



# Legislative Update

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## Governor Signs Part 307 Lake Levels Bill

On July 23, Governor Whitmer signed Senate Bill 662 into law as Public Act 112 of 2024. The Act updates Part 307 of the Natural Resources and Environmental Protection Act (“Part 307”), which governs inland lake levels throughout the state. Under Part 307, a court can set a “normal level” for a lake, and the county where the lake is located then has jurisdiction to operate and maintain that level. The day-to-day responsibilities for the lake level are generally assigned to a “delegated authority” for the county, which is often the county drain or water resources commissioner.

Senate Bill 662 was originally introduced in response to the Court of Appeals opinion in *Citizens for Higgins Lake Legal Levels v. Roscommon County Board of Commissioners*, which held that a normal level under Part 307 must be **strictly maintained**. The opinion left no room for variations in a normal level due to things like heavy rainfall, drought, etc., unless they are explicitly allowed in the lake level order set by the court.

This was problematic for counties across the state, as many historical lake level orders are decades old and set a single, static normal level. The

passage of Senate Bill 662 corrects the issue created by the *Higgins Lake* case by amending the definition of a normal level under Part 307 to allow for lake level fluctuations due to things like weather or natural conditions, construction, and operation of lake level infrastructure.

Senate Bill 662 also addresses financing issues in Part 307, including:

- 1) Exempting lake level districts from the Revised Municipal Finance Act’s election requirement for financing over a certain amount; and
- 2) Updating Part 307’s interim borrowing language and allowing special assessment districts/counties to pledge full faith and credit for a borrowing.

These financing updates will help ensure counties can obtain the financing necessary to complete lake level projects.

The MACDC was the driving force behind Senate Bill 662, and MACDC representatives testified in both the House of Representatives and the Senate regarding the legislation.

## Legislation of Interest

The following bills of interest to Drain Commissioners and Associate Members are currently pending before the Legislature. Full text and up-to-date action for each bill can be found online on the Legislature’s website at [www.legislature.mi.gov](http://www.legislature.mi.gov).

### Drain Code Legislation

**HB 4770** House Bill 4770 was introduced by Representative Hill on June 15, 2023. If enacted, the bill would amend sections 74 and 381 of the Drain Code to “clean up” the statutory language and include gender neutral language. House Bill 4770 was referred to the House Committee on Government Operations.

**HBs 4382 & 4383** House Bills 4382 and 4383 were introduced by Representatives Morse and VanderWall, respectively, on April 12, 2023. If enacted, the bills would amend Chapter 22 of the Drain Code to allow for stormwater management at the watershed level. HBs 4382 and 4383 were referred to the House Committee on Local Government and Municipal Finance.

**HB 5188** House Bill 5188 was introduced by Representative O’Neal on October 24, 2023. If enacted, HB 5188 would increase the annual non-petitioned drain maintenance limit to \$10,000 per mile of drain with an annual adjustment for inflation. A substitute for HB 5188 was passed by the

House and referred to the Senate Committee on Local Government.

**HB 5189** House Bill 5189 was introduced by Representative Bezotte on October 24, 2023. The bill would amend the process for adding or removing a county to a drainage district under Sections 135 and 197 of the Drain Code to create consistency with other sections of the Drain Code. HB 5189 was passed by the House and referred to the Senate Committee on Local Government.

**HB 5190** House Bill 5190 was introduced by Representative Hill on October 24, 2023. If enacted, HB 5190 would replace instances of “per diem” in the Drain Code with “reasonable compensation” and “necessary expenses” in order to clarify the difference between reimbursement for expenses and compensation for service. HB 5190 was passed by the House and referred to the Senate Committee on Local Government.

**HB 5335** House Bill 5335 was introduced by Representative Andrews on November 11, 2023. If enacted, HB 5335 would amend the Drain Code to allow assessment of lands owned or controlled by the Michigan Department of Natural Resources. HB 5335 was referred to the House Committee on Local Government and Municipal Finance.

**HB 5738** House Bill 5738 was introduced by Representative Paiz on May 23, 2024. If enacted, HB 5738 would update the membership of a Section 514 drainage board in cases where the project involves two charter counties, one of those counties has an appointed rather than elected drain commissioner and a population of 1,000,000 or more, and the only municipalities subject to assessment are three cities. HB 5738 was referred to the House Committee on Local Government and Municipal Finance.

### Other Legislation

**SB 15 & HB 4041** Senate Bill 15 and House Bill 4041 were introduced by Senator Theis and Representative Steele, respectively, on January 17 and January 24, 2023. These bills would prohibit state and local office holders and employees from using TikTok on electronic devices that are owned, managed, or controlled by the state or local government. The bills have been referred to the Senate Committee on Labor and the House Committee on Regulatory Reform.

**SB 154 & HB 4220** Senate Bill 154 and House Bill 4220 were introduced by Senator Webber and Representative Tisdell, respectively, on March 8, 2023. The identical bills would amend the Freedom of Information Act’s definition of “public record” to include records prepared, owned, used, in the possession of, or retained by an officer, employee, contractor, volunteer, or other agent of the public body in the scope of their duties to the public body. SB 154 has been referred to the Senate Committee on Civil Rights, Judiciary,

and Public Safety, and HB 4220 was referred to the House Committee on Judiciary.

**HB 4428** House Bill 4428 was introduced by Representative Coleman on April 19, 2023. HB 4428 would create a new act entitled the “local government public notice act,” which would set forth specific methods and requirements for local governments and other governmental entities to provide certain public notices. HB 4428 was referred to the House Committee on Local Government and Municipal Finance.

**SBs 299, 300 & HBs 4479, 4480** Senate Bills 299 and 300 were introduced by Senator Singh and House Bills 4479 and 4480 were introduced by Representative Skaggs and Representative Rheingans, respectively, on April 27, 2023. If enacted, the sets of tie-barred bills would amend the Public Health Code to create statewide septic legislation. SBs 299 and 300 were referred to the Senate Committee on Energy and Environment, and HBs 4479 and 4480 were referred to the House Committee on Natural Resources, Environment, Tourism and Outdoor Recreation.

**SBs 393 & 394** Senate Bills 393 and 394 were introduced by Senator Bayer on June 15, 2023. If enacted, the bills would eliminate the Environmental Science Advisory Board and the Environmental Permit Review Commission and environmental permit panel relating to permits under Part 13 of NREPA. SB 393 and a substitute for SB 394 were passed by the Senate. SB 393 was read for the third time in the House and postponed temporarily. SB 394 was placed on a third reading in the House.

**HB 4817** House Bill 4817 was introduced by Representative Carter on June 15, 2023. If enacted, HB 4817 would amend the Open Meetings Act to allow electronic meetings if specific requirements are met, including attendance by at least one member of the public body in an in-person meeting location that is available to the public. HB 4817 was referred to the House Committee on Local Government and Municipal Finance.

**HB 4939** House Bill 4939 was introduced by Representative Morgan on September 5, 2023. If enacted, HB 4939 would add a Part 4 to NREPA dealing with public trust resources. The bill would require EGLE to review and update its rules regarding the protection of the public trust in the waters of the state, including groundwater. HB 4939 was referred to the House Committee on Natural Resources, Environment, Tourism and Outdoor Recreation.

**SB 480** Senate Bill 480 was introduced by Senator Hertel on September 12, 2023. If enacted, the bill would amend the Land Division Act to increase the number of parcel splits allowed for the first 10 acres of a parent parcel or tract. SB 480 would also allow a municipality to authorize additional splits by ordinance. A substitute for SB 480 was passed by

the Senate and referred to the House Committee on Local Government and Municipal Finance.

**HB 4981** House Bill 4981 was introduced by Representative BeGole on September 14, 2023. If enacted, HB 4981 would create additional eligibility requirements for the office of county sheriff. A substitute for the bill was passed by the House and referred to the Senate Committee on Elections and Ethics.

**HBs 5118 & 5119** House Bills 5118 and 5119 were introduced by Representative Hood on October 10, 2023. If enacted, the bills would authorize a local unit of government to create a property assessed clean energy program to finance projects related to renewable energy systems, energy efficiency improvements, water usage and sewage treatment improvements, air quality improvements, and environmental hazard projects. The tie-barred bills were referred to the House Committee on Energy, Communications, and Technology.

**SBs 605-611 & HBs 5241-5247** Senate Bills 605-611 were introduced by Senators Irwin, Moss, Chang, Geiss, McCann, Shink, and McMorrow on October 24, 2023, and House Bills 5241-5247 were introduced by Representatives McKinney, Morgan, Neeley, Skaggs, Arbit, Tsernoglou, and Koleszar on October 25, 2023. The bills are part of a “Polluter Pay” package that would create more stringent cleanup standards and require polluter accountability for environmental cleanup and other impacts of pollution. The Senate bills were referred to the Senate Committee on Energy and Environment, and the House bills were referred to the House Committee on Natural Resources, Environment, Tourism and Outdoor Recreation.

**SB 641** Senate Bill 641 was introduced by Senator McBroom on November 7, 2023. If enacted, SB 641 would amend the Open Meetings Act to provide requirements and procedures for remote attendance at a public meeting. SB 641 was referred to the Senate Committee on Oversight

**HB 5205 & SB 663** House Bill 5205 was introduced by Representative Dievendorf on October 24, 2023, and Senate Bill 663 was introduced by Senator Shink on November 9, 2023. If enacted, the bills would amend Part 31 of NREPA to remove the prohibition on EGLE from promulgating rules under Part 31 beyond those specifically authorized in the statute. HB 5205 was referred to the House Committee on Natural Resources, Environment, Tourism and Outdoor Recreation. SB 663 was passed by the Senate and referred to the House Committee on Natural Resources, Environ-

ment, Tourism and Outdoor Recreation on June 26, 2024. The MACDC opposes the bills.

**SBs 669 & 670** Senate Bills 669 & 670 were introduced by Senators Moss and McBroom, respectively, on November 9, 2023. If enacted, the tie-barred bills would amend the Freedom of Information Act to create provisions to apply the statute to the governor and state legislature. Substitutes for each bill were passed by the Senate and referred to the House Committee on Government Operations.

**HB 5351** House Bill 5351 was introduced by Representative Scott on November 14, 2023. If enacted, HB 5351 would amend the Freedom of Information Act to require a public body to exempt from disclosure records in connection with an investigation by an office of inspector general for a certain period following the investigation. HB 5351 was referred to the House Committee on Government Operations.

**SB 645** Senate Bill 645 was introduced by Senator Shink on November 8, 2023. If enacted, the bill would add mosquito pesticides to the list of pesticides that the MDARD must notify individuals on the Pesticide Notification Registry prior to application. It would also update the distance at which MDARD must notify a registrant from a physician recommended distance to 500 feet from the registrant’s primary residence. SB 645 was referred to the Senate Committee on Natural Resources and Agriculture.

**HBs 5419 & 5420** House Bills 5419 and 5420 were introduced by Representatives Schuette and Hoadley, respectively, on February 1, 2024. If enacted, the tie-barred bills would defer the payment of special assessments for an owner of a homestead who is 65 or older or totally and permanently disabled and who meets certain household income requirements until one year after the owner’s death or transfer of the property. HBs 5419 and 5420 were referred to the House Committee on Tax Policy.

**HB 5532** House Bill 5532 was introduced by Representative Rogers on February 29, 2024. If enacted, HB 5532 would prohibit the operation of boats in “wake sport mode” in water depths less than 20 feet and closer than 500 feet from the shoreline or dock, a raft, a designated bathing area, or a moored or anchored vessel. HB 5532 was referred to the House Committee on Natural Resources, Environment, Tourism, and Outdoor Recreation.

**SBs 785-787** Senate Bills 785, 786, and 787 were introduced by Senator Runestad on March 13, 2024. If enacted, the “sunshine bills” would create a FOIA ombudsman office

to investigate FOIA complaints and expand the definition of “public body” under both the FOIA and the Open Meetings Act. The bills were referred to the Senate Committee on Oversight.

**HB 4987** House Bill 4987 was introduced by Representative Wozniak on September 14, 2023. If enacted, HB 4987 would amend the Marketable Record Title Act to allow a property owners’ association to file a notice of claim to preserve an interest subject to expiration. The bill would also specifically exempt certain interests from extinguishment, including conservation easements, subdivision restrictions, and master deeds. HB 4987 was referred to the House Committee on Regulatory Reform.

**SB 870** Senate Bill 870 was introduced by Senator McCann on May 9, 2024. If enacted, SB 870 would amend the Open Meetings Act to allow members of public bodies to participate remotely in public meetings if they are absent due to military duty or disability. SB 870 was referred to the Senate Committee on Civil Rights, Judiciary, and Public Safety.

**PAs 7-9 of 2024** Public Acts 7, 8, and 9 of 2024 were signed into law on February 27, 2024. The Acts amend the Administrative Procedures Act to abolish the Environmental Rules Committee.

**HB 5674** House Bill 5674 was introduced by Representative Prestin on April 25, 2024. If enacted, HB 5674 would

amend the Administrative Procedures Act to create an Environmental Rules Committee to oversee EGLE’s rulemaking under the Act. HB 5674 was referred to the House Committee on Government Operations.

**PA 20 of 2024** Public Act 20 of 2024 was signed into law on March 28, 2024. The Act extends the deadline to file a notice of claim to preserve an interest subject to expiration under the Marketable Record Title Act to September 29, 2025.

**PA 201 of 2024** Public Act 201 of 2024 was signed into law on July 23, 2024. The Act allows EGLE to issue an emergency order requiring any person in violation of Part 301 to take emergency action to prevent significant harm to the public health, safety, welfare, property, natural resources, or the public trust, which could include immediate repair or removal of a structure or fill located on bottomlands. If a person fails to comply with an emergency order, the Act allows EGLE to take the necessary action and recover the costs from the person who failed to comply.

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**In the Spotlight...**

**Spotlight on Representative Amos O’Neal for Michigan’s 94th District**

Representative O’Neal is currently serving his second term in the Michigan House of Representatives for Michigan’s 94th District, which includes Bridgeport Township, Buena Vista Charter Township, Carrollton Township, Saginaw City, Saginaw Township and Spaulding Township.

Representative O’Neal earned a degree in business administration from Northwood University and graduated from the Leadership Development Institute at Saginaw Valley State University and the Saginaw Chamber of Commerce Leadership Program. Representative O’Neal began his career in local government, where he spent thirteen years on the Saginaw City Council and served as Mayor pro tem, before serving an additional four years on the Saginaw County Board of Commissioners. He was initially elected to the Michigan House of Representatives in the 2020 election.

As a legislator, Representative O’Neal strives for criminal justice reform. He serves as Chair of the Appropriations Subcommittee on Corrections, Majority Vice-Chair of the Appropriations Committee, and is a member of the Labor Committee, Appropriations Subcommittee on General Government, Appropriations Subcommittee on Health and Human Services, and Appropriations Subcommittee on Joint Capital Outlay. Representative O’Neal is also the sponsor of House Bill 5188, which would increase the annual non-petitioned drain maintenance limit to \$10,000 per mile of drain with an annual adjustment for inflation. According to MACDC Immediate Past President and Saginaw County Public Works Commissioner Brian Wendling, **“Representative O’Neal is highly supportive of drain and public works projects and has been instrumental in pushing House Bill 5188 through the House of Representatives.”**

