

2015 Regular Session

HOUSE CONCURRENT RESOLUTION NO. 104

BY REPRESENTATIVE DOVE

FISHING/OYSTERS: Creates the Oyster Lease Moratorium Lifting Committee

1 A CONCURRENT RESOLUTION

2 To establish a committee to consider the issues surrounding the possible lifting of the oyster
3 leasing moratorium instituted by the Wildlife and Fisheries Commission on March
4 7, 2002.

5 WHEREAS, on March 7, 2002, the Louisiana Wildlife and Fisheries Commission
6 adopted and promulgated a moratorium on the accepting of oyster lease applications and the
7 issuance of new oyster leases; and

8 WHEREAS, Act No. 808 of the 2008 Regular Session attempted to establish a
9 procedure for lifting the moratorium including an examination of certain classes of leases
10 that had not been renewed by the Department of Wildlife and Fisheries since 1996 due to
11 recommendations from the Department of Natural Resources and possible expansion of
12 existing leases into adjacent water bottoms; and

13 WHEREAS, Act No. 808 of the 2008 Regular Session also established a special
14 committee composed of certain stakeholders with interests in the coastal water bottoms and
15 leasing activity on those water bottoms by the state; and

16 WHEREAS, much time has passed since that special committee reported its findings
17 and no actions have been taken that would move the state forward toward acceptance of
18 applications for new oyster leases and issuance of new oyster leases; and

19 WHEREAS, through that period of years there have been several natural and
20 manmade disasters that have negatively impacted the oyster industry including Hurricanes
21 Katrina and Rita in 2005, Hurricanes Gustav and Ike in 2008, and in 2010, the BP Deepwater
22 Horizon well blowout and release into the Gulf of Mexico; and

1 WHEREAS, the oyster industry, particularly that portion of the industry located in
2 the Southeastern waters of Louisiana, has been devastated and is fighting for its very
3 existence, an existence that could be enhanced through the reinstatement of leasing of state
4 water bottoms for the cultivation of oysters.

5 THEREFORE BE IT RESOLVED that the Legislature of Louisiana does hereby
6 create a special committee to examine the many issues surrounding the possibility of lifting
7 the moratorium instituted by the Wildlife and Fisheries Commission on March 7, 2002.

8 BE IT FURTHER RESOLVED that the committee shall be known as the Oyster
9 Lease Moratorium Lifting Committee and shall be composed as follows:

- 10 (1) One member selected by the Louisiana Oyster Task Force.
- 11 (2) One member selected by the Louisiana Oystermen Association.
- 12 (3) One member selected by the Louisiana Oil and Gas Association.
- 13 (4) One member selected by the Louisiana Mid-Continent Oil and Gas Association.
- 14 (5) One member selected by the Louisiana Landowner's Association, Inc.
- 15 (6) One nonvoting member representing the Coastal Protection and Restoration
16 Authority.
- 17 (7) One nonvoting member representing the Department of Wildlife and Fisheries.
- 18 (8) One nonvoting member representing the Department of Natural Resources.
- 19 (9) One nonvoting member representing the State Land Office.
- 20 (10) One nonvoting member representing the Department of Justice.
- 21 (11) The Governor's Executive Assistant for Coastal Activities shall be a nonvoting
22 member and shall serve as chair.

23 BE IT FURTHER RESOLVED that actions of the committee and recommendations
24 for legislation or regulation implementation or change shall require a two-thirds favorable
25 vote of the voting committee members appointed to serve on the committee.

26 BE IT FURTHER RESOLVED that the committee meet as needed upon call by the
27 chair and that the committee discuss and develop specific recommendations for legislation
28 or regulations to address the following questions and concerns precipitated by a potential
29 lifting of the moratorium:

1 (1) Should the current moratorium on new state oyster leases be lifted and how
2 should that lifting occur?

3 (2) How should liability for damage claims be resolved between oyster lessees and
4 permittees under R.S. 49:214.21 et seq. or in-lieu permits covering the same water bottoms,
5 depending on whether the permit was issued before or after the oyster lease was granted?

6 (3) Should state ownership of a water bottom be determined prior to issuance or
7 renewal of an oyster lease, how should that determination be made, and what are the effects
8 of such determination on the grant or denial of the lease or renewal?

9 (4) Should the public be notified of applications for oyster leases, should challenges
10 to the issuance of new oyster leases be made and resolved prior to lease issuance, and when
11 such a charge is made, should lease applications be withdrawn and all fees refunded?

12 (5) Should an oyster leaseholder be authorized to grant voluntary rights of entry,
13 fully waiving any claims due to integrated coastal protection, in lieu of acquisition of the
14 lease pursuant to the Oyster Lease Acquisition and Compensation Program?

15 (6) How should partial acquisition of a lease pursuant to the Oyster Lease
16 Acquisition and Compensation Program impact oyster lease numbering?

17 (7) Should oyster lease rentals and oyster lease application fees be increased and by
18 how much?

19 (8) Should oyster leases be terminated for nonuse, how should the termination be
20 conducted, and what should be the definition of any such "nonuse"?

21 (9) Should "rights of first refusal" be granted to the last owner of voluntarily
22 nonrenewed oyster leases, as a part of or prior to any lifting of the oyster lease moratorium?

23 (10) Should expansion leases be granted to existing oyster leaseholders,
24 encompassing up to five hundred feet of state water bottom surrounding an existing oyster
25 lease, and should such expansions be granted as a part of or prior to any lifting of the oyster
26 lease moratorium?

27 (11) Should exchanges between the Department of Wildlife and Fisheries and
28 existing oyster leaseholders be authorized to straighten seed ground and lease boundaries,
29 and should such straightening occur as a part of or prior to any lifting of the oyster lease
30 moratorium?

1 (12) When the moratorium is lifted, should a lottery for the issuance of new leases
2 be held?

3 (13) If there are water bottoms that are claimed by both the state and a private
4 landowner, who should have preferential rights to oyster leases issued by Department of
5 Wildlife and Fisheries on those same water bottoms as part of or prior to any lifting of the
6 oyster lease moratorium; and if so, what should be the extent of those rights, how and when
7 should they be exercised, and should they be limited to private oyster leases existing on May
8 4, 2015, or another fixed date?

9 (14) Any other matter that two-thirds of the voting members of the committee
10 choose to address that is germane to oyster leasing.

11 BE IT FURTHER RESOLVED that the committee report its findings no later than
12 February 1, 2016, to the House Committee on Natural Resources and Environment and the
13 Senate Committee on Natural Resources and that such report shall include specific proposed
14 legislation and any regulations that may be needed for implementation of the
15 recommendations of the committee.

16 BE IT FURTHER RESOLVED that a copy of this Resolution be forwarded to the
17 Louisiana Oyster Task Force, the Louisiana Oystermen Association, the Louisiana Oil and
18 Gas Association, the Louisiana Mid-Continent Oil and Gas Association, the Louisiana
19 Landowner's Association, Inc., the Coastal Protection and Restoration Authority, the
20 secretary of the Department of Wildlife and Fisheries, the secretary of the Department of
21 Natural Resources, the State Land Office, the Attorney General, and the Governor's
22 Executive Assistant for Coastal Activities.

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)]

HCR 104 Reengrossed

2015 Regular Session

Dove

Creates the Oyster Lease Moratorium Lifting Committee composed of the following members:

- (1) One member selected by the La. Oyster Task Force.
- (2) One member selected by the La. Oystermen Association.

- (3) One member selected by the La. Oil and Gas Association.
- (4) One member selected by the La. Mid-Continent Oil and Gas Association.
- (5) One member selected by the La. Landowner's Association, Inc.
- (6) One nonvoting member representing the Coastal Protection and Restoration Authority.
- (7) One nonvoting member representing the Dept. of Wildlife and Fisheries.
- (8) One nonvoting member representing the Dept. of Natural Resources.
- (9) One nonvoting member representing the State Land Office.
- (10) One nonvoting member representing the Dept. of Justice.
- (11) The Governor's Executive Assistant for Coastal Activities shall be a nonvoting member and shall serve as chair.

Provides a list of 13 items to be specifically examined by the committee. Requires 2/3 vote of the voting members to take action, adopt recommendations, and to consider additional issues not included in the resolution. Requires a report to be submitted to the House Committee on Natural Resources and Environment and the Senate Committee on Natural Resources no later than Feb. 1, 2016. Requires such report to include specific proposed legislation and any regulations that may be needed for implementation of the recommendations of the committee.

Summary of Amendments Adopted by House

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

1. Adds to the list of items to be examined the question of water bottoms claimed by both the state and a private land owner and what happens to leases on those water bottoms.