

2022 Regular Session

SENATE BILL NO. 3

BY SENATOR ALLAIN

COASTAL RESOURCES. Provides for distribution of monies collected from enforcement actions of coastal use permits. (8/1/22)

1 AN ACT

2 To amend and reenact R.S. 49:214.36(J) and (O)(2), relative to the Coastal Zone
3 Management Program; to provide for the reimbursement of costs; to provide for
4 distribution of monies collected; to provide for the use of funds; and to provide for
5 related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 49:214.36(J) and (O)(2) are hereby amended and reenacted to read
8 as follows:

9 §214.36. Enforcement; injunction; penalties and fines

10 * * *

11 J. The monies collected by the state under the provisions of this Section shall
12 be deposited as follows:

13 (1) The monies collected by the secretary for violations relating to use of
14 state concern shall be used for the following purposes only in the proportions stated:

15 (a) Fifty After deducting the costs to reimburse the Department of
16 Natural Resources for the expenses incurred enforcing the provisions of this
17 Subpart, seventy-five percent of the monies collected shall be used to reimburse the

1 Department of Natural Resources for the cost of enforcing the provisions of this
2 Subpart, and shall be deposited in the Coastal Resources Trust Fund, as provided in
3 R.S. ~~49:214.40~~ **placed in the Coastal Protection and Restoration Fund**
4 **established in Article VII, Section 10.2 of the Constitution of Louisiana and used**
5 **for projects that are consistent with Paragraph (O)(2) of this Section.**

6 (b) Twenty-five percent of the monies collected shall be placed in local
7 government mitigation banks established in accordance with R.S. 49:214.41 and the
8 rules and regulations adopted thereunder. **If there is no local government**
9 **mitigation bank for the area in which the adverse impact is located, the monies**
10 **shall be deposited into a restricted fund administered by the parish governing**
11 **authority of the parish or parishes in which the adverse impact related to the**
12 **use is located. These funds shall be used only for projects consistent with**
13 **Paragraph (O)(2) of this Section within or for the benefit of areas within the**
14 **geographic borders of that parish.**

15 (c) ~~Twenty-five percent of the monies collected shall be placed in the~~
16 ~~Wetlands Conservation and Restoration Fund established in Article VII, Section 10.2~~
17 ~~of the Constitution of Louisiana.~~

18 (2) The monies collected by the secretary for violations relating to a use of
19 local concern shall be placed in local government mitigation banks established in
20 accordance with R.S. 49:214.41 and the rules and regulations adopted thereunder.
21 Each local government's mitigation bank shall be credited one hundred percent of the
22 monies collected for violations relating to a use of local concern occurring within its
23 geographic borders, except that for violations occurring within the geographic
24 borders of two or more local governments the monies shall be divided on a pro rata
25 basis and deposited accordingly in the local government's mitigation banks. In the
26 event there is no local government mitigation bank in the parish in which the adverse
27 impact is located, the monies shall be deposited ~~in the Wetlands Conservation and~~
28 ~~Restoration Fund established in Article VII, Section 10.2 of the Constitution of~~
29 ~~Louisiana,~~ **into a restricted fund administered by the parish governing authority**

1 **of the parish or parishes where the adverse impact related to the use is located**
 2 and ~~can only~~ **shall** be used **only** for mitigation projects within the geographic borders
 3 of that local government **that are consistent with Paragraph (O)(2) of this**
 4 **Section.**

* * *

O. * * *

7 (2) Any monies received by any state or local governmental entity arising
 8 from or related to a state or federal permit issued pursuant to R.S. 49:214.21 et seq.,
 9 33 U.S.C. §1344₂, or 33 U.S.C. §408, a violation thereof, or enforcement thereof, or
 10 for damages or other relief arising from or related to any of the foregoing, or for
 11 damages or other relief arising from or related to any use as defined by R.S.
 12 49:214.23(13) shall be used for integrated coastal protection, including coastal
 13 restoration, hurricane protection, and improving the resiliency of the coastal area.

* * *

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

DIGEST

SB 3 Engrossed

2022 Regular Session

Allain

Present law establishes a coastal zone management program within the Dept. of Natural Resources and administered by the secretary of the department. The program includes regulation of the application and issuance of a coastal use permit prior to commencing a use of state or local concern in the coastal zone. Proposed law retains present law.

Present law requires that any monies received by any state or local governmental entity arising from or related to a state or federal permit issued pursuant to the State and Local Coastal Resource Management Act of 1978, a violation thereof, or enforcement thereof, or for damages or other relief arising from or related to any of the foregoing, or for damages or other relief arising from or related to any use as defined by present law, be used for integrated coastal protection, including coastal restoration, hurricane protection, and improving the resiliency of the coastal area. Proposed law retains present law.

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 changes the deposit from 50% to the Coastal Resources Trust Fund to 75% to the Coastal Protection and Restoration Fund for projects consistent with present law after deducting the cost to reimburse the department for enforcing the coastal zone management program.

Proposed law retains present law by requiring 25% be deposited in local government mitigation banks. Proposed law further provides that when no local government mitigation bank exists, the funds are 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. Proposed law requires the funds be used for projects consistent with present law and within or for the benefit of areas within the geographic borders of that parish.

Proposed law removes the 25% deposit to the Wetlands Conservation and Restoration Fund.

Present law provides that 100% of monies collected by the secretary 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 deposited in the Wetlands Conservation and Restoration Fund to be used only for mitigation projects within the geographic borders of that local government in the event there is no local government mitigation bank.

Proposed law changes the deposit in the event no local government mitigation bank exists, from the Wetlands Conservation and Restoration Fund to 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. Proposed law requires the funds be used for projects consistent with present law and within or for the benefit of areas within the geographic borders of that parish.

Effective August 1, 2022.

(Amends R.S. 49:214.36(J) and (O)(2))