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

## DIGEST

SB 440 Engrossed

## 2020 Regular Session

Fesi

<u>Present law</u> 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.

<u>Present law</u> 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.

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

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

<u>Present law</u> provides for the distribution of monies collected by the secretary through enforcement actions for uses of state concern and uses of local concern. <u>Proposed law</u>, in cases involving uses of state concern, provides for the distribution of monies collected by the secretary or the attorney general. <u>Proposed law</u>, 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.

<u>Present law</u> 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.

<u>Proposed law</u> changes the 25% deposit <u>from</u> local government mitigation banks <u>to</u> a restricted fund administered by the local governing authority of the parish or parishes in which the adverse impact related to the use is located. <u>Proposed law</u> requires the funds be used for projects consistent with <u>present law</u> and within or for the benefit of areas within the geographic borders of that parish.

<u>Present law</u> provides that 100% of monies collected from enforcement actions for uses of local concerns be deposited in local government mitigation banks. <u>Present law</u> provides for a pro rata division in cases involving two or more local governments. <u>Present law</u> 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.

<u>Proposed law</u> changes the deposit <u>from</u> local government mitigation banks <u>to</u> a restricted fund administered by the local governing authority of the parish or parishes in which the adverse impact related to the use is located. <u>Proposed law</u> requires the funds be used for projects consistent with <u>present law</u> and within or for the benefit of areas within the geographic borders of that parish.

<u>Proposed law</u> provides for distribution based on the type of use of the coastal zone involved of any monies received in settlement or by final judgement for assessed damages, restoration costs, actual restoration of areas disturbed, or reasonable and proper sanctions.

<u>Proposed law</u> provides that for uses of state concern the monies shall be used consistent with <u>present</u> <u>law</u> and shall be deposited as follows:

- (1) 50% deposited into the Coastal Protection and Restoration Fund.
- (2) 25% deposited into a restricted fund administered by the parish governing authority of the parish or parishes in which the adverse impact related to the use is located. Such funds shall only to be used for projects selected by the local governing authority. Unless otherwise prohibited by law, preferences may be given to local contractors for project planning, permitting, and implementation for such selected projects.
- (3) 25% deposited into the Coastal Protection and Restoration Fund to be used to match funding for projects selected by local governing authorities.
- (4) For uses of local concern, all of the monies collected shall be deposited into a restricted fund administered by the parish governing authority of the parish or parishes in which the adverse impact related to the use is located. Such funds shall only to be used for projects selected by the local governing authority that are consistent with Paragraph (O)(2) of this Section."

Effective August 1, 2020.

(Amends R.S. 49:214.36(E) and (J))

## Summary of Amendments Adopted by Senate

## Committee Amendments Proposed by Senate Committee on Natural Resources to the original bill

1. Changes the deposit of monies <u>from</u> local government mitigation banks to a restricted

fund administered by the local governing authority.

- 2. Provides relative to the deposits in the Coastal Protection and Restoration Fund.
- 3. Provides relative to monies received from settlement or final judgement from civil liability, damages, restoration costs, actual restoration, or sanctions.