HLS 15RS-2328 ORIGINAL

2015 Regular Session

HOUSE CONCURRENT RESOLUTION NO. 104

BY REPRESENTATIVE DOVE

FISHING/OYSTERS: Creates the Oyster Lease Moratorium Lifting Committee

1	A CONCURRENT RESOLUTION
2	To establish a committee to consider the issues surrounding the possible lifting of the oyster
3	leasing moratorium instituted by the Wildlife and Fisheries Commission on March
4	7, 2002.
5	WHEREAS, on March 7, 2002, the Louisiana Wildlife and Fisheries Commission
6	adopted and promulgated a moratorium on the accepting of oyster lease applications and the
7	issuance of new oyster leases; and
8	WHEREAS, Act No. 808 of the 2008 Regular Session attempted to establish a
9	procedure for lifting the moratorium including an examination of certain classes of leases
10	that had not been renewed by the Department of Wildlife and Fisheries since 1996 due to
11	recommendations from the Department of Natural Resources and possible expansion of
12	existing leases into adjacent water bottoms; and
13	WHEREAS, Act No. 808 of the 2008 Regular Session also established a special
14	committee composed of certain stakeholders with interests in the coastal water bottoms and
15	leasing activity on those water bottoms by the state; and
16	WHEREAS, much time has passed since that special committee reported its findings
17	and no actions have been taken that would move the state forward toward acceptance of
18	applications for new oyster leases and issuance of new oyster leases; and
19	WHEREAS, through that period of years there have been several natural and
20	manmade disasters that have negatively impacted the oyster industry including Hurricanes
21	Katrina and Rita in 2005, Hurricanes Gustav and Ike in 2008, and in 2010, the BP Deepwater
22	Horizon well blowout and release into the Gulf of Mexico; and

1	WHEREAS, the oyster industry, particularly that portion of the industry located in
2	the Southeastern waters of Louisiana, has been devastated and is fighting for its very
3	existence, an existence that could be enhanced through the reinstitution of leasing of state
4	water bottoms for the cultivation of oysters.
5	THEREFORE BE IT RESOLVED that the Legislature of Louisiana does hereby
6	create a special committee to examine the many issues surrounding the possibility of lifting
7	the moratorium instituted by the Wildlife and Fisheries Commission on March 7, 2002.
8	BE IT FURTHER RESOLVED that the committee shall be known as the Oyster
9	Lease Moratorium Lifting Committee and shall be composed as follows:
10	(1) One member selected by the Louisiana Oyster Task Force.
11	(2) One member selected by the Louisiana Oystermen Association.
12	(3) One member selected by the Louisiana Oil and Gas Association.
13	(4) One member selected by the Louisiana Mid-Continent Oil and Gas Association.
14	(5) One member selected by the Louisiana Landowner's Association, Inc.
15	(6) One nonvoting member representing the Coastal Protection and Restoration
16	Authority.
17	(7) One nonvoting member representing the Department of Wildlife and Fisheries.
18	(8) One nonvoting member representing the Department of Natural Resources.
19	(9) One nonvoting member representing the State Land Office.
20	(10) One nonvoting member representing the Department of Justice.
21	(11) The Governor's Executive Assistant for Coastal Activities shall be a nonvoting
22	member and shall serve as chair.
23	BE IT FURTHER RESOLVED that actions of the committee and recommendations
24	for legislation or regulation implementation or change shall require a two-thirds favorable
25	vote of the voting committee members appointed to serve on the committee.
26	BE IT FURTHER RESOLVED that the committee meet as needed upon call by the
27	chair and that the committee discuss and develop specific recommendations for legislation
28	or regulations to address the following questions and concerns precipitated by a potential
29	lifting of the moratorium:

1	(1) Should the current moratorium on new state oyster leases be lifted and how
2	should that lifting occur?
3	(2) How should liability for damage claims be resolved between oyster lessees and
4	permittees under R.S. 49:214.21 et seq. or in-lieu permits covering the same water bottoms,
5	depending on whether the permit was issued before or after the oyster lease was granted?
6	(3) Should state ownership of a water bottom be determined prior to issuance or
7	renewal of an oyster lease, how should that determination be made, and what are the effects
8	of such determination on the grant or denial of the lease or renewal?
9	(4) Should the public be notified of applications for oyster leases, should challenges
10	to the issuance of new oyster leases be made and resolved prior to lease issuance, and when
11	such a charge is made, should lease applications be withdrawn and all fees refunded?
12	(5) Should an oyster leaseholder be authorized to grant voluntary rights of entry,
13	fully waiving any claims due to integrated coastal protection, in lieu of acquisition of the
14	lease pursuant to the Oyster Lease Acquisition and Compensation Program?
15	(6) How should partial acquisition of a lease pursuant to the Oyster Lease
16	Acquisition and Compensation Program impact oyster lease numbering?
17	(7) Should oyster lease rentals and oyster lease application fees be increased and by
18	how much?
19	(8) Should oyster leases be terminated for nonuse, how should the termination be
20	conducted, and what should be the definition of any such "nonuse"?
21	(9) Should "rights of first refusal" be granted to the last owner of voluntarily
22	nonrenewed oyster leases, as a part of or prior to any lifting of the oyster lease moratorium?
23	(10) Should expansion leases be granted to existing oyster leaseholders,
24	encompassing up to five hundred feet of state water bottom surrounding an existing oyster
25	lease, and should such expansions be granted as a part of or prior to any lifting of the oyster
26	lease moratorium?
27	(11) Should exchanges between the Department of Wildlife and Fisheries and
28	existing oyster leaseholders be authorized to straighten seed ground and lease boundaries,
29	and should such straightening occur as a part of or prior to any lifting of the oyster lease
30	moratorium?

1 (12) When the moratorium is lifted, should a lottery for the issuance of new leases 2 be held? 3 (13) Any other matter that two-thirds of the voting members of the committee 4 choose to address that is germane to oyster leasing. 5 BE IT FURTHER RESOLVED that the committee report its findings no later than 6 February 1, 2016, to the House Committee on Natural Resources and Environment and the 7 Senate Committee on Natural Resources and that such report shall include specific proposed 8 legislation and any regulations that may be needed for implementation of the 9 recommendations of the committee. 10 BE IT FURTHER RESOLVED that a copy of this Resolution be forwarded to the 11 Louisiana Oyster Task Force, the Louisiana Oystermen Association, the Louisiana Oil and 12 Gas Association, the Louisiana Mid-Continent Oil and Gas Association, the Louisiana 13 Landowner's Association, Inc., the Coastal Protection and Restoration Authority, the 14 secretary of the Department of Wildlife and Fisheries, the secretary of the Department of 15 Natural Resources, the State Land Office, the Attorney General, and the Governor's

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

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Dove

Creates the Oyster Lease Moratorium Lifting Committee composed of the following members:

(1) One member selected by the La. Oyster Task Force.

Executive Assistant for Coastal Activities.

- (2) One member selected by the La. Oystermen Association.
- (3) One member selected by the La. Oil and Gas Association.
- (4) One member selected by the La. Mid-Continent Oil and Gas Association.
- (5) One member selected by the La. Landowner's Association, Inc.
- (6) One nonvoting member representing the Coastal Protection and Restoration Authority.
- (7) One nonvoting member representing the Dept. of Wildlife and Fisheries.
- (8) One nonvoting member representing the Dept. of Natural Resources.

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- (9) One nonvoting member representing the State Land Office.
- (10) One nonvoting member representing the Dept. of Justice.
- (11) The Governor's Executive Assistant for Coastal Activities shall be a nonvoting member and shall serve as chair.

Provides a list of 12 items to be specifically examined by the committee. Requires 2/3 vote of the voting members to take action, adopt recommendations, and to consider additional issues not included in the resolution. Requires a report to be submitted to the House Committee on Natural Resources and Environment and the Senate Committee on Natural Resources no later than Feb. 1, 2016. Requires such report to include specific proposed legislation and any regulations that may be needed for implementation of the recommendations of the committee.