



Reprinted
February 20, 2019

SENATE BILL No. 581

DIGEST OF SB 581 (Updated February 19, 2019 5:53 pm - DI 128)

Citations Affected: IC 14-8; IC 14-10; IC 34-30; noncode.

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. Defines "ordinary high water mark". 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
(Continued next page)

Effective: July 1, 2019.

**Doriot, Garten, Perfect,
Randolph Lonnie M**

January 14, 2019, read first time and referred to Committee on Natural Resources.
February 12, 2019, amended, reported favorably — Do Pass.
February 19, 2019, read second time, amended, ordered engrossed.

SB 581—LS 7320/DI 55



Digest Continued

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. Provides that a person who goes on the property of another for the purpose of: (1) going to or departing Lake Michigan public trust land; or (2) going to another destination upon leaving Lake Michigan public trust land; does not have assurance that the property is safe for the purpose, and the owner of the property is immune from liability, with certain exceptions, for an injury to a person or property caused by an act or omission of another person using the property.



Reprinted
February 20, 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

SB 581—LS 7320/DI 55



- 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. As used in this chapter, "ordinary high water mark"**
 30 **means:**
 31 **(1) the line on the shore of Lake Michigan that is five hundred**
 32 **eighty-one and five tenths (581.5) feet above sea level; or**
 33 **(2) the natural line on the bank of Lake Michigan that is**
 34 **established by the fluctuations of water and indicated by**
 35 **certain physical characteristics, including the following:**
 36 **(A) A clear and natural line impressed on the bank or**
 37 **shore.**
 38 **(B) Shelving.**
 39 **(C) Changes in the soil's character.**
 40 **(D) The absence of terrestrial vegetation.**
 41 **(E) The presence of litter or debris deposited by a natural**
 42 **process.**



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

- 4 **(1) one (1) or more individuals;**
 5 **(2) a trust;**
 6 **(3) a corporation; or**
 7 **(4) another entity other than the government of the United**
 8 **States, the state of Indiana, or a unit of local government.**

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

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

14 **(1) The movement of sand across a Lake Michigan shore zone**
 15 **through natural forces or otherwise, and the return of the**
 16 **sand to the Lake Michigan shore.**

17 **(2) The flow of water, including water from a source on a**
 18 **privately owned lot or privately owned tract of land described**
 19 **by metes and bounds, across a Lake Michigan shore zone.**

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

- 23 **(A) beach grooming;**
 24 **(B) seawalls;**
 25 **(C) revetments;**
 26 **(D) secondary erosion control; and**
 27 **(E) retaining walls.**

28 **(4) Other matters relating to the use of Lake Michigan shore**
 29 **zones.**

30 **Sec. 10. The rules adopted by the commission under this chapter**
 31 **supersede an ordinance of a unit of local government, including an**
 32 **ordinance adopted under IC 36-7-4, that is inconsistent with the**
 33 **rules adopted under this chapter.**

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

- 37 **(1) for ordinary recreational purposes; or**
 38 **(2) to gain access to Lake Michigan.**

39 **SECTION 3. IC 34-30-19.5 IS ADDED TO THE INDIANA CODE**
 40 **AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY**
 41 **1, 2019]:**

42 **Chapter 19.5. Immunity of Owner of Property Near Lake**



1 **Michigan Public Trust Land**

2 **Sec. 1. As used in this chapter, "Lake Michigan public trust**
 3 **land" means land adjoining Lake Michigan to which the state of**
 4 **Indiana holds legal title in trust for the recreational use of the**
 5 **public.**

6 **Sec. 2. As used in this chapter, "owner" means a person that:**

- 7 (1) has a fee interest in;
 8 (2) is a tenant, lessee, or occupant of; or
 9 (3) is otherwise legally in control of;

10 **a property.**

11 **Sec. 3. As used in this chapter, "property" means a tract of land,**
 12 **including the buildings and improvements on the land.**

13 **Sec. 4. (a) Except as provided in subsection (d), a person who**
 14 **goes upon the property of another with or without permission for**
 15 **the purpose of:**

- 16 (1) going to or departing Lake Michigan public trust land; or
 17 (2) going to another destination upon leaving Lake Michigan
 18 public trust land;

19 **does not have assurance that the property is safe for the purpose.**

20 **(b) The owner of the property does not:**

- 21 (1) assume responsibility; or
 22 (2) incur liability;

23 **for an injury to a person or property caused by an act or omission**
 24 **of another person using the property.**

25 **(c) This section does not affect the following:**

26 (1) Existing Indiana case law on the liability of property
 27 owners with respect to:

- 28 (A) business invitees in commercial establishments; or
 29 (B) invited guests.

30 (2) The attractive nuisance doctrine.

31 **(d) Subsection (a) does not apply to personal injury, death,**
 32 **property damage, or other loss caused by the property owner's**
 33 **intentional misconduct.**

34 **SECTION 4. [EFFECTIVE JULY 1, 2019] (a) IC 34-30-19.5, as**
 35 **added by this act, applies to personal injury, death, property**
 36 **damage, or other loss that occurs after June 30, 2019.**

37 **(b) This SECTION expires July 1, 2020.**



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.

SB 581—LS 7320/DI 55



SENATE MOTION

Madam President: I move that Senate Bill 581 be amended to read as follows:

Page 2, delete lines 29 through 42.

Page 3, delete lines 1 through 11, begin a new paragraph and insert:

"Sec. 6. As used in this chapter, "ordinary high water mark" means:

(1) the line on the shore of Lake Michigan that is five hundred eighty-one and five tenths (581.5) feet above sea level; or

(2) the natural line on the bank of Lake Michigan that is established by the fluctuations of water and indicated by certain physical characteristics, including the following:

(A) A clear and natural line impressed on the bank or shore.

(B) Shelving.

(C) Changes in the soil's character.

(D) The absence of terrestrial vegetation.

(E) The presence of litter or debris deposited by a natural process."

(Reference is to SB 581 as printed February 13, 2019.)

DORIOT

 SENATE MOTION

Madam President: I move that Senate Bill 581 be amended to read as follows:

Page 4, after line 7, begin a new paragraph and insert:

"SECTION 3. IC 34-30-19.5 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]:

Chapter 19.5. Immunity of Owner of Property Near Lake Michigan Public Trust Land

Sec. 1. As used in this chapter, "Lake Michigan public trust land" means land adjoining Lake Michigan to which the state of Indiana holds legal title in trust for the recreational use of the public.

Sec. 2. As used in this chapter, "owner" means a person that:

(1) has a fee interest in;

(2) is a tenant, lessee, or occupant of; or

SB 581—LS 7320/DI 55



**(3) is otherwise legally in control of;
a property.**

Sec. 3. As used in this chapter, "property" means a tract of land, including the buildings and improvements on the land.

Sec. 4. (a) Except as provided in subsection (d), a person who goes upon the property of another with or without permission for the purpose of:

- (1) going to or departing Lake Michigan public trust land; or**
- (2) going to another destination upon leaving Lake Michigan public trust land;**

does not have assurance that the property is safe for the purpose.

(b) The owner of the property does not:

- (1) assume responsibility; or**
- (2) incur liability;**

for an injury to a person or property caused by an act or omission of another person using the property.

(c) This section does not affect the following:

(1) Existing Indiana case law on the liability of property owners with respect to:

- (A) business invitees in commercial establishments; or**
- (B) invited guests.**

(2) The attractive nuisance doctrine.

(d) Subsection (a) does not apply to personal injury, death, property damage, or other loss caused by the property owner's intentional misconduct.

SECTION 4. [EFFECTIVE JULY 1, 2019] (a) IC 34-30-19.5, as added by this act, applies to personal injury, death, property damage, or other loss that occurs after June 30, 2019.

(b) This SECTION expires July 1, 2020."

Renumber all SECTIONS consecutively.

(Reference is to SB 581 as printed February 13, 2019.)

PERFECT

