

First Extraordinary Session, 2005

HOUSE BILL NO. 141

BY REPRESENTATIVE ALARIO

COASTAL COMMISSION: Provides relative to development and implementation of a comprehensive coastal and hurricane protection plan

1 AN ACT

2 To amend and reenact R.S. 49:213.1 through 213.8, 214.3(1), 214.11, 214.12(A)(1), and
3 214.13, relative to coastal protection, conservation, restoration, and management; to
4 authorize and provide for the development and implementation of a comprehensive
5 coastal protection plan; to provide powers, duties, terms, procedures, definitions,
6 conditions, and requirements; to provide relative to hurricane protection and coastal
7 restoration; to provide relative to enforcement; to provide relative to certain
8 authorities, commissions, and departments; to change the name of the Wetlands
9 Conservation and Restoration Authority to the Coastal Protection and Restoration
10 Authority and to set forth its powers, duties, and members; to change the name of the
11 Governor's Advisory Commission on Coastal Restoration and Conservation and to
12 the Governor's Advisory Commission on Coastal Protection, Restoration, and
13 Conservation and to set forth its powers, duties, and members; and to provide for
14 related matters.

15 Be it enacted by the Legislature of Louisiana:

16 Section 1. R.S. 49:213.1 through 213.8, 214.3(1), 214.11, 214.12(A)(1), and 214.13
17 are hereby amended and reenacted to read as follows:

PART II. LOUISIANA COASTAL ~~WETLANDS~~ PROTECTION,
CONSERVATION, RESTORATION, AND MANAGEMENT
SUBPART A. ~~WETLANDS CONSERVATION~~ COASTAL
PROTECTION AND RESTORATION AUTHORITY

§213.1. Statement of intent

A. Louisiana and its citizens have suffered catastrophic losses and human, economic, and social harm. For the benefit and protection of the state as a whole, its citizens, and its localities, hurricane protection is vital to survival. Hurricane protection and coastal restoration efforts must be integrated to achieve a long-term solution of coastal protection. In addition to immediate needs for hurricane protection, coastal ~~Coastal~~ land loss in Louisiana continues in catastrophic proportions. Wetlands loss threatens valuable fish and wildlife production and the viability of residential, agricultural, energy, and industrial development in coastal Louisiana.

B. In the past, efforts by the state to address the myriad, interrelated problems of coastal ~~land loss~~ protection have been inadequate, fragmented, uncoordinated, and lacking in focus and strong direction. The state must have a single agency with authority to articulate a clear statement of priorities and to focus development and implementation of efforts to achieve comprehensive coastal protection. Without this authority, the safety of citizens, the viability of the state and local economies, and the long-term recovery from disasters such as Hurricanes Katrina and Rita remain in jeopardy.

~~Meanwhile, coastal deterioration has escalated to a point such that the potential for vegetated wetlands restoration and enhancement in particular is declining rapidly.~~

C. The state must act to develop, implement, and enforce a comprehensive coastal protection plan. The state must act to ensure that the plan integrates hurricane protection and coastal restoration efforts in order to achieve long-term and comprehensive coastal protection. Comprehensive coastal protection must proceed

1 in a manner that recognizes that the proper functioning of each protective element
2 is critical to the overall success of the plan and that without such proper functioning
3 the safety of the state and its citizens and the viability of the entire plan are
4 threatened. Further, comprehensive coastal protection must proceed in a manner that
5 recognizes the powers and duties of political subdivisions to fund and manage local
6 activities that are consistent with the goals of a comprehensive coastal protection
7 plan. The state must act ~~immediately~~ to conserve, restore, create, and enhance
8 ~~vegetated~~ wetlands in coastal Louisiana while encouraging use of coastal resources
9 and recognizing that it is in the public interest of the people of Louisiana to establish
10 a responsible balance between development and conservation. Management of
11 renewable coastal resources must proceed in a manner that is consistent with and
12 complementary to the efforts to establish a proper balance between development and
13 conservation.

14 D. It is the intention of the legislature that ~~wetlands conservation and~~
15 ~~restoration be elevated in tandem~~ comprehensive coastal protection be elevated to
16 a position within state government of high visibility and action and that ~~the~~
17 ~~conservation, restoration, creation, and nourishment of coastal vegetated wetlands~~
18 hurricane protection and conservation and restoration of the coastal area be of high
19 priority within that structure. To provide aggressive state leadership, direction, and
20 consonance in the development and implementation of policies, plans, and programs
21 to ~~encourage~~ achieve comprehensive coastal protection, including the encouragement
22 of multiple uses of the coastal zone and to achieve a proper balance between
23 development and conservation, restoration, creation, and nourishment of renewable
24 coastal resources, the legislature places responsibility for the direction and
25 development of the state's ~~coastal vegetated wetlands conservation and restoration~~
26 ~~plan in the Wetlands Conservation~~ comprehensive master coastal protection plan
27 with the Coastal Protection and Restoration Authority within the office of the
28 governor. Primary responsibility for carrying out the elements of the plan relative to
29 coastal wetlands conservation and restoration is placed in the office of coastal

1 restoration and management within the Department of Natural Resources. Primary
2 responsibility for carrying out the elements of the plan relative to hurricane
3 protection is placed with the office of public works and intermodal transportation
4 within the Department of Transportation and Development. In order to maximize
5 the effectiveness of coastal protection efforts, the secretaries of the Department of
6 Natural Resources and the Department of Transportation and Development and the
7 governor's executive assistant for coastal activities shall use an integrated team effort
8 to jointly coordinate master plan development with federal agencies and political
9 subdivisions.

10 §213.2. Definitions

11 As used in this Part, the following terms shall have the meaning ascribed to
12 them below:

13 (1) "Annual plan" means the state coastal protection plan submitted annually
14 to the legislature as provided in this Part including amendments to the plan.

15 ~~(1)~~ (2) "Authority" means the ~~Wetlands Conservation~~ and Restoration
16 Authority.

17 (3) "Coastal area" means the Louisiana Coastal Zone and contiguous areas
18 subject to storm or tidal surge.

19 ~~(2)~~ (4) "Conservation and restoration" means the conservation and
20 restoration of coastal wetlands resources including but not limited to coastal
21 ~~vegetated~~ wetlands through the construction and management of coastal wetlands
22 enhancement projects, including privately funded marsh management projects or
23 plans, and those activities requiring a coastal use permit which significantly affect
24 such projects or which significantly diminish the benefits of such projects or plans
25 insofar as they are intended to conserve or enhance coastal wetlands consistent with
26 the legislative intent as expressed in R.S. 49:213.1.

27 ~~(3)~~ (5) "Executive assistant" means the special assistant to the governor for
28 coordination of coastal activities.

1 ~~(4) (6)~~ "Fund" means the ~~Wetlands Conservation~~ Coastal Protection and
2 Restoration Fund.

3 (7) "Hurricane protection" means a system of barriers and associated
4 elements to provide protection against tidal surges.

5 (8) "Master plan" means the long-term comprehensive coastal protection
6 plan combining hurricane protection and large-scale coastal restoration and
7 amendments to the plan. It shall include but not be limited to state and political
8 subdivision operations plans.

9 ~~(5) "Plan" means the state coastal vegetated wetlands conservation and~~
10 ~~restoration plan and amendments to the plan~~

11 (9) "Program" means a management strategy with procedures, projects,
12 schedules, operations, and related activities to achieve a stated goal or objective.

13 ~~(6) (10)~~ "Project" means a physical structure or structures designed and
14 constructed according to the annual plan.

15 ~~(7) "Task Force" means the Wetlands Conservation and Restoration Task~~
16 ~~Force.~~

17 §213.3. Creation; personnel

18 A. The ~~Wetlands Conservation~~ Coastal Protection and Restoration Authority
19 is hereby created within the office of the governor. The authority is hereby
20 established and shall exercise the powers and duties hereinafter set forth or otherwise
21 provided by law.

22 B. The authority shall be composed of the executive assistant to the governor
23 for coastal activities and ~~the Task Force~~ other members as provided by R.S.
24 49:213.5. The executive assistant shall be appointed by the governor, subject to
25 Senate confirmation, to serve at his pleasure. He shall report directly to the
26 governor.

27 C. The governor, through the executive assistant, consistent with the
28 legislative intent as expressed in R.S. 49:213.1, shall coordinate the powers, duties,
29 functions, and responsibilities of any state agency relative to coastal ~~wetlands~~

1 ~~conservation and protection and~~ restoration and shall administer the programs of the
2 authority. The executive assistant shall employ necessary staff to carry out the duties
3 and functions of the authority as provided in this Part or as otherwise provided by
4 law and may seek and utilize the assistance of personnel in any state department or
5 agency to carry out its duties and functions as provided in this Part or otherwise
6 provided by law.

7 §213.4. Powers and duties

8 A. The authority shall:

9 ~~(1) Develop a comprehensive policy addressing the conservation and~~
10 ~~restoration of coastal wetlands resources through the construction and management~~
11 ~~of coastal vegetated wetlands enhancement projects, including privately funded~~
12 ~~marsh management projects or plans, and addressing those activities requiring a~~
13 ~~coastal use permit which significantly affect such projects, all consistent with the~~
14 ~~legislative intent as expressed in R.S. 49:213.1.~~ (1) Represent the state's position
15 in policy implementation relative to the protection, conservation, and restoration of
16 the coastal area of the state through oversight of coastal restoration and hurricane
17 protection projects and programs and by addressing activities which require a coastal
18 use permit and which could significantly affect protection, conservation, and
19 restoration projects and programs, all consistent with the legislative intent as
20 expressed in R.S. 49:213.1.

21 (2) Develop, coordinate, make reports on, and provide oversight for a
22 comprehensive coastal protection master plan and annual coastal protection plans,
23 working in conjunction with state agencies, political subdivisions, and federal
24 agencies. The master plan shall include a comprehensive strategy addressing the
25 protection, conservation, and restoration of the coastal area through the construction
26 and management of hurricane protection projects and coastal restoration projects, all
27 consistent with the legislative intent as expressed in R.S. 49:213.1. The annual
28 coastal protection plan shall be developed and submitted to the legislature for
29 approval as set forth in this R.S. 49:213.6. The annual coastal protection plan shall

1 include a description and status of all projects and programs pertaining to hurricane
2 protection and coastal restoration, including privately funded wetland enhancement
3 projects or plans, and addressing those activities requiring a coastal use permit which
4 significantly affect projects set forth in the plan, all consistent with the legislative
5 intent as expressed in R.S. 49:213.1.

6 ~~(2)~~ (3) ~~Develop and submit to the legislative committees on natural resources~~
7 ~~for their approval a plan developed pursuant to R.S. 49:213.6 for conserving and~~
8 ~~restoring the state's coastal vegetated wetlands, consistent with legislative intent and~~
9 ~~with the policy developed by the authority. Submit to the House Committee on~~
10 ~~Natural Resources and the Senate Committee on Natural Resources the annual~~
11 ~~coastal protection plan developed pursuant to R.S. 49:213.6. Upon approval of the~~
12 ~~annual plan by the legislative committees on natural resources and prior to~~
13 ~~implementation of the annual plan, in whole or in part, the annual plan shall be~~
14 ~~approved by the legislature as provided in R.S. 49:213.6(D).~~

15 ~~(3)~~ (4) Approve all requests for programs and projects pertaining to
16 hurricane protection and coastal wetlands conservation and restoration insofar as
17 such requests are for funds to be appropriated from the ~~Wetlands Conservation and~~
18 ~~Restoration Fund; Coastal Protection and Restoration Fund;~~ provided that the office
19 of coastal restoration and management, ~~coastal restoration division,~~ of the
20 Department of Natural Resources shall receive ~~any~~ monies appropriated from the
21 fund for coastal wetlands conservation and restoration and shall implement any such
22 program or project and the office of public works and intermodal transportation of
23 the Department of Transportation and Development, in conjunction with political
24 subdivisions, shall receive monies appropriated from the fund for hurricane
25 protection and shall implement any such program or project.

26 ~~(4)~~ (5) Be authorized to delegate any of its powers, duties, and functions to
27 the executive assistant.

28 (6) Develop procedures in accordance with the Administrative Procedure Act
29 and take actions against any entity, including political subdivisions, to enforce

1 compliance with the comprehensive master coastal protection plan. Such procedures
2 and actions may include but are not limited to determinations of noncompliance;
3 appeal from such determinations; the taking of administrative action, including the
4 withholding of funds; and civil action, including the seeking of injunctive relief, or
5 any other remedy necessary to ensure compliance with the plan.

6 B. The governor, through the executive assistant, shall:

7 (1) Coordinate all state departmental budget requests for programs and
8 projects pertaining to coastal protection, including hurricane protection and coastal
9 wetlands conservation and restoration as well as all requests for funds to be
10 appropriated from the ~~Wetlands Conservation and Restoration~~ Coastal Protection and
11 Restoration Fund.

12 (2) Coordinate and focus the functions of all state agencies as they relate to
13 coastal protection, including hurricane protection and wetlands conservation and
14 restoration.

15 (3) Review and reconcile state agency comments on federally sponsored
16 coastal protection projects, including hurricane protection, water resource
17 development projects, or permitted conservation and restoration activities to
18 establish and present the official state position which shall be consistent with the
19 policies of the authority.

20 (4) Represent the policy and consensus viewpoint of the state at the federal,
21 regional, state, and local levels with respect to coastal protection, including hurricane
22 protection and wetlands conservation and restoration.

23 (5) Appraise the adequacy of statutory and administrative mechanisms for
24 coordinating the state's policies and programs at both the intrastate and interstate
25 levels with respect to coastal protection, including hurricane protection and wetlands
26 conservation and restoration.

27 (6) Appraise the adequacy of federal, regional, state, and local programs to
28 achieve the policies and meet the goals of the state with respect to coastal protection,
29 including hurricane protection and wetlands conservation and restoration.

1 (7) Oversee and coordinate federal and state-funded research related to
2 coastal protection, including coastal land loss and subsidence, and the effects of
3 storm surge.

4 (8) Coordinate and focus federal involvement in Louisiana with respect to
5 coastal protection, including hurricane protection and coastal wetlands conservation
6 and restoration.

7 (9) Provide the official state recommendations to the legislature and congress
8 with respect to policies, programs, and coordinating mechanisms relative to coastal
9 protection, including hurricane protection and wetlands conservation and restoration,
10 or wetlands loss and storm surge research.

11 (10) Monitor and seek available federal and private funds consistent with the
12 purposes of ~~the~~ this Part.

13 (11) Manage his personnel as provided by law.

14 (12) Manage his budget, office, and related functions as provided by law.

15 (13) Report annually to the ~~legislative committees on natural resources~~
16 legislature as to the progress of the projects and programs enumerated in the plan or
17 any component thereof. For each project or program, estimated construction and
18 maintenance costs, progress reports, and estimated completion timetables shall be
19 provided.

20 (14) Perform such powers, duties, and functions as may be delegated to him
21 by the authority.

22 C. The governor, through his executive assistant, may, in an effort to
23 advance the plan or purposes of this Part, within any department, agency, board, or
24 commission:

25 (1) Review and modify policies, procedures, or programs not established or
26 approved by the legislature or pursuant to the Administrative Procedure Act that may
27 affect the design, construction, operation, management, and monitoring and more
28 particularly to require expeditious permitting of coastal protection projects, including

1 hurricane protection projects, restoration projects, wetlands enhancement or marsh
2 management plans, or expenditures from the Fund.

3 (2) Review and request modifications of state departmental policies,
4 procedures, programs, rules, and regulations that are established by law or pursuant
5 to the Administrative Procedure Act that may affect the design, construction,
6 operation, management, and monitoring of coastal protection projects, including
7 hurricane protection projects, restoration projects, wetlands enhancement or marsh
8 management plans, or expenditures from the Fund. Such rule changes shall be
9 initiated by the appropriate department.

10 (3) Appoint advisory panels.

11 (4) Accept and use, in accordance with law, gifts, grants, bequests, and
12 endowments for purposes consistent with responsibilities and functions of the agency
13 and take such actions as are necessary to comply with any conditions required for
14 such acceptance.

15 (5) Utilize the services of other executive departments of state government
16 upon mutually agreeable terms and conditions.

17 ~~(7)~~ (6) Take such other actions not inconsistent with law as are necessary to
18 perform properly the functions of the authority.

19 ~~(8)~~ (7) Review and modify proposed coastal use permits prior to issuance to
20 the extent that such permits ~~seek to~~ would authorize activities which significantly
21 affect hurricane protection or wetlands conservation and restoration projects or
22 which significantly diminish the benefits of such projects ~~insofar as they are~~ intended
23 to protect, conserve, or enhance coastal ~~wetlands~~ areas and to require the issuance
24 of permits for public or private wetlands enhancement projects or plans.

25 D. Approval by the authority shall be required for any request by a state
26 agency or department for any funds to finance research, programs, or projects
27 involving coastal protection, including hurricane protection or the conservation and
28 restoration of coastal wetlands resources; however, this Subsection shall not affect
29 self-generated or dedicated funds.

1 §213.5. ~~Wetlands Conservation~~ Coastal Protection and Restoration Task Force

2 Authority; members

3 A. The ~~Wetlands Conservation~~ Coastal Protection and Restoration Task
4 Force ~~is hereby created within the Wetlands Conservation and Restoration Authority~~
5 shall consist of the following members:

6 ~~B. The task force shall be composed of the following members:~~

7 (1) Executive Assistant ~~of the governor~~ to the governor for coastal activities.

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

9 (3) Secretary of the Department of Wildlife and Fisheries or his designee.

10 (4) Secretary of the Department of Environmental Quality or his designee.

11 (5) Secretary of the Department of Transportation and Development or his
12 designee.

13 (6) ~~Assistant Chief of Staff for Health, Welfare, and Environment~~
14 ~~(governor's office)~~ Secretary of the Department of Economic Development or his
15 designee.

16 (7) Commissioner of Administration or his designee.

17 (8) ~~The director of the State Soil and Water Conservation Committee~~
18 Commissioner of Agriculture or his designee.

19 (9) Commissioner of Insurance or his designee.

20 (10) Two members appointed by the Louisiana Levee Board Association
21 from the members of levee boards having districts located in whole or in part within
22 the Louisiana coastal zone.

23 (11) A member selected by the executive board of directors of the Louisiana
24 Police Jury Association from the governing authority of a parish in the coastal zone.

25 (12) The chair of the Governor's Advisory Commission on Coastal
26 Protection, Restoration, and Conservation or his designee.

27 (13) The director of the state Office of Homeland Security and Emergency
28 Preparedness or his designee.

1 ~~C. B.~~ The executive assistant shall serve as chairman ~~of the task force~~ and
2 shall develop procedures for the operation of the ~~task force~~ authority.

3 §213.6. ~~Wetlands conservation and restoration~~ Coastal protection annual plan;
4 development; priorities

5 A.(1) The authority shall, in accordance with the procedures set forth herein,
6 develop ~~the~~ an annual coastal protection plan ~~which shall serve as the state's overall~~
7 ~~strategy~~ for protecting, conserving, and restoring ~~coastal wetlands through the~~
8 ~~construction and management of coastal wetlands enhancement projects~~ the coastal
9 area through the construction and management of hurricane protection and coastal
10 restoration projects and programs, including privately funded marsh management
11 projects or plans, and addressing those activities requiring a coastal use permit which
12 significantly affect such projects, all consistent with the legislative intent as
13 expressed in R.S. 49:213.1, and which plan shall be subject to the approval of the
14 legislature as provided in ~~R.S. 49:213.6(D).~~ Subsection D of this Section. The
15 annual plan shall include requests for funding of projects and programs related to
16 hurricane protection and coastal restoration.

17 (2) The authority shall annually develop ~~the~~ such plan in accordance with the
18 following procedure:

19 (a) The authority shall conduct not less than three public hearings in separate
20 locations in the western, central, and eastern areas of the coastal zone for the purpose
21 of receiving comments and recommendations from the public and elected officials.
22 All public hearings must be held at least sixty days prior to the submission of the
23 plan to the legislature.

24 (b) At least two weeks prior to each public hearing the authority shall contact
25 the parish governing authorities and the state legislators of the parishes in the coastal
26 zone for the purpose of soliciting their comments and recommendations and
27 notifying them of the public hearing to be held in their area.

1 (c) Ten days prior to the first such public hearing the authority shall publish
2 in the state register and the official state journal the schedule of public hearings
3 setting out the location, place, and time of all the hearings.

4 (d) At least seven days prior to each hearing the authority shall publish a
5 notice of the hearing in the official journal of each parish within the area of the
6 hearing. The notice of a hearing shall have been published in the official journal of
7 each parish in the coastal zone prior to the final scheduled public hearing. The
8 authority may provide for additional public hearings when necessary upon at least
9 three days notice published in the official journal of the parishes in the area of the
10 hearing and written notice to the parish governing authorities.

11 (e) The authority shall receive written comments and recommendations until
12 thirty days prior to the submission of the plan to the legislative committees.

13 B. The annual coastal protection plan shall address ~~coastal land loss~~
14 ~~problems~~ hurricane protection and coastal restoration efforts from both ~~short~~ short-
15 term and long-range perspectives and shall incorporate structural, management, and
16 institutional components of both efforts. The plan shall include but not be limited
17 to the following:

18 (1) A list of projects and programs required for the protection, conservation,
19 and restoration of ~~coastal wetlands~~ the coastal area and the action required of each
20 state agency to implement said project or program.

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

23 C.(1) Where feasible, the plan shall include scientific data and other reasons,
24 including but not limited to the social, geographic, economic, engineering, and
25 biological considerations as to why each project or program was selected for
26 inclusion. Specifically, this will include an explanation as to how each project or
27 program advances the plan objectives with respect to the ~~management, conservation,~~
28 ~~or enhancement of vegetated wetlands areas~~ protection, conservation, and restoration
29 of the coastal area.

1 (2) Prior to recommending any project for inclusion in the annual coastal
2 protection plan, the authority shall identify and declare in writing:

3 (a) The public use benefits intended to be derived from the project which
4 justify the project.

5 (b) The use benefits which private landowners are expected to derive from
6 the project.

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

9 (d) The entities or persons who will be responsible for the long-term
10 operation and maintenance of the project both in terms of manpower and cost.

11 (e) The entities or persons who will be responsible for monitoring the project
12 to ensure that it is functioning properly and realizing the intended public and private
13 benefits.

14 D.(1) The annual coastal protection plan shall be submitted to the ~~natural~~
15 ~~resources committees of the legislature~~ House Committee on Natural Resources and
16 the Senate Committee on Natural Resources on or before the first day of the regular
17 legislative session of each year. ~~beginning in 1991, however, the plan shall not be~~
18 ~~effective or implemented unless both houses in the legislature approve or fail to~~
19 ~~disapprove the plan in accordance with this Subsection.~~(2)(a) The ~~natural resources~~
20 committees shall ~~approve or disapprove of~~ take action on the plan on or before May
21 fifteenth of each calendar year.

22 ~~(b)~~ (2) If either committee disapproves the plan, it shall send the plan back
23 to the authority together with a brief summary of the reasons for disapproval and
24 may make recommendations concerning changes it deems necessary or appropriate
25 to remedy any deficiencies in the plan. ~~Disapproval by a committee shall constitute~~
26 ~~disapproval by its respective house of the legislature, unless that house subsequently~~
27 ~~approves the plan by resolution.~~ (c) ~~If the plan is approved, the committee shall~~
28 ~~submit the plan to the legislature for approval as provided for in Paragraphs (3), (4),~~
29 ~~and (5) of this Subsection. Should the natural resources committee in either house~~

1 fail to report the plan and proposed recommendations, if any, to its respective house,
2 then a majority of the elected members of the respective house may, by motion or
3 by simple resolution direct the committee to report the plan to the house, in which
4 case the committee so directed shall report the instrument as directed.

5 (3)(a) The legislature may approve or disapprove of the plan by resolution
6 adopted by a majority vote of the members of each house of the legislature. provided
7 that such resolution is adopted on or before June first of each calendar year.(b) Any
8 such resolution shall be subject to the same requirements and procedures for the
9 introduction of a bill and shall be read on three separate days prior to being
10 considered by the legislative body; however, it shall not be referred to a committee
11 and shall be taken up by the respective house in accordance with its rules.(c) If the
12 legislature disapproves of the plan, it shall include in the resolution a brief summary
13 of the reasons for disapproval and may make recommendations concerning any
14 changes it deems necessary or appropriate to remedy any deficiencies in the plan.

15 (4) If the legislature approves the plan, or if the legislature fails to
16 disapprove the plan by ~~June~~ July first, the authority shall implement the plan as
17 submitted. The projects and programs provided for in the plan shall be undertaken
18 in conformity with the order of priority as contained in the plan.

19 (5) At any time subsequent to the adoption ~~and/or~~ implementation of the plan
20 in accordance with the procedure set forth herein, the authority may amend or
21 supplement the plan to add or delete projects and programs. No project shall be
22 added or deleted unless and until the amendment to the plan is approved as provided
23 herein. Any amendment to the plan submitted to the legislature shall conform to the
24 requirements specified in ~~R.S. 49:213.6(B) and (C)~~ Subsections B and C of this
25 Section.

26 §213.7. Funding

27 A.(1) To provide a dedicated, recurring source of revenue for the
28 development and implementation of a program to conserve and restore Louisiana's
29 coastal vegetated wetlands, there ~~shall be~~ is hereby established in the state treasury

1 ~~on the effective date of this Subpart the Wetlands Conservation and Restoration~~
2 Coastal Protection and Restoration Fund.

3 (2) Of all mineral revenues received in each fiscal year by the state including
4 those received as a result of the production of or exploration for minerals, hereinafter
5 referred to as mineral revenues from severance taxes, royalty payments, bonus
6 payments, or rentals, and excluding such revenues received by the state as a result
7 of grants or donations when the terms or conditions thereof require otherwise, the
8 treasurer shall make the following allocations:

9 (a) To the Bond Security and Redemption Fund as provided in Article VII,
10 Section 9(B) of the Constitution of Louisiana.

11 (b) To the political subdivisions of the state as provided in Article VII,
12 Sections 4(D) and (E) of the Constitution of Louisiana.

13 (c) As provided by the requirements of Article VII, Sections 10-A and 10.1
14 of the Constitution of Louisiana.

15 B.(1) After making the allocations provided for in Subsection A of this
16 Section, the treasurer shall then deposit in and credit to the ~~Wetlands Conservation~~
17 ~~and Restoration~~ Coastal Protection and Restoration Fund any amount of mineral
18 revenues that may be necessary to insure that a total of five million dollars is
19 deposited into such fund for the fiscal year from this source; provided that the
20 balance of the fund which consists of mineral revenues from severance taxes, royalty
21 payments, bonus payments, or rentals shall not exceed the amount provided in
22 Subsection D of this Section.

23 (2) After making the allocations and deposits as provided for in ~~Subsections~~
24 Subsection A and B(1) Paragraph (B)(1) of this Section, the treasurer shall deposit
25 in and credit to the ~~Wetlands Conservation and Restoration Fund~~ fund as follows:

26 (a) Two percent of the mineral revenues received in excess of the allocations
27 provided for in ~~Subsections~~ Subsection A and B(1) Paragraph (B)(1) of this Section.
28 The treasurer shall reduce the deposit made pursuant to this Subparagraph by the
29 amount of deposits made pursuant to Subparagraphs (b) and (c) of this Paragraph.

1 (b) Ten million dollars of the mineral revenues in excess of six hundred
2 million dollars which remain after the allocations provided for in Subsection A are
3 made by the treasurer.

4 (c) Ten million dollars of the mineral revenues in excess of six hundred fifty
5 million dollars which remain after the allocations provided in Subsection A are made
6 by the treasurer.

7 C. The treasurer shall deposit in and credit to the fund the amount of mineral
8 revenues as provided for herein.

9 D. The money in the fund shall be invested as provided by law, and any
10 earnings realized on investment of money in the fund shall be deposited in and
11 credited to the fund. Money from other sources, such as donations, appropriations,
12 or dedications, may be deposited in and credited to the fund; however, the balance
13 of the fund which consists of mineral revenues from severance taxes, royalty
14 payments, bonus payments, or rentals shall not exceed five hundred million dollars.
15 Any unexpended money remaining in the fund at the end of the fiscal year shall be
16 retained in the fund.

17 E. The money in the ~~Wetlands Conservation~~ Coastal Protection and
18 Restoration Fund is subject to appropriations by the legislature ~~only to the coastal~~
19 ~~restoration division within the office of coastal restoration and management for the~~
20 purposes of coastal restoration, conservation, and hurricane protection. The money
21 in the fund may be used only for those projects and programs which are consistent
22 with the statement of intent, R.S. 49:213.1, and the annual plan as it pertains to ~~the~~
23 ~~conservation and restoration of coastal wetlands~~ coastal restoration, conservation,
24 and hurricane protection and the following purposes:

25 (1) Projects and structures engineered for the enhancement, creation, or
26 restoration of coastal ~~vegetated~~ wetlands.

27 (2) Match for federal or local project planning, design, construction, and
28 monitoring.

1 (3) Administration and project management, planning, design, construction,
2 and monitoring.

3 (4) Operation and maintenance of structural projects consistent with the
4 purpose of this fund.

5 (5) Vegetation planting, seeding, or other revegetation methods.

6 (6) Planning and implementation of modifications to federal, state, or local
7 flood control, navigation, irrigation, or enhancement projects.

8 F. As used in this Section, the term "balance of the fund" shall mean those
9 monies in the ~~Wetlands Conservation and Restoration Fund~~ fund which have not
10 been expended or obligated under the plan approved pursuant to R.S. 49:213.6, or
11 otherwise obligated in accordance with law.

12 §213.8. Private property and public rights

13 Recognizing that a substantial majority of the coastal wetlands in Louisiana
14 are privately owned, it is anticipated that a significant portion of the projects funded
15 through the ~~Wetlands Conservation~~ Coastal Protection and Restoration Fund either
16 will occur on or in some manner affect private property. No rights whatsoever shall
17 be created in the public, whether such rights be in the nature of ownership, servitude,
18 or use, with respect to any private lands or waters utilized, enhanced, created, or
19 otherwise affected by activities of any governmental agency, local, state, or federal,
20 or any person contracting with same for the performance of any activities, funded in
21 whole or in part, by expenditures from the ~~Wetlands Conservation~~ Coastal Protection
22 and Restoration Fund or expenditures of federal funds. In the event legal
23 proceedings are instituted by any person seeking recognition of a right of ownership,
24 servitude, or use in or over private property solely on the basis of the expenditure of
25 funds from the ~~Wetlands Conservation~~ Coastal Protection and Restoration Fund, the
26 state shall indemnify and hold harmless the owner of such property for any cost,
27 expense, or loss related to such proceeding, including court costs and attorney fees.

28 * * *

1 §214.3. Definitions

2 As used in this Subpart, the following terms shall have the meaning ascribed
3 to them below:

4 (1) "Plan" means the ~~coastal vegetated wetlands conservation and restoration~~
5 annual coastal protection plan provided for in R.S. 49:213.6.

6 * * *

7 SUBPART B-1. GOVERNOR'S ADVISORY COMMISSION ON COASTAL
8 PROTECTION, RESTORATION, AND CONSERVATION

9 §214.11. Statement of purpose

10 A. Louisiana and its citizens have suffered catastrophic losses and human,
11 economic, and social harm. For the benefit and protection of the state as a whole, its
12 citizens, and its localities, hurricane protection is vital to survival. Hurricane
13 protection and coastal restoration efforts must be integrated to achieve a long-term
14 solution of coastal protection. The state must act to develop, implement, and enforce
15 a comprehensive coastal protection plan. The state must act to ensure that the plan
16 integrates hurricane protection and coastal restoration efforts in order to achieve
17 long-term and comprehensive coastal protection.

18 ~~A. B.~~ An important aspect of the need for coastal protection is that Louisiana
19 is annually losing between twenty-five and thirty-five square miles of coastal
20 wetlands to the Gulf of Mexico. In 2005, the coastal area suffered a devastating loss
21 of nearly one hundred square miles resulting from Hurricanes Katrina and Rita. The
22 loss of the state's coastal wetlands threatens natural, cultural, and economic resources
23 which are of vital importance to our state and nation. The numerous benefits
24 provided by our coastal wetlands include the presence of an abundance of habitat for
25 waterfowl, fur-bearing species, and fisheries that support recreational and
26 commercial interests. In addition, our coastal wetlands act as the first line of defense
27 for coastal communities, including New Orleans, in the face of hurricanes and
28 tropical storm surges. They also provide protection for the pipelines through which
29 much of our nation's energy supply flows. And, our coastal wetlands are home to

1 unique and diverse cultures that have called the wetlands home for many
2 generations.

3 ~~B. The~~ C. The state of Louisiana recognizes the need to develop, implement,
4 and enforce a comprehensive coastal protection plan. As a component of the plan,
5 the ~~The~~ state of Louisiana recognizes the necessity of establishing a sustainable
6 coastal ecosystem. The task of developing a comprehensive coastal protection plan
7 and restoring and developing a sustainable coastline will require implementation of
8 an holistic, comprehensive engineering plan which encompasses the entirety of
9 southern Louisiana. It will require the cooperation and participation of numerous
10 state, federal, and local agencies. In addition, the task of plan development and
11 restoring and conserving this ecosystem will require the participation and support of
12 the numerous and diverse interests that live, work, and recreate in those wetlands and
13 others who depend upon our coast's continued health and existence. In order to
14 provide a venue for input from the broad range of persons and groups who must
15 participate in and assist the efforts to protect, preserve, restore, and enhance the coast
16 of Louisiana, it is hereby declared to be in the public interest that the Governor's
17 Advisory Commission on Coastal Protection, Restoration, and Conservation be
18 created in the office of the governor.

19 §214.12. Governor's Advisory Commission on Coastal Protection, Restoration, and
20 Conservation; composition; terms; officers

21 A.(1) The Governor's Advisory Commission on Coastal Protection,
22 Restoration, and Conservation is hereby created and shall be composed as follows:

23 (a) Two members to be appointed by the governor from the academic
24 community.

25 (b) Two members to be appointed by the governor from the business and
26 industrial community.

27 (c) Two members to be appointed by the governor from the nonprofit
28 corporation community.

1 (d) Two members to be appointed by the governor from the conservation
2 community.

3 (e) Two members to be appointed by the governor from the agricultural
4 community.

5 (f) Two members to be appointed by the governor from governing bodies of
6 political subdivisions of the state.

7 (g) Two members to be appointed by the governor from the energy
8 production and distribution sector.

9 (h) Two members to be appointed by the governor to represent the fishing
10 community, one of whom shall be from the commercial fishing industry and one of
11 whom shall be from the recreational fishing community.

12 (i) One member to be appointed by the governor from the oyster industry.

13 (j) Two members to be appointed by the governor to represent coastal
14 landowners.

15 (k) Two members to be appointed by the governor to represent ports and
16 related industries.

17 (l) Six members to be appointed at large by the governor.

18 (m) The president of the Senate or his designee.

19 (n) The speaker of the House of Representatives or his designee.

20 (o) The chairman of the House Committee on Natural Resources or his
21 designee.

22 (p) The chairman of the Senate Committee on Natural Resources or his
23 designee.

24 (q) Two members appointed by the Louisiana Levee Board Association from
25 the members of levee boards having districts located in whole or in part within the
26 Louisiana coastal zone. The members so appointed shall serve terms concurrent with
27 that of the governor.

1 (r) One member appointed by the governor representing the maritime
2 industry.

3 * * *

4 §214.13. Powers; duties; functions

5 The commission shall have the following powers, duties, and functions:

(1) To advise the governor and the executive assistant for coastal activities relative to the overall status and direction of the state's coastal protection and restoration program.

9 (2) To provide a forum for coordinating coastal protection and restoration
10 activities and the exchange of information on the status of various state, federal, and
11 local programs affecting coastal protection, preservation, and restoration.

(3) To foster cooperation on coastal protection, preservation, and restoration issues among federal, state, and local governmental agencies, conservation organizations, and the private sector.

(4) To develop advice with respect to the identification and resolution of conflicts among agencies and stakeholders related to protection, conservation, and restoration efforts and to assist in the identification of any other activity which might conflict with the protection, conservation, and restoration efforts.

(5) To review programs, conditions, trends, and scientific and engineering findings which affect coastal protection, restoration, and conservation in order to make recommendations for improvements to the state's coastal protection, restoration, and conservation efforts.

(6) To assist in the identification of potential sources of funding for coastal protection, restoration, and conservation programs and to develop advice with respect to developing recommendations for expenditures which are in the best interest of the state.

(7) To report by March first each year to the governor and the legislature relative to the progress, challenges, and recommendations concerning policy and possible legislation for the coastal protection, restoration, and conservation program.

1 Section 2. The Louisiana State Law Institute is hereby directed to make technical
2 changes to statutory laws as necessary to reflect the name changes provided in this Act.

3 Section 3. This Act shall become effective upon signature by the governor or, if not
4 signed by the governor, upon expiration of the time for bills to become law without signature
5 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
6 vetoed by the governor and subsequently approved by the legislature, this Act shall become
7 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.

Alario

HB No. 141

Abstract: Adds hurricane protection to the jurisdiction of the Wetlands Conservation and Restoration Authority. Changes the name and the membership of the authority. Makes other conforming name changes.

Present law creates the Wetlands Conservation and Restoration Authority within the office of the governor. Proposed law changes the name of the authority to the Coastal Protection and Restoration Authority.

Present law creates the Wetlands Conservation and Restoration Fund. Proposed law changes the name of the fund to the Coastal Protection and Restoration Fund.

Present law provides that the authority is composed of the executive assistant to the governor for coastal activities and specified additional members of a task force. Proposed law removes references to a task force and makes the following changes to the membership of the authority:

- (1) Present law provides that the secretaries of the following departments are members: Natural Resources, Wildlife and Fisheries, Environmental Quality, and Transportation and Development. Provides that the commissioner of administration is a member. Proposed law authorizes each of these ex officio members to designate someone to serve in his stead.
- (2) Present law provides that the assistant chief of staff for health, welfare, and environment in the governor's office and the director of the State Soil and Water Conservation Committee are members. Proposed law adds the secretary or commissioner of the following departments or their designees to the authority: Economic Development, Agriculture and Forestry, and Insurance.
- (3) Proposed law provides for the following additional members of the authority: two members appointed by the Louisiana Levee Board Association from the members of levee boards having districts located in whole or in part within the coastal zone; a member of the governing authority of a coastal zone parish selected by the Louisiana Police Jury Association; the chair of the Governor's Advisory Commission on Coastal Protection, Restoration, and Conservation or his designee; the director of the state Office of Homeland Security and Emergency Preparedness or his designee.

Present law provides that the governor, through the executive assistant for coastal activities, shall coordinate the powers, duties, functions, and responsibilities of any state agency relative to coastal wetlands conservation and restoration and shall administer the programs of the authority. Proposed law requires coordination of coastal protection and restoration efforts.

Present law authorizes the executive assistant to employ necessary staff. Proposed law further authorizes him to seek and utilize assistance of personnel in any state department or agency.

Proposed law requires that the authority:

- (1) Represent the state's position in policy implementation relative to protection, conservation, and restoration of the coastal area.
- (2) Develop procedures for action to enforce compliance with the comprehensive master plan; actions may include withholding funds, civil actions, and the removal of gubernatorial appointees.

Present law requires the governor through the executive assistant to do the following with respect to wetlands conservation and restoration:

- (1) Coordinate departmental budget requests for programs and projects pertaining to coastal wetlands conservation and restoration as well as all requests for funds to be appropriated from the Wetlands Conservation and Restoration Fund.
- (2) Coordinate and focus the functions of all state agencies.
- (3) Review and reconcile state agency comments on federally sponsored water resource development projects or permitted activities.
- (4) Represent the policy and consensus viewpoint of the state at the federal, regional, state, and local levels.
- (5) Appraise the adequacy of statutory and administrative mechanisms for coordinating the state's policies and programs at both the intrastate and interstate levels.
- (6) Appraise the adequacy of federal, regional, state, and local programs to achieve the policies and meet the goals of the state.
- (7) Oversee and coordinate federal and state-funded research.
- (8) Coordinate and focus federal involvement in Louisiana.
- (9) Provide the official state recommendations to the legislature and congress with respect to policies, programs, and coordinating mechanisms.
- (10) Monitor and seek available federal and private funds.
- (11) Manage his personnel as provided by law.
- (12) Manage his budget, office, and related functions.
- (13) Report annually to the legislative committees on natural resources as to the progress of the projects and programs enumerated in the plan. For each project or program, estimated construction and maintenance costs, progress reports, and estimated completion timetables shall be provided.

- (14) Perform such powers, duties, and functions as may be delegated to him by the authority.

Proposed law retains present law and adds issues of coastal protection, including hurricane protection, to the jurisdiction of the governor through his executive assistant in carrying out these activities.

Present law authorizes the governor, through his executive assistant, to examine and modify or request modifications of policies, procedures, or programs of state agencies that may affect restoration projects, wetlands enhancement or marsh management plans, and review and modify proposed coastal use permits that would authorize activities which affect wetlands conservation and restoration projects or which would significantly diminish the benefits of projects intended to conserve or enhance coastal wetlands. Proposed law retains present law and authorizes such actions with respect to hurricane protection projects.

Present law provides that the authority shall develop a comprehensive policy addressing the conservation and restoration of coastal wetlands resources through the construction and management of coastal vegetated wetlands enhancement projects, including privately funded marsh management projects or plans, and addressing those activities requiring a coastal use permit which significantly affect such projects. Requires that the authority develop an annual plan for carrying out the strategy.

Proposed law provides that the authority shall develop, coordinate, report, and provide oversight of a comprehensive coastal protection master plan which is to include a comprehensive strategy addressing the protection, conservation, and restoration of the coastal area through the construction and management of hurricane protection projects and coastal restoration projects.

Proposed law retains the requirement that the authority develop an annual plan and submit it to the legislature for approval. Requires that the annual plans include requests for funding for projects and programs. Retains present law relative to procedures for the development of annual plans and the contents thereof.

Present law creates the Governor's Advisory Commission on Coastal Restoration and Conservation. Proposed law changes the name of the commission to the Governor's Advisory Commission on Coastal Protection, Restoration, and Conservation and adds two members appointed by the La. Levee Board Association and one member appointed by the governor representing the maritime industry. Specifically adds coastal protection to the subject matter jurisdiction of the commission.

Directs the La. State Law Institute to make technical changes to other statutes to reflect name changes.

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

(Amends R.S. 49:213.1-213.8, 214.3(1), 214.11, 214.12(A)(1), and 214.13)