

2017 Regular Session

HOUSE BILL NO. 144

BY REPRESENTATIVE ZERINGUE

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

COASTAL RESOURCES: Provides for real property interests for integrated coastal restoration projects

1 AN ACT

2 To amend and reenact R.S. 49:214.5.5, relative to integrated coastal restoration projects; to
3 provide relative to real estate interests that can be acquired by public entities for
4 integrated coastal protection purposes; to provide for a term of acquisition of certain
5 real estate interests for integrated coastal protection; and to provide for related
6 matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 49:214.5.5 is hereby amended and reenacted to read as follows:

9 §214.5.5. Private property and public rights

10 A. Purpose: Recognizing that a substantial majority of the coastal lands in
11 Louisiana are privately owned, it is anticipated that a significant portion of the
12 integrated coastal protection projects funded through the Coastal Protection and
13 Restoration Fund either will occur on or in some manner affect private property.
14 Therefore, it is the intent of the legislature to protect and preserve private property
15 rights to the maximum extent practicable relative to the acquisition of real property
16 rights and interests for integrated coastal protection, included but not limited to
17 compensatory mitigation or ecosystem restoration purposes, and to assure that the
18 acquisition of real property rights and interests is limited to the minimum rights and
19 interests necessary to carry out the purposes of integrated coastal protection.

1 B. No rights whatsoever shall be created in the public, whether such rights
2 be in the nature of ownership, servitude, or use, with respect to any private lands or
3 waters utilized, enhanced, created, or otherwise affected by activities of any
4 governmental agency, local, state, or federal, or any person contracting with same
5 for the performance of any activities, funded in whole or in part, by expenditures
6 from the Coastal Protection and Restoration Fund or expenditures of federal funds.
7 In the event legal proceedings are instituted by any person seeking recognition of a
8 right of ownership, servitude, or use in or over private property solely on the basis
9 of the expenditure of funds from the Coastal Protection and Restoration Fund, the
10 state shall indemnify and hold harmless the owner of such property for any cost,
11 expense, or loss related to such proceeding, including court costs and attorney fees.

12 C. Notwithstanding any law or provision to the contrary, no full or fee
13 ownership interest in property shall be acquired for integrated coastal protection
14 through any method by the state of Louisiana, the Coastal Protection and Restoration
15 Authority, a levee district, a levee authority, a sponsoring authority, a political
16 subdivision, or any other state, local, or federal entity, or their agents or employees,
17 including but not limited to compensatory mitigation and ecosystem restoration
18 purposes, unless such interest is voluntarily offered and agreed to in writing by at
19 least seventy-five percent of the owners of the property or such entity seeking to
20 acquire the property proves by clear and convincing evidence in a court of competent
21 jurisdiction that a full or fee ownership interest is the minimum interest necessary to
22 carry out the purposes of integrated coastal protection for the specific project for
23 which it is acquired.

24 D. Access rights, rights of use, servitudes, easements, or other property
25 interests acquired for integrated coastal protection through any method by the state
26 of Louisiana, the Coastal Protection and Restoration Authority, a levee district, a
27 levee authority, a sponsoring authority, a political subdivision, or any other state,
28 local, or federal entity, or their agents or employees, including but not limited to
29 compensatory mitigation and ecosystem restoration purposes, shall be for a fixed

1 term only and shall not be acquired in perpetuity unless such acquisition in
 2 perpetuity is voluntarily offered and agreed to in writing by at least seventy-five
 3 percent of the owners of the property. Furthermore, no fixed term for any access
 4 rights, rights of use, servitudes, easements, or other property interests acquired for
 5 integrated coastal protection shall exceed the life of the integrated coastal protection
 6 project for which it is acquired unless such term is voluntarily offered and agreed to
 7 in writing by at least seventy-five percent of the owners of the property.

8 Section 2. This Act shall become effective upon signature by the governor or, if not
 9 signed by the governor, upon expiration of the time for bills to become law without signature
 10 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
 11 vetoed by the governor and subsequently approved by the legislature, this Act shall become
 12 effective on the day following such approval.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 144 Original

2017 Regular Session

Zeringue

Abstract: Provides relative to real property interests for integrated coastal restoration projects.

Present law recognizes that a significant portion of the projects funded through the Coastal Protection and Restoration Fund either will occur on or affect private property. Proposed law states that the intent of the legislature is to protect and preserve private property rights and to assure that the acquisition of real property rights and interests is limited to that necessary for coastal protection and restoration.

Present law provides that no ownership or use rights of private land or water are created in the public by expenditures from the Coastal Protection and Restoration Fund or expenditures of federal funds. Proposed law retains this provision of present law.

Proposed law provides that no full or fee ownership interest in property shall be acquired for integrated coastal protection by the state, the Coastal Protection and Restoration Authority, a levee district, a levee authority, a sponsoring authority, a political subdivision, or any other state, local, or federal entity, or their agents or employees, unless such interest is voluntarily offered and agreed to in writing by at least 75% of the owners of the property or such entity seeking to acquire the property proves in a court that a full or fee ownership interest is the minimum interest necessary to carry out the purposes of integrated coastal protection for the specific project for which it is acquired.

Proposed law further provides that access rights, rights of use, servitudes, easements, or other property interests acquired for integrated coastal protection by the state, the Coastal Protection and Restoration Authority, a levee district, a levee authority, a sponsoring

authority, a political subdivision, or any other state, local, or federal entity, or their agents or employees, shall be for a fixed term only and shall not be acquired in perpetuity unless such acquisition in perpetuity is voluntarily offered and agreed to in writing by at least 75% of the owners of the property. Further provides that no fixed term for any access rights, shall exceed the life of the integrated coastal protection project for which it is acquired unless such term is voluntarily offered and agreed to in writing by at least 75% of the owners of the property.

Effective upon signature of governor or lapse of time for gubernatorial action.

(Amends R.S. 49:214.5.5)