

2023 Regular Session

SENATE BILL NO. 42

BY SENATORS FRED MILLS, BERNARD, BOUDREAUX, CATHEY, CORTEZ,
DUPLESSIS, FIELDS, JACKSON, LUNEAU, MCMATH, MILLIGAN,
MIZELL, PRICE, REESE, SMITH, TALBOT AND WOMACK

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

WATER MANAGEMENT. Creates the Louisiana Watershed Initiative. (8/1/23)

1 AN ACT

2 To enact R.S. 36:4(B)(1)(l) and Part VIII of Chapter 2 of Title 49 of the Louisiana Revised

3 Statutes of 1950, to be comprised of R.S. 49:220.41 through 220.45 and to repeal

4 R.S. 38:90.2 and 90.5, relative to the Louisiana Watershed Initiative; to provide for

5 purpose; to create the Watershed Management Council within the office of the

6 governor; to require the council to make recommendations; to provide for

7 membership of the council; to provide relative to compensation; to provide for

8 powers, duties, and authority of the council; to provide for regional watershed

9 coalitions; to provide for rules and regulations; to provide for terms and definitions;

10 to provide for public notice; to provide with respect to funding mechanisms and

11 allocations; and to provide for related matters.

12 Be it enacted by the Legislature of Louisiana:

13 Section 1. R.S. 36:4(B)(1)(l) is hereby enacted to read as follows:

14 §4. Structure of executive branch of state government

15 * * *

16 B. The office of the governor shall be in the executive branch of state

17 government. The governor may allocate within his office the powers, duties, funds,

1 functions, appropriations, responsibilities, and personnel of the agencies within his
 2 office and provide for the administration thereof and for the organization of his
 3 office. The following agencies and their powers, duties, functions, and
 4 responsibilities are hereby transferred to the office of the governor:

5 (1) Division of administration (including but not limited to Subtitle I of Title
 6 39 of the Louisiana Revised Statutes of 1950 generally). The following agencies are
 7 placed within the division of administration:

8 * * *

9 **(1) Watershed Management Council (R.S. 49:220.43 et seq.).**

10 * * *

11 Section 2. Part VIII of Chapter 2 of Title 49 of the Louisiana Revised Statutes of
 12 1950, comprised of R.S. 49:220.41 through 220.45, is hereby enacted to read as follows:

13 **PART VIII. LOUISIANA WATERSHED INITIATIVE**

14 **§220.41. Louisiana Watershed Initiative; purpose**

15 **A. The state of Louisiana recognizes that Louisiana's abundant water**
 16 **resources can often endanger communities and that water does not follow**
 17 **political boundaries, but rather responds to geological, bathymetrical, and**
 18 **hydrological boundaries.**

19 **B. The purpose of this Part is to establish the Watershed Management**
 20 **Council to develop, implement, and manage the Louisiana Watershed Initiative,**
 21 **a statewide, comprehensive watershed planning process that fosters the**
 22 **collaborative management of Louisiana's flood risks by local, state, and regional**
 23 **governmental entities.**

24 **C. The legislature hereby finds that:**

25 **(1) Louisiana communities are hydraulically and hydrologically**
 26 **connected within the bounds of a watershed, and decisions made in one portion**
 27 **of a watershed may impact floodplains in other portions of the same watershed.**

28 **(2) Flooding after a rain event is not only related to the amount and**
 29 **intensity of rainfall received, but is also closely tied to land use, as well as policy**

1 and infrastructure decisions.

2 (3) Floodplains are impacted by actions and decisions made by a wide
3 variety of people, laws, and regulatory bodies, including private landowners,
4 municipalities, parish leaders, zoning laws, building codes, regulations, and
5 federal requirements.

6 (4) Existing practices across varying levels of government do not
7 currently provide for the comprehensive floodplain management that is
8 necessary to properly address drainage issues as land is developed.

9 (5) The increasing frequency and extent of flood events demands
10 heightened levels of coordination, information sharing, and response among
11 state agencies and local and regional stakeholders in order to more closely align
12 resources and programs designed to protect communities from flooding and
13 manage floodplains and watersheds effectively.

14 D. The legislature further finds that cooperative endeavors and
15 coordination amongst local governments, parish governments, and political
16 subdivisions within a watershed region boundary, in furtherance of the goals of
17 the Watershed Initiative as provided in this Part, constitute a public purpose as
18 contemplated by Article VII, Section 14(C) of the Constitution of Louisiana.

19 E. It is the purpose and intent of the legislature, through the creation of
20 the Watershed Management Council to improve the way residents and
21 governments understand, address, and respond to flood risks; to organize a
22 structure for making changes and improvements on a watershed scale; and to
23 develop modeling, planning, and data tools that inform and support more
24 effective watershed-based floodplain management.

25 §220.42. Definitions

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

28 (1) "Council" means the Watershed Management Council.

29 (2) "Floodplain" means any area of land within a watershed that is

1 susceptible to inundation by floodwaters from any source.

2 (3) "Watershed" means a geographic area within the boundary of a
3 drainage divide that drains all of its streams and rainfall into a common outlet.

4 §220.43. Watershed Management Council; creation; membership

5 A. There is hereby created within the division of administration the
6 Watershed Management Council.

7 B. The council shall be composed of the following members:

8 (1) The commissioner of administration or his designee, who shall serve
9 as chairman.

10 (2) A member appointed by the speaker of the House of Representatives
11 from the membership of the House Committee on Transportation, Highways,
12 and Public Works.

13 (3) A member appointed by the president of the Senate from the
14 membership of the Senate Committee on Transportation, Highways, and Public
15 Works.

16 (4) The secretary of the Department of Transportation and Development
17 or his designee.

18 (5) The chairman of the Coastal Protection and Restoration Authority
19 or his designee.

20 (6) The executive director of the Louisiana office of community
21 development or his designee.

22 (7) The director of the Governor's Office of Homeland Security and
23 Emergency Preparedness or his designee.

24 (8) The secretary of the Department of Wildlife and Fisheries or his
25 designee.

26 (9) The secretary of the Department of Environmental Quality or his
27 designee.

28 (10) The secretary of the Department of Natural Resources or his
29 designee.

1 (11) The commissioner of agriculture and forestry or his designee.

2 (12) A member appointed by the president of the Association of Levee
3 Boards of Louisiana from the membership of the association.

4 (13) The chairman of the State Soil and Water Conservation Commission
5 or his designee.

6 (14) The executive director of the Police Jury Association of Louisiana
7 or his designee.

8 (15) The executive director of the Louisiana Municipal Association or his
9 designee.

10 C. A majority of the members shall constitute a quorum. Members of the
11 council shall not be compensated for their services but may seek travel
12 reimbursement from their respective agencies in accordance with the agency's
13 travel reimbursement guidelines.

14 §220.44. Watershed Management Council; powers and duties; authority

15 A. The Watershed Management Council shall have the following powers
16 and duties:

17 (1) Develop, implement, and manage the Louisiana Watershed Initiative
18 to foster the collaborative management of Louisiana's flood risks by local, state,
19 and regional governmental entities.

20 (2) Promote a unified effort, built on scientific and engineering
21 principles, to address flooding issues across the state.

22 (3) Achieve consistency in project planning and modeling activities
23 across the Louisiana Watershed Initiative.

24 (4) Identify and work with or seek input from additional local, state, and
25 federal agencies, and other stakeholders including but not limited to nonprofit
26 research institutions, university research institutions, drainage or levee boards,
27 and other local districts, and private sector companies.

28 (5) Expand, develop, and use in-state skill, knowledge, technology, and
29 talent to develop and implement the program promoting Louisiana resources

1 through collaboration, communication, and cooperation among governmental,
2 nongovernmental, for-profit, nonprofit, and university entities.

3 (6) Increase state and local resilience to flooding by working to improve
4 response to flooding and reduce the instances, damage, and amount of time
5 needed to recover from flooding.

6 (7) Create a path for the state and its various jurisdictions and political
7 subdivisions to coordinate at a statewide and watershed level plan to maximize
8 flood risk reduction in coordination with the natural and beneficial functions
9 of the watershed and its floodplains, and to consistently manage floodplains
10 using contextually appropriate best practices.

11 (8) Work with the interdependencies of our communities, infrastructure,
12 political jurisdictions, and the natural environment to increase Louisiana's
13 resilience and its ability to adapt and thrive.

14 (9) Promote actions, including legislative, administrative, and regulatory,
15 where appropriate, to enhance watershed and floodplain management in
16 Louisiana.

17 (10) Identify, prioritize, acquire, and establish funding mechanisms to
18 enhance and further efforts associated with the Louisiana Watershed Initiative.

19 (11) Facilitate watershed-based floodplain management by working to
20 create watershed-bounded entities across the state.

21 (12) Develop an approach to watershed-based floodplain management
22 that is recognized as a model for others nationally and internationally.

23 (13) Create, update, review, and revise a statewide watershed plan in a
24 manner that is consistent with applicable federal laws and regulations and with
25 the comprehensive master coastal protection plan as defined by R.S. 49:214.2.

26 (14) Establish and provide assistance to temporary regional steering
27 committees within each watershed region boundary to provide input in the
28 development and implementation of long-term regional watershed
29 organizational structures, watershed management strategies, and the

1 implementation of projects, programs, and policies emanating from strategic
2 efforts.

3 (15) Approve, upon the recommendation of regional steering committees,
4 regional watershed coalitions formed among parishes, political subdivisions,
5 and municipal governments within a designated watershed region to coordinate
6 the development of watershed management plans and to aid in administering
7 the implementation of projects, programs, and policies emanating from those
8 planning efforts. This authority shall be exercised consistent with R.S.
9 49:220.45.

10 (16) Allocate funds to regional watershed coalitions, should sufficient
11 funds become available through either state, federal, or private sources.

12 (17) Promulgate rules and regulations necessary to implement the
13 provisions of this Part.

14 B. Nothing in this Chapter shall interfere with the statutorily-granted
15 authority of any state agency or local government.

16 §220.45. Regional watershed coalitions; creation; powers and duties

17 A. In order to foster regionally led watershed-based floodplain
18 management, the Watershed Management Council may approve permanent
19 regional watershed coalitions from the recommendations submitted by regional
20 steering committees within watershed regions.

21 B. The council shall consider the approval of regional watershed
22 coalitions in a manner consistent with the following procedure:

23 (1) The regional steering committee shall submit a written
24 recommendation that includes the proposed membership and structure of the
25 regional watershed coalition that provides the most effective framework for a
26 designated watershed to meet the goals and objectives of the Louisiana
27 Watershed Initiative.

28 (2) The council shall hold a public hearing for consideration of the
29 recommendation after publishing a public notice of intention to create a

1 regional watershed coalition three times in the official journal of the state and
2 the official journal of each parish contained within the designated watershed
3 regional boundary. The publications shall be not less than fifteen days prior to
4 the date of the public hearing.

5 (3) Thirty days after holding the public hearing and considering any
6 public comments received, the council may either approve the recommendation
7 to create the regional watershed coalition or return the recommendation to the
8 regional steering committee for further consideration if the council determines
9 either of the following:

10 (a) The recommendation needs to address the public comments received.
11 When considering comments related to the creation of a particular regional
12 watershed coalition, comments from individuals and entities located within the
13 particular watershed region shall be given greater weight than those from
14 outside of the region.

15 (b) The recommendation is inconsistent with the purpose of this Part and
16 with requirements imposed by federal or state funding agreements.

17 (4) The council shall foster collaboration amongst approved regional
18 watershed coalitions by convening meetings to resolve disputes and issuing
19 recommendations for actions that prioritize the goals and objectives of this Part.

20 C. Approved regional watershed coalitions shall constitute a political
21 subdivision of the state of Louisiana and shall be subject to the Open Meetings
22 Law pursuant to R.S. 42:11 et seq., and the Public Records Law pursuant to
23 R.S. 42:1 et seq.

24 D. Regional watershed coalitions may:

25 (1) Develop regional watershed management plans and facilitate regional
26 watershed floodplain management using members' best practices in
27 consultation with the Watershed Management Council and its member's
28 agencies.

29 (2) Receive funds as authorized by the legislature, the executive branch,

1 the federal government, or through other public or private sources provided
 2 that those funds are spent in accordance with the goals and objectives of the
 3 statewide watershed plan.

4 (3) Provide technical assistance, development guidance, and support to
 5 local entities in watershed management and flood risk reduction.

6 (4) Provide public outreach and education to residents and local leaders
 7 to support long-term capacity building on watershed management and flood
 8 risk reduction, including technical support of best practices for land use,
 9 development, and building codes.

10 (5) Enter into cooperative endeavor agreements with the council to
 11 provide organizational and technical support in furtherance of this Part.

12 (6) Facilitate meetings of local entities to support and advance land use
 13 and development practices and water management projects that reduce flood
 14 risks without causing undue harm to neighboring jurisdictions or regions.

15 (7) Propose, support, and review projects that reduce flood risks without
 16 causing undue harm to neighboring jurisdictions or regions.

17 Section 3. R.S. 38:90.2 and 90.5 are hereby repealed.

The original instrument was prepared by Tyler McCloud. The following digest, which does not constitute a part of the legislative instrument, was prepared by Christine Arbo Peck.

SB 42 Reengrossed

DIGEST
2023 Regular Session

Fred Mills

Proposed law establishes the Watershed Management Council to develop, implement, and manage the Louisiana Watershed Initiative that is a statewide, comprehensive watershed planning process, which fosters the collaborative management of flood risks by local, state, and regional governmental entities.

Proposed law provides for legislative intent, purpose, and findings.

Proposed law creates the Watershed Management Council within the division of administration that consists of the following members:

- (1) The commissioner of administration or his designee, who serves as the chairman.
- (2) A member appointed by the speaker of the House of Representatives from the membership of the House Committee on Transportation, Highways, and Public Works.

- (3) A member appointed by the president of the Senate from the membership of the Senate Committee on Transportation, Highways, and Public Works.
- (4) The secretary of the Department of Transportation and Development or his designee.
- (5) The chairman of the Coastal Protection and Restoration Authority or his designee.
- (6) The executive director of the Louisiana office of community development or his designee.
- (7) The director of the Governor's Office of Homeland Security and Emergency Preparedness or his designee.
- (8) The secretary of the Department of Wildlife and Fisheries or his designee.
- (9) The secretary of the Department of Environmental Quality or his designee.
- (10) The secretary of the Department of Natural Resources or his designee.
- (11) The commissioner of agriculture and forestry or his designee.
- (12) A member appointed by the president of the Association of Levee Boards of Louisiana from the membership of the association.
- (13) The chairman of the State Soil and Water Conservation Commission or his designee.
- (14) The executive director of the Police Jury Association of Louisiana or his designee.
- (15) The executive director of the Louisiana Municipal Association or his designee.

Proposed law provides for the powers and duties of the council that include developing, implementing, and managing the Louisiana Watershed Initiative and associated actions that encourage collaboration on an interconnected statewide and watershed basis. Proposed law further authorizes the council to create, update, and revise a statewide watershed plan, establish temporary regional steering committees, approve permanent regional watershed coalitions, allocate funds to these coalitions, and promulgate rules and regulations to implement proposed law.

Proposed law provides that nothing in proposed law shall interfere with the statutorily-granted authority of any state agency or local government.

Proposed law provides for the approval of regional watershed coalitions by the council based upon the recommendation of a regional steering committee, a publicly noticed public hearing, and public comments.

Proposed law provides approved regional watershed coalitions are political subdivisions of the state and are subject to the Open Meetings Law and the Public Records Law.

Proposed law authorizes regional watershed coalitions to develop regional watershed management plans, facilitate watershed management, receive funds, provide assistance to local entities, conduct outreach and education, enter cooperative endeavor agreements, facilitate meetings of local entities, and propose flood risk reduction projects.

Present law creates the Floodplain Evaluation and Management Commission to revise the flood information database. Present law provides for the methodology for evaluating flood-control projects. Proposed law repeals present law.

Effective August 1, 2023.

(Adds R.S. 36:4(B)(1)(l) and R.S. 49:220.41- 220.45; repeals R.S. 38:90.2 and 90.5)

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Transportation,
Highways, and Public Works to the original bill

1. Removes provisions relative to staffing.
2. Makes technical changes.

Senate Floor Amendments to reengrossed bill

1. Makes technical changes.