



February 21, 2020

ENGROSSED SENATE BILL No. 430

DIGEST OF SB 430 (Updated February 19, 2020 5:16 pm - DI 129)

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 and the utility that owns the reservoir (utility owner) to enter into an operating agreement that describes all
(Continued next page)

Effective: July 1, 2020.

Merritt, Messmer

(HOUSE SPONSOR — WOLKINS)

January 16, 2020, read first time and referred to Committee on Environmental Affairs.
January 28, 2020, amended, reported favorably — Do Pass.
February 3, 2020, read second time, amended, ordered engrossed.
February 4, 2020, engrossed. Read third time, passed. Yeas 46, nays 2.

HOUSE ACTION

February 11, 2020, read first time and referred to Committee on Environmental Affairs.
February 20, 2020, amended, reported — Do Pass.

ES 430—LS 7219/DI 129



Digest Continued

works of improvement and maintenance that the reservoir conservancy district proposes to perform. Requires that all such works be approved by the utility owner 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) a reservoir conservancy district does not have the power of eminent domain; and (2) the utility owner is exempt from all assessments, taxes, and fees imposed by the reservoir conservancy district. Imposes a limit on the special benefits tax levy of a 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% 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 establish rules concerning safety and resource conservation but provides that the rules shall not interfere with state rules or with the use of the reservoir for water supply purposes, shall not impair the commercial license of the commercial licensee of the utility owner, and shall not discourage uses of the reservoir for activities allowed under the fish and wildlife laws. Authorizes a reservoir conservancy district to: (1) install catch basins and filtration systems; (2) implement erosion control measures; (3) dredge; and (4) take other actions; with authorization from state and federal agencies. Provides 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. Includes provisions concerning the potential civil liability of the utility owner, the state, the reservoir conservancy district, and owners of property located in a reservoir conservancy district for personal injury, death, or property damage occurring within the reservoir conservancy district.



February 21, 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.

ENGROSSED 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 14-8-2-46.5 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2020]: **Sec. 46.5. "Commercial licensee", for purposes of**
4 **IC 14-33-24, has the meaning set forth in IC 14-33-24-1.**
- 5 SECTION 2. IC 14-8-2-91.7 IS ADDED TO THE INDIANA CODE
6 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
7 1, 2020]: **Sec. 91.7. "Fishing boat", for purposes of IC 14-33-24-9,**
8 **has the meaning set forth in IC 14-33-24-9(a).**
- 9 SECTION 3. IC 14-8-2-179.5 IS AMENDED TO READ AS
10 FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 179.5. **(a)**
11 **"Nonresident", for the purposes of IC 14-19-3-5, has the meaning set**
12 **forth in IC 14-19-3-5(b).**
- 13 **(b) "Nonresident", for purposes of IC 14-33-24-9, has the**
14 **meaning set forth in IC 14-33-24-9(a).**
- 15 SECTION 4. IC 14-8-2-179.8 IS ADDED TO THE INDIANA
16 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
17 [EFFECTIVE JULY 1, 2020]: **Sec. 179.8. "Nonmotorized**

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1 **watercraft", for the purposes of IC 14-33-24-9, has the meaning set**
 2 **forth in IC 14-33-24-9(a).**

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

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

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

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

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

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

26 SECTION 9. IC 14-8-2-240 IS AMENDED TO READ AS
 27 FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 240. (a) **"Reservoir",**
 28 **for purposes of IC 14-33-24, has the meaning set forth in**
 29 **IC 14-33-24-3.**

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

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

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

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

42 (b) "Resident", for purposes of IC 14-22-17, has the meaning set



1 forth in IC 14-22-17-1.

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

4 SECTION 11. IC 14-8-2-240.2 IS ADDED TO THE INDIANA
5 CODE AS A NEW SECTION TO READ AS FOLLOWS
6 [EFFECTIVE JULY 1, 2020]: **Sec. 240.2. "Reservoir conservancy**
7 **district", as used in IC 14-33-24, has the meaning set forth in**
8 **IC 14-33-24-4.**

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

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

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

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

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

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



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



1 **IC 14-33-24 may not exercise the power of eminent domain.**

2 SECTION 15. IC 14-33-9-11 IS ADDED TO THE INDIANA
3 CODE AS A NEW SECTION TO READ AS FOLLOWS
4 [EFFECTIVE JULY 1, 2020]: **Sec. 11. (a) This section applies only**
5 **to a reservoir conservancy district established under IC 14-33-24.**

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

19 **(c) The board of a reservoir conservancy district shall certify**
20 **under section 5(a) of this chapter to the auditor of each county**
21 **having land in the reservoir conservancy district the special**
22 **benefits tax rate calculated by the department of local government**
23 **finance under subsection (b) that will produce the revenue amount**
24 **of the annual levy determined by the board of the reservoir**
25 **conservancy district, which may be less than two million dollars**
26 **(\$2,000,000) but may not exceed two million dollars (\$2,000,000).**

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

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

33 **Chapter 24. Reservoir Conservancy Districts**

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

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



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

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

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

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

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

13 **(b)** For purposes of this chapter, the utility owner of the
14 reservoir located within the boundaries of a reservoir conservancy
15 district is the utility owner that owns at least twenty-five percent
16 (25%) of the surface of the reservoir located within the boundaries
17 of the reservoir conservancy district.

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

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

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

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

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

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

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

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

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

40 **Sec. 7. (a)** After the court issues an order establishing a
41 reservoir conservancy district under IC 14-33-2-26 and the initial
42 board of directors of the reservoir conservancy district is



1 appointed under IC 14-33-5-1, the board of directors and the utility
2 owner of the reservoir located within the boundaries of the
3 reservoir conservancy district shall enter into an operating
4 agreement.

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

7 (1) works of improvement; and

8 (2) modifications and maintenance of improvements;

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

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

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

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

32 (c) A reservoir conservancy district does not have the power of
33 eminent domain.

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

38 (e) Subject to IC 14-15, a reservoir conservancy district has
39 authority to establish, through the action of the board of directors,
40 and enforce reasonable rules concerning safety, welfare, and the
41 maintenance of resources within the boundaries of the reservoir
42 conservancy district. However, the rules established under this



- 1 subsection shall not:
- 2 (1) interfere with or supersede state law or state
- 3 administrative rules;
- 4 (2) interfere with the use of the reservoir for water supply
- 5 purposes by the utility owner of the reservoir located within
- 6 the boundaries of the reservoir conservancy district;
- 7 (3) substantially or directly impair the terms and conditions
- 8 of the commercial license of any commercial licensee of the
- 9 utility owner; or
- 10 (4) establish other requirements or restrictions to:
- 11 (A) discourage public use of the reservoir; or
- 12 (B) discourage or prevent uses of the reservoir for
- 13 activities that:
- 14 (i) are regulated under IC 14-22; and
- 15 (ii) could legally take place in the reservoir or the area
- 16 surrounding the reservoir except for the reservoir
- 17 conservancy district's requirements or restrictions.
- 18 **Sec. 9. (a) The following definitions apply throughout this**
- 19 **section:**
- 20 (1) "Fishing boat" means a boat that has one (1) or more
- 21 motors that have a total of not more than thirty (30)
- 22 horsepower.
- 23 (2) "Nonmotorized watercraft" means a watercraft that does
- 24 not have a motor. The term includes kayaks, canoes,
- 25 rowboats, paddleboats, and sailboats.
- 26 (3) "Nonresident" means a person who does not own or lease
- 27 real property within the boundaries of the reservoir
- 28 conservancy district.
- 29 (4) "Personal watercraft" has the meaning set forth in
- 30 IC 14-8-2-202.5.
- 31 (5) "Pontoon" means a watercraft that:
- 32 (A) uses hollow cylinders to create buoyancy; and
- 33 (B) has one (1) or more motors that have a total of not
- 34 more than one hundred (100) horsepower.
- 35 (6) "Power boat" means a boat has one (1) or more motors
- 36 that exceed a total of thirty (30) horsepower.
- 37 (7) "Resident" means a person who owns or leases real
- 38 property within the boundaries of the reservoir conservancy
- 39 district.
- 40 (b) A reservoir conservancy district may impose and collect
- 41 recreation fees for the recreational use of watercraft on the
- 42 primary water recreation facility of the reservoir located within



- 1 the boundaries of the reservoir conservancy district.
- 2 (c) The recreation fees imposed under this section must include:
- 3 (1) a fee charged to every resident who uses a watercraft on
- 4 the primary water recreation facility for recreational
- 5 purposes; and
- 6 (2) a fee charged to every nonresident who uses a watercraft
- 7 on the primary water recreation facility for recreational
- 8 purposes.
- 9 (d) The following apply to fees imposed under subsection (c):
- 10 (1) The fee allowing a nonresident to use a watercraft for an
- 11 entire year may not be more than fifty percent (50%) greater
- 12 than the fee allowing a resident to use a watercraft for an
- 13 entire year.
- 14 (2) The fee allowing a resident to use a watercraft for a single
- 15 day may not exceed seventeen percent (17%) of the fee
- 16 allowing a resident to use a watercraft for an entire year.
- 17 (3) The fee allowing a nonresident to use a watercraft for a
- 18 single day may not exceed seventeen percent (17%) of the fee
- 19 allowing a nonresident to use a watercraft for an entire year.
- 20 (e) Subject to subsection (d), a reservoir conservancy district
- 21 may establish different recreation fees for the following different
- 22 types of watercrafts:
- 23 (1) Power boats.
- 24 (2) Pontoon boats.
- 25 (3) Fishing boats.
- 26 (4) Personal watercraft.
- 27 (5) Nonmotorized watercraft.
- 28 (f) A reservoir conservancy district that imposes recreation fees
- 29 under this section:
- 30 (1) is authorized to take reasonable actions to administer and
- 31 enforce the requirement that a recreation fee be paid for the
- 32 recreational use of watercraft on the primary water
- 33 recreation facility of the reservoir conservancy district,
- 34 including:
- 35 (A) issuing and requiring the display of an emblem or
- 36 other device on a watercraft to signify that the fee has been
- 37 paid; and
- 38 (B) monitoring the use of watercraft on the primary water
- 39 recreation facility of the reservoir conservancy district to
- 40 ensure compliance with the recreation fee requirement;
- 41 and
- 42 (2) shall use the revenue derived from the recreation fees



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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



1 boundaries of the reservoir conservancy district has sole authority
2 and control over all activities to control:

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

6 the reservoir located within the boundaries of the reservoir
7 conservancy district.

8 SECTION 17. IC 34-30-31.5 IS ADDED TO THE INDIANA
9 CODE AS A NEW CHAPTER TO READ AS FOLLOWS
10 [EFFECTIVE JULY 1, 2020]:

11 **Chapter 31.5. Immunity from Civil Liability**

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

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

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

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

26 **Sec. 4. (a)** Except as provided in subsection (b), the utility owner
27 of the reservoir located within the boundaries of a reservoir
28 conservancy district is not liable for any personal injury, death,
29 property damage, or other loss of any nature that an individual
30 incurs while present on or in the reservoir of a reservoir
31 conservancy district, regardless of whether the individual is in a
32 watercraft at the time of the incident causing the personal injury,
33 death, property damage, or other loss, and regardless of whether
34 the individual or any other person with whom the individual was
35 associated paid a recreation fee as described in IC 14-33-24-9 to the
36 reservoir conservancy district for the privilege of using the
37 reservoir of the reservoir conservancy district for recreational
38 purposes.

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



1 (c) The state is not liable for any personal injury, death,
2 property damage, or other loss of any nature that an individual
3 incurs while present on or in the reservoir of a reservoir
4 conservancy district, regardless of:

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

8 (2) whether the individual or any other person with whom the
9 individual was associated paid a recreation fee as described in
10 IC 14-33-24-9 to the reservoir conservancy district for the
11 privilege of using the reservoir conservancy district for
12 recreational purposes.

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

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

18 (A) entering; or

19 (B) leaving;

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

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

25 (A) an injury to; or

26 (B) damage to the property of;

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

30 Sec. 6. Neither:

31 (1) a person who:

32 (A) has a fee interest in;

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

34 (C) is in control of;

35 a property located in a reservoir conservancy district; nor

36 (2) the reservoir conservancy district;

37 owes a greater duty to an individual using the reservoir for a
38 recreational purpose than they would owe if the conservancy
39 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.

SENATE MOTION

Madam President: I move that Senate Bill 430 be amended to read as follows:

Page 1, between the enacting clause and line 1, begin a new

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paragraph and insert:

"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.**"

Page 2, delete lines 8 through 12.

Page 2, between lines 21 and 22, begin a new paragraph and insert:

"SECTION 7. 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.**"

Page 3, line 33, delete "IC 14-33-24-8(c)," and insert "**subsection (c),**".

Page 4, between lines 37 and 38, begin a new paragraph and insert:

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

Page 4, line 39, delete "This section".

Page 4, delete lines 40 through 41.

Page 4, line 42, delete "(b)".

Page 4, run in lines 39 through 42.

Page 5, between lines 3 and 4, begin a new paragraph and insert:

"**(b) Notwithstanding section 1(b) of this chapter and IC 14-33-21-5, the maximum annual levy of the special benefits tax imposed by 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 determine 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 maximum annual levy. The board of directors of a reservoir conservancy district, under IC 14-33-9-5(a), shall certify the SPECIAL benefits tax levy, as determined and approved by the department of local government finance, to the auditor of each county having land in the reservoir conservancy district.**"

Page 5, delete lines 8 through 21, begin a new paragraph and insert:

"**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."

Page 5, line 25, delete "motorized".

Page 6, delete lines 1 through 5.

Page 6, line 29, delete "IC 14-33-2-17" and insert "**IC 14-33-2-26**".

Page 6, line 31, delete "directors," and insert "**directors and**".

Page 6, line 33, delete "district, and any commercial licensee" and insert "**district**".

Page 6, line 34, delete "described in section 5(c) of this chapter".

Page 7, line 4, delete "and any".

Page 7, line 5, delete "commercial licensee described in section 5(c) of this chapter".

Page 7, line 8, delete "and any commercial licensee described in section 5(c) of this".

Page 7, line 9, delete "chapter".

Page 7, line 21, delete "described in section 5(c) of this chapter".

Page 7, line 25, delete "domain with respect to property of the utility owner of the" and insert "**domain**".

Page 7, delete lines 26 through 27.

Page 7, line 29, delete "district, as described in" and insert "**district**".

Page 7, line 30, delete "section 5(a) and 5(b) of this chapter,".

Page 7, line 32, delete "However, a commercial licensee of".

Page 7, delete lines 33 through 42, begin a new paragraph and insert:

"(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."

Page 8, delete lines 1 through 5.

Page 10, line 28, delete "dredging" and insert "action".

Page 10, line 29, delete "subsection (a)(4)" and insert "this section".

Page 10, line 42, delete "Immunity of Reservoir Conservancy District and" and insert "Immunity from Civil Liability".

Page 11, delete line 1.

Page 11, line 16, delete "(b) and subject to" and insert "(b)".

Page 11, line 17, delete "subsection (c)".

Page 11, delete lines 33 through 40, begin a new paragraph and insert:

"(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."**

Renumber all SECTIONS consecutively.

(Reference is to SB 430 as printed January 29, 2020.)

MESSMER

SENATE MOTION

Madam President: I move that Senate Bill 430 be amended to read as follows:

Page 5, between lines 3 and 4, begin a new paragraph and insert:

"(c) Notwithstanding section 1(b) of this chapter and IC 14-33-21-5, the maximum annual levy of the special benefits tax imposed by 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 determine the special

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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, which may be less than but may not exceed two million dollars (\$2,000,000). The board of a reservoir conservancy district shall under IC 14-33-9-5(a) certify to the auditor of each county having land in the reservoir conservancy district the special benefits tax rate that will produce the revenue amount of the annual levy determined by the board of the reservoir conservancy district, which may be less than but may not exceed two million dollars (\$2,000,000)."

(Reference is to SB 430 as printed January 29, 2020.)

SPARTZ

COMMITTEE REPORT

Mr. Speaker: Your Committee on Environmental Affairs, to which was referred Senate Bill 430, 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 5, delete lines 2 through 38, begin a new paragraph and insert:

"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).

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(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."

Page 9, line 7, delete "Subject to covenants in existence when the reservoir".

Page 9, line 8, delete "conservancy district is established, a" and insert "A".

Page 11, line 18, delete "IC 34-30-32" and insert "IC 34-30-31.5".

Page 11, line 21, delete "32." and insert "**31.5**".

and when so amended that said bill do pass.

(Reference is to SB 430 as reprinted February 4, 2020.)

WOLKINS

Committee Vote: yeas 13, nays 0.

