

LEGISLATIVE FISCAL OFFICE
Fiscal Note



Fiscal Note On: **SB 359** SLS 20RS 596

Bill Text Version: **ENGROSSED**

Opp. Chamb. Action:

Proposed Amd.:

Sub. Bill For.:

REVISED

Date: May 20, 2020	2:00 PM	Author: HENSGENS
Dept./Agy.: Department of Natural Resources		Analyst: Rebecca Robinson
Subject: Coastal use permits		

COASTAL RESOURCES EG INCREASE GF EX See Note
Provides for the enforcement of coastal use permits. (gov sig)

Page 1 of 2

Proposed legislation amends the statute relative to the Coastal Zone Management Program. Clarifies the authority of the Secretary of the Department of Natural Resources (DNR) or the Attorney General (AG) to bring an action to impose civil liability or assess damages on actors who fail to obtain a coastal use permit or take actions which are not in accordance with the coastal use permit, for uses of state concern. Also creates the same authority for the same parties and local governments for uses that are not in conformity with uses of local concern.

Effective upon Governor's signature.

EXPENDITURES	2020-21	2021-22	2022-23	2023-24	2024-25	5 -YEAR TOTAL
State Gen. Fd.	INCREASE	INCREASE	INCREASE	INCREASE	INCREASE	
Agy. Self-Gen.	\$0	\$0	\$0	\$0	\$0	\$0
Ded./Other	\$0	\$0	\$0	\$0	\$0	\$0
Federal Funds	\$0	\$0	\$0	\$0	\$0	\$0
Local Funds	SEE BELOW	SEE BELOW	SEE BELOW	SEE BELOW	SEE BELOW	
Annual Total						
REVENUES	2020-21	2021-22	2022-23	2023-24	2024-25	5 -YEAR TOTAL
State Gen. Fd.	\$0	\$0	\$0	\$0	\$0	\$0
Agy. Self-Gen.	\$0	\$0	\$0	\$0	\$0	\$0
Ded./Other	SEE BELOW	SEE BELOW	SEE BELOW	SEE BELOW	SEE BELOW	
Federal Funds	SEE BELOW	SEE BELOW	SEE BELOW	SEE BELOW	SEE BELOW	
Local Funds	SEE BELOW	SEE BELOW	SEE BELOW	SEE BELOW	SEE BELOW	
Annual Total						

EXPENDITURE EXPLANATION

There will be an indeterminable impact to expenditures of state and local governmental agencies as a result of the restrictions on initiating certain actions regarding coastal zones. Furthermore, the provisions of this act shall be applicable to all claims existing or pending on its effective date.

There could be a significant increase in expenditures of the state to the extent the AG or DNR chooses to intervene and assume the costs of prosecuting any of the 42 ongoing lawsuits from the local jurisdictions. The Attorney General reports no anticipated fiscal impact to the DOJ as a result of this measure. However, DNR has estimated a cost of \$4.3M per case, including discovery; expert reports from engineers, geologists, economists, and others; and trial. Public testimony from the Natural Resources Committee on May 7, 2020 revealed that the current costs/expenses incurred in the litigation is estimated at \$9M for two of the cases. DNR, which is a party to the litigation, (as is the AG) confirms that the current costs of \$9M are likely and reasonable considering the preliminary expert report (regarding violations only) submitted by Plaintiffs (local jurisdictions) in state court. DNR reports the expert report is 163 pages and contains opinions from 14 technical experts and one economist. Further, the attorney hours are also significant due in part to the fact that the litigation, which began in state court, has been removed to federal court twice. **[CONTINUED ON THE NEXT PAGE]**

REVENUE EXPLANATION

There will be an increase in revenues to the state to the extent that the AG or the Secretary of DNR intervenes and assumes the prosecution in the ongoing coastal zone lawsuits and a settlement is reached or judgment is entered in favor of the State. The amount of any settlements and/or judgments is indeterminable at this time; however, testimony at the Natural Resources Committee and multiple news stories indicate a possible \$100M settlement with one defendant, Freeport-McMoran. Any settlements or judgments in the remaining lawsuits is speculative at this point. Any monies recovered by the state must be deposited pursuant to R.S. 214:36(J): (1) 50% used to reimburse the Secretary of DNR for costs of enforcement; (2) 25% used by local governments for mitigation banks; and (3) 25% placed in the Wetlands Conservation and Restoration Fund. Any monies recovered by the state or local government must be used pursuant to R.S. 214:36(O): used for integrated coastal protection, including coastal restoration, hurricane protection, and improving the resiliency of the coastal area.

It is unlikely there will be an impact to the federal grants that fund programs at DNR. The National Oceanic and Atmospheric Association (NOAA) awards federal grant dollars to DNR for use in coastal operations under the Coastal Zone Management Act (16 USC 1451, et seq). **[CONTINUED ON THE NEXT PAGE]**

Senate
 13.5.1 >= \$100,000 Annual Fiscal Cost {S & H}
 13.5.2 >= \$500,000 Annual Tax or Fee Change {S & H}

House
 6.8(F)(1) >= \$100,000 SGF Fiscal Cost {H & S}
 6.8(G) >= \$500,000 Tax or Fee Increase or a Net Fee Decrease {S}

Evan Brasseaux
Evan Brasseaux
Staff Director



LEGISLATIVE FISCAL OFFICE
Fiscal Note

Fiscal Note On: SB 359 SLS 20RS 596
Bill Text Version: ENGROSSED
Opp. Chamb. Action:
Proposed Amd.:
Sub. Bill For.: REVISED

Table with metadata: Date: May 20, 2020 2:00 PM; Author: HENSGENS; Dept./Agy.: Department of Natural Resources; Subject: Coastal use permits; Analyst: Rebecca Robinson

CONTINUED EXPLANATION from page one:
[CONTINUED FROM EXPENDITURE EXPLANATION]

The future costs of litigating these 42 lawsuits is indeterminable at this time but likely to be significant. Potential future costs could include additional expert reports to address remediation, restoration, and damages, as well as attorney costs associated with the continued litigation in either federal or state court. Alternatively, there would be no impact should the AG or DNR choose not to continue prosecuting any of the ongoing litigation.

While there could be a decrease in expenditures of local governments in that the proposed change limits their ability to initiate certain actions, it is unclear how it would affect expenditures and costs incurred related to ongoing litigation.

The proposed legislation is not anticipated to impact the authority for future actions of the state.

[CONTINUED FROM REVENUE EXPLANATION]

DNR has received a total of \$10.4M in federal grants in the past four years (FY 17 \$2M; FY 18 \$3.1M; FY 19 \$2.6M; FY 20 \$2.5 M) which have been used primarily for operating expenses of the coastal management program. The department may also apply for competitive grant funding for programmatic improvements. A letter from the NOAA to Senator Bob Hensgens dated March 19, 2020 states that the agency has reviewed the proposed legislation and believes that the changes would be consistent with CZMA approval requirements. If the proposed legislation becomes law, then DNR would be required to submit the changes to CZMA for approval under 15 CFR Part 923, subpart H.

Senate Dual Referral Rules
[X] 13.5.1 >= \$100,000 Annual Fiscal Cost {S & H}
[] 13.5.2 >= \$500,000 Annual Tax or Fee Change {S & H}

House
[X] 6.8(F)(1) >= \$100,000 SGF Fiscal Cost {H & S}
[] 6.8(G) >= \$500,000 Tax or Fee Increase or a Net Fee Decrease {S}

Evan Brasseaux
Evan Brasseaux
Staff Director