



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

SB2843

Introduced 1/24/2012, by Sen. Pamela J. Althoff

SYNOPSIS AS INTRODUCED:

615 ILCS 90/3	from Ch. 19, par. 1203
615 ILCS 90/3.1 new	
615 ILCS 90/3.2 new	
615 ILCS 90/6	from Ch. 19, par. 1206

Amends the Fox Waterway Agency Act. Modifies the definition of "Waterway" to include the term "Chain of Lakes Fox River Recreational Waterway" and all streams, side channels, and improved channels that connect with, discharge into, or are open to the river. Provides that all waters within the waterway are public waters which the public has a right to use and enjoy. Provides that the public's right to navigate includes the right to incidentally touch private property as required for safe passage and continued movement and to portage around a dangerous obstruction in the water, if portage is made in a manner that is the most direct, least invasive, and closest to the water. Provides that public water may not be accessed from private property without the permission of the owner of the private property. Provides that a person may not, unless authorized by law, close off or otherwise bar access to any public water in the waterway or prevent any person from exercising the right to navigate upon public water without authorization of other law. Provides that nothing in the new provisions shall be construed as limiting or enlarging any right granted by express easement or otherwise provided by law. Provides that the executive director of the Fox Waterway Agency shall be a person of recognized ability in business or waterway management, instead of "at a minimum, have graduated from a four-year college or university (or the equivalent) in civil engineering, biology or public administration or a closely related field".

LRB097 17262 HEP 62463 b

1 AN ACT concerning transportation.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Fox Waterway Agency Act is amended by
5 changing Sections 3 and 6 and by adding Sections 3.1 and 3.2 as
6 follows:

7 (615 ILCS 90/3) (from Ch. 19, par. 1203)

8 Sec. 3. As used in this Act, unless the context otherwise
9 requires:

10 (a) "Agency" means the Fox Waterway Agency created by this
11 Act.

12 (b) "Board" means the board of directors of the Fox
13 Waterway Agency.

14 (c) "Director" means a member of the board of directors of
15 the Fox Waterway Agency.

16 (d) "Member County" means that portion of either Lake
17 County or McHenry County which lies within the territory of the
18 Agency.

19 (e) "Chain of Lakes Fox River Recreational Waterway" or
20 "waterway" ~~"Waterway"~~ means the Fox River and all streams, side
21 channels, and improved channels that connect with, discharge
22 into, or are open to the river, and interconnecting lakes
23 commonly known as the Chain O Lakes from the Wisconsin State

1 line to the Algonquin Dam, all within the State of Illinois.

2 (Source: P.A. 89-162, eff. 7-19-95.)

3 (615 ILCS 90/3.1 new)

4 Sec. 3.1. Public use of the waterway. All waters within the
5 waterway are public waters which the public has a right to use
6 and enjoy.

7 (615 ILCS 90/3.2 new)

8 Sec. 3.2. Public waters over private lands.

9 (a) The public has the right to navigate upon public waters
10 over private property. The public's right to navigate includes
11 the right to incidentally touch private property as required
12 for safe passage and continued movement and to portage around a
13 dangerous obstruction in the water, if portage is made in a
14 manner that is the most direct, least invasive, and closest to
15 the water. Public water may not be accessed from private
16 property without the permission of the owner of the private
17 property.

18 (b) Unless authorized by other law, a person may not close
19 off or otherwise bar access to any public water in the waterway
20 or prevent any person from exercising the right to navigate
21 upon public water.

22 (c) Nothing in this Section shall be construed as limiting
23 or enlarging any right granted by express easement or otherwise
24 provided by law.

1 (615 ILCS 90/6) (from Ch. 19, par. 1206)

2 Sec. 6. The Board shall meet as soon as practicable after
3 the directors assume the duties of office and shall meet at
4 least 6 times annually or more often at the discretion of the
5 Chairman or upon the request of 2/3 of the directors. The Board
6 shall select from its membership a Secretary and a Treasurer.
7 The Treasurer shall be custodian of all Agency funds and shall
8 be bonded in such amount as the other members designate. The
9 Chairman shall have the power to vote only in the event of a
10 tie, but shall fully participate as a director in all other
11 respects. Directors and the Chairman may be compensated at the
12 discretion of the Board in the sum of up to \$3,000 per year for
13 each director and up to \$5,000 per year for the chairman,
14 effective immediately upon approval of the Board. The Board
15 members shall also be reimbursed for ordinary and necessary
16 expenses incurred in performing their duties under this Act.
17 The Board shall appoint a person to serve as executive
18 director, who shall act as the chief administrative officer of
19 the Agency and oversee and administer the daily function and
20 staff of the Agency, in accordance with Board policy. The
21 executive director shall be a person of recognized ability in
22 business or waterway management ~~must, at a minimum, have~~
23 ~~graduated from a four-year college or university (or the~~
24 ~~equivalent) in civil engineering, biology or public~~
25 ~~administration or a closely related field.~~

1 (Source: P.A. 89-162, eff. 7-19-95.)