



Reprinted
February 21, 2017

SENATE BILL No. 494

DIGEST OF SB 494 (Updated February 20, 2017 2:23 pm - DI 128)

Citations Affected: IC 4-20.5; IC 5-13; IC 8-4.5; IC 8-4.6; IC 14-19; IC 32-23.

Synopsis: Transportation corridor planning. Repeals on July 1, 2017, the statute concerning transportation corridor planning. Provides that the repeal of the statute does not affect: (1) rights or liabilities accrued; (2) proceedings begun; or (3) project agreements or other contracts executed; under the statute before its repeal. Specifies that any funds: (1) remaining on July 1, 2017, in the transportation corridor fund; and (2) not committed, dedicated, or appropriated for, or otherwise needed to fulfill an obligation arising from, any project agreement or other contract executed under the statute before its repeal; revert to the state general fund. Moves to the Indiana Code title concerning property a provision in the repealed statute providing that a property owner has no duty of care to any person who uses an abandoned right-of-way that: (1) is vested in the property owner; and (2) has been converted to a recreational trail under the repealed statute or that is used as a recreational trail under any other law or authority. Expands the intended use of recreational trails. Makes conforming amendments.

Effective: July 1, 2017.

**Breaux, Crider, Ford, Sandlin,
Stoops**

January 17, 2017, read first time and referred to Committee on Homeland Security and Transportation.
February 14, 2017, reported favorably — Do Pass.
February 20, 2017, read second time, amended, ordered engrossed.

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First Regular Session 120th General Assembly (2017)

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 2016 Regular Session of the General Assembly.

SENATE BILL No. 494

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

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

1 SECTION 1. IC 4-20.5-3-1 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 1. This chapter does not
3 apply to either of the following:
4 (1) Acquisition of property under IC 32-24.
5 (2) Acquisition of property by the Indiana department of
6 transportation. However, this chapter applies to property acquired
7 under IC 8-4.5-5 (**before its repeal on July 1, 2017**).
8 SECTION 2. IC 5-13-10.5-3, AS AMENDED BY P.L.115-2008,
9 SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
10 JULY 1, 2017]: Sec. 3. (a) Except as provided in subsection (b),
11 investments under this chapter may be made only in securities having
12 a stated final maturity of two (2) years or less from the date of
13 purchase.
14 (b) The treasurer of state may make investments in securities having
15 a final maturity or redemption date that is more than two (2) years and
16 not more than five (5) years after the date of purchase or subscription.
17 After an investment is made under this subsection, the total

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1 investments outstanding under this subsection may not exceed
 2 twenty-five percent (25%) of the total portfolio of funds invested by the
 3 treasurer of state. However, an investment that complies with this
 4 subsection when the investment is made remains legal even if a
 5 subsequent decrease in the total portfolio invested by the treasurer of
 6 state causes the percentage of investments outstanding under this
 7 subsection to exceed twenty-five percent (25%). The treasurer of state
 8 may contract with federally regulated investment advisers and other
 9 institutional money managers to make investments under this section.

10 (c) Unless prohibited under federal law, the treasurer of state shall
 11 invest under subsection (b) the funds of the transportation corridor fund
 12 established by IC 8-4.5-3-7 **(before its repeal on July 1, 2017)**. The
 13 treasurer of state may invest other funds held by the state in compliance
 14 with subsection (b).

15 SECTION 3. IC 8-4.5 IS REPEALED [EFFECTIVE JULY 1, 2017].
 16 (Transportation Corridor Planning).

17 SECTION 4. IC 8-4.6 IS ADDED TO THE INDIANA CODE AS A
 18 NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1,
 19 2017]:

20 **ARTICLE 4.6. EFFECT OF REPEAL OF**
 21 **TRANSPORTATION CORRIDOR PLANNING LAW**

22 **Chapter 1. Existing Rights and Liabilities; Fund**

23 **Sec. 1. The repeal of IC 8-4.5 (effective July 1, 2017) does not**
 24 **affect:**

- 25 (1) **rights or liabilities accrued;**
- 26 (2) **proceedings begun; or**
- 27 (3) **project agreements or other contracts executed;**

28 **under IC 8-4.5 (before its repeal on July 1, 2017). Those rights,**
 29 **liabilities, proceedings, project agreements, and contracts continue**
 30 **and shall be enforced under IC 8-4.5 as in effect before July 1,**
 31 **2017, as if the repeal of IC 8-4.5, enacted during the 2017 session**
 32 **of the general assembly, had not been enacted.**

33 **Sec. 2. The balance of funds:**

- 34 (1) **remaining on July 1, 2017, in the transportation corridor**
 35 **fund established by IC 8-4.5-3-7 (before its repeal on July 1,**
 36 **2017); and**
- 37 (2) **not committed, dedicated, or appropriated for, or**
 38 **otherwise needed to fulfill an obligation arising from, any**
 39 **project agreement or other contract executed under IC 8-4.5**
 40 **(before its repeal on July 1, 2017);**

41 **reverts to the state general fund.**

42 SECTION 5. IC 14-19-10.3-1, AS ADDED BY P.L.219-2014,



1 SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
2 JULY 1, 2017]: Sec. 1. The following definitions apply throughout this
3 chapter:

4 (1) "Fund" refers to the recreational trail maintenance fund
5 established by section 2 of this chapter.

6 (2) "Recreational trail" ~~has the meaning set forth in IC 8-4.5-1-16.~~
7 **means a trail or path that is intended to be used for:**

8 (A) bicycling;

9 (B) exercising;

10 (C) hiking;

11 (D) running;

12 (E) riding in or on a vehicle of any kind, regardless of the
13 means of propelling the vehicle, or riding on any animal;

14 (F) walking; or

15 (G) any other recreational purpose.

16 **However, the term does not include a highway, road, or street**
17 **(as defined in IC 8-23-1-23).**

18 (3) "Responsible party" ~~has the meaning set forth in~~
19 ~~IC 8-4.5-1-17.~~ **means the person or governmental entity that**
20 **is responsible for operating a recreational trail.**

21 SECTION 6. IC 32-23-11-10 IS AMENDED TO READ AS
22 FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 10. (a) This section
23 applies if a railroad does not own the right-of-way fee.

24 (b) If a railroad abandons its right to a railroad right-of-way, the
25 railroad's interest vests in the owner of the right-of-way fee with a deed
26 that contains a description of the real property that includes the
27 right-of-way.

28 (c) If a deed described in subsection (b) does not exist, then the
29 railroad's interest vests in the owner of the adjoining fee. The interest
30 of the railroad that vests in the owner of the adjoining fee is for the part
31 of the right-of-way from the center line of the right-of-way to the
32 adjoining property line.

33 (d) **Except as provided in subsection (e), a property owner**
34 **described in subsection (b) or an adjacent property owner**
35 **described in subsection (c) has no duty of care to any person who**
36 **uses an abandoned right-of-way that:**

37 (1) **is vested in the property owner under subsection (b) or in**
38 **the adjacent property owner under subsection (c); and**

39 (2) **has been converted to a recreational trail under IC 8-4.5**
40 **(before its repeal on July 1, 2017) or that is used as a**
41 **recreational trail under any other law or authority.**

42 (e) **Subsection (d) does not relieve a property owner or an**



1 adjacent property owner from liability for injury that is a direct
2 result of the property owner's or adjacent property owner's:

3 (1) own use of a recreational trail; or

4 (2) gross negligence or willful or wanton misconduct.

5 SECTION 7. IC 32-23-11-14 IS AMENDED TO READ AS
6 FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 14. For purposes of this
7 chapter, the following are not adverse possessions or prescriptive
8 easements to the owner and do not establish title or rights to the real
9 property:

10 (1) Possession of a right-of-way by a nonrailroad purchaser under
11 section 8 of this chapter.

12 (2) Possession of a right-of-way by a public utility or under a
13 communication, cable television, fiber optic, or pipeline
14 easement, license, or legal occupancy under section 11 of this
15 chapter.

16 (3) Possession of a right-of-way by a responsible party (as defined
17 in ~~IC 8-4.5-1-17~~: **IC 14-19-10.3-1**).



COMMITTEE REPORT

Madam President: The Senate Committee on Homeland Security and Transportation, to which was referred Senate Bill No. 494, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is to SB 494 as introduced.)

CRIDER, Chairperson

Committee Vote: Yeas 9, Nays 0

 SENATE MOTION

Madam President: I move that Senate Bill 494 be amended to read as follows:

Page 3, line 7, delete ":" and insert "**is intended to be used for:**

(A) bicycling;

(B) exercising;

(C) hiking;

(D) running;

(E) riding in or on a vehicle of any kind, regardless of the means of propelling the vehicle, or riding on any animal;

(F) walking; or

(G) any other recreational purpose."

Page 3, delete lines 8 through 18.

Page 3, line 37, after "or" insert "**an adjacent property owner described in subsection**".

Page 3, line 39, after "or" insert "**in the adjacent property owner under subsection**".

Page 4, line 2, after "owner" insert "**or an adjacent property owner**".

Page 4, line 3, after "owner's" insert "**or adjacent property owner's**".

(Reference is to SB 494 as printed February 15, 2017.)

BREAUX

