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House approves bill to study shoreline access

STATE HOUSE – In an effort to identify ways to stem the tide of conflicts over the public’s access to the shore, the House of Representatives will study the issue of lateral shoreline access under a resolution introduced by Rep. Terri Cortvriend and approved by the House today.

The resolution (2021-H 5469A) creates a 12-member special legislative commission to study and provide recommendations on the issues relating to lateral access along the Rhode Island shoreline, with a goal of reporting back to the General Assembly next spring.

“There have been disagreements about where the public’s access ends and private property begins for centuries. While there have been efforts to clarify the public’s rights over the years, rising sea levels and erosion are changing the coast, and creating more conflicts along the way,” said Representative Cortvriend (D-Dist. 72, Portsmouth, Middletown). “There are many questions about how Rhode Island is supposed to determine and protect access rights, and we need to identify some clearer answers. I very much look forward to the interesting and important work of this commission.”

The right of Rhode Islanders to access the shoreline has been inalienable since it was written into the state constitution in 1843. Yet exactly where the public shoreline ends and private property begins has always been as tumultuous and unsettled as the waves washing along Rhode Island’s shores.

A 1982 state Supreme Court case established the boundary of the public’s shore access at the mean high tide line, defined as the average of high tides over an 18.6-year cycle, which continually changes with the shifting sands of the coast. The Supreme Court’s decision has led to much conflict because it is nearly impossible for anyone walking along the shore to know where that shifting line is.

In 1986, the voters of Rhode Island overwhelmingly supported an amendment to the state constitution strengthening the description of the privileges to the shore enjoyed by Rhode Islanders.

Last year, Representative Cortvriend proposed legislation that took a new approach, aimed not at defining legal property lines, but preventing the criminal prosecution of anyone who attempts to exercise their constitutional shoreline rights on a sandy or rocky shore within 10 feet of the most recent high tide line. The bill was introduced days before the state shut down due to the pandemic and was never heard.

This year, Representative Cortvriend reintroduced the legislation, later amending it to create the study commission to take a broader look at the complicated issues surrounding shoreline access and defining the shore.

Under the resolution, the commission will include two House members from different parties who each represent coastal communities, a member of the public from a coastal community, a land use attorney, a retired Rhode Island judge and representatives from the Coastal Resources Management Council, the Rhode Island Realtors Association or a homeowner’s association, the Marine Affairs Institute and R.I. Sea Grant Legal program at Roger Williams University, the Department of Marine Affairs at the University of Rhode Island, the Rhode Island Society of Professional Land Surveyors, Rhode Island Attorney General’s Office and either Clean Ocean Access or Save the Bay.

Representative Cortvriend said she became aware of the need to address the ambiguities of shoreline access through her legislative work involving sea rise and resiliency. Along the way, she also learned that the issue is an economic one for Rhode Island.

“Beaches and shores play such an integral role in our tourism industry. We are constitutionally obligated to protect Rhode Islanders’ lateral access to the shore, and failure to do so could potentially cost us money,” she said.

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