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The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Tyler S. McCloud.

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DIGEST

SB 90 Original

2023 Regular Session

Robert Mills

Present law authorizes a person or entity to enter into a cooperative endeavor agreement to withdraw running surface water with an agency or subdivision of the state authorized in existing law to enter into such agreements or with the secretary of the Dept. of Natural Resources.

Proposed law changes the authorization to a requirement for a person or entity to enter into a cooperative endeavor agreement to withdraw running surface water.

Present law requires the cooperative endeavor agreement to prohibit resale of the water for a higher price, except for transporting, manufacturing, or processing the water. Proposed law retains present law.

Present law does not effect the rights of riparian owners. Proposed law retains present law.

Present law requires the cooperative endeavor agreements or assignments be in writing, provide for fair market value, in the public interest, and contained on a uniform form developed by the State Mineral and Energy Board and approved by the attorney general.

Proposed law retains present law except also applies to renewals.

Present law requires fair market value to include but not be limited to the economic development, employment, and increased tax revenues created by the activities associated with the withdrawal of running surface water. Present law excludes these economic considerations when water is withdrawn from bodies of water managed by the Department of Wildlife and Fisheries and determined by the office of fisheries to be negatively impacted by invasive aquatic vegetation.

Proposed law removes the requirement that fair market value include the economic development, employment, and increased tax revenues created from all cooperative endeavor agreements to withdraw running surface water.

Proposed law authorizes the secretary to waive fair market value for water withdrawals by Louisiana municipalities and public water systems.

Present law requires the secretary to develop an application process, complete an evaluation and take action within 60 days of an application being deemed complete, and provide written reasons for a denial. Proposed law retains present law.

Present law prohibits the secretary from entering into any cooperative endeavor agreement to withdraw running surface water that fails to comply with the prohibition against gratuitous donation

of state property and that the substance of the agreement is not contained within a written cooperative endeavor agreement. Proposed law retains present law.

Present law requires the secretary to ensure the proposed agreement is based on best management practices and sound science, and is consistent with the required balancing of environmental and ecological impacts with the economic and social benefits. Proposed law retains present law. Further requires the evaluation ensure that all agreements consider the potential and real effects on the sustainability of the water body and on navigation. Proposed law retains present law except applies the evaluation to renewals and the secretary must also consider the impact on the esthetic quality of the environment.

Present law provides that any assignment is approved in the same manner as an agreement as provided in present law. Proposed law retains present law.

Present law provides for the term of a cooperative endeavor agreement to withdraw running surface water, or an assignment have an initial term not to exceed two years and may be renewed in two-year increments.

Proposed law reduces the initial term to one year and limits a renewal to one additional one-year term at the discretion of the secretary.

Present law authorizes a person or entity who has entered into a cooperative endeavor agreement to withdraw running surface waters or has obtained an assignment of such, terminate such agreement after December 31, 2022, in writing. Proposed law removes this authorization for the user to terminate the agreement.

Present law authorizes the secretary to reduce or terminate withdrawals otherwise agreed to in order to protect the resource and maintain sustainability. Proposed law retains present law.

Present law requires the secretary to consider existing users in approving or making changes to an application and prioritizes users as human consumption, agricultural uses, and finally, commercial and industrial or mining uses. Proposed law retains present law except also applies to renewals.

Present law requires the secretary to consider the impact on resource planning and provides examples. Proposed law retains present law except applies to renewals and adds the example of the scenic, esthetic, and other natural and physical features of the water body and surrounding area.

Present law requires reimbursement at fair market value of 15¢ per 1,000 gallons for all use or withdrawal of running surface water from bodies of water managed by the Dept. of Wildlife and Fisheries and determined by the office of fisheries to be negatively impacted by invasive aquatic vegetation.

Proposed law removes the prescribed fair market value requirement applied to those water bodies only managed by the Dept. of Wildlife and Fisheries.

Proposed law requires the State Mineral and Energy Board to set the fair market value annually, after conducting a public hearing and prohibits the determination of fair market value include the economic development, employment, and increased tax revenues created by the activities.

Present law establishes the Aquatic Plant Control Dedicated Fund Account to be used to control and eradicate aquatic weeds.

Present law requires deposit of monies collected from the use or withdrawal of surface water from state water bodies into the Aquatic Plant Control Fund and further provides that revenues deposited into the fund from the use of water from water bodies with aquatic weed should be used for the treatment of aquatic weed on those bodies of water from which the revenue was generated.

Proposed law retains present law except requires the deposit of monies into the Aquatic Plant Control Dedicated Fund Account.

Effective July 1, 2023.

(Amends R.S. 30:961(A), (B), (D), (E), (G)(1)(intro para) and (G)(2), (J), and (K))