
DIGEST

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HB 680 Original

2015 Regular Session

Leopold

Abstract: Provides relative to certain aspects of private oyster leases located on privately-held water bottoms.

Present law provides generally for the Dept. of Wildlife and Fisheries to establish and maintain a system of leasing of state water bottoms for the cultivation, bedding, and harvest of oysters.

Proposed law authorizes private oyster leases for such activities on privately-held water bottoms. Prohibits the secretary of the Dept. of Wildlife and Fisheries from granting an oyster lease that extends over or encroaches upon an existing private oyster lease on privately-held water bottoms. Authorizes a private landowner and a private oyster leaseholder to create and establish a living shoreline on a private lease. A living shoreline is defined as an engineered, submerged, or inter-tidal oyster reef in shallow waters not more than four feet deep. Provides that if a formerly private water bottom containing a private oyster lease is deemed to be water bottom owned by the state, the holder of the private lease is to be granted a right of first refusal to a lease to be granted by the Dept. of Wildlife and Fisheries.

Proposed law provides that oysters found on a vessel owned and operated by a private oyster leaseholder or operated by an agent or employee of such private oyster leaseholder are presumed to have been legally harvested from the leaseholders private oyster lease. Requires a copy of the lease to be carried on each vessel used to harvest oysters from the private lease.

Present law requires the Dept. of Wildlife and Fisheries to reasonably investigate water bottom ownership prior to issuing an oyster lease and to make a determination that the state owns the water bottom to be leased. Proposed law requires a formal written determination to be made and requires that at least 30 days prior to the issuance of the written determination, issuance of a new lease, or the renewal of an existing lease that extends over an existing private lease, a notice is to be sent to any person or entity holding a recorded property interest in the water bottom in question. Allows the person or entity so notified 15 days to file suit to challenge the determination, the issuance of a new lease, or the renewal of an existing lease.

Present law provides that any lease granted prior to June 15, 2006, that affects privately owned water bottoms is subordinate to the rights of the private landowner at the time the lease was granted. Proposed law changes that date to July 1, 2015, and includes the rights of an existing private oyster leaseholder.

Present law allows for reclamation of land by a private landowner of land that has eroded and thereby becomes water bottoms owned by the state. Requires a permit for such reclamation issued

by the State Land Office and reviewed by various state agencies and the governing authority of the parish where the reclamation would take place. Requires the land reclaimed to be above the elevation of the ordinary low water mark and to be emergent land capable supporting emergent vegetation.

Proposed law would allow an oyster reef (or "living shoreline") to be considered a reclamation project. A living shoreline project would be required to go through the same permitting and review process as any other reclamation project.

(Amends R.S. 41:1702(D)(1), (2)(e), (F), and (G)(2) and R.S. 56:425(A); Adds R.S. 56:425(F), (G), (H), and (I))