

2020 Regular Session

SENATE BILL NO. 490

BY SENATORS LAMBERT, FOIL, PRICE, SMITH AND WARD

COASTAL RESOURCES. Creates the State and Parish Coastal Zone Recovery Authority.  
(8/1/20)

1 AN ACT

2 To enact R.S. 36:4(CC), the introductory paragraph to R.S. 49:214.36(J) and Part II-A of

3 Chapter of Title 49 of the Louisiana Revised Statutes of 1950, to be comprised of

4 49:214.51 through 214.54, relative to the Louisiana Coastal Zone Management

5 Program; to provide for definitions; to create the Louisiana Coastal Zone Recovery

6 Authority and its board of directors; to provide for membership of the board; to

7 provide for definitions, terms, quorum requirements, and meetings; to provide for

8 powers and duties; to create and provide for the Louisiana Coastal Zone Recovery

9 Fund; and to provide for related matters.

10 Be it enacted by the Legislature of Louisiana:

11 Section 1. R.S. 36:4(CC) is hereby enacted to read as follows:

12 §4 Structure of executive branch of government

13 \* \* \*

14 **CC. The Louisiana Coastal Zone Recovery Authority (R.S. 49:214.51 et**

15 **seq.) is hereby placed within the office of the governor and shall perform its**

16 **powers, duties, and functions as provided by law.**

17 Section 2. The introductory paragraph to R.S. 49:214.36(J) and Part II-A of Chapter

1 2 of Title 49 of the Louisiana Revised Statutes of 1950, comprised of R.S. 49:214.51 through  
2 214.54, are hereby enacted to read as follows:

3 §214.36. Enforcement; injunction; penalties and fines

4 \* \* \*

5 J. The monies collected by the state under the provisions of this Section, not  
6 including monies deposited pursuant to R.S. 49:214.51 et seq., shall be deposited  
7 as follows:

8 \* \* \*

9 PART II-A. STATE AND PARISH COASTAL ZONE

10 RECOVERY AUTHORITY

11 §214.51. Purpose; findings

12 A. The state of Louisiana recognizes the need to protect, develop, and  
13 where feasible, restore or enhance the resources of the state's coastal zone. The  
14 legislature also finds and declares that Article IX, Section 1 of the Constitution  
15 of Louisiana mandates that the natural resources and the environment of the  
16 state are to be protected, conserved, and replenished insofar as possible and  
17 consistent with the health, safety, and welfare of the people, and further  
18 mandates that the legislature enact laws to implement this policy.

19 B. The legislature finds that it is critical to ensure that the proceeds of  
20 any settlement of actions instituted to enforce the State and Local Coastal  
21 Resources Management Act of 1978 are used in conformance with the public  
22 policy declaration outlined in that Act. Such purposes include supporting and  
23 encouraging multiple uses of coastal resources, remediating and restoring  
24 coastal resources, providing for and promoting economic growth and  
25 development, enhancing opportunities for the use and enjoyment of the  
26 recreational values of the coastal zone, and encouraging and supporting  
27 sustainable development in the coastal zone.

28 §214.52. Definitions

29 As used in this Part, the following terms shall having the meaning

1 ascribed to them below:

2 (1) "Coastal zone lawsuits" means any action filed pursuant to R.S.  
3 49:214.36(D) and (E) by the secretary, the attorney general, an appropriate  
4 district attorney, or a local government with an approved coastal program.

5 (2) "Settling parish" means any parish where either the appropriate  
6 district attorney or the local government with an approved coastal program  
7 filed a coastal zone lawsuit or entered into an agreement or compromise to settle  
8 the suit.

9 §214.53. State and Parish Coastal Zone Recovery Authority; creation and  
10 organization; duties and powers

11 A. The State and Parish Coastal Zone Recovery Authority is hereby  
12 created within the office of the governor and shall exercise the powers and  
13 duties set forth in this Part. The domicile of the authority shall be in Baton  
14 Rouge.

15 B. There is hereby created a board of directors to exercise the powers  
16 and duties of the State and Parish Coastal Zone Recovery Authority. The board  
17 shall consist of the following members:

18 (1) A member from each settling parish appointed by the parish  
19 governing authority of that parish.

20 (2) The executive assistant to the governor for coastal activities or his  
21 designee.

22 (3) The chairman of the Governor's Advisory Commission on Coastal  
23 Protection, Restoration, and Conservation.

24 (4) The executive director of the Coalition to Restore Coastal Louisiana.

25 (5) The executive director of the Louisiana Mid-Continent Oil & Gas  
26 Association.

27 (6) The president of the Louisiana Oil and Gas Association.

28 (7) The president of the Louisiana Association of Business and Industry.

29 C. Members shall serve terms contemporaneous with their office or

1 association. The governor shall appoint a chairman. The board shall meet as  
2 necessary at the call of the chairman, but no less than quarterly, and a majority  
3 of the members of the board shall constitute a quorum for the transaction of  
4 business. The board shall designate the time and select the place for holding  
5 regular sessions. Regular meetings shall be convened in a coastal zone parish on  
6 a rotating basis at a place to be determined by the board. Members of the board  
7 shall serve without compensation but may seek travel reimbursement from their  
8 respective agencies.

9 D. The board and its staff shall be subject to the provisions of the Code  
10 of Governmental Ethics, the Open Meetings Law, annual reports to the  
11 legislature, and to the jurisdiction of the legislative auditor and the office of the  
12 state inspector general.

13 E. The board shall:

14 (1) Implement any settlement, including the terms and conditions  
15 thereof, of the coastal zone lawsuits for the purposes of this Part.

16 (2) Approve the use of funds deposited into the Coastal Zone Recovery  
17 Fund necessary for such implementation.

18 (3) Exercise powers and duties otherwise provided by law.

19 § 214.54. Coastal Zone Recovery Fund

20 A. There shall be established in the state treasury as a special permanent  
21 trust fund the Coastal Zone Recovery Fund. Any monies paid under R.S.  
22 49:214.36(E) in settlement or by final judgment for assessed damages,  
23 restoration costs, actual restoration of areas disturbed, or reasonable and  
24 proper sanctions shall be paid to the state treasurer. Notwithstanding any  
25 provisions of this Chapter to the contrary, the treasurer shall deposit in and  
26 credit to the Coastal Zone Recovery Fund any such monies, and all interest  
27 income and all realized capital gains on investment of any such monies. Any  
28 unexpended money remaining in the fund at the end of the fiscal year shall be  
29 retained in the fund.

1            **B. All monies in the Coastal Zone Recovery Fund shall be subject to**  
2            **appropriation by the legislature solely for the purposes of the implementing of**  
3            **any settlement or final judgment of the coastal zone lawsuits. As provided by**  
4            **this Section, the Coastal Zone Recovery Fund shall be used only for those**  
5            **projects and programs which are consistent with the terms and conditions of**  
6            **any final settlement of the coastal zone lawsuits, consistent with the master plan**  
7            **for integrated coastal protection projects and program developed pursuant to**  
8            **R.S. 49:214.5.2, and that support the long-term health of Louisiana's coastal**  
9            **communities through investments in ecological restoration and remediation,**  
10           **community protection, including infrastructure, business and residential**  
11           **resilience, economic development, and administrative costs. The proceeds of any**  
12           **settlement involving more than one parish shall be allocated to each settling**  
13           **parish in accordance with the terms of such settlement.**

14           **C. There is hereby created within the Coastal Zone Recovery Fund the**  
15           **following accounts:**

16           **(1) The "remediation, restoration, and protection account". The funds**  
17           **in this account shall be used for remediation, restoration and protection**  
18           **activities within the settling parishes. Beginning the year monies are deposited**  
19           **into the fund from a settlement affecting the settling parish and then every three**  
20           **years thereafter, setting parishes shall submit to the board a funding priority**  
21           **list adopted by resolution of the parish's governing authority. The board shall**  
22           **approve projects that comply with this Section and satisfy the terms and**  
23           **conditions of the settlement agreements. The board shall also coordinate with**  
24           **the Coastal Protection and Restoration Authority to determine whether**  
25           **proposed projects qualify for funding from other sources. The following shall**  
26           **apply to this account:**

27           **(a) A majority of funds shall be used for projects approved for the**  
28           **coastal master plan.**

29           **(b) Funds not used on coastal master plan projects shall be used on**

1 projects consistent with the coastal master plan.

2 (c) Project implementors shall be encouraged to utilize innovative  
3 contracting activities to expedite project completion.

4 (d) Environmental credits may be generated from restoration activities  
5 consistent with the settlement agreements.

6 (e) Unless otherwise expressly prohibited by law, preferences may be  
7 given to local contractors for project planning, permitting and implementation.

8 (2) The "resiliency account". The funds in this account shall be used for  
9 programs and projects dedicated to activities that increase the capacity of  
10 individuals, communities, organizations and systems to survive and adapt  
11 against the impacts of weather disasters and coastal land loss. Funds in this  
12 account shall be distributed through a grant program administered by the  
13 board to assure compliance with the provisions of this Section and the terms  
14 and conditions of the settlement agreements. Settling parishes shall be eligible  
15 to receive funding for projects for up to fifty percent of the total fund in this  
16 account based on the allocation of payments to the Coastal Zone Recovery Fund  
17 for operational areas identified under the settlement agreements. The settling  
18 defendants shall be eligible to receive funding for projects for up to fifty percent  
19 of the total funds in this account based on the value contributed by each  
20 defendant to the Coastal Zone Recovery Fund under the settlement agreements.

21 Resiliency projects include:

22 (a) Roadways, including evacuation routes and industry access corridors.

23 (b) Hardening and adaptive measures for key industry and community  
24 assets.

25 (c) Establishment of pipeline corridors.

26 (d) Emergency response investments, including investment in scientific  
27 instrumentation.

28 (e) Utility upgrades that include, but not limited to, upgrades to  
29 stormwater, sewer, electrical, and telecommunications utilities.

1                   **(3) The "economic development account". Funding in this account shall**  
 2                   **be used for a grant program administered by the Department of Economic**  
 3                   **Development targeting economic development activities in the impacted coastal**  
 4                   **communities.**

5                   **(4) The "private landowner account". Funding in this account shall be**  
 6                   **used for securing releases from private landowners for certain operational areas**  
 7                   **identified within the settlement agreements.**

8                   **(5) The "administrative account". Funding in this account shall be used**  
 9                   **for the administrative costs of the authority.**

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

DIGEST

SB 490 Original

2020 Regular Session

Lambert

Proposed law creates the State and Parish Coastal Zone Recovery Authority and its board of directors that is charged with implementing any settlement of the coastal zone lawsuits and approving the use of funds deposited from such settlement.

Proposed law provides for the membership of the board as follows:

- (1) A member from each settling parish appointed by the appropriate parish governing authority.
- (2) The executive assistant to the governor for coastal activities or his designee.
- (3) The chairman of the Governor's Advisory Commission on Coastal Protection, Restoration, and Conservation.
- (4) The executive director of the Coalition to Restore Coastal Louisiana.
- (5) The executive director of the Louisiana Mid-Continent Oil & Gas Association.
- (6) The president of the Louisiana Oil and Gas Association.
- (7) The president of the Louisiana Association of Business and Industry.

Proposed law provides for terms of office of the members, frequency, location, time, place, and the necessary quorum of meetings. Proposed law prohibits members from receiving compensation, but authorizes members to seek travel reimbursement from their respective agencies.

Proposed law provides the board and its staff shall be subject to the Code of Governmental Ethics, the Open Meetings Law, annual reports to the legislature, and to the jurisdiction of the legislative auditor and the office of the state inspector general.

Proposed law defines "coastal zone lawsuits" as any action to enforce coastal use permits requirements in present law by the secretary, the attorney general, an appropriate district

attorney, or a local government with an approved coastal program.

Proposed law defines "settling parish" as any parish where either the appropriate district attorney or the local government with an approved coastal program filed a coastal zone lawsuit and entered into an agreement or compromise to settle the suit.

Proposed law establishes the Coastal Zone Recovery Fund funded by monies paid from settlement or by final judgement for assessed damages, restoration costs, actual restoration of areas disturbed, or reasonable and proper sanctions and all interest income and all realized capital gains on investment of any such monies. Proposed law provides for the retention in the fund of any unexpended money remaining in the fund at the end of the fiscal year.

Proposed law limits the use of the fund, subject to appropriation by the legislature, for the purposes of the implementing of any settlement or final judgment in the of the coastal zone lawsuits.

Proposed law further limits the use of the funds to only those projects and programs consistent with the terms and conditions of any final settlement of the coastal zone lawsuits, consistent with the master plan for integrated coastal protection projects and program, and that support the long-term health of Louisiana's coastal communities through investments in ecological restoration and remediation, community protection, including infrastructure, business and residential resilience, economic development, and administrative costs. Proposed law creates accounts within the Coastal Zone Recovery Fund for use for those specific purposes.

Proposed law provides for the remediation, restoration, and protection account that setting parishes submit to the board every three years a funding priority list from which the board approves projects that comply with proposed law and the terms and conditions of the settlement agreements. Proposed law requires the board to coordinate with CPRA to determine if proposed projects qualify for funding from other sources.

Proposed law provides that the funds in the resiliency account are be distributed through a grant program administered by the board. Proposed law provides for both settling parishes and settling defendants are eligible to receive funding for projects.

Proposed law provides the proceeds of any settlement involving more than one parish shall be allocated to each settling parish in accordance with the terms of such settlement.

Effective August 1, 2020.

(Amends R.S. 49:214.36(J) (intro para); adds R.S. 36:4(CC) and R.S. 49:214.51-214.54)