

Regular Session, 2010

HOUSE CONCURRENT RESOLUTION NO. 1

BY REPRESENTATIVES FANNIN, BOBBY BADON, BILLIOT, BURFORD, HENRY BURNS, TIM BURNS, CHAMPAGNE, CHANDLER, CONNICK, CORTEZ, DANAHAY, DOERGE, DOWNS, ELLINGTON, GEYMAN, GISCLAIR, GUINN, HARRISON, HAZEL, HENDERSON, SAM JONES, LABRUZZO, LAMBERT, LEBAS, LEGER, LIGI, LITTLE, LORUSSO, MCVEA, MILLS, MONToucET, MORRIS, NOWLIN, PEARSON, RICHARD, ROY, SCHRODER, SIMON, SMILEY, GARY SMITH, PATRICIA SMITH, ST. GERMAIN, STIAES, THIBAUT, WHITE, AND WILLIAMS AND SENATORS ADLEY, LONG, SHAW, AND THOMPSON

A CONCURRENT RESOLUTION

To request the Ground Water Resources Commission, through its chair, to prepare a report on the state's ground and surface water resources and to provide recommendations for the optimal management and protection of the state's surface water and ground water resources, to be submitted to the House Committee on Natural Resources and Environment and the Senate Committee on Environmental Quality no later than March 1, 2012.

WHEREAS, the water resources of the state are a precious natural resource necessary for public health, safety, and economic well-being; and

WHEREAS, Louisiana is underlain by thirteen major ground water aquifer systems, which are the Red River Alluvial Aquifer, the Mississippi River Alluvial Aquifer, the Upland Terrace Aquifer, the Chicot Aquifer System, the Chicot Equivalent Aquifer System, the Evangeline Aquifer, the Evangeline Equivalent Aquifer System, the Jasper Aquifer System, the Jasper Equivalent Aquifer System, the Catahoula Aquifer, the Cockfield Aquifer, the Sparta Aquifer, and the Carrizo-Wilcox Aquifer; and

WHEREAS, the water resources of the state and the United States, generally, are in high demand and in danger of overuse; and

WHEREAS, based on information provided in the United States Geological Survey's 2005 Water Use in Louisiana report, approximately five hundred eighty-four millions of gallons of Louisiana's ground water were withdrawn in 2005, with approximately twenty-two percent of that amount being used for public supply purposes, approximately eighteen

percent of that amount being used for industrial purposes, approximately three percent of that amount being used for rural domestic purposes, and approximately fifty-seven percent of that amount being used for irrigation; and

WHEREAS, based on information provided in the United States Geological Survey's 2005 Water Use in Louisiana report, approximately three million one hundred seventy-five hundred millions of gallons of Louisiana's surface water were withdrawn in 2005, with approximately seven percent of that amount being used for public supply purposes, approximately eighty percent of that amount being used for industrial purposes, little to none of that amount being used for rural domestic purposes, and approximately thirteen percent of that amount being used for irrigation; and

WHEREAS, Article IX Section 1 of the Constitution of Louisiana declares that the "natural resources of the state, including ... water ... shall be protected, conserved, and replenished insofar as possible and consistent with the health, safety, and welfare of the people. The Legislature shall enact laws to implement this policy"; and

WHEREAS, the legislature has empowered the Ground Water Resources Commission with the authority to "continue the development ... of a statewide ground water resource management program that shall include but not be limited to evaluation of the state's ground water resources including current and projected demands; development of a water use conservation program; study of alternatives to ground water use, such as surface water to include treatment and transmission systems, and reclaimed water; incentives for conservation; use of alternative technologies; and education and conservation programs"; and

WHEREAS, the legislature has empowered the commissioner of conservation, who is a member of the Ground Water Resources Commission, with the "administration of all matters related to the management of the state's ground water resources by providing for the most advantageous use of the resource consistent with the protection, conservation, and replenishment thereof"; and

WHEREAS, the legislature has empowered the Department of Environmental Quality, which is represented on the Ground Water Resources Commission, with the authority to "prohibit, control, or abate ... water pollution" in the state; and

WHEREAS, the legislature has empowered the Department of Health and Hospitals, which is represented on the Ground Water Resources Commission, to ensure human health and safety in relation to drinking water and the regulation of the treatment and disposal of municipal or domestic sewerage; and

WHEREAS, the legislature has empowered the Department of Transportation and Development, which is represented on the Ground Water Resources Commission, with the supervision and overview of the construction, modification, operation, and maintenance of dams within the state to the extent required to protect life and property and to provide for the safety and welfare of the public within the state and with the authority to plan systems of inland waterways, navigation drainage; irrigation and water conservation projects; foster the maintenance, improvement, and extension of the Intracoastal Canal System and its feeders; and initiate, sponsor, and carry through to completion all waterway projects which will further develop and expand the water resources of Louisiana; and

WHEREAS, the legislature has empowered the Department of Wildlife and Fisheries, which is represented on the Ground Water Resources Commission, with controlling and supervising all wildlife of the state, including fish and all other aquatic life, including the management, protection, conservation, and replenishment of wildlife, fish, and aquatic life in the state. The department is also responsible for the conservation and management of all renewable resources on all wildlife management areas, wildlife refuges, scenic rivers, and wildlife preserves that it may own or lease; and

WHEREAS, the legislature has empowered the Department of Agriculture and Forestry, which is represented on the Ground Water Resources Commission, to advise and assist soil and water conservation districts, which administer the conservation, development, utilization, and disposal of water within their districts for the benefit of local farmers; and

WHEREAS, the legislature has empowered the Governor's Office of Coastal Activities, which is represented on the Ground Water Resources Commission, to provide leadership and support to the Coastal Protection and Restoration Authority and to direct and coordinate the development and implementation of policies, plans, and programs which encourage multiple uses of the coastal zone and achieve a proper balance between development and conservation, restoration, creation, and nourishment of coastal resources; and

WHEREAS, the Ground Water Resources Commission also has representatives of a geologic or engineering expert in ground water resource management; the Louisiana Chemical Association, the Louisiana Mid-Continent Oil & Gas Association, the Louisiana Association of Business and Industry, and the Louisiana Pulp & Paper Association; the Louisiana Farm Bureau; the Police Jury Association of Louisiana; Louisiana Municipal Association; the Sparta Groundwater Conservation District Board of Commissioners; the Capital Area Groundwater Conservation District; individuals residing or working in the area underlain by the Chicot Aquifer; the Louisiana Landowners Association; and the Louisiana Wildlife Federation, Coalition to Restore Coastal Louisiana, and the League of Women Voters; and

WHEREAS, from October 2008 to March 2010, the Ground Water Resources Commission met seven times throughout Louisiana to learn and discuss issues involving the management of ground water, including the study of alternatives to ground water use, such as surface water; and

WHEREAS, several legal opinions have been requested from the attorney general regarding water rights and related issues in the last year; and

WHEREAS, a February 5, 2010, memorandum was issued by the attorney general and the secretary of the Department of Natural Resources advising: that under Louisiana law persons, with the possible exception of riparian landowners, are not authorized to remove state-owned surface water without obtaining the prior written approval of the state and without paying fair value; in the event that a state agency or state political subdivision is presented with a request to transfer or sell state-owned surface waters within its statutory jurisdiction, the state agency or political subdivision should first review its statutory authority to determine if it is in fact authorized to sell the state owned surface waters; if it is so statutorily authorized, the state agency or political subdivision may enter into negotiations with the private entity for the sale of state-owned surface water with the understanding that any such sale must be for fair value and that any agreement must be reduced to writing in the form of a contract or cooperative endeavor agreement and that any such agreement is subject to prior approval by the office of the attorney general and the Department of Natural Resources; and

WHEREAS, the Department of Natural Resources, following the unanimous recommendation of the Ground Water Resources Commission, has retained the services of a consultant to further study and evaluate the state's ground water resources to preserve their quality and sustainability by evaluating current and projected demands, development of a water use and incentives conservation plan, providing alternatives to ground water use and solutions to mitigate and prevent further water level decline and water quality decline in areas of concern identified throughout the state; and

WHEREAS, the Department of Transportation and Development has entered into a contract, under the oversight of the Department of Natural Resources, with a consultant to further study and evaluate the state's surface water resources to develop a statewide reservoir priority and development program, including identification of the conditions of the state's nine water basins and water resource supplies and demands, the sustainable yields of streams, rivers, lakes, and reservoirs, the development of ground water and surface water interactive models, and the development of a reservoir prioritization model and plan. The evaluation process is critical to determine whether constructing a new reservoir is needed and warranted.

THEREFORE, BE IT RESOLVED that the Legislature of Louisiana does hereby request the Ground Water Resources Commission, through its chair, to prepare a report on the state's water resources, both ground water and surface water, and to provide recommendations for the optimal management and protection of the state's water resources, both ground water and surface water, including but not limited to the following: the study of impacts and potential impacts to water quality in surface water and ground water, as well as, current federal, state, and local efforts to protect water quality; surface water and ground water resource management and protection policies in the areas of ground water concern as designated by the commissioner of conservation, areas of the state that have experienced increased water usage associated with the hydraulic fracturing used in the production of natural gas from shale-gas formations, and the areas of high water use in Southwest Louisiana and the capital area region; the procedure for selling running water and water in naturally navigable water bodies owned by the state for private purposes; necessary changes to current water resource management law in order to implement recommendations for the optimal management and protection of the state's water resources, both ground water and

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surface water; the necessary changes to current government procedures to make the management and protection of the state's surface water and ground water resources both more efficient and comprehensive; and water recycling and conservation incentives, including tax incentives. The report shall be submitted to the House Committee on Natural Resources and Environment and the Senate Committee on Environmental Quality no later than March 1, 2012.

BE IT FURTHER RESOLVED that a copy of this Resolution be transmitted to the secretary of the Department of Natural Resources.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE