

HB 2405 with HCA 1 -- WATER RIGHTS

SPONSOR: Ross

COMMITTEE ACTION: Voted "Do Pass with Amendments" by the Standing Committee on Conservation and Natural Resources by a vote of 8 to 3.

This bill changes the laws regarding natural resources. In its main provisions, the bill:

- (1) Specifies that the riparian owner has the right to the natural flow of the natural watercourse including its volume and purity, except as affected by the reasonable use by other riparian owners;
- (2) Specifies that the riparian owner has title in fee to the low water mark of a navigable watercourse of the state or a public navigable watercourse and to the thread of a nonnavigable watercourse;
- (3) Specifies that the riparian owner has the right of access to the water from his or her frontage including the right to wharf out, provided that he or she does not interfere with the public's right of navigation and floatage;
- (4) Specifies that the riparian rights or regulations must not attach to artificial watercourses such as farm ponds or dug drains, but must attach to artificially enlarged watercourses such as reservoirs in streams or rivers;
- (5) Specifies that if a watercourse is navigable, the bed of the watercourse below the low water mark belongs to the state. A riparian owner along a navigable watercourse of the state or a public navigable watercourse owns only to the water's edge at its low water mark;
- (6) Specifies that if a watercourse is nonnavigable, the bed of the watercourse belongs to the riparian owner of the land if the watercourse is bounded on both sides by the same owner's land and if a nonnavigable watercourse is the dividing line between land owners, the owner of each side owns to the thread of the watercourse;
- (7) Specifies that no adjoining parts of a watercourse are to be considered navigable unless they are deemed navigable by a Missouri court;
- (8) Specifies that accretions along a watercourse belong to the riparian owner where the accretions were deposited. However, no

owner may claim title to any land added by accretion caused by an artificial condition he or she created;

(9) Specifies that the ways in which ownership to land washed away by a navigable watercourse of the state or a public navigable watercourse may be transferred and reacquired;

(10) Specifies that the line between counties divided by a navigable watercourse of the state or a public navigable watercourse must be the thread of the watercourse. A slow, imperceptible and gradual change of the watercourse must change the county line, but a sudden change by avulsion must not; and

(11) Prohibits the Department of Natural Resources from implementing any portion of the federal rule to revise or provide guidance on the definition of "waters of the United States" or "navigable waters" under the Clean Water Act and specifies that no federal agency may make a determination or designate any watercourse within the state as navigable.

This bill is similar to HB 955 (2015).

HCA #1: This amendment specifies that the provisions of the bill do not limit or expand any public easement for navigational or recreational purposes if the right exists on a watercourse.

PROPONENTS: Supporters say that currently all of Missouri's water boundary law is found in case law. This bill would codify these provisions and make it easier to find. Also, the federal government has placed stringent regulations on additional waters in the state. This bill would specify which waters the state deems as navigable.

Testifying for the bill were Representative Ross; Missouri Society Of Professional Surveyors; and the Missouri Cattlemen's Association.

OPPONENTS: Those who oppose the bill say that this bill only codifies portions of water law and therefore is confusing as to what case law may still apply and if some case law is negated. One area of concern is the recreational easement for floaters.

Testifying against the bill were Robert Bass, Ozark Outdoors Riverfront Resort; and Larry Helms, Missouri Association Of RV Parks And Campgrounds.