

Regular Session, 2008

ACT No. 808

HOUSE BILL NO. 798

BY REPRESENTATIVES HUTTER AND BALDONE

1 AN ACT

2 To repeal Louisiana Administrative Code 76.V.501(B)(1)(introductory paragraph) and
3 (3)(b), relative to oyster leases and to provide for a process for lifting of the
4 moratorium on new oyster leases.

5 Be it enacted by the Legislature of Louisiana:

6 Section 1. Louisiana Administrative Code 76.V.501(B)(1)(introductory paragraph)
7 and (3)(b) are hereby repealed in their entirety.

8 Section 2.A. Legislative Intent: On March 7, 2002, a moratorium on the taking of
9 oyster lease applications and the issuance of new oyster leases was imposed. Such
10 moratorium shall be lifted as outlined in the provisions of this Act. Rules necessary to
11 implement the provisions of this Act shall be promulgated by the Louisiana Wildlife and
12 Fisheries Commission under the Administrative Procedure Act. Actions taken under the
13 authority of this Act shall be taken notwithstanding statutory and administrative code
14 provisions to the contrary.

15 B. Prior to lifting the moratorium, there shall be an examination of those leases that
16 were not renewed by the Department of Wildlife and Fisheries since 1996 due to
17 recommendations from the Department of Natural Resources that such leases would be in
18 the operational or impact area of a planned coastal restoration project. The Department of
19 Wildlife and Fisheries and the Department of Natural Resources shall cooperate in the
20 determination of those leases that are eligible for a new lease for previously leased acreage
21 under this phase of the moratorium lifting. The lease holder of record at the time the lease
22 was not renewed shall have the first right of refusal for a new lease for previously leased
23 acreage under this phase of the moratorium lifting. Under the provisions of R.S. 56:425, the
24 secretary of the Department of Wildlife and Fisheries and the secretary of the Department
25 of Natural Resources shall agree that issuing a new lease for previously leased acreage for

1 such water bottom is otherwise appropriate and the water bottom is not necessary for coastal
2 protection, conservation, or restoration. At a minimum, the department shall advertise the
3 availability of a new lease for previously leased acreage on two separate days in the official
4 journal of the parish where the acreage is located. If the lease holder of record at the time
5 the lease was not renewed does not desire to be issued a new lease for previously leased
6 acreage or fails to respond to the notice of the availability of a new lease for previously
7 leased acreage within sixty days of the date of the last advertisement or notification, he shall
8 forfeit all rights to that lease.

9 C. Upon implementation of the provisions of this Act, the Louisiana Wildlife and
10 Fisheries Commission shall promulgate and implement rules necessary for the final lifting
11 of the moratorium. Such rules shall be developed in conjunction with a special committee
12 composed of representatives from the Department of Wildlife and Fisheries, the Department
13 of Natural Resources, the Louisiana Oyster Task Force, the Louisiana Landowner's
14 Association, the Louisiana Oil and Gas Association, and Louisiana Mid-Continent Oil and
15 Gas Association and may include offering lease holders the opportunity to expand their
16 existing leases by incorporation of immediately adjacent water bottom. Such expansion
17 shall be limited to five hundred feet beyond the existing lease boundary except in cases
18 where there is a lease held by another lease holder whose boundary line is less than five
19 hundred feet away. In those cases, the two lease holders may agree to divide the distance
20 equally or, if one lease holder declines to expand his lease, the other lease holder may
21 expand up to the boundary line of the other lease. The opportunity to expand leases shall be
22 provided for a limited period of time. The committee shall report their recommendations to
23 the Wildlife and Fisheries Commission prior to June 1, 2009.

24 Section 3. Once the moratorium has been finally lifted by the Louisiana Wildlife and
25 Fisheries Commission, the provisions of Section 2 of this Act shall cease to have effect, and
26 further leasing of state water bottoms for oyster productions shall be in accordance with the
27 provisions of Subpart D of Part VII of Chapter 1 of Title 56 of the Louisiana Revised
28 Statutes of 1950.

29 Section 4. This Act shall become effective upon signature by the governor or, if not
30 signed by the governor, upon expiration of the time for bills to become law without signature
31 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If

1 vetoed by the governor and subsequently approved by the legislature, this Act shall become
2 effective on the day following such approval.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____