



January 29, 2020

SENATE BILL No. 430

DIGEST OF SB 430 (Updated January 27, 2020 9:57 pm - DI 55)

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

Synopsis: Reservoir conservancy districts. Allows a conservancy district to be established as a "reservoir conservancy district" if: (1) the conservancy district will be established for certain purposes; (2) the boundaries 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, the utility that owns the reservoir (utility owner), and the utility owner's commercial lessee to enter into an operating agreement that describes all works of improvement and maintenance that the reservoir conservancy district proposes to perform. Requires that all such works be approved by the utility owner and the utility owner's commercial lessee before the work begins. 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 owner 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 owner; and (3) the utility owner is exempt from all assessments, taxes, and fees imposed by the reservoir conservancy district. Authorizes a reservoir conservancy district to impose and collect fees for the recreational use of watercraft on the reservoir, but provides that a one year use fee for a nonresident may not be 50%
(Continued next page)

Effective: July 1, 2020.

Merritt

January 16, 2020, read first time and referred to Committee on Environmental Affairs.
January 28, 2020, amended, reported favorably — Do Pass.

SB 430—LS 7219/DI 129



Digest Continued

greater than the one year use fee for a resident, and that a one-day use fee may not exceed 17% of a one year use fee. Authorizes a reservoir conservancy district to: (1) install catch basins and filtration systems on tributaries of the reservoir; (2) implement streambank remediation and erosion control measures within the district; (3) dredge for recreation purposes; and (4) perform other act of remediation or improvement. However, provides that chemicals used to control algae must first be approved by the utility owner and that the utility owner has sole authority to control the water level and water quality of the reservoir. Provides that, except in a case of intentional or willful and wanton misconduct, the utility owner is not liable for any personal injury, death, property damage, or other loss that an individual incurs while present on or in the reservoir. Specifies that the liability that may be imposed on a reservoir conservancy district and the utility owner applies only to an injury that an individual incurs while present on or in the reservoir. Provides that an individual who crosses private property located in the conservancy district to use the reservoir does not have an assurance that the property is safe for the individual's purpose and that, except for a malicious or illegal act, the property owner does not incur liability for an injury to the individual. Provides that neither a property owner nor the reservoir conservancy district owes a greater duty to an individual using the reservoir for a recreational purpose than they would owe if the conservancy district had not been created.



January 29, 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. 430

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 14-8-2-91.7 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2020]: **Sec. 91.7. "Fishing boat", for purposes of IC 14-33-24-9,**
4 **has the meaning set forth in IC 14-33-24-9(a).**

5 SECTION 2. IC 14-8-2-179.5 IS AMENDED TO READ AS
6 FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 179.5. **(a)**
7 "Nonresident", for the purposes of IC 14-19-3-5, has the meaning set
8 forth in IC 14-19-3-5(b).

9 **(b) "Nonresident", for purposes of IC 14-33-24-9, has the**
10 **meaning set forth in IC 14-33-24-9(a).**

11 SECTION 3. IC 14-8-2-179.8 IS ADDED TO THE INDIANA
12 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
13 [EFFECTIVE JULY 1, 2020]: **Sec. 179.8. "Nonmotorized**
14 **watercraft", for the purposes of IC 14-33-24-9, has the meaning set**
15 **forth in IC 14-33-24-9(a).**

16 SECTION 4. IC 14-8-2-202.5 IS AMENDED TO READ AS
17 FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 202.5. "Personal

SB 430—LS 7219/DI 129



1 watercraft", for purposes of IC 14-15 and IC 14-33-24, means a
2 watercraft:

3 (1) whose primary source of motive power is an inboard motor
4 powering a water jet pump; and

5 (2) that is designed to be operated by a person who sits, stands, or
6 kneels on the surface of the watercraft rather than sitting or
7 standing inside the watercraft.

8 SECTION 5. IC 14-8-2-212.5 IS ADDED TO THE INDIANA
9 CODE AS A NEW SECTION TO READ AS FOLLOWS
10 [EFFECTIVE JULY 1, 2020]: **Sec. 212.5. "Primary water recreation
11 facility", as used in IC 14-33-24, has the meaning set forth in
12 IC 14-33-24-2.**

13 SECTION 6. IC 14-8-2-208.5 IS ADDED TO THE INDIANA
14 CODE AS A NEW SECTION TO READ AS FOLLOWS
15 [EFFECTIVE JULY 1, 2020]: **Sec. 208.5. "Pontoon", for purposes
16 of IC 14-33-24-9, has the meaning set forth in IC 14-33-24-9(a).**

17 SECTION 7. IC 14-8-2-210.5 IS ADDED TO THE INDIANA
18 CODE AS A NEW SECTION TO READ AS FOLLOWS
19 [EFFECTIVE JULY 1, 2020]: **Sec. 210.5. "Power boat", for
20 purposes of IC 14-33-24-9, has the meaning set forth in
21 IC 14-33-24-9(a).**

22 SECTION 8. IC 14-8-2-240 IS AMENDED TO READ AS
23 FOLLOWS [EFFECTIVE JULY 1, 2020]: **Sec. 240. (a) "Reservoir",
24 for purposes of IC 14-33-24, has the meaning set forth in
25 IC 14-33-24-3.**

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

28 SECTION 9. IC 14-8-2-242 IS AMENDED TO READ AS
29 FOLLOWS [EFFECTIVE JULY 1, 2020]: **Sec. 242. (a) "Resident", for
30 purposes of IC 14-22, except as provided in subsection (b), means a
31 person who:**

32 (1) is domiciled in Indiana for sixty (60) consecutive days
33 immediately preceding the date of the purchase of a license or
34 permit; and

35 (2) does not claim residency for hunting, fishing, or trapping in
36 any state other than Indiana or any country other than the United
37 States.

38 (b) "Resident", for purposes of IC 14-22-17, has the meaning set
39 forth in IC 14-22-17-1.

40 (c) "Resident", for purposes of IC 14-33-24-9, has the meaning
41 set forth in IC 14-33-24-9(a).

42 SECTION 10. IC 14-8-2-240.2 IS ADDED TO THE INDIANA



1 CODE AS A NEW SECTION TO READ AS FOLLOWS
 2 [EFFECTIVE JULY 1, 2020]: **Sec. 240.2. "Reservoir conservancy**
 3 **district", as used in IC 14-33-24, has the meaning set forth in**
 4 **IC 14-33-24-4.**

5 SECTION 11. IC 14-8-2-294.6 IS ADDED TO THE INDIANA
 6 CODE AS A NEW SECTION TO READ AS FOLLOWS
 7 [EFFECTIVE JULY 1, 2020]: **Sec. 294.6. "Utility owner", as used in**
 8 **IC 14-33-24, has the meaning set forth in IC 14-33-24-5.**

9 SECTION 12. IC 14-8-2-305 IS AMENDED TO READ AS
 10 FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 305. "Watercraft", for
 11 purposes of IC 14-15, ~~and~~ IC 14-29-8, **and IC 14-33-24**, means any
 12 instrumentality or device in or by means of which a person may be
 13 transported upon the public water of Indiana. The term includes a
 14 motorboat, sailboat, rowboat, skiff, dinghy, or canoe:

- 15 (1) of any length or size; and
- 16 (2) whether or not used to carry passengers for hire.

17 SECTION 13. IC 14-33-6-13, AS AMENDED BY P.L.52-2012,
 18 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 19 JULY 1, 2020]: Sec. 13. (a) The board shall place the district plan in
 20 operation by constructing all works and maintaining the works in
 21 accordance with the district plan.

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

- 24 (1) **Except as provided in IC 14-33-24-8(d)**, levy taxes on the
 25 real property in the district.
- 26 (2) **Except as provided in IC 14-33-24-8(d)**, make assessments
 27 on the real property in the district, except the property that is
 28 exempt under IC 14-33-7-4, for exceptional benefits to the
 29 property and further assessments pro rata for maintenance and
 30 operation of the works of improvement.
- 31 (3) Issue bonds and short and long term notes.
- 32 (4) Incur other debts and liabilities.
- 33 (5) **Except as provided in IC 14-33-24-8(c)**, exercise the power
 34 of eminent domain, both inside and outside the boundaries of the
 35 district, in accordance with this article or another eminent domain
 36 statute. In the exercise of this power, due care shall be taken to
 37 minimize interference with other public interests involved.
- 38 (6) Make payments for the fair value of all property taken under
 39 eminent domain proceedings, and in cases that are appealed,
 40 make the payments into court and proceed promptly in placing the
 41 district plan in operation.
- 42 (7) Institute any type of civil legal proceedings in a court having



- 1 jurisdiction over the person or property in question.
 2 (8) Purchase or rent property.
 3 (9) Sell services or property that are produced incident to the
 4 district plan at a fair and reasonable price.
 5 (10) Make contracts or otherwise enter into agreements with
 6 persons or federal, state, or local governmental agencies for
 7 construction, maintenance, operation, or security of any part of
 8 the district.
 9 (11) Receive and disburse money.
 10 (12) Lease land and other assets to municipalities, counties, and
 11 park boards of municipalities or counties, with the term and
 12 annual rental adequate to meet the district's repayment schedule
 13 for financing, if any, of the land and other assets leased.
 14 Municipalities, counties, and park boards of municipalities or
 15 counties may enter into leases without limitations of other statutes
 16 regarding the receipt of petitions, the duration of the term of the
 17 lease, or the distance of the land and other assets from the
 18 corporate boundaries. The municipalities, counties, and park
 19 boards may enter into leases:
 20 (A) for terms as long as fifty (50) years;
 21 (B) at locations that the municipalities, counties, and park
 22 boards determine would benefit the municipalities or counties;
 23 and
 24 (C) upon terms, conditions, and covenants that are fair and
 25 reasonable.
 26 The board may pledge the rental income from the lease as revenue
 27 for services or property produced incident to the operation of the
 28 district.
 29 (13) Perform necessary construction and maintenance work as
 30 follows:
 31 (A) Outside the district.
 32 (B) Outside Indiana if:
 33 (i) there is voluntary agreement on the part of persons
 34 outside Indiana; and
 35 (ii) the work will confer benefits to the real property in the
 36 district in excess of costs and damages to be paid by the
 37 district.
 38 SECTION 14. IC 14-33-7-3 IS AMENDED TO READ AS
 39 FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 3. **(a) This section**
 40 **does not apply to a reservoir conservancy district established**
 41 **under IC 14-33-24.**
 42 **(b)** In all districts described in IC 14-33-9-4, the special benefits tax



1 rate may not exceed six and sixty-seven hundredths cents (\$0.0667) on
 2 each one hundred dollars (\$100) of assessed valuation of property in
 3 the taxing district.

4 SECTION 15. IC 14-33-24 IS ADDED TO THE INDIANA CODE
 5 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
 6 JULY 1, 2020]:

7 **Chapter 24. Reservoir Conservancy Districts**

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

11 (1) equipped with an internal combustion, steam, or electrical
 12 motor or engine that is inboard or outboard; or

13 (2) propelled by any mechanical means.

14 (b) The term includes the following:

15 (1) A motorboat, as defined in IC 14-8-2-169(a).

16 (2) A personal watercraft, as defined in IC 14-8-2-202.5.

17 (3) A flat bottomed boat supported by floats, commonly called
 18 a pontoon boat, that is equipped with a motor or engine
 19 described in subsection (a)(1).

20 (4) A sailboat that is equipped with a motor or engine
 21 described in subsection (a)(1).

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

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

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

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

33 (1) owns at least twenty-five percent (25%) of the surface of
 34 the reservoir located within the boundaries of a reservoir
 35 conservancy district; and

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

38 (b) For purposes of this chapter, the utility owner of the
 39 reservoir located within the boundaries of a reservoir conservancy
 40 district is the utility owner that owns at least twenty-five percent
 41 (25%) of the surface of the reservoir located within the boundaries
 42 of the reservoir conservancy district.



1 (c) For purposes of this chapter, the term "utility owner"
 2 includes an entity that is a commercial licensee of a utility owner
 3 described in subsections (a) and (b) in connection with the
 4 reservoir located within the boundaries of a reservoir conservancy
 5 district.

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

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

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

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

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

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

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

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

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

28 Sec. 7. (a) After the court issues an order establishing a
 29 reservoir conservancy district under IC 14-33-2-17 and the initial
 30 board of directors of the reservoir conservancy district is
 31 appointed under IC 14-33-5-1, the board of directors, the utility
 32 owner of the reservoir located within the boundaries of the
 33 reservoir conservancy district, and any commercial licensee
 34 described in section 5(c) of this chapter shall enter into an
 35 operating agreement.

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

38 (1) works of improvement; and

39 (2) modifications and maintenance of improvements;

40 relating to access to and use of the reservoir located within the
 41 boundaries of the reservoir conservancy district that are proposed
 42 to be performed by the reservoir conservancy district. Any



1 proposed work by the reservoir conservancy district pursuant to
2 the operating plan or the district plan that involves the reservoir
3 must be approved by the utility owner of the reservoir located
4 within the boundaries of the reservoir conservancy district and any
5 commercial licensee described in section 5(c) of this chapter before
6 the work begins. The process and procedures for the approval of
7 the reservoir conservancy district's proposed work by the utility
8 owner and any commercial licensee described in section 5(c) of this
9 chapter shall be established pursuant to the operating agreement.

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

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

18 (b) The district plan of a reservoir conservancy district shall be
19 provided to the utility owner of the reservoir located within the
20 boundaries of the reservoir conservancy district and to any
21 commercial licensee described in section 5(c) of this chapter at
22 least thirty (30) days before it is presented to the natural resources
23 commission 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 the utility owner of the
26 reservoir located within the boundaries of the reservoir
27 conservancy district.

28 (d) The utility owner of the reservoir located within the
29 boundaries of the reservoir conservancy district, as described in
30 section 5(a) and 5(b) of this chapter, is exempt from all
31 assessments, taxes, and fees imposed under this article by the
32 reservoir conservancy district. However, a commercial licensee of
33 the utility owner described in section 5(c) of this chapter is not
34 exempt from assessments, taxes, and fees under this subsection.

35 (e) Subject to IC 14-15, a reservoir conservancy district has
36 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 and may not
 3 substantially or directly impair the terms and conditions of the
 4 commercial license of any commercial licensee described in section
 5 5(c) of this chapter.

6 Sec. 9. (a) The following definitions apply throughout this
 7 section:

8 (1) "Fishing boat" means a boat that has one (1) or more
 9 motors that have a total of not more than thirty (30)
 10 horsepower.

11 (2) "Nonmotorized watercraft" means a watercraft that does
 12 not have a motor. The term includes kayaks, canoes,
 13 rowboats, paddleboats, and sailboats.

14 (3) "Nonresident" means a person who does not own or lease
 15 real property within the boundaries of the reservoir
 16 conservancy district.

17 (4) "Personal watercraft" has the meaning set forth in
 18 IC 14-8-2-202.5.

19 (5) "Pontoon" means a watercraft that:

20 (A) uses hollow cylinders to create buoyancy; and

21 (B) has one (1) or more motors that have a total of not
 22 more than one hundred (100) horsepower.

23 (6) "Power boat" means a boat has one (1) or more motors
 24 that exceed a total of thirty (30) horsepower.

25 (7) "Resident" means a person who owns or leases real
 26 property within the boundaries of the reservoir conservancy
 27 district.

28 (b) Subject to covenants in existence when the reservoir
 29 conservancy district is established, a reservoir conservancy district
 30 may impose and collect recreation fees for the recreational use of
 31 watercraft on the primary water recreation facility of the reservoir
 32 located within the boundaries of the reservoir conservancy district.

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

34 (1) a fee charged to every resident who uses a watercraft on
 35 the primary water recreation facility for recreational
 36 purposes; and

37 (2) a fee charged to every nonresident who uses a watercraft
 38 on the primary water recreation facility for recreational
 39 purposes.

40 (d) The following apply to fees imposed under subsection (c):

41 (1) The fee allowing a nonresident to use a watercraft for an
 42 entire year may not be more than fifty percent (50%) greater



1 than the fee allowing a resident to use a watercraft for an
2 entire year.

3 (2) The fee allowing a resident to use a watercraft for a single
4 day may not exceed seventeen percent (17%) of the fee
5 allowing a resident to use a watercraft for an entire year.

6 (3) The fee allowing a nonresident to use a watercraft for a
7 single day may not exceed seventeen percent (17%) of the fee
8 allowing a nonresident to use a watercraft for an entire year.

9 (e) Subject to subsection (d), a reservoir conservancy district
10 may establish different recreation fees for the following different
11 types of watercrafts:

12 (1) Power boats.

13 (2) Pontoon boats.

14 (3) Fishing boats.

15 (4) Personal watercraft.

16 (5) Nonmotorized watercraft.

17 (f) A reservoir conservancy district that imposes recreation fees
18 under this section:

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

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

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

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

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

35 (B) the administration of the reservoir conservancy
36 district.

37 Sec. 10. (a) A reservoir conservancy district, subject to sections
38 7 and 11 of this chapter and the district plan of the reservoir
39 conservancy district, is authorized to do the following:

40 (1) Install:

41 (A) catch basins;

42 (B) vegetative or constructed filtration systems; or



1 (C) both catch basins and vegetative or constructed
2 filtration systems;
3 on or near the tributaries of the primary water recreation
4 facility of the reservoir located within the boundaries of the
5 reservoir conservancy district.
6 (2) Implement streambank remediation and erosion control
7 measures:
8 (A) on the tributaries of the reservoir; and
9 (B) in the watershed of the reservoir;
10 within the boundaries of the reservoir conservancy district.
11 (3) Take action to control or remove algae and undesirable
12 aquatic vegetation throughout the primary water recreation
13 facility of the reservoir located within the boundaries of the
14 reservoir conservancy district.
15 (4) Dredge throughout the primary water recreation facility
16 of the reservoir located within the boundaries of the reservoir
17 conservancy district to maintain sufficient depths for water
18 recreation purposes.
19 (5) Perform any other acts of remediation, rehabilitation, or
20 improvement that are necessary or useful to maintain the
21 primary water recreation facility of the reservoir located
22 within the boundaries of the reservoir conservancy district.
23 (b) Any chemicals used by the reservoir conservancy district
24 under subsection (a)(3) must be approved for use by:
25 (1) the governing federal and state agencies; and
26 (2) the utility owner of the reservoir located within the
27 boundaries of the reservoir conservancy district.
28 (c) Any dredging by the reservoir conservancy district under
29 subsection (a)(4) may be conducted only with the necessary
30 authorization from the governing state and federal agencies.
31 Sec. 11. The utility owner of the reservoir located within the
32 boundaries of the reservoir conservancy district has sole authority
33 and control over all activities to control:
34 (1) the water level of;
35 (2) the water quality of; and
36 (3) the availability of water from;
37 the reservoir located within the boundaries of the reservoir
38 conservancy district.
39 SECTION 16. IC 34-30-32 IS ADDED TO THE INDIANA CODE
40 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
41 JULY 1, 2020]:
42 Chapter 32. Immunity of Reservoir Conservancy District and



1 **Utility Owner**

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

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

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

11 **(1) a motorboat, sailboat, rowboat, personal watercraft (as**
 12 **defined in IC 14-8-2-202.5), kayak, canoe, pontoon boat, stand**
 13 **up paddle board, or jon boat of any length or size; and**

14 **(2) a floating object, whether or not connected to a watercraft**
 15 **described in subdivision (1).**

16 **Sec. 4. (a) Except as provided in subsection (b) and subject to**
 17 **subsection (c), the utility owner of the reservoir located within the**
 18 **boundaries of a reservoir conservancy district is not liable for any**
 19 **personal injury, death, property damage, or other loss of any**
 20 **nature that an individual incurs while present on or in the**
 21 **reservoir of a reservoir conservancy district, regardless of whether**
 22 **the individual is in a watercraft at the time of the incident causing**
 23 **the personal injury, death, property damage, or other loss, and**
 24 **regardless of whether the individual or any other person with**
 25 **whom the individual was associated paid a recreation fee as**
 26 **described in IC 14-33-24-9 to the reservoir conservancy district for**
 27 **the privilege of using the reservoir of the reservoir conservancy**
 28 **district for recreational purposes.**

29 **(b) Subsection (a) does not apply to personal injury, death,**
 30 **property damage, or other loss caused by the intentional or willful**
 31 **and wanton misconduct of the utility owner of the reservoir located**
 32 **within the boundaries of a reservoir conservancy district.**

33 **(c) Any liability imposed under subsection (b) on the utility**
 34 **owner of the reservoir located within the boundaries of a reservoir**
 35 **conservancy district applies only to an injury that an individual**
 36 **incurs while present on or in the reservoir of a reservoir**
 37 **conservancy district to the extent of the intentional or willful and**
 38 **wanton misconduct of a person described in subdivisions (1)**
 39 **through (4) and not as result of the injured individual's negligence**
 40 **or the conduct of another person.**

41 **Sec. 5. If a person is an owner, as defined in IC 14-22-10-2(c), of**
 42 **property located in a reservoir conservancy district:**



1 (1) IC 14-22-10-2(d) applies to an individual who goes upon or
2 through the person's property located in the reservoir
3 conservancy district for the purpose of:
4 (A) entering; or
5 (B) leaving;
6 the reservoir located within the boundaries of a reservoir
7 conservancy district; and
8 (2) under IC 14-22-10-2(e), but subject to IC 14-22-10-2(f) and
9 IC 14-22-10-2(g), the person does not assume responsibility or
10 incur liability for:
11 (A) an injury to; or
12 (B) damage to the property of;
13 an individual caused by an act or failure to act of other
14 persons using the person's property or the reservoir located
15 in the reservoir conservancy district.
16 Sec. 6. Neither:
17 (1) a person who:
18 (A) has a fee interest in;
19 (B) is a tenant, a lessee, or an occupant of; or
20 (C) is in control of;
21 a property located in a reservoir conservancy district; nor
22 (2) the reservoir conservancy district;
23 owes a greater duty to an individual using the reservoir for a
24 recreational purpose than they would owe if the conservancy
25 district had not been established.



COMMITTEE REPORT

Madam President: The Senate Committee on Environmental Affairs, to which was referred Senate Bill No. 430, 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, delete lines 1 through 4, begin a new paragraph and insert:

"SECTION 1. IC 14-8-2-91.7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: **Sec. 91.7. "Fishing boat", for purposes of IC 14-33-24-9, has the meaning set forth in IC 14-33-24-9(a).**

SECTION 3. IC 14-8-2-179.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 179.5. **(a)** "Nonresident", for the purposes of IC 14-19-3-5, has the meaning set forth in IC 14-19-3-5(b).

(b) "Nonresident", for purposes of IC 14-33-24-9, has the meaning set forth in IC 14-33-24-9(a).

"SECTION 4. IC 14-8-2-179.8 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: **Sec. 179.8. "Nonmotorized watercraft", for the purposes of IC 14-33-24-9, has the meaning set forth in IC 14-33-24-9(a).**

SECTION 5. IC 14-8-2-202.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 202.5. "Personal watercraft", for purposes of IC 14-15 and **IC 14-33-24**, means a watercraft:

- (1) whose primary source of motive power is an inboard motor powering a water jet pump; and
- (2) that is designed to be operated by a person who sits, stands, or kneels on the surface of the watercraft rather than sitting or standing inside the watercraft."

Page 1, between lines 9 and 10, begin a new paragraph and insert:

"SECTION 7. IC 14-8-2-208.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: **Sec. 208.5. "Pontoon", for purposes of IC 14-33-24-9, has the meaning set forth in IC 14-33-24-9(a).**

SECTION 8. IC 14-8-2-210.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: **Sec. 210.5. "Power boat", for purposes of IC 14-33-24-9, has the meaning set forth in IC 14-33-24-9(a).**"

Page 1, between lines 15 and 16, begin a new paragraph and insert:



"SECTION 10. IC 14-8-2-242 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 242. (a) "Resident", for purposes of IC 14-22, except as provided in subsection (b), means a person who:

- (1) is domiciled in Indiana for sixty (60) consecutive days immediately preceding the date of the purchase of a license or permit; and
- (2) does not claim residency for hunting, fishing, or trapping in any state other than Indiana or any country other than the United States.

(b) "Resident", for purposes of IC 14-22-17, has the meaning set forth in IC 14-22-17-1.

(c) "Resident", for purposes of IC 14-33-24-9, has the meaning set forth in IC 14-33-24-9(a)."

Page 2, between lines 7 and 8, begin a new paragraph and insert:

"SECTION 13. IC 14-8-2-305 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 305. "Watercraft", for purposes of IC 14-15, ~~and~~ IC 14-29-8, **and IC 14-33-24**, means any instrumentality or device in or by means of which a person may be transported upon the public water of Indiana. The term includes a motorboat, sailboat, rowboat, skiff, dinghy, or canoe:

- (1) of any length or size; and
- (2) whether or not used to carry passengers for hire."

Page 4, between lines 33 and 34, begin a new paragraph and insert:

"(c) For purposes of this chapter, the term "utility owner" includes an entity that is a commercial licensee of a utility owner described in subsections (a) and (b) in connection with the reservoir located within the boundaries of a reservoir conservancy district."

Page 5, line 17, delete "directors and" and insert "**directors**".

Page 5, line 19, delete "district" and insert "**district, and any commercial licensee described in section 5(c) of this chapter**".

Page 5, line 31, after "district" insert "**and any commercial licensee described in section 5(c) of this chapter**".

Page 5, line 32, delete "utility owner's".

Page 5, line 33, after "work" insert "**by the utility owner and any commercial licensee described in section 5(c) of this chapter**".

Page 6, line 3, after "district" insert "**and to any commercial licensee described in section 5(c) of this chapter**".

Page 6, line 11, delete "district" and insert "**district, as described in section 5(a) and 5(b) of this chapter**".

Page 6, line 13, after "district." insert "**However, a commercial**



licensee of the utility owner described in section 5(c) of this chapter is not exempt from assessments, taxes, and fees under this subsection."

Page 6, line 14, delete "A" and insert "**Subject to IC 14-15, a**".

Page 6, line 22, delete "district." and insert "**district and may not substantially or directly impair the terms and conditions of the commercial license of any commercial licensee described in section 5(c) of this chapter.**".

Page 6, line 23, delete "A" and insert "**The following definitions apply throughout this section:**

(1) "**Fishing boat**" means a boat that has one (1) or more motors that have a total of not more than thirty (30) horsepower.

(2) "**Nonmotorized watercraft**" means a watercraft that does not have a motor. The term includes kayaks, canoes, rowboats, paddleboats, and sailboats.

(3) "**Nonresident**" means a person who does not own or lease real property within the boundaries of the reservoir conservancy district.

(4) "**Personal watercraft**" has the meaning set forth in IC 14-8-2-202.5.

(5) "**Pontoon**" means a watercraft that:

(A) uses hollow cylinders to create buoyancy; and

(B) has one (1) or more motors that have a total of not more than one hundred (100) horsepower.

(6) "**Power boat**" means a boat has one (1) or more motors that exceed a total of thirty (30) horsepower.

(7) "**Resident**" means a person who owns or leases real property within the boundaries of the reservoir conservancy district.

(b) **Subject to covenants in existence when the reservoir conservancy district is established, a**".

Page 6, line 24, delete "motorized".

Page 6, line 27, delete "(b)" and insert "(c)".

Page 6, line 28, delete "owner of real property within the".

Page 6, line 29, delete "reservoir conservancy district" and insert "**resident**".

Page 6, line 29, delete "motorized".

Page 6, line 32, delete "person who does not own real".

Page 6, line 33, delete "property within the reservoir conservancy district but" and insert "**nonresident who**".

Page 6, line 34, delete "motorized".



Page 6, delete lines 36 through 42, begin a new paragraph and insert:

"(d) The following apply to fees imposed under subsection (c):

(1) The fee allowing a nonresident to use a watercraft for an entire year may not be more than fifty percent (50%) greater than the fee allowing a resident to use a watercraft for an entire year.

(2) The fee allowing a resident to use a watercraft for a single day may not exceed seventeen percent (17%) of the fee allowing a resident to use a watercraft for an entire year.

(3) The fee allowing a nonresident to use a watercraft for a single day may not exceed seventeen percent (17%) of the fee allowing a nonresident to use a watercraft for an entire year.

(e) Subject to subsection (d), a reservoir conservancy district may establish different recreation fees for the following different types of watercrafts:

(1) Power boats.

(2) Pontoon boats.

(3) Fishing boats.

(4) Personal watercraft.

(5) Nonmotorized watercraft."

Page 7, delete lines 1 through 5.

Page 7, line 6, delete "(d)" and insert "**(f)**".

Page 7, line 10, delete "motorized".

Page 7, line 14, delete "motorized".

Page 7, line 16, delete "motorized".

Page 9, line 6, delete "(c):" and insert "**(c), the utility owner of the reservoir located within the boundaries of a reservoir conservancy district"**".

Page 9, delete lines 7 through 13.

Page 9, line 14, delete "are " and insert "**is**".

Page 9, run in lines 6 through 14.

Page 9, line 26, delete "of:" and insert "**of the utility owner of the reservoir located within the boundaries of a reservoir conservancy district"**".

Page 9, delete lines 27 through 33.

Page 9, line 34, delete "on:" and insert "**on the utility owner of the reservoir located within the boundaries of a reservoir conservancy district"**".

Page 9, delete lines 35 through 41.

Page 9, run in lines 34 through 42.

Page 10, after line 4, begin a new paragraph and insert:



"Sec. 5. If a person is an owner, as defined in IC 14-22-10-2(c), of property located in a reservoir conservancy district:

(1) IC 14-22-10-2(d) applies to an individual who goes upon or through the person's property located in the reservoir conservancy district for the purpose of:

(A) entering; or

(B) leaving;

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

(2) under IC 14-22-10-2(e), but subject to IC 14-22-10-2(f) and IC 14-22-10-2(g), the person does not assume responsibility or incur liability for:

(A) an injury to; or

(B) damage to the property of;

an individual caused by an act or failure to act of other persons using the person's property or the reservoir located in the reservoir conservancy district.

Sec. 6. Neither:

(1) a person who:

(A) has a fee interest in;

(B) is a tenant, a lessee, or an occupant of; or

(C) is in control of;

a property located in a reservoir conservancy district; nor

(2) the reservoir conservancy district;

owes a greater duty to an individual using the reservoir for a recreational purpose than they would owe if the conservancy district had not been established."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 430 as introduced.)

MESSMER, Chairperson

Committee Vote: Yeas 7, Nays 4.

