



February 13, 2019

SENATE BILL No. 581

DIGEST OF SB 581 (Updated February 11, 2019 1:48 pm - DI 129)

Citations Affected: IC 14-8; IC 14-10.

Synopsis: Lake Michigan shore zone administrative rules. Defines "Lake Michigan shore zone" as the land between the ordinary high water mark of Lake Michigan and the lakeside property line of a privately owned lot or tract of land described by metes and bounds. Provides that a Lake Michigan shore zone includes a seawall constructed on the lakeside property line of a privately owned lot or tract of land described by metes and bounds. Authorizes the natural resources commission (commission) to adopt rules concerning: (1) the movement of sand across a Lake Michigan shore zone through natural forces or otherwise and the return of the sand to the Lake Michigan shore; (2) the flow of water, including water from a source on a privately owned lot or tract of land, across a Lake Michigan shore zone; (3) permitting and specifications for any maintenance, construction, or another similar activity in the Lake Michigan shore zone related to beach grooming, sea walls, revetments, secondary erosion control, and retaining walls; and (4) other matters relating to the use of Lake Michigan shore zones. Provides that the rules adopted by the commission supersede an ordinance of a unit of local government, including a zoning ordinance, that is inconsistent with the adopted rules.

Effective: July 1, 2019.

Doriot

January 14, 2019, read first time and referred to Committee on Natural Resources.
February 12, 2019, amended, reported favorably — Do Pass.

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February 13, 2019

First Regular Session of the 121st General Assembly (2019)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2018 Regular and Special Session of the General Assembly.

SENATE BILL No. 581

A BILL FOR AN ACT to amend the Indiana Code concerning natural resources.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 14-8-2-289, AS AMENDED BY P.L.82-2005,
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2019]: Sec. 289. "Unit of local government", for purposes of
4 **IC 14-10-4**, IC 14-12-1, and IC 14-22-10, means a:
5 (1) county;
6 (2) city;
7 (3) town; or
8 (4) township;
9 located in Indiana.
10 SECTION 2. IC 14-10-4 IS ADDED TO THE INDIANA CODE AS
11 A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
12 1, 2019]:
13 **Chapter 4. Commission Authority Over Lake Michigan Shore**
14 **Zones**
15 **Sec. 1. This chapter applies to:**
16 (1) **a privately owned lot; or**
17 (2) **a privately owned tract of land described by metes and**

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- 1 **bounds;**
 2 **only if there is no other privately owned lot or tract of land**
 3 **described by metes and bounds located between the lot or tract and**
 4 **the Lake Michigan shore.**
 5 **Sec. 2. As used in this chapter, "Lake Michigan" refers to the**
 6 **waters of Lake Michigan that are within Indiana.**
 7 **Sec. 3. As used in this chapter, "Lake Michigan shore" means**
 8 **the land along the edge of Lake Michigan between:**
 9 **(1) the waters of Lake Michigan; and**
 10 **(2) the ordinary high water mark.**
 11 **Sec. 4. (a) As used in this chapter, "Lake Michigan shore zone"**
 12 **means the land between:**
 13 **(1) the ordinary high water mark of Lake Michigan; and**
 14 **(2) the lakeside property line of:**
 15 **(A) a privately owned lot; or**
 16 **(B) a privately owned tract of land described by metes and**
 17 **bounds;**
 18 **that adjoins the Lake Michigan shore.**
 19 **(b) The term includes any seawall constructed on the lakeside**
 20 **property line of a privately owned lot or tract of land described by**
 21 **metes and bounds.**
 22 **Sec. 5. As used in this chapter, "lakeside property line" means**
 23 **the property line of:**
 24 **(1) a privately owned lot; or**
 25 **(2) a privately owned tract of land described by metes and**
 26 **bounds;**
 27 **on the side on which the lot or tract is nearest to the Lake Michigan**
 28 **shore.**
 29 **Sec. 6. (a) As used in this chapter, "ordinary high water mark"**
 30 **means the natural line on the bank of Lake Michigan that is:**
 31 **(1) established by the fluctuations of water; and**
 32 **(2) indicated by certain physical characteristics, including one**
 33 **(1) or more of the following:**
 34 **(A) A clear and natural line impressed on the bank or**
 35 **shore.**
 36 **(B) Shelving.**
 37 **(C) Changes in the soil's character.**
 38 **(D) The absence of terrestrial vegetation.**
 39 **(E) The presence of litter or debris deposited by a natural**
 40 **process.**
 41 **(b) Where, at a particular site, due to natural conditions or**
 42 **manmade alterations, the physical characteristics set forth in**



1 subsection (a)(2)(A) through (a)(2)(E) or a sufficient combination
 2 of those characteristics cannot be determined, the location of the
 3 ordinary high water mark may be extrapolated from the location
 4 of the physical characteristics on unaltered neighboring or
 5 reasonably nearby shore.

6 (c) If the physical characteristics set forth in subsection
 7 (a)(2)(A) through (a)(2)(E) cannot be determined on a particular
 8 site and also cannot be determined on any unaltered neighboring
 9 or reasonably nearby shore, the commission may determine the
 10 ordinary high water mark location by reference to a fixed
 11 elevation.

12 **Sec. 7.** As used in this chapter, "privately owned lot" means a
 13 distinct parcel of land, including any improvements located on the
 14 land, that is owned by:

- 15 (1) one (1) or more individuals;
- 16 (2) a trust;
- 17 (3) a corporation; or
- 18 (4) another entity other than the government of the United
 19 States, the state of Indiana, or a unit of local government.

20 **Sec. 8.** As used in this chapter, "seawall" means a wall that is
 21 located on the lakeside property line of a privately owned lot or
 22 privately owned tract of land described by metes and bounds.

23 **Sec. 9.** The commission may adopt rules under IC 4-22-2
 24 concerning the following:

- 25 (1) The movement of sand across a Lake Michigan shore zone
 26 through natural forces or otherwise, and the return of the
 27 sand to the Lake Michigan shore.
- 28 (2) The flow of water, including water from a source on a
 29 privately owned lot or privately owned tract of land described
 30 by metes and bounds, across a Lake Michigan shore zone.
- 31 (3) Permitting and specifications for any maintenance,
 32 construction, or another similar activity in the Lake Michigan
 33 shore zone related to:
 - 34 (A) beach grooming;
 - 35 (B) seawalls;
 - 36 (C) revetments;
 - 37 (D) secondary erosion control; and
 - 38 (E) retaining walls.
- 39 (4) Other matters relating to the use of Lake Michigan shore
 40 zones.

41 **Sec. 10.** The rules adopted by the commission under this chapter
 42 supersede an ordinance of a unit of local government, including an



1 ordinance adopted under IC 36-7-4, that is inconsistent with the
2 rules adopted under this chapter.

3 Sec. 11. This chapter does not limit the use of the Lake Michigan
4 shore zone by the owner of a privately owned lot or privately
5 owned tract of land described by metes and bounds:

- 6 (1) for ordinary recreational purposes; or
7 (2) to gain access to Lake Michigan.



COMMITTEE REPORT

Madam President: The Senate Committee on Natural Resources, to which was referred Senate Bill No. 581, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 2, line 29, after "Sec. 6." insert "(a)".

Page 2, between lines 40 and 41, begin a new paragraph and insert:

"(b) Where, at a particular site, due to natural conditions or manmade alterations, the physical characteristics set forth in subsection (a)(2)(A) through (a)(2)(E) or a sufficient combination of those characteristics cannot be determined, the location of the ordinary high water mark may be extrapolated from the location of the physical characteristics on unaltered neighboring or reasonably nearby shore.

(c) If the physical characteristics set forth in subsection (a)(2)(A) through (a)(2)(E) cannot be determined on a particular site and also cannot be determined on any unaltered neighboring or reasonably nearby shore, the commission may determine the ordinary high water mark location by reference to a fixed elevation."

Page 3, between lines 17 and 18, begin a new line block indented and insert:

"(3) Permitting and specifications for any maintenance, construction, or another similar activity in the Lake Michigan shore zone related to:

- (A) beach grooming;**
- (B) seawalls;**
- (C) revetments;**
- (D) secondary erosion control; and**
- (E) retaining walls."**

Page 3, line 18, delete "(3)" and insert "(4)".

and when so amended that said bill do pass.

(Reference is to SB 581 as introduced.)

GLICK, Chairperson

Committee Vote: Yeas 8, Nays 0.

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