SLS 18RS-430 ORIGINAL

2018 Regular Session

SENATE CONCURRENT RESOLUTION NO. 41

BY SENATORS GARY SMITH, ALLAIN, CHABERT AND PRICE

CONGRESS. Memorializes Congress to allow for variances on certain projects regulated by the Clean Water Act and the Rivers and Harbors Act.

## A CONCURRENT RESOLUTION 1 2 To memorialize the Congress of the United States to allow variances on certain projects 3 regulated by the Clean Water Act and the Rivers and Harbors Act. 4 WHEREAS, the federal Clean Water Act establishes a program to regulate the 5 discharge of dredged or fill material into waters of the United States, including wetlands; and 6 WHEREAS, the federal Rivers and Harbors Act requires authorization from the U.S. 7 Army Corps of Engineers for the construction of any structure in or over any navigable 8 waters of the United States, the excavation and dredging or deposition of material, or any 9 obstruction or alteration to a navigable water; and 10 WHEREAS, protection of the coast and mitigation of wetland loss is vital to the 11 future of this state and the many projects designed to protect and preserve the state's coast invariably require dredging, obstructing, or altering of waters of the United States; and 12 13 WHEREAS, the Clean Water Act and the Rivers and Harbors Act mandate that local, 14 municipal, and state projects aimed at mitigating coastal wetland losses require permits from the U.S. Army Corps of Engineers; and 15 16 WHEREAS, like federal law, Louisiana law requires compensatory mitigation at a level sufficient to replace the ecological value of the wetlands lost as a result of permitted 17 18 projects, but allows for variances to this requirement when the permittee has demonstrated

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that the required mitigation would render the proposed project impracticable if the project 1 2 has a clearly overriding public interest; and 3 WHEREAS, the Clean Waters Act and the Rivers and Harbors Act do not allow for 4 such variances when a project to mitigate coastal wetland loss is being considered, even when that project has a clearly overriding public interest; and 5 6 WHEREAS, in an effort to help the state protect its valuable coast and wetlands, 7 federal law should allow for a variance for a project that has a clearly overriding public 8 interest. 9 THEREFORE, BE IT RESOLVED that the Legislature of Louisiana memorializes 10 the Congress of the United States to allow for variances on certain projects regulated by the 11 Clean Water Act and the Rivers and Harbors Act. BE IT FURTHER RESOLVED that a copy of this Resolution shall be transmitted 12 13 to the secretary of the United States Senate and the clerk of the United States House of 14 Representatives and to each member of the Louisiana delegation to the United States 15 Congress. The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by McHenry Lee.

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