

2022 Regular Session

SENATE BILL NO. 463

BY SENATORS WHITE AND FOIL

FUNDS/FUNDING. To create the Coastal Area Flood Protection Authority. (7/1/22)

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AN ACT

To enact Chapter 22 of Title 49 of the Louisiana Revised Statutes of 1950, to be comprised of R.S. 49:1501 through 1506, relative to the Coastal Area Flood Protection Authority; to create the Coastal Area Flood Protection Program; to provide for the territorial jurisdiction of the authority; to provide for the appointment and term of the members of the Coastal Area Flood Protection Board; to provide for meetings of the board of commissioners and the officers thereof; to provide relative to the powers of the authority; to create the Coastal Area Flood Protection Fund; to provide for the deposit, use, investment, and disbursement of monies in the fund; to provide for an effective date; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. Chapter 22 of Title 49 of the Louisiana Revised Statutes of 1950, comprised of R.S. 49:1501 through 1506, are hereby enacted to read as follows:

CHAPTER 22. COASTAL AREA FLOOD PROTECTION AUTHORITY

§1501. Purpose and intent

A. Louisiana and its citizens have suffered catastrophic losses and human, economic, and social harm. For the benefit and protection of the state

1 as a whole, its citizens, and its localities, flood protection is vital to survival.
2 Flood protection and coastal area restoration must be integrated to achieve a
3 long-term solution of coastal area protection. Wetlands loss threatens valuable
4 fish and wildlife production and the viability of residential, agricultural, energy,
5 and industrial development in coastal area Louisiana.

6 B. The state must act to develop, implement, and enforce a
7 comprehensive integrated coastal area protection plan. The state must act to
8 ensure that the plan incorporates a systems approach to integrate hurricane
9 protection and coastal area restoration efforts in order to achieve long-term and
10 comprehensive integrated coastal area protection. Comprehensive integrated
11 coastal area protection must proceed in a manner that recognizes that the
12 proper functioning of each protective element is critical to the overall success
13 of the plan and that without such proper functioning, the safety of the state and
14 its citizens and the viability of the entire plan are threatened. Further,
15 comprehensive integrated coastal area protection must proceed in a manner
16 that recognizes the powers and duties of political subdivisions, including flood
17 protection authorities and levee districts, to fund and manage local activities
18 that are consistent with the goals of a comprehensive integrated coastal area
19 protection plan. The state must act to conserve, restore, create, and enhance
20 wetlands and levees in coastal area Louisiana while encouraging use of coastal
21 area resources and recognizing that it is in the public interest of the people of
22 Louisiana to establish a responsible balance between development and
23 conservation. Management of renewable coastal area resources must proceed
24 in a manner that is consistent with and complementary to the efforts to establish
25 a proper balance between development and conservation.

26 C. The legislature declares that it is the public policy of the state to
27 develop and implement, on a comprehensive and coordinated basis, an
28 integrated coastal area protection program in order to reduce flooding in the
29 coastal area. Consistent with this goal, it is the policy of this state to achieve a

1 proper balance between development and conservation and encourage the use
2 of coastal area resources.

3 D. It is the intention of the legislature that comprehensive integrated
4 coastal area protection be elevated to a position within state government of high
5 visibility and action and that hurricane protection, storm damage reduction,
6 flood control, and conservation and restoration of the coastal area be of high
7 priority within that structure. To provide aggressive state leadership, direction,
8 and consonance in the development and implementation of policies, plans, and
9 programs to achieve comprehensive integrated coastal area protection,
10 including the encouragement of multiple uses of the coastal area and to achieve
11 a proper balance between development and conservation, restoration, creation,
12 and nourishment of renewable coastal resources, the legislature places
13 responsibility for the direction and development of the state's comprehensive
14 master coastal area protection plan with the Coastal Area Flood Protection
15 Authority Board within the office of the governor. In order to maximize the
16 effectiveness of integrated coastal area protection efforts, the Coastal Area
17 Flood Protection Authority Board shall use an integrated effort to jointly
18 coordinate master plan and annual plan development with the Coastal
19 Protection and Restoration Authority, state agencies, political subdivisions,
20 including flood protection authorities, levee districts, and federal agencies.

21 E. The creation of the authority and the carrying out of its duties are in
22 all respects public and governmental purposes for the improvements of the
23 health, safety, welfare, comfort, and security of the people of the authority, for
24 whom the authority will be performing a public obligation in the exercise of the
25 powers conferred upon it by this Chapter.

26 §1502. Definitions

27 As used in this Chapter, the following terms shall have the meanings
28 ascribed to them below:

29 (1) "Annual plan" means the state integrated coastal area flood

1 protection plan submitted annually to the legislature as provided in this
2 Chapter including amendments to the plan, as determined by the board. Such
3 plan shall provide for protecting, conserving, enhancing, and restoring the
4 coastal area through the construction and management of integrated coastal
5 protection projects and programs pursuant to the provisions of R.S. 49:1505.

6 (2) "Authority" means the Coastal Area Flood Protection Authority.

7 (3) "Board" means the Coastal Area Flood Protection Board.

8 (4) "Coastal area" means the area north of the Louisiana Coastal Zone
9 and comprised of the parishes of Calcasieu, Jefferson Davis, Acadia, Lafayette,
10 Iberville, Pointe Coupee, West Baton Rouge, and portions of the parishes of St.
11 Landry, St. Martin, East Baton Rouge, West Feliciana, Livingston, Tangipahoa,
12 and St. Tammany, and contiguous areas subject to storm or tidal surge in
13 rivers. The coastal area does not include the parishes or parts of the parishes in
14 the Louisiana Coastal Zone.

15 (5) "Conservation and restoration" means the conservation, protection,
16 enhancement, and restoration of coastal area resources including but not
17 limited to coastal area wetlands, marshes, cheniers, ridges, coastal area forests,
18 through the construction and management of coastal area resource
19 enhancement projects, including privately funded marsh management projects
20 or plans.

21 (6) "Executive assistant" means the special assistant to the governor for
22 coordination of coastal area activities as delineated in R.S. 49:214.3.1.

23 (7) "Executive director" means the person appointed to serve as the head
24 of the Coastal Area Flood Protection Authority.

25 (8) "Fund" means the Coastal Area Flood Protection Fund.

26 (9) "Hurricane protection" means systems to provide protection against
27 river and storm surges.

28 (10) "Infrastructure" means facilities or systems in the coastal area that
29 are negatively impacted by river flooding, and that serve a critical public

1 purpose and are consistent with the priorities stated in the master plan.

2 (11) "Integrated coastal area protection" means plans, projects, policies,
3 and programs intended to provide hurricane protection or coastal area
4 conservation or restoration, and shall include but not be limited to coastal area
5 restoration; coastal area protection; infrastructure; storm damage reduction;
6 flood control; water resources development; erosion control measures; marsh
7 management; diversions; saltwater intrusion prevention; wetlands and central
8 wetlands conservation, enhancement, and restoration; mitigation; storm surge
9 reduction; river surge reduction; and beneficial use projects.

10 (12) "Master plan" or "comprehensive master coastal area protection
11 plan" means the long-term comprehensive integrated coastal area protection
12 plan combining coastal area restoration, coastal area management, storm
13 damage reduction, hurricane protection, flood control, and the protection,
14 conservation, restoration, and enhancement of marshes, cheniers, ridges, and
15 coastal area forests, including amendments, as determined by the board in the
16 plan. It shall include but not be limited to state and political subdivision
17 operations plans.

18 (13) "Program" means a management strategy with procedures,
19 projects, schedules, operations, and related activities to achieve a stated goal or
20 objective.

21 (14) "Project" means a physical structure or structures designed and
22 constructed according to the annual plan.

23 (15) "Sponsoring authority" means the governing authority of any
24 municipal, parish, or other political subdivision submitting an application for
25 funding of a project in the program.

26 (16) "Wetlands" means an open water area or an area that is inundated
27 or saturated by surface or ground water at a frequency and duration sufficient
28 to support, and that under normal circumstances does support, a prevalence of
29 vegetation typically adapted for life in saturated soil conditions, but specifically

1 excluding lands more than five feet above mean sea level which occur within the
2 designated coastal area of the state. Wetlands generally include swamps,
3 marshes, bogs, and similar areas.

4 **§1503. Coastal Area Flood Protection Board**

5 A. The Coastal Area Flood Protection Board is hereby created within the
6 office of the governor. The board is hereby established, and shall exercise the
7 powers and duties set forth in this Chapter or otherwise provided by law. The
8 provisions of R.S. 44:5(A) shall not be applicable to any activities or records of
9 or pertaining to the authority.

10 B. The Coastal Area and Flood Protection Board shall consist of the
11 following members:

12 (1) Executive assistant to the governor for coastal area activities.

13 (2) Secretary of the Department of Natural Resources, or his designee.

14 (3) Secretary of the Department of Wildlife and Fisheries, or his
15 designee.

16 (4) Secretary of the Department of Environmental Quality, or his
17 designee.

18 (5) Secretary of the Department of Transportation and Development, or
19 his designee.

20 (6) Secretary of the Department of Economic Development, or his
21 designee.

22 (7) Commissioner of administration, or his designee.

23 (8) Commissioner of agriculture and forestry, or his designee.

24 (9) Commissioner of insurance, or his designee.

25 (10) One member from each of the parishes that are included in the
26 coastal area in whole or in part. These members shall be appointed by the
27 governor, in consultation with the Police Jury Association of Louisiana from
28 nominations submitted by the governing authority of each parish located in
29 whole or in part in the coastal area, and from legislators who represent districts

1 in whole or in part in the coastal area. These members shall serve at the
2 pleasure of the governor.

3 (11) The chair of the Governor's Advisory Commission on Coastal
4 Protection, Restoration, and Conservation, or his designee.

5 (12) The director of the Governor's Office of Homeland Security and
6 Emergency Preparedness, or his designee.

7 (13) The speaker of the House of Representatives, or his designee, who
8 shall serve as an ex officio member who shall not have the authority to vote and
9 who shall not be counted for purposes of a quorum.

10 (14) The president of the Senate, or his designee, who shall serve as an
11 ex officio member who shall not have the authority to vote and who shall not be
12 counted for purposes of a quorum.

13 (15) The lieutenant governor, or his designee who is an employee of the
14 office of lieutenant governor.

15 C. Any member of the board who represents a political subdivision shall
16 recuse himself from deliberations and from voting on any matter concerning the
17 taking of action against that political subdivision for lack of compliance with the
18 plan.

19 D. The executive assistant shall serve as chairman and shall develop
20 procedures for the operation of the board.

21 E. A majority of the current members of the board shall constitute a
22 quorum. A quorum shall be required to transact business and all actions and
23 resolutions of the board shall be approved by a majority of the quorum present.

24 F. The board shall convene and hold its first meeting in the city of Baton
25 Rouge as soon as practicable after the appointment of the majority of the
26 members. The chairman shall designate the time and place for holding regular
27 meetings and shall meet in regular session at least once per calendar year
28 quarter.

29 G.(1) Legislative members of the board shall receive the same per diem

1 and travel allowance for attending meetings of the board or any meeting thereof
2 as they receive for attendance at legislative committee meetings during the
3 interim between sessions and from the same source.

4 (2) Nonlegislative members of the board shall receive no compensation
5 for services rendered in their capacity as a member of the board.

6 §1504. Coastal Area Flood Protection Authority

7 A. The Coastal Area Flood Protection Authority is created and shall be
8 a body corporate with the power to sue and be sued. The domicile of the
9 authority shall be in Baton Rouge. The authority shall:

10 (1) Have all of the rights, powers, and immunities incident to
11 corporations. It may acquire, own, administer, alienate, and otherwise dispose
12 of all kinds of property, movable and immovable, corporeal and incorporeal;
13 contract; adopt, alter, or destroy an official seal; sue and be sued, implead, and
14 be impleaded. Except as otherwise expressly provided by this Chapter, the
15 authority may perform every act necessary, convenient, or incidental to the
16 exercise of its power and authority, the discharge of its duties, or the
17 performance of its functions.

18 (2) Be the implementation and enforcement arm of the Coastal Area
19 Flood Protection Board. The authority shall be directed by the policy set by the
20 Coastal Area Flood Protection Board as enumerated in R.S. 49:1503.

21 (3) Through its offices and officers, be responsible for the
22 implementation and enforcement of the master plan and annual plan. The
23 authority shall implement the integration of hurricane protection, storm
24 damage reduction, flood control, infrastructure, and coastal area protection and
25 restoration efforts in accordance with the master plan and annual plans.

26 (4) Not be subject to the provisions of R.S. 44:5(A) in regard to any
27 activities or records of or pertaining to the authority.

28 B. Executive director and deputy director of the Coastal Area Flood
29 Protection Authority.

1 (1) There shall be an executive director of the Coastal Area Flood
2 Protection Authority. He shall report to the Coastal Area Flood Protection
3 Board for all matters within the jurisdiction and purview of the board, and shall
4 work in conjunction with the executive assistant.

5 (2) The executive director shall be appointed by the governor and shall
6 serve at the pleasure of the governor.

7 (3) The executive director, or his designee shall have authority, subject
8 to the budgetary constraints of funding, and in accordance with applicable rules
9 and regulations of the civil service commission to employ, appoint, transfer,
10 assign, terminate, and promote such personnel as are necessary for the efficient
11 administration of the Coastal Area Flood Protection Authority.

12 (4) The executive director, or his designee, shall approve all plans,
13 specifications, and estimates for the construction of all projects for which the
14 authority is responsible. He also shall have such other duties as may be assigned
15 to him by the Coastal Area Flood Protection Board, by the provisions of this
16 Chapter, or by the laws of this state. He shall report the proceedings of his office
17 annually to the Coastal Area Flood Protection Board and at such other times as
18 the board may designate, and he shall make any additional reports as are
19 required by the board.

20 (5) The executive director, or in his discretion a subordinate or
21 subordinates, shall administer the programs, projects, and activities approved
22 for funding by the Coastal Area Flood Protection Board relating to and
23 affecting integrated coastal area protection, including conservation, restoration,
24 creation, and enhancement of coastal area wetlands, hurricane protection and
25 flood control in Louisiana as provided by law and as provided in the master and
26 annual plans, and other special programs as may be directed by the board.

27 (6) The executive director shall report annually to the legislature as to
28 the progress of the projects and programs enumerated in the master plan or
29 annual plans or any component thereof. For each project or program, estimated

1 construction and maintenance costs, progress reports, and estimated completion
2 timetables shall be provided.

3 (7) The executive director is granted full power and authority to
4 delegate, assign, or appoint in his discretion any subordinate to perform any
5 function or duties required by law to be performed by the authority, except as
6 specifically provided in this Chapter. This grant of power and authority shall
7 be liberally construed to effectuate the purposes of this Chapter.

8 (8) The executive director shall provide the necessary reports, staff,
9 assistance, and support to the Coastal Area Flood Protection Board in order to
10 assist in the development of the master plan and annual plan.

11 (9) The executive director may appoint ex officio notaries in the same
12 manner as provided in R.S. 35:411.

13 (10) There shall be a deputy executive director of the Coastal Area Flood
14 Protection Authority. He shall perform all duties defined in this Section in the
15 absence of the executive director or through authority delegated to him by the
16 executive director or in conjunction with the duties of the executive director.

17 §1505. Coastal area protection annual plans; development; priorities

18 A.(1) The board shall, in accordance with the procedures set forth in this
19 Section, develop a master plan for integrated coastal area protection and an
20 annual plan for integrated coastal area protection for protecting, conserving,
21 enhancing, and restoring the coastal area through the construction and
22 management of integrated coastal area protection projects and programs,
23 including privately funded marsh management projects or plans, and
24 addressing those activities requiring a coastal use permit which significantly
25 affect such projects, all consistent with the legislative intent as expressed in R.S.
26 49:1501, and which plan shall be subject to the approval of the legislature as
27 provided in Subsections B and E of this Section. In addition, the board, in
28 accordance with the procedures set forth in this Section including legislative
29 approval, shall review, revise, and amend the master plan when necessary or,

1 at a minimum, every six years.

2 (2) The master plan and the annual plan shall include requests for
3 funding of projects and programs related to integrated coastal area protection.
4 The annual plan shall include at least a three-year projection of funding of
5 projects and programs related to integrated coastal area protection, including,
6 but not limited to, relevant public or private funding sources.

7 B. The board shall develop the master and annual plans in accordance
8 with the following procedure:

9 (1) The board shall conduct not less than three public hearings in
10 separate locations in the western, central, and eastern areas of the coastal area
11 for the purpose of receiving comments and recommendations from the public
12 and elected officials. All public hearings shall be held at least sixty days prior
13 to the submission of the plans to the legislature.

14 (2) At least two weeks prior to each public hearing the board shall
15 contact the parish governing authorities, regional flood protection authorities,
16 levee districts, and the state legislators of the parishes in the coastal area for the
17 purpose of soliciting their comments and recommendations and notifying them
18 of the public hearing to be held in their area.

19 (3) At least ten days prior to the first such public hearing, the board shall
20 publish in the Louisiana Register and the official state journal the schedule of
21 public hearings setting out the location, place, and time of all the hearings.

22 (4) At least seven days prior to each hearing the board shall publish a
23 notice of the hearing in the official journal of each parish within the area of the
24 hearing. The notice of a hearing shall have been published in the official journal
25 of each parish in the coastal area prior to the final scheduled public hearing.
26 The board may provide for additional public hearings when necessary upon at
27 least three days notice published in the official journal of the parishes in the
28 area of the hearing and written notice to the parish governing authorities.

29 (5) The board shall receive written comments and recommendations

1 until thirty days prior to the submission of the master and annual plans to the
2 legislative committees.

3 C. The master plan shall address integrated coastal area protection
4 efforts from both short-term and long-range perspectives and shall incorporate
5 structural, management, and institutional components of both efforts. The plan
6 shall include but not be limited to the following:

7 (1) A list of projects and programs required for the protection,
8 conservation, enhancement, and restoration of the coastal area and the action
9 required of each state agency to implement the project or program.

10 (2) A schedule and estimated cost for the implementation of each project
11 or program included in the master plan.

12 D.(1) Where feasible, the master plan shall include scientific data and
13 other reasons, including but not limited to the social, geographic, economic,
14 engineering, and biological considerations as to why each project or program
15 was selected for inclusion. Specifically, this will include an explanation of how
16 each project or program advances the plan objectives with respect to the
17 protection, conservation, enhancement, and restoration of the coastal area.

18 (2) Prior to recommending any project for inclusion in the master plan,
19 the board shall identify and declare in writing:

20 (a) The public use benefits intended to be derived from the project that
21 justify the project.

22 (b) The use benefits that private landowners are expected to derive from
23 the project.

24 (c) The manner in which the benefits will be realized over the life of the
25 project.

26 (d) The entities or persons responsible for the long-term operation and
27 maintenance of the project both in terms of manpower and cost.

28 (e) The entities or persons responsible for monitoring the project to
29 ensure that it is functioning properly and realizing the intended public and

1 private benefits.

2 E.(1) After adoption by the board, the master plan shall be submitted to
3 the House Committee on Natural Resources and Environment and the Senate
4 Committee on Natural Resources and the House Committee on Transportation,
5 Highways and Public Works and the Senate Committee on Transportation,
6 Highways and Public Works for approval. In addition, the annual plan shall be
7 submitted to the House Committee on Natural Resources and Environment and
8 the Senate Committee on Natural Resources and the House Committee on
9 Transportation, Highways and Public Works and the Senate Committee on
10 Transportation, Highways and Public Works on or before the fifteenth day of
11 the regular legislative session of each year. The committees shall take action on
12 the annual plan on or before June first of each calendar year.

13 (2) If any legislative committee disapproves a plan, it shall send the plan
14 back to the authority together with a brief summary of the reasons for
15 disapproval and may make recommendations concerning changes it deems
16 necessary or appropriate to remedy any deficiencies in the plan.

17 (3) The legislature may approve or disapprove a plan by a resolution
18 adopted by a majority vote of the members of each house of the legislature. If
19 the legislature disapproves a plan, it shall include in the resolution a brief
20 summary of the reasons for disapproval and may make recommendations
21 concerning any changes it deems necessary or appropriate to remedy any
22 deficiencies in the plan.

23 (4) If the legislature approves the master plan, or if the legislature fails
24 to take action on the master plan within sixty days after the plan is submitted,
25 the board shall provide for implementation of the plan as submitted. If the
26 legislature approves the annual plan, or if the legislature fails to disapprove the
27 annual plan by July first, the board shall provide for implementation of the plan
28 as submitted. The projects and programs provided for in the annual plan shall
29 be undertaken in conformity with the order of priority as contained in the

1 annual plan.

2 (5) At any time subsequent to the adoption or implementation of a plan
3 in accordance with the procedure set forth in this Subsection, the board may
4 amend or supplement the plan to add or delete projects and programs. No
5 project shall be added or deleted unless and until the amendment to the plan is
6 approved as provided in this Subsection. Any such amendment to the plan
7 submitted to the legislature shall conform to the requirements specified in
8 Subsections B and D of this Section.

9 §1506. Coastal Area Flood Protection Fund

10 A. There is hereby created and established in the state treasury, as a
11 special fund, the Coastal Area Flood Protection Fund, referred to in this Section
12 as the "fund". After allocation of money to the Bond Security and Redemption
13 Fund as provided in Article VII, Section 9(B) of the Constitution of Louisiana,
14 and notwithstanding any other provision of law to the contrary, the treasurer
15 shall deposit in and credit to the fund, those monies received from state
16 appropriation, federal funds, grants, or donations for the authority.

17 B. The monies in the fund shall be invested in the same manner as
18 monies in the state general fund. Interest earned on the investment of monies
19 in the fund shall be deposited in and credited to the fund. If applicable under
20 federal guidelines, unexpended and unencumbered federal funds in the fund
21 shall remain in the fund. Monies in the fund shall be appropriated,
22 administered, and used solely as provided in Subsection C of this Section.

23 C. Monies in the fund shall be used solely for flood protection in the
24 coastal area, as determined by the Coastal Area Flood Protection Board, as
25 created in R.S. 49:1503.

26 Section 2. This Act shall become effective on July 1, 2022; if vetoed by the governor
27 and subsequently approved by the legislature, this Act shall become effective on the day
28 following such approval by the legislature or July 1, 2022, whichever is later.

