HOUSE COMMITTEE AMENDMENTS
2022 Regular Session
Amendments proposed by House Committee on Natural Resources and Environment to Original House Bill No. 61 by Representative Kerner

AMENDMENT NO. 1
On page 1, delete lines 2 through 5 in their entirety and insert in lieu thereof the following:

"To amend and reenact the heading of Part VIII, of Chapter 1, of title 30 of the Louisiana Revised Statutes of 1950, R.S. 30:101.1, 101.2(A), 101.3(1) and (4), 101.4(Section heading) and (A), 101.5(A)(1), 101.6(A)(5) and (6), and 101.9(Section heading), (A) and (C)(4), and R.S. 56:700.2(A)(4) and 700.6, to enact R.S. 30:101.3(7) and (8), 101.6(8) and (9), 101.9(D)(5), and 101.11 through 101.15, and to repeal Part XIV or Title 56 of the Louisiana Revised Statutes, comprised of R.S 56:700.1 through 700.6, relative to the Fishermen's Gear Compensation Fund, to extend the existence of such fund; to repeal such fund after a certain date; to extend payments into the Underwater Obstruction Removal Fund; to create the Fishermen's Gear Compensation and Underwater Obstruction Removal Program and the Fishermen's Gear Compensation and Underwater Obstruction Removal Dedicated Fund Account; to provide for definitions; to provide for the transfer of funds from the Fishermen's Gear Compensation Fund to the Fishermen's Gear Compensation and Underwater Obstruction Removal Dedicated Fund Account; to provide for effective dates; and to provide for related matters."

AMENDMENT NO. 2
On page 1, at the beginning of line 17, change "2026," to "2023."

AMENDMENT NO. 3
On page 2, line 3, "2026." to "2023."

AMENDMENT NO. 4
On page 2, delete lines 4 through 8 in their entirety and insert in lieu thereof the following:

"Section 2. The heading of Part VIII, of Chapter 1, of title 30 of the Louisiana Revised Statutes of 1950, R.S. 30:101.1, 101.2(A), 101.3(1) and (4), 101.4(Section heading) and (A), 101.5(A)(1), 101.6(A)(5) and (6), and 101.9(Section heading), (A) and (C)(4) are hereby amended and reenacted and R.S. 30:101.3(7) and (8), 101.6(8) and (9), 101.9(D)(5), and 101.11 through 101.15 are hereby enacted to read as follows:

PART VIII. LOUISIANA FISHERMEN'S GEAR COMPENSATION AND UNDERWATER OBSTRUCTION REMOVAL PROGRAM

§101.1. Citation
This Part may be cited as the "Louisiana Fishermen's Gear Compensation and Underwater Obstruction Removal Program".

§101.2. Policy and purpose
A. The legislature finds and declares that it is in the public interest and within the police power of this state to establish a fisherman's gear compensation and underwater obstruction removal program and a fisherman's gear compensation and underwater obstruction removal dedicated fund account to provide for the proper and timely identification,
inventory, and removal of underwater obstructions which are a hazard to navigation and commercial fishing in the state, and to compensate commercial fishermen for damage to their fishing gear from the underwater obstructions. The program and fund account shall be administered by the assistant secretary of the office of conservation within the Department of Natural Resources.

§101.3. Definitions

As used in this Part, the following terms shall have the meanings ascribed to them in this Section, unless the context or use clearly indicates otherwise:

(1) "Account" means the Fishermen's Gear Compensation and Underwater Obstruction Removal Dedicated Fund Account.

(4) "Program" means the Fishermen's Gear Compensation and Underwater Obstruction Removal Program.

(7) "Commercial fisherman" means any citizen of the state of Louisiana whose primary source of earnings is from the harvesting of living marine resources for commercial purposes. For purposes of this Paragraph, "earnings" means the earnings derived solely by the personal efforts of the commercial fisherman, exclusive of the income of a spouse or of any community property interest in the income of a spouse.

(8) "Fishing gear" means any vessel and any equipment, whether or not attached to a vessel, which is used in the commercial handling or harvesting of living marine resources.

§101.4. Fishermen's Gear Compensation and Underwater Obstruction Removal Program

A. The Fishermen's Gear Compensation and Underwater Obstruction Removal Program is hereby created within the office of the secretary of the Department of Natural Resources, and shall be administered by the assistant secretary of the office of conservation.

§101.5. Powers of the secretary

A. The powers of the secretary shall include without limitation the power to do the following:

(1) Administer general oversight of expenditures or commitments to make expenditures from the fund dedicated fund account for the identification, inventory, and removal of underwater obstructions as he deems necessary and appropriate.

§101.6. Powers of the assistant secretary

A. The powers of the assistant secretary shall include without limitation the power to do the following:

(5) Administer and manage the Fishermen's Gear Compensation and Underwater Obstruction Removal Program for identification, inventory, and removal of underwater obstructions in the navigable coastal waters of the state.


(8) Maintain a file on the location of known underwater obstructions.

(9) Administer the payment of appropriate compensation for commercial fishermen whose fishing gear is damaged by underwater obstructions in the Louisiana territorial waters that overlie state-owned waterbottoms that are contained within the coastal zone boundaries as defined in R.S. 49:214.24.
§101.9. Fishermen's Gear Compensation and Underwater Obstruction
Removal Dedicated Fund Account

A. There is hereby established a statutorily dedicated fund account
in the custody of the state treasurer to be known as the Fishermen's Gear
Compensation and Underwater Obstruction Removal Dedicated Fund
Account, hereafter referred to in this Section as the "account", into which the
state treasurer shall, each fiscal year, deposit the revenues received from the
collection of the monies enumerated in Subsection C of this Section, after
those revenues have been deposited in the Bond Security and Redemption
Fund. Out of the funds remaining in the Bond Security and Redemption
Fund, after a sufficient amount is allocated from that fund to pay all the
obligations secured by the full faith and credit of the state that become due
and payable within each fiscal year, the treasurer shall pay into the account
an amount equal to the revenues generated as provided for in Subsection C
of this Section. Such funds shall constitute a special custodial trust account
which shall be administered by the secretary who shall make disbursements
from the account solely in accordance with the purposes and uses authorized
by this Part.

C. The following monies shall be placed into the account:


D. The monies in the account may be disbursed and expended
pursuant to the authority and direction of the assistant secretary for the
following purposes and uses:

(5) Payment of any fully justified claim made in accordance with
procedures established in this Section for actual damages suffered by a
commercial fisherman as a result of hitting or snagging an obstruction or
hazard in the waters of the state resulting from natural occurrences, oil and
gas activities, or other activities where the owner of said obstruction is
unknown.

§101.11 Geographical coverage; annual assessments

A. The dedicated fund account shall be established for Louisiana
territorial waters which overlie state-owned waterbottoms which are
contained within the coastal zone boundaries as described and established by

B.(1) The secretary is authorized and empowered to lev 

(2) The state treasurer shall be authorized to deposit into the account
a sum in the amount of one hundred thousand dollars from proceeds
remaining in the Bond Security and Redemption Fund after compliance with
dedications of mineral royalties, leases, bonuses, and rights of way and other
sums payable to the state as lessor of mineral leases and grantor of rights of
way as required pursuant to R.S. 30:136(B) and 136.1(A), (B), and (C), after
a sufficient amount has been allocated from the Bond Security and
Redemption Fund to pay all obligations secured by the full faith and credit
of the state which become due and payable within the fiscal year.

CODING: Words in struck through type are deletions from existing law; words underscored are additions.
A. In carrying out the provisions of this Part applicable to compensation to commercial fishermen for damage to their fishing gear, the secretary shall prescribe, and from time to time amend, regulations for the filing, processing, and the fair and expeditious settlement of claims pursuant to this Part, including a time limitation on the filing of such claims and the appointment of a hearing examiner. These regulations shall ensure that the whole claim procedure is as simple as possible. Any designee of the secretary authorized to prescribe and amend such rules and regulations shall do so under the overall supervision and control of the secretary.

B. In the promulgation of regulations pursuant to this Part, the secretary shall establish a procedure whereby a fisherman may recover for damages from an obstruction encountered previously.

C. Any rule, regulation, or guideline shall be proposed or adopted pursuant to the rulemaking procedures set forth in the Administrative Procedure Act.

§101.13. Disbursement of funds; eligibility; hearings

A. Payments may be disbursed by the assistant secretary from the dedicated fund account to compensate commercial fishermen for actual property damage suffered as a result of hitting or snagging an obstruction or hazard in the territorial waters of the state within the boundaries of the fund but shall not be extended to speculative loss such as anticipated profit or income.

B. In order to be eligible to receive reimbursement from the fund, a commercial fisherman must show that he has a valid claim. A valid claim shall be established by the hearing examiner, based on evidence that the following conditions have been met:

1. The fishing vessel was being used for fishing in Louisiana territorial waters within the boundaries of this dedicated fund account.

2. The fisherman made a report to the assistant secretary on the location of the obstruction postmarked within ninety days of the loss. If good cause is shown, the secretary, when there are extenuating circumstances, may waive the ninety-day limit on the reporting period, such waiver period not to exceed forty-five days.

3. The fisherman made a good faith effort to locate the financially responsible party. Evidence of a good faith effort shall be established by regulation, and shall include attempts to identify the responsible party with the assistance of the Department of Natural Resources where necessary.

C. Notwithstanding the provisions of Subsections A and B of this Section, no payment:

1. Shall be made by the fund when the damage set forth in a claim was caused by materials, equipment, structures, or other items attributable to a financially responsible party and unless evidence is submitted that the party responsible for the obstruction cannot be determined.

2. Shall exceed five thousand dollars for any incident.

3. Shall be made unless the claimant shows by a preponderance of evidence that he is free from contributory negligence in causing the loss.

4. Shall be made for any claim at a site that has been certified by the assistant secretary of the office of conservation for the Department of Natural Resources as having been cleared under the Louisiana Fishermen's Gear Compensation and Underwater Obstruction Removal Program, R.S. 30:101.1 et seq. Once a site has been cleared under the Louisiana Fishermen's Gear Compensation and Underwater Obstruction Removal Program, the assistant secretary shall certify that the site of at least two hundred yards in diameter is free of obstructions and future claims at a site so certified shall be denied. Whenever four or more claims are reported after a site has been certified as clear, the site shall be revisited and the new or leftover obstruction shall be located and, if the department determines it is feasible, removed.
D. Upon receipt of a claim against the fund, the secretary shall assign
the matter to a hearing examiner for disposition. Claimants shall submit such
documentary evidence as the hearing examiner requires to prove a valid
claim justifying payment from the fund. In the event that a dispute arises
over any claim that cannot otherwise be resolved, the hearing examiner shall
hold a hearing, after giving public notice. At such hearing, the claimant and
any other interested person may submit evidence. The hearing examiner
shall have the power to administer oaths and subpoena witnesses and books,
records, and other evidence pertinent to the issue. The hearing shall be held
in the state at a place and time determined by the secretary. After the
hearing, a prompt decision shall be made, all in accordance with rules and
regulations adopted pursuant to this Part and the Administrative Procedure
Act.

§101.14. Facilities reports; survey of obstruction; labeling
A. The assistant secretary shall prepare a detailed file of all structures
and facilities located on state waterbottoms within the boundaries of this
dedicated fund account. In developing the file, the secretary may require the
owners and operators of state mineral leases and pipeline rights-of-way to
furnish information relative to the location, description, and nature of
facilities, both active and abandoned, on and beneath the state's
waterbottoms.
B. The assistant secretary shall establish and classify all potential
hazards to commercial fishing caused by oil and gas exploration,
development, and production activities in Louisiana waters, including all
obstructions on the bottom, throughout the water column, and on the surface.
C. The secretary shall establish regulations for all materials,
equipment, tools, containers, pipelines, and other items used within
Louisiana waters by the oil and gas industry to be properly stamped or
labeled, wherever practicable, with the owner's identification prior to actual
use. These regulations shall be consistent with labeling regulations
promulgated by the U.S. Department of Interior pursuant to the provisions
of Title IV of the Outer Continental Shelf Lands Act Amendments of 1978.

§101.15. Termination date
The provisions of this Part shall terminate and have no effect after
June 30, 2027.

Section 3. RS 36:354(E)(2) is hereby amended and reenacted to read
as follows:

§354. Powers and duties of secretary of natural resources
  (2) Administer and implement laws relating to the foregoing,
including without limitation the laws relative to research and development
of solar energy sources, building energy conservation, including the
regulation of training, certification, and quality control of home energy raters
throughout the state, and energy impacted area assistance; the laws relative
to coastal energy impact assistance; the laws relative to power plants and
industrial fuel use; the laws relative to the Fishermen's Gear Compensation
and Underwater Obstruction Removal Program and the Fishermen's Gear
Compensation and Underwater Obstruction Removal Dedicated Fund
Account; and the laws relative to the Fishermen's Gear Compensation Fund.

CODING: Words in struck through type are deletions from existing law; words underscored
are additions.
Section 4. Part XIV or Title 56 of the Louisiana Revised Statutes, comprised of R.S 56:700.1 through 700.6, is hereby repealed in its entirety.

Section 5. The state treasurer is authorized and directed to transfer any balances remaining in the Fishermen's Gear Compensation Fund repealed and abolished in Section 4 of this Act to the Fishermen's Gear Compensation and Underwater Obstruction Removal Dedicated Fund Account created in Section 2 of this Act.

Section 6. The Louisiana State Law Institute is hereby authorized and directed to arrange in alphabetical order and renumber the definitions provided in R.S 30:101.3

Section 7. This Section and Sections 1 and 6 of this Act shall become effective July 1, 2022; if vetoed by the governor and subsequently approved by the legislature, this Act shall become effective on July 1, 2022, or on the day following such approval by the legislature, whichever is later.

Section 8. This Section and Sections 2, 3, 4, and 5 of this Act shall become effective July 1, 2023."