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## 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 legislative committees on natural resources and on transportation, highways, and public works 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 legislative committees on natural resources, and on transportation, highways, and public works 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) Three presidents of levee boards having districts located in whole or in part within the Louisiana Coastal Zone. The twelve levee districts in the Louisiana Coastal Zone are grouped into three regions. Each region will annually select a designee who will represent that region and serve for one year.
- (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 a member of the authority who represents a political subdivision shall recuse himself from deliberations and voting on any matter concerning the taking of action against that political subdivision for noncompliance with the plan.

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 the legislative committees on natural resources, and on transportation, highways, and public works 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 adds the chairmen of the House and Senate transportation, highways, and public works committees to the advisory commission. 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.

#### Senate Floor Amendments to reengrossed bill.

1. Adds members to the Coastal Protection and Restoration Authority appointed by certain levee board presidents instead of appointed by the La. Levee Board Association.
2. Provides that the legislative committees on natural resources and on transportation, highways, and public works have oversight of the annual plan.
3. Adds members to the Governor's Advisory Commission on Coastal Protection, Restoration and Conservation.
4. Adds language providing that a member of the authority who represents a political subdivision shall recuse himself from deliberations and voting on any matter concerning the taking of action against that political subdivision for noncompliance with the plan.