2021 Regular Session

HOUSE BILL NO. 331

BY REPRESENTATIVE BOURRIAQUE

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

PUBLIC LANDS/STATE: (Constitutional Amendment) Authorizes the state to enter into certain agreements with landowners concerning boundaries between state claimed and privately claimed water bottoms

1	A JOINT RESOLUTION
2	Proposing to amend Article IX, Sections 3 and 4(A) of the Constitution of Louisiana,
3	relative to water bottoms; to provide relative to water bottom boundary agreements
4	between state and private landowners; to provide for public access and the
5	reservation of mineral rights; to provide certain terms and conditions; to specify an
6	election for submission of the proposition to electors and provide a ballot
7	proposition; and to provide for related matters.
8	Section 1. Be it resolved by the Legislature of Louisiana, two-thirds of the members
9	elected to each house concurring, that there shall be submitted to the electors of the state, for
10	their approval or rejection in the manner provided by law, a proposal to amend Article IX,
11	Sections 3 and 4(A) of the Constitution of Louisiana, to read as follows:
12	§3. Alienation of Water Bottoms
13	Section 3. (A) The Except as provided in this Section, the legislature shall
14	neither alienate nor authorize the alienation of the bed of a navigable water body,
15	body except for purposes of reclamation by the riparian owner to recover land lost
16	through erosion. This Section shall not prevent the leasing of state lands or water
17	bottoms for mineral or other purposes. Except as provided in this Section, the bed
18	of a navigable water body may be reclaimed only for public use.
19	(B) This Section shall not prevent the following:

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CODING: Words in struck through type are deletions from existing law; words <u>underscored</u> are additions.

1	(1) The leasing of state lands or water bottoms for mineral or other purposes.
2	(2) The state from alienating the bed of a navigable water body for the
3	purpose of reclamation by the riparian owner to recover land lost though erosion,
4	subsidence, or sea level rise.
5	(3) The state from entering into agreements with riparian landowners to
6	establish a permanent, fixed boundary within a body of water, regardless of its
7	navigability and regardless of whether the body of water is a lake, river, stream, or
8	seashore, which establishes ownership between the state and the riparian owner. This
9	boundary, once established, shall not alter or affect ownership of the portion of the
10	water bottom allocated to the riparian landowner, regardless of its present or future
11	navigability, and shall extend to any water bottom, whether navigable or not, created
12	by subsequent erosion, subsidence, sea level rise, or other similar loss of the riparian
13	land.
14	(4) The state from accepting a donation of any riparian landowner owned or
15	claimed lands or water bottoms, subject to perpetual reservation of minerals,
16	regardless of any subsequent erosion, subsidence, sea level rise, or other similar loss
17	of the land donated, or of the present or future navigability of the water bottom
18	donated.
19	(5) An agreement or donation authorized by Subparagraph (3) or (4) of this
20	Paragraph shall provide, at a minimum, that the public has a permanent right of
21	reasonable, regulated access over an agreed portion of the water bottoms allocated
22	to the riparian landowner, which shall proportionately extend to and over future
23	water bottoms created from the riparian land as a result of natural erosion,
24	subsidence, or sea level rise, or other similar loss, regardless of such water bottom's
25	present or future navigability.
26	(6) Subparagraphs (3), (4), and (5) of this Paragraph shall only apply to the
27	coastal zone as set forth in R.S. 49:214.24.
28	(7) The state is authorized to enter into negotiations with riparian landowners
29	relative to surface and mineral ownership interests pursuant to Subparagraphs (3),

1	(4), and (5) of this Paragraph and to enter into such agreements, covenants,
2	conditions and stipulations and to execute such documents as necessary to properly
3	effectuate any such agreement.
4	§4. Reservation of Mineral Rights; Prescription
5	Section 4.(A) Reservation of Mineral Rights. (1) The mineral rights on
6	property sold by the state shall be reserved, except when the owner or person having
7	the right to redeem buys or redeems property sold or adjudicated to the state for
8	taxes.
9	(2) The mineral rights on land, contiguous to and abutting navigable
10	waterbottoms water bottoms reclaimed by the state through the implementation and
11	construction of coastal restoration projects shall be reserved, except when the state
12	and the landowner having the right to reclaim or recover the land have agreed to the
13	disposition of mineral rights, in accordance with the conditions and procedures
14	provided by law.
15	(3) The state may agree to the disposition of mineral rights underlying a
16	body of water, regardless of its navigability and regardless of whether the body of
17	water is a lake, river, stream, or seashore, the ownership of which is subject to an
18	agreement authorized by Article IX, Section 3(B)(3) and (4) of this Constitution.
19	* * *
20	Section 2. Be it further resolved that this proposed amendment shall be submitted
21	to the electors of the state of Louisiana at the statewide election to be held on November 8,
22	2022.
23	Section 3. Be it further resolved that on the official ballot to be used at the election
24	there shall be printed a proposition, upon which the electors of the state shall be permitted
25	to vote YES or NO, to amend the Constitution of Louisiana, which proposition shall read as
26	follows:
27	Do you support an amendment that allows the state to enter into boundary
28	agreements with riparian landowners that establish ownership of certain
29	water bottoms, including underlying mineral rights, regardless of current or

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1	future navigability and regardless of whether the water bottom forms part of
2	a lake, river, or stream, in return for reasonable, regulated public access over
3	portions of the water bottoms allocated to the riparian landowner?
4	(Amends Article IX, Sections 3 and 4(A))

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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<u>Present constitution</u> prohibits the state from alienating the bed of a navigable water body except for purposes of reclamation by the riparian owner of property lost through erosion. Further, requires that the reclamation of water bottoms be only for public use, except as provided in <u>present constitution</u>.

<u>Present constitution</u> provides that the prohibition on alienating the water bottoms of navigable water bodies does not apply to leasing of water bottoms for minerals or other purposes.

<u>Proposed constitution</u> authorizes the state to enter into agreements with riparian landowners to establish a permanent, fixed boundary between state owned or claimed and privately owned or claimed water bottoms, regardless of the navigability of the water body.

<u>Proposed constitution</u> authorizes the state in such agreements to accept a donation of any riparian landowner owned or claimed lands or water bottoms, subject to a perpetual reservation of minerals, regardless of any subsequent erosion or loss of the land donated, or of the present or future navigability of the water bottom donated. However, all such agreements must provide, at minimum, that the public enjoy a permanent right of reasonable, regulated public access over all present water bottoms allocated to the riparian landowner and all future water bottoms created from the riparian land as a result of natural erosion, subsidence or rising sea levels.

<u>Proposed constitution</u> authorizes the state to negotiate surface and mineral interests with riparian land owners.

Specifies submission of the amendment to the voters at the statewide election to be held on Nov. 8, 2022.

(Amends Article IX, §§3 and 4(A))

Summary of Amendments Adopted by House

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

- 1. Clarify that certain proposed law provisions only apply to the coastal zone.
- 2. Authorize the state to negotiate surface and mineral interests with riparian land owners.

3. Specify that "at a minimum" agreements entered into between the state and riparian land owners include certain information.