

SENATE CONCURRENT RESOLUTION NO. 53

BY SENATOR CLAITOR

A CONCURRENT RESOLUTION

To urge and request the Louisiana State Law Institute to study legal issues surrounding groundwater and surface water law and report its recommendation to the legislature on or before March 1, 2013.

WHEREAS, Article IX, Section 1 of the Constitution of Louisiana states that the water of the state "shall be protected, conserved, and replenished insofar as possible and consistent with the health, safety, and welfare of the people"; and

WHEREAS, according to the U.S. Geological Survey, total withdrawals from Louisiana groundwater and surface water sources in 2010 were approximately eight thousand five hundred million gallons per day, a decrease of about seventeen percent since 2005; and

WHEREAS, according to the U.S. Geological Survey, surface water withdrawals decreased by approximately twenty percent during this period, and groundwater withdrawals increased by two percent; and

WHEREAS, Louisiana has applied various and often times conflicting legal rules such as rule of capture, absolute ownership, and riparian rights, and this has resulted in the concept that running surface waters of the state are recognized as public resources, owned by the state, and usually subject to a charge for consumption, with the exceptions of riparian owners and other uses such as agriculture, aquaculture, and municipal purposes; and

WHEREAS, groundwater, when reduced to possession, is treated as privately owned and free of charge; and

WHEREAS, this differing treatment of groundwater and surface water results in the state charging for surface water that is normally in abundance, but allowing the free withdrawal of groundwater which is often in limited supply; and

WHEREAS, a recommendation of the Louisiana Groundwater Resources Commission's report entitled "Managing Louisiana's Groundwater Resources" is to engage legal scholars to research and explore the potential non-compensated consumption of surface water when used as an alternative to groundwater; and

WHEREAS, the legislature should be fully informed as to the legal aspects of the withdrawal and sales of surface water and groundwater resources, including potential effects, consequences, impacts upon current state laws such as Civil Code Art. 667, and the necessity, if any, for revisions to Louisiana law.

THEREFORE, BE IT RESOLVED that the Legislature of Louisiana does hereby request the Louisiana State Law Institute to study legal issues surrounding groundwater and surface water law and any needs for revisions to current law.

BE IT FURTHER RESOLVED that the Louisiana State Law Institute shall report its finding and recommendations to the Legislature of Louisiana on or before March 1, 2013.

BE IT FURTHER RESOLVED that a copy of this Resolution be transmitted to the director of the Louisiana State Law Institute.

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PRESIDENT OF THE SENATE

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SPEAKER OF THE HOUSE OF REPRESENTATIVES