

First Extraordinary Session, 2005

SENATE BILL NO. 71

BY SENATOR DUPRE

COASTAL RESOURCES. Authorizes development and implementation of a comprehensive coastal protection plan.

1 AN ACT
2 To amend and reenact R.S. 49:213.1, 213.2, 213.3, 213.4, 213.5, 213.6, 213.7, 214.11,
3 214.12(A)(1) and 214.13, and to enact R.S. 49:213.11, relative to coastal protection,
4 conservation, restoration and management; to authorize and provide for the
5 development and implementation of a comprehensive coastal protection plan; to
6 provide powers, duties, terms, procedures, definitions, conditions, and requirements;
7 to provide relative to hurricane protection and coastal restoration; to provide relative
8 to enforcement; to provide relative to certain authorities, commissions, and
9 departments; to change the name of the Wetlands Conservation and Restoration
10 Authority to the Coastal Protection and Restoration Authority and set forth its
11 powers, duties and members; to change the name of the Governor's Advisory
12 Commission on Coastal Restoration and Conservation to the Governor's Advisory
13 Commission on Coastal Protection, Restoration and Conservation and set forth its
14 powers, duties, and members; and to provide for related matters.

15 Be it enacted by the Legislature of Louisiana:

16 Section 1. R.S. 49:213.1, 213.2, 213.3, 213.4, 213.5, 213.6, 213.7, 214.11,
17 214.12(A)(1) and 214.13 are hereby amended and reenacted and R.S. 49:213.11 is hereby

1 enacted to read as follows:

2 PART II. LOUISIANA COASTAL WETLANDS PROTECTION,

3 CONSERVATION, RESTORATION, AND MANAGEMENT

4 SUBPART A. WETLANDS CONSERVATION

5 COASTAL PROTECTION AND RESTORATION AUTHORITY

6 §213.1. Statement of intent

7 A. Louisiana and its citizens have suffered catastrophic losses and
 8 human, economic, and social harm. For the benefit and protection of the state
 9 as a whole, its citizens, and its localities, hurricane protection is vital to survival.
 10 Hurricane protection and coastal restoration must be integrated to achieve a
 11 long-term solution of coastal protection. In addition to immediate needs for
 12 hurricane protection, coastal ~~Coastal~~ land loss in Louisiana continues in
 13 catastrophic proportions. Wetlands loss threatens valuable fish and wildlife
 14 production and the viability of residential, agricultural, **energy** and industrial
 15 development in coastal Louisiana.

16 B. In the past, efforts by the state to address the myriad, interrelated
 17 problems of coastal **protection** ~~land loss~~ have been inadequate, fragmented,
 18 uncoordinated, and lacking in focus and strong direction. **The state must have the**
 19 **authority to articulate a clear statement of priorities and to focus development**
 20 **and implementation of efforts to achieve comprehensive coastal protection.**
 21 **Without this authority, the safety of citizens, the viability of the state and local**
 22 **economies, and the long-term recovery from disasters such as hurricanes**
 23 **Katrina and Rita remain in jeopardy.** ~~Meanwhile, coastal deterioration has~~
 24 ~~escalated to a point such that the potential for vegetated wetlands restoration and~~
 25 ~~enhancement in particular is declining rapidly.~~

26 C. **The state must act to develop, implement, and enforce a**
 27 **comprehensive coastal protection plan. The state must act to ensure that the**
 28 **plan integrates hurricane protection and coastal restoration efforts in order to**
 29 **achieve long-term and comprehensive coastal protection. Comprehensive**

1 coastal protection must proceed in a manner recognizing that the proper
 2 functioning of each protective element is critical to the overall success of the
 3 plan, and that without such proper functioning the safety of the state and its
 4 citizens and the viability of the entire plan are threatened. Comprehensive
 5 coastal protection must further proceed in a manner recognizing the powers
 6 and duties of political subdivisions to fund and manage local activities that are
 7 consistent with the goals of a comprehensive coastal protection plan. The state
 8 must act ~~immediately~~ to conserve, restore, create, and enhance ~~vegetated~~ wetlands
 9 and barrier shorelines or reefs in coastal Louisiana while encouraging use of
 10 coastal resources and recognizing that it is in the public interest of the people of
 11 Louisiana to establish a responsible balance between development and conservation.
 12 Management of renewable coastal resources must proceed in a manner that is
 13 consistent with and complementary to the efforts to establish a proper balance
 14 between development and conservation.

15 D. It is the intention of the legislature that comprehensive coastal
 16 protection ~~wetlands conservation and restoration be elevated in tandem~~ be elevated
 17 to a position within state government of high visibility and action and that hurricane
 18 protection and conservation and restoration of the coastal area ~~the conservation,~~
 19 ~~restoration, creation, and nourishment of coastal vegetated wetlands~~ be of high
 20 priority within that structure. To provide aggressive state leadership, direction, and
 21 consonance in the development and implementation of policies, plans, and programs
 22 to achieve comprehensive coastal protection, including the encouragement of
 23 ~~encourage~~ multiple uses of the coastal zone and to achieve a proper balance between
 24 development and conservation, restoration, creation, and nourishment of renewable
 25 coastal resources, the legislature places responsibility for the direction and
 26 development of the state's comprehensive master coastal protection ~~coastal~~
 27 ~~vegetated wetlands conservation and restoration plan in the Wetlands Conservation~~
 28 plan in the Coastal Protection and Restoration Authority within the office of the
 29 governor. Primary responsibility for carrying out the elements of the plan relative

1 to coastal wetlands conservation and restoration is placed in the office of coastal
 2 restoration and management within the Department of Natural Resources. Primary
 3 responsibility for carrying out the elements of the plan relative to hurricane
 4 protection is placed in the office of public works and intermodal transportation
 5 within the Department of Transportation and Development. In order to
 6 maximize coastal protection, the secretaries of the Department of Natural
 7 Resources and the Department of Transportation and Development, and the
 8 governor’s executive assistant for coastal activities, shall use an integrated team
 9 effort to jointly coordinate master plan development with federal agencies and
 10 political subdivisions.

11 §213.2. Definitions

12 As used in this Part, the following terms shall have the meaning ascribed to
 13 them below:

14 (1) “Annual plan” means the state coastal protection plan annually
 15 submitted to the legislature as provided in this Part and amendments to the
 16 plan.

17 (1)(2) "Authority" means the ~~Wetlands Conservation~~ Coastal Protection and
 18 Restoration Authority.

19 (3) “Coastal area” means the Louisiana Coastal Zone and contiguous
 20 areas subject to storm or tidal surge.

21 (4) “Coastal Protection” means plans, projects, policies and programs
 22 intended to provide hurricane protection or coastal, or coastal wetland,
 23 conservation and restoration.

24 (2)(5) “Conservation and restoration” means the conservation, protection,
 25 enhancement, and restoration of coastal wetlands resources including but not
 26 limited to coastal ~~vegetated~~ wetlands and barrier shorelines or reefs through the
 27 construction and management of coastal wetlands enhancement projects, including
 28 privately funded marsh management projects or plans, and those activities requiring
 29 a coastal use permit which significantly affect such projects or which significantly

1 diminish the benefits of such projects or plans insofar as they are intended to
2 conserve or enhance coastal wetlands consistent with the legislative intent as
3 expressed in R.S. 49:213.1.

4 ~~(3)~~**(6)** "Executive assistant" means the special assistant to the governor for
5 coordination of coastal activities.

6 ~~(4)~~**(7)** "Fund" means the **Coastal Protection** ~~Wetlands Conservation~~ and
7 Restoration Fund.

8 ~~(5)~~ "Plan" means the state coastal vegetated wetlands conservation and
9 restoration plan and amendments to the plan.

10 **(8) "Hurricane protection" means a system of barriers and associated**
11 **elements to provide protection against tidal surges.**

12 **(9) "Master plan" or comprehensive master coastal protection plan**
13 **means the long-term comprehensive coastal protection plan combining**
14 **hurricane protection and the protection, conservation, restoration, and**
15 **enhancement of coastal wetlands, and barrier shorelines or reefs and**
16 **amendments to the plan. It shall include, but not be limited to, state and**
17 **political subdivision operations plans.**

18 **(10) "Program" means a management strategy with procedures,**
19 **projects, schedules, operations and related activities to achieve a stated goal or**
20 **objective.**

21 ~~(6)~~**(11)** "Project" means a physical structure or structures designed and
22 constructed according to the **annual** plan.

23 ~~(7)~~ "Task Force" means the ~~Wetlands Conservation and Restoration Task~~
24 Force.

25 §213.3. Creation; personnel

26 A. The **Coastal Protection** ~~Wetlands Conservation~~ and Restoration
27 Authority is hereby created within the office of the governor. The authority is
28 hereby established, and shall exercise the powers and duties hereinafter set forth or
29 otherwise provided by law.

1 B. The authority shall be composed of the executive assistant to the governor
2 for coastal activities and ~~the Task Force~~ **other members as provided by law**. The
3 executive assistant shall be appointed by the governor, subject to Senate
4 confirmation, to serve at his pleasure. He shall report directly to the governor.

5 C. The governor, through the executive assistant, consistent with the
6 legislative intent as expressed in R.S. 49:213.1, shall coordinate the powers, duties,
7 functions, and responsibilities of any state agency relative to coastal ~~wetlands~~
8 ~~conservation and~~ **protection and** restoration and shall administer the programs of
9 the authority. The executive assistant shall employ necessary staff to carry out the
10 duties and functions of the authority as provided in this Part or as otherwise provided
11 by law, **and may seek and utilize the assistance of personnel in any state**
12 **department or agency to carry out the duties and functions as provided in this**
13 **Part or otherwise provided by law.**

14 §213.4. Powers and duties

15 A. The authority shall:

16 **(1) Represent the state's position in policy relative to the protection,**
17 **conservation and restoration of the coastal area through the oversight of coastal**
18 **restoration and hurricane protection projects and programs and addressing**
19 **those activities requiring a coastal use permit which significantly affect such**
20 **projects and programs, all consistent with the legislative intent as expressed in**
21 **R.S. 49:213.1.**

22 **(2) Develop, coordinate, report and provide oversight of a comprehensive**
23 **coastal protection master plan and annual coastal protection plans, working in**
24 **conjunction with state agencies, political subdivisions, and federal agencies. The**
25 **coastal protection master plan shall include a comprehensive strategy**
26 **addressing the protection, conservation and restoration of the coastal area**
27 **through the construction and management of hurricane protection projects and**
28 **coastal restoration projects, all consistent with the legislative intent as expressed**
29 **in R.S. 49:213.1. The annual coastal protection plan shall be developed and**

1 submitted to the legislature for approval as set forth in this Part. The annual
 2 coastal protection plan shall include a description and status of all projects and
 3 programs pertaining to hurricane protection and coastal restoration, including
 4 privately funded wetland enhancement projects or plans, and addressing those
 5 activities requiring a coastal use permit which significantly affect projects set
 6 forth in the plan, all consistent with the legislative intent as expressed in R.S.
 7 49:213.1.

8 ~~(1) Develop a comprehensive policy addressing the conservation and~~
 9 ~~restoration of coastal wetlands resources through the construction and management~~
 10 ~~of coastal vegetated wetlands enhancement projects, including privately funded~~
 11 ~~marsh management projects or plans, and addressing those activities requiring a~~
 12 ~~coastal use permit which significantly affect such projects, all consistent with the~~
 13 ~~legislative intent as expressed in R.S. 49:213.1.~~

14 ~~(2)~~**(3) Submit to the appropriate legislative committees the annual**
 15 **coastal protection plan developed pursuant to R.S. 49:213.6.** ~~Develop and submit~~
 16 ~~to the legislative committees on natural resources for their approval a plan developed~~
 17 ~~pursuant to R.S. 49:213.6 for conserving and restoring the state's coastal vegetated~~
 18 ~~wetlands, consistent with legislative intent and with the policy developed by the~~
 19 ~~authority. Upon approval of the annual plan by the legislative committees on~~
 20 ~~natural resources and prior to implementation of the annual plan, in whole or in part,~~
 21 ~~the annual plan shall be approved by the legislature as provided in R.S. 49:213.6(D).~~

22 ~~(3)~~**(4) Have the right and the authority to approve all requests for**
 23 **programs and projects pertaining to hurricane protection and coastal**
 24 **conservation and restoration insofar as such requests are for funds to be**
 25 **appropriated from the Coastal Protection and Restoration Trust Fund;** ~~Approve~~
 26 ~~all requests for programs and projects pertaining to coastal wetlands conservation~~
 27 ~~and restoration insofar as such requests are for funds to be appropriated from the~~
 28 ~~Wetlands Conservation and Restoration Coastal Protection Trust Fund; provided~~
 29 ~~that (a) the office of coastal restoration and management, coastal restoration division,~~

1 of the Department of Natural Resources shall receive ~~any~~ monies appropriated from
 2 the fund and shall implement any program or project **pertaining to coastal wetlands**
 3 **conservation and restoration; and (b) the office of public works and intermodal**
 4 **transportation of the Department of Transportation and Development shall**
 5 **receive monies appropriated from the fund and shall implement any program**
 6 **or project pertaining to hurricane protection, in conjunction with political**
 7 **subdivisions.**

8 **(5) Authorize the development of procedures in accordance with the**
 9 **Administrative Procedure Act and the taking of actions against any entity,**
 10 **including a political subdivision, for the enforcement of, and compliance with,**
 11 **the comprehensive master coastal protection plan. Such procedures and actions**
 12 **include, but are not limited to, determinations of noncompliance; appeal from**
 13 **such determinations; the taking of administrative action, including the**
 14 **withholding of funds; and civil action, including the seeking of injunctive relief**
 15 **or any other remedy necessary to ensure compliance with the plan.**

16 ~~(4)~~**(6)** Be authorized to delegate any of its powers, duties, and functions to
 17 the executive assistant.

18 B. The governor, through the executive assistant, shall:

19 (1) Coordinate all state departmental budget requests for programs and
 20 projects pertaining to **coastal protection, including hurricane protection and**
 21 **coastal wetlands conservation and restoration as well as all requests for funds to be**
 22 **appropriated from the ~~Wetlands Conservation and Restoration~~ Coastal Protection**
 23 **and Restoration Trust** Fund.

24 (2) Coordinate and focus the functions of all state agencies as they relate to
 25 **coastal protection, including hurricane protection and** wetlands conservation and
 26 restoration.

27 (3) Review and reconcile state agency comments on federally sponsored
 28 **coastal protection projects, including hurricane protection,** water resource
 29 development projects or permitted conservation and restoration activities to establish

1 and present the official state position which shall be consistent with the policies of
2 the authority.

3 (4) Represent the policy and consensus viewpoint of the state at the federal,
4 regional, state, and local levels with respect to **coastal protection, including**
5 **hurricane protection and** wetlands conservation and restoration.

6 (5) Appraise the adequacy of statutory and administrative mechanisms for
7 coordinating the state's policies and programs at both the intrastate and interstate
8 levels with respect to **coastal protection, including hurricane protection and**
9 wetlands conservation and restoration.

10 (6) Appraise the adequacy of federal, regional, state, and local programs to
11 achieve the policies and meet the goals of the state with respect to **coastal**
12 **protection, including hurricane protection and** wetlands conservation and
13 restoration.

14 (7) Oversee and coordinate federal and state-funded research related to
15 **coastal protection, including** coastal land loss and subsidence, **and the effects of**
16 **storm surge**.

17 (8) Coordinate and focus federal involvement in Louisiana with respect to
18 **coastal protection, including hurricane protection and** coastal wetlands
19 conservation and restoration.

20 (9) Provide the official state recommendations to the legislature and congress
21 with respect to policies, programs, and coordinating mechanisms relative to **coastal**
22 **protection, including hurricane protection and** wetlands conservation and
23 restoration, or wetlands loss **and storm surge** research.

24 (10) Monitor and seek available federal and private funds consistent with the
25 purposes of the Part.

26 (11) Manage his personnel as provided by law.

27 (12) Manage his budget, office, and related functions as provided by law.

28 (13) Report annually to the **legislature** ~~legislative committees on natural~~
29 ~~resources~~ as to the progress of the projects and programs enumerated in the plan **or**

1 **any component thereof**. For each project or program, estimated construction and
2 maintenance costs, progress reports, and estimated completion timetables shall be
3 provided.

4 (14) Perform such powers, duties, and functions as may be delegated to him
5 by the authority.

6 C. The governor, through his executive assistant, may, in an effort to
7 advance the plan or purposes of this Part, within any department, agency, board, or
8 commission:

9 (1) Review and modify policies, procedures, or programs not established or
10 approved by the legislature or pursuant to the Administrative Procedure Act that may
11 affect the design, construction, operation, management, and monitoring and more
12 particularly to require expeditious permitting of **coastal protection projects,**
13 **including hurricane protection projects,** restoration projects, wetlands
14 enhancement or marsh management plans, or expenditures from the Fund.

15 (2) Review and request modifications of state departmental policies,
16 procedures, programs, rules, and regulations that are established by law or pursuant
17 to the Administrative Procedure Act that may affect the design, construction,
18 operation, management, and monitoring of **coastal protection projects, including**
19 **hurricane protection projects,** restoration projects, wetlands enhancement or marsh
20 management plans, or expenditures from the Fund. Such rule changes shall be
21 initiated by the appropriate department.

22 (3) Appoint advisory panels.

23 (4) Accept and use, in accordance with law, gifts, grants, bequests, and
24 endowments for purposes consistent with responsibilities and functions of the agency
25 and take such actions as are necessary to comply with any conditions required for
26 such acceptance.

27 (5) Utilize the services of other executive departments of state government
28 upon mutually agreeable terms and conditions.

29 ~~(6) Repealed by Acts 1990, No. 661, §2; Acts 1990, No. 936, §2.~~

1 ~~(7)~~**(6)** Take such other actions not inconsistent with law as are necessary to
2 perform properly the functions of the authority.

3 ~~(8)~~**(7)** Review and modify proposed coastal use permits prior to issuance to
4 the extent that such permits seek to authorize activities which significantly affect
5 **hurricane protection or** wetlands conservation and restoration projects or which
6 significantly diminish the benefits of such projects insofar as they are intended to
7 **protect,** conserve or enhance coastal ~~wetlands~~ **areas** and to require the issuance of
8 permits for public or private wetlands enhancement projects or plans.

9 D. Approval by the authority shall be required for any request by a state
10 agency or department for any funds to finance research, programs, or projects
11 involving **coastal protection, including hurricane protection or** the conservation
12 and restoration of coastal wetlands resources; however, this Subsection shall not
13 affect self-generated or dedicated funds.

14 §213.5. ~~Wetlands Conservation~~ **Coastal Protection** and Restoration Task Force

15 **Authority; members**

16 A. The ~~Wetlands Conservation~~ **Coastal Protection** and Restoration Task
17 Force is hereby created within the ~~Wetlands Conservation and Restoration~~ Authority
18 **shall consist of the following members:**

19 B. ~~The task force shall be composed of the following members:~~

20 (1) Executive Assistant ~~of the governor~~ **to the governor for coastal**
21 **activities.**

22 (2) Secretary of the Department of Natural Resources **or their designee.**

23 (3) Secretary of the Department of Wildlife and Fisheries **or their designee.**

24 (4) Secretary of the Department of Environmental Quality **or their designee.**

25 (5) Secretary of the Department of Transportation and Development **or their**
26 **designee.**

27 (6) Assistant Chief of Staff for Health, Welfare, and Environment (governor's
28 office) **Secretary of the Department of Economic Development or their designee.**

29 (7) Commissioner of administration **or their designee.**

1 ~~(8) The director of the State Soil and Water Conservation Committee~~
2 Commissioner of agriculture and forestry or their designee.

3 (9) Commissioner of insurance or their designee.

4 (10) Two members appointed by the Association of Levee Boards of
5 Louisiana from the members of levee boards having districts located in whole
6 or in part within the Louisiana Coastal Zone. One member shall be domiciled
7 in a region east of the easternmost boundary of Lafourche Parish and one
8 member shall be domiciled in a region west of the easternmost boundary of
9 Lafourche Parish.

10 (11) Two members selected by the Police Jury Association of Louisiana
11 from their members who reside in the coastal area. One member from a parish
12 west of the Atchafalaya River and one member from a parish east of the
13 Atchafalaya River. Both members shall not reside in the same parish.

14 (12) The chair of the Governor's Advisory Commission on Coastal
15 Protection, Restoration, and Conservation or their designee.

16 (13) The director of the state office of homeland security and emergency
17 preparedness or their designee.

18 (14) The chairman of the Senate Natural Resources Committee or their
19 designee.

20 (15) The chairman of the House Natural Resources Committee or their
21 designee.

22 (16) The chairman of the Senate Transportation, Highways, and Public
23 Works Committee or their designee.

24 (17) The chairman of the House Transportation Committee or their
25 designee.

26 (18) A senator who represents a portion of the coastal area, appointed by
27 the president of the Senate.

28 (19) A representative who represents a portion of the coastal area,
29 appointed by the speaker of the House.

1 C. The executive assistant shall serve as chairman ~~of the task force~~ and shall
2 develop procedures for the operation of the ~~task force~~ **authority**.

3 §213.6. ~~Wetlands conservation and restoration~~ **Coastal protection annual** plan;
4 development; priorities

5 A.(1) The authority shall, in accordance with the procedures set forth herein,
6 develop ~~the~~ **an annual coastal protection** plan ~~which shall serve as the state's~~
7 ~~overall strategy for~~ **protecting**, conserving and restoring **the coastal area through**
8 **the construction and management of hurricane protection and coastal**
9 **restoration projects and programs**, ~~coastal wetlands through the construction and~~
10 ~~management of coastal wetlands enhancement projects~~, including privately funded
11 marsh management projects or plans, and addressing those activities requiring a
12 coastal use permit which significantly affect such projects, all consistent with the
13 legislative intent as expressed in R.S. 49:213.1, and which plan shall be subject to
14 the approval of the legislature as provided in R.S. 49:213.6(D). **The annual plan**
15 **shall include funding requests for projects and programs related to hurricane**
16 **protection and coastal restoration.**

17 (2) The authority shall annually develop ~~the~~ **such** plan in accordance with
18 the following procedure:

19 (a) The authority shall conduct not less than three public hearings in separate
20 locations in the western, central, and eastern areas of the coastal zone for the purpose
21 of receiving comments and recommendations from the public and elected officials.
22 All public hearings must be held at least sixty days prior to the submission of the
23 plan to the legislature.

24 (b) At least two weeks prior to each public hearing the authority shall contact
25 the parish governing authorities and the state legislators of the parishes in the coastal
26 zone for the purpose of soliciting their comments and recommendations and
27 notifying them of the public hearing to be held in their area.

28 (c) Ten days prior to the first such public hearing the authority shall publish
29 in the state register and the official state journal the schedule of public hearings

1 setting out the location, place, and time of all the hearings.

2 (d) At least seven days prior to each hearing the authority shall publish a
3 notice of the hearing in the official journal of each parish within the area of the
4 hearing. The notice of a hearing shall have been published in the official journal of
5 each parish in the coastal zone prior to the final scheduled public hearing. The
6 authority may provide for additional public hearings when necessary upon at least
7 three days notice published in the official journal of the parishes in the area of the
8 hearing and written notice to the parish governing authorities.

9 (e) The authority shall receive written comments and recommendations until
10 thirty days prior to the submission of the plan to the legislative committees.

11 B. The **annual coastal protection** plan shall address **hurricane protection**
12 **and coastal restoration efforts from both short and long-range perspectives and**
13 **shall incorporate structural, management and institutional components of both**
14 **efforts** ~~coastal land loss problems from both short and long-range perspectives and~~
15 ~~shall incorporate structural, management, and institutional components.~~ The plan
16 shall include but not be limited to the following:

17 (1) A list of projects and programs required for the **protection**, conservation
18 and restoration of ~~coastal wetlands~~ **the coastal area** and the action required of each
19 state agency to implement said project or program.

20 (2) A schedule and estimated cost for the implementation of each project or
21 program included in the plan.

22 C.(1) Where feasible, the plan shall include scientific data and other reasons,
23 including but not limited to the social, geographic, economic, **engineering** and
24 biological considerations as to why each project or program was selected for
25 inclusion. Specifically, this will include an explanation as to how each project or
26 program advances the plan objectives with respect to the ~~management, conservation,~~
27 ~~or enhancement of vegetated wetlands areas~~ **protection, conservation and**
28 **restoration of the coastal area.**

29 (2) Prior to recommending any project for inclusion in the **annual coastal**

1 **protection** plan, the authority shall identify and declare in writing:

2 (a) The public use benefits intended to be derived from the project which
3 justify the project.

4 (b) The use benefits which private landowners are expected to derive from
5 the project.

6 (c) The manner in which the benefits will be realized over the life of the
7 project.

8 (d) The entities or persons who will be responsible for the long-term
9 operation and maintenance of the project both in terms of manpower and cost.

10 (e) The entities or persons who will be responsible for monitoring the project
11 to ensure that it is functioning properly and realizing the intended public and private
12 benefits.

13 D.(1) The **annual coastal protection** plan shall be submitted to the
14 **appropriate** ~~natural resources~~ committees of the legislature on or before the first day
15 of the regular legislative session of each year beginning in 1991; however, the plan
16 shall not be effective or implemented unless both houses in the legislature approve
17 or fail to disapprove the plan in accordance with this Subsection.

18 (2)(a) The ~~natural resources~~ committees shall approve or disapprove of the
19 plan on or before May fifteenth of each calendar year.

20 (b) If either committee disapproves the plan, it shall send the plan back to
21 the authority together with a brief summary of the reasons for disapproval and may
22 make recommendations concerning changes it deems necessary or appropriate to
23 remedy any deficiencies in the plan. Disapproval by a committee shall constitute
24 disapproval by its respective house of the legislature, unless that house subsequently
25 approves the plan by resolution.

26 (c) If the plan is approved, the committee shall submit the plan to the
27 legislature for approval as provided for in Paragraphs (3), (4), and (5) of this
28 Subsection. Should the ~~natural resources~~ committee in either house fail to report the
29 plan and proposed recommendations, if any, to its respective house, then a majority

1 of the elected members of the respective house may, by motion or by simple
2 resolution direct the committee to report the plan to the house, in which case the
3 committee so directed shall report the instrument as directed.

4 (3)(a) The legislature may approve or disapprove of the plan by resolution
5 adopted by a majority vote of the members of each house of the legislature provided
6 that such resolution is adopted on or before June first of each calendar year.

7 (b) Any such resolution shall be subject to the same requirements and
8 procedures for the introduction of a bill and shall be read on three separate days prior
9 to being considered by the legislative body; however, it shall not be referred to a
10 committee and shall be taken up by the respective house in accordance with its rules.

11 (c) If the legislature disapproves of the plan, it shall include in the resolution
12 a brief summary of the reasons for disapproval and may make recommendations
13 concerning any changes it deems necessary or appropriate to remedy any
14 deficiencies in the plan.

15 (4) If the legislature approves the plan, or if the legislature fails to
16 disapprove the plan by June first, the authority shall implement the plan. The
17 projects and programs provided for in the plan shall be undertaken in conformity
18 with the order of priority as contained in the plan.

19 (5) At any time subsequent to the adoption and/or implementation of the plan
20 in accordance with the procedure set forth herein, the authority may amend or
21 supplement the plan to add or delete projects and programs. No project shall be
22 added or deleted unless and until the amendment to the plan is approved as provided
23 herein. Any amendment to the plan submitted to the legislature shall conform to the
24 requirements specified in R.S. 49:213.6(B) and (C).

25 §213.7. Funding

26 A.(1) To provide a dedicated, recurring source of revenue for the
27 development and implementation of a program to ~~conserve and restore Louisiana's~~
28 ~~coastal vegetated wetlands~~ **provide coastal protection**, there shall be established in
29 the state treasury on the effective date of this Subpart the ~~Wetlands Conservation and~~

1 Restoration **Coastal Protection and Restoration** Fund.

2 (2) Of all mineral revenues received in each fiscal year by the state including
3 those received as a result of the production of or exploration for minerals, hereinafter
4 referred to as mineral revenues from severance taxes, royalty payments, bonus
5 payments, or rentals, and excluding such revenues received by the state as a result
6 of grants or donations when the terms or conditions thereof require otherwise, the
7 treasurer shall make the following allocations:

8 (a) To the Bond Security and Redemption Fund as provided in Article VII,
9 Section 9(B) of the Constitution of Louisiana.

10 (b) To the political subdivisions of the state as provided in Article VII,
11 Sections 4(D) and (E) of the Constitution of Louisiana.

12 (c) As provided by the requirements of Article VII, Sections 10-A and 10.1
13 of the Constitution of Louisiana.

14 B.(1) After making the allocations provided for in Subsection A of this
15 Section, the treasurer shall then deposit in and credit to the ~~Wetlands Conservation~~
16 ~~and Restoration~~ **Coastal Protection and Restoration** Fund any amount of mineral
17 revenues that may be necessary to insure that a total of five million dollars is
18 deposited into such fund for the fiscal year from this source; provided that the
19 balance of the fund which consists of mineral revenues from severance taxes, royalty
20 payments, bonus payments, or rentals shall not exceed the amount provided in
21 Subsection D of this Section.

22 (2) After making the allocations and deposits as provided for in Subsections
23 A and B(1) of this Section, the treasurer shall deposit in and credit to the ~~Wetlands~~
24 ~~Conservation and Restoration~~ Fund as follows:

25 (a) Two percent of the mineral revenues received in excess of the allocations
26 provided for in Subsections A and B(1) of this Section. The treasurer shall reduce the
27 deposit made pursuant to this Subparagraph by the amount of deposits made pursuant
28 to Subparagraphs (b) and (c) of this Paragraph.

29 (b) Ten million dollars of the mineral revenues in excess of six hundred

1 million dollars which remain after the allocations provided for in Subsection A are
2 made by the treasurer.

3 (c) Ten million dollars of the mineral revenues in excess of six hundred fifty
4 million dollars which remain after the allocations provided in Subsection A are made
5 by the treasurer.

6 C. The treasurer shall deposit in and credit to the fund the amount of mineral
7 revenues as provided for herein.

8 D. The money in the fund shall be invested as provided by law and any
9 earnings realized on investment of money in the fund shall be deposited in and
10 credited to the fund. Money from other sources, such as donations, appropriations,
11 or dedications, may be deposited in and credited to the fund; however, the balance
12 of the fund which consists of mineral revenues from severance taxes, royalty
13 payments, bonus payments, or rentals shall not exceed five hundred million dollars.
14 Any unexpended money remaining in the fund at the end of the fiscal year shall be
15 retained in the fund.

16 E. The money in the ~~Wetlands Conservation and Restoration Fund~~ **Coastal**
17 **Protection and Restoration Fund** is subject to appropriations by the legislature
18 ~~only to the coastal restoration division within the office of coastal restoration and~~
19 ~~management~~ **for the purposes of coastal restoration, conservation, and hurricane**
20 **protection**. The money in the fund may be used only for those projects and programs
21 which are consistent with the statement of intent, R.S. 49:213.1, and the **annual** plan
22 as it pertains to **coastal restoration, conservation, and hurricane protection** ~~the~~
23 ~~conservation and restoration of coastal wetlands~~ and the following purposes:

24 (1) Projects and structures engineered for the enhancement, creation, or
25 restoration of coastal vegetated wetlands.

26 (2) Match for federal or local project planning, design, construction, and
27 monitoring.

28 (3) Administration and project management, planning, design, construction,
29 and monitoring.

1 (4) Operation and maintenance of structural projects consistent with the
2 purpose of this fund.

3 (5) Vegetation planting, seeding, or other revegetation methods.

4 (6) Planning and implementation of modifications to federal, state, or local
5 flood control, navigation, irrigation, or enhancement projects.

6 F. As used in this Section, the term "balance of the fund" shall mean those
7 monies in the ~~Wetlands Conservation and Restoration~~ Fund which have not been
8 expended or obligated under the plan approved pursuant to R.S. 49:213.6, or
9 otherwise obligated in accordance with law.

10 * * *

11 **§213.11. Legal representation of the Authority; attorney general**

12 **The attorney general or his designee, who shall be a full-time assistant**
13 **attorney general, shall be the legal advisor to the authority, shall counsel and**
14 **advise the authority, and shall represent the authority in all legal proceedings.**

15 * * *

16 SUBPART B-1. GOVERNOR'S ADVISORY COMMISSION ON
17 COASTAL **PROTECTION**, RESTORATION AND CONSERVATION

18 §214.11. Statement of purpose

19 A. **Louisiana and its citizens have suffered catastrophic losses and**
20 **human, economic, and social harm. For the benefit and protection of the state**
21 **as a whole, its citizens, and its localities, hurricane protection is vital to survival.**
22 **Hurricane protection and coastal restoration must be integrated to achieve a**
23 **long-term solution of coastal protection. The state must act to develop,**
24 **implement, and enforce a comprehensive coastal protection plan. The state must**
25 **act to ensure that the plan integrates hurricane protection and coastal**
26 **restoration efforts in order to achieve long-term and comprehensive coastal**
27 **protection.**

28 ~~A.B.~~ **An important aspect of the need for coastal protection is that**
29 Louisiana is annually losing between twenty-five and thirty-five square miles of

1 coastal wetlands to the Gulf of Mexico. **In 2005, the coastal area suffered a**
2 **devastating loss of nearly one hundred square miles resulting from hurricanes**
3 **Katrina and Rita.** The loss of the state's coastal wetlands threatens natural, cultural,
4 and economic resources which are of vital importance to our state and nation. The
5 numerous benefits provided by our coastal wetlands include the presence of an
6 abundance of habitat for waterfowl, fur-bearing species, and fisheries that support
7 recreational and commercial interests. In addition, our coastal wetlands act as the
8 first line of defense for coastal communities, including New Orleans, in the face of
9 hurricanes and tropical storm surges. They also provide protection for the pipelines
10 through which much of our nation's energy supply flows. And, our coastal wetlands
11 are home to unique and diverse cultures that have called the wetlands home for many
12 generations.

13 **B-C. The state of Louisiana recognizes the need to develop, implement,**
14 **and enforce a comprehensive coastal protection plan. As a component of the**
15 **plan, the** The state of Louisiana recognizes the necessity of establishing a
16 sustainable coastal ecosystem. The task of **developing a comprehensive coastal**
17 **protection plan and** restoring and developing a sustainable coastline will require
18 implementation of an holistic, comprehensive engineering plan which encompasses
19 the entirety of southern Louisiana. It will require the cooperation and participation
20 of numerous state, federal, and local agencies. In addition, the task of **plan**
21 **development and** restoring and conserving this ecosystem will require the
22 participation and support of the numerous and diverse interests that live, work, and
23 recreate in those wetlands and others who depend upon our coast's continued health
24 and existence. In order to provide a venue for input from the broad range of persons
25 and groups who must participate in and assist the efforts to **protect,** preserve, restore,
26 and enhance the coast of Louisiana, it is hereby declared to be in the public interest
27 that the Governor's Advisory Commission on Coastal **Protection,** Restoration and
28 Conservation be created in the office of the governor.

29 §214.12. Governor's Advisory Commission on Coastal **Protection,** Restoration and

- 1 Conservation; composition; terms; officers
- 2 A.(1) The Governor's Advisory Commission on Coastal **Protection,**
- 3 Restoration and Conservation is hereby created and shall be composed as follows:
- 4 (a) Two members to be appointed by the governor from the academic
- 5 community.
- 6 (b) Two members to be appointed by the governor from the business and
- 7 industrial community.
- 8 (c) Two members to be appointed by the governor from the nonprofit
- 9 corporation community.
- 10 (d) Two members to be appointed by the governor from the conservation
- 11 community.
- 12 (e) Two members to be appointed by the governor from the agricultural
- 13 community.
- 14 (f) Two members to be appointed by the governor from governing bodies of
- 15 political subdivisions of the state.
- 16 (g) Two members to be appointed by the governor from the energy
- 17 production and distribution sector.
- 18 (h) Two members to be appointed by the governor to represent the fishing
- 19 community, one of whom shall be from the commercial fishing industry and one of
- 20 whom shall be from the recreational fishing community.
- 21 (i) One member to be appointed by the governor from the oyster industry.
- 22 (j) Two members to be appointed by the governor to represent coastal
- 23 landowners.
- 24 (k) Two members to be appointed by the governor to represent ports and
- 25 related industries.
- 26 (l) Six members to be appointed at large by the governor.
- 27 (m) The president of the Senate or his designee.
- 28 (n) The speaker of the House of Representatives or his designee.
- 29 (o) The chairman of the House **committee to which the annual coastal**

1 **protection plan is submitted** ~~Committee on Natural Resources~~ or his designee.

2 (p) The chairman of the Senate **committee to which the annual coastal**
3 **protection plan is submitted** ~~Committee on Natural Resources~~ or his designee.

4 **(q) Two members appointed by the Association of Levee Boards of**
5 **Louisiana from the members of levee boards having districts located in whole**
6 **or in part within the Louisiana Coastal Zone. One member shall be domiciled**
7 **in a region east of the easternmost boundary of Lafourche Parish and one**
8 **member shall be domiciled in a region west of the easternmost boundary of**
9 **Lafourche Parish. The members so appointed shall serve terms concurrent**
10 **with that of the governor.**

11 **(r) One member appointed by the governor representing the maritime**
12 **industry.**

13 * * *

14 §214.13. Powers; duties; functions

15 The commission shall have the following powers, duties, and functions:

16 (1) To advise the governor and the executive assistant for coastal activities
17 relative to the overall status and direction of the state's coastal **protection and**
18 restoration program.

19 (2) To provide a forum for coordinating coastal **protection and restoration**
20 activities and the exchange of information on the status of various state, federal, and
21 local programs affecting coastal **protection**, preservation and restoration.

22 (3) To foster cooperation on coastal **protection**, preservation and restoration
23 issues among federal, state, and local governmental agencies, conservation
24 organizations, and the private sector.

25 (4) To develop advice with respect to the identification and resolution of
26 conflicts among agencies and stakeholders related to **protection**, conservation and
27 restoration efforts and to assist in the identification of any other activity which might
28 conflict with the **protection**, conservation and restoration efforts.

29 (5) To review programs, conditions, trends, and scientific and engineering

1 findings which affect coastal **protection**, restoration and conservation in order to
 2 make recommendations for improvements to the state's coastal **protection**,
 3 restoration and conservation efforts.

4 (6) To assist in the identification of potential sources of funding for coastal
 5 **protection**, restoration and conservation programs and to develop advice with
 6 respect to developing recommendations for expenditures which are in the best
 7 interest of the state.

8 (7) To report by March first each year to the governor and the legislature
 9 relative to the progress, challenges, and recommendations concerning policy and
 10 possible legislation for the coastal **protection**, restoration and conservation program.

11 Section 2. The Louisiana Law Institute is hereby directed to make technical changes
 12 to statutory laws as necessary to reflect the name changes provided in this Act.

13 Section 3. This Act shall become effective upon signature by the governor or, if not
 14 signed by the governor, upon expiration of the time for bills to become law without signature
 15 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
 16 vetoed by the governor and subsequently approved by the legislature, this Act shall become
 17 effective on the day following such approval.

The original instrument and the following digest, which constitutes no part
 of the legislative instrument, were prepared by Jerry G. Jones.

DIGEST

Dupre (SB 71)

Present law provides relative to the Wetlands Conservation and Restoration Authority and its powers, duties, and members.

Proposed law changes name to Coastal Protection and Restoration Authority and provides for its powers, duties, and members.

Proposed law places responsibility for direction and development of state's comprehensive master coastal protection plan in the Coastal Protection and Restoration Authority. Provides that Coastal Protection and Restoration Authority shall develop, coordinate, report and provide oversight of a comprehensive coastal protection master plan and annual coastal protection plans, working in conjunction with state agencies, political subdivisions, and federal agencies. The coastal protection master plan shall include a comprehensive strategy addressing the protection, conservation and restoration of the coastal area through the construction and management of hurricane protection projects and coastal restoration projects. Proposed law further provides that an annual coastal protection plan shall be developed and submitted to the legislature for approval as set forth in the proposed law. The annual coastal protection plan shall include a description and status of all projects and

programs pertaining to hurricane protection and coastal restoration, including privately funded wetland enhancement projects or plans, and addressing those activities requiring a coastal use permit, which significantly affect projects set forth in the plan.

Proposed law provides that primary responsibility for carrying out the elements of the plan relative to coastal wetlands conservation and restoration is placed in the office of coastal restoration and management within the Department of Natural Resources. Primary responsibility for carrying out the elements of the plan relative to hurricane protection is placed in the office of public works within the Department of Transportation and Development. Proposed law further provides that in order to maximize coastal protection, the secretaries of the Department of Natural Resources and the Department of Transportation and Development, and the governor's executive assistant for coastal activities, shall use an integrated team effort to jointly coordinate master plan development with federal agencies and political subdivisions.

Present law provides that powers and duties of the authority include the approval of all requests for programs and projects pertaining to coastal wetlands conservation and restoration insofar as such requests are for funds to be appropriated from the Wetlands Conservation and Restoration Trust Fund; provided that the office of coastal restoration and management, coastal restoration division, of the Department of Natural Resources shall receive any monies appropriated from the fund and shall implement any program or project. Proposed law provides that the powers and duties of the authority include the approval of all requests for programs and projects pertaining to hurricane protection and coastal conservation and restoration insofar as such requests are for funds to be appropriated from the Coastal Protection and Restoration Trust Fund; provided that (a) the office of coastal restoration and management of the Department of Natural Resources shall receive monies appropriated from the fund and shall implement any program or project pertaining to coastal wetlands conservation and restoration; and (b) the office of public works of the Department of Transportation and Development shall receive any monies appropriated from the fund and shall implement any program or project pertaining to hurricane protection, in conjunction with political subdivisions.

Proposed law further provides that powers of the authority include authorizing the development of procedures in accordance with the Administrative Procedure Act and the taking of actions against any entity, including a political subdivision, for the enforcement of, and compliance with, the comprehensive master coastal protection plan. Such procedures and actions include, but are not limited to, determinations of noncompliance; appeal from such determinations; the taking of administrative action, including the withholding of funds; and civil action, including the seeking of injunctive relief or any other remedy necessary to ensure compliance with the plan.

Present law defines "authority" as Wetlands Conservation and Restoration Authority. Proposed law defines "authority" as Coastal Protection and Restoration Authority. Proposed law further defines "hurricane protection" as a system of barriers and associated elements to provide protection against tidal surges; "annual plan" as the state coastal protection plan annually submitted to the legislature as provided in the proposed law; "coastal protection" as plans, projects, policies, and programs intended to provide hurricane protection or coastal, or coastal wetland, conservation and restoration; "master plan" as the long-term comprehensive coastal protection plan or comprehensive master coastal protection plan combining hurricane protection and the protection, conservation, restoration, and enhancement of coastal wetlands, and barrier shorelines or reefs and amendments to the plan. It shall include but not be limited to, state and political subdivision operations plans; and "program" as a management strategy with procedures, projects, schedules, operations and related activities to achieve a stated goal or objective.

Present law relative to the Wetlands Conservation and Restoration Authority provides for the following powers and duties:

- (1) Develop a comprehensive policy addressing the conservation and restoration of coastal wetlands resources through the construction and management of coastal vegetated wetlands enhancement projects, including privately funded marsh management projects or plans, and addressing those activities requiring a coastal use permit which significantly affect such projects.
- (2) Develop and submit to the legislative committees on natural resources for their approval a plan developed pursuant to the present law for conserving and restoring the state's coastal vegetated wetlands, consistent with legislative intent and with the policy developed by the authority. Upon approval of the plan by the legislative committees on natural resources and prior to implementation of the plan, in whole or in part, the plan shall be approved by the legislature.
- (3) Approve all requests for programs and projects pertaining to coastal wetlands conservation and restoration insofar as such requests are for funds to be appropriated from the Wetlands Conservation and Restoration Fund; provided that the office of coastal restoration and management, coastal restoration division, of the Department of Natural Resources shall receive any monies appropriated from the fund and shall implement any program or project.
- (4) Be authorized to delegate any of its powers, duties, and functions to the executive assistant.

Proposed law provides such powers and duties of the Coastal Protection and Restoration Authority as:

- (1) Represent the state's position in policy relative to the protection, conservation and restoration of the coastal area through the oversight of coastal restoration and hurricane protection projects and programs and addressing those activities requiring a coastal use permit which significantly affect such projects and programs.
- (2) Develop, coordinate, report and provide oversight of a comprehensive coastal protection master plan and annual coastal protection plans, working in conjunction with state agencies, political subdivisions, and federal agencies. The coastal protection master plan shall include a comprehensive strategy addressing the protection, conservation and restoration of the coastal area through the construction and management of hurricane protection projects and coastal restoration projects. The annual coastal protection plan shall be developed and submitted to the legislature for approval as set forth in the present law. The annual coastal protection plan shall include a description and status of all projects and programs pertaining to hurricane protection and coastal restoration, including privately funded wetland enhancement projects or plans, and addressing those activities requiring a coastal use permit which significantly affect projects set forth in the plan.
- (3) Submit to the appropriate legislative committees the annual coastal protection plan. Upon approval of the annual plan by the legislative committees and prior to implementation of the annual plan, in whole or in part, the annual plan shall be approved by the legislature as provided in the proposed law. The annual plan shall be for protecting conserving and restoring the coastal area through the construction and management of hurricane protection and coastal restoration projects and programs. The annual coastal protection plan shall address hurricane protection and coastal restoration efforts from both short and long-range perspectives and shall incorporate structural, management and institutional components of both efforts. The annual shall include funding requests for projects and programs related to hurricane protection and coastal restoration, a list of projects and programs required for the protection, conservation and restoration of the coastal area and the action required to each state agency to implement the project or program, and a schedule and estimated cost for the implementation of each project or program included in the

plan.

- (4) Have the right and authority to approve all requests for programs and projects pertaining to hurricane protection and coastal conservation and restoration insofar as such requests are for funds to be appropriated from the Coastal Protection and Restoration Trust Fund (new name of the Wetlands Conservation and Restoration Fund); provided that (a) the office of coastal restoration and management, coastal restoration division, of the Department of Natural Resources shall receive monies appropriated from the fund and shall implement any program or project pertaining to coastal wetlands conservation and restoration; and (b) the office of public works of the Department of Transportation and Development shall receive monies appropriated from the fund and shall implement any program or project pertaining to hurricane protection, in conjunction with political subdivisions.
- (5) Authorize the development of procedures in accordance with the Administrative Procedure Act and the taking of actions against any entity, including a political subdivision, for the enforcement of, and compliance with, the comprehensive master coastal protection plan. Such procedures and actions include, but are not limited to, determinations of noncompliance; appeal from such determinations; the taking of administrative action, including the withholding of funds; and civil action, including the seeking of injunctive relief or any other remedy necessary to ensure compliance with the plan.
- (6) Be authorized to delegate any of its powers, duties, and functions to the executive assistant.

Present law relative to the Wetlands Conservation and Restoration Authority provides that the governor, through the executive assistant for coastal activities, shall:

- (1) Coordinate all state departmental budget requests for programs and projects pertaining to coastal wetlands conservation and restoration as well as all requests for funds to be appropriated from the Wetlands Conservation and Restoration Fund.
- (2) Coordinate and focus the functions of all state agencies as they relate to wetlands conservation and restoration.
- (3) Review and reconcile state agency comments on federally sponsored water resource development projects or permitted conservation and restoration activities to establish and present the official state position which shall be consistent with the policies of the authority.
- (4) Represent the policy and consensus viewpoint of the state at the federal, regional, state, and local levels with respect to wetlands conservation and restoration.
- (5) Appraise the adequacy of statutory and administrative mechanisms for coordinating the state's policies and programs at both the intrastate and interstate levels with respect to wetlands conservation and restoration.
- (6) Appraise the adequacy of federal, regional, state, and local programs to achieve the policies and meet the goals of the state with respect to wetlands conservation and restoration.
- (7) Oversee and coordinate federal and state-funded research related to coastal land loss and subsidence.
- (8) Coordinate and focus federal involvement in Louisiana with respect to coastal wetlands conservation and restoration.

- (9) Provide the official state recommendations to the legislature and congress with respect to policies, programs, and coordinating mechanisms relative to wetlands conservation and restoration or wetlands loss research.
- (10) Monitor and seek available federal and private funds consistent with the purposes of the present law.
- (11) Manage his personnel as provided by law.
- (12) Manage his budget, office, and related functions as provided by law.
- (13) Report annually to the legislative committees on natural resources as to the progress of the projects and programs enumerated in the plan. For each project or program, estimated construction and maintenance costs, progress reports, and estimated completion timetables shall be provided.
- (14) Perform such powers, duties, and functions as may be delegated to him by the authority.

Proposed law relative to the Coastal Protection and Restoration Authority provides that the governor, through the executive assistant for coastal activities, shall:

- (1) Coordinate all state departmental budget requests for programs and projects pertaining to coastal protection, including hurricane protection and coastal wetlands conservation and restoration as well as all requests for funds to be appropriated from the Coastal Protection and Restoration Trust Fund.
- (2) Coordinate and focus the functions of all state agencies as they relate to coastal protection, including hurricane protection and wetlands conservation and restoration.
- (3) Review and reconcile state agency comments on federally sponsored coastal protection projects, including hurricane protection, water resource development projects or permitted conservation and restoration activities to establish and present the official state position which shall be consistent with the policies of the authority.
- (4) Represent the policy and consensus viewpoint of the state at the federal, regional, state, and local levels with respect to coastal protection, including hurricane protection and wetlands conservation and restoration.
- (5) Appraise the adequacy of statutory and administrative mechanisms for coordinating the state's policies and programs at both the intrastate and interstate levels with respect to coastal protection, including hurricane protection and wetlands conservation and restoration.
- (6) Appraise the adequacy of federal, regional, state, and local programs to achieve the policies and meet the goals of the state with respect to coastal protection, including hurricane protection and wetlands conservation and restoration.
- (7) Oversee and coordinate federal and state-funded research related to coastal protection, including coastal land loss and subsidence, and the effects of storm surge.
- (8) Coordinate and focus federal involvement in Louisiana with respect to coastal protection, including hurricane protection and coastal wetlands conservation and restoration.
- (9) Provide the official state recommendations to the legislature and congress with respect to policies, programs, and coordinating mechanisms relative to coastal protection, including hurricane protection and wetlands conservation and restoration,

or wetlands loss and storm surge research.

- (10) Monitor and seek available federal and private funds consistent with the purposes of the Part.
- (11) Manage his personnel as provided by law.
- (12) Manage his budget, office, and related functions as provided by law.
- (13) Report annually to the legislature as to the progress of the projects and programs enumerated in the plan or any component thereof. For each project or program, estimated construction and maintenance costs, progress reports, and estimated completion timetables shall be provided.
- (14) Perform such powers, duties, and functions as may be delegated to him by the authority.

Present law relative to the Wetlands Conservation and Restoration Authority provides that the governor, through his executive assistant, may, in an effort to advance the plan or purposes of the present law, within any department, agency, board, or commission:

- (1) Review and modify policies, procedures, or programs not established or approved by the legislature or pursuant to the Administrative Procedure Act that may affect the design, construction, operation, management, and monitoring and more particularly to require expeditious permitting of restoration projects, wetlands enhancement or marsh management plans, or expenditures from the Fund.
- (2) Review and request modifications of state departmental policies, procedures, programs, rules, and regulations that are established by law or pursuant to the Administrative Procedure Act that may affect the design, construction, operation, management, and monitoring of restoration projects, wetlands enhancement or marsh management plans, or expenditures from the Fund. Such rule changes shall be initiated by the appropriate department.
- (3) Appoint advisory panels.
- (4) Accept and use, in accordance with law, gifts, grants, bequests, and endowments for purposes consistent with responsibilities and functions of the agency and take such actions as are necessary to comply with any conditions required for such acceptance.
- (5) Utilize the services of other executive departments of state government upon mutually agreeable terms and conditions.
- (6) Take such other actions not inconsistent with law as are necessary to perform properly the functions of the authority.
- (7) Review and modify proposed coastal use permits prior to issuance to the extent that such permits seek to authorize activities which significantly affect wetlands conservation and restoration projects or which significantly diminish the benefits of such projects insofar as they are intended to conserve or enhance coastal wetlands and to require the issuance of permits for public or private wetlands enhancement projects or plans.

Proposed law relative to the Coastal Protection and Restoration Authority provides that the governor, through his executive assistant, may, in an effort to advance the plan or purposes of the present law, within any department, agency, board, or commission:

- (1) Review and modify policies, procedures, or programs not established or approved

- by the legislature or pursuant to the Administrative Procedure Act that may affect the design, construction, operation, management, and monitoring and more particularly to require expeditious permitting of coastal protection projects, including hurricane protection projects, restoration projects, wetlands enhancement or marsh management plans, or expenditures from the Fund.
- (2) Review and request modifications of state departmental policies, procedures, programs, rules, and regulations that are established by law or pursuant to the Administrative Procedure Act that may affect the design, construction, operation, management, and monitoring of coastal protection projects, including hurricane protection projects, restoration projects, wetlands enhancement or marsh management plans, or expenditures from the Fund. Such rule changes shall be initiated by the appropriate department.
 - (3) Appoint advisory panels.
 - (4) Accept and use, in accordance with law, gifts, grants, bequests, and endowments for purposes consistent with responsibilities and functions of the agency and take such actions as are necessary to comply with any conditions required for such acceptance.
 - (5) Utilize the services of other executive departments of state government upon mutually agreeable terms and conditions.
 - (6) Take such other actions not inconsistent with law as are necessary to perform properly the functions of the authority.
 - (7) Review and modify proposed coastal use permits prior to issuance to the extent that such permits seek to authorize activities which significantly affect hurricane protection or wetlands conservation and restoration projects or which significantly diminish the benefits of such projects insofar as they are intended to protect, conserve or enhance coastal areas and to require the issuance of permits for public or private wetlands enhancement projects or plans.

Present law provides that approval by the authority shall be required for any request by a state agency or department for any funds to finance research, programs, or projects involving the conservation and restoration of coastal wetlands resources; however, this shall not affect self-generated or dedicated funds. Proposed law provides that approval by the authority shall be required for any request by a state agency or department for any funds to finance research, programs, or projects involving coastal protection, including hurricane protection or the conservation and restoration of coastal wetlands resources; however, this shall not affect self-generated or dedicated funds.

Present law provides that Wetlands Conservation and Restoration Authority consists of task force composed of following members:

- (1) Executive Assistant of the governor.
- (2) Secretary of the Department of Natural Resources.
- (3) Secretary of the Department of Wildlife and Fisheries.
- (4) Secretary of the Department of Environmental Quality.
- (5) Secretary of the Department of Transportation and Development.
- (6) Assistant Chief of Staff for Health, Welfare, and Environment (governor's office).
- (7) Commissioner of Administration.

(8) The director of the State Soil and Water Conservation Committee.

Proposed law provides that authority shall consist of the following members:

- (1) Executive Assistant to the governor for coastal activities.
- (2) Secretary of the Department of Natural Resources or their designee.
- (3) Secretary of the Department of Wildlife and Fisheries or their designee.
- (4) Secretary of the Department of Environmental Quality or their designee.
- (5) Secretary of the Department of Transportation and Development or their designee.
- (6) Secretary of the Department of Economic Development or their designee.
- (7) Commissioner of Administration or their designee.
- (8) Commissioner of Agriculture and Forestry or their designee.
- (9) Commissioner of Insurance or their designee.
- (10) Two members appointed by the La. Levee Board Association from the members of levee boards having districts located in whole or in part within the Louisiana Coastal Zone. One member shall be domiciled in a region east of the easternmost boundary of Lafourche Parish and one member shall be domiciled in a region west of the easternmost boundary of Lafourche Parish.
- (11) Two members selected by the Police Jury Association from one of their members who resides in the coastal area. One member from a parish west of the Atchafalaya River and one member from a parish east of the Atchafalaya River. Both members shall not reside in the same parish.
- (12) The chair of the Governor's Advisory Commission on Coastal Protection, Restoration, and Conservation or their designee.
- (13) The director of the state Office of Homeland Security and Emergency Preparedness or their designee.
- (14) Chairman of the Senate Natural Resources Committee or their designee.
- (15) Chairman of the House Natural Resources Committee or their designee.
- (16) Chairman of the Senate Transportation, Highways and Public Works Committee or their designee.
- (17) Chairman of the House Transportation Committee or their designee.
- (18) A senator who represents a portion of the coastal area, appointed by the President of the Senate.
- (19) A representative who represents a portion of the coastal area, appointed by the Speaker of the House.

Present law provides that the executive assistant shall serve as chairman of the task force and develop procedures for the operation of the task force. Proposed law provides that the executive assistant shall serve as chairman and shall develop procedures for the operation of the authority.

Proposed law further provides that the attorney general or his designee shall be the legal advisor to the authority, counsel and advise the authority, and represent the authority in all legal proceedings.

Present law relative to Wetlands Conservation and Restoration Plan provides procedures for annual submission to natural resources committees in both houses of the Legislature and approval by committees and legislature of a wetlands conservation and restoration plan. Proposed law relative to Coastal Protection and Restoration Authority provides procedures for submission of an annual coastal protection plan to appropriate legislative committees of both houses of the Legislature and approval by committees and legislature of plan.

Present law provides that annual plan is to serve as the state's overall strategy for conserving and restoring coastal wetlands through the construction and management of coastal wetlands enhancement projects. Provides for annual development of plan as follows:

- (a) The authority conducts not less than three public hearings in separate locations in the western, central, and eastern areas of the coastal zone for the purpose of receiving comments and recommendations from the public and elected officials. All public hearings must be held at least sixty days prior to the submission of the plan to the legislature.
- (b) At least two weeks prior to each public hearing the authority contacts the parish governing authorities and the state legislators of the parishes in the coastal zone for the purpose of soliciting their comments and recommendations and notifying them of the public hearing to be held in their area.
- (c) Ten days prior to the first such public hearing the authority publishes in the state register and the official state journal the schedule of public hearings setting out the location, place, and time of all the hearings.
- (d) At least seven days prior to each hearing the authority publishes a notice of the hearing in the official journal of each parish within the area of the hearing. The notice of a hearing shall have been published in the official journal of each parish in the coastal zone prior to the final scheduled public hearing. The authority may provide for additional public hearings when necessary upon at least three days notice published in the official journal of the parishes in the area of the hearing and written notice to the parish governing authorities.
- (e) The authority shall receive written comments and recommendations until thirty days prior to the submission of the plan to the legislative committees.
- (f) Prior to recommending any project for inclusion in the plan, the authority shall identify and declare in writing: the public use benefits intended to be derived from the project which justify the project; the use benefits which private landowners are expected to derive from the project; the manner in which the benefits will be realized over the life of the project; the entities or persons who will be responsible for the long-term operation and maintenance of the project both in terms of manpower and cost; and the entities or persons who will be responsible for monitoring the project to ensure that it is functioning properly and realizing the intended public and private benefits.

Proposed law retains these procedures for development of the annual coastal protection plan.

Present law provides for funding from Wetlands Conservation and Restoration Fund established in constitution. Proposed law changes statutory name of fund to Coastal Protection and Restoration Fund.

Present law provides for distribution of certain amounts, and that money from the fund is

subject to appropriations by the legislature only to the coastal restoration division within the office of coastal restoration and management, and use consistent with the conservation and restoration of coastal wetlands and certain purposes. Proposed law provides that funding is subject to appropriations by the legislature for the purposes of coastal restoration, conservation, and hurricane protection, and used for projects and programs consistent with the annual plan as it pertains to coastal restoration, conservation, and hurricane protection.

Present law creates Governor's Advisory Commission on Coastal Restoration and Conservation and provides for membership and duties. Proposed law changes name to Governor's Advisory Commission on Coastal Protection, Restoration and Conservation and provides for duties. Present law provides that members of the advisory commission includes the chairmen of the House and Senate natural resources committees. Proposed law provides that such members are the chairmen of the legislative committees to which the annual coastal protection plan is submitted. Proposed law further adds two members appointed by the La. Levee Board Association from the members of levee boards having districts located in whole or in part within the Louisiana Coastal Zone, providing that one member shall be domiciled in a region east of the easternmost boundary of Lafourche Parish and one member shall be domiciled in a region west of the easternmost boundary of Lafourche Parish, and a member appointed by the governor representing the maritime industry.

Effective upon signature of the governor or lapse of time for gubernatorial action.

(Amends R.S. 49:213.1, 213.2, 213.3, 213.4, 213.5, 213.6, 213.7, 214.11, 214.12(A)(1) and 214.13; Adds R.S. 49:213.11)

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Natural Resources to the original bill.

1. Added definition of "coastal protection" as "plans, projects, policies and programs intended to provide hurricane protection or coastal, or coastal wetland, conservation and restoration."
2. Expanded membership of authority to include certain members of the legislature, and changed selection by police jury association from one to two members.
3. Added that attorney general shall serve as legal advisor to the authority and represent authority in legal proceedings.