ENROLLED
SENATE BILL NO. 71 (Duplicate of House Bill No. 141)

BY SENATOR DUPRE AND REPRESENTATIVE ALARIO AND COAUTHORED BY SENATORS AMEDEE, BAJOIE, CAIN, CHAISON, CHEEK, CRAVINS, DUPLESSIS, FONTENOT, B. GAUTREAUX, N. GAUTREAUX, HEITMEIER, HINES, HOLLIS, JONES, LENTINI, MALONE, MARIONNEAUX, MICHOT, MOUNT, MURRAY, NEVERS, ROMERO, SHERMAN AND ULLO AND REPRESENTATIVES SALTER, DEWITT, DORSEY AND HAMMETT

AN ACT

To amend and reenact R.S. 49:213.1 through 213.8, 214.3(1), 214.11, 214.12(A)(1), and 214.13, and to enact R.S. 49:213.11 and 213.12, and to repeal Act No. 300 of the 2005 Regular Session of the Louisiana Legislature, relative to coastal protection, conservation, restoration and management; to authorize and provide for the development and implementation of a comprehensive coastal protection plan; to provide powers, duties, terms, procedures, definitions, conditions, and requirements; to provide relative to hurricane protection and coastal restoration; to provide relative to enforcement; to provide relative to certain authorities, commissions, and departments; to change the name of the Wetlands Conservation and Restoration Authority to the Coastal Protection and Restoration Authority and set forth its powers, duties, and members; to change the name of the Wetlands Conservation and Restoration Fund to the Coastal Protection and Restoration Fund and to provide relative to deposits and expenditures of the fund; to change the name of the Governor’s Advisory Commission on Coastal Restoration and Conservation to the Governor’s Advisory Commission on Coastal Protection, Restoration and Conservation and set forth its powers, duties, and members; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 49:213.1 through 213.8, 214.3(1), 214.11, 214.12(A)(1), and 214.13 are hereby amended and reenacted and R.S. 49:213.11 and 213.12 are hereby enacted 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 must be integrated to achieve a long-term solution of coastal protection. In addition to immediate needs for hurricane protection, 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 protection and loss 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 in a manner that recognizes that the proper functioning of each protective element is critical to the overall success of the
plan and that without such proper functioning the safety of the state and its citizens and the viability of the entire plan are threatened. Further, comprehensive coastal protection must further proceed in a manner that recognizes the powers and duties of political subdivisions, including levee districts, to fund and manage local activities that are consistent with the goals of a comprehensive coastal protection plan. The state must act immediately to conserve, restore, create, and enhance vegetated wetlands and barrier shorelines or reefs in coastal Louisiana while encouraging use of coastal resources and recognizing that it is in the public interest of the people of Louisiana to establish a responsible balance between development and conservation. Management of renewable coastal resources must proceed in a manner that is consistent with and complementary to the efforts to establish a proper balance between development and conservation.

D. It is the intention of the legislature that comprehensive coastal protection wetlands conservation and restoration be elevated in tandem to a position within state government of high visibility and action and that hurricane protection and conservation and restoration of the coastal area be of high priority within that structure. To provide aggressive state leadership, direction, and consonance in the development and implementation of policies, plans, and programs to achieve comprehensive coastal protection, including the encouragement of multiple uses of the coastal zone and to achieve a proper balance between development and conservation, restoration, creation, and nourishment of renewable coastal resources, the legislature places responsibility for the direction and development of the state's comprehensive master coastal protection coastal vegetated wetlands conservation and restoration plan in the Wetlands Conservation plan with the Coastal Protection and Restoration Authority within the office of the governor. Primary responsibility for carrying out the elements of the plan relative to coastal wetlands conservation and restoration is placed in the office of coastal restoration and management within the Department of Natural Resources. Primary
responsibility for carrying out the elements of the plan relative to hurricane protection is placed with the office of public works and intermodal transportation within the Department of Transportation and Development. In order to maximize the effectiveness of coastal protection efforts, the secretaries of the Department of Natural Resources and the Department of Transportation and Development and the governor’s executive assistant for coastal activities shall use an integrated team effort to jointly coordinate master plan development with federal agencies and political subdivisions, including levee districts.

§213.2. Definitions

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

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

(2) "Authority" means the Wetlands Conservation Coastal Protection and Restoration Authority.

(3) “Coastal area” means the Louisiana Coastal Zone and contiguous areas subject to storm or tidal surge.

(4) “Coastal protection” means plans, projects, policies, and programs intended to provide hurricane protection or coastal conservation or restoration.

(5) “Conservation and restoration” means the conservation, protection, enhancement, and restoration of coastal wetlands resources including but not limited to coastal vegetated wetlands and barrier shorelines or reefs through the construction and management of coastal wetlands enhancement projects, including privately funded marsh management projects or plans, and those activities requiring a coastal use permit which significantly affect such projects or which significantly diminish the benefits of such projects or plans insofar as they are intended to conserve or enhance coastal wetlands consistent with the legislative intent as expressed in R.S. 49:213.1.
"Executive assistant" means the special assistant to the governor for coordination of coastal activities.

"Fund" means the Coastal Protection Wetlands Conservation and Restoration Fund.

"Plan" means the state coastal vegetated wetlands conservation and restoration plan and amendments to the plan.

"Hurricane protection" means a system of barriers and associated elements to provide protection against tidal surges.

"Master plan" or "comprehensive master coastal protection plan" means the long-term comprehensive coastal protection plan combining hurricane protection and the protection, conservation, restoration, and enhancement of coastal wetlands and barrier shorelines or reefs, including amendments to the plan. It shall include but not be limited to state and political subdivision operations plans.

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

"Project" means a physical structure or structures designed and constructed according to the annual plan.

"Task Force" means the Wetlands Conservation and Restoration Task Force.

§213.3. Creation; personnel

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

B. The authority shall be composed of the executive assistant to the governor for coastal activities and the Task Force other members as provided by R.S. 49:213.5. The executive assistant shall be appointed by the governor, subject to Senate confirmation, to serve at his pleasure. He shall report directly to the
C. The governor, through the executive assistant, consistent with the legislative intent as expressed in R.S. 49:213.1, shall coordinate the powers, duties, functions, and responsibilities of any state agency relative to coastal wetlands conservation and protection and restoration and shall administer the programs of the authority. The executive assistant shall employ necessary staff to carry out the duties and functions of the authority as provided in this Part or as otherwise provided by law; and may seek and utilize the assistance of personnel in any state department or agency to carry out the duties and functions as provided in this Part or otherwise provided by law.

§213.4. Powers and duties

A. The authority shall:

(1) Represent the state’s position in policy implementation relative to the protection, conservation, and restoration of the coastal area of the state through oversight of coastal restoration and hurricane protection projects and programs and by addressing activities which require a coastal use permit which could significantly affect protection, conservation, and restoration projects and programs, all consistent with the legislative intent as expressed in R.S. 49:213.1.

(2) Develop, coordinate, make reports on, and provide oversight for a comprehensive coastal protection master plan and annual coastal protection plans, working in conjunction with state agencies, political subdivisions, including levee districts, and federal agencies. The master plan shall 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 and programs, all consistent with the legislative intent as expressed in R.S. 49:213.1. The annual coastal protection plan shall be developed as the annual implementation of the comprehensive master plan and shall be submitted to the legislature for approval as set forth in R.S. 49:213.6. The annual coastal protection plan shall include a description and status of all projects and programs pertaining to
hurricane protection and coastal restoration, including privately funded
wetland enhancement projects or plans, and addressing those activities
requiring a coastal use permit which significantly affect projects set forth in the
plan, all consistent with the legislative intent as expressed in R.S. 49:213.1.

(1) 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, all consistent with the
legislative intent as expressed in R.S. 49:213.1.

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

(3) Have the right and the authority to approve all requests for
programs and projects pertaining to hurricane protection and coastal
conservation and restoration insofar as such requests are for funds to be
appropriated from the Coastal Protection and Restoration Trust Fund; Approve
all requests for programs and projects pertaining to coastal wetlands conservation
and restoration insofar as such requests are for funds to be appropriated from the
Wetlands Conservation and Restoration provided that the office of coastal restoration
and management, coastal restoration division, of the Department of Natural
Resources shall receive any monies appropriated from the fund for coastal wetlands
conservation and restoration and shall implement any such program or project and
the office of public works and intermodal transportation of the Department of
Transportation and Development, in conjunction with political subdivisions,
shall receive monies appropriated from the fund for hurricane protection and
shall implement any such program or project.

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

(6) Develop procedures in accordance with the Administrative Procedure
Act and take actions against any entity, including political subdivisions, to
enforce compliance with the comprehensive master coastal protection plan.
Such procedures and actions may include but are not limited to determinations
of noncompliance; appeal from such determinations; the taking of
administrative action, including the withholding of funds; and civil action,
including the seeking of injunctive relief, or any other remedy necessary to
ensure compliance with the plan.

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

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

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

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

(4) Represent the policy and consensus viewpoint of the state at the federal,
regional, state, and local levels with respect to coastal protection, including
hurricane protection and wetlands conservation and restoration.
(5) Appraise the adequacy of statutory and administrative mechanisms for coordinating the state's policies and programs at both the intrastate and interstate levels with respect to coastal protection, including hurricane protection and wetlands conservation and restoration.

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

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

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

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

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

(11) Manage his personnel as provided by law.

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

(13) Report annually to the legislative committees on natural resources legislature as to the progress of the projects and programs enumerated in the plan or any component thereof. 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.

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

(1) Review and modify policies, procedures, or programs not established or
approved by the legislature or pursuant to the Administrative Procedure Act that may
affect the design, construction, operation, management, and monitoring and more
particularly to require expeditious permitting of coastal protection projects,
including hurricane protection projects, restoration projects, wetlands
enhancement or marsh management plans, or expenditures from the Fund.

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

(3) Appoint advisory panels.

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

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


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

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

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

§213.5. Wetlands Conservation Coastal Protection and Restoration Task Force

Authority: members

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

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

(1) Executive Assistant of the governor to the governor for coastal activities.
(2) Secretary of the Department of Natural Resources or his designee.
(3) Secretary of the Department of Wildlife and Fisheries or his designee.
(4) Secretary of the Department of Environmental Quality or his designee.
(5) Secretary of the Department of Transportation and Development or his designee.
(6) Assistant Chief of Staff for Health, Welfare, and Environment (governor’s office) Secretary of the Department of Economic Development or his designee.
(7) Commissioner of administration or his designee.
(8) The director of the State Soil and Water Conservation Committee Commissioner of agriculture and forestry or his designee.
(9) Commissioner of insurance or his designee.
(10) Three members selected from among and by the presidents of the twelve levee districts in the Louisiana coastal zone grouped in three regions as follows: Region 1 - Pontchartrain Levee District, Orleans Levee District and East Jefferson Levee District, Region 2 - Atchafalaya Levee District, Lafourche Basin Levee District, North Lafourche Conservation, Levee and Drainage

The member from each region shall serve as a member for a term of one year. The members serving under the provisions of this Paragraph may designate a person to serve as a proxy.

(11) Two members selected by the executive board of directors of the Police Jury Association of Louisiana from the governing authorities of parishes located in the coastal zone in which there are no levee districts. One member shall be from a parish west of the Atchafalaya River and one member shall be from a parish east of the Atchafalaya River. The two members shall not reside in the same parish. The members serving under the provisions of this Paragraph may designate a person to serve as a proxy.

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

(13) The director of the state office of homeland security and emergency preparedness or his designee.

B. Any member of the authority who represents a political subdivision shall recuse himself from deliberations and from voting on any matter concerning the taking of action against that political subdivision for lack of compliance with the plan.

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

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

A.(1) The authority shall, in accordance with the procedures set forth herein, develop a comprehensive master plan for coastal protection and the an annual coastal protection plan which shall serve as the state’s overall strategy for protecting, conserving, and restoring the coastal area through the construction
and management of hurricane protection and coastal restoration projects and
programs, coastal wetlands through the construction and management of coastal
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, all consistent with the legislative intent as
expressed in R.S. 49:213.1, and which plan shall be subject to the approval of the
legislature as provided in R.S. 49:213.6(D) **Paragraph (2) of this Subsection and
Subsection D of this Section.** The comprehensive master plan and the annual
plan shall include requests for funding of projects and programs related to
hurricane protection and coastal restoration.

(2) The authority shall **annually** develop the plan in accordance with the
following procedure:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

D.(1) After adoption by the authority, the comprehensive master plan shall be submitted to the House Committee on Natural Resources and the Senate Committee on Natural Resources for approval. In addition, the annual coastal protection plan shall be submitted to the Natural Resources Committees of the legislature House Committee on Natural Resources and the Senate Committee on Natural Resources on or before the first day of the regular legislative session of each year beginning in 1991; however, the plan shall not be effective or implemented unless both houses in the legislature approve or fail to disapprove the plan in accordance with this Subsection. (2)(a) The natural resources committees shall approve or disapprove of the take action on the annual plan on or before May fifteenth of each calendar year.

(2)(b) If either committee disapproves the plan, it shall send the plan back to the authority together with a brief summary of the reasons for disapproval and may make recommendations concerning changes it deems necessary or appropriate to remedy any deficiencies in the plan. Disapproval by a committee shall constitute disapproval by its respective house of the legislature, unless that house subsequently approves the plan by resolution.

(c) If the plan is approved, the committee shall submit the plan to the legislature for approval as provided for in Paragraphs (3), (4), and (5) of this Subsection. Should the natural resources committees in either house fail to report the plan and proposed recommendations, if any, to its respective house, then a majority of the elected members of the respective house may, by motion or by simple resolution direct the committee to report the plan to the house, in which case the committee so directed shall report the instrument as directed.

(3)(a) The legislature may approve or disapprove of the plan by resolution adopted by a majority vote of the members of each house of the legislature provided...
that such resolution is adopted on or before June first of each calendar year.

(b) Any such resolution shall be subject to the same requirements and procedures for the introduction of a bill and shall be read on three separate days prior to being considered by the legislative body; however, it shall not be referred to a committee and shall be taken up by the respective house in accordance with its rules.

(c) If the legislature disapproves the plan, it shall include in the resolution a brief summary of the reasons for disapproval and may make recommendations concerning any changes it deems necessary or appropriate to remedy any deficiencies in the plan.

(4) If the legislature approves the comprehensive master plan, or if the legislature fails to take action on the comprehensive master plan within sixty days after the plan is submitted, the authority shall implement the plan as submitted. If the legislature approves the plan, or if the legislature fails to disapprove the annual plan by June July first, the authority shall implement the plan as submitted. The projects and programs provided for in the plan shall be undertaken in conformity with the order of priority as contained in the plan.

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

§213.7. Funding

A.(1) To provide a dedicated, recurring source of revenue for the development and implementation of a program to conserve and restore Louisiana’s coastal vegetated wetlands protect and restore Louisiana’s coastal area, there shall be is hereby established in the state treasury on the effective date of this Subpart the Wetlands Conservation and Restoration Coastal Protection and Restoration Fund.

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

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

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

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

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

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

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

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

C. The treasurer shall deposit in and credit to the fund the amount of mineral revenues as provided for herein: (1) Subject to Article VII, Sections 9(B) and 10.1 of the state constitution, in each fiscal year, the federal revenues that are received by the state generated from Outer Continental Shelf oil and gas activity and eligible, as provided by federal law, to be used for the purposes provided in this Subsection shall be deposited and credited by the treasurer to the Coastal Protection and Restoration Fund.

(2) Such federal revenues shall be used only for the purposes of coastal wetlands conservation, coastal restoration, hurricane protection, and infrastructure directly impacted by coastal wetlands losses.

D. The money in the fund shall be invested as provided by law and any earnings realized on investment of money in the fund shall be deposited in and credited to the fund. Money from other sources, such as donations, appropriations, or dedications, may be deposited in and credited to the fund; however, the balance of the fund which, exclusive of federal revenues received as provided for in Subsection C of this Section, consists of mineral revenues from severance taxes, royalty payments, bonus payments, or rentals shall not exceed five hundred million dollars. Any unexpended money remaining in the fund at the end of the fiscal year shall be retained in the fund.

E. The money in the Wetlands Conservation and Restoration Fund Coastal Protection and Restoration Fund is subject to appropriations by the legislature only to the coastal restoration division within the office of coastal restoration and management for the purposes of coastal restoration, conservation, and hurricane protection. The money in the fund may be used only for those projects and programs which are consistent with the statement of intent, R.S. 49:213.1, and the annual plan as it pertains to coastal restoration, conservation, and hurricane protection the conservation and restoration of coastal wetlands and the following purposes:
(1) Projects and structures engineered for the enhancement, creation, or
restoration of coastal vegetation wetlands.

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

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

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

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

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

(7) For coastal wetlands conservation, coastal restoration, hurricane
protection, and infrastructure directly impacted by coastal wetlands losses.

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

§213.8. Private property and public rights

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

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§213.11. Legal representation of the Authority; attorney general

The attorney general or his designee, who shall be a full-time assistant attorney general, shall be the legal advisor to the authority, shall counsel and advise the authority, and shall represent the authority in all legal proceedings.

§213.12. Inspection Program

A. The authority shall establish and implement a comprehensive hurricane protection inspection program. Such program shall include the following:

(1) Reviewing of hurricane protection diagrams, designs and plans.

(2) Monitoring of defects and problems.

(3) Conducting of an inspection of every hurricane protection barrier and associated elements at least every five years, or after a hurricane impacts a hurricane protection barrier and associated elements. If a defect or problem is identified, then the authority shall measure and test elevations, soil conditions, and structural integrity of the hurricane protection barrier and associated elements.

B. The authority shall report a notice of defect in the hurricane protection within thirty days of the inspection results to the appropriate entity, or political subdivision. The notice shall contain a description of the defect. The notice of defect shall be mailed by certified mail, or return receipt requested. The appropriate entity, or political subdivision, shall have forty-five days from receipt of the notice of defect to provide the authority with a plan and timeline to remedy the defect.

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§214.3. Definitions

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

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

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

§214.11. Statement of purpose

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. 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.

A-B. An important aspect of the need for coastal protection is that Louisiana is annually losing between twenty-five and thirty-five square miles of coastal wetlands to the Gulf of Mexico. In 2005, the coastal area suffered a devastating loss of nearly one hundred square miles resulting from hurricanes Katrina and Rita. The loss of the state's coastal wetlands threatens natural, cultural, and economic resources which are of vital importance to our state and nation. The numerous benefits provided by our coastal wetlands include the presence of an abundance of habitat for waterfowl, fur-bearing species, and fisheries that support recreational and commercial interests. In addition, our coastal wetlands act as the first line of defense for coastal communities, including New Orleans, in the face of hurricanes and tropical storm surges. They also provide protection for the pipelines through which much of our nation's energy supply flows. And, our coastal wetlands are home to unique and diverse cultures that have called the wetlands home for many generations.
B.C. The state of Louisiana recognizes the need to develop, implement, and enforce a comprehensive coastal protection plan. As a component of the plan, the state of Louisiana recognizes the necessity of establishing a sustainable coastal ecosystem. The task of developing a comprehensive coastal protection plan and restoring and developing a sustainable coastline will require implementation of an holistic, comprehensive engineering plan which encompasses the entirety of southern Louisiana. It will require the cooperation and participation of numerous state, federal, and local agencies. In addition, the task of developing and restoring and conserving this ecosystem will require the participation and support of the numerous and diverse interests that live, work, and recreate in those wetlands and others who depend upon our coast's continued health and existence. In order to provide a venue for input from the broad range of persons and groups who must participate in and assist the efforts to protect, preserve, restore, and enhance the coast of Louisiana, it is hereby declared to be in the public interest that the Governor's Advisory Commission on Coastal Protection, Restoration and Conservation be created in the office of the governor.

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

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

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

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

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

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

(e) Two members to be appointed by the governor from the agricultural community.
(f) Two members to be appointed by the governor from governing bodies of political subdivisions of the state.

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

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

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

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

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

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

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

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

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

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

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

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

§214.13. Powers; duties; functions

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
(2) To provide a forum for coordinating coastal **protection and restoration** activities and the exchange of information on the status of various state, federal, and 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.

Section 2. Act No. 300 of the 2005 Regular Session of the Louisiana Legislature is hereby repealed in its entirety.

Section 3. The Louisiana Law Institute is hereby directed to make technical changes to statutory laws as necessary to reflect the name changes provided in this Act. However, in the event that neither Senate Bill No. 27 nor House Bill No. 139 of the 2005 First Extraordinary Session passes the legislature or the proposed amendment to the Louisiana Constitution contained in the provisions of said Senate Bill No. 27 or House Bill No. 139 fails to receive the favorable vote of the electors, the name of the Coastal Protection and
Restoration Authority provided for in this Act shall revert to the Wetlands Conservation and Restoration Authority; and the name of the Governor's Advisory Commission on Coastal Protection, Restoration, and Conservation provided for in this Act shall revert to the Governor's Advisory Commission on Coastal Restoration and Conservation; and the Coastal Protection and Restoration Fund provided for in this Act shall revert to the Wetlands Conservation and Restoration Fund; and the annual coastal protection plan provided for in this Act shall revert to the Wetlands Conservation and Restoration Plan, and the Law Institute is hereby directed to make the necessary technical changes to statutory law to reflect the appropriate names as provided herein.

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

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PRESIDENT OF THE SENATE

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SPEAKER OF THE HOUSE OF REPRESENTATIVES

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GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: ____________