

# MICHIGAN WATERFRONT ALLIANCE, Inc.

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Spring 2007

Dear Michigan Waterfront Alliance Members, Michigan Lakes & Streams Association Members and Lake Associations ,

The following are just some of the talking points for you to use as reference when you and or your membership contact and inform the members of the House Committee on Tourism, Outdoor Recreation and Natural Resources of your **strong opposition to HB 4463 and HB 4464**

**These Road End Marina Legalization Bills will hurt Michigan's Inland Lakes.**

**Please Act Now and let each person listed know that you oppose HB4463 and HB 4464**

## **Committee Members:**

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**The Legislation Would be Unconstitutional and Could Cost the State of Michigan Millions:** While it is true that the Legislature can effectively “overturn” court decisions involving existing statutes by amending the statute, the Legislature cannot take away property rights and deprive a person or entity of property without due process and without paying compensation—that would be unconstitutional. For the overwhelming majority of road ends in Michigan, the adjoining riparian property owners own the land under the public road right-of-way/easement to the center thereof. See *Shell Oil v Village of Kalkaska*, 433 Mich 348 (1989); *Morrow v Bott*, 203 Mich App 324 (1994); *Loud v Brooks*, 241 Mich 452 (1928); and *Thies v Howland*, 424 Mich 282 (1985).

Imagine the law suits against the State by adjacent road end property owners that would claim a “taking”!



**The Legislation Would Be Invalid:** Just as Lyon Township at Higgins Lake could not by ordinance expand usage rights at public road ends , neither can the Michigan Legislature expand the usage rights at public road ends by legislation.

*Jacobs v Lyon Twp*, 199 Mich App 667 (1993), *Higgins Lake Property Owners Ass'n v Gerrish Twp*, 255 Mich App 83 (2003) *Lyon Township v Higgins Lake Property Owners Association*, (unpublished Michigan Court of Appeals, Case No. 265162, dated April 11, 2006)

**The Legislation Would Betray the Public Trust:** Even if the proposed legislation did meet constitutional challenges these bills would deprive the vast majority of the public of the space in the water at public road ends that allows the public to go into and out of the water. The little kids would now have to swim and play around a bunch of boat hoists. The people who like to fish would also be impacted. At the Committee on Tourism, Outdoor Recreation and Natural Resources hearing held on March 20, 2007 Kelly Huntsman, a representative of the Higgins Lake Civic Association, testified that when there were approx 500 boats moored at the public road ends at Higgins Lake everything was great. She is right. Everything was great for the 500 private individuals who took over the public right of way for the whole summer with their boats and hoists. It was a shame for the other 6500 near shore summer residents who accessed the lake around all those 500 private boats & hoists. This legislation would create a Circus Coney Island like atmosphere on all the lakes in Michigan that have roads dedicated to the Public leading to the shore. According to an attorney who helped write the proposed Bills “all the Bill’s supporters want this Bill to do is to allow private hoists to be placed at the Public road ends in Michigan” This is why the Michigan Townships Association oppose these Bills as does the DEQ.

**If a Township Wants to Create a Marina:** To create a legitimate marina, all the township has to do is buy lakeshore property and get a DEQ Marina Operating Permit. Part of the DEQ permitting process ensures sound water and lake shore management including balancing the needs of the public and the private waterfront owners. If these Bills Pass it would be devastating to Michigan’s legitimate marina operators and wreck havoc on the environment of Michigan’s Inland Lakes!

**These Bills Would be Unworkable:** Under this legislation, townships could “subcontract” with private neighborhood associations and individuals, who would then operate the “marinas” at public road ends. It is not difficult to predict how that would work out. The friends and supporters of the township supervisor and township board would most likely be the ones who end up with free seasonal wet storage at public road ends.

**The Legislation would create commercial activities in mostly single family residentially zoned communities:** How would you like it if your township decided to make a seasonal RV Parking lot on the road in front of your house?

For further information please contact: Nikki McCord C/O Scofes & Associates , 535 North Capitol Avenue Lansing, Michigan 48933 P: (517) 485-5536 F: (517) 485-2550 or Bob Frye C/O Michigan Waterfront Alliance, Box 346, Three Rivers, MI 49093 Phone: 269 273 8200 or 517 403 3947

To make our communications more efficient please email your email address to: [skibones@aol.com](mailto:skibones@aol.com)  
**In the subject please write: Riparian**

Thank you,

Bob Frye  
President, Michigan Waterfront Alliance