

Research Plan: Public Chapter 497, Acts of 2021, Water Recreation Resources

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Support:

Deputy Executive Director Approval: Initial: Date:

Executive Director Approval: Initial: Date:

Purpose

Study the effects of non-fish-and-game-related recreational activities, such as paddle boarding, canoeing, kayaking, and tubing, on Tennessee’s waterways and strategies to fund, manage and protect water and land resources affected by these activities.

Background

According to stakeholders, there has been an increase in recreational activities on Tennessee’s waterways in recent years in large part because of increased use of non-motorized vessels such as canoes and kayaks. They agree both that this has led to congestion and access issues as well as conflicts between members of the public using the water for recreation and that there is a need for new strategies to manage these resources. The issues are complicated by the fact that Tennessee public waterways and access to them are managed by different entities. The Tennessee Wildlife Resource Agency (TWRA) regulates boat safety on all public waters in the state. TWRA also has authority over the boat access areas it owns outside state parks, while the Tennessee Department of Environment and Conservation (TDEC) has authority over access areas within state parks. Some local governments also have boat access areas they manage. In addition, federal agencies including the Tennessee Valley Authority (TVA), United States Army Corps of Engineers (ACE), and United States Forest Service (USFS) have boat access areas on their lands in the state.

In response to some stakeholders’ concerns about congestion and access issues, the General Assembly passed Public Chapter 969, Acts of 2018, giving the Tennessee Fish and Wildlife Commission (TFWC)—the governing and rule-making body of TWRA—

authority to establish rules and regulations for commercial outfitters that provide non-motorized vessels, such as canoes, kayaks, paddleboards, and tubes, for rent to the public for recreational use on Tennessee's waterways. The TFWC established new rules in January 2019, requiring these outfitters to obtain free permits to be able to operate. TWRA staff said they need additional money to manage their boat access areas and that a data-based fee structure would be implemented in the future. Public Chapter 347, Acts of 2019, requires these commercial outfitters to submit data to TWRA on the number of vessels they rent to the public. TDEC is also in the process of promulgating rules to establish a permitting process and fees for outfitters who want to use boat access areas within state parks. Commercial outfitters are concerned there could be a duplication of fees if both agencies charge fees.

To help these state agencies identify the best ways to manage the state's resources given the evolving recreational use of waterways, the General Assembly passed Public Chapter 497 this year directing TACIR to study

1. the procedural and financial measures necessary to accommodate the increased demand for non-fish-and-game recreational activities and the resources required to manage such activities by TDEC and TWRA;
2. how TWRA-managed resources are being utilized by non-motorized vessels for non-fish-and-game recreational activities, such as paddle boarding, canoeing, tubing, and kayaking;
3. the accessibility to and funding for all non-fish-and-game recreational activities;
4. the annual fees and taxes charged to paddle craft and commercial outfitters in the previous four fiscal years;
5. any duplicative fees charged by TDEC and TWRA, and what action may be taken to eliminate such duplicity in fee structures and their regulatory authority generally;
6. the extent to which customers of non-motorized vessels contribute to revenue derived from the purchase of fishing licenses and registration of watercraft;
7. the amount of funding needed to manage, sustain, and improve access to and the management of non-motor vehicle activities in this state and what fundraising options are available to support non-fish-and-game and other similar activities;
8. what fee structure is most appropriate for recreational users generally, given that the benefits of non-fish-and-game programs are broader than just outfitters, who are already paying sales tax;

9. the feasibility of outfitters who pay additional fees to TDEC and TWRA receiving a credit on the sales tax paid on such fees and whether the local option sales tax should be included in the credit; and
10. what measures TDEC and TWRA can implement to improve their strategic plans, their organizational structures, and the oversight and sustainability of non-fish-and-game-related recreational activities.

Define the Problem

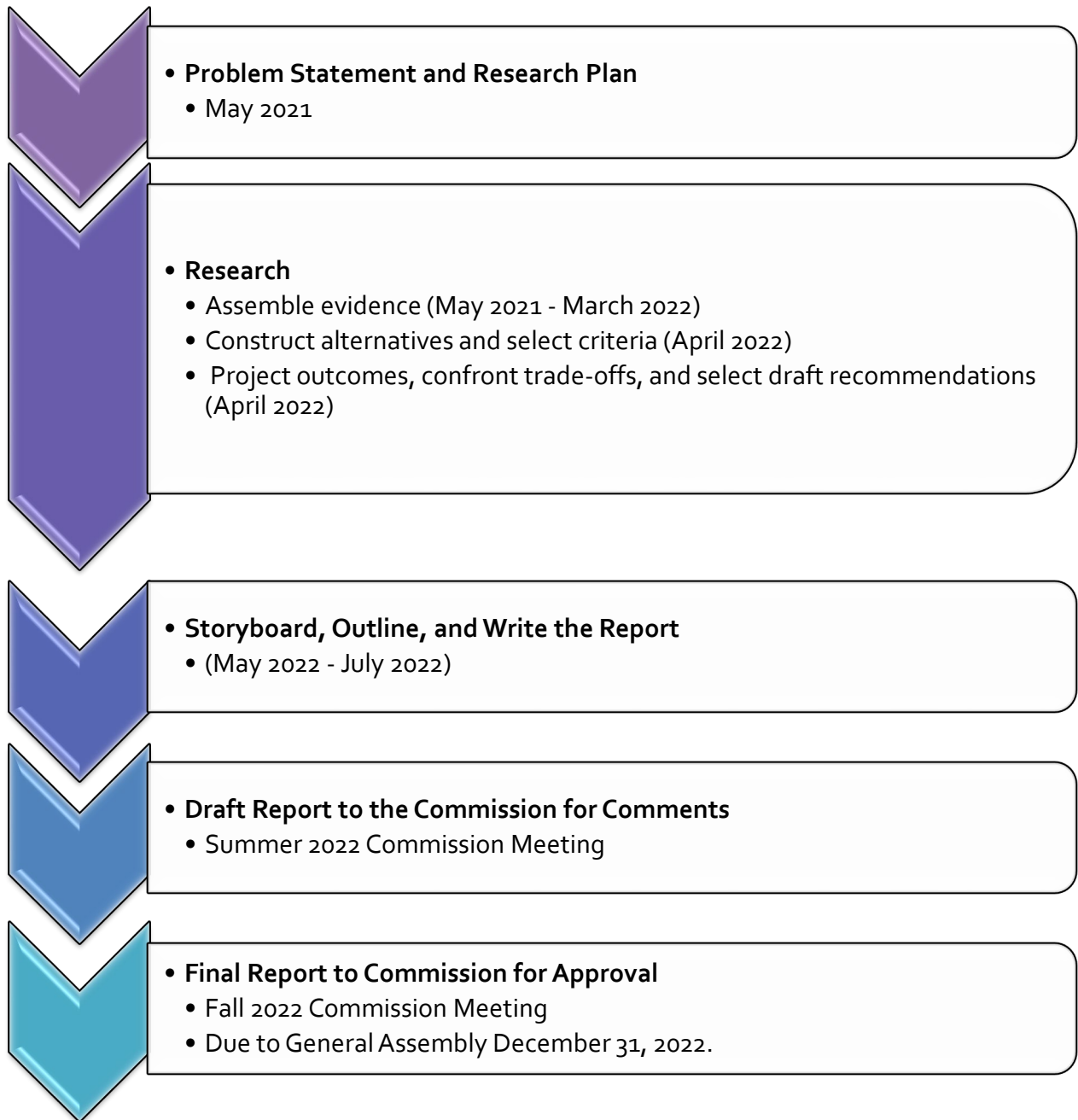
If the trends in recreational use of Tennessee's waterways continue, the state's existing management strategies and user fees might no longer support the maintenance of these water resources for continued public access and enjoyment; however, the imposition of new fees could become a burden for waterway users and the businesses that support them, for example, if those fees result in users paying twice for the same services.

Assemble Some Evidence

- Review referred legislation, Public Chapter 497, Acts of 2021, to determine what it directs the Commission to study.
 - Interview the sponsors of the legislation and any other members of the General Assembly who have an interest in the bill.
 - Review committee hearings on the bill and summarize comments and concerns of committee members, the bill sponsors, and others speaking for or against the bill.
 - Review similar bills from previous general assemblies, including relevant committee hearings.
 - Review the fiscal note. Consult with the Fiscal Review Committee and follow up with agencies submitting support forms to determine the estimated cost, method, and rationale.
- Interview stakeholders to determine what is driving the issue. These include but are not limited to representatives of
 - Tennessee Wildlife Resources Agency,
 - Tennessee Department of Environment and Conservation,
 - Tennessee Paddlesports Association,
 - Tennessee Scenic River Association,
 - Tennessee Wildlife Federation,

- Organization(s) representing commercial and non-commercial motorized watercraft users, and the
 - Commercial Paddle Craft Advisory Committee.
- Review Tennessee’s statutes and regulations relevant to water resource funding, management, and protection; water recreation and safety; and other topics relevant to the study.
- Review industry information from commercial outfitters, guides, vendors, and others.
- Review existing efforts, including those of nonprofit organizations in Tennessee, aimed to address this issue.
- Gather relevant data sets, including statistics related to users of water resources, permits, collection of fees and taxes—including the annual fees and taxes charged to paddle craft and commercial outfitters in the previous four fiscal years, and agency revenue and spending.
- Review relevant federal statutes and regulations.
- Review similar laws, regulations, and initiatives in other states.
- Review relevant literature.

Proposed Research Timeline





State of Tennessee

PUBLIC CHAPTER NO. 497

SENATE BILL NO. 1080

By Roberts, Rose, Pody

Substituted for: House Bill No. 1389

By Todd, Reedy, Hurt

AN ACT to amend Tennessee Code Annotated, Title 4; Title 69 and Title 70, relative to recreational activities.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1.

(a) The Tennessee advisory commission on intergovernmental relations (TACIR) is directed to perform a study of the following:

(1) Procedural and financial measures necessary to accommodate the increased demand for non-fish and game recreational activities and the resources required to manage such activities by the department of environment and conservation and the Tennessee wildlife resources agency (TWRA);

(2) How TWRA-managed resources are being utilized by non-motorized vessels for non-fish and game related recreational activities, such as paddle boarding, canoeing, tubing, and kayaking;

(3) The accessibility to and funding for all non-fish and game recreational activities;

(4) The annual fees and taxes charged to paddle craft and commercial outfitters in the previous four (4) fiscal years;

(5) Any duplicative fees charged by the department of environment and conservation and the TWRA, and what action may be taken to eliminate such duplicity in fee structures and their regulatory authority generally;

(6) The extent to which customers of non-motorized vessels contribute to revenue derived from the purchase of fishing licenses and registration of watercraft;

(7) The amount of funding needed to manage, sustain, and improve access to and the management of non-motor vehicle activities in this state and what fundraising options are available to support non-fish and game and other similar activities;

(8) What fee structure is most appropriate for recreational users generally, given that the benefits of non-fish and game programs are broader than just outfitters, who are already paying sales tax;

(9) The feasibility of outfitters who pay additional fees to the department of environment and conservation and the TWRA receiving a credit on the sales tax paid on such fees and whether the local option sales tax should be included in the credit; and

(10) What measures the department of environment and conservation and the TWRA can implement to improve their strategic plans, their organizational structures, and the oversight and sustainability of non-fish and game related recreational activities.

(b) All appropriate state departments and agencies shall provide assistance to TACIR in connection with the study required by subsection (a).

(c) TACIR shall submit a report disclosing the findings of the study and recommendations, including any proposed legislation or interim reports, to the general assembly no later than December 31, 2022.

(d) This section is repealed on January 1, 2023.

SECTION 2. This act takes effect upon becoming a law, the public welfare requiring it.

SENATE BILL NO. 1080

PASSED: May 4, 2021



RANDY McNALLY
SPEAKER OF THE SENATE



CAMERON SEXTON, SPEAKER
HOUSE OF REPRESENTATIVES

APPROVED this 25th day of may 2021



BILL LEE, GOVERNOR