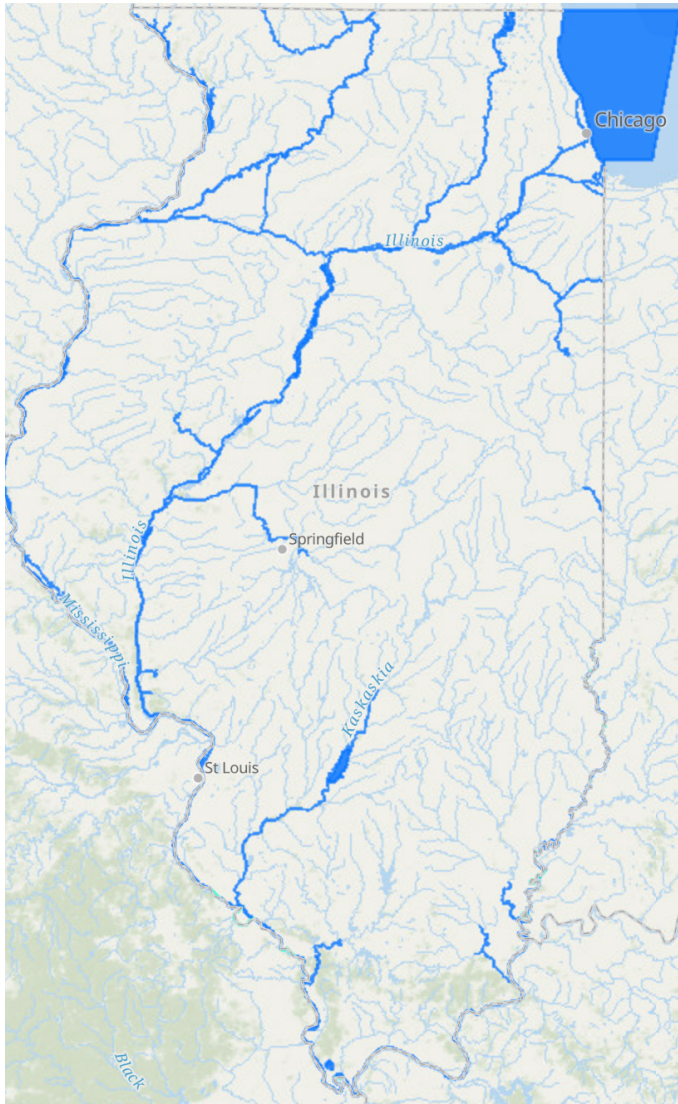


# HB 1568 RIGHT TO RECREATE



Navigable waters under riparian doctrine (highlighted in bright blue) compared to all Illinois waters (pale blue)

Office of Water Resources  
Illinois DNR



## SUMMARY

Any segment of a lake, river, or stream that is capable of supporting use by commercial or recreational watercraft for a substantial part of the year, or that is actually so used, shall be deemed navigable, and shall be open to public access and use. The public right to access and use navigable waters shall be subject to specified protections and limitations.

### AT A GLANCE

#### Sponsor

Rep. Janet Yang Rohr  
(D) 41st District

#### Statute

Amends the Rivers, Lakes, and Streams Act

#### Committee

Rules  
Committee

#### Short Description

Public Access -  
Navigable Waters

## CURRENT RULE RIPARIAN DOCTRINE

In Illinois, riparian rights grant the owner of land adjacent to a waterway the right to reasonably use that water. If the water is navigable (a channel of practical utility for commercial use), then the riparian owner owns title to a thread of the stream subject to an easement for public use. If the water is non-navigable, the riparian owner owns the title with no obligation to provide public access. This rule is recognized as common law in Illinois.

## PROPOSED RULE RECREATIONAL NAVIGATION DOCTRINE

Expands the definition of navigable waters to waters capable of supporting both commercial AND recreational use. With a new definition of navigability, Illinois' lakes, rivers, and streams once considered non-navigable would become subject to an easement and accessible to the public for recreational use.

**“THE INCREASE IN PUBLIC RECREATIONAL USE OF RIVERS AND STREAMS HAS NOT OCCURRED IN ILLINOIS DUE TO THE ARCHAIC AND ANACHRONISTIC COMMON-LAW RULES THAT RESTRICT PUBLIC ACCESS TO STATE WATERWAYS... THE PRESENCE OF RECREATIONAL ACTIVITIES, SUCH AS FISHING AND RECREATIONAL PLEASURE BOATING, HAS BEEN FOUND TO BE SUFFICIENT TO SUSTAIN A FINDING THAT A WATERWAY HAS A NAVIGABLE CHARACTER.”**

Justice Neville, Illinois Supreme Court  
Holm v. Kodat, 2022

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## BENEFITS OF PUBLIC RECREATION

### Environmental Justice

When waters throughout the state are made public, people of all socio-economic backgrounds can participate in water recreation activities, not only people who own water-adjacent land or can afford to travel to traditionally "navigable" waterways in Illinois.

### Community Awareness

Expanded opportunities for outdoor recreation means more people recognize the value of Illinois' natural resources. Public access to local waters may also lead to greater reporting of violations of environmental protection laws.

### Improve Public Health

Greater access to outdoor recreation improves physical health and relieves stress. Access to green space supports mental health and fosters community connection and well-being.

### Boost Recreation Industry

Illinois' outdoor recreation economy generated 153,932 direct jobs, \$8.6 billion in wages and salaries, and made up 1.8% of Illinois' GDP in 2021. Creating more opportunities for recreation will grow the industry and benefit local recreation businesses.

### Reinforce Existing Law

The Recreational Use of Land and Water Areas Act encourages landowners to make land and water areas available to any individual or members of the public for recreational or conservation purposes by limiting owners' liability toward persons entering. With the Recreational Trails of Illinois Act, the General Assembly found that recreation is an important industry in Illinois and its growth should be encouraged.

## KEY CONCERNS

### Trespassing

The public must enter the water through a public access point and cannot enter a waterway by crossing through private property. If a person must exit the water and go onto shore for safety reasons, the property owner is not liable for any injury.

### Fishing

Public access includes fishing, but the public cannot fish public waters from a private shore - fishing must be from a watercraft.

### Taking

Property owners do not currently pay property taxes on waterbeds that are within their property boundaries, so declaring these waters public should not constitute a taking.

### Management and Regulation

If more waters become public, legislators must determine who exactly will be responsible for maintaining them - private owners or state agencies.

## OUR TEAM



### Lucy Nifong

Agricultural and  
Consumer Economics  
Minor in Food and  
Environmental Systems  
Springfield, Illinois



### Danielle Pfaff

Landscape Architecture  
Minor in Geology  
Algonquin, Illinois



### Rajan Patkar

Computer Engineering  
Minor in Statistics  
Peoria, Illinois



### Christian Montes

Operations Management  
Elgin, Illinois



### Julia Burke

Political Science and Earth,  
Society, & Environmental  
Sustainability  
Glen Ellyn, Illinois

**"A LEGISLATIVE REDEFINING OF NAVIGABILITY IN TERMS OF RECREATIONAL USE WILL REPRESENT A BEGINNING TOWARD MOVING ILLINOIS WATER LAW INTO THE TWENTY-FIRST CENTURY. MORE IMPORTANTLY, IT IS THE LEGISLATIVE PROCESS THAT IS THE PROPER METHOD TO CODIFY THE RECREATIONAL NAVIGATION DOCTRINE SO IT CAN BE APPLIED TO ILLINOIS WATERWAYS."**

**Justice Neville, Illinois Supreme Court  
Holm v. Kodat, 2022**