

Regular Session, 2005

# ACT No. 481

HOUSE BILL NO. 428

BY REPRESENTATIVES PIERRE AND THOMPSON AND SENATORS CAIN, CRAVINS, DUPRE, ELLINGTON, N. GAUTREAUX, KOSTELKA, MALONE, MICHOT, MOUNT, MURRAY, ROMERO, SMITH, AND THEUNISSEN

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

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AN ACT

To enact Chapter 14-A of Title 41 of the Louisiana Revised Statutes of 1950, to be comprised of R.S. 41:1731 through 1734, relative to the development of renewable energy sources; to authorize the Department of Natural Resources to lease state lands for the exploration, development, and production of energy from wind; to provide a process for leasing state lands for the exploration, development, and production of energy from wind; to provide for the powers and duties of the secretary of the Department of Natural Resources; to provide for the powers and duties of the State Mineral Board; to authorize the implementation of fees; to provide for the promulgation of rules and regulations; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. Chapter 14-A of Title 41 of the Louisiana Revised Statutes of 1950, comprised of R.S. 41:1731 through 1734 is hereby enacted to read as follows:

CHAPTER 14-A. LEASES FOR PRODUCTION OF WIND ENERGY

§1731. Legislative findings

To ensure the viability of the state's natural resources, to provide a continuing energy source for the citizens and businesses of Louisiana, to promote economic development through job retention and creation in Louisiana, and to promote a clean and lasting environment, the Louisiana Legislature finds that the state, through the Department of Natural Resources, should promote the generation and use of the renewable energy derived from wind.

1           §1732. Lease authority and royalties

2                   A. Notwithstanding any other provision of law except Subsection B of this  
3           Section, the State Mineral Board in conjunction with the secretary of the Department  
4           of Natural Resources, shall have the authority to lease for the exploration,  
5           development, or production of energy from wind any lands belonging to the state or  
6           the title to which is held by the state, including water bottoms, vacant state lands, and  
7           lands adjudicated to the state at tax sale, except lands that form any portion of state  
8           highway rights-of-way. The leases shall be granted through a public bid process  
9           which shall be promulgated by the adoption of rules and regulations by the State  
10           Mineral Board. All bonuses, rentals, royalties, payments, or other sums due the state  
11           as the lessor under the terms of leases granted under the provisions of this Subsection  
12           for the exploration, development, and production of energy from wind shall be paid  
13           to the office of mineral resources. Revenues received from these leases by the office  
14           of mineral resources shall be remitted to the state treasurer who, after compliance  
15           with Article VII, Section 9 of the state constitution, shall credit an amount equal to  
16           twenty-five percent of the revenues to the Wetlands Conservation and Restoration  
17           Fund and an amount equal to seventy-five percent to the state general fund. The  
18           funds generated under leases granted under the provisions of this Section shall not  
19           be included in calculations for the Budget Stabilization Fund.

20                   B. Notwithstanding any other provision of law, the State Mineral Board,  
21           with the approval of the secretary of the Department of Wildlife and Fisheries, shall  
22           have the authority to lease for the exploration, development, or production of energy  
23           from wind, any properties under the jurisdiction of the Wildlife and Fisheries  
24           Commission or the Department of Wildlife and Fisheries, including but not limited  
25           to wildlife management areas and refuges. The leases shall be granted through a  
26           public bid process which shall be promulgated by the adoption of rules and  
27           regulations by the State Mineral Board. All bonuses, rentals, royalties, payments,  
28           or other sums payable to the state as the lessor under the terms of leases granted  
29           under the provisions of this Subsection for the exploration, development, and

1           production of energy from wind shall be deposited in the Wildlife and Fisheries  
 2           Conservation Fund.

3           C. Any lease granted under the provisions of this Chapter shall be subject to  
 4           the same decommissioning rules and regulations as oil and gas and sulphur facilities  
 5           under the provisions of Subpart Q of Part 250 of Chapter II of Title 30 of the Code  
 6           of Federal Regulations (30CFR 250.1700 et seq.).

7           §1733. Award of state wind leases

8           A. All proposals for lease of state lands for the exploration, development, or  
 9           production of energy from wind shall be submitted to the State Mineral Board. The  
 10          State Mineral Board shall then submit to the state land office and the Department of  
 11          Wildlife and Fisheries the portion of the proposal which contains the location of the  
 12          proposed lease. The state land office and the Department of Wildlife and Fisheries  
 13          shall review the proposed location of the lease and shall certify to the State Mineral  
 14          Board whether or not there are other leases of any kind at the proposed lease  
 15          location. If there are other leases, the state agencies shall attach to the certification  
 16          a copy of all other leases at the proposed lease location. The state land office and the  
 17          Department of Wildlife and Fisheries are hereby authorized to charge the applicant  
 18          reasonable fees to fulfill the requirements of this Section. Any such fees shall be  
 19          promulgated through rules and regulations adopted in accordance with the  
 20          Administrative Procedure Act.

21          B. After certification by the other state agencies, the State Mineral Board  
 22          shall forward the application and certification with copies of any other leases on the  
 23          proposed location to the secretary of the Department of Natural Resources who shall  
 24          evaluate whether the lands proposed for lease best support the exploration,  
 25          development, or production of energy from wind. In evaluating the proposed lease,  
 26          the secretary of the Department of Natural Resources shall consider the capability  
 27          of the lease proposal to fulfill the intent of this Chapter, the environmental impact  
 28          of the placement of wind turbines and other equipment necessary for the exploration,  
 29          development, or production of energy from wind, the impact of the proposed lease  
 30          on any other leases, including leases for the exploration or production of subsurface

1 minerals, and any other factors which the secretary of the Department of Natural  
2 Resources deems appropriate. When evaluating the proposed lease, the secretary of  
3 the Department of Natural Resources shall consult with the Department of Wildlife  
4 and Fisheries when the proposed lease lies within the confines of properties under  
5 the jurisdiction of the Louisiana Wildlife and Fisheries Commission or the  
6 Department of Wildlife and Fisheries and may consult any other state agency or  
7 governmental entity that may have jurisdiction within the confines of the proposed  
8 lease.

9 C. If the secretary of the Department of Natural Resources determines that  
10 a proposed lease for the exploration, development, or production of energy from  
11 wind is appropriate he shall recommend to the State Mineral Board that the board  
12 conduct a public bid process. If the secretary of the Department of Natural  
13 Resources determines that a proposed lease for the exploration, development, or  
14 production of energy from wind is not appropriate, he shall notify the State Mineral  
15 Board who shall then notify the applicant that no bid process shall occur.

16 D. A lease may be granted in whole or in part. Prior to the advertisement for  
17 bids for each lease there shall be a minimum dollar amount set and a minimum  
18 percentage of revenue to be produced by each wind turbine to be known as an  
19 "electric power production royalty" which shall be advertised by the State Mineral  
20 Board as a minimum requirement for granting the lease. No lease shall be granted  
21 in whole or in part unless the amount of any electric power production royalty has  
22 been approved by the House Committee on Natural Resources and the Senate  
23 Committee on Natural Resources prior to advertisement. The State Mineral Board  
24 has authority to accept the bid it finds is most advantageous to the state and may  
25 lease upon whatever terms it considers proper. Such lease shall include a provision  
26 permitting the state, at its option, to take in kind all or any of the portion due it as  
27 royalty.

28 §1734. Powers and duties of the secretary of the Department of Natural Resources  
29 The secretary of the Department of Natural Resources shall promulgate rules  
30 and regulations pursuant to the Administrative Procedure Act to implement the

1           provisions of this Chapter and to institute reasonable fees for services performed by  
 2           the department. The rules and regulations shall include all provisions necessary to  
 3           accomplish the intent of the legislature as stated in this Chapter.

4           Section 2. This Act shall become effective upon signature by the governor or, if not  
 5 signed by the governor, upon expiration of the time for bills to become law without signature  
 6 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If  
 7 vetoed by the governor and subsequently approved by the legislature, this Act shall become  
 8 effective on the day following such approval.

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SPEAKER OF THE HOUSE OF REPRESENTATIVES

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PRESIDENT OF THE SENATE

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GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: \_\_\_\_\_