

SENATE BILL No. 12

DIGEST OF INTRODUCED BILL

Citations Affected: IC 8-4.5.

Synopsis: Recreational trails. Provides that regardless of when a recreational trail was established, a governmental entity must determine that statutory procedures for local participation have been satisfied before the governmental entity may participate in the operation of a recreational trail or spend money for the operation of the trail. Provides that owners of property adjoining a recreational trail have the following rights regardless of when the recreational trail was established: (1) Limited tort liability with respect to the users of the recreational trail. (2) Right to have fences erected between the recreational trail and the adjoining property owner's property.

Effective: Upon passage.

Ford

November 18, 1998, read first time and referred to Committee on Corrections, Criminal and Civil Procedures.



Introduced

Second Regular Session 110th General Assembly (1998)

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 1997 General Assembly.

SENATE BILL No. 12

A BILL FOR AN ACT to amend the Indiana Code concerning utilities and transportation.

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

- 1 SECTION 1. IC 8-4.5-6-3, AS ADDED BY P.L.40-1995, SECTION
2 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON
3 PASSAGE]: Sec. 3. A responsible party must file the following
4 information under section 2 of this chapter:
5 (1) A description and map of the ~~proposed~~ recreational trail. The
6 information filed under this subdivision must identify the following:
7 (A) The properties for which the responsible party has secured
8 the legal right to use as a recreational trail.
9 (B) The properties for which the responsible party has not, at the
10 time of the filing, secured the legal right to use as a recreational
11 trail.
12 (2) The name and address of the responsible party. If the responsible
13 party is not an individual, the following information about the
14 responsible party must also be included:
15 (A) If the responsible party is a governmental entity, the
16 following:
17 (i) The name and address of the individual or body responsible



- 1 for the administration of the governmental entity.
- 2 (ii) The name, address, and head of any agency of the
- 3 governmental entity that will be responsible for the operation
- 4 of the recreational trail.
- 5 (B) If the responsible party is a corporation of any kind, the
- 6 officers of the corporation and the address at which legal
- 7 documents for the corporation may be served.
- 8 (C) If the responsible party is a partnership of any kind, the
- 9 names and addresses of all of the partners.
- 10 (D) If the responsible party is any other kind of entity, the name
- 11 and address of each individual who satisfies the following:
- 12 (i) The individual belongs to or is affiliated with the entity.
- 13 (ii) The individual has some responsibility for the organization
- 14 or governance of the entity.
- 15 (3) **If the recreational trail has not been completed**, a project
- 16 concept statement for the recreational trail, including a location map,
- 17 cross-section, and sketch of the project, detailed enough to generate
- 18 project cost estimates. The proposed project is not required to be
- 19 designed before filing, but the concept must be reasonable from a
- 20 transportation engineering standpoint and detailed enough to
- 21 generate project cost estimates.
- 22 (4) An environmental impact statement, if required by law.
- 23 (5) **If the recreational trail has not been completed**, an itemized
- 24 cost estimate for the total project showing for each item the cost and
- 25 funding source.
- 26 (6) Expenses, including personnel costs, costs of goods and services,
- 27 contractual services, equipment, utilities, travel, and taxes. The
- 28 information provided under this subdivision must specifically show
- 29 expenses for:
- 30 (A) trail security;
- 31 (B) fencing;
- 32 (C) maintenance; and
- 33 (D) drainage.
- 34 (7) A trail operation agreement under which the responsible party
- 35 agrees to operate the recreational trail. The trail operation agreement
- 36 must provide that the responsible party shall grant easements to
- 37 persons who own adjacent property on both sides of the recreational
- 38 trail permitting those persons to cross the trail in a reasonable
- 39 fashion given the use of the adjacent property. The following may
- 40 require inclusion of other provisions in the trail operation agreement
- 41 considered advisable:
- 42 (A) The department of natural resources.



- 1 (B) The executive of a county if an ordinance of the legislative
 2 body of the county is required to authorize the recreational trail
 3 under this chapter.
- 4 (C) The executive of a municipality if an ordinance of the
 5 legislative body of the municipality is required to authorize the
 6 recreational trail under this chapter.
- 7 (8) If the responsible party is not a governmental entity, a bond in an
 8 amount sufficient to satisfy the responsible party's obligation to:
- 9 (†) (A) erect and maintain fences; or
 10 (‡) (B) pay for the cost of fences;
- 11 under ~~section 6 of this chapter~~. **IC 8-4.5-7-3.** The bond shall be
 12 made payable to property owners under ~~section 6 of this chapter~~
 13 **IC 8-4.5-7-3** if the responsible party breaches its obligation under
 14 ~~section 6 of this chapter~~. **IC 8-4.5-7-3.**
- 15 SECTION 2. IC 8-4.5-6-7, AS ADDED BY P.L.40-1995, SECTION
 16 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON
 17 PASSAGE]: Sec. 7. (a) **This section applies to a recreational trail,
 18 regardless of when the recreational trail was established.**
- 19 (b) A governmental entity shall determine that the requirements for
 20 approval of a recreational trail under this chapter **and the requirements
 21 of IC 8-4.5-7** have been satisfied before the governmental entity may do
 22 either of the following:
- 23 (1) Participate in the operation of a recreational trail.
 24 (2) Spend or grant money under its control for a recreational trail.
- 25 SECTION 3. IC 8-4.5-7 IS ADDED TO THE INDIANA CODE AS
 26 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON
 27 PASSAGE]:
- 28 **Chapter 7. Rights of Property Owners**
- 29 **Sec. 1. This chapter applies to a recreational trail, regardless of
 30 when the recreational trail was established.**
- 31 **Sec. 2. (a) A property owner has no duty of care to any person
 32 who is using a recreational trail.**
- 33 (b) **This section does not relieve a property owner from liability
 34 for injury that is a direct result of the property owner's:**
- 35 (1) **own use of a recreational trail; or**
 36 (2) **gross negligence or willful or wanton misconduct.**
- 37 **Sec. 3. (a) At the request of a property owner, the responsible
 38 party (including a governmental entity), at the responsible party's
 39 expense, shall, at the option of the property owner, do either of the
 40 following:**
- 41 (1) **Erect and maintain fencing between the recreational trail**



- 1 **and the property owner's property. The fencing must be in**
2 **accordance with current fencing standards of the Indiana**
3 **department of transportation for urban or rural settings, as**
4 **appropriate to the location of the recreational trail.**
5 **(2) Pay the property owner money equal to the cost of installing**
6 **a fence described in subdivision (1) between the property**
7 **owner's property and the recreational trail.**
8 **(b) If the responsible party is not a governmental entity, failure**
9 **of the responsible party to comply with subsection (a) is a breach of**
10 **the trail operation agreement. A property owner may recover the**
11 **costs of erecting and maintaining a fence from the bond given under**
12 **IC 8-4.5-6-3(8).**
13 SECTION 4. THE FOLLOWING ARE REPEALED [EFFECTIVE
14 UPON PASSAGE]: IC 8-4.5-6-5; IC 8-4.5-6-6.
15 SECTION 5. An emergency is declared for this act.

