



## WISCONSIN LEGISLATIVE COUNCIL ACT MEMO

**2013 Wisconsin Act 140**  
[2013 Assembly Bill 655]

**Lake Michigan Shoreline in the  
City of Milwaukee**

2013 Wisconsin Act 140 establishes the shoreline of Lake Michigan in the area of the City of Milwaukee along a line that extends from approximately the line of East Lafayette Place extended easterly on the north to the present north harbor entrance wall of the Milwaukee River on the south. The Act states that the declarations regarding the boundary line are made in lieu of, and have the same effect as, a final judgment entered by a court in an action claiming an interest in real property. The Act also makes any restrictions, conditions, reverters, or limitations on conveyances of land made by the Legislature over time inapplicable to land west of that boundary.

In addition, the Act sets forth certain legislative findings in a nonstatutory provision. Together, the findings provide an argument that the boundary line established under the Act is constitutional under the Public Trust Doctrine. Among other information, the findings state the following with regard to the boundary line established under the Act:

- According to the best available evidence, the boundary line is the location of the natural and historical shoreline of Lake Michigan.
- Various public and private parties have relied on the boundary since 1913.
- All land lying westerly of the boundary line has been conveyed by deed, including by deeds conveyed by the state to Milwaukee County.
- The boundary line has been explicitly recited in past legislative enactments.
- Maps prepared by the Wisconsin Department of Natural Resources (DNR) and the U.S. Army Corps of Engineers depict the Lake Michigan shoreline as established by the boundary line.

---

This memo provides a brief description of the Act. For more detailed information, consult the text of the law and related legislative documents at the Legislature's Web site at: <http://www.legis.wisconsin.gov>.

In addition, the findings describe the circumstances surrounding the transfer of a seven-acre parcel from the City of Milwaukee to the Chicago and Northwestern Railway Company in 1913. The findings note that the land conveyed to the railroad company was submerged at the time it was conveyed, but suggest that the submerged area might have been created by a manmade breakwater and thus was not original lakebed. In addition, the findings state that the submerged area is not Lake Michigan lakebed because it had become, or shortly would have become, upland owned by the railroad by the process of accretion.

If, despite the evidence described in the findings, a court finds that the seven-acre area conveyed to the railroad company was Lake Michigan lakebed at the time it was conveyed, then the findings argue that the land was nonetheless legally conveyed. Specifically, the findings assert that the Legislature, in conveying the property in 1913, exercised valid authority as trustee for the waters of the state under the Public Trust Doctrine. The findings argue that the Legislature did so by conveying a nominal area of lakebed to a private party for a purpose that furthered the public trust and that was part of a larger scheme that was purely public in nature. To support the conclusion that the conveyance was legally valid if made for a public purpose, the findings cite a 1927 case, *City of Milwaukee v. Wisconsin*, 214 N.W. 820 (1927), in which the Wisconsin Supreme Court upheld the conveyance of lakebed to a private company as part of a project to construct an outer harbor in the City of Milwaukee. The findings then present various facts to support the assertion that the conveyance to the railroad company advanced a public purpose and did not materially affect the rights of the public in the use of Lake Michigan.

Finally, the findings provide an exception from a general reporting requirement. Generally, the DNR must prepare a report within 15 days after legislation is introduced that conveys lakebed (or amends a prior conveyance of lakebed). The findings state that the DNR is not required to prepare such a report with respect to the establishment of shoreline under the Act.

**Effective date:** The Act took effect on March 19, 2014.

**Prepared by:** Anna Henning, Staff Attorney

March 24, 2014

AH:jb;jal