(1) is authorized to take reasonable actions to administer and enforce the requirement that a recreation fee be paid for the recreational use of motorized watercraft on the primary water recreation facility of the reservoir conservancy district, including:

(A) issuing and requiring the display of an emblem or other device on a motorized watercraft to signify that the fee has been paid; and

(B) monitoring the use of motorized watercraft on the primary water recreation facility of the reservoir conservancy district to ensure compliance with the recreation fee requirement; and

(2) shall use the revenue derived from the recreation fees collected under this section for:

(A) the preservation and maintenance of the primary water recreation facility; and

(B) the administration of the reservoir conservancy district.

Sec. 10. (a) A reservoir conservancy district, subject to sections



7 and 11 of this chapter and the district plan of the reservoir conservancy district, is authorized to do the following:

(1) Install:

- (A) catch basins;**
- (B) vegetative or constructed filtration systems; or**
- (C) both catch basins and vegetative or constructed filtration systems;**

on or near the tributaries of the primary water recreation facility of the reservoir located within the boundaries of the reservoir conservancy district.

(2) Implement streambank remediation and erosion control measures:

- (A) on the tributaries of the reservoir; and**
- (B) in the watershed of the reservoir;**

within the boundaries of the reservoir conservancy district.

(3) Take action to control or remove algae and undesirable aquatic vegetation throughout the primary water recreation facility of the reservoir located within the boundaries of the reservoir conservancy district.

(4) Dredge throughout the primary water recreation facility of the reservoir located within the boundaries of the reservoir conservancy district to maintain sufficient depths for water recreation purposes.

(5) Perform any other acts of remediation, rehabilitation, or improvement that are necessary or useful to maintain the primary water recreation facility of the reservoir located within the boundaries of the reservoir conservancy district.

(b) Any chemicals used by the reservoir conservancy district under subsection (a)(3) must be approved for use by:

- (1) the governing federal and state agencies; and**
- (2) the utility owner of the reservoir located within the boundaries of the reservoir conservancy district.**

(c) Any dredging by the reservoir conservancy district under subsection (a)(4) may be conducted only with the necessary authorization from the governing state and federal agencies.

Sec. 11. The utility owner of the reservoir located within the boundaries of the reservoir conservancy district has sole authority and control over all activities to control:

- (1) the water level of;**
- (2) the water quality of; and**
- (3) the availability of water from;**

the reservoir located within the boundaries of the reservoir



conservancy district.

SECTION 10. IC 34-30-32 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]:

Chapter 32. Immunity of Reservoir Conservancy District and Utility Owner

Sec. 1. As used in this chapter, "reservoir conservancy district" means a reservoir conservancy district established under IC 14-33-24.

Sec. 2. As used in this chapter, "utility owner of the reservoir located within the boundaries of the reservoir conservancy district" has the meaning described in IC 14-33-24-5.

Sec. 3. As used in this chapter, "watercraft" means any instrumentality or device in or by means of which a person may be transported upon a body of water, including:

- (1) a motorboat, sailboat, rowboat, personal watercraft (as defined in IC 14-8-2-202.5), kayak, canoe, pontoon boat, stand up paddle board, or jon boat of any length or size; and**
- (2) a floating object, whether or not connected to a watercraft described in subdivision (1).**

Sec. 4. (a) Except as provided in subsection (b):

- (1) a reservoir conservancy district;**
- (2) the members of the board of directors of a reservoir conservancy district;**
- (3) the owners of real property located within the boundaries of a reservoir conservancy district; and**
- (4) the utility owner of the reservoir located within the boundaries of the reservoir conservancy district;**

are not liable for any personal injury, death, property damage, or other loss of any nature that an individual incurs while present on or in the reservoir of a reservoir conservancy district, regardless of whether the individual is in a watercraft at the time of the incident causing the personal injury, death, property damage, or other loss, and regardless of whether the individual or any other person with whom the individual was associated paid a recreation fee as described in IC 14-33-24-9 to the reservoir conservancy district for the privilege of using the reservoir of the reservoir conservancy district for recreational purposes.

(b) Subsection (a) does not apply to personal injury, death, property damage, or other loss caused by the intentional or willful and wanton misconduct of:

- (1) the reservoir conservancy district;**



- (2) the members of the board of directors of a reservoir conservancy district;**
- (3) an owner of real property located within the boundaries of a reservoir conservancy district; or**
- (4) the utility owner of the reservoir located within the boundaries of the reservoir conservancy district."**

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1279 as printed February 1, 2019.)

MESSMER, Chairperson

Committee Vote: Yeas 10, Nays 0.

