DIGEST

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Howard HB No. 423

Abstract: Provides relative to acquisition of property for wetlands mitigation associated with the Comite River Diversion Project.

Present law prohibits funds of the state nor of any political subdivision or political corporation of the state being used nor provided to the U.S. or any of its agencies, by contract, agreement, a required contribution of a project cost-share, or otherwise, for the expropriation of property for the purpose of wetlands mitigation in association with the Comite River Diversion Project.

Proposed law provides that if property is acquired for compensatory wetlands mitigation in association with the Comite River Diversion Project, such acquisition shall be subject to a conservation servitude. Provides that the person from whom the property is acquired can avail themselves of state laws relative to preservation of mineral rights and conservation easements but prohibits retention of the right to use the surface of such property for exploration, development, production, or removal of minerals of any kind.

Proposed law provides that acquisition of property shall be only the minimum real property interest necessary to fulfill the wetlands mitigation requirement of the existing project agreement with the Corps of Engineers. Further provides a heritable and transferable servitude of passage over the property acquired.

Proposed law provides that if acquisition in full ownership, excluding mineral rights, is necessary, a conservation servitude shall be imposed on the land unless it is determined by the state or local sponsor of the project that such conservation servitude would interfere with the project or applicable state or federal laws.

Proposed law prohibits use of state or political subdivision funds for the expropriation of property for wetlands mitigation unless such expropriation is specifically approved in writing by the state or local sponsor following a determination that: (1) expropriation is necessary to clear title or (2) when the acquiring authority cannot amicably acquire the property from an otherwise willing seller because the owner has rejected an offer of the amount of the highest appraisal, and the expropriation process is necessary to obtain a judicial determination of just compensation.

Proposed law further provides that these provisions are not applicable to property acquired through a mitigation bank.

(Amends R.S. 49:214.6.3(B)(5))

Summary of Amendments Adopted by House

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

1. Provided that the person from whom the property is acquired can avail themselves of state laws relative to preservation of mineral rights and conservation easements but prohibits retention of the right to use the surface of such property for exploration, development, production, or removal of minerals of any kind.

2. Provided a heritable and transferable servitude of passage over the property acquired.

3. Provided that if acquisition in full ownership, excluding mineral rights, is necessary, a conservation servitude shall be imposed on the land unless it is determined by the state or local sponsor of the project the such conservation servitude would interfere with the project or applicable state or federal laws.

4. Prohibited use of state or political subdivision funds for the expropriation of property for wetlands mitigation unless such expropriation is specifically approved in writing by the state or local sponsor following a determination that: (1) expropriation is necessary to clear title or (2) when the acquiring authority cannot amicably acquire the property from an otherwise willing seller because the owner has rejected an offer of the amount of the highest appraisal, and the expropriation process is necessary to obtain a judicial determination of just compensation.