

2017 Regular Session

HOUSE BILL NO. 144

BY REPRESENTATIVE ZERINGUE

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 immovable property interests that can be acquired by public
4 entities for integrated coastal protection purposes; to provide for a term of
5 acquisition of certain immovable property interests for integrated coastal protection;
6 and to provide for related 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. Recognizing that a substantial majority of the coastal lands in Louisiana
11 are privately owned, it is anticipated that a significant portion of the integrated
12 coastal protection projects funded through the Coastal Protection and Restoration
13 Fund either will occur on or in some manner affect private property.

14 B. No rights whatsoever shall be created in the public, whether such rights
15 be in the nature of ownership, servitude, or use, with respect to any private lands or
16 waters utilized, enhanced, created, or otherwise affected by activities of any
17 governmental agency, local, state, or federal, or any person contracting with same
18 for the performance of any activities, funded in whole or in part, by expenditures
19 from the Coastal Protection and Restoration Fund or expenditures of federal funds.
20 In the event legal proceedings are instituted by any person seeking recognition of a
21 right of ownership, servitude, or use in or over private property solely on the basis
22 of the expenditure of funds from the Coastal Protection and Restoration Fund, the

1 state shall indemnify and hold harmless the owner of such property for any cost,
2 expense, or loss related to such proceeding, including court costs and attorney fees.

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

15 D. Access rights, rights of use, servitudes, easements, or other property
16 interests acquired for integrated coastal protection through any method by the state
17 of Louisiana, the Coastal Protection and Restoration Authority, a levee district, a
18 levee authority, a sponsoring authority, a political subdivision, or any other state,
19 local, or federal entity, or their agents or employees, including but not limited to
20 compensatory mitigation and ecosystem restoration purposes, shall be for a fixed
21 term only and shall not be acquired in perpetuity unless such acquisition in
22 perpetuity is voluntarily offered and agreed to in writing by owners with at least
23 seventy-five percent ownership in the property. Furthermore, no fixed term for any
24 access rights, rights of use, servitudes, easements, or other property interests
25 acquired for integrated coastal protection shall exceed the life of the integrated
26 coastal protection project for which it is acquired unless such term is voluntarily
27 offered and agreed to in writing by owners with at least seventy-five percent
28 ownership in the property.

29 E. The provisions of this Section shall not authorize acquisition of privately
30 owned mineral interests and the reservation of mineral interests shall be as provided

1 in R.S. 31:149. Additionally, any interest in property acquired under this Section
 2 shall not transfer to the acquiring entity any claims, causes of action, or litigious
 3 rights existing prior to the date of the acquisition but shall not extinguish the rights
 4 of the owners of the property to exercise such claims, causes of action, or litigious
 5 rights on the date of acquisition.

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

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____