Regular Session, 2011

HOUSE BILL NO. 423

BY REPRESENTATIVES HOWARD AND SMILEY

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

WATERWAYS/RIVERS: Provides relative to acquisition of property for wetlands mitigation associated with the Comite River Diversion Project

AN ACT

To amend and reenact R.S. 49:214.6.3(B)(5), relative to wetlands mitigation; to authorize the acquisition of property for wetlands mitigation associated with the Comite River Diversion Project, Amite River and Tributaries, Louisiana project under certain conditions; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 49:214.6.3(B)(5) is hereby amended and reenacted to read as follows:

§214.6.3. Functions and responsibilities; hurricane protection and flood control

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B. Office of Coastal Protection and Restoration duties and responsibilities regarding hurricane protection and flood control:

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(5)(a) ~~No funds of the state nor of any political subdivision or political corporation of the state shall be used nor provided to the United States or any of its agencies, by contract, agreement, a required contribution of a project cost-share or otherwise, for the expropriation of property~~ Property acquired by the state or any political subdivision or political corporation of the state or the United States or any of its agencies, by contract, agreement, required project cost-share, or otherwise, for the purpose of compensatory mitigation of wetlands or other natural habitat, as

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authorized or required by state or federal law, to offset, compensate, or replace actual or anticipated damages to or loss of wetlands or other natural habitat caused by the Comite River Diversion Project, Amite River and Tributaries, Louisiana, shall be subject to a conservation servitude under the provisions of R.S. 9:1271 et seq. ~~However, the provisions of this Paragraph shall not apply where such funds are to be used to obtain property voluntarily offered for compensatory mitigation purposes, including but not limited to mitigation banking.~~

(b) When land is acquired from any person for mitigation associated with the Comite River Diversion Project, Amite River and Tributaries, Louisiana, such acquisition shall be only the minimum real property interest in said property that is necessary to support or fulfill the mitigation requirements of the project or project agreements, or that which is necessary to comply with any applicable state or federal statutes, laws, rules, or regulations.

(c) Upon acquisition of the mitigation land in full ownership, a conservation easement shall be imposed on such land for the purpose of retaining or protecting fish and wildlife mitigation lands, ecosystems, restorations, and other environmental purposes. Further, the conservation servitude shall prohibit recreational activities on the areas acquired for mitigation purposes but shall not restrict such activities on the existing channels of the Comite River, the Amite River, or their tributaries; however, the conservation servitude shall grant to any property owner from whom only a portion of his property has been acquired for such purpose, authority to traverse such formerly owned property in order to gain access to the Comite River. Such servitude of passage shall be limited to property owners who transfer a portion of their property for mitigation purposes. Such servitude of passage shall not be heritable nor subject to transfer. The conservation servitude shall be subject to a permanent easement, servitude, right-of-way, or right-of-use as necessary to facilitate the principal purpose of acquisition of the property, including but not limited to the operation, maintenance, repair, replacement, restoration, and rehabilitation of the

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mitigation area by the state or any of its political subdivisions, or the federal government pursuant to state or federal law.

(d) The provisions of this Paragraph shall not apply in cases where property is acquired through a mitigation bank for purposes of compensatory mitigation.

DIGEST

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

Howard HB No. 423

Abstract: Provides relative to acquisition of property for wetlands mitigation associated with the Comite River Diversion Project.

Present law prohibits funds of the state nor of any political subdivision or political corporation of the state being used nor provided to the U.S. or any of its agencies, by contract, agreement, a required contribution of a project cost-share, or otherwise, for the expropriation of property for the purpose of wetlands mitigation in association with the Comite River Diversion Project.

Proposed law provides that if property is acquired for compensatory wetlands mitigation in association with the Comite River Diversion Project, such acquisition shall be only the minimum real property interest necessary to fulfill the wetlands mitigation requirement of the existing project agreement with the Corps of Engineers.

Further requires a conservation servitude to be imposed on any property so acquired with such servitude to retain or protect fish and wildlife mitigation lands, ecosystems, restorations, or other environmental purposes. Provides that the conservation servitude shall prohibit recreational activities on the area acquired but shall not restrict such activities on the existing channels of the Comite River. Provides that the conservation servitude grant passage to the Comite River for any property owner whose property has been acquired for these purposes. The servitude of passage shall not be heritable nor subject to transfer. It shall be subject to a permanent easement, servitude, right-of-way or right-of-use necessary for the state, a political subdivision of the state, or an agency of the federal government to operate, maintain, repair, or restore the mitigation area.

Proposed law further provides that these provisions are not applicable to property acquired through a mitigation bank.

(Amends R.S. 49:214.6.3(B)(5))

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