

2017 Regular Session

HOUSE BILL NO. 474

BY REPRESENTATIVE GAROFALO

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

FISHING/OYSTERS: Authorizes the issuance of an alternative oyster culture permit to a person holding an oyster lease on a privately owned water bottom

1 AN ACT

2 To amend and reenact R.S. 56:431.2(A)(1) and (B)(2) and to repeal R.S. 56:431.2(B)(3)(d)
3 and (C), relative to alternative oyster culture permits; to authorize the issuance of
4 such permit to a person holding an oyster lease on a privately owned water bottom
5 or dual-claimed water bottom; and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 56:431.2(A)(1) and (B)(2) are hereby amended and reenacted to read
8 as follows:

9 §431.2. Alternative oyster culture; permits

10 A. Alternative Oyster Culture Permits.

11 (1) ~~The Notwithstanding the provisions of R.S. 3:559.1 through 559.13, R.S.~~
12 ~~56:412, 431.1, and 579.1 notwithstanding,~~ the department is authorized to issue an
13 alternative oyster culture permit (AOC permit) to a leaseholder holding a valid oyster
14 lease of state water bottoms pursuant to R.S. 56:427 or 428 or to a person owning a
15 water bottom or holding an oyster lease on a privately owned water bottom or a dual-
16 claimed water bottom as defined in R.S. 56:425.1. The area permitted for alternative
17 oyster culture shall not extend beyond the boundaries of an existent lease or
18 ownership of the water bottom. ~~No AOC permit may be issued unless a reasonable~~
19 ~~investigation into the question of ownership is complete and, based on the findings,~~
20 ~~a determination is made that the state owns the water bottom to be covered by the~~

1 ~~permit. No AOC permit may be issued until the department has completed the~~
2 ~~suitability mapping required in Subsection C of this Section.~~

3 * * *

4 B. Application and permitting.

5 * * *

6 (2) ~~Based on the initial suitability mapping required by this Section, any~~
7 ~~update or revisions to the initial suitability mapping;~~ (a) The department shall
8 determine areas that are unsuitable or inappropriate for alternative oyster culture
9 activities due to creation of unreasonable conflicts with other existing or anticipated
10 uses of state waters and water bottoms, including but not limited to integrated coastal
11 protection projects as defined in R.S. 49:214.2. The department shall base all rules,
12 regulations, and decisions regarding AOC permits on any master plan or annual plan
13 issued pursuant to R.S. 49:214.5.3; and any other information and data deemed
14 relevant by the department; ~~the~~ The department may grant an AOC permit for a
15 different location, size, or configuration, and for different alternative oyster culture
16 activity than what was requested in the application.

17 * * *

18 Section 2. R.S. 56:431.2(B)(3)(d) and (C) are hereby repealed in their entirety.

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)]

HB 474 Engrossed

2017 Regular Session

Garofalo

Abstract: Allows for the issuance of an alternative oyster culture permit to a person owning or holding an oyster lease on a privately owned water bottom.

Present law authorizes the Dept. of Wildlife and Fisheries to issue an alternative oyster culture (AOC) permit to a holder of a valid oyster lease on state water bottoms within the confines of that oyster lease. Proposed law expands that to include a person owning a water bottom or holding an oyster lease on a privately owned water bottom or on a dual-claimed water bottom.

Present law requires a determination that the water bottom in question is a state-owned water bottom. Further requires suitability mapping. Proposed law removes both of these requirements.

Present law requires the Dept. of Wildlife and Fisheries to develop a suitability map to identify areas appropriate for alternative oyster cultivation and to determine where AOC activities are unsuitable. Requires that rules and regulations relative to alternative oyster cultivation be based on the suitability mapping, the coastal master plan and annual plan, and other information the department deems relevant. Proposed law deletes references to the suitability mapping. Provides, rather, that the department determine areas that are not suitable for alternative oyster culture due to conflicts with other uses of the state water bottom and use any updated or revised information and coastal use permit requirements, along with the coastal master plan and annual plan in the issuance of AOC permits.

Proposed law repeals the requirement that an AOC permit can only authorize alternative oyster culture activities on state-owned water bottoms. Also repeals suitability mapping requirements relative to potential areas of conflict and suitability for alternative oyster culture activities.

(Amends R.S. 56:431.2(A)(1) and (B)(2); Repeals R.S. 56:431.2(B)(3)(d) and (C))

Summary of Amendments Adopted by House

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

1. Delete references to the suitability mapping. Provide, rather, that the department determine areas that are not suitable for alternative oyster culture due to conflicts with other uses of the state water bottom and use any updated or revised information and coastal use permit requirements, along with the coastal master plan and annual plan in the issuance of AOC permits.
2. Delete the provision that would have required that if there was visible farming effort, the holder of a valid coastal use permit or mariculture permit issued for alternative oyster culture on water bottoms on private land has a right of first refusal to apply for a lease or a permit should a determination be made that the state owns the water bottom subject to the coastal use permit or mariculture permit.