

First Extraordinary Session, 2005

HOUSE BILL NO. 141

BY REPRESENTATIVES ALARIO, DEWITT, DORSEY, DOVE, FRITH, HAMMETT, HILL, ODINET, SALTER, JACK SMITH, ST. GERMAIN, AND WOOTON AND SENATORS HEITMEIER, HINES, AND MOUNT

COASTAL COMMISSION: Provides relative to development and implementation of a comprehensive coastal and hurricane protection plan

1 AN ACT

2 To amend and reenact R.S. 49:213.1 through 213.8, 214.3(1), 214.11, 214.12(A)(1), and

3 214.13, to enact R.S. 49:213.11, and to repeal Act No. 300 of the 2005 Regular

4 Session of the Louisiana Legislature, relative to coastal protection, conservation,

5 restoration, and management; to authorize and provide for the development and

6 implementation of a comprehensive coastal protection plan; to provide powers,

7 duties, terms, procedures, definitions, conditions, and requirements; to provide

8 relative to hurricane protection and coastal restoration; to provide relative to

9 enforcement; to provide relative to certain authorities, commissions, and

10 departments; to change the name of the Wetlands Conservation and Restoration

11 Authority to the Coastal Protection and Restoration Authority and to set forth its

12 powers, duties, and members; to change the name of the Wetlands Conservation and

13 Restoration Fund to the Coastal Protection and Restoration Fund and to provide

14 relative to deposits and expenditures of the fund; to change the name of the

15 Governor's Advisory Commission on Coastal Restoration and Conservation to the

16 Governor's Advisory Commission on Coastal Protection, Restoration, and

17 Conservation and to set forth its powers, duties, and members; and to provide for

18 related matters.

1 Be it enacted by the Legislature of Louisiana:

2 Section 1. R.S. 49:213.1 through 213.8, 214.3(1), 214.11, 214.12(A)(1), and 214.13
3 are hereby amended and reenacted and R.S. 49:213.11 is hereby enacted to read as follows:

4 PART II. LOUISIANA COASTAL ~~WETLANDS~~ PROTECTION,
5 CONSERVATION, RESTORATION, AND MANAGEMENT
6 SUBPART A. ~~WETLANDS CONSERVATION~~ COASTAL
7 PROTECTION AND RESTORATION AUTHORITY

8 §213.1. Statement of intent

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

17 B. In the past, efforts by the state to address the myriad, interrelated
18 problems of coastal ~~land loss~~ protection have been inadequate, fragmented,
19 uncoordinated, and lacking in focus and strong direction. The state must have a
20 single agency with authority to articulate a clear statement of priorities and to focus
21 development and implementation of efforts to achieve comprehensive coastal
22 protection. Without this authority, the safety of citizens, the viability of the state and
23 local economies, and the long-term recovery from disasters such as Hurricanes
24 Katrina and Rita remain in jeopardy.

25 ~~Meanwhile, coastal deterioration has escalated to a point such that the~~
26 ~~potential for vegetated wetlands restoration and enhancement in particular is~~
27 ~~declining rapidly.~~

28 C. The state must act to develop, implement, and enforce a comprehensive
29 coastal protection plan. The state must act to ensure that the plan integrates hurricane

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

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

1 ~~plan in the Wetlands Conservation~~ comprehensive master coastal protection plan
2 with the Coastal Protection and Restoration Authority within the office of the
3 governor. Primary responsibility for carrying out the elements of the plan relative to
4 coastal wetlands conservation and restoration is placed in the office of coastal
5 restoration and management within the Department of Natural Resources. Primary
6 responsibility for carrying out the elements of the plan relative to hurricane
7 protection is placed with the office of public works and intermodal transportation
8 within the Department of Transportation and Development. In order to maximize
9 the effectiveness of coastal protection efforts, the secretaries of the Department of
10 Natural Resources and the Department of Transportation and Development and the
11 governor's executive assistant for coastal activities shall use an integrated team effort
12 to jointly coordinate master plan development with federal agencies and political
13 subdivisions, including levee districts.

14 §213.2. Definitions

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

17 (1) "Annual plan" means the state coastal protection plan submitted annually
18 to the legislature as provided in this Part including amendments to the plan.

19 ~~(1)~~ (2) "Authority" means the ~~Wetlands Conservation~~ Coastal Protection and
20 Restoration Authority.

21 (3) "Coastal area" means the Louisiana Coastal Zone and contiguous areas
22 subject to storm or tidal surge.

23 (4) "Coastal protection" means plans, projects, policies, and programs
24 intended to provide hurricane protection or coastal conservation or restoration.

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

1 use permit which significantly affect such projects or which significantly diminish
2 the benefits of such projects or plans insofar as they are intended to conserve or
3 enhance coastal wetlands consistent with the legislative intent as expressed in R.S.
4 49:213.1.

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

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

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

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

16 ~~(5) "Plan" means the state coastal vegetated wetlands conservation and~~
17 ~~restoration plan and amendments to the plan~~

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

20 ~~(6)~~ (11) "Project" means a physical structure or structures designed and
21 constructed according to the annual plan.

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

24 §213.3. Creation; personnel

25 A. The ~~Wetlands Conservation~~ Coastal Protection and Restoration Authority
26 is hereby created within the office of the governor. The authority is hereby
27 established and shall exercise the powers and duties hereinafter set forth or otherwise
28 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 R.S.
3 49:213.5. The executive assistant shall be appointed by the governor, subject to
4 Senate confirmation, to serve at his pleasure. He shall report directly to the
5 governor.

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

15 §213.4. Powers and duties

16 A. The authority shall:

17 ~~(1) Develop a comprehensive policy addressing the conservation and~~
18 ~~restoration of coastal wetlands resources through the construction and management~~
19 ~~of coastal vegetated wetlands enhancement projects, including privately funded~~
20 ~~marsh management projects or plans, and addressing those activities requiring a~~
21 ~~coastal use permit which significantly affect such projects, all consistent with the~~
22 ~~legislative intent as expressed in R.S. 49:213.1.~~ (1) Represent the state's position
23 in policy implementation relative to the protection, conservation, and restoration of
24 the coastal area of the state through oversight of coastal restoration and hurricane
25 protection projects and programs and by addressing activities which require a coastal
26 use permit and which could significantly affect protection, conservation, and
27 restoration projects and programs, all consistent with the legislative intent as
28 expressed in R.S. 49:213.1.

1 (2) Develop, coordinate, make reports on, and provide oversight for a
2 comprehensive coastal protection master plan and annual coastal protection plans,
3 working in conjunction with state agencies, political subdivisions, including levee
4 districts, and federal agencies. The master plan shall include a comprehensive
5 strategy addressing the protection, conservation, and restoration of the coastal area
6 through the construction and management of hurricane protection projects and
7 coastal restoration projects and programs, all consistent with the legislative intent as
8 expressed in R.S. 49:213.1. The annual coastal protection plan shall be developed as
9 the annual implementation of the comprehensive master plan and shall be submitted
10 to the legislature for approval as set forth in R.S. 49:213.6. The annual coastal
11 protection plan shall include a description and status of all projects and programs
12 pertaining to hurricane protection and coastal restoration, including privately funded
13 wetland enhancement projects or plans, and addressing those activities requiring a
14 coastal use permit which significantly affect projects set forth in the plan, all
15 consistent with the legislative intent as expressed in R.S. 49:213.1.

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

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

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

7 ~~(4)~~ (5) Be authorized to delegate any of its powers, duties, and functions to
8 the executive assistant.

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

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

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

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

25 (3) Review and reconcile state agency comments on federally sponsored
26 coastal protection projects, including hurricane protection, water resource
27 development projects, or permitted conservation and restoration activities to
28 establish and present the official state position which shall be consistent with the
29 policies of the authority.

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

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

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

11 (7) Oversee and coordinate federal and state-funded research related to
12 coastal protection, including coastal land loss and subsidence, and the effects of
13 storm surge.

14 (8) Coordinate and focus federal involvement in Louisiana with respect to
15 coastal protection, including hurricane protection and coastal wetlands conservation
16 and restoration.

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

21 (10) Monitor and seek available federal and private funds consistent with the
22 purposes of ~~the~~ this Part.

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

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

25 (13) Report annually to the ~~legislative committees on natural resources~~
26 legislature as to the progress of the projects and programs enumerated in the plan or
27 any component thereof. For each project or program, estimated construction and
28 maintenance costs, progress reports, and estimated completion timetables shall be
29 provided.

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

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

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

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

19 (3) Appoint advisory panels.

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

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

26 ~~(7)~~ (6) Take such other actions not inconsistent with law as are necessary to
27 perform properly the functions of the authority.

28 ~~(8)~~ (7) Review and modify proposed coastal use permits prior to issuance to
29 the extent that such permits ~~seek to~~ would authorize activities which significantly

1 affect hurricane protection or wetlands conservation and restoration projects or
 2 which significantly diminish the benefits of such projects ~~insofar as they are~~ intended
 3 to protect, conserve, or enhance coastal ~~wetlands~~ areas and to require the issuance
 4 of permits for public or private wetlands enhancement projects or plans.

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

10 §213.5. ~~Wetlands Conservation~~ Coastal Protection and Restoration Task Force

11 Authority; members

12 A. The ~~Wetlands Conservation~~ Coastal Protection and Restoration Task
 13 Force ~~is hereby created within the Wetlands Conservation and Restoration Authority~~
 14 shall consist of the following members:

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

16 (1) Executive Assistant ~~of the governor~~ to the governor for coastal activities.

17 (2) Secretary of the Department of Natural Resources or his designee.

18 (3) Secretary of the Department of Wildlife and Fisheries or his designee.

19 (4) Secretary of the Department of Environmental Quality or his designee.

20 (5) Secretary of the Department of Transportation and Development or his
 21 designee.

22 (6) ~~Assistant Chief of Staff for Health, Welfare, and Environment~~
 23 ~~(governor's office)~~ Secretary of the Department of Economic Development or his
 24 designee.

25 (7) Commissioner of Administration or his designee.

26 (8) ~~The director of the State Soil and Water Conservation Committee~~
 27 Commissioner of Agriculture or his designee.

28 (9) Commissioner of Insurance or his designee.

1 (10) Three members selected from among and by the presidents of the
2 twelve levee districts in the Louisiana coastal zone grouped in three regions as
3 follows: Region 1 - Pontchartrain Levee District, Orleans Levee District, and East
4 Jefferson Levee District. Region 2 - Atchafalaya Levee District, Lafourche Basin
5 Levee District, North Lafourche Conservation, Levee and Drainage District,
6 Terrebonne Levee and Conservation District, and South Lafourche Levee District.
7 Region 3 - Lake Borgne Basin Levee District, West Jefferson Levee District, Grand
8 Isle Independent Levee District, and the Plaquemines Parish Government. The
9 member from each region shall serve as a member of the authority for a term of one
10 year.

11 (11) Two members selected by the executive board of directors of the Police
12 Jury Association of Louisiana from the governing authorities of parishes located in
13 the coastal zone in which there are no levee districts. One member shall be from a
14 parish west of the Atchafalaya River and one member shall be from a parish east of
15 the Atchafalaya River. The two members shall not reside in the same parish.

16 (12) The chair of the Governor's Advisory Commission on Coastal
17 Protection, Restoration, and Conservation or his designee.

18 (13) The director of the state Office of Homeland Security and Emergency
19 Preparedness or his designee.

20 (14) The chairman of the Senate Natural Resources Committee or his
21 designee.

22 (15) The chairman of the House Natural Resources Committee or his
23 designee.

24 (16) The chairman of the Senate Transportation, Highways, and Public
25 Works Committee or his designee.

26 (17) The chairman of the House Transportation Committee or his designee.

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

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

3 B. Any member of the authority who represents a political subdivision shall
4 recuse himself from deliberations and from voting on any matter concerning the
5 taking of action against that political subdivision for lack of compliance with the
6 plan.

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

9 §213.6. ~~Wetlands conservation and restoration plan~~ Coastal protection annual
10 plans; development; priorities

11 A.(1) The authority shall, in accordance with the procedures set forth herein,
12 develop ~~the~~ a comprehensive master plan for coastal protection and an annual coastal
13 protection plan which shall serve as the state's overall strategy for protecting,
14 conserving, and restoring coastal wetlands through the construction and management
15 of coastal wetlands enhancement projects the coastal area through the construction
16 and management of hurricane protection and coastal restoration projects and
17 programs, including privately funded marsh management projects or plans, and
18 addressing those activities requiring a coastal use permit which significantly affect
19 such projects, all consistent with the legislative intent as expressed in R.S. 49:213.1,
20 and which ~~plan~~ plans shall be subject to the approval of the legislature as provided
21 in ~~R.S. 49:213.6(D)~~: Paragraph (2) of this Subsection and Subsection D of this
22 Section. The comprehensive master plan and the annual plan shall include requests
23 for funding of projects and programs related to hurricane protection and coastal
24 restoration.

25 (2) The authority shall ~~annually~~ develop the ~~plan~~ plans in accordance with
26 the following procedure:

27 (a) The authority shall conduct not less than three public hearings in separate
28 locations in the western, central, and eastern areas of the coastal zone for the purpose
29 of receiving comments and recommendations from the public and elected officials.

1 All public hearings must be held at least sixty days prior to the submission of the
2 ~~plan~~ plans to the legislature.

1 (b) At least two weeks prior to each public hearing the authority shall contact
2 the parish governing authorities, levee districts, and the state legislators of the
3 parishes in the coastal zone for the purpose of soliciting their comments and
4 recommendations and notifying them of the public hearing to be held in their area.

5 (c) Ten days prior to the first such public hearing the authority shall publish
6 in the state register and the official state journal the schedule of public hearings
7 setting out the location, place, and time of all the hearings.

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

15 (e) The authority shall receive written comments and recommendations until
16 thirty days prior to the submission of the ~~plan~~ plans to the legislative committees.

17 B. The comprehensive coastal protection plan shall address ~~coastal land loss~~
18 ~~problems~~ hurricane protection and coastal restoration efforts from both ~~short~~ short-
19 term and long-range perspectives and shall incorporate structural, management, and
20 institutional components of both efforts. The plan shall include but not be limited
21 to the following:

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

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

27 C.(1) Where feasible, the comprehensive master plan shall include scientific
28 data and other reasons, including but not limited to the social, geographic, economic,
29 engineering, and biological considerations as to why each project or program was

1 selected for inclusion. Specifically, this will include an explanation as to how each
2 project or program advances the plan objectives with respect to the ~~management,~~
3 ~~conservation, or enhancement of vegetated wetlands areas~~ protection, conservation,
4 and restoration of the coastal area.

5 (2) Prior to recommending any project for inclusion in the comprehensive
6 coastal protection plan, the authority shall identify and declare in writing:

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

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

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

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

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

18 D.(1) ~~The~~ After adoption by the authority, the comprehensive master plan
19 shall be submitted to the House Committee on Natural Resources and the Senate
20 Committee on Natural Resources for approval. In addition, the annual coastal
21 protection plan shall be submitted to the ~~natural resources committees of the~~
22 ~~legislature~~ House Committee on Natural Resources and the Senate Committee on
23 Natural Resources on or before the first day of the regular legislative session of each
24 year. ~~beginning in 1991; however, the plan shall not be effective or implemented~~
25 ~~unless both houses in the legislature approve or fail to disapprove the plan in~~
26 ~~accordance with this Subsection.~~(2)(a) The ~~natural resources~~ committees shall
27 ~~approve or disapprove of~~ take action on the annual plan on or before May fifteenth
28 of each calendar year.

1 ~~(b)~~ (2) If either committee disapproves ~~the~~ a plan, it shall send the plan back
2 to the authority together with a brief summary of the reasons for disapproval and
3 may make recommendations concerning changes it deems necessary or appropriate
4 to remedy any deficiencies in the plan. ~~Disapproval by a committee shall constitute~~
5 ~~disapproval by its respective house of the legislature, unless that house subsequently~~
6 ~~approves the plan by resolution. (c) If the plan is approved, the committee shall~~
7 ~~submit the plan to the legislature for approval as provided for in Paragraphs (3), (4),~~
8 ~~and (5) of this Subsection. Should the natural resources committee in either house~~
9 ~~fail to report the plan and proposed recommendations, if any, to its respective house,~~
10 ~~then a majority of the elected members of the respective house may, by motion or~~
11 ~~by simple resolution direct the committee to report the plan to the house, in which~~
12 ~~case the committee so directed shall report the instrument as directed.~~

13 ~~(3)(a)~~ The legislature may approve or disapprove ~~of the~~ a plan by resolution
14 adopted by a majority vote of the members of each house of the legislature. ~~provided~~
15 ~~that such resolution is adopted on or before June first of each calendar year.~~ ~~(b) Any~~
16 ~~such resolution shall be subject to the same requirements and procedures for the~~
17 ~~introduction of a bill and shall be read on three separate days prior to being~~
18 ~~considered by the legislative body; however, it shall not be referred to a committee~~
19 ~~and shall be taken up by the respective house in accordance with its rules.~~ ~~(c) If the~~
20 legislature disapproves ~~of the~~ a plan, it shall include in the resolution a brief
21 summary of the reasons for disapproval and may make recommendations concerning
22 any changes it deems necessary or appropriate to remedy any deficiencies in the
23 plan.

24 (4) If the legislature approves the comprehensive master plan, or if the
25 legislature fails to approve the comprehensive master plan within sixty days after the
26 plan is submitted, the authority shall implement the plan as submitted. If the
27 legislature approves the annual plan, or if the legislature fails to disapprove the
28 annual plan by ~~June~~ July first, the authority shall implement the plan as submitted.

1 The projects and programs provided for in the plan shall be undertaken in conformity
2 with the order of priority as contained in the plan.

3 (5) At any time subsequent to the adoption ~~and/or~~ implementation of ~~the a~~
4 plan in accordance with the procedure set forth herein, the authority may amend or
5 supplement the plan to add or delete projects and programs. No project shall be
6 added or deleted unless and until the amendment to the plan is approved as provided
7 herein. Any such amendment to the plan submitted to the legislature shall conform
8 to the requirements specified in ~~R.S. 49:213.6(B) and (C)~~ Subsections B and C of
9 this Section.

10 §213.7. Funding

11 A.(1) To provide a dedicated, recurring source of revenue for the
12 development and implementation of a program to ~~conserve and restore Louisiana's~~
13 ~~coastal vegetated wetlands~~ protect and restore Louisiana's coastal area, there ~~shall~~
14 ~~be~~ is hereby established in the state treasury ~~on the effective date of this Subpart the~~
15 ~~Wetlands Conservation and Restoration~~ Coastal Protection and Restoration Fund.

16 (2) Of all mineral revenues received in each fiscal year by the state including
17 those received as a result of the production of or exploration for minerals, hereinafter
18 referred to as mineral revenues from severance taxes, royalty payments, bonus
19 payments, or rentals, and excluding federal revenues received as provided in
20 Subsection C of this Section and such revenues received by the state as a result of
21 grants or donations when the terms or conditions thereof require otherwise, the
22 treasurer shall make the following allocations:

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

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

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

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

9 (2) After making the allocations and deposits as provided for in ~~Subsections~~
10 Subsection A and B(1) Paragraph (B)(1) of this Section, the treasurer shall deposit
11 in and credit to the ~~Wetlands Conservation and Restoration Fund~~ fund as follows:

12 (a) Two percent of the mineral revenues received in excess of the allocations
13 provided for in ~~Subsections~~ Subsection A and B(1) Paragraph (B)(1) of this Section.

14 The treasurer shall reduce the deposit made pursuant to this Subparagraph by the
15 amount of deposits made pursuant to Subparagraphs (b) and (c) of this Paragraph.

16 (b) Ten million dollars of the mineral revenues in excess of six hundred
17 million dollars which remain after the allocations provided for in Subsection A are
18 made by the treasurer.

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

22 C. ~~The treasurer shall deposit in and credit to the fund the amount of mineral~~
23 ~~revenues as provided for herein.~~ (1) Subject to Article VII, Sections 9(B) and 10.1
24 of the state constitution, in each fiscal year, the federal revenues that are received by
25 the state generated from Outer Continental Shelf oil and gas activity and eligible, as
26 provided by federal law, to be used for the purposes provided in this Subsection shall
27 be deposited and credited by the treasurer to the Coastal Protection and Restoration
28 Fund.

1 (2) Such federal revenues shall be used only for the purposes of coastal
2 wetlands conservation, coastal restoration, hurricane protection, and infrastructure
3 directly impacted by coastal wetlands losses.

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

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

21 (1) Projects and structures engineered for the enhancement, creation, or
22 restoration of coastal ~~vegetated~~ wetlands.

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

25 (3) Administration and project management, planning, design, construction,
26 and monitoring.

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

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

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

4 (7) For coastal wetlands conservation, coastal restoration, hurricane
5 protection, and infrastructure directly impacted by coastal wetlands losses.

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~~ fund which have not
8 been expended or obligated under the plan approved pursuant to R.S. 49:213.6, or
9 otherwise obligated in accordance with law.

10 §213.8. Private property and public rights

11 Recognizing that a substantial majority of the coastal wetlands in Louisiana
12 are privately owned, it is anticipated that a significant portion of the projects funded
13 through the ~~Wetlands Conservation~~ Coastal Protection and Restoration Fund either
14 will occur on or in some manner affect private property. No rights whatsoever shall
15 be created in the public, whether such rights be in the nature of ownership, servitude,
16 or use, with respect to any private lands or waters utilized, enhanced, created, or
17 otherwise affected by activities of any governmental agency, local, state, or federal,
18 or any person contracting with same for the performance of any activities, funded in
19 whole or in part, by expenditures from the ~~Wetlands Conservation~~ Coastal Protection
20 and Restoration Fund or expenditures of federal funds. In the event legal
21 proceedings are instituted by any person seeking recognition of a right of ownership,
22 servitude, or use in or over private property solely on the basis of the expenditure of
23 funds from the ~~Wetlands Conservation~~ Coastal Protection and Restoration Fund, the
24 state shall indemnify and hold harmless the owner of such property for any cost,
25 expense, or loss related to such proceeding, including court costs and attorney fees.

26 * * *

1 waterfowl, fur-bearing species, and fisheries that support recreational and
2 commercial interests. In addition, our coastal wetlands act as the first line of defense
3 for coastal communities, including New Orleans, in the face of hurricanes and
4 tropical storm surges. They also provide protection for the pipelines through which
5 much of our nation's energy supply flows. And, our coastal wetlands are home to
6 unique and diverse cultures that have called the wetlands home for many
7 generations.

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

24 §214.12. Governor's Advisory Commission on Coastal Protection, Restoration, and
25 Conservation; composition; terms; officers

26 A.(1) The Governor's Advisory Commission on Coastal Protection,
27 Restoration, and Conservation is hereby created and shall be composed as follows:

28 (a) Two members to be appointed by the governor from the academic
29 community.

1 (b) Two members to be appointed by the governor from the business and
2 industrial community.

3 (c) Two members to be appointed by the governor from the nonprofit
4 corporation community.

5 (d) Two members to be appointed by the governor from the conservation
6 community.

7 (e) Two members to be appointed by the governor from the agricultural
8 community.

9 (f) Two members to be appointed by the governor from governing bodies of
10 political subdivisions of the state.

11 (g) Two members to be appointed by the governor from the energy
12 production and distribution sector.

13 (h) Two members to be appointed by the governor to represent the fishing
14 community, one of whom shall be from the commercial fishing industry and one of
15 whom shall be from the recreational fishing community.

16 (i) One member to be appointed by the governor from the oyster industry.

17 (j) Two members to be appointed by the governor to represent coastal
18 landowners.

19 (k) Two members to be appointed by the governor to represent ports and
20 related industries.

21 (l) Six members to be appointed at large by the governor.

22 (m) The president of the Senate or his designee.

23 (n) The speaker of the House of Representatives or his designee.

24 (o) The chairman of the House Committee on Natural Resources or his
25 designee.

26 (p) The chairman of the Senate Committee on Natural Resources or his
27 designee.

28 (q) Two members appointed by the Louisiana Levee Board Association from
29 the members of levee boards having districts located in whole or in part within the

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

4 Section 2. Act No. 300 of the 2005 Regular Session of the Louisiana Legislature is
5 hereby repealed in its entirety.

6 Section 3. The Louisiana State Law Institute is hereby directed to make technical
7 changes to statutory laws as necessary to reflect the name changes provided in this Act.
8 However, in the event that neither Senate Bill No. 27 nor House Bill No. 139 of the 2005
9 First Extraordinary Session passes the legislature or the proposed amendment to the
10 Louisiana Constitution contained in the provisions of said Senate Bill No. 27 or House Bill
11 No. 139 fails to receive the favorable vote of the electors, the name of the Coastal Protection
12 and Restoration Authority provided for in this Act shall revert to the Wetlands Conservation
13 and Restoration Authority; and the name of the Governor's Advisory Commission on Coastal
14 Protection, Restoration, and Conservation provided for in this Act shall revert to the
15 Governor's Advisory Commission on Coastal Restoration and Conservation; and the Coastal
16 Protection and Restoration Fund provided for in this Act shall revert to the Wetlands
17 Conservation and Restoration Fund; and the annual coastal protection plan provided for in
18 this Act shall revert to the Wetlands Conservation and Restoration Plan, and the law institute
19 is hereby directed to make the necessary technical changes to statutory law to reflect the
20 appropriate names as provided herein.

21 Section 4. This Act shall become effective upon signature by the governor or, if not
22 signed by the governor, upon expiration of the time for bills to become law without signature
23 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
24 vetoed by the governor and subsequently approved by the legislature, this Act shall become
25 effective on the day following such approval.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument.

Alario

HB No. 141

Abstract: Adds hurricane protection to the jurisdiction of the Wetlands Conservation and Restoration Authority. Changes the name and the membership of the authority. Makes other conforming name changes.

Present law creates the Wetlands Conservation and Restoration Authority within the office of the governor. Proposed law changes the name of the authority to the Coastal Protection and Restoration Authority.

Present law creates the Wetlands Conservation and Restoration Fund. Proposed law changes the name of the fund to the Coastal Protection and Restoration Fund. Dedicates Outer Continental Shelf (OCS) oil and gas revenues to the fund.

Present law provides that the authority is composed of the executive assistant to the governor for coastal activities and specified additional members of a task force. Proposed law removes references to a task force and makes the following changes to the membership of the authority:

- (1) Present law provides that the secretaries of the following departments are members: Natural Resources, Wildlife and Fisheries, Environmental Quality, and Transportation and Development. Provides that the commissioner of administration is a member. Proposed law authorizes each of these ex officio members to designate someone to serve in his stead.
- (2) Present law provides that the assistant chief of staff for health, welfare, and environment in the governor's office and the director of the State Soil and Water Conservation Committee are members. Proposed law removes these members and adds the secretary or commissioner of the following departments or their designees to the authority: Economic Development, Agriculture and Forestry, and Insurance.
- (3) Proposed law provides for the following additional members of the authority: three members selected from among and by the presidents of levee boards divided into three regions of the coastal zone; two members of governing authorities of coastal zone parishes with no levee district selected by the Louisiana Police Jury Association, one from east of the Atchafalaya River and one from west of the Atchafalaya River; the chair of the Governor's Advisory Commission on Coastal Protection, Restoration, and Conservation or his designee; the director of the state Office of Homeland Security and Emergency Preparedness or his designee; the chairs of the House and Senate Committees on Natural Resources; the chairs of the House and Senate Committees on Transportation, Highways and Public Works; and a senator who represents a coastal district appointed by the president of the Senate and a representative who represents a coastal district appointed by the speaker of the House.

Proposed law requires any member of the authority who represents a political subdivision to recuse himself from issues concerning taking action against that political subdivision for lack of compliance with the state plan.

Present law provides that the governor, through the executive assistant for coastal activities, shall coordinate the powers, duties, functions, and responsibilities of any state agency relative to coastal wetlands conservation and restoration and shall administer the programs

of the authority. Proposed law requires coordination of coastal protection and restoration efforts.

Present law authorizes the executive assistant to employ necessary staff. Proposed law further authorizes him to seek and utilize assistance of personnel in any state department or agency.

Proposed law requires that the authority:

- (1) Represent the state's position in policy implementation relative to protection, conservation, and restoration of the coastal area.
- (2) Develop procedures for action to enforce compliance with the comprehensive master plan; actions may include withholding funds, civil actions, and the removal of gubernatorial appointees.

Present law requires the governor through the executive assistant to do the following with respect to wetlands conservation and restoration:

- (1) Coordinate 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.
- (3) Review and reconcile state agency comments on federally sponsored water resource development projects or permitted activities.
- (4) Represent the policy and consensus viewpoint of the state at the federal, regional, state, and local levels.
- (5) Appraise the adequacy of statutory and administrative mechanisms for coordinating the state's policies and programs at both the intrastate and interstate levels.
- (6) Appraise the adequacy of federal, regional, state, and local programs to achieve the policies and meet the goals of the state.
- (7) Oversee and coordinate federal and state-funded research.
- (8) Coordinate and focus federal involvement in Louisiana.
- (9) Provide the official state recommendations to the legislature and congress with respect to policies, programs, and coordinating mechanisms.
- (10) Monitor and seek available federal and private funds.
- (11) Manage his personnel as provided by law.
- (12) Manage his budget, office, and related functions.
- (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 retains present law and adds issues of coastal protection, including hurricane protection and barrier shorelines and reefs, to the jurisdiction of the governor through his executive assistant in carrying out these activities.

Present law authorizes the governor, through his executive assistant, to examine and modify or request modifications of policies, procedures, or programs of state agencies that may affect restoration projects, wetlands enhancement or marsh management plans, and review and modify proposed coastal use permits that would authorize activities which affect wetlands conservation and restoration projects or which would significantly diminish the benefits of projects intended to conserve or enhance coastal wetlands. Proposed law retains present law and authorizes such actions with respect to hurricane protection projects.

Present law provides that the authority shall 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. Requires that the authority develop an annual plan for carrying out the strategy.

Proposed law provides that the authority shall develop, coordinate, report, and provide oversight of a comprehensive coastal protection master plan which is to 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 provides for legislative oversight of the comprehensive plan.

Proposed law retains the requirement that the authority develop an annual plan and submit it to the legislature for approval. Requires that the annual plans include requests for funding for projects and programs. Retains present law relative to procedures for the development of annual plans and the contents thereof.

Proposed law specifies that the attorney general or his designee is the legal advisor for the authority.

Present law creates the Governor's Advisory Commission on Coastal Restoration and Conservation. Proposed law changes the name of the commission to the Governor's Advisory Commission on Coastal Protection, Restoration, and Conservation and adds two members appointed by the La. Levee Board Association and one member appointed by the governor representing the maritime industry. Specifically adds coastal protection, barrier shorelines, and reefs to the subject matter jurisdiction of the commission.

Directs the La. State Law Institute to make technical changes to other statutes to reflect name changes. Provides that if the proposed constitutional amendment to change the name of the fund fails to become law, the name of the fund, the authority, the advisory commission, and the plan will revert to present law and directs the law institute to effect those reversions.

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

(Amends R.S. 49:213.1-213.8, 214.3(1), 214.11, 214.12(A)(1), and 214.13; Adds R.S. 49:213.11; Repeals Act No. 300 of 2005 R.S.)

Summary of Amendments Adopted by House

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

1. Provides for new members of the wetlands authority as follows:

- (a) Three members selected from among and by the presidents of levee boards divided into three regions of the coastal zone.
 - (b) Two members of governing authorities of coastal zone parishes with no levee district selected by the Louisiana Police Jury Association, one from east of the Atchafalaya River and one from west of the Atchafalaya River.
 - (c) The chairs of the House and Senate Committees on Natural Resources; the chairs of the House and Senate Committees on Transportation, Highways and Public Works.
 - (d) One senator who represents a coastal district appointed by the president of the Senate and one representative who represents a coastal district appointed by the speaker of the House.
2. Requires any member of the authority who represents a political subdivision to recuse himself from issues concerning taking action against that political subdivision for lack of compliance with the state plan.
3. Adds barrier shorelines and reefs to the jurisdiction of the authority.
4. Provides for legislative oversight of the comprehensive plan in addition to the annual plan.
5. Specifies that the attorney general or his designee is the legal advisor for the authority.
6. Provides that if the proposed constitutional amendment to change the name of the fund fails to become law, the name of the fund, the authority, the advisory commission, and the plan will revert to present law and directs the law institute to effect those reversions.
7. Dedicates OCD oil and gas revenues to the Coastal Protection and Restoration Fund.