

# Legislative Analysis

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## PUBLIC ROAD LAKE & STREAM ACCESS

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**Senate Bill 680 (Substitute S-1)**

**Sponsor: Sen. Michael Kowall**

*(Enacted as Public Act 168 of 2014)*

**House Committee: Local Government**

**Senate Committee: Local Government and Elections**

**First Analysis (5-15-14)**

**BRIEF SUMMARY:** The bill would prevent county road commissions from allowing the installation and use of a seasonal public dock or wharf at a public road-end, reserving that right for a township, city, or village in which the public road-end is located.

**FISCAL IMPACT:** The bill has no apparent fiscal impact.

### **THE APPARENT PROBLEM:**

Public Act 56 of 2012 added Section 30111b—entitled "Inland Lakes and Streams"—to Part 301 of the Natural Resources and Environmental Protection Act. Generally, the new law prohibits citizens from mooring their boats at docks built at 'public road-ends'—that is, docks illegally constructed at water's edge where the road meets an inland lake or stream. The law also prescribed criminal fines for violators.

Specifically, Public Act 56 prohibits using a public road-end for the construction, installation, maintenance, or use of a dock or wharf, except a single seasonal public dock or wharf authorized by the local unit of government.

The definition of "local unit of government" in the new act has caused some concern, because it includes a "county". In at least one instance, this has been interpreted to include a county road commission (since they have jurisdiction over some roads), and road commissioners have authorized a mooring dock at a road-end where it abuts an inland lake.

To clarify the act, legislation has been introduced to amend the definitions. The proposed changes will prevent county road commissions from allowing the installation and use of a seasonal public dock or wharf at a public road-end.

### **THE CONTENT OF THE BILL:**

Senate Bill 680 (S-1) would amend provisions governing the use of a public road end at an inland lake or stream in Part 301 of the Natural Resources and Environmental Protection Act to:

- Remove a county from the definition of "local unit of government,"
- Revise the definition of "public road end," and
- Delete the definition of "public road."

A more detailed description of the bill follows.

### ***Use of Public Road Ends***

Now under Part 301 of the Natural Resources and Environmental Protection Act, unless a recorded deed, recorded easement, or other recorded dedication expressly provides otherwise, a public road end may not be used for any of the following purposes:

- Construction, installation, maintenance, or use of boat hoists or boat anchorage devices.
- Mooring or docking of a vessel between midnight and sunrise.
- Any activity that obstructs ingress to or egress from an inland lake or stream.

A public road end also may not be used for the construction, installation, maintenance, or use of a dock or wharf other than a single seasonal public dock or wharf that is authorized by the local unit of government, subject to any permit required under Part 301. A person who violates these provisions is guilty of a misdemeanor punishable by a \$500 maximum fine.

In addition, the local unit of government may prohibit a use of a public road end that violates the prohibitions described above.

Senate Bill 680 (S-1) would retain all of these provisions. However, as used in these provisions, Part 301 defines "local unit of government" as the county, township, city, or village with jurisdiction over a public road. Under the bill, "local unit of government" instead would mean a township, city, or village in which the public road end is located (removing "county" and "jurisdiction").

### ***Definition of "Public Road End"***

Further, now under the law, "public road end" means the terminus of a public road at an inland lake or stream, and "public road" means a county road or a township, city, or village street that is open for use by the public. In contrast, under the bill, "public road end" would mean the terminus at an inland lake or stream of a road that is lawfully open for use by the public." Finally, the bill would delete the definition of "public road."

MCL 324.30111b

### ***HOUSE COMMITTEE ACTION:***

The members of the House Committee on Local Government reported out the Senate-passed version of the bill without amendments.

## ***ARGUMENTS:***

### ***For:***

Public Act 56 of 2012 was enacted to address a longstanding problem of unauthorized use by boaters of public road-ends at lakes and streams throughout Michigan.

Several court cases held that boaters could not use these access points to install and use docking or mooring devices. So, some local officials passed ordinances prohibiting their construction and use. However, they had no statutory authorization to enforce the rulings embodied in their ordinances.

To ensure a consistent statewide policy, and to empower local officials as they enforced their ordinances, the Michigan legislature enacted Public Act 56 of 2012—a new law that essentially codified then existing case law.

The new act—now in effect for two years—has reportedly resulted in more effective and consistent enforcement of restrictions, but it also has caused some confusion over which local public entity may issue permits for the use of public road-ends.

That is because the new act includes "counties" within the definition of "local unit of government," and further, the statute refers to the local unit having "jurisdiction" of the road. Some apparently have interpreted this to mean that county road commissions, which have jurisdiction over county roads, may issue a permit to use a public road-end for a seasonal dock, and at least one road commission reportedly has done so. The bill would avoid future confusion by limiting the permitting authority to a township, city, or village in which a public road-end is located.

## ***POSITIONS:***

The County Road Association supports the bill. (5-8-14)

The Michigan Townships Association supports the bill. (5-8-14)

The Higgins Lake Property Owners Association supports the bill. (5-8-14)

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.