SLS 18RS-552

2018 Regular Session

SENATE BILL NO. 385

BY SENATOR CHABERT

GOVERNMENT ORGANIZATION. Corrects statutory references remaining from the transfer of the state land office to the division of administration. (8/1/18)

1	AN ACT
2	To amend and reenact R.S. 41:14, the introductory paragraph of R.S. 41:51, 51(1), 1001
3	through 1006, 1008, 1009, 1042, 1044, 1082, 1084, 1132, 1133, 1213, 1701, 1703,
4	1706(B), 1713(A) and R.S. 50:171(A), relative to the state land office; to correct
5	statutory references that remain from the transfer of the state land office to the
6	division of administration; and to provide for related matters.
7	Be it enacted by the Legislature of Louisiana:
8	Section 1. R.S. 41:14, the introductory paragraph of R.S. 41:51, 51(1), 1001 through
9	1006, 1008, 1009, 1042, 1044, 1082, 1084, 1132, 1133, 1213, 1701, 1703, 1706(B), and
10	1713(A) are 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

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1	or occupants of lands on the shores of any waters described herein in this Section
2	shall not extend beyond the ordinary low water mark. No one shall own in fee
3	simple any bottoms of lands covering the bottoms of waters described in this Section.
4	* * *
5	§51. Surveys and plats
6	The governor may direct the department of public works Department of
7	Transportation and Development:
8	(1) To make, from time to time, surveys of all unsurveyed lands belonging
9	and that may hereafter belong to this state and to subdivide them into townships,
10	sections and other proper subdivisions that may be necessary for their identification,
11	description, entry and sale. In the event the department of public works Department
12	of Transportation and Development cannot timely cause a requested survey to be
13	made, then the register may on his own initiative cause a survey or surveys to be
14	made of state lands which survey shall be subject to approval by the director of the
15	department of public works secretary of the Department of Transportation and
16	<u>Development</u> . The cost of such a survey shall be borne by the register of the state
17	land office.
18	* * *
19	§1001. Application for sale of timber on state lands
20	Any person who desires to purchase any timber located on property under the
21	jurisdiction of the Division of State Lands state land office, shall file with secretary
22	of the Department of Natural Resources the register of the state land office, an
23	application to purchase giving the exact location, section, township and range, and
24	the types of timber he desires to purchase. The applicant shall deposit with the
25	secretary of the Department of Natural Resources register of the state land office,
26	the sum of one hundred dollars as evidence of good faith. Should the applicant, at
27	the sale of timber as provided for in this Part, fail to purchase the timber, then the
28	money so deposited may be returned to him; provided that should no one at the sale
29	bid up to the minimum price stipulated in this Part, then the money shall be retained

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- to pay the expenses of the sale.
- §1002. Information to be secured as to quantity and value of timber

On receipt of an application to have timber offered for sale, the secretary of the Department of Natural Resources register of the state land office shall request the assistant secretary commissioner of the Office of Forestry Department of <u>Agriculture and Forestry, office of forestry</u> to evaluate the current market value and quantity that could be harvested based on sound forestry practices. The secretary of the Department of Natural Resources register of the state land office may on his own initiative advertise for bids for sale of timber as provided herein in this Part.

10 §1003. Advertisement

11 The secretary of the Department of Natural Resources register of the state 12 <u>land office</u> shall cause to be published an advertisement in the official journal of the 13 parish wherein where the land is located setting forth the description of the land on 14 which the timber to be sold is located, the type and quantity of timber, and the time, 15 place, and terms of the sale. The advertisement shall be published for a period of not 16 less than fifteen days and at least once a week during three consecutive weeks.

17 §1004. Place; time; minimum price; proces-verbal

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 22 time designated as the time for opening such bids. No bid shall be considered unless accompanied by a cashier's check, certified check, or bank money order in the exact 23 24 amount of the bid submitted and made payable to the sheriff of the parish in which 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, 26 27 office of forestry. The sheriff conducting the sale shall deliver a proces-verbal of the sale to the successful bidder. 28

29 §1005. Proceeds

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A. All monies derived from the sale of timber shall be forwarded to the Department of Natural Resources <u>state land office</u> for deposit in the state treasury without delay, after the sheriff making the sale has deducted therefrom the expense of advertising and his commissions for making the sales. The commission shall be two percent of the amount bid and paid, provided that this commission shall not exceed one hundred dollars for one day's adjudication.

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

15 §1006. Removal of timber

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

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

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1	Should the Department of Natural Resources state land office advertise and
2	sell timber on state lands, the title to which is in dispute, a provision may be made
3	that the consideration to be paid the state by the adjudicatee of the timber sold under
4	pursuant to the provisions of this Part, shall be deposited in escrow with the
5	Department of Natural Resources state land office, to be held by that department
6	pending the final determination of the validity of the title to the land or until the
7	Department of Natural Resources state land office and the grantee otherwise agree
8	the payment should be made or released as provided for in the agreement.
9	§1009. Cutting or sale, or both, of cypress timber on stateowned water bottoms;
10	prohibition
11	Notwithstanding any other provision of law, particularly R.S. 41:1001
12	through R.S. 41:1008, the cutting or sale, or both, of standing cypress timber located
13	on any water bottom owned by the state of Louisiana is hereby prohibited except in
14	the exercise of rights under a state lease, right-of-way, or permit. However, the
15	secretary of the Department of Natural Resources register of the state land office
16	may, at his discretion, permit the selective cutting of such timber.
17	* * *
18	§1042. Information to be secured as to quantity and value of timber
19	On receipt of an application to have timber offered for sale, the secretary of
20	the levee board shall request the assistant secretary of the Office of Forestry of the
21	Department of Natural Resources commissioner of the Department of Agriculture
22	and Forestry, office of forestry to evaluate the current market value and quantity
23	that could be harvested based on sound forestry practices. The levee board may on
24	its own initiative advertise for bids for sale of timber as provided herein in this Part.
25	* * *
26	§1044. Place; time; minimum price; proces-verbal
27	The timber so advertised shall be sold to the highest bidder by the sheriff of
28	the parish wherein where the timber is located, at the time and place mentioned in
29	the advertisement for the consideration of bids. All bids shall be submitted sealed

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1	and opened publicly by the sheriff. No bid shall be accepted by the sheriff after the
2	time designated as the time for opening such bids. No bid shall be considered unless
3	accompanied by a cashier's check, certified check, or bank money order in the exact
4	amount of the bid submitted and made payable to the sheriff of the parish in which
5	the sale is conducted. No bid shall be accepted if less than the minimum price
6	established by the Office of Forestry Department of Agriculture and Forestry,
7	office of forestry. The sheriff conducting the sale shall deliver a proces-verbal of
8	the sale to the successful bidder.
9	* * *
10	§1082. Information to be secured as to quantity and value of timber
11	On receipt of an application to have timber offered for sale, the secretary of
12	the board shall request the assistant secretary of the office of forestry of the
13	Department of Natural Resources commissioner of the Department of Agriculture
14	and Forestry, office of forestry to evaluate the current market value and quantity
15	that could be harvested based on sound forestry practices and the goals of the board.
16	The board may on its own initiative advertise for bids for sale of timber as provided
17	herein <u>in this Part</u> .
18	* * *
19	§1084. Place; time; minimum price; proces verbal
20	The timber so advertised shall be sold to the highest bidder by the sheriff of
21	the parish wherein where the timber is located at the time and place mentioned in the
22	advertisement for the consideration of bids. All bids shall be submitted sealed and
23	opened publicly by the sheriff. No bids shall be accepted by the sheriff after the time
24	designated as the time for opening such bids. No bid shall be considered unless
25	accompanied by a cashier's check, certified check, or bank money order in the exact
26	amount of the bid submitted and made payable to the sheriff of the parish in which
27	the sale is conducted. No bid shall be accepted if less than the minimum price
28	established by the Department of Agriculture and Forestry , office of forestry.
29	The sheriff conducting the sale shall deliver a proces verbal of the sale to the

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§1132. Formal agreement to be made

Whenever a settlement is amicably arrived at between the owner of the 4 contiguous and abutting land, and the register of the state land office and is approved 5 by the attorney general, the governor may enter into a contract with the owner in 6 7 keeping with the proces verbal of the agreement of settlement, which shall be supplied by the owner and the Register of the State Land Office register of the state 8 9 land office. The agreement shall be executed and signed, in quadruplicate and in 10 notarial form, by the governor, and by the owner, one copy to be filed with the 11 Department of Public Works Transportation and Development, one with the 12 Register of the State Land Office register of the state land office, one copy to be 13 recorded in the parish in which the land is situated, and one copy to be retained by 14 the owner.

15 §1133. Submission of differences to commissioners

16 If an amicable agreement cannot be so arrived at, the differences in question shall be submitted to commissioners who shall be the attorney general and the chief 17 engineer in the Department of Public Works Transportation and Development, 18 19 representing the state, two persons named by the land owner and a fifth person who shall be selected by these first four named commissioners. A proces verbal of the 20 21 findings of the commissioners shall be executed in quadruplicate originals, one copy 22 to be filed with the Department of Public Works Transportation and Development, one with the Register of the State Land Office register of the state land office, one 23 copy to be recorded in the parish in which the land is situated, and one copy to be 24 furnished the owner of the contiguous or abutting land. 25

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27 §1213. Application for lease

28 Any person desiring to lease any land as set forth in this Part shall present to 29 the lessor a written application, together with a cash deposit of twenty-five dollars,

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

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§1701. Declaration of policy; public trust

16 The beds and bottoms of all navigable waters and the banks or shores of bays, arms of the sea, the Gulf of Mexico, and navigable lakes belong to the state of 17 Louisiana, and the policy of this state is hereby declared to be that these lands and 18 19 water bottoms, hereinafter referred to as "public lands", shall be protected, administered, and conserved to best ensure full public navigation, fishery, recreation, 20 21 and other interests. Unregulated encroachments upon these properties may result in 22 injury and interference with the public use and enjoyment and may create hazards to the health, safety, and welfare of the citizens of this state. To provide for the 23 24 orderly protection and management of these state-owned properties and serve the best interests of all citizens, the lands and water bottoms, except those excluded and 25 exempted and as otherwise provided by this Chapter, or as otherwise provided by 26 27 law, shall be under the management of the Department of Natural Resources division of administration, hereinafter referred to as the "department division". The State 28 29 Land Office state land office, hereinafter referred to as the "office", shall be

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1 responsible for the control, permitting, and leasing of encroachments upon public 2 lands, in accordance with this Chapter and the laws of Louisiana and the United 3 States. * 4 §1703. Permits and licenses for encroachments other than reclamation projects 5 A. Encroachments, other than those provided in Section R.S. 41:1702, may 6 7 be permitted and licensed by the department division under the provisions of this 8 Chapter. 9 B. As provided herein, the State Land Office The office, with the aid of the 10 division, the Department of Natural Resources, the Department of Wildlife and 11 Fisheries, the Department of Transportation and Development, and the attorney general, shall adopt regulations to implement this Chapter, including the granting and 12 13 revoking of permits, leases or licenses, processing of applications, establishing fee schedules, collecting of fees or revenues for all manner of encroachments, and shall 14 create an overall and comprehensive plan for the orderly development and 15 16 preservation of state lands so as to ensure maximum benefit and use, all in accordance with the law. The office shall maintain a current inventory of state lands 17 and a depository in which shall be recorded and preserved all records, surveys, plats, 18 19 applications, permits, leases, licenses, and other evidence pertaining to the trust 20 lands, their description, disposition, and encroachments thereon. 21 22 §1706. Classes of permits 23 24 B. All permits shall be subject to the regulations and procedures established herein by this Chapter and adopted by the department division or the office. The 25 requirements and procedures for applicants established in R.S. 41:1702(D)(1) to 26 27 implement reclamation of eroded lands shall govern reclamation projects thereunder; the regulations and procedures established by other Sections of this Chapter shall 28

only apply to Class A Permits when no conflict exists with R.S. 41:1702.

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§1713. Leases and permits, cause for cancellation or revocation
A. Abandonment of an encroachment, or noncompliance with the law, this
Chapter, or regulations and standards adopted thereunder, shall result in the
revocation or cancellation of any permit or lease unless the persons responsible
remedy the problem or violation within thirty days of written or published notice, by
the department division or office, as applicable, specifying the violation. The period

revocation or cancellation of any permit or lease unless the persons responsible remedy the problem or violation within thirty days of written or published notice, by the department division or office, as applicable, specifying the violation. The period for compliance may be extended for additional thirty-day periods up to one hundred twenty days total, upon a showing by the persons responsible of inability to comply by reason of extensive work required. Where force majeure prevents the persons responsible from complying with the department's division's or the office's demand, the thirty-day corrective period shall be suspended until such date when work becomes reasonably possible.

Noncommercial piers and wharves shall not be subject to permit requirements.

15 * *

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

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

18 A. The Department of Natural Resources, office of state lands, state land 19 office shall establish, promulgate, and maintain appropriate standards for a statewide land information mapping and map records system of all lands, private and public, 20 within the state of Louisiana to promote and ensure compatibility, uniformity, and 21 cost-effectiveness by public entities. These standards shall be developed to include 22 the establishment of appropriate photogrametric or electronic mapping techniques 23 24 and procedures which efficiently accommodate land information collection, maintenance, sharing, and retrieval. The department shall adopt these standards by 25 rules adopted pursuant to the Administrative Procedure Act prior to January 1, 1991. 26

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The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Alan Miller.

SB 385 Reengrossed

DIGEST 2018 Regular Session

Chabert

<u>Present law</u> contains several references to agencies, such as the office of forestry and the Dept. of Public Works, that have changed names or have been consolidated with other agencies with regard to the state land office.

<u>Proposed law</u> corrects statutory references that remained after the transfer of the state land office from the Dept. of Natural Resources to the div. of admin.

<u>Proposed law</u> changes references of the Dept. of Natural Resources to state land office, Dept. of Public Works to DOTD, and office of forestry to Dept. of Ag. and Forestry, office of forestry.

Effective August 1, 2018.

(Amends R.S. 41:14, 51(intro para), 51(1), 1001-1006, 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 Senate

Senate Floor Amendments to engrossed bill.

1. Makes legislative bureau technical changes.