

SENATE BILL NO. 167

BY SENATOR CHABERT

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

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AN ACT

To amend and reenact R.S. 36:802(introductory paragraph), and R.S. 56:10(B)(1)(a)(ii), (b)(i) and (ii), (e), (3) and (D), 421(E) and (F), 494(E) and (F), 578.1, 578.2(A)(1) and (4), (B), (D)(2), (E) and (F)(3), 578.3(9), 578.4, 578.7, and 578.9, to enact R.S. 36:209(Y), and to repeal R.S. 36:610(E) and 802.5 and R.S. 56:578.5, 578.6, 578.8, and 578.12, relative to the Louisiana Seafood Promotion and Marketing Board; to transfer the board to the Department of Culture, Recreation and Tourism; to provide certain terms, conditions, and requirements; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 36:802(introductory paragraph) is hereby amended and reenacted and R.S. 36:209(Y) is hereby enacted to read as follows:

§209. Transfer of boards, commissions, departments, and agencies to Department of Culture, Recreation and Tourism

* * *

Y. The Louisiana Seafood Promotion and Marketing Board (R.S. 56:578.1 et seq.) is placed within the Department of Culture, Recreation and Tourism and shall perform its duties, powers, functions, and responsibilities as provided for agencies transferred in accordance with R.S. 36:802.

* * *

§802. Transfer; retention of policymaking and rulemaking functions

The agencies transferred by the provisions of R.S. 36:209(Q) **and (Y)**, 259(MM), 309(B), 409(C), 459(B), 610(B), 629(I), and 769(C) shall continue to be

1 composed and selected as provided by law, and each shall continue to exercise all
 2 of the powers, duties, functions, and responsibilities provided or authorized for each
 3 by the constitution or laws which are in the nature of policymaking, rulemaking,
 4 licensing, regulation, enforcement, or adjudication and also shall continue to exercise
 5 all advisory powers, duties, functions, and responsibilities provided by law. Such
 6 powers, duties, functions, and responsibilities shall be exercised independently of the
 7 secretary and any assistant secretary, except that:

8 * * *

9 Section 2. R.S. 56:10(B)(1)(a)(ii), (b)(i) and (ii), (e), (3) and (D), 421(E) and (F),
 10 494(E) and (F), 578.1, 578.2(A)(1) and (4), (B), (D)(2), (E) and (F)(3), 578.3(9), 578.4,
 11 578.7, and 578.9 are hereby amended and reenacted to read as follows:

12 §10. Annual report to governor; estimate of proposed expenditures; particular funds;
 13 warrants; vouchers; surplus funds

14 * * *

15 B.(1)(a)(i) * * *

16 (ii) Pay annually into ~~the Seafood Promotion and Marketing Fund, into a~~
 17 special account entitled **fund created in the state treasury and designated as the**
 18 "Oyster Development ~~Account~~ **Fund**", the additional fee of five cents for each oyster
 19 tag sold pursuant to R.S. 56:449 and paid into the treasury by the commission. All
 20 expenditures and allocation of funds **monies** from this account **fund** shall be
 21 administered jointly by the ~~Louisiana Seafood Promotion and Marketing Board and~~
 22 ~~the Louisiana Oyster Task Force.~~ **The task force may contract with the Louisiana**
 23 **Seafood Promotion and Marketing Board to promote the Louisiana oyster**
 24 **industry.**

25 (b)(i) Pay annually into ~~the Seafood Promotion and Marketing Fund, into a~~
 26 special account entitled **fund created in the state treasury and designated as the**
 27 "Shrimp Marketing and Promotion ~~Account~~ **Fund**", an amount equal to the fees
 28 collected pursuant to R.S. 56:305(G) and paid into the treasury by the commission.
 29 All expenditures and allocation of funds **monies** from this account **fund** shall be
 30 administered jointly by the ~~Louisiana Seafood Promotion and Marketing Board and~~

1 ~~the~~ Louisiana Shrimp Task Force to be used for the development of markets for
 2 shrimp and creation of marketing strategies for the development and market
 3 expansion for shrimp harvested from Louisiana waters. The task force may
 4 contract with the Louisiana Seafood Promotion and Marketing Board to
 5 promote the Louisiana shrimp industry.

6 (ii) Pay annually into the Conservation Fund, into a special account entitled
 7 the "Shrimp Trade Petition Account", an amount equal to the fees collected pursuant
 8 to R.S. 56:305(H) ~~and 506.1~~. Subject to annual appropriation by the legislature, the
 9 monies in the fund shall be used exclusively for the purposes of promotion and
 10 protection of domestic wild-caught shrimp. For purposes of this Item, promotion and
 11 protection of domestic wild-caught shrimp shall include expenses related to the
 12 petition filed by the Southern Shrimp Alliance in December 2003 for the imposition
 13 of antidumping duties pursuant to Section 731 of the Tariff Act of 1930, as amended.
 14 All expenditures and allocation of funds from this account shall be administered
 15 ~~jointly by the Louisiana Seafood Promotion and Marketing Board and the Louisiana~~
 16 ~~Shrimp Task Force.~~ The monies in this account shall be invested by the state
 17 treasurer in the same manner as monies in the state general fund and all returns on
 18 such investment shall be deposited to the account. All unexpended and
 19 unencumbered monies remaining in this account at the end of the fiscal year shall
 20 remain in the account.

21 * * *

22 (e) Pay annually into ~~the Seafood Promotion and Marketing Fund,~~ into a
 23 special account titled fund created in the state treasury and designated as the
 24 "Crab Promotion and Marketing ~~Account~~ Fund", an amount equal to the fees
 25 specified for deposit in R.S. 56:305(B)(2) and (C)(1), 306(B)(6), and 306.1(B)(7).
 26 All expenditures and allocations of funds ~~monies~~ monies from this ~~account~~ fund shall be
 27 administered ~~jointly by the Louisiana Seafood Promotion and Marketing Board and~~
 28 ~~the Crab Task Force.~~ The task force may contract with the Louisiana Seafood
 29 Promotion and Marketing Board to promote the Louisiana crab industry.

30 * * *

1 Department of Wildlife and Fisheries, the Department of Natural Resources, and the
2 Coastal Protection and Restoration Authority Board, the Coastal Protection and
3 Restoration Authority, the Department of Health and Hospitals, the governor's
4 executive assistant for coastal activities, and the legislature.

5 (5) Employ such personnel as necessary.

6 (6) Develop markets and marketing strategies for the development of
7 new and expanded markets for Louisiana oysters.

8 (7) Represent the interests of the Louisiana oyster industry before
9 federal and state administrative and legislative bodies on issues of importance
10 to the Louisiana oyster industry.

11 (8) Contract for legal services to represent the interests of the Louisiana
12 oyster industry in judicial, administrative, and legislative proceedings.

13 (9) Administer the funds in the Oyster Development Fund.

14 (10) Perform any acts deemed necessary and proper to carry out its
15 duties and responsibilities.

16 F. The activities of the Oyster Task Force shall be funded through the Oyster
17 Development ~~Account of the Seafood Promotion and Marketing~~ Fund as provided
18 in R.S. 56:10(B)(1)(a)(ii).

19 * * *

20 §494. Louisiana Shrimp Task Force

21 * * *

22 E. The task force is hereby charged with responsibility to do the following:

23 (1) Coordinate efforts to increase shrimp production and marketability.

24 (2) Provide for the study of the decline in shrimp marketability and market
25 price, provide for the study of the impacts of imported shrimp on the domestic
26 market, assist in the development of a state shrimp inspection program, assist in the
27 development of a Louisiana shrimp certification and branding program, and make
28 recommendations to the Wildlife and Fisheries Commission and the Department of
29 Wildlife and Fisheries, the Department of Natural Resources, the Department of
30 Agriculture and Forestry, and the Department of Health and Hospitals for

1 implementation of policies to help enhance the domestic shrimp industry.

2 (3) Make recommendations with respect to issues pertaining to the shrimp
3 industry and shrimp production to the various state agencies charged with
4 responsibility for differing elements of the shrimp industry in this state, including the
5 Department of Wildlife and Fisheries, the Department of Natural Resources, and the
6 Office of Coastal Protection and Restoration, the Department of Health and
7 Hospitals, the Department of Agriculture and Forestry, and the legislature.

8 **(4) Develop markets and marketing strategies for the development and**
9 **expansion of markets for shrimp harvested from Louisiana waters.**

10 **(5) Administer the funds in the Shrimp Marketing and Promotion Fund**
11 **and the "Shrimp Trade Petition Account", which funds shall be used to create**
12 **new markets for shrimp and promote the sale of shrimp harvested from**
13 **Louisiana waters.**

14 **(6) Represent the interests of the Louisiana shrimp industry before**
15 **federal and state administrative and legislative bodies on issues of importance**
16 **to the Louisiana shrimp industry.**

17 **(7) Contract for legal services to represent the interests of the Louisiana**
18 **shrimp industry in judicial, administrative, and legislative proceedings.**

19 **(8) Perform any acts deemed necessary and proper to carry out its duties**
20 **and responsibilities.**

21 F. The activities of the Shrimp Task Force shall be funded through the
22 Shrimp Marketing and Promotion Account ~~of the Seafood Promotion and Marketing~~
23 Fund (R.S. 56:10(B)(1)(b)(i)) and the "Shrimp Trade Petition Account" (R.S.
24 56:10(B)(1)(b)(ii)).

25 * * *

26 §578.1. Purposes

27 Recognizing that the commercial fishing industry in Louisiana has reached
28 an ebb economically, creating an environment which has or could place, not only
29 commercial fishermen, but also wholesale and retail dealers in dire economic straits,
30 which situation could have an extreme economic impact on the state economy as a

1 whole if nothing is done to alleviate the situation, and recognizing that there exist
 2 barriers and impediments to the economic well-being of the commercial fishery
 3 industry in Louisiana and recognizing that among these barriers and impediments,
 4 the virtual void in this state of any cohesive, coordinated and comprehensive seafood
 5 promotion and marketing effort and ~~stratagem~~ **stratagem** has a significant negative
 6 impact on the seafood industry, the Legislature of Louisiana does hereby establish
 7 the Louisiana Seafood Promotion and Marketing Board in an effort to aid the
 8 industry in two vital aspects--product promotion and marketing development.

9 The purpose of this Subpart, then, is to enhance the public image of
 10 commercial fishery products, thereby promoting the consumption of these products
 11 and, further, to assist the seafood industry, including commercial fishermen and
 12 wholesale and retail dealers, in market development so as to better utilize existing
 13 markets and to aid in the establishment of new marketing channels. Attention to the
 14 promotion and marketing of non-traditional and underutilized species of seafood
 15 would be inherent in the purpose of the council established herein.

16 §578.2. Louisiana Seafood Promotion and Marketing Board; creation and
 17 organization

18 A.(1) There is hereby created in the ~~office of fisheries of the Department of~~
 19 ~~Wildlife and Fisheries~~ **Department of Culture, Recreation and Tourism** the
 20 Louisiana Seafood Promotion and Marketing Board. The agency shall have its
 21 domicile in Baton Rouge and shall be governed by a board of trustees composed of
 22 fourteen members, thirteen members appointed by the **lieutenant** governor from
 23 persons engaged in the commercial seafood, crawfish and alligator industry in
 24 Louisiana and the fourteenth member to be the secretary of the ~~Department of~~
 25 ~~Wildlife and Fisheries~~ **Department of Culture, Recreation and Tourism** or his
 26 designated representative, who shall serve as an ex officio nonvoting member.

27 * * *

28 (4) The names of each of the thirteen members appointed by the **lieutenant**
 29 governor shall be submitted to the Senate for confirmation.

30 B. At its first regular meeting in the third quarter of each state fiscal year, the

1 board shall elect for a one year term a chairman and vice chairman, who shall also
 2 be the chairman-elect, and a secretary-treasurer, whose duties shall be those
 3 customarily exercised by such officers or specifically designated by the board. No
 4 member shall be elected as an officer until such member has served at least one year
 5 on the board. No member elected chairman shall serve consecutive terms and no
 6 member may serve as chairman more than two terms. No chairman shall serve as
 7 vice chairman in the term following his term as chairman. The board may establish
 8 rules and regulations for its own ~~government~~ **governance** and the administration of
 9 the affairs of the board. The board may disqualify any appointed member for cause,
 10 including excessive absences from board meetings. A vacancy occurring on the
 11 board for any reason shall be filled in the same manner as the original appointment
 12 was made. However, members appointed to fill the vacancies shall ~~only~~ serve **only**
 13 for the unexpired term of their predecessors.

14 * * *

15 D. * * *

16 (2) At the end of each state fiscal year, the board shall submit to the House
 17 Committee on ~~Natural Resources and Environment~~ **Commerce** and the Senate
 18 Committee on ~~Natural Resources~~ **Commerce, Consumer Protection, and**
 19 **International Affairs** a report that describes the accomplishments and contributions
 20 of the board toward achieving the mission of promoting Louisiana seafood, and shall
 21 include in such report the budget of the board for that fiscal year and for the
 22 following fiscal year. **The annual management and programmatic analysis**
 23 **report submitted to the legislature in accordance with R.S. 36:8 shall satisfy this**
 24 **requirement.**

25 E. ~~The board may employ a director and assistant director who shall be~~
 26 ~~appointed by the board, subject to the approval of the secretary of the Department~~
 27 ~~of Wildlife and Fisheries. The director and assistant director shall be in the~~
 28 ~~unclassified service. The secretary may employ such other personnel for the board~~
 29 ~~as he deems necessary and appropriate.~~ **The lieutenant governor may appoint an**
 30 **executive director from a list of nominees submitted by the board. The**

1 executive director shall serve at the pleasure of the lieutenant governor and
 2 shall receive such salary fixed by the lieutenant governor. The executive
 3 director shall serve as the executive and administrative staff of the board and
 4 shall discharge all operational, maintenance, administrative, and executive
 5 functions of the board, subject to the control, jurisdiction, and supervision of
 6 the secretary of the Department of Culture, Recreation and Tourism. The
 7 executive director may employ such other personnel for the board as he deems
 8 necessary and appropriate, including an assistant director who may be in the
 9 unclassified service, subject to approval by the secretary of the Department of
 10 Culture, Recreation and Tourism.

11 F. * * *

12 (3) At the first regularly scheduled meeting of the board after January 1,
 13 2013, the board shall adopt rules and bylaws which shall be submitted no later than
 14 thirty days after their adoption to the House Committee on ~~Natural Resources and~~
 15 Environment Commerce and the Senate Committee on ~~Natural Resources~~
 16 Commerce, Consumer Protection, and International Affairs for approval by the
 17 committees. The rules and bylaws shall not go into effect until the committees
 18 approve of such rules and bylaws.

19 §578.3. Powers, duties, and functions

20 The board shall have the following powers, duties, and functions:

21 * * *

22 (9) To consider and to recommend to the legislature a mechanism whereby
 23 the Louisiana Seafood Promotion and Marketing ~~Council~~ Board shall be funded,
 24 including rules and regulations pertinent thereto.

25 * * *

26 §578.4. Advertising, contracts and sales offices

27 A. The board, ~~working with~~ the approval of the ~~Department of Wildlife and~~
 28 ~~Fisheries~~ Department of Culture, Recreation and Tourism, shall plan and conduct
 29 a campaign for advertising, publicizing, and promoting the increased consumption
 30 of Louisiana seafood, and may contract for any advertising, publicity, and sales

1 promotion services. The board, with the approval of the Department of Culture,
 2 Recreation and Tourism, is further empowered to take any other action which it
 3 deems necessary to promote and to improve the well-being of the commercial
 4 seafood industry. The secretary is hereby authorized and empowered to carry out
 5 any and all contracts entered into by the board.

6 * * *

7 §578.7. Appropriations; warrants; records

8 Funds made available by the legislature from the Seafood Promotion and
 9 Marketing Fund as provided in R.S. 56:10 or from any other source shall be used
 10 solely for the programs and purposes provided for in this Subpart. The ~~Department~~
 11 ~~of Wildlife and Fisheries~~ Department of Culture, Recreation and Tourism shall
 12 maintain records of the sources of money received and the purpose therefor, as well
 13 as the person or persons to whom money is paid and the purpose therefor. Vouchers
 14 or receipts shall be kept for all money paid out. Money appropriated or otherwise
 15 made available to the department for authorized purposes shall be withdrawn from
 16 the treasury on warrant of the secretary of the department.

17 * * *

18 §578.9. Approval of regulations

19 Any regulations promulgated as provided herein shall be submitted to and
 20 approved by the ~~respective legislative standing committees on natural resources~~
 21 House Committee on Commerce and the Senate Committee on Commerce,
 22 Consumer Protection, and International Affairs.

23 Section 3. R.S. 36:610(E) and 802.5 and R.S. 56:578.5, 578.6, 578.8, and 578.12 are
 24 hereby repealed.

25 Section 4. All rules and regulations adopted or permits, licenses, registrations,
 26 variances, or orders issued by the Louisiana Seafood Promotion and Marketing Board prior
 27 to the effective date of this Act, shall continue in full force and effect as rules and
 28 regulations of the agency within the Department of Culture, Recreation and Tourism until
 29 and after the effective date of this Act, unless otherwise revoked, repealed, amended,
 30 modified, or terminated in accordance with the law.

1 Section 5. Any legal proceeding, as defined in R.S. 36:924, to which any agency or
2 office, the statutory provisions for which are amended or repealed by the provisions of this
3 Act, is a party and which is filed, initiated, or otherwise pending before any court on the
4 effective date of this Act and all documents involved in or affected by said legal proceeding,
5 shall retain their effectiveness and shall be continued in the name of the former agency. All
6 further legal proceedings and documents in the continuance, disposition, and enforcement
7 of said legal proceedings shall be in the name of the original party agency, and the
8 Department of Culture, Recreation and Tourism shall be substituted for the original party
9 agency without the necessity for amendment or any document to substitute the name of the
10 department or the name or title of any subdivision or section of the department. For
11 purposes of this Section, "document" shall be defined as provided in R.S. 36:924.

12 Section 6. All employees heretofore engaged in the performance of functions of the
13 Louisiana Seafood Promotion and Marketing Board, to the extent the secretary of such
14 department deems necessary to carry out the functions formerly performed, shall insofar as
15 practicable and necessary continue to perform the duties heretofore performed, subject to
16 applicable state civil service laws, rules, and regulations.

17 Section 7. This Act is in no way and is to no extent intended to, nor shall it be
18 construed in any manner which will impair the contractual or other obligations of any
19 agency, office, or department, or of the state of Louisiana, the provisions for which are
20 enacted, amended, or repealed by this Act. It is hereby specifically provided that all
21 obligations of any such agency, office, or department hereafter shall be deemed to be
22 obligations of the Department of Culture, Recreation and Tourism, to the same extent as if
23 originally made by it. In like manner and in order to prevent any violation of the provisions,
24 terms, or conditions of any gift, donation, deed, will, trust, or other instrument or disposition
25 by which property of any kind has been vested in any such agency, office, or department,
26 or division from the purposes for which such property was thus vested in any agency, office,
27 or department, it is hereby specifically provided that such instrument or disposition hereafter
28 shall be deemed to have been vested in the Department of Culture, Recreation and Tourism
29 and its secretary shall be the successor in every way to each such agency, including all of the
30 obligations and debts of each such agency.

1 Section 8. This Act shall become effective on July 1, 2013. If vetoed by the governor
2 and subsequently approved by the legislature, this Act shall become effective on the day
3 following such approval, or July 1, 2013, whichever last occurs.

PRESIDENT OF THE SENATE

SPEAKER OF THE HOUSE OF REPRESENTATIVES

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____