



**Long Beach Community Alliance**



**Save the Dunes**

**For Immediate Release: February 27, 2019**

**Contact:**

**PATRICIA SHARKEY, LONG BEACH COMMUNITY ALLIANCE, 773-578-0089, PSHARKEY@E-LAWCOUNSEL.COM**

**NATALIE JOHNSON, SAVE THE DUNES, 219-879-3564 X 122, NATALIE@SAVEDUNES.ORG**

## **SB 581: Indiana Senate Adopts a Bill That Will Trample Municipal and Public Rights on the Lake Michigan Shore**

MICHIGAN CITY, IND. – The Long Beach Community Alliance and Save the Dunes – two not-for-profit organizations fighting to protect the rights of all Indiana citizens to use the Lake Michigan beach – warn that Indiana Senate Bill 581 poses a grave danger for the Indiana public’s rights on the shoreline as well as the management of upland dunes, affecting more than just Lake Michigan’s coastal communities.

Coming on the heels of the news from the U.S. Supreme Court— which affirmed the Indiana Supreme Court’s landmark ruling in *Gunderson v. State* that the State of Indiana owns the Lake Michigan shore in trust for the public—the Indiana Senate on February 21 adopted SB 581 which threatens to undo that decision and put the public’s right to use and enjoy the shore in jeopardy.

Having lost at every level of litigation from the trial court to the U.S. Supreme Court, the same wealthy lakefront home-owners, developers, and out-of-state public trust challengers, such as the Pacific Legal Foundation, who funded the *Gunderson* litigation are now funding a lobbying effort behind SB 581 in the General Assembly to circumvent the *Gunderson* decision and, by a backdoor, are again trying to privatize the Lake Michigan public trust beach and to open it to reckless development.

SB 581 creates a new and confusing unregulated “zone” on the Lake Michigan shore. This “zone” would extend both above the ordinary high water mark onto municipally owned lots, park land, and dunes and below the ordinary high water mark onto the public beach.

The bill expressly grants “private property owners” the exclusive right to private construction – including more vertical seawalls that contribute to beach erosion – and recreational activities on these public lands. It also redefines the historic “ordinary high water mark,” in direct contravention of the Indiana Supreme Court’s ruling and federal law, to rely upon an arbitrary and invisible elevation on the beach which would greatly reduce the State-owned public trust shore and engender more confusion and litigation.

“Right now, Hoosiers need to be asking their elected representatives — Will they respect the law, local government control, and Hoosier’s historic rights to enjoy the Lake Michigan shore? Or will those elected representatives enact a radical bill like SB 581 that would give away the Indiana Lake Michigan shore to a privileged few, trample over public rights and the Indiana Supreme Court’s decision, and undermine coastal communities’ authority to protect our parks and beaches?”, says Patricia Sharkey, member of the Long Beach Community Alliance, which has actively been fighting for the public’s right to traditional recreation uses of the shores of Lake Michigan.

Granting only adjacent private property owners a private right to use public land is in direct contravention of the *Gunderson* decision, violates the Equal Protection Clause of the U.S. Constitution, and also violates the Public Trust Doctrine. Furthermore, Senate Bill 581 strips local governments of the authority to protect their own municipal parks and dune property and to apply zoning laws within their jurisdiction.

What began as a quietly introduced proposal expecting to go under the radar, SB 581 has now passed the Indiana Senate and is making its way to the House for hearing, raising heightened concerns from municipalities, the public and environmental organizations.

Natalie Johnson, Executive Director of Save the Dunes, warns “Senate Bill 581 threatens to remove the ordinances Indiana’s coastal communities have adopted to maintain the natural dune buffer, limit erosion, and deter destructive development activities, such as the trampling of dune vegetation and leveling of the dune topography. Essentially, the bill strips local governments of the authority to protect their own municipal parks and dune property and to apply zoning laws within their jurisdiction. This opens a whole new threat to such a critical asset to our state.”

In contrast to SB 581, another bill, Senate Bill 553, which also just passed out of the Senate on Monday, would preserve both public and private rights. It responds to the Indiana Supreme Court’s call for the General Assembly to enumerate the types of recreational uses that are traditional and ordinary on the Lake Michigan beach and are protected under the Public Trust Doctrine.

SB 553 – the public beach rights bill - would not touch local government authority above the Ordinary High Water Mark and would allow the Indiana Department of Natural Resources (Indiana DNR) to delegate “time, place and manner” regulatory authority – regulating things like bon fires, dog walking, fireworks, and motorized vehicles on the beach - to the coastal local governments best able to police the beaches below the Ordinary High Water Mark.

While both SB 581 and SB 553 will be heard in the Indiana House in the near future, it is essential to note the two have extremely different impacts of the Lake Michigan shore and Hoosier’s rights to use the shore.

After five years of litigation, Long Beach Community Alliance and Save the Dunes believe the public’s rights on the public trust shore of Lake Michigan are a matter of settled state and federal law and it is imperative that Hoosiers speak out against SB 581.

*The Long Beach Community Alliance is a not-for-profit community organization supported by hundreds of residents of the Town of Long Beach, Indiana, a historic beachside community on the shore of Lake Michigan. One of the missions of the LBCA is to protect the rights of all Long Beach residents and members of the public to their historic use and enjoyment of Indiana's Lake Michigan shore.*

*Established in 1952, the mission of Save the Dunes is to preserve, protect and restore the Indiana dunes and all natural resources in Northwest Indiana's Lake Michigan Watershed for an enhanced quality of life.*

###