

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 ENROLLED ACT No. 430

AN ACT to amend the Indiana Code concerning natural and cultural resources.

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

SECTION 1. IC 14-8-2-46.5 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE JULY 1, 2020]: **Sec. 46.5. "Commercial licensee", for purposes of IC 14-33-24, has the meaning set forth in IC 14-33-24-1.**

SECTION 2. 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

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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.

SECTION 6. 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 7. 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).**

SECTION 8. IC 14-8-2-212.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: **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 9. IC 14-8-2-240 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: **Sec. 240. (a) "Reservoir", for purposes of IC 14-33-24, has the meaning set forth in IC 14-33-24-3.**

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

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).

SECTION 11. IC 14-8-2-240.2 IS ADDED TO THE INDIANA



CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: **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 12. IC 14-8-2-294.6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: **Sec. 294.6. "Utility owner", as used in IC 14-33-24, has the meaning set forth in IC 14-33-24-5.**

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.

SECTION 14. IC 14-33-6-13, AS AMENDED BY P.L.52-2012, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: 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 subsection (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.

(c) A reservoir conservancy district established under IC 14-33-24 may not exercise the power of eminent domain.

SECTION 15. IC 14-33-9-11 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: **Sec. 11. (a) This section applies only**



to a reservoir conservancy district established under IC 14-33-24.

(b) Notwithstanding IC 14-33-7-1(b) and IC 14-33-21-5, the maximum annual levy of the special benefits tax imposed by the board of a reservoir conservancy district established under IC 14-33-24 is two million dollars (\$2,000,000). The department of local government finance shall annually calculate the special benefits tax rate of the reservoir conservancy district which, when applied to the assessed valuation of the real property located within the boundaries of the reservoir conservancy district and not exempt from the special benefits tax, will produce revenue in the amount of the annual levy determined by the board of the reservoir conservancy district. The amount of the annual levy may be less than two million dollars (\$2,000,000) but may not exceed two million dollars (\$2,000,000).

(c) The board of a reservoir conservancy district shall certify under section 5(a) of this chapter to the auditor of each county having land in the reservoir conservancy district the special benefits tax rate calculated by the department of local government finance under subsection (b) that will produce the revenue amount of the annual levy determined by the board of the reservoir conservancy district, which may be less than two million dollars (\$2,000,000) but may not exceed two million dollars (\$2,000,000).

(d) The assessed value growth quotient determined under IC 6-1.1-18.5-2 does not apply to the amount of the maximum annual levy that may be imposed under this section.

SECTION 16. IC 14-33-24 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]:

Chapter 24. Reservoir Conservancy Districts

Sec. 1. As used in this chapter, "commercial licensee" means a business entity granted a license by the utility owner to install and construct marinas, boat docks, and beaches adjacent to the shore line of the reservoir located within the boundaries of a reservoir conservancy district.

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 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 14-33-2-26 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 approval of the reservoir conservancy district's proposed work by the utility owner 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 and to any commercial licensee 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.

(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) Subject to IC 14-15, a reservoir conservancy district has authority to establish, through the action of the board of directors, and 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 shall not:

- (1) interfere with or supersede state law or state administrative rules;
- (2) 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;

(3) substantially or directly impair the terms and conditions of the commercial license of any commercial licensee of the utility owner; or

(4) establish other requirements or restrictions to:

(A) discourage public use of the reservoir; or

(B) discourage or prevent uses of the reservoir for activities that:

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

(ii) could legally take place in the reservoir or the area surrounding the reservoir except for the reservoir conservancy district's requirements or restrictions.

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

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

(1) a fee charged to every resident who uses a watercraft on the primary water recreation facility for recreational



purposes; and

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

(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.

(f) 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 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 watercraft to signify that the fee has been paid; and

(B) monitoring the use of 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 action by the reservoir conservancy district under this section 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 17. IC 34-30-31.5 IS ADDED TO THE INDIANA
CODE AS A NEW CHAPTER TO READ AS FOLLOWS
[EFFECTIVE JULY 1, 2020]:

Chapter 31.5. Immunity from Civil Liability

**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 set forth 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), the utility owner
of the reservoir located within the boundaries of a reservoir
conservancy district is 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 the utility owner of the reservoir located
within the boundaries of a reservoir conservancy district.**

**(c) The state is 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:**



(1) whether the individual is in a watercraft at the time of the incident causing the personal injury, death, property damage, or other loss; and

(2) 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 conservancy district for recreational purposes.

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.



President of the Senate

President Pro Tempore

Speaker of the House of Representatives

Governor of the State of Indiana

Date: _____ Time: _____

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