2015 Regular Session

HOUSE BILL NO. 352

1

BY REPRESENTATIVE LEGER

2	To amend and reenact R.S. 41:1702(C), (D)(introductory paragraph) and (1), (2)(a)(i),
3	(ii)(introductory paragraph), (dd), (b), (d), and (f), (G)(1) and (2), (H), and (I),
4	relative to land reclamation for coastal protection and restoration purposes; to
5	provide relative to approval of land reclamation by an "acquiring authority" for
6	integrated coastal protection purposes; to provide relative to the administrative
7	responsibility for reclamation of lands lost through erosion, compaction, subsidence,
8	and sea level rise; and to provide for related matters.
9	Be it enacted by the Legislature of Louisiana:
10	Section 1. R.S. 41:1702(C), (D)(introductory paragraph) and (1), (2)(a)(i),
11	(ii)(introductory paragraph), (dd), (b), (d), and (f), (G)(1) and (2), (H), and (I) are hereby
12	amended and reenacted to read as follows:
13	§1702. Reclamation of lands lost through erosion, compaction, subsidence, and sea
14	level rise; land acquisition for certain coastal projects; requirements
15	* * *
16	C. Application for the reclamation or recovery of land lost through erosion,
17	compaction, subsidence, or sea level rise shall be made to the Department of Natural
18	Resources State Land Office, pursuant to Paragraph (D)(1) of this Section, on forms
19	to be provided and with such reasonable fee as may be prescribed by the office,
20	provided that all such applications shall be accompanied by a deed of ownership or
21	a certified map or plat of survey prepared by a professional land surveyor qualified
22	and currently licensed by the Louisiana Professional Engineering and Land
23	Surveying Board in accordance with R.S. 37:681 et seq., defining the boundary

AN ACT

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CODING: Words in struck through type are deletions from existing law; words $\underline{\text{underscored}}$ are additions.

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between lands belonging to the state and those of riparian owners and showing the exact extent of land claimed to be lost through erosion, compaction, subsidence, or sea level rise, and by such other evidence as may be required by the administrator showing ownership of the riparian lands in question by the applicant.

D. In all cases in which a definitive boundary may be arrived at by mutual consent or through the procedures applicable to contested boundaries, the administrator of the State Land Office, as provided in Paragraph (1) of this Subsection, or the secretary of the Department of Natural Resources executive director of the Coastal Protection and Restoration Authority, as provided in Paragraph (2) of this Subsection, may allow reclamation.

(1) The administrator of the State Land Office may issue a permit for the carrying out of the work necessary to implement the recovery of the land lost through erosion, compaction, subsidence, or sea level rise; however, no such permit shall be issued until plans and specifications for such work have been first submitted to the governing authority of the parish in which the proposed project is located, the Department of Transportation and Development, the Department of Wildlife and Fisheries, the Office of Coastal Protection and Restoration Authority, and the Department of Natural Resources for review and comment not less than sixty days prior to the issuance of such permit. No permit shall be required for projects to facilitate the development, design, engineering, implementation, operation, maintenance, or repair of coastal or barrier island restoration integrated coastal protection projects by the Office of Coastal Protection and Restoration Authority under R.S. 49:214.1 et seq. or other applicable law or projects for the Atchafalaya Basin Program. Within sixty days of completion of the reclamation project, the riparian owner shall submit to the State Land Office proof of the extent of the land area actually reclaimed in the manner provided in Subsection C of this Section for showing the submerged area, which map or plat shall be employed for fixing the definitive boundary between the reclaimed land area and the state water bottoms. Permits issued pursuant to these provisions shall be effective for a period not to exceed two years from the date of issuance and shall thereupon expire. All work

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remaining or any additional work may be completed only by application in the manner provided by this Section.

(2)(a)(i) To facilitate the development, design, and implementation of coastal conservation, restoration and protection plans and integrated coastal protection projects, including hurricane protection and flood control, pursuant to R.S. 49:214.1 et seq., the secretary of the Department of Natural Resources executive director of the Coastal Protection and Restoration Authority, after consultation with other state agencies, including the Department of Natural Resources and the State Land Office, may enter into agreements with owners of land contiguous to and abutting navigable water bottoms belonging to the state who have the right to reclaim or recover such land, including all oil and gas mineral rights, as provided in Subsection B of this Section, which agreements may establish in such owner the perpetual, transferrable ownership of all subsurface mineral rights to the then existing then-existing coast or shore line. Such agreements may also provide for a limited or perpetual alienation or transfer, in whole or in part, to such owner of subsurface mineral rights owned by the state relating to the emergent lands that emerge from waterbottoms that are subject to such owner's right of reclamation in exchange for the owner's compromise of his ownership and reclamation rights within such area and for such time as the secretary executive director deems appropriate and in further exchange for the owner's agreement to allow his existing property to be utilized in connection with the project to the extent deemed necessary by the secretary executive director.

(ii) When land is acquired from any person by an "acquiring authority" as defined in R.S. 31:149, for the principal purpose of facilitating the development, design, and implementation of coastal conservation, restoration, protection or management plans and integrated coastal protection projects, including hurricane protection and flood control, by the state, its political subdivisions, or by the state and federal government, the secretary of the Department of Natural Resources executive director of the Coastal Protection and Restoration Authority, after consultation with other state agencies, including the Department of Natural Resources and the State Land Office, may, in accordance with rules and regulations

adopted in accordance with the Administrative Procedure Act by the Department of Natural Resources Coastal Protection and Restoration Authority after consultation with other state agencies, including the Department of Natural Resources and the State Land Office, enter into an agreement under this Section with respect to the ownership of minerals and other matters to the same extent as authorized under Item (i) of this Paragraph. In addition, such agreement shall, at a minimum, specify:

* * *

(dd) Permanent easements, servitudes, rights-of-way, and rights of use as necessary to facilitate the principal purposes of the acquisition. These shall include, but are not limited to, those necessary for construction, operation, maintenance, repair, replacement and rehabilitation of any projects or cooperative agreements undertaken by the state or a political subdivision for coastal protection, conservation, restoration or management integrated coastal protection or by the state and federal governments pursuant to state or federal law, including but not limited to, the Coastal Wetlands Planning, Protection and Restoration Act, the Coastal Zone Management Act, the Water Resources Development Act, the Coastal Impact Assistance Program, and the North American Wetlands Conservation Act.

* * *

(b) In addition to the provisions of Subparagraph (a) of this Paragraph, in the case of a project involving a barrier island, the secretary executive director may also require the owner to transfer title to all or a portion of the island in exchange for any subsurface mineral rights acquired by said owner.

* * *

(d) When the secretary executive director proposes to execute an agreement by which an election pursuant to this Section is affected, the secretary executive director shall first submit the agreement for review and approval to the House Committee on Natural Resources and Environment and the Senate Committee on Natural Resources, after publishing the agreement as provided in the Administrative Procedure Act.

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(f) The Department of Natural Resources Coastal Protection and Restoration Authority shall provide an owner granted subsurface mineral rights pursuant to this Paragraph, recordable evidence of the rights transferred, which documents shall include an adequate legal description of the area subject to such owners' rights and a plat thereof. The owner shall be responsible for filing any such document in the conveyance records of the parish in which such property is located, which filing shall be public notice thereof.

* * *

G.(1) The administrator of the State Land Office shall have the authority to adopt regulations allowing reclamation of land in compliance with the provisions of Paragraph (D)(1) of this Section, and the secretary of the Department of Natural Resources executive director of the Coastal Protection and Restoration Authority shall have the authority to adopt regulations pursuant to Paragraph (D)(2) of this Section.

(2) Permits may be granted for bulkheads, generally parallel to the shore, that do not interfere with navigation on any inland navigable water body whether or not the area to be bulkheaded eroded before July 1, 1921, if, on the basis of evidence furnished the administrator of the State Land Office, such bulkheading will aid in reclaiming submerged land or preventing erosion, compaction, or subsidence. No permit shall be required for projects to facilitate the development, design engineering, implementation, operation, maintenance, or repair of coastal or barrier island restoration integrated coastal protection projects by the Department of Natural Resources Coastal Protection and Restoration Authority under R.S. 49:214.1 et seq. or other applicable law or projects for the Atchafalaya Basin Program. Such permits shall not vest any title in any private owner other than as to lands eroded after July 1, 1921.

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H. No reclamation by a riparian landowner shall be permitted if, in the determination of the Department of Natural Resources, the State Land Office, the Coastal Protection and Restoration Authority, or the attorney general, such activity

Would unreasonably obstruct or hinder the navigability of any waters of the state or impose undue or unreasonable restraints on the state rights which have vested in such

areas pursuant to Louisiana law, and to that extent the land area sought to be

reclaimed may be limited.

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I. Any person aggrieved either by a substantive agency decision made pursuant to the provisions of this Section, including interlocutory decisions relating to boundaries and determinations of areas reclaimed, or by a failure of the agency to render such decisions timely, may seek immediate judicial review of the agency action. Proceedings for review of decisions by the Department of Natural Resources, the Coastal Protection and Restoration Authority, or the State Land Office may be instituted by filing a petition in the Nineteenth Judicial District Court within thirty days after mailing of notice of the final decision by the administrator or secretary. Any party may request and be granted a trial de novo.

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SPEAKER OF THE HOUSE OF REPRESENTATIVES
PRESIDENT OF THE SENATE
GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: