

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

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

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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:

1 PART II. LOUISIANA COASTAL ~~WETLANDS~~ **PROTECTION,**
 2 CONSERVATION, RESTORATION, AND MANAGEMENT
 3 SUBPART A. ~~WETLANDS CONSERVATION~~
 4 **COASTAL PROTECTION** AND RESTORATION AUTHORITY

5 §213.1. Statement of intent

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

15 B. In the past, efforts by the state to address the myriad, interrelated
 16 problems of coastal **protection** ~~land loss~~ have been inadequate, fragmented,
 17 uncoordinated, and lacking in focus and strong direction. **The state must have a**
 18 **single agency with authority to articulate a clear statement of priorities and to**
 19 **focus development and implementation of efforts to achieve comprehensive**
 20 **coastal protection. Without this authority, the safety of citizens, the viability of**
 21 **the state and local economies, and the long-term recovery from disasters such**
 22 **as Hurricanes Katrina and Rita remain in jeopardy.** Meanwhile, ~~coastal~~
 23 ~~deterioration has escalated to a point such that the potential for vegetated wetlands~~
 24 ~~restoration and enhancement in particular is declining rapidly.~~

25 C. **The state must act to develop, implement, and enforce a**
 26 **comprehensive coastal protection plan. The state must act to ensure that the**
 27 **plan integrates hurricane protection and coastal restoration efforts in order to**
 28 **achieve long-term and comprehensive coastal protection. Comprehensive**
 29 **coastal protection must proceed in a manner that recognizes that the proper**
 30 **functioning of each protective element is critical to the overall success of the**

1 plan and that without such proper functioning the safety of the state and its
 2 citizens and the viability of the entire plan are threatened. Further,
 3 comprehensive coastal protection must further proceed in a manner that
 4 recognizes the powers and duties of political subdivisions, including levee
 5 districts, to fund and manage local activities that are consistent with the goals
 6 of a comprehensive coastal protection plan. The state must act immediately to
 7 conserve, restore, create, and enhance ~~vegetated~~ wetlands and barrier shorelines
 8 or reefs in coastal Louisiana while encouraging use of coastal resources and
 9 recognizing that it is in the public interest of the people of Louisiana to establish a
 10 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 comprehensive coastal
 15 protection ~~wetlands conservation and restoration be elevated in tandem~~ be elevated
 16 to a position within state government of high visibility and action and that hurricane
 17 protection and conservation and restoration of the coastal area ~~the conservation,~~
 18 ~~restoration, creation, and nourishment of coastal vegetated wetlands~~ 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 achieve comprehensive coastal protection, including the encouragement of
 22 ~~encourage~~ 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 comprehensive master coastal protection ~~coastal~~
 26 ~~vegetated wetlands conservation and restoration plan in the Wetlands Conservation~~
 27 plan 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
 29 to coastal wetlands conservation and restoration is placed in the office of coastal
 30 restoration and management within the Department of Natural Resources. Primary

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

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
 14 annually to the legislature as provided in this Part including amendments to the
 15 plan.

16 ~~(1)~~(2) "Authority" means the ~~Wetlands Conservation~~ Coastal Protection and
 17 Restoration Authority.

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

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

22 ~~(2)~~(5) "Conservation and restoration" means the conservation, protection,
 23 enhancement, and restoration of coastal wetlands resources including but not
 24 limited to coastal ~~vegetated~~ wetlands and barrier shorelines or reefs through the
 25 construction and management of coastal wetlands enhancement projects, including
 26 privately funded marsh management projects or plans, and those activities requiring
 27 a coastal use permit which significantly affect such projects or which significantly
 28 diminish the benefits of such projects or plans insofar as they are intended to
 29 conserve or enhance coastal wetlands consistent with the legislative intent as
 30 expressed in R.S. 49:213.1.

1 ~~(3)~~**(6)** "Executive assistant" means the special assistant to the governor for
2 coordination of coastal activities.

3 ~~(4)~~**(7)** "Fund" means the Coastal Protection Wetlands Conservation and
4 Restoration Fund.

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

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

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

15 **(10) "Program" means a management strategy with procedures,**
16 **projects, schedules, operations, and related activities to achieve a stated goal or**
17 **objective.**

18 ~~(6)~~**(11)** "Project" means a physical structure or structures designed and
19 constructed according to the annual plan.

20 ~~(7)~~ "Task Force" means the ~~Wetlands Conservation and Restoration Task~~
21 ~~Force.~~

22 §213.3. Creation; personnel

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

27 B. The authority shall be composed of the executive assistant to the governor
28 for coastal activities and ~~the Task Force~~ **other members as provided by R.S.**
29 **49:213.5.** The executive assistant shall be appointed by the governor, subject to
30 Senate confirmation, to serve at his pleasure. He shall report directly to the

1 governor.

2 C. The governor, through the executive assistant, consistent with the
 3 legislative intent as expressed in R.S. 49:213.1, shall coordinate the powers, duties,
 4 functions, and responsibilities of any state agency relative to coastal ~~wetlands~~
 5 ~~conservation and~~ **protection and** restoration and shall administer the programs of
 6 the authority. The executive assistant shall employ necessary staff to carry out the
 7 duties and functions of the authority as provided in this Part or as otherwise provided
 8 by law; **and may seek and utilize the assistance of personnel in any state**
 9 **department or agency to carry out the duties and functions as provided in this**
 10 **Part or otherwise provided by law.**

11 §213.4. Powers and duties

12 A. The authority shall:

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

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

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

5 ~~(1) Develop a comprehensive policy addressing the conservation and~~
 6 ~~restoration of coastal wetlands resources through the construction and management~~
 7 ~~of coastal vegetated wetlands enhancement projects, including privately funded~~
 8 ~~marsh management projects or plans, and addressing those activities requiring a~~
 9 ~~coastal use permit which significantly affect such projects, all consistent with the~~
 10 ~~legislative intent as expressed in R.S. 49:213.1.~~

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

20 ~~(3)~~**(4) Have the right and the authority to approve all requests for**
 21 **programs and projects pertaining to hurricane protection and coastal**
 22 **conservation and restoration insofar as such requests are for funds to be**
 23 **appropriated from the Coastal Protection and Restoration Trust Fund;** ~~Approve~~
 24 ~~all requests for programs and projects pertaining to coastal wetlands conservation~~
 25 ~~and restoration insofar as such requests are for funds to be appropriated from the~~
 26 ~~Wetlands Conservation and Restoration provided that the office of coastal restoration~~
 27 ~~and management, coastal restoration division, of the Department of Natural~~
 28 ~~Resources shall receive any monies appropriated from the fund for coastal wetlands~~
 29 **conservation and restoration** ~~and shall implement any such program or project and~~
 30 **the office of public works and intermodal transportation of the Department of**

1 **Transportation and Development, in conjunction with political subdivisions,**
 2 **shall receive monies appropriated from the fund for hurricane protection and**
 3 **shall implement any such program or project.**

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

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

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

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

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

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

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

1 (5) Appraise the adequacy of statutory and administrative mechanisms for
2 coordinating the state's policies and programs at both the intrastate and interstate
3 levels with respect to **coastal protection, including hurricane protection and**
4 wetlands conservation and restoration.

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

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

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

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

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

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

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

23 (13) Report annually to the ~~legislative committees on natural resources~~
24 **legislature** as to the progress of the projects and programs enumerated in the plan
25 **or any component thereof.** For each project or program, estimated construction and
26 maintenance costs, progress reports, and estimated completion timetables shall be
27 provided.

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

30 C. The governor, through his executive assistant, may, in an effort to

1 advance the plan or purposes of this Part, within any department, agency, board, or
2 commission:

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

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

16 (3) Appoint advisory panels.

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

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

23 ~~(6) Repealed by Acts 1990, No. 661, §2; Acts 1990, No. 936, §2.~~

24 ~~(7)~~**(6)** Take such other actions not inconsistent with law as are necessary to
25 perform properly the functions of the authority.

26 ~~(8)~~**(7)** Review and modify proposed coastal use permits prior to issuance to
27 the extent that such permits ~~seek to~~ **would** authorize activities which significantly
28 affect **hurricane protection or** wetlands conservation and restoration projects or
29 which significantly diminish the benefits of ~~such projects insofar as they are~~ intended
30 to **protect,** conserve or enhance coastal ~~wetlands~~ **areas** and to require the issuance

1 of permits for public or private wetlands enhancement projects or plans.

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

7 §213.5. ~~Wetlands Conservation~~ Coastal Protection and Restoration Task Force

8 Authority; members

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

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

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

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

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

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

18 (5) Secretary of the Department of Transportation and Development or his
 19 designee.

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

22 (7) Commissioner of administration or his designee.

23 (8) ~~The director of the State Soil and Water Conservation Committee~~
 24 Commissioner of agriculture and forestry or his designee.

25 (9) Commissioner of insurance or his designee.

26 (10) Three members selected from among and by the presidents of the
 27 twelve levee districts in the Louisiana coastal zone grouped in three regions as
 28 follows: Region 1 - Pontchartrain Levee District, Orleans Levee District and
 29 East Jefferson Levee District. Region 2 - Atchafalaya Levee District, Lafourche
 30 Basin Levee District, North Lafourche Conservation, Levee and Drainage

1 District, Terrebonne Levee and Conservation District, and South Lafourche
 2 Levee District. Region 3 - Lake Borgne Basin Levee District, West Jefferson
 3 Levee District, Grand Isle Independent Levee District, and the Plaquemine
 4 Parish Government.

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

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

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

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

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

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

25 §213.6. Wetlands conservation and restoration Coastal protection annual plans;
 26 development; priorities

27 A.(1) The authority shall, in accordance with the procedures set forth herein,
 28 develop a comprehensive master plan for coastal protection and the an annual
 29 coastal protection plan which shall serve as the state's overall strategy for
 30 protecting, conserving, and restoring the coastal area through the construction

1 and management of hurricane protection and coastal restoration projects and
2 programs, coastal wetlands through the construction and management of coastal
3 wetlands enhancement projects, including privately funded marsh management
4 projects or plans, and addressing those activities requiring a coastal use permit which
5 significantly affect such projects, all consistent with the legislative intent as
6 expressed in R.S. 49:213.1, and which plan shall be subject to the approval of the
7 legislature as provided in ~~R.S. 49:213.6(D)~~ Paragraph (2) of this Subsection and
8 Subsection D of this Section. The comprehensive master plan and the annual
9 plan shall include requests for funding of projects and programs related to
10 hurricane protection and coastal restoration.

11 (2) The authority shall ~~annually~~ develop the plans in accordance with the
12 following procedure:

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

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

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

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

1 hearing and written notice to the parish governing authorities.

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

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

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

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

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

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

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

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

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

30 (d) The entities or persons who will be responsible for the long-term

1 operation and maintenance of the project both in terms of manpower and cost.

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

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

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

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

29 (3)~~(a)~~ The legislature may approve or disapprove of ~~the~~ **a** plan by resolution
30 adopted by a majority vote of the members of each house of the legislature **provided**

1 ~~that such resolution is adopted on or before June first of each calendar year.~~

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

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

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

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

24 §213.7. Funding

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

30 (2) Of all mineral revenues received in each fiscal year by the state including

1 those received as a result of the production of or exploration for minerals, hereinafter
2 referred to as mineral revenues from severance taxes, royalty payments, bonus
3 payments, or rentals, and excluding **federal revenues received as provided in**
4 **Subsection C of this Section and** such revenues received by the state as a result of
5 grants or donations when the terms or conditions thereof require otherwise, the
6 treasurer shall make the following allocations:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

18 §213.8. Private property and public rights

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

1 funds from the ~~Wetlands Conservation~~ **Coastal Protection** and Restoration Fund,
2 the state shall indemnify and hold harmless the owner of such property for any cost,
3 expense, or loss related to such proceeding, including court costs and attorney fees.

4 * * *

5 **§213.11. Legal representation of the Authority; attorney general**

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

9 **§213.12. Inspection Program**

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

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

14 **(2) Monitoring of defects and problems.**

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

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

28 * * *

29 §214.3. Definitions

30 As used in this Subpart, the following terms shall have the meaning ascribed

1 to them below:

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

4 * * *

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

7 §214.11. Statement of purpose

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

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

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

17 §214.12. Governor's Advisory Commission on Coastal **Protection,** Restoration and
 18 Conservation; composition; terms; officers

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

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

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

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

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

29 (e) Two members to be appointed by the governor from the agricultural
 30 community.

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

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

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

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

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

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

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

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

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

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

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

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

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

26 * * *

27 §214.13. Powers; duties; functions

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

29 (1) To advise the governor and the executive assistant for coastal activities
30 relative to the overall status and direction of the state's coastal **protection and**

1 restoration program.

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

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

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

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

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

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

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

25 Section 3. The Louisiana Law Institute is hereby directed to make technical changes
26 to statutory laws as necessary to reflect the name changes provided in this Act. However, in
27 the event that neither Senate Bill No. 27 nor House Bill No. 139 of the 2005 First
28 Extraordinary Session passes the legislature or the proposed amendment to the Louisiana
29 Constitution contained in the provisions of said Senate Bill No. 27 or House Bill No. 139
30 fails to receive the favorable vote of the electors, the name of the Coastal Protection and

1 Restoration Authority provided for in this Act shall revert to the Wetlands Conservation and
 2 Restoration Authority; and the name of the Governor's Advisory Commission on Coastal
 3 Protection, Restoration, and Conservation provided for in this Act shall revert to the
 4 Governor's Advisory Commission on Coastal Restoration and Conservation; and the Coastal
 5 Protection and Restoration Fund provided for in this Act shall revert to the Wetlands
 6 Conservation and Restoration Fund; and the annual coastal protection plan provided for in
 7 this Act shall revert to the Wetlands Conservation and Restoration Plan, and the Law
 8 Institute is hereby directed to make the necessary technical changes to statutory law to
 9 reflect the appropriate names as provided herein.

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

PRESIDENT OF THE SENATE

SPEAKER OF THE HOUSE OF REPRESENTATIVES

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____