
DIGEST

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HB 1130 Reengrossed

2016 Regular Session

Garofalo

Abstract: Authorizes joint leasing between the Dept. of Wildlife and Fisheries and private claimants of certain water bottoms for oyster cultivation and harvest

Proposed law authorizes the Dept. of Wildlife and Fisheries to enter into an agreement with a private claimant whereby certain water bottoms may, in cooperation between the state and the private claimant, be leased to a third party for the cultivation and harvest of oysters. Limits the agreements to a 15-year duration. Specifies that any such agreement does not in any way indicate or determine ownership of the water bottom nor does the agreement allocate or designate ownership of mineral rights beneath the water bottom. Authorizes the Dept. of Wildlife and Fisheries to promulgate the processes by which the agreements will be negotiated and administered.

Proposed law provides that an agreement may originate with either the department or the private claimant; requires annual rental payments to be made to the department; and specifies that except for a determination of state ownership, the lease is subject to the provisions in law that govern oyster leasing in addition to any other conditions of the agreement between the state and the private claimant.

Proposed law specifies that the joint agreement between the state and the private claimant remains in effect for the term of any lease issued subject to the agreement or until ownership of the water bottom has been determined by final judgment of the court. Terminates any lease subject to the joint agreement at the time a court has issued a final determination of ownership of the water bottom.

Proposed law provides that between July 1, 2016, and the final implementation of Phase Three of the oyster moratorium lifting process, oysters found on a vessel owned by the holder of a private oyster lease properly recorded prior to Feb. 1, 2016, are presumed to be legally harvested. Requires a certified copy of the lease to be carried on each vessel harvesting oysters from the private lease.

Proposed law requires the Dept. of Wildlife and Fisheries to recognize as valid a private oyster lease properly recorded prior to Feb. 1, 2016, until the processing of Phase Three of the oyster moratorium lifting process is complete. Provides that recognizing the validity of such lease is not to be interpreted to indicate ownership of the water bottom or mineral rights beneath the water bottom.

Proposed law defines "dual claim" as a claim to immovable property for which a private claimant holds title and to which the state claims ownership as a sovereign navigable water bottom but for which title has not been adjudicated.

Effective if and when House Bill No. 902 of this 2016 R.S. is enacted and becomes effective.

(Adds R.S. 56:425.1)

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Natural Resources and Environment to the original bill:

1. Limit agreements between the state and a private claimant to a 15-year duration.
2. Require the Dept. of Wildlife and Fisheries to promulgate the processes by which the agreements will be negotiated and administered.
3. Remove the exemption from the oyster leasing moratorium.
4. Add a provision that states the bill will become effective if and when House Bill No. 902 of this 2016 R.S. is enacted and becomes effective.

The House Floor Amendments to the engrossed bill:

1. Specify that the oyster lease is to a third party.
2. Authorize the Dept. of Wildlife and Fisheries to promulgate rules and regulations rather than require such promulgation.
3. Provide that between July 1, 2016, and the final implementation of Phase Three of the oyster moratorium lifting process, oysters found on a vessel owned by the holder of a private oyster lease properly recorded prior to Feb. 1, 2016, are presumed to be legally harvested. Require a certified copy of the lease to be carried on each vessel harvesting oysters from the private lease.
4. Require the Dept. of Wildlife and Fisheries to recognize as valid a private oyster lease properly recorded prior to Feb. 1, 2016, until the processing of Phase Three of the oyster moratorium lifting process is complete. Provide that recognizing the validity of such lease is not to be interpreted to indicate ownership of the water bottom or mineral rights beneath the water bottom.
5. Define "dual claim" as a claim to immovable property for which a private claimant holds title and to which the state claims ownership as a sovereign navigable water bottom but for which title has not been adjudicated.