
DIGEST

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Montoucet

HB No. 419

Abstract: Provides that no person shall refuse to grant access to any natural or artificial public drainage by a local governing authority, drainage district, or other public entity charged with maintaining the public drainage.

Present law (R.S. 38:214) provides that no person shall dump or discharge or permit to be dumped or discharged into any waters or drains of the state any trees or other objects, substances, or materials which might interfere with the drainage.

Present law (R.S. 38:215) provides that no person shall willfully obstruct any natural or artificial drainage canal, creek, bayou, or small river, or any public or private drainage.

Proposed law provides that no landowner shall refuse to grant access to any natural or artificial public drainage by a local governing authority, drainage district, or other public entity charged with maintaining the public drainage when they have been given 30 days written notice before the commencement of maintenance activities and an opportunity for a hearing before the governing board of the city or parish where the landowner's property is located, subject to judicial review.

Proposed law provides that in any action in a court of competent jurisdiction where the court is required to determine the right of access to the public drainage, the prevailing party shall be entitled to an award of court costs and attorney fees incurred by the prevailing party.

Proposed law defines "public drainage" as any existing natural or artificial drainage ditch, drain, culvert, canal, creek, bayou, or small river.

Proposed law defines "reasonable surface access" as the utilization of existing ingress and egress points on a landowner's property so as not to disrupt the activities of the landowner or cause damage to the property.

(Adds R.S. 38:215.1)

Summary of Amendments Adopted by House

Committee Amendments Proposed by House Committee on Transportation, Highways and Public Works to the original bill.

1. Clarified that a landowner cannot refuse access to any drainage when such access is within the normal course of the entity's duties and they have been given notice and an opportunity for a hearing.
2. Defined reasonable surface access as the utilization of existing ingress and egress points on a landowner's property so as not to disrupt the activities of the landowner or cause damage to the property.

House Floor Amendments to the engrossed bill.

1. Provided that written notice must be given to the landowner at least 30 days prior to the commencement of any maintenance activities on the property. Provides that the landowner should also be given an opportunity for a public hearing before the municipal drainage authority, parish drainage district, or public works district for the city where the landowner's property is located, subject to the judicial review rights under the Administrative Procedure Act.