

SENATE BILL NO. 183

BY SENATOR N. GAUTREAUX

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AN ACT

To amend and reenact R.S. 30:124, relative to the State Mineral and Energy Board; to provide for alternate energy resources; to authorize the State Mineral and Energy Board to lease state lands for the exploration, development, and production of energy from alternative energy resources; to provide for terms and conditions; to provide for rulemaking authority; to provide for approval of certain leases by ports; harbor and terminal districts; or port, harbor and terminal districts; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 30:124 is hereby amended and reenacted to read as follows:

§124. Board may lease public lands; fee

A. The legislature finds that the state, through the Department of Natural Resources, should promote the generation and use of alternative energy sources, including but not limited to wind energy, geothermal energy, solar energy, and hydrokinetic energy, throughout the state to ensure the viability of the state's natural resources, to provide a continuing utility-scale clean energy source for the citizens and businesses of Louisiana, to support economic development through job retention and creation in Louisiana, and to promote a clean environment.

B. The State Mineral and Energy Board, hereinafter referred to as the "board", has authority to lease for the development and production of minerals, oil, and gas, or alternative energy sources, any lands belonging to the state, or the title to which is in the public, including road beds, water bottoms, vacant state lands, and lands adjudicated to the state at tax sale. The board, in consultation with the Department of Transportation and Development, shall adopt rules and

1 regulations in accordance with the Administrative Procedure Act to implement
2 the provisions of this Subpart.

3 C. No lease shall be granted for hydrokinetic energy development that
4 is inconsistent with the terms of a preliminary permit, license, exemption, or
5 other authorization issued by the Federal Energy Regulatory Commission
6 pursuant to its authority under the Federal Power Act, 16 U.S.C. 791a, et seq.

7 D.(1)(a) No lease affecting the following lands shall be granted for
8 alternative energy sources development on such lands without prior written
9 approval of a port; harbor and terminal district; or port, harbor, and terminal
10 district;

11 (i) Lands held in title by such port or district or held by lease or
12 servitude by such port or district.

13 (ii) Public navigable waters that flow through any lands within the
14 jurisdiction of such port or district. Approval pursuant to this Item shall not
15 be unreasonably withheld unless such lease would be detrimental to the needs
16 of commerce and navigation.

17 (b) No such port or district shall receive compensation for their
18 approval.

19 (2) After the port; harbor and terminal district; or port, harbor, and
20 terminal district decides whether or not to grant approval, the board shall send a
21 notice by certified mail to the lease applicant for alternative energy sources
22 development. The notice shall include the following:

23 (a) The decision of such port or district to provide either prior written
24 approval of the lease or to deny approval of such lease.

25 (b) If such port or district does not grant prior written approval, notice that
26 the lease applicant has sixty days from receipt of the notice to request an
27 administrative hearing with the division of administrative law pursuant to Chapter
28 13-B of Title 49 of the Louisiana Revised Statutes of 1950. The request for an
29 administrative hearing shall be filed with the division of administrative law, with
30 copies mailed to the board and such port or district.

1 (3) The port; harbor and terminal district; or port, harbor, and terminal
2 district which does not grant prior written approval of a lease shall have the burden
3 of proof, at the administrative hearing, that the lease is detrimental to the needs of
4 commerce and navigation.

5 (4) The port; harbor and terminal district; or port, harbor, and terminal
6 district shall contract with the division of administrative law to conduct the hearing.
7 The administrative law judge may, in his discretion, assess the costs of the
8 administrative hearing and reasonable attorney fees of the prevailing party against
9 the losing party.

10 (5) Notwithstanding any provision of the law to the contrary, the lease
11 applicant or the port; harbor and terminal district; or port, harbor, and terminal
12 district may petition the district court for the parish of East Baton Rouge for judicial
13 review of any final decision or order of the administrative law judge.

14 E. The mineral board is further authorized to collect a fee for such leasing in the
15 amount of ten percent of the total cash bonus paid at the lease sale. The fee shall be in
16 addition to the total cash bonus paid.

PRESIDENT OF THE SENATE

SPEAKER OF THE HOUSE OF REPRESENTATIVES

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____