

2018 Regular Session

HOUSE BILL NO. 422

BY REPRESENTATIVE LYONS

NATURAL RESOURCES DEPT: Corrects statutory references remaining from the transfer of the State Land Office from the Department of Natural Resources to the Division of Administration

1 AN ACT

2 To amend and reenact R.S. 41:14, 51(introductory paragraph) and (1), 1001 through 1006,
3 1008, 1009, 1042, 1044, 1082, 1084, 1132, 1133, 1213, 1701, 1703, 1706(B),
4 1713(A), and R.S. 50:171(A), relative to the state land office; to correct statutory
5 references that remain from the transfer of the state land office to the Division of
6 Administration; and to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 41:14, 51(introductory paragraph) and (1), 1001 through 1006, 1008,
9 1009, 1042, 1044, 1082, 1084, 1132, 1133, 1213, 1701, 1703, 1706(B), and 1713(A) are
10 hereby amended and reenacted to read as follows:

11 §14. Conveyances of waterbottoms, ownership

12 No grant, sale, or conveyance of the lands forming the bottoms of rivers,
13 streams, bayous, lagoons, lakes, bays, sounds, and inlets bordering on or connecting
14 with the Gulf of Mexico within the territory or jurisdiction of the state shall be made
15 by the ~~secretary of the Department of Natural Resources~~ Register of the State Land
16 Office or by any other official or by any subordinate political subdivision, except
17 pursuant to R.S. 41:1701 through 1714. Any rights accorded by law to the owners
18 or occupants of lands on the shores of any waters described ~~herein~~ in this Section

1 shall not extend beyond the ordinary low water mark. No one shall own ~~in fee~~
2 ~~simple any bottoms of lands covering~~ the bottoms of waters described in this Section.

3 * * *

4 §51. Surveys and plats

5 The governor may direct the ~~department of public works~~ Department of
6 Transportation and Development:

7 (1) To make, from time to time, surveys of all unsurveyed lands belonging
8 and that may hereafter belong to this state and to subdivide them into townships,
9 sections and other proper subdivisions that may be necessary for their identification,
10 description, entry and sale. In the event the ~~department of public works~~ secretary of
11 the Department of Transportation and Development cannot timely cause a requested
12 survey to be made, then the register may on his own initiative cause a survey or
13 surveys to be made of state lands which survey shall be subject to approval by the
14 director of the department of public works. The cost of such a survey shall be borne
15 by the register of the state land office.

16 * * *

17 §1001. Application for sale of timber on state lands

18 Any person who desires to purchase any timber located on property under the
19 jurisdiction of the ~~Division~~ Office of State Lands, shall file with the ~~secretary of the~~
20 ~~Department of Natural Resources~~ Register of the State Land Office, an application
21 to purchase giving the exact location, section, township and range, and the types of
22 timber he desires to purchase. The applicant shall deposit with the ~~secretary of the~~
23 ~~Department of Natural Resources~~ Register of the State Land Office, the sum of one
24 hundred dollars as evidence of good faith. Should the applicant, at the sale of timber
25 as provided for in this Part, fail to purchase the timber, then the money so deposited
26 may be returned to him; provided that should no one at the sale bid up to the
27 minimum price stipulated in this Part, then the money shall be retained to pay the
28 expenses of the sale.

1 §1002. Information to be secured as to quantity and value of timber

2 On receipt of an application to have timber offered for sale, the ~~secretary of~~
3 ~~the Department of Natural Resources~~ Register of the State Land Office shall request
4 the assistant secretary of the ~~Office of Forestry~~ Department of Agriculture and
5 Forestry, office of forestry to evaluate the current market value and quantity that
6 could be harvested based on sound forestry practices. The ~~secretary of the~~
7 ~~Department of Natural Resources~~ Register of the State Land Office may on his own
8 initiative advertise for bids for sale of timber as provided ~~herein~~ in this Chapter.

9 §1003. Advertisement

10 The ~~secretary of the Department of Natural Resources~~ Register of the State
11 Land Office shall cause to be published an advertisement in the official journal of
12 the parish ~~wherein~~ where the land is located setting forth the description of the land
13 on which the timber to be sold is located, the type and quantity of timber, and the
14 time, place, and terms of the sale. The advertisement shall be published for a period
15 of not less than fifteen days and at least once a week during three consecutive weeks.

16 §1004. Place; time; minimum price; proces-verbal

17 The timber so advertised shall be sold to the highest bidder by the sheriff of
18 the parish ~~wherein~~ where the timber is located, at the time and place mentioned in
19 the advertisement for the consideration of bids. All bids shall be submitted sealed
20 and opened publicly by the sheriff. No bid shall be accepted by the sheriff after the
21 time designated as the time for opening such bids. No bid shall be considered unless
22 accompanied by a cashier's check, certified check, or bank money order in the exact
23 amount of the bid submitted and made payable to the sheriff of the parish in which
24 the sale is conducted. No bid shall be accepted if less than the minimum price
25 established by the ~~Office of Forestry~~ Department of Agriculture and Forestry, office
26 of forestry. The sheriff conducting the sale shall deliver a proces-verbal of the sale
27 to the successful bidder.

28 * * *

1 §1005. Proceeds

2 A. All monies derived from the sale of timber shall be forwarded to the
3 ~~Department of Natural Resources~~ Register of the State Land Office for deposit in the
4 state treasury without delay, after the sheriff making the sale has deducted ~~therefrom~~
5 the expense of advertising and his commissions for making the sales. The
6 commission shall be two percent of the amount bid and paid, provided that this
7 commission shall not exceed one hundred dollars for one day's adjudication.

8 B. The sheriff in forwarding the money shall forward a statement certified
9 by him as correct, showing the amount of bid, the expenditure for advertising, and
10 the amount withheld by him as commission; he shall at the same time forward to the
11 ~~secretary of the Department of Natural Resources~~ Register of the State Land Office
12 a duplicate of his proces verbal of sale ~~wherein he shall give~~ showing a correct
13 description of the property sold with the recital of the acts performed by him in
14 effecting the sale, the amount of the purchase price received, and the amount
15 forwarded to the ~~Department of Natural Resources~~ Register of the State Land Office.

16 §1006. Removal of timber

17 The adjudicatee of the timber sold ~~under~~ pursuant to the provisions of this
18 Part shall have the right of ingress and egress at any time for the purpose of
19 removing the timber from the land; provided that the time stipulated to cut and
20 remove the timber shall be fixed in the advertisement and in the act of sale by the
21 ~~secretary of the Department of Natural Resources~~ Register of the State Land Office
22 as well as the type and size of trees to be cut. The term for removal of the timber
23 shall not exceed one year unless proof is provided to the ~~secretary of Natural~~
24 ~~Resources~~ Register of the State Land Office that the delay would result in
25 unavoidable hardship. Upon such proof, the ~~secretary~~ Register of the State Land
26 Office may grant an extension for up to one year provided consideration totaling ten
27 percent of the actual amount of the sale is remitted to the ~~Department of Natural~~
28 ~~Resources~~ Register of the State Land Office.

29 * * *

CODING: Words in ~~struck through~~ type are deletions from existing law; words underscored are additions.

1 §1008. Sale of timber on state lands where title in dispute: disposition of proceeds

2 Should the ~~Department of Natural Resources~~ Register of the State Land
3 Office advertise and sell timber on state lands, the title to which is in dispute, a
4 provision may be made that the consideration to be paid the state by the adjudicatee
5 of the timber sold ~~under~~ pursuant to the provisions of this Part, shall be deposited in
6 escrow with the Department of Natural Resources, to be held by that department
7 pending the final determination of the validity of the title to the land or until the
8 ~~Department of Natural Resources~~ Register of the State Land Office and the grantee
9 otherwise agree the payment should be made or released as provided for in the
10 agreement.

11 §1009. Cutting or sale, or both, of cypress timber on stateowned water bottoms;
12 prohibition

13 Notwithstanding any other provision of law, particularly R.S. 41:1001
14 through R.S. 41:1008, the cutting or sale, or both, of standing cypress timber located
15 on any water bottom owned by the state of Louisiana is hereby prohibited except in
16 the exercise of rights under a state lease, right-of-way, or permit. However, the
17 ~~secretary of the Department of Natural Resources~~ Register of the State Land Office
18 may, at his discretion, permit the selective cutting of such timber.

19 * * *

20 §1042. Information to be secured as to quantity and value of timber

21 On receipt of an application to have timber offered for sale, the secretary of
22 the levee board shall request the ~~assistant secretary of the Office of Forestry of the~~
23 ~~Department of Natural Resources~~ Department of Agriculture and Forestry, office of
24 forestry to evaluate the current market value and quantity that could be harvested
25 based on sound forestry practices. The levee board may on its own initiative
26 advertise for bids for sale of timber as provided ~~herein~~ in this Part.

27 * * *

1 §1044. Place; time; minimum price; proces-verbal

2 The timber so advertised shall be sold to the highest bidder by the sheriff of
3 the parish ~~wherein~~ where the timber is located, at the time and place mentioned in
4 the advertisement for the consideration of bids. All bids shall be submitted sealed
5 and opened publicly by the sheriff. No bid shall be accepted by the sheriff after the
6 time designated as the time for opening such bids. No bid shall be considered unless
7 accompanied by a cashier's check, certified check, or bank money order in the exact
8 amount of the bid submitted and made payable to the sheriff of the parish in which
9 the sale is conducted. No bid shall be accepted if less than the minimum price
10 established by the ~~Office of Forestry~~ Department of Agriculture and Forestry, office
11 of forestry. The sheriff conducting the sale shall deliver a proces-verbal of the sale
12 to the successful bidder.

13 * * *

14 §1082. Information to be secured as to quantity and value of timber

15 On receipt of an application to have timber offered for sale, the secretary of
16 the board shall request the ~~assistant secretary of the office of forestry of the~~
17 ~~Department of Natural Resources to~~ Department of Agriculture and Forestry, office
18 of forestry to evaluate the current market value and quantity that could be harvested
19 based on sound forestry practices and the goals of the board. The board may on its
20 own initiative advertise for bids for sale of timber as provided ~~herein~~ in this Part.

21 * * *

22 §1084. Place; time; minimum price; proces verbal

23 The timber so advertised shall be sold to the highest bidder by the sheriff of
24 the parish ~~wherein~~ where the timber is located at the time and place mentioned in the
25 advertisement for the consideration of bids. All bids shall be submitted sealed and
26 opened publicly by the sheriff. No bids shall be accepted by the sheriff after the time
27 designated as the time for opening such bids. No bid shall be considered unless
28 accompanied by a cashier's check, certified check, or bank money order in the exact
29 amount of the bid submitted and made payable to the sheriff of the parish in which

1 the sale is conducted. No bid shall be accepted if less than the minimum price
2 established by the Department of Agriculture and Forestry, office of forestry. The
3 sheriff conducting the sale shall deliver a proces verbal of the sale to the successful
4 bidder.

5 * * *

6 §1132. Formal agreement to be made

7 Whenever a settlement is amicably arrived at between the owner of the
8 contiguous and abutting land, and the register of the state land office and is approved
9 by the attorney general, the governor may enter into a contract with the owner in
10 keeping with the proces verbal of the agreement of settlement, which shall be
11 supplied by the owner and the Register of the State Land Office. The agreement
12 shall be executed and signed, in quadruplicate and in notarial form, by the governor,
13 and by the owner, one copy to be filed with the Department of ~~Public Works~~
14 Transportation and Development, one with the Register of the State Land Office, one
15 copy to be recorded in the parish in which the land is situated, and one copy to be
16 retained by the owner.

17 §1133. Submission of differences to commissioners

18 If an amicable agreement cannot be so arrived at, the differences in question
19 shall be submitted to commissioners who shall be the attorney general and the chief
20 engineer in the Department of ~~Public Works~~ Transportation and Development,
21 representing the state, two persons named by the land owner and a fifth person who
22 shall be selected by these first four named commissioners. A proces verbal of the
23 findings of the commissioners shall be executed in quadruplicate originals, one copy
24 to be filed with the Department of ~~Public Works~~ Transportation and Development,
25 one with the Register of the State Land Office, one copy to be recorded in the parish
26 in which the land is situated, and one copy to be furnished the owner of the
27 contiguous or abutting land.

28 * * *

1 §1213. Application for lease

2 Any person desiring to lease any land as set forth in this Part shall present to
3 the lessor a written application, together with a cash deposit of twenty-five dollars,
4 which shall be returned to the applicant if he makes an unsuccessful bid, after a sum
5 sufficient to pay the advertising costs has been deducted. The application shall set
6 forth the name and address of the applicant, a reasonably definite description of the
7 location and amount of land which the applicant desires to lease, and the purposes
8 for which the lands are to be leased. Where such purposes include the placement of
9 structures, obstacles, fill, or any other materials upon state lands, the application
10 must be accompanied by legible copies of maps, plans, specifications, and such other
11 information or data as may be required by the ~~secretary of the Department of Natural~~
12 ~~Resources~~ Register of the State Land Office. The applicant shall ask that the
13 application be registered, and that the land described ~~therein~~ in the application be
14 leased to him ~~under~~ pursuant to the provision of this Part. The lessor shall register
15 the application and shall order an inquiry to determine whether the lands applied for
16 are leaseable for such purposes.

17 * * *

18 §1701. Declaration of policy; public trust

19 The beds and bottoms of all navigable waters and the banks or shores of bays,
20 arms of the sea, the Gulf of Mexico, and navigable lakes belong to the state of
21 Louisiana, and the policy of this state is hereby declared to be that these lands and
22 water bottoms, hereinafter referred to as "public lands", shall be protected,
23 administered, and conserved to best ensure full public navigation, fishery, recreation,
24 and other interests. Unregulated encroachments upon these properties may result in
25 injury and interference with the public use and enjoyment and may create hazards
26 to the health, safety, and welfare of the citizens of this state. To provide for the
27 orderly protection and management of these state-owned properties and serve the
28 best interests of all citizens, the lands and water bottoms, except those excluded and
29 exempted and as otherwise provided by this Chapter, or as otherwise provided by

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1 law, shall be under the management of the ~~Department of Natural Resources~~
 2 Division of Administration, hereinafter referred to as the "~~department~~ division". The
 3 ~~State Land Office~~ state land office, hereinafter referred to as the "office", shall be
 4 responsible for the control, permitting, and leasing of encroachments upon public
 5 lands, in accordance with this Chapter and the laws of Louisiana and the United
 6 States.

7 * * *

8 §1703. Permits and licenses for encroachments other than reclamation projects

9 A. Encroachments, other than those provided in ~~Section R.S. 41:1702~~, may
 10 be permitted and licensed by the ~~department~~ division under the provisions of this
 11 Chapter.

12 B. ~~As provided herein, the State Land Office~~ The office, with the aid of the
 13 division, the Department of Natural Resources, the Department of Wildlife and
 14 Fisheries, the Department of Transportation and Development, and the attorney
 15 general, shall adopt regulations to implement this Chapter, including the granting and
 16 revoking of permits, leases or licenses, processing of applications, establishing fee
 17 schedules, collecting of fees or revenues for all manner of encroachments, and shall
 18 create an overall and comprehensive plan for the orderly development and
 19 preservation of state lands so as to ensure maximum benefit and use, all in
 20 accordance with the law. The office shall maintain a current inventory of state lands
 21 and a depository in which shall be recorded and preserved all records, surveys, plats,
 22 applications, permits, leases, licenses, and other evidence pertaining to the trust
 23 lands, their description, disposition, and encroachments thereon.

24 * * *

25 §1706. Classes of permits

26 * * *

27 B. All permits shall be subject to the regulations and procedures established
 28 ~~herein by this Chapter~~ and adopted by the ~~department~~ division or the office. The
 29 requirements and procedures for applicants established in R.S. 41:1702(D)(1) to

1 implement reclamation of eroded lands shall govern reclamation projects ~~thereunder~~;
2 the regulations and procedures established by other Sections of this Chapter shall
3 only apply to Class A Permits when no conflict exists with R.S. 41:1702.
4 Noncommercial piers and wharves shall not be subject to permit requirements.

5 * * *

6 §1713. Leases and permits, cause for cancellation or revocation

7 A. Abandonment of an encroachment, or noncompliance with the
8 law, this Chapter, or regulations and standards adopted ~~thereunder~~, shall
9 result in the revocation or cancellation of any permit or lease unless the
10 persons responsible remedy the problem or violation within thirty days of
11 written or published notice, by the ~~department~~ division or office, as
12 applicable, specifying the violation. The period for compliance may be
13 extended for additional thirty-day periods up to one hundred twenty days
14 total, upon a showing by the persons responsible of inability to comply by
15 reason of extensive work required. Where force majeure prevents the persons
16 responsible from complying with the ~~department's~~ division's or the office's
17 demand, the thirty-day corrective period shall be suspended until such date
18 when work becomes reasonably possible.

19 * * *

20 Section 2. R.S. 50:171(A) is hereby amended and reenacted to read as follows:

21 §171. Statewide land information mapping and records system; standards

22 A. The ~~Department of Natural Resources, office of state lands, state land~~
23 office shall establish, promulgate, and maintain appropriate standards for a statewide
24 land information mapping and map records system of all lands, private and public,
25 within the state of Louisiana to promote and ensure compatibility, uniformity, and
26 cost-effectiveness by public entities. These standards shall be developed to include
27 the establishment of appropriate photogrammetric or electronic mapping techniques
28 and procedures which efficiently accommodate land information collection,

1 maintenance, sharing, and retrieval. ~~The department shall adopt these standards by~~
2 ~~rules adopted pursuant to the Administrative Procedure Act prior to January 1, 1991.~~

3 * * *

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 422 Engrossed

2018 Regular Session

Lyons

Abstract: Corrects statutory references remaining from the transfer of the State Land Office from the Dept. of Natural Resources to the Division of Administration.

Present law provides that grant, sale, or conveyance of water bottoms within the territory can only be made by the secretary of the Dept. of Natural Resources. Proposed law gives that responsibility to the Register of the State Land Office. (R.S. 41:14)

Present law provides that any person who desires to purchase any timber located on property under the jurisdiction of the Office of State Lands must file an application and deposit \$100 with the secretary of the Dept. of Natural Resources. Proposed law provides for that application and deposit to be made to the Register of the State Land Office. (R.S. 41:1001)

Present law provides that, on receipt of an application to have timber offered for sale, the secretary of the Dept. of Natural Resources must request the assistant secretary of the Office of Forestry to evaluate the current market value and quantity that could be harvested based on sound forestry practices. Proposed law provides that the Register of the State Land Office requests the Dept. of Agriculture and Forestry, office of forestry, to evaluate the current market value and quantity that can be harvested. (R.S. 41:1002)

Present law authorizes the secretary of the Dept. of Natural Resources to advertise for bids for sale of timber. Proposed law gives that authority to the Register of the State Land Office. (R.S. 41:1002)

Present law provides for the secretary of the Dept. of Natural Resources to advertise the sale of the timber in the official journal of the parish where the land is located. Proposed law gives that responsibility to the Register of the State Land Office. (R.S. 41:1003)

Present law provides that monies from and documentation associated with the sale of timber be forwarded to the Dept. of Natural Resources for deposit in the state treasury. Proposed law provides that the monies and documentation be forwarded to the Register of the State Land Office. (R.S. 41:1005)

Present law provides for ingress and egress for the removal of timber to be fixed in the advertisement and in the act of sale by the Dept. of Natural Resources within one year of the sale unless proof is provided to the secretary of the Dept. of Natural Resources that a delay would result in hardship. Proposed law provides that those responsibilities reside with the Register of the State Land Office. (R.S. 41:1006)

Present law requires that if the Dept. of Natural Resources advertises the sale of timber on land whose title is in dispute, the payment for that timber be placed in escrow with the department pending resolution of ownership of the land. Proposed law places these responsibilities with the Register of the State Land Office. (R.S. 41:1008)

Present law authorizes the secretary of the Dept. of Natural Resources to permit selective cutting of standing cypress on a state-owned water bottom. Proposed law gives that authority to the Register of State Lands. (R.S. 41:1009)

Present law, relative to timber on levee district lands, requires the secretary of the levee district to request an evaluation of the timber by the secretary of the Dept. of Natural Resources. Proposed law provides for the evaluation to be done by the Dept. of Agriculture and Forestry, office of forestry. (R.S. 41:1042)

Present law, relative to timber on interagency recreation board lands within the Dept. of Public Safety and Corrections, requires the secretary of the board to request an evaluation of the timber by the secretary of the Dept. of Natural Resources. Proposed law provides for the evaluation to be done by the Dept. of Agriculture and Forestry, office of forestry. (R.S. 41:1082)

Present law, relative to leasing of state land, requires anyone making application for a lease of state land, including placement of structures, obstacles, fill, or other materials, to submit maps, plans, specifications, or other information as required by the secretary of the Dept. of Natural Resources. Proposed law changes that reference to the Register of the State Land Office. (R.S. 41:1213)

Present law requires the "Dept. of Natural Resources, office of state lands" to establish a statewide land information mapping and records system. Proposed law requires the State Land Office to establish such mapping and records system. (R.S. 50:171(A))

Proposed law corrects references from the "department of public works" to the "Dept. of Transportation and Development".

Proposed law corrects references from the "Office of Forestry" to the "Dept. of Agriculture and Forestry, office of forestry".

Proposed law corrects references from the "Dept. of Natural Resources" to the "Division of Administration" or the "state land office".

(Amends R.S. 41:14, 51(intro. para.) and (1), 1001 through 1006, 1008, 1009, 1042, 1044, 1082, 1084, 1132, 1133, 1213, 1701, 1703, 1706(B), 1713(A) and R.S. 50:171(A))

Summary of Amendments Adopted by House

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

1. Add more corrections to agency references contained within the statutory provisions.