

**MINUTES**

**PUBLIC RECREATION ACCESS TASK FORCE**

**Monday, October 28, 2019**

A public meeting of the Public Recreation Access Task Force was held on Monday, October 28, 2019 at 9:30 a.m. in House Committee Room 5, Ground Floor, Louisiana Capitol, Baton Rouge, Louisiana.

**I. CALL TO ORDER**

**Blake Canfield** called the meeting to order at 9:36 a.m.

**II. ROLL CALL**

**Mr. Canfield** then called the roll for purposes of establishing a quorum. The following members of the task force were recorded as present:

**Sen. Bret Allain**  
**Rep. Beryl Amedee**  
**Mr. Mike Bengé**  
**Mr. Rex Caffey**  
**Mr. Blake Canfield**  
**Mr. Daryl Carpenter**  
**Sen. Norby Chabert**  
**Mr. David Cresson**  
**Mr. Taylor Darden**  
**Ms. Cynthia Duet**  
**Mr. Duncan Kemp** (*alternate for Cole Garrett*)  
**Mr. Joseph LeBlanc**  
**Mr. John Lovett**  
**Mr. Charles Marshall**  
**Rep. Jack McFarland**  
**Mr. David Peterson**  
**Mr. Lucas Ragusa**  
**Mr. Sean Robbins**  
**Mr. Jonathan Robillard**  
**Mr. Jeff Schneider**  
**Mr. Anthony Simmons**  
**Mr. Ryan Seidemann** (*alternate for Harry Vorhoff*)

The following members of the task force were absent:

**Mr. Jay Schexnayder**

**Mr. Canfield** announced that twenty-two (22) members of the task force were present and that a quorum was established.

III. **APPROVAL OF MINUTES FOR SEPTEMBER 24, 2019 MEETING**

A motion by **Mr. Benge** to approve the minutes for the September 24, 2019 task force meeting was approved unanimously

IV. **PRESENTATIONS AND DISCUSSION ITEMS**

a. **Presentation of proposal on public recreational access by Daryl Carpenter, Task Force member appointed by the Louisiana Sportsmen's Coalition**

- i. **Mr. Carpenter stated** that, as a member of the Task Force representing the Recreational Fisherman and Charter Boats of Louisiana, he would like to present an additional proposal to be considered. Mr. Carpenter stated that he believes there should be strengthening on the tort liability laws, where strengthening is needed for those laws. Mr. Carpenter stated that he believes there is widespread support on both sides that any ecological or security sensitive areas, such as ports, Ms. Duet's preserves, and areas operated as such should be off limits. Mr. Carpenter adds that part of the reason he presents this proposal is that he echoes Mr. Darden and Senator Chabert's, concerns that they voiced at the last meeting, that the proposal will require a high bar to cross because it will require a Constitutional amendment in order to move forward, and it is difficult to predict those in power will be able to handle it, or even to predict who will be in power. Mr. Carpenter stated that he does not have faith that this constitutional amendment proposal will pass or that the fiscal note attached to it will allow it to pass. He stated that it appears to him that it will be an open ended fiscal note because the state is going to give something away that they have the right to claim. The state does not know new (fracking) technologies available, so the state does not know what revenues they are going to be giving away.

Mr. Carpenter stated that Louisiana statues contradict themselves. Mr. Carpenter provided examples such as: riparian laws, oil and gas laws,

And that Title 56 wildlife and fisheries laws, specifically states: "All waters are navigable unless they are permanently severed from any other flowing waters," Title 56:8(103) "calls it public water unless at all times it prevents the ingress and egress of fish from the public waters."

Mr. Carpenter stated that this contradiction of laws creates problems for everyone navigating the waters. This body was created in the 2018 regular session under SCR 99, prior to that the state had the House Resolution that produced the Sea Grant Study, which, according to Mr. Carpenter, was flawed at its charge because of the way it comes out looking for voluntary servitude, the state claimed the ownership of its flowing waters. For Mr. Carpenter, the intriguing part of the Sea Grant Study was the granting of tax incentives in exchange for public access; he personally attempted to lobby to find out the possibilities for tax incentives, and what we can give as tax incentives. He was met with negative responses.

Mr. Carpenter referred to the presentation at the last task force meeting from Mr. Eddington from the Tax Assessors Association to the effect that while the tax itself is referenced in the Constitution, the Constitution is broad and allows for the use value tax to be further defined in statute. The statutes for the Use Value Tax are found at R.S. 47:2302, et seq. He stated that all of the proposed changes he was to mention would be statutory changes. The statutes for Use Value Tax, he continued, use something other than the actual market value itself. For horticulture and agriculture, the Tax Commission must set those rates. However, for marshland the statute says it must be taxed as a value to represent traditional use. Examples include: fishing, trapping, and crabbing; but leaves a broad and ambiguous definition of what is to be considered traditional use. Mr. Carpenter reported that he had visited the Tax Commission office to receive the actual numbers. He stated that property in the marsh, from Lafourche Parish, where Mr. Carpenter is from, is being taxed as little as 17 cents an acre, with an average of 36 cents an acre, with using the tax commissions bracket of \$3 an acre on the east zone. He wants to know where those numbers come from, how to define traditional use, how to quantify it, audit it, and how to determine how much private leases for these areas are worth.

He continued that the Tax Commission used the economics of the farming industry to set their tax rates for setting agricultural use value tax rates. Those rates change a least every four years, Mr. Carpenter reported. Tax assessors have asked the LSU Ag Center to adjust rates annually. Mr. Carpenter stated that the tax commission has no idea where the tax rates for marsh land came from, they acknowledge that information comes from outside sources, such as LSU AG center for horticulture and agriculture. For marshland they are unsure. Mr. Carpenter's reasoning for providing background information is because Senator Chabert and others have mentioned that there is hesitation to look into such issues because of the fiscal note that it may produce. Mr. Carpenter refers back to the Sea Grant Study, tax breaks in exchange for public access and initial arguments that any solution must be voluntary.

Mr. Carpenter argues that his proposal is to change the statutes of the use value tax to make a requirement of getting the benefit of .17 cents to .38 cents an acre public access. Mr. Carpenter proposes amending trespass statues, requiring it to be posted with the tax ID number showing what the property is taxed under. Mr. Carpenter proposes looking at the Use Value Tax, how it is qualified and how it is qualified for. Mr. Carpenter continues that he would like to see access made a part of the Use Value Tax, considering that it is one of the largest tax breaks being given out in the marsh.

- b. Creation of Drafting Subcommittee of Task Force to be charged with drafting and submitting to the task force the report to the Legislature required by SCR 99 of 2018**
  - i. Appointment of members to the Drafting Subcommittee**

**Mr. Canfield stated** that the Drafting Subcommittee of the Task Force would be charged with drafting and submitting to the task force the report of recommendations to the Legislature required by SCR 99 of 2018.

Mr. Canfield stated that he intends to keep the Subcommittee small, for quorum purposes, but task force members could participate in conversation and the task force will approve any report. Mr. Canfield stated that the task force would have to create the Drafting Subcommittee of the Task Force, choose members to appoint, give responsibility and authorities to submit a proposal back to the task force. The proposal is that the full membership of the Subcommittee would be five, those five members will be counted toward quorum and able to vote in the Subcommittee. Mr. Canfield stated the remaining task force members would all be ex officio members, so members can participate in discussion, but not count towards the quorum or vote. The five members proposed for full membership would be: Sean Robbins, David Cresson, Taylor Darden, John Lovett, and Blake Canfield.

1. **Mr. Marshall** asked a procedural question of what will happen if assume we have a committee that studies the issues produces a written proposal, what is the next step if a member of the task force is in disagreement with the philosophy, does that member read it and file a dissent? How is it handled? He continues, if the final proposal isn't unanimous how a member will represent dissent.
2. **Senator Chabert** answered that the recommendations are just that, even if it has full endorsement or is provided to the legislature as a unanimous recommendation, it remains a recommendation. It is incumbent on the legislature to file the bills and go through the process. Senator Chabert suggests that the committee provides areas they have agreement on. He suggests that areas of disagreement will not come out of the committee as a recommendation, they will remain. Members of both sides can meet with legislatures and propose legislation to be considered in the upcoming general session, just as the favorable recommendations would be.
3. **Mr. Canfield** states that exactly how the findings of the task force will be reported and presented to the Legislature is open for consideration. Mr. Canfield continues that the report could be factual, if there is no agreement. Another option is for the majority to say here are our recommendations, here is the vote, and here are those who opposed it, and opposing viewpoints.
4. **Senator Chabert** responded that it would be beneficial for members throughout the process to inject their positions into the debate.
5. **Representative Amedée** asked Mr. Canfield to repeat the proposed members of the subcommittee and their affiliation
6. Mr. Canfield states the members of the subcommittee will be: Sean Robbins with the Louisiana Sportsmen's Coalition, David Cresson with the Coastal Conservation Association, Taylor Darden with the Louisiana Land Owners Association, John Lovett with the Louisiana State Law Institute, and himself (Blake Canfield) with the

Louisiana Department of Natural Resources. Mr. Canfield announces that all other members of the task force will *ex-officio* members.

7. **Mr. Darden** stated he is concerned that the make-up of the subcommittee does not include a representative of the State, which is central for the discussion. **Mr. Canfield** responded that there will be representatives from state offices as *ex officio* members, to answer questions and raise concerns they have. Mr. Darden stated that he views reaching a solution requires a three legged stool, without someone from the state voting in the Subcommittee, it may be a deficit for the Task Force. Mr. Darden proposed adding a representative from the AG's Office or Office of State Lands; however, he prefers a representative from the AG's Office. **Senator Chabert** states, with respect, the tough part is that unless Attorney General Landry or the Governor were there to vote, whatever their designees decide could be overruled. He thinks it is beneficial to have them as *ex officio* members. The emphasis needs to be what members agree on. **Mr. Marshall** endorses what Mr. Darden said, that the interest of the state is crucial; it seems to be a backwards process to not have a State Representative on the committee. He thinks a member of the subcommittee should be a representative of the state. **Senator Chabert** restates that the State Representatives will be *ex officio* members, allowing them to lend their expertise, which will be beneficial; Mr. Canfield will be representative for the Department of Natural Resources. The benefits of the report will be on stating areas of agreement. **Mr. Marshall** states that because the interest of the state is so important, it seems to be a backward process not having a State Representative as a voting member of the subcommittee. Mr. Marshall states there should be a representative of the state on the Subcommittee. **Mr. Robbins** asks for attendance to be mandatory for the State Representatives to attend subcommittee meeting. **Mr. Canfield** responds that he seeks to make all members *ex officio*, so members of the state agencies will be in attendance. Mr. Canfield continues however that he does not want to make attendance mandatory because then if one representative is unable to attend the meeting will have to be rescheduled. **Mr. Seidemann**, sitting in for Harry Vorhoff, does not think there will be a lack of state presence, as the subcommittee is proposed to be constituted. The AG's office will commit to be in attendance of meetings, to provide insight. **Mr. Kemp**, sitting in for Cole Garrett, echoes Mr. Sidemann's position, and stated that Department of Wildlife and Fisheries are comfortable with the proposed members for the subcommittee

## ii. Responsibility and Authority of the Drafting Subcommittee

**Mr. Canfield proposes the responsibilities of the Subcommittee** will be drafting the report required by SCR 99 of 2018, authority to call meetings as they deem necessary, authority to select chair and any other officers they feel necessary, and authority to request for information from state agencies or other bodies.

- iii. **Announce the first meeting of the Drafting Subcommittee upon adjournment of the Public Recreation Access Task Force Meeting**  
**Mr. Canfield announces the first meeting** of the Drafting Subcommittee upon adjournment of the Public Recreation Access Task Force Meeting.

**Creation of the Drafting Subcommittee:** Upon motion by **Mr. Simmons**, the Task Force unanimously approved creation of a Drafting Subcommittee, consisting of the following full voting members, John Lovett, David Cresson, Sean Robbins, Taylor Darden, and Blake Canfield, with all other Task Force members serving as *ex officio* members of the subcommittee (not counting towards a quorum or having voting authority); with the responsibilities and authority to draft the report required by SCR 99 of 2018 for the Task Force’s consideration, the ability to call meetings, select their own officers, and to request information from state agencies and other bodies in the same manner as the Task Force.

- c. **Discussion of next Task Force Meeting – Scheduling and Agenda Items**

**Mr. Canfield** stated that the next meeting will be November 18th, 2019. Items for discussion at the next meeting will include discussion of the subcommittee and a discussion by Mark Davis with Tulane on his thoughts regarding public access.

**V. PUBLIC COMMENT**

There were no public comments.

**VI. CONSIDERATION OF ANY OTHER MATTERS THAT MAY COME BEFORE THE TASK FORCE**

There were no other matters considered

**VII. ADJOURNMENT**

Upon motion by **Mr. Schexnayder**, the task force adjourned at 10:21 a.m.