

2020 Regular Session

SENATE BILL NO. 440

BY SENATOR FESI

COASTAL RESOURCES. Provides for enforcement of the Coastal Zone Management Program. (8/1/20)

1 AN ACT

2 To amend and reenact R.S. 49:214.36(E), the introductory paragraph of R.S. 49:214.36(J)  
3 and (J)(1), and (2), relative to the Coastal Zone Management Program; to provide for  
4 enforcement actions; to provide for the imposition of civil liability, the assessment  
5 of damages, and court orders; to provide for distribution of monies collected; and to  
6 provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 49:214.36(E), the introductory paragraph of R.S. 49:214.36(J) and  
9 (J)(1), and (2) are hereby amended and reenacted to read as follows:

10 §214.36. Enforcement; injunction; penalties and fines

11 \* \* \*

12 E. A court may impose civil liability and assess damages; order, where  
13 feasible and practical, the payment of the restoration costs; require, where feasible  
14 and practical, actual restoration of areas disturbed; or otherwise impose reasonable  
15 and proper sanctions for uses conducted within the coastal zone without a coastal use  
16 permit where a coastal use permit is required or which are not in accordance with the  
17 terms and conditions of a coastal use permit. **Any monies collected for the payment**

1               **of restoration costs shall be expended in a manner consistent with Subsection J**  
 2               **of this Section.** The court in its discretion may award costs and reasonable attorney's  
 3 fees to the prevailing party.

4               \*               \*               \*

5               J. The monies collected ~~by the state~~ under the provisions of this Section shall  
 6 be deposited as follows:

7               (1) The monies collected by the secretary **or the attorney general** for  
 8 violations relating to use of state concern shall be used for the following purposes  
 9 only in the proportions stated:

10              \*              \*              \*

11              (2) The monies collected by the secretary, **the attorney general, an**  
 12 **appropriate district attorney, or a local government with an approved program**  
 13 for violations relating to a use of local concern shall be placed in local government  
 14 mitigation banks established in accordance with R.S. 49:214.41 and the rules and  
 15 regulations adopted thereunder. Each local government's mitigation bank shall be  
 16 credited one hundred percent of the monies collected for violations relating to a use  
 17 of local concern occurring within its geographic borders, except that for violations  
 18 occurring within the geographic borders of two or more local governments the  
 19 monies shall be divided on a pro rata basis and deposited accordingly in the local  
 20 government's mitigation banks. In the event there is no local government mitigation  
 21 bank in the parish in which the adverse impact is located, the monies shall be  
 22 deposited in the Wetlands Conservation and Restoration Fund established in Article  
 23 VII, Section 10.2 of the Constitution of Louisiana, and can only be used for  
 24 mitigation projects within the geographic borders of that local government.

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The original instrument and the following digest, which constitutes no part  
 of the legislative instrument, were prepared by Tyler S. McCloud.

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DIGEST

SB 440 Original                                      2020 Regular Session                                      Fesi

Present law establishes a coastal zone management program within the Dept. of Natural Resources and administered by the secretary of the department. An aspect of the program is the application and issuance of coastal use permit prior to commencing a use of state or

local concern in the coastal zone.

Present law authorizes a court to impose civil liability and assess damages, order the payment of the restoration costs, require actual restoration of areas disturbed, or otherwise impose reasonable and proper sanctions for uses in the coastal zone that were either without a coastal use permit or not in accordance with the terms and conditions of a coastal use permit.

Proposed law requires any monies collected for the payment of restoration costs be expended consistent with present law.

Present law authorizes the court to award costs and reasonable attorney fees to the prevailing party. Proposed law retains present law.

Present law provides for the distribution of monies collected by the secretary through enforcement actions for uses of state concern and uses of local concern. Proposed law, in cases involving uses of state concern, provides for the distribution of monies collected by the secretary or the attorney general. Proposed law, in cases involving uses of local concern, provides for the distribution of monies collected by the secretary, the attorney general, an appropriate district attorney, or a local government with an approved program.

Present law provides for the distribution of monies collected from enforcement actions for uses of state concerns as follows:

- (1) 50% deposited into the Coastal Resources Trust Fund for reimbursement to the department for the cost of enforcing the coastal zone management program.
- (2) 25% deposited in the local government's mitigation banks.
- (3) 25% deposited in the Wetlands Conservation and Restoration Fund.

Proposed law retains present law.

Present law provides that 100% of monies collected from enforcement actions for uses of local concerns be deposited in local government mitigation banks. Present law provides for a pro rata division in cases involving two or more local governments. Present law provides for the monies deposit in the Wetlands Conservation and Restoration Fund, but can only be used for mitigation projects within the geographic borders of that local government in the event there is no local government mitigation bank.

Effective August 1, 2020.

(Amends R.S. 49:214.36(E), (J)(intro para) and (J)(1) and (2))