

## SENATE BILL No. 338

---

### DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 5-30-1-11; IC 14-33; IC 34-3-2-56.7.

**Synopsis:** Conservancy district restrictions. Provides that a conservancy district established after June 30, 2020, for any purpose other than providing for the collection, treatment, and disposal of sewage and other liquid wastes is subject to certain restrictions and requirements, including that: (1) it may not exercise the power of eminent domain; (2) if it imposes fees for the recreational use of a water body, the fee charged to a person who does not own real property within the conservancy district may not be more than 50% greater than the fee charged to a person who owns real property within the conservancy district, and it may use the recreation fee revenue only for maintenance of the water body and the administration of the conservancy district; (3) it may not unreasonably limit the types of motorized watercraft that may be used on a water body or assess fees for access to the water body that are unreasonably high in amount; (4) it may not exercise control or authority over the construction, reconstruction, or maintenance of regulated drains or over streams; (5) its budget must be reviewed by the fiscal body of the county in which the conservancy district is located, and the board of the conservancy district may not approve a total budget in excess of the amount approved by the county fiscal body; and (6) the rate of its special benefits tax may not exceed \$0.0667 on each \$100 of assessed valuation of property. Provides that if: (1) a conservancy district is established for purposes related to a water body; and (2) the water body is used as a source of water by a public water utility; the public water utility is not civilly liable for bodily injury or property damage caused by an occurrence in or near the water body solely by reason of owning or having a right to use the water in the water body.

**Effective:** July 1, 2020.

---

---

**Spartz**

---

---

January 13, 2020, read first time and referred to Committee on Environmental Affairs.

---

---



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 *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2019 Regular Session of the General Assembly.

# SENATE BILL No. 338

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

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

1 SECTION 1. IC 5-30-1-11, AS AMENDED BY P.L.139-2013,  
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 2020]: Sec. 11. (a) "Public agency" means:  
4 (1) a state agency (as defined in IC 4-13-1-1);  
5 (2) a state educational institution;  
6 (3) a unit (as defined in IC 36-1-2-23);  
7 (4) a body corporate and politic created by state statute;  
8 (5) a school corporation (as defined in IC 20-26-2-4);  
9 (6) a conservancy district established for a purpose described in  
10 IC ~~14-33-1-1(a)(4)~~ or IC ~~14-33-1-1(a)(5)~~; **IC 14-33-1-1(b)(4) or**  
11 **IC 14-33-1-1(b)(5)**;  
12 (7) a fire protection district established under IC 36-8-11;  
13 (8) a department of aviation established under IC 8-22-2-1(a); or  
14 (9) an airport authority established under IC 8-22-3-1.  
15 (b) The term does not include the Indiana department of  
16 transportation.  
17 SECTION 2. IC 14-33-1-1 IS AMENDED TO READ AS



1 FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 1. **(a) For the**  
 2 **purposes of this section and section 1.1 of this chapter, a**  
 3 **conservancy district is established when the establishment of the**  
 4 **district becomes final under IC 14-33-2-29.**

5 ~~(a)~~ **(b)** A conservancy district may be established for any of the  
 6 following purposes:

7 (1) Flood prevention and control.

8 (2) Improving drainage.

9 (3) Providing for irrigation.

10 (4) Providing water supply, including treatment and distribution,  
 11 for domestic, industrial, and public use.

12 (5) Providing for the collection, treatment, and disposal of sewage  
 13 and other liquid wastes.

14 (6) Developing forests, wildlife areas, parks, and recreational  
 15 facilities if feasible in connection with beneficial water  
 16 management.

17 (7) Preventing the loss of topsoil from injurious water erosion.

18 (8) Storage of water for augmentation of stream flow.

19 (9) Operation, maintenance, and improvement of:

20 (A) a work of improvement for water based recreational  
 21 purposes; or

22 (B) other work of improvement that could have been built for  
 23 any other purpose authorized by this section.

24 ~~(b)~~ **(c)** These purposes may be accomplished by cooperating with  
 25 federal and state agencies whose programs are designed to accomplish  
 26 any of the purposes of the district.

27 SECTION 3. IC 14-33-1-1.1 IS ADDED TO THE INDIANA CODE  
 28 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
 29 1, 2020]: Sec. 1.1. **(a) Notwithstanding any other law to the**  
 30 **contrary, a conservancy district established after June 30, 2020, for**  
 31 **any of the purposes set forth in section 1(b) of this chapter other**  
 32 **than the purpose set forth in section 1(b)(5) of this chapter is**  
 33 **subject to the requirements and restrictions set forth in this**  
 34 **section.**

35 **(b) A conservancy district described in subsection (a) may not**  
 36 **exercise the power of eminent domain.**

37 **(c) If a conservancy district described in subsection (a) imposes**  
 38 **fees for the recreational use of a water body, the fee charged to a**  
 39 **person who does not own real property within the conservancy**  
 40 **district may not be more than fifty percent (50%) greater than the**  
 41 **fee charged to a person who owns real property within the**  
 42 **conservancy district.**



1 (d) A conservancy district described in subsection (a) may not  
 2 use revenue derived from recreation fees collected under  
 3 subsection (c) for any purpose other than:

- 4 (1) the maintenance of the water body; and  
 5 (2) the administration of the conservancy district.

6 (e) A conservancy district described in subsection (a) may not  
 7 do any of the following:

8 (1) Unreasonably limit the types of motorized watercraft that  
 9 may be used on a water body.

10 (2) Assess fees for access to the water body that are  
 11 unreasonably high in amount to discourage public use of the  
 12 water body.

13 (3) Establish other requirements or restrictions to:

14 (A) discourage public use of the water body; or

15 (B) discourage uses of the water body for activities that:

16 (i) are regulated under IC 14-22; and

17 (ii) could take place in the water body except for the  
 18 conservancy district's requirements or restrictions.

19 (4) Exercise any control or authority over:

20 (A) the construction, reconstruction, or maintenance of  
 21 regulated drains under IC 36-9-27; or

22 (B) streams from which water flows into a water body.

23 (f) The following apply to a conservancy district described in  
 24 subsection (a):

25 (1) All expenses of the conservancy district shall be paid from  
 26 funds established by the conservancy district.

27 (2) All money in the funds of the conservancy district shall be  
 28 deposited, held, secured, invested, and paid in accordance  
 29 with statutes relating to the handling of public funds.

30 (3) The handling and expenditure of money in the funds of the  
 31 conservancy district are subject to audit and supervision by  
 32 the state board of accounts.

33 (4) Before December 20 of each year, the conservancy district  
 34 shall prepare a budget for expenditures during the following  
 35 year. A budget prepared under this section must be:

36 (A) submitted to the department of local government  
 37 finance; and

38 (B) published on the department's interactive and  
 39 searchable Internet web site containing local government  
 40 information (the Indiana gateway for governmental units).

41 (5) The board of the conservancy district shall submit two (2)  
 42 copies of the budget to the fiscal body of the county:



- 1           (A) in which the conservancy district is located; or  
 2           (B) that contains a greater part of the area of the  
 3           conservancy district than any other county;  
 4           at least ten (10) days before the board holds the public  
 5           hearing on the estimated budget under IC 6-1.1-17-3.  
 6           (6) The county fiscal body:  
 7               (A) shall hold a public hearing on the budget; and  
 8               (B) may lower but may not increase an item in the  
 9               estimated budget.  
 10           Notice of the hearing shall be published in accordance with  
 11           IC 5-3-1, except that notice must be published at least five (5)  
 12           days before the hearing date.  
 13           (7) After the hearing and action on the budget under  
 14           subdivision (6), the county fiscal body shall deliver two (2)  
 15           copies of the budget to the board of the conservancy district  
 16           at least two (2) days before the date fixed for the public  
 17           hearing on the budget held by the board under IC 6-1.1-17-3.  
 18           The board may not approve a total budget in excess of the  
 19           amount approved by the county fiscal body under subdivision  
 20           (6).  
 21           (g) If:  
 22               (1) a conservancy district described in subsection (a) is  
 23               established for purposes related to a water body; and  
 24               (2) the water body is used as a water source by a public water  
 25               utility;  
 26           the public water utility is not civilly liable for bodily injury or  
 27           property damage caused by an occurrence in or near the water  
 28           body solely by reason of owning or having a right to use the water  
 29           in the water body.  
 30           SECTION 4. IC 14-33-5-21.1, AS ADDED BY P.L.168-2009,  
 31           SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 32           JULY 1, 2020]: Sec. 21.1. (a) This section applies to a campground  
 33           that:  
 34               (1) is connected with the sewage works of a district established  
 35               for the purpose described in IC ~~14-33-1-1(a)(5)~~;  
 36               **IC 14-33-1-1(b)(5)**; or  
 37               (2) uses or is served by the sewage works of a district established  
 38               for the purpose described in IC ~~14-33-1-1(a)(5)~~.  
 39               **IC 14-33-1-1(b)(5)**.  
 40           (b) Beginning September 1, 2009, if a campground is billed for  
 41           sewage service at a flat rate under section 21(a)(1) of this chapter, the  
 42           campground may instead elect to be billed for the sewage service under



1 this subsection by installing, at the campground's expense, a meter to  
 2 measure the actual amount of sewage discharged by the campground  
 3 into the district's sewers. If a campground elects to be billed by use of  
 4 a meter:

5 (1) the rate charged by the district's board for the metered sewage  
 6 service may not exceed the rate charged to residential customers  
 7 for equivalent usage; and

8 (2) the amount charged by the board for the campground's  
 9 monthly sewage service for the period beginning September 1 and  
 10 ending May 31 must be equal to the greater of:

11 (A) the actual amount that would be charged for the sewage  
 12 discharged during the month by the campground as measured  
 13 by the meter; or

14 (B) the lowest monthly charge paid by the campground for  
 15 sewage service during the previous period beginning June 1  
 16 and ending August 31.

17 (c) If a campground does not install a meter under subsection (b)  
 18 and is billed for sewage service at a flat rate under section 21(a)(1) of  
 19 this chapter, for a calendar year beginning after December 31, 2009,  
 20 each campsite at the campground may not equal more than one-third  
 21 (1/3) of one (1) resident equivalent unit. The basic monthly charge for  
 22 the campground's sewage service must be equal to the number of the  
 23 campground's resident equivalent units multiplied by the rate charged  
 24 by the board for a resident unit.

25 (d) The board may impose additional charges on a campground  
 26 under subsections (b) and (c) if the board incurs additional costs that  
 27 are caused by any unique factors that apply to providing sewage service  
 28 for the campground, including, but not limited to:

29 (1) the installation of:

30 (A) oversized pipe; or

31 (B) any other unique equipment;

32 necessary to provide sewage service for the campground; and

33 (2) concentrations of biochemical oxygen demand (BOD) that  
 34 exceed federal pollutant standards.

35 SECTION 5. IC 14-33-7-3 IS AMENDED TO READ AS  
 36 FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 3. In all districts **that**  
 37 **are** described in:

38 **(1) IC 14-33-1-1.1(a); or**

39 **(2) IC 14-33-9-4;**

40 the special benefits tax rate may not exceed six and sixty-seven  
 41 hundredths cents (\$0.0667) on each one hundred dollars (\$100) of  
 42 assessed valuation of property in the taxing district.



1 SECTION 6. IC 34-30-2-56.7 IS ADDED TO THE INDIANA  
2 CODE AS A NEW SECTION TO READ AS FOLLOWS  
3 [EFFECTIVE JULY 1, 2020]: **Sec. 56.7. IC 14-33-1-1.1 (Concerning**  
4 **a public water utility that uses the water body of a conservancy**  
5 **district as a water source).**

