Appendix A

Regular Session, 2009 **ENROLLED**

SENATE CONCURRENT RESOLUTION NO. 60

BY SENATOR DUPRE AND REPRESENTATIVE DOVE

A CONCURRENT RESOLUTION

To urge and request the Coastal Protection and Restoration Authority to conduct a science-based study of the adequacy of the current inland boundary of the coastal zone of Louisiana to meet the state's current and future needs to manage, protect and restore its coastal resources.

WHEREAS, the state of Louisiana has had a federally approved Coastal Zone Management Program since October 1980, which has been instrumental in improving stewardship and protecting the state's coastal wetlands and resources in addition to increasing public awareness of the importance of coastal wetlands to the economy of the state and to the well-being of coastal residents; and

WHEREAS, the coastal zone of Louisiana supports numerous natural and economic resources critical to the national economy, including energy and maritime infrastructure and resources, and commercial and recreational fisheries; and

WHEREAS, the coastal zone is home to a high percentage of the state's population and generates over fifty percent of the state's annual revenues; and

WHEREAS, the inland boundary of the coastal zone of Louisiana is defined in R.S. 49:213.24; and

WHEREAS, since the establishment of the inland boundary of the coastal zone nearly thirty years ago, there have been significant events and changes, including degradation and deterioration of the state's coast, devastating impacts from numerous hurricanes, the adoption of Louisiana's Comprehensive Master Plan for a Sustainable Coast, increasing awareness, and availability of data concerning climatic changes and sea-level rise, improved understanding of storm patterns, establishment of other coastal programs and boundaries, such as the Louisiana coastal area and the conservation boundary, and an unprecedented level of funding being applied to integrated coastal protection and restoration projects; and

WHEREAS, it is appropriate for the Legislature of Louisiana to reevaluate the adequacy of the state's inland boundary of the coastal zone and consider a possible revision of that boundary to better serve the current and future needs of our state; and

WHEREAS, coastal zone management is necessary and important to protect the coastal wetlands and resources within the coastal zone, and the cost of protecting such coastal wetlands and resources through coastal zone management is significantly less than the cost to conserve, restore or enhance such coastal wetlands and resources once they are devastated or lost.

THEREFORE, BE IT RESOLVED that the Legislature of Louisiana does hereby urge and request the Coastal Protection and Restoration Authority to conduct a science-based study of the adequacy of the inland boundary of the coastal zone of Louisiana.

BE IT FURTHER RESOLVED that the study should provide information and recommendations as to the current inland boundary's adequacy to meet the coastal zone management needs of the state and its residents through upcoming decades.

BE IT FURTHER RESOLVED that the study should:

(1) Be science-based and rely on the latest available data and technology.

(2) Consider the existing legal framework at the state and national level and the presence of other legally established lines of demarcation for other programs in Louisiana related to coastal issues.

(3) Consider physical, biological, and chemical and other scientific information such as salinity, tidal influence, storm surge, presence and type of wetlands, elevation of land, habitat value to fish and wildlife resources, subsidence and sea level rise, potential for flooding, and any other relevant data.

(4) Take into account the value and importance of economic activity, including energy infrastructure, maritime transport, commercial and recreational fishing and hunting, agricultural and forestry interests, eco-tourism, and any other economic development activities important to the state.

(5) Acknowledge and consider the value of archeological and cultural resources to coastal Louisiana.

(6) Include recommendations to the Legislature, including maps, of any

suggested changes to laws, rules, and policies concerning the inland boundary of the coastal zone of Louisiana.

BE IT FURTHER RESOLVED that the Coastal Protection and Restoration Authority shall submit the study to the Legislature of Louisiana on or before March 1, 2010.

BE IT FURTHER RESOLVED that a copy of this Resolution be transmitted to the director of the Governor's Office of Coastal Activities.

_____

PRESIDENT OF THE SENATE

_____

SPEAKER OF THE HOUSE OF REPRESENTATIVES

Appendix B

COASTAL PROTECTION AND RESTORATION AUTHORITY
STATE OF LOUISIANA
JUNE 29, 2009

RESOLUTION NO. ___

A Resolution Authorizing a Comprehensive Study and Evaluation of the Louisiana Coastal Zone Boundary

WHEREAS, the Legislature by Senate Concurrent Resolution 60 of the 2009 Regular session directed that the Coastal Protection and Restoration Authority undertake a comprehensive evaluation of the Louisiana Coastal Zone boundary.

WHEREAS, the state of Louisiana has had a federally approved Coastal Zone Management Program since October 1980, which has been instrumental in improving stewardship and protecting the state's coastal wetlands and resources in addition to increasing public awareness of the importance of coastal wetlands to the economy of the state and to the well-being of coastal residents; and

WHEREAS, Louisiana's Coastal Zone Management Program is administered by the Department of Natural Resources, Office of Coastal Management; and

WHEREAS, the coastal zone of Louisiana supports numerous natural and economic resources critical to the national economy, including energy and maritime infrastructure and resources, and commercial and recreational fisheries; and

WHEREAS, the coastal zone is home to a high percentage of the state's population and generates over fifty percent of the state's annual revenues; and

COASTAL PROTECTION AND RESTORATION AUTHORITY
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Resolution No. ___

WHEREAS, the inland boundary of the coastal zone of Louisiana is defined in R.S. 49:213.24; and

WHEREAS, since the establishment of the inland boundary of the coastal zone nearly thirty years ago, there have been significant events and changes, including degradation and deterioration of the state's coast, devastating impacts from numerous hurricanes, the adoption of Louisiana's Comprehensive Master Plan for a Sustainable Coast, increasing awareness, and availability of data concerning climatic changes and sea-level rise, improved understanding of storm patterns, establishment of other coastal programs and boundaries, such as the Louisiana coastal area and the conservation boundary, and an unprecedented level of funding being applied to integrated coastal protection and restoration projects; and

WHEREAS, the Legislature of Louisiana has directed the Coastal Protection and Restoration Authority to reevaluate the adequacy of the state's inland boundary of the coastal zone and to present it with recommendations as to the current inland boundary's adequacy to meet the coastal zone management needs of the state and its residents through upcoming decades and whether a possible revision of that boundary to better serve the current and future needs of our state; and

WHEREAS, coastal zone management is necessary and important to protect the coastal wetlands and resources within the coastal zone, and the cost of protecting such coastal wetlands and resources through coastal zone management is significantly less than the cost to conserve, restore or enhance such coastal wetlands and resources once they are devastated or lost; and

COASTAL PROTECTION AND RESTORATION AUTHORITY
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WHEREAS, there are several Coastal Protection and Restoration Authority member agencies that can make valuable contributions to the effort of evaluating Louisiana's Coastal zone Boundary, and

WHEREAS, there are a significant number of state, local and federal agencies that are not members of the Coastal Protection and Restoration Authority that can provide valuable information, and other assistance toward the effort of evaluating Louisiana's Coastal Zone Boundary, and

WHEREAS, The expertise gained by the administration of the Coastal Zone Management Program has given the employees of the Office of Coastal Management unique knowledge of the intricacies of Louisiana's existing coastal zone boundary, and the challenges that surround any effort to evaluate and or make recommendations to re-draw this line, making the Department of Natural Resources, Office of Coastal Management the logical agency to lead the effort to conduct a study of the Louisiana Coastal Zone Boundary;

THEREFORE, BE IT RESOLVED the Coastal Protection and Restoration Authority does hereby direct the Department of Natural Resources, through its Office of Coastal Management to take the lead on behalf to the Coastal Protection and Restoration Authority, and its member agencies in conducting a science-based study of the adequacy of the inland boundary of the coastal zone of Louisiana.

BE IT FURTHER RESOLVED, that The Department of Wildlife & Fisheries; The Department. of Environmental Quality; The Department of Agriculture and Forestry; The Department of Economic Development; The Department of Transportation and

Development; the Commissioner of Administration; The Governor's Office of Homeland Security; The Governor's Advisory Commission on Coastal Protection; Restoration and Conservation; The Commissioner of Insurance; The Governor's Office of Coastal Activities; The Louisiana Oil Spill Coordinator's Office; Louisiana State University's College of Agriculture, and Sea Grant Program; The University of New Orleans; The University of Louisiana, Lafayette; The U.S. Department of Agriculture, Natural Resource Conservation Service (NRCS); The U. S. Army Corps of Engineers (COE); The U.S. Department of Commerce, National Oceanic & Atmospheric Administration (NOAA);The U. S. Environmental Protection Agency (EPA); The U. S. Department of the Interior, Fish & Wildlife Service (USFWS), The U. S. Geological Survey (USGS); The Gulf of Mexico Program; and parish governing authorities are each urged and requested to provide comments, cooperation, assistance, and resources to the Office of Coastal Management in aid to their efforts in completion of this important task.

BE IT FURTHER RESOLVED that the study should provide information and recommendations as to the current inland boundary's adequacy to meet the coastal zone management needs of the state and its residents through upcoming decades.

BE IT FURTHER RESOLVED that the study should:

(1) Be science-based and rely on the latest available data and technology.

(2) Consider the existing legal framework at the state and national level and the presence of other legally established lines of demarcation for other programs in Louisiana related to coastal issues.

(3) Consider physical, biological, and chemical and other scientific information such as salinity, tidal influence, storm surge, presence and type of wetlands, elevation of land, habitat value to fish and wildlife resources, subsidence and sea level rise, potential for flooding, and any other relevant data.

(4) Take into account the value and importance of economic activity, including energy infrastructure, maritime transport, commercial and recreational fishing and hunting, agricultural and forestry interests, eco-tourism, and any other economic development activities important to the state.

(5) Acknowledge and consider the value of archeological and cultural resources to coastal Louisiana.

(6) Include recommendations to the Legislature, including maps, of any suggested changes to laws, rules, and policies concerning the inland boundary of the coastal zone of Louisiana.

BE IT FURTHER RESOLVED that the Department of Natural Resources Office of Coastal Management shall submit its final draft of the study to the Coastal Protection and Restoration Authority on or before its February 2010 meeting.

COASTAL PROTECTION AND RESTORATION AUTHORITY
BOARD MEETING – JUNE 29, 2009
Resolution No. ___

This Resolution was declared adopted this 29th day of June, 2009

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I hereby certify that the above is a true and correct copy of a resolution duly adopted by the Coastal Protection and Restoration Authority at its meeting of June 29, 2009, Baton Rouge, Louisiana, at which a quorum was present.

_____
(signature)

_____
(printed name)

_____
(title)

This _____ day of _____, 2009 at _____, Louisiana.

_____
Garrett Graves, Chairman
Coastal Protection and Restoration Authority of Louisiana

Appendix C

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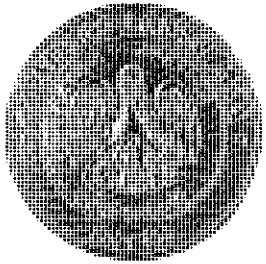
STATE OF LOUISIANA

ACTS OF THE LEGISLATURE

REGULAR SESSION 1971



Published by Authority of the State of Louisiana

Wade O. Martin, Jr.
Secretary of State

Baton Rouge, Louisiana
1971

JAN 7 - 1972

appropriated out of the General Fund of the state of Louisiana for the fiscal year 1971-1972 to pay the final judgment of the court in the case entitled "Charley Edwards vs. State of Louisiana, through the Department of Corrections", bearing No. 4251 on the docket of the Twentieth Judicial District Court in and for the parish of West Feliciana, state of Louisiana.

Approved by the Governor: June 11, 1971.

A true copy:

WADE O. MARTIN, JR.
Secretary of State.

ACT No. 34

House Bill No. 115. By: Messrs. Gibbs, Wall, Dennis, Fields, DeWitt, Womack, Smith, Vining, Patten, Floyd, Christian, Crais and LeBreton.

AN ACT

To appropriate the sum of Forty Thousand ($40,000.00) Dollars out of the General Fund of the state of Louisiana for the fiscal year 1971-1982 to the Louisiana State Board of Education to appoint an architect to make schematic design and development plans for a stadium at Northeast Louisiana University at Monroe.

Be it enacted by the Legislature of Louisiana:

Section 1. The sum of Forty Thousand ($40,000.00) Dollars is hereby appropriated out of the General Fund of the state of Louisiana for the fiscal year 1971-1972 to the Louisiana State Board of Education to be used to appoint an architect to make schematic design and development plans for a stadium at Northeast Louisiana University at Monroe.

Approved by the Governor: June 11, 1971.

A true copy:

WADE O. MARTIN, JR.
Secretary of State.

ACT No. 35

House Bill No. 118. By: Messrs. Beeson, Bel, Fulco and Hollins and Senators Nunez, Oubre and Johnston.

AN ACT

To amend Title 51 of the Louisiana Revised Statutes of 1950, to add thereto a new chapter to be designated as Chapter 12, comprising R.S. 51:1361 through R.S. 51:1365, both inclusive, to provide for the creation of the Louisiana Advisory Commission on Coastal and Marine Resources, to appropriate the sum of Fifty Thousand ($50,000.00) Dollars from the General Fund of the state for the fiscal year 1971-1972 to said Commission, and to provide otherwise with respect thereto.

Be it enacted by the Legislature of Louisiana:

Section 1. Chapter 12 of Title 51 of the Louisiana Revised Statutes of 1950, comprising R.S. 51:1361 through R.S. 51:-1365, both inclusive, is hereby enacted to read as follows:

CHAPTER 12. Louisiana Coast and Marine Resources Conservation and Development

§ 1361. Definitions

A. The term "marine science" shall mean scientific research engineering, and technological development related to the coastal zone, the marine environment and coastal and marine resources.

B. The term "coastal zone" shall mean the lands, waters, tide and submerged lands, bays, estuaries, marshes, coastal and intertidal areas, harbors, lagoons, inshore waters, and channels landward of the outer limit of the territorial sea of the United States or of the state of Louisiana, or of other waters subject to the jurisdiction of Louisiana where greater than the territorial sea of the United States, and extending inland to the landward extent of marine influences.

C. The term "landward extent of marine influences" means the area extending landward from the high water mark which in contemplation of human activities and natural ecology may be considered to come under the influence of the adjacent sea.

D. The term "marine environment" means the ocean and the seabed and subsoil of submarine areas.

E. The term "coastal and marine resources" shall include, without limitation, living resources, nonliving resources, recreational uses, shoreline development, wildlife and estuarine preservation, transportation and water resources which may be adversely affected by waste.

§1362. Objectives of coastal zone management plan

A Louisiana Coastal Zone Management Plan shall be developed so as to contribute to the following objectives:

(1) The orderly and responsible development and utilization of coastal and marine resources;

(2) The protection of the values of natural systems in the coastal zone, providing for accommodation of developmental uses in ways which minimize destruction of the values of natural systems;

(3) The advancement of education, research, and training in the marine sciences, and the expansion of human knowledge of the coastal zone, marine environment and coastal and marine resources;

(4) The development of the role of the state of Louisiana as a leader in the marine sciences and in the conservation and development of the state's coastal zone, marine environment and coastal and marine resources;

(5) The effective utilization of the sicentific and engineering resources of the state, with close cooperation among all interested agencies, public and private, in order to avoid unnecessary waste or duplication of effort, facilities, and equipment; and

(6) The cooperation by the state of Louisiana with other states, the federal government, nations or groups of nations, and national and international organizations in marine science activities when such cooperation is in the interest of the state of Louisiana.

The Louisiana Coastal Zone Management Plan shall be prepared and shall be widely distributed to all interested groups within the state by September 15, 1973. The plan shall contain as part of its recommendations the manner in which the plan shall be implemented by existing permanent agencies of the state in Louisiana.

§ 1363. Creation and membersip of advisory commission

A. There is hereby created the Louisiana Advisory Commission on Coastal and Marine Resources, hereafter referred to as the "Commission," to serve only until the preparation of the Louisiana Coastal Zone Management Plan.

B. The commission shall consist of nine members, appointed by the governor, concerned with the conservation and orderly development of the resources of the coastal zone, possessing demonstrated expertise in their respective fields, who shall serve in their individual capacities and not as representatives of their respective employers or organizations. Members may be selected from among each of the following groups: Marine academic scientists; state government officials administering resource use in the coastal zone; petroleum industry officials; officials of fish and shellfish industries; officials of transportation and industry; labor

union officials; and private conservation and recreation group officials. Two of the members shall be Marine academic scientists, one of whom shall be from Louisiana State University and the other from Nicholls State University. Another of the members shall be a person engaged in the fish and shellfish industry who shall also be a resident of one of the coastal parishes. No member of the commission shall be a member of the legislature. In appointing the members, the governor shall ensure diversity of background and interests in order to provide the commission with a wide range of views and breadth of expertise.

C. The members of the commission shall be appointed within ninety days after the enactment of this Act and shall serve at the pleasure of their respective appointing powers.

D. The members shall serve without compensation, but each member shall be reimbursed for all reasonable and necessary expenses actually incurred in the performance of duties.

E. The commission shall elect its chairman and vice-chairman from among its members. The vice-chairman shall act as chairman in the absence of the latter. The commission may select an executive committee from among its members to handle such ordinary and recurring matters the commission deems appropriate.

§1364. Powers of the commission

A. The commission shall meet at such times and in such places as it may deem necessary to fulfill its responsibilities.

B. The commission shall adopt its own rules of procedure, but in no event shall the commission exclude from attendance at any of its meetings representatives of public agencies involved in or affected by the conservation and development of the coastal zone, marine environment or coastal and marine resources, or any other member of the public.

C. The commission shall employ an executive director, clerical assistance, and such other supporting personnel as it deems necessary.

D. The commission is authorized to secure directly from any executive department, agency, or independent instrumentality of the state government any information it deems necessary to carry out its functions under this Act. Each department, agency, and independent instrumentality is authorized to cooperate with the commission and, to the extent permitted by law, to furnish such information to the commission, upon request made by the chairman.

E. The commission is authorized to execute such contracts and agreements with other state agencies, the federal government, and private consultants as the commission may deem necessary to achieve the objectives of this Act. In addition, the commission is authorized to do any and all other things necessary or convenient to enable it fully and adequately to perform its duties and to fulfill its responsibilities.

§ 1365. Responsibility and duties of the commission

A. For the purpose of assisting the governor in the development of the Louisiana Coastal Zone Management Plan, the commission shall study the interest and role of the state of Louisiana in the orderly, long-range conservation and development of the state's coastal zone, marine environment and coastal and marine resources, and the interest and role of the state in developing related research programs necessary to describe and predict ongoing natural phenomenon and human activities which relate to the coastal zone, marine environment and coastal and marine resources. The commission shall recommend which permanent agencies of state government can most effectively carry out the Louisiana Coastal Zone Management Plan, and shall recommend polices for adoption by administrative or legislative action considering the following specific elements:

(a) The effects of population growth and urbanization on the coastal zone;

(b) Land use in the coastal zone;

(c) The conservation and development of coastal and marine resources;

(d) Recreation;

(e) Waste management, water quality, and pollution control;

(f) Water and power development, including the use of nuclear energy;

(g) Transportation and trade in the coastal zone and marine environments;

(h) Engineering and technology in the coastal zone and marine environment;

(i) Research and education in the field of marine science;

(j) Weather, climate, oceanographic conditions, and the establishment of monitoring systems;

(k) All social, economic, legal, and other matters relative to the conservation and development of the coastal zone, marine environment and coastal and marine resources; and

(l) Any system of coastal zone management adopted by the federal government.

B. The commission shall undertake a comprehensive investigation and study of all aspects of the marine sciences, coastal zone, marine environment and coastal and marine resources, including but not limited to all of the following:

(a) A review of the known and estimated future needs for coastal and marine resources from the coastal zone;

(b) A survey of all significant existing and planned marine science activities in the state of Louisiana, including research, educational, developmental, and administrative policies, programs, and accomplishments of all departments and agencies of the state which are engaged in such activities;
and

(c) A determination of the surveys, applied research programs, and ocean engineering projects required to obtain the needed coastal and marine resources from the coastal zone.

C. The commission shall review state and federal plans, studies, and legislation in the field of conservation and development of coastal and marine resources, and shall thereafter recommend to the governor and the legislature the most appropriate form of state organization for participation in any sustem of coastal zone management adopted by the federal government.

D. The commission shall transmit to the governor and the legislature in March of each year of its existence a report which shall include a comprehensive description of the activities and accomplishments of all agencies of the state of Louisiana in the conservation and development of the coastal zone, marine environment and coastal and marine resources during the preceding fscal year, and an evaluation of such activities and accomplishments in terms of the continuing objectives set forth pursuant to this Act. Any such reports transmitted to the governor and the legislature pursuant to this section shall contain such recommendations for legislative and administrative action as the commission considers necessary or desirable to achieve the continuing objectives of this Act, and shall contain an appraisal of the funding requirements of each agency and department of the state of Louisiana for activities in the conservation and development of the coastal zone, marine environment and coastal and marine resources during the succeeding fiscal year. In addition, the commission may transmit to the governor and the legislature from time to time such other reports and rcommendations as it may deem advisable.

Section 2. There is hereby appropriated from the General Fund of the State of Louisiana the sum of Fifty Thousand ($50,000.00) Dollars for the 1971-72 fiscal year to the Louisiana Advisory Commission on Coastal and Marine Resources to be used by said commission for its operational expenses.

Section 3. If any provision or item of this Act or the application thereof is held invalid, such invalidity shall not affect other provisions, items or applications of this Act which can be given effect without the invalid provisions, items or applications, and to this end the provisions of this Act are hereby declared severable.

Section 4. All laws or parts of laws in conflict herewith are hereby repealed.

Approved by the Governor: June 11, 1971.

A true copy:

WADE O. MARTIN, JR.
Secretary of State.

ACT No. 36

House Bill No. 123. By: Messrs. E. H. Jones and Coreil (By Request).

AN ACT

To appropriate the sum of Twenty-Five Thousand and No/100 ($25,000.00) Dollars out of the General Fund of the state of Louisiana for the fiscal year 1971-1972, to be used to pay the compromise judgment in the suit entitled "Mr. Willie Joubert and Mrs. Beverly D. Joubert vs. State of Louisiana, Louisiana Department of Public Works, and State Parks Commission of Louisiana," Docket No. 24,382 of the Thirteenth Judicial District Court for the parish of Evangeline, state of Louisiana.

Be it enacted by the Legislature of Louisiana:

Section 1. The sum of Twenty-Five Thousand and No/100 ($25,000.00) Dollars is hereby appropriated out of the General Fund of the state of Louisiana for the fiscal year 1971-1972, to be used to pay the compromise judgment in the suit entitled "Mr. Willie Joubert and Mrs. Beverly D. Joubert vs. State of Louisiana, Louisiana Department of Public Works, and State Parks Commission of Louisiana," Docket No. 24,382 of the Thirteenth Judicial District Court for the parish of Evangeline, state of Louisiana.

Approved by the Governor: June 11, 1971.

A true copy:

WADE O. MARTIN, JR.
Secretary of State.

ACT No. 37

House Bill No. 124. By: Mr. Leach.

AN ACT

To authorize making an appropriation out of the General Fund of the STATE OF LOUISIANA, for the fiscal year 1971-72 to pay final judgment obtained by MILTON CUPIT, individually, against THE STATE OF LOUISIANA, THROUGH THE DEPARTMENT OF INSTITUTIONS, in Suit No. 13,880, on the docket of the Eighteenth Judicial District Court, in and for the Parish of Iberville, State of Louisiana, to be paid to MILTON CUPIT, in the sum of SEVEN THOUSAND NINE HUNDRED FIFTY & NO/100THS ($7,950.00) DOLLARS, together with such costs of Court, as may be lawfully taxed against THE STATE OF LOUISIANA.

Be it enacted by the Legislature of Louisiana:

Section 1. There is hereby appropriated out of the General Fund of the State of Louisiana for the fiscal year 1971-1972, the sum of Seven Thousand Nine Hundred Fifty and no/100 ($7,950.00) Dollars and for all costs of court for which the state of Louisiana is legally responsible or so much as may be necessary to pay in full the judgment against the Louisiana Department of Institutions in the matter entitled "Milton Cupit, individually vs. State of Louisiana through the Department of Institutions," bearing No. 13,-880, on the docket of the Eighteenth Judicial District Court, in and for the Parish of Iberville, State of Louisiana.

Approved by the Governor: June 11, 1971.

A true copy:

WADE O. MARTIN, JR.
Secretary of State.

ACT No. 38

House Bill No. 125. By: Mr. Boyd.

AN ACT

To appropriate the sum of Twenty-four Thousand One Hundred Fifty-one and 52/100 ($24,151.52) Dollars out of the General Fund of the state of Louisiana for the

STATE OF LOUISIANA

ACTS OF THE LEGISLATURE

VOLUME II

REGULAR SESSION 1976
EXTRAORDINARY SESSION 1976

Published by Authority of the State of Louisiana

PAUL J. HARDY
Secretary of State

Baton Rouge, Louisiana
1976

Section 2. That all laws or parts of laws in conflict herewith are hereby repealed.

Approved by the Governor: August 3, 1976.

Published in the Official Journal of the State: September 1, 1976.

A true copy:

PAUL J. HARDY
Secretary of State.

ACT No. 581

House Bill No. 1423. By: Mr. Hainkel.

AN ACT

To appropriate the sum of Eighty Thousand and 00/100 ($80,000.00) Dollars, plus legal interest from August 15, 1973, until paid and costs of court for which the state may be legally liable, out of the General Fund of the state of Louisiana for the Fiscal Year 1976-1977 to be used to pay the final judgment in the suit entitled "Air Products and Chemicals, Inc. vs. Charity Hospital of Louisiana at New Orleans and Dr. Charles E. Mary, Jr., Commissioner, Louisiana Health and Social and Rehabilitation Services Administration (or his successor in office)", bearing Number 564-616 on the docket of Division "J" of the Civil District Court for the parish of Orleans, state of Louisiana.

Be it enacted by the Legislature of Louisiana:

Section 1. The sum of Eighty Thousand and 00/100 ($80,000.00) Dollars plus legal interest from August 15, 1976, * until paid and costs of court for which the state may be legally liable, is hereby appropriated out of the General Fund of the state of Louisiana for the Fiscal Year 1976-1977 to be used to pay the final judgment in the suit entitled "Air Products and Chemicals, Inc. vs. Charity Hospital of Louisiana at New Orleans and Dr. Charles E. Mary, Jr., Commissioner, Louisiana Health and Social and Rehabilitation Services Administration (or his successor in office)", bearing Number 564-616 on the docket of Division "J" of the Civil District Court for the parish of Orleans, state of Louisiana.

Section 2. 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.

Section 3. The judgment provided for in Section 1 hereof shall be deemed to have been paid on the effective date of this Act and legal interest shall cease to run as of that date.

Approved by the Governor: August 3, 1976.

Published in the Official Journal of the State: September 1, 1976.

A true copy:

PAUL J. HARDY
Secretary of State.

*As it appears in the enrolled bill.

ACT No. 582

House Bill No. 1512. By: Messrs. Tauzin, Ullo, Haik and Guidry and Senators Knowles, Guarisco and Doucet (Substitute for House Bill No. 1315 by Mr. Tauzin and others)

AN ACT

To amend Title 49 of the Louisiana Revised Statutes of 1950 by redesignating Chapter 2, thereof, containing Sections 201 through 212, as Part I of said Title and to add thereto Part II, containing Sections 213.1 to 213.6, relative to Louisiana Coastal Resources Management; to provide a short title; to create the Louisiana Coastal Commission, to provide membership, compensation, duties, responsibilities and term of existence; to provide for exceptions relative to the Louisiana Offshore Terminal Authority; to provide for effective dates; to repeal R.S. 34:2251-2253.1 and R.S. 51:1361-1365; to provide otherwise both generally and specifically with respect thereto.

Be it enacted by the Legislature of Louisiana:

Section 1. Chapter 2 of Title 49 of the Louisiana Revised Statutes of 1950, containing Sections 201 through 212, is hereby redesignated as Part I of such Chapter.

Section 2. Part II of Chapter 2 of Title 40 of the Louisiana Revised Statutes of 1950, containing Sections 213.1 through 213.6, is hereby enacted to read as follows:

PART II. LOUISIANA COASTAL RESOURCES MANAGEMENT

§213.1. Short title

This Act shall be known and may be cited as the State and Local Coastal Resources Management Act of 1976.

§213.2. Coastal commission; membership; compensation; conflicts of interest

A. The Louisiana Coastal Commission is hereby created as an autonomous policy and decision-making body within the office of the governor, established to carry out the duties and purposes set out in this Act. Adequate staff, under the supervision of a director, appointed by the commission, shall be provided for the operation of the commission. Provided, however, that the director of the Louisiana Wildlife and Fisheries Commission shall serve as the director of the coastal commission herein created until March 1, 1977.

B. The Louisiana Coastal Commission shall consist of twenty-one members as follows: ten representatives, one from each of the following coastal parishes: Cameron, Vermilion, Iberia, St. Mary, Terrebonne, Lafourche, Jefferson, Plaquemines, St. Bernard, and Orleans; the governor shall appoint ten members with one appointee representing the oil and gas industry; with one appointee

representing agriculture and forestry; with one appointee representing commercial fishing and trapping; with one appointee representing sport fishing, hunting and outdoor recreation; with one appointee representing ports, shipping and transportation; with one appointee representing nature preservation and environmental protection; with one appointee representing coastal landowners; with one appointee representing municipalities; with one appointee representing producers of solid minerals; and with one appointee representing industrial development; and the director of the Wildlife and Fisheries Commission or his successor.

C. The ten members on the commission representing local government shall be appointed by the local governing authority of the designated coastal parishes. At least six of the members appointed by the governor shall be residents of the designated coastal parishes.

D. Within sixty days of the effective date of this Act, the local governing authority of each parish shall select one person as its representative and one person as an alternate who may vote and speak on behalf of the representative in his absence.

E. The presiding officer from each local governing authority of each parish shall submit a letter to the governor naming the representative and alternate for that parish within sixty days of the effective date of this Act. Members of the commission shall serve for a term of two years which shall run from the date of the first organizational meeting of the commission. Members may succeed themselves indefinitely but every second year they will be confirmed by the appropriate appointing authority. Failure of a parish to appoint shall not prevent the commission from conducting its business.

F. (1) The governor shall designate one of the parish representatives as acting chairman of the commission. The acting chairman shall call an organizational meeting of the commission promptly after the sixty days provided for making appointments has elapsed or all members have been appointed, whichever first occurs. At the first meeting the commission shall elect a chairman and a vice chairman and decide upon the rules for conducting commission business.

(2) The agreed upon rules of procedure of the commission shall be promulgated pursuant to the Administrative Procedures Act, provided that such rules of procedure shall be submitted to the house and senate natural resources committees in accordance with any existing law in Louisiana, or in the absence of any such law, such rules of procedure shall be submitted to said committees for their review and recommendations prior to said rules of procedure being published in the state register. The rules shall reflect that a quorum of at least fourteen members of the commission shall be necessary to transact business and that all acts requiring a vote must be approved by a majority of such quorum.

(3) The commission shall meet as often as necessary to conduct its business but no less frequently than once every three months. Members of the commission shall be compensated fifty dollars per

diem for each day spent attending commission meetings and on business duly authorized by the commission at a meeting. In addition all members shall be reimbursed for mileage.

G. Each member of the commission shall serve in an individual capacity and not as a representative of his employer or organization.

§213.3. Commission termination

The Louisiana Coastal Commission established herein shall continue in existence until August 15, 1978, at which time the commission and all commission staff positions shall terminate, unless by act of the legislature the commission and staff are re-created and extended beyond said date.

§213.4. Coastal zone management programs; reports; cooperation

The Louisiana Coastal Commission shall recommend to the natural resources committees of the house and the senate and to the legislature on or before March 1, 1977, an act establishing definitions, delineating boundaries, providing for uses and exclusions, establishing procedures for adoption and promulgation of state and local coastal zone management programs, providing for the scope and jurisdiction of such state and local coastal zone management programs, providing for assistance to local government, providing for the establishment of permit programs and procedures and for the issuance of general permits, providing for enforcement, injunction, penalties, fines, fees and other charges, and providing for effective dates, all in relation to a state and local coastal zone management program for Louisiana. The Louisiana Coastal Commission shall also cooperate with and assist the natural resources committees of the house and senate in any interim hearings conducted by such committees in the consideration of a state and local coastal zone management program for Louisiana, and shall render to the respective house and senate natural resources committees through their respective chairman, reports of the progress of their studies, deliberations, and recommendations whenever so requested by either of said committees.

§213.5. Offshore terminal authority

The ownership, construction and operation of offshore terminal facilities, as defined in R.S. 34:3102(1), which are subject to the jurisdiction of the Offshore Terminal Authority, shall be deemed to be uses within an area of particular concern within the state and local coastal resources management program. The environmental protection plan required by R.S. 34:3113 shall constitute special management guidelines applicable to such areas and uses, the environmental protection plan being a segment of the coastal zone management program of the state of Louisiana in the area directly impacted by air and water development in the coastal zone resulting from such offshore terminal facilities. The environmental protection plan shall be incorporated into the final state management guidelines which may be adopted as regulations of the commission pursuant to the coastal zone management program, but shall continue to be

administered and enforced by the Offshore Terminal Authority or its successor in accordance with the policies and objectives of the state coastal zone management program. No approvals or permits, other than those required by the Offshore Terminal Authority with respect to uses and activities under its jurisdiction, shall be required under this Act or under any subsequent act providing for the state and local coastal zone management program or under any state or local plans adopted pursuant to such act or acts. Nothing in this Section shall be construed to extend the jurisdiction of the Offshore Terminal Authority to the taking, control or operation of existing, proposed or future facilities of existing port authorities or port, harbor and terminal districts except by mutual agreement, nor shall this section be construed to amend or repeal any provision of Act 444 of 1972, as amended (Chapter 35 of Title 34 of the Louisiana Revised Statutes of 1950).

§213.6. Effective dates

This Act shall become effective immediately upon being signed by the governor, or if not signed by the governor, when it becomes law in accordance with Article III, §18, of the constitution of Louisiana.

Section 3. The following Sections of the Louisiana Revised Statutes are hereby repealed: R.S. 34:2251-2253.1; R.S. 51:1361-1365. The staff of the Louisiana Coastal Commission created and established pursuant to R.S. 34:2251-34:2253.1 shall continue to serve until the Louisiana Coastal Commission created by this Act has been appointed and the initial meeting of this commission is held, and said personnel shall be eligible for reappointment to the staff.

Section 4. If any provision or item of this Act or the application thereof is held invalid, such invalidity shall not affect other provisions, items or applications of this Act which can be given effect without the invalid provisions, items or applications, and to this end the provisions of this Act are hereby declared severable.

Section 5. All laws or parts of laws in conflict herewith are hereby repealed.

Approved by the Governor: August 3, 1976.

Published in the Official Journal of the State: September 1, 1976.

A true copy:

PAUL J. HARDY
Secretary of State.

ACT No. 583

House Bill No. 1514. By: Messrs. S. LeBlanc, Faucheux and Senator Kiefer (Introduced Pursuant to the Authority of HCR No. 195).

AN ACT

To amend and reenact Paragraph (2) of Subsection A of Section 172 of

Title 45 of the Louisiana Revised Statutes of 1950 to provide an exemption from the provisions of R.S. 45:161 through 45:171 for vehicles owned, leased or operated by the United States, this state or special district of the state or any political subdivision or any board, department or commission thereof.

Be it enacted by the Legislature of Louisiana:

Section 1. Paragraph (2) of Subsection A of Section 172 of Title 45 of the Louisiana Revised Statutes of 1950 is hereby amended and reenacted to read as follows:

§172. Exemptions

Nothing in R.S. 45:161 through R.S. 45:171 shall apply to:

A. Persons engaged in operating:

* * *

(2) Vehicles owned, leased or operated by the United States, this state or special district of the state or any political subdivision or any board, department or commission thereof.

Section 2. All laws or parts of laws in conflict herewith are hereby repealed.

Approved by the Governor: August 3, 1976.

Published in the Official Journal of the State: September 1, 1976.

A true copy:

PAUL J. HARDY
Secretary of State.

ACT No. 584

House Bill No. 1524. By: Messrs. Dupuis, J. L. LeBlanc, Champagne, Dischler, John, Picard, F. M. Thompson, Cain, Toca and Bares and Senator Brinkhaus. (Introduced Pursuant to the Authority of HCR No. 220).

AN ACT

To establish the name of the vocational-technical area school established by Act No. 208 of the 1973 Regular Session of the Louisiana Legislature, by merging the Opelousas Area Trade School and the T. H. Harris Vocational-Technical School, as the T. H. Harris Vocational-Technical School, and to prohibit the State Board of Elementary and Secondary Education from changing the name of the school without the express permission of the Louisiana Legislature.

Be it enacted by the Legislature of Louisiana:

Section 1. The vocational-technical area school established by Act No. 208 of the 1973 Regular Session of the Louisiana Legislature, by merging the Opelousas Area Trade School and the T. H. Harris Vocational-Technical School is hereby named the T. H. Harris

STATE OF LOUISIANA

ACTS OF THE LEGISLATURE

VOLUME II

REGULAR AND EXTRAORDINARY
SESSIONS OF 1977

SECOND EXTRAORDINARY
SESSION OF 1976

Published by Authority of the State of Louisiana

PAUL J. HARDY
Secretary of State
State of Louisiana

Baton Rouge, Louisiana

1977

Any other provision of law to the contrary notwithstanding, no outdoor advertising as described in R.S. 48:461.2(d) and (e) and no junkyards as defined in this Part shall be erected or maintained within visual observation of the main traveled way of the interstate and primary highways in this state between the waters of the Mississippi River and the publicly maintained flood protection levees thereon, unless authorized in writing by the Secretary of the Department of Transportation and Development.

Section 2. This Act shall become effective upon signature by the governor or, if not signed by him, upon expiration of the time for bills to become law without his signature, as provided by Article III, Section 18 of the constitution.

Section 3. If any provision or item of this Act or the application thereof is held invalid, such invalidity shall not affect other provisions, items or applications of this Act which can be given effect without the invalid provisions, items or applications, and to this end the provisions of this Act are hereby declared severable.

Section 4. All laws or parts of laws in conflict herewith are hereby repealed.

Approved by the Governor: July 25, 1977.

Published in the Official Journal of the State: August 16, 1977.

A true copy:

PAUL J. HARDY
Secretary of State.

ACT No. 704

House Bill No. 1354. By: Mr. Freeman.

AN ACT

To amend and reenact Subsection A of Section 5109 of Title 13 of the Louisiana Revised Statutes of 1950, relative to suits against the state, state agencies, and political subdivisions; to authorize the general counsel of the Department of Transportation and Development with the concurrence of the secretary to compromise and settle the claims presented in any suit against the Department of Transportation and Development.

Be it enacted by the Legislature of Louisiana:

Section 1. Subsection A of Section 5109 of Title 13 of the Louisiana Revised Statutes of 1950 is hereby amended and reenacted to read as follows:

§5109. Authority to compromise; judgments; payment

A. In any suit filed against the state of Louisiana, state agency, or a political subdivision, the defendant, or the proper representative thereof, upon the advice and with the concurrence of the attorney general, district attorney, city attorney, or other proper official, as the case may be, may compromise and settle the claims presented in any such suit. Any suit which is filed against the Department of Transportation and Development may be compromised and settled not only as provided herein, but the general counsel of that department with the advice and concurrence of the secretary shall have the authority to compromise and settle any claim presented in any such suit, provided no settlement can be made for more than $1,000,000.00 without the concurrence of the attorney general.

* * *

Section 2. If any provision or item of this Act or the application thereof is held invalid, such invalidity shall not affect other provisions, items or applications of this Act which can be given effect without the invalid provisions, items or applications, and to this end the provisions of this Act are hereby declared severable.

Section 3. All laws or parts of laws in conflict herewith are hereby repealed.

Approved by the Governor: July 25, 1977.

Published in the Official Journal of the State: August 16, 1977.

A true copy:

PAUL J. HARDY
Secretary of State.

ACT No. 705

Senate Bill No. 425. By: Mr. Duval.

AN ACT

To amend and reenact Part II of Chapter 2 of Title 49 of the Louisiana Revised Statutes of 1950, consisting of Sections 213.1 through 213.12, both inclusive, to provide with respect to coastal zone management; to provide a short title; to provide definitions; to provide for boundaries and exclusions; to provide for the Louisiana Coastal Commission, its membership, duties, and responsibilities; to provide for standards and criteria; to provide for management programs at the state and local level and rules and procedures applicable thereto; to provide for areas of

jurisdiction; to provide for uses; to provide for permits and procedures; to provide for enforcement, injunctions, penalties and fines; to provide for fees; to provide for the effective date of this Act; and to provide otherwise both generally and specifically with respect thereto.

Be it enacted by the Legislature of Louisiana:

Section 1. Part II of Chapter 2 of Title 49 of the Louisiana Revised Statutes of 1950, consisting of Sections 213.1 through 213.12, is hereby amended and reenacted to read as follows:

PART II. LOUISIANA COASTAL ZONE MANAGEMENT PROGRAM

§213.1 Short title

This Part shall be known and may be cited as the State and Local Coastal Resources Management Act of 1977.

§213.2. Definitions

(1) "Agency" shall mean the state agency or the local government responsible for regulation of uses in the coastal zone as provided herein.

(2) "Administrator" shall mean the chief executive of the staff of the commission.

(3) "Coastal waters" shall mean bays, lakes, inlets, estuaries, rivers, bayous and other bodies of water in direct connection with, or which drain into, the open sea; which have measurable seawater content under normal conditions over a period of years; and which are affected by the ebb and flow of the tide and which are within the boundaries of the coastal zone.

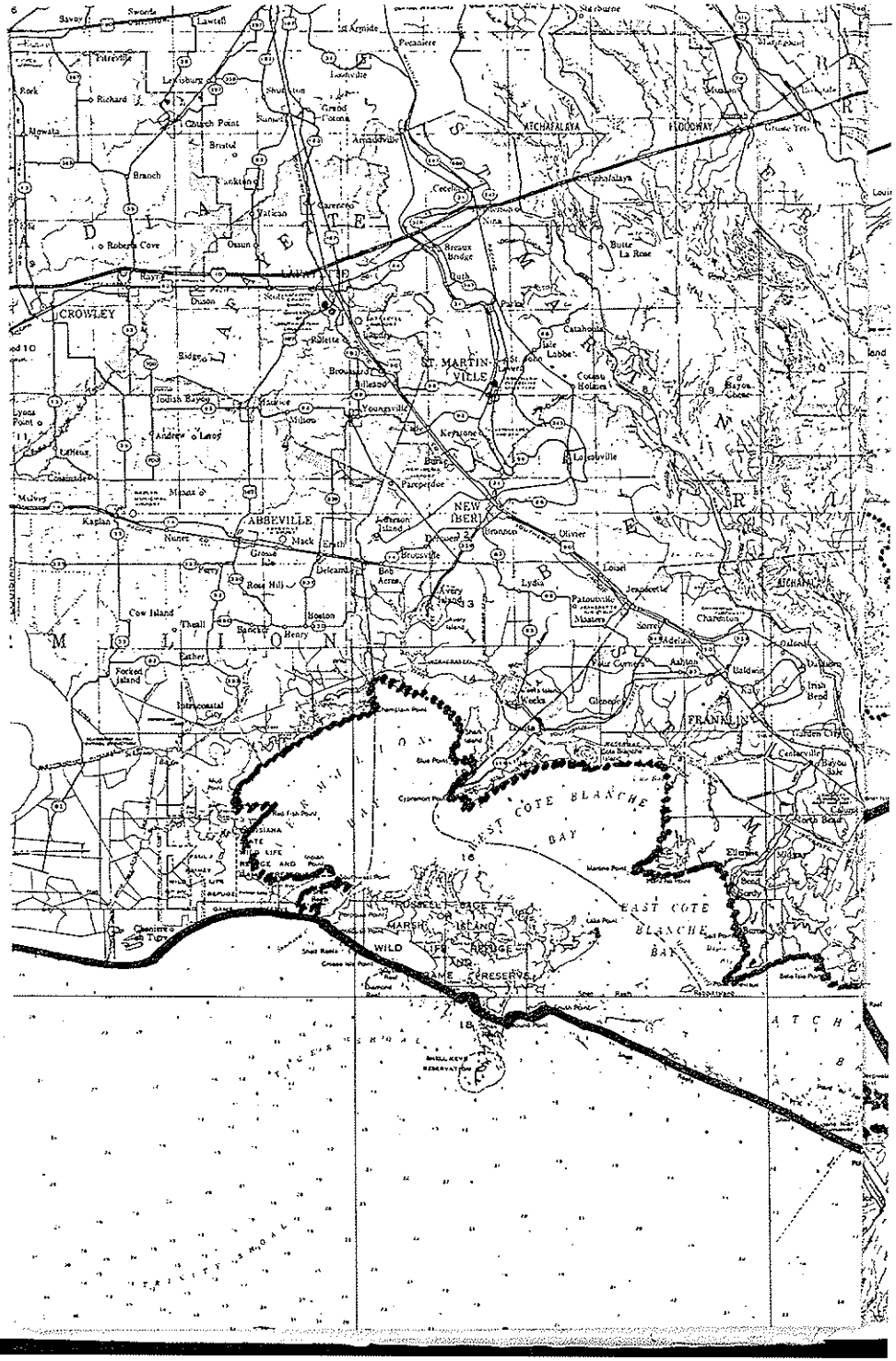
(4) "Coastal zone" shall mean all the lands and waters within the boundaries of the coastal zone as hereafter defined in this Part.

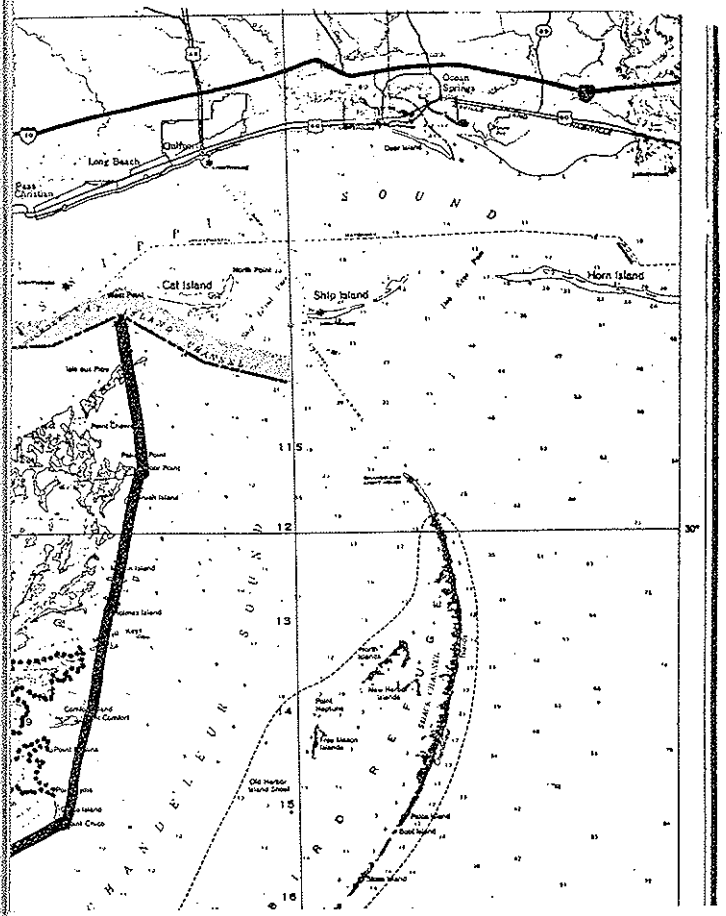
(5) "Commission" shall mean the Louisiana Coastal Commission.

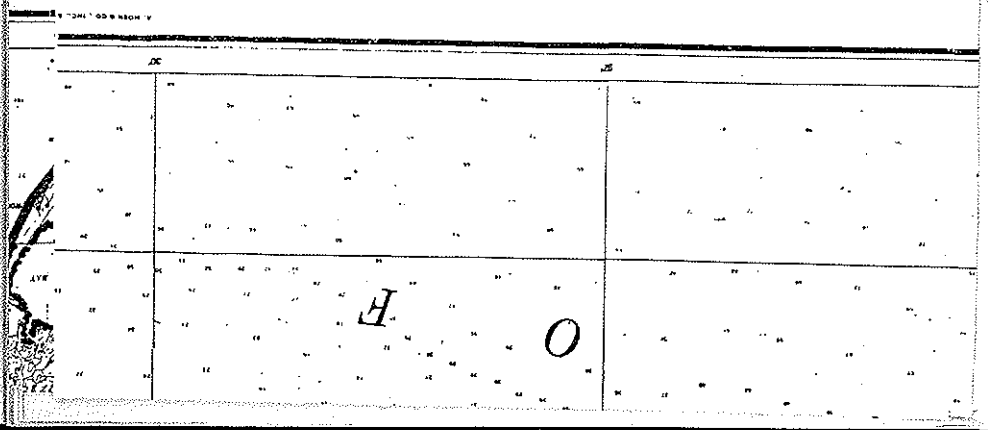
(6) "Local government" shall mean the local governmental body having general jurisdiction and operating at the parish level. Where municipalities currently exercise authority, they shall continue to exercise that authority.

(7) "Person" shall mean any individual, partnership, association, trust, corporation, public agency or authority, or group.

(8) "Use" shall mean any activity which occurs in the coastal zone and has a direct and significant impact on coastal waters. Each agency shall develop a designation of what uses shall be deemed to have a direct and significant impact on coastal waters based on the







technical and scientific data supplied by the Louisiana Coastal Commission. The term "use" does not include the construction, maintenance, repair or normal use of any dwelling, apartment complex, hotel, motel, restaurant, service station, garage, repair shop, school, hospital, church, office building, store, amusement park or sign, or associated structures, driveways, sidewalks, parking lots, fences, or utility poles or lines, when these activities occur on high ground or on lands which have already been drained or filled.

§213.3. Coastal zone boundary; exclusions

A. The seaward boundary of the coastal zone of Louisiana shall be the seaward limit of the state of Louisiana as determined by law.

B. The lateral boundaries of the coastal zone shall be the boundary separating Louisiana from Texas on the west and the boundary separating Louisiana from Mississippi on the east, as each is determined by law.

C. The inland boundary of the coastal zone shall be a continuous line consisting of segments measured (1) three geographical miles inland from the coastline of Louisiana, as defined in the Federal Submerged Lands Act, 43 U.S.C. Section 1301 et seq., and as established by the Supreme Court of the United States in its decree in *United States v. Louisiana*, 422 U.S. 13, 44 L.Ed. 2d 652 (1975), as that coastline is depicted and modified by the solid red line at the bottom of the attached map, which map shall be paraphed by the speaker of the House of Representatives, the president of the Senate, and the governor for identification with this Act; (2) three geographical miles inland from the landward boundary of those bays or other similar water bodies which are immediately adjacent to such modified coastline, and the landward boundaries of which are depicted on the attached map by a series of dotted red lines; or (3) three geographical miles inland from the landward boundary of Lake Borgne, which boundary is depicted on the attached map by a dashed red line, whichever distance extends further inland. The commission shall depict the inland boundary with greater specificity, according to the Louisiana Coordinate System, R.S. 50:1 et seq., and on large scale maps or charts, within six months from the effective date of this Act, but such boundary shall not depart appreciably from that heretofore defined. Such boundary shall be subject to approval by the House of Representatives and Senate standing committees on natural resources. The boundary shall be clearly marked on maps, official copies of which shall be on file in the offices of the commission, each administering agency, and the parishes which lie wholly or partly in the coastal zone. Copies of the boundary delineation shall be made available to interested persons upon request.

The coastal zone of Louisiana shall include all coastal waters,

including the lands therein and thereunder, and all shorelands, including the waters therein and thereunder, which are located within the boundaries prescribed in this Section except those referred to in Subsection D hereof.

D. Fastlands and their uses as defined in Section 213.7(A)(1) shall be excluded from the coastal zones.

E. The legislature recognizes that a comprehensive regulatory structure presently exists pursuant to Section 404 of P.L. 92-500 which effectively places under the regulatory and permitting authority of the United State Army Corps of Engineers all of Louisiana's coastal zone and adjacent wetlands. The legislature further recognizes that Section 101(F) of P.L. 92-500 requires that duplication of regulatory requirements and restrictions be kept to a minimum, and in furtherance thereof the legislature declares that the regulation of Louisiana's coastal zone shall be adjusted by subsequent legislative acts in direct relationship to the relinquishment to the state of the regulatory and permitting authority of the Corps of Engineers over uses in the coastal zone other than uses affecting present commercially navigable waters, flood control, and mineral production on the outer continental shelf.

§213.4. Coastal commission; membership; etc.

A. The Louisiana Coastal Commission is hereby created as a technical and scientific coordinating body within the office of the governor. Adequate staff under the direction of an administrator shall be provided for the operation of the commission.

B. The commission shall:

(1) Collect, collate and provide technical and scientific information, assistance and advice to agencies in connection with their coastal zone management plans and to the public.

(2) Recommend to agencies improved methods of design, operation, administration and maintenance of projects and programs to insure proper protection and development of the coastal zone.

(3) Provide a forum for interagency communication and cooperation.

(4) Study problems and issues connected with coastal zone management and the uses of the coastal zone and counsel with agencies on such problems and issues.

(5) Develop and recommend to agencies standards for data collection, reporting and storage.

(6) Study problems and issues connected with agency permitting processes and recommend to agencies policies and procedures to deal

with such problems and issues and to simplify and expedite the agency permitting processes.

(7) Hold such hearings and conduct such studies as it deems proper.

(8) Make such contracts and execute such instruments that are necessary or convenient to the exercise of its powers or the performance of its duties.

(9) Receive, budget, and allocate to agencies for the administration of the coastal zone management program monies, grants and appropriations including grants from the federal government. The respective local governments shall be entitled to receive, under such rules, regulations and procedures as the commission shall establish, a proportionate share of such monies, grants and appropriations, provided federal funds are available and such local governments make application therefor.

Every state agency, department, commission, college and university shall, within constitutional and statutory limits, fully cooperate with and assist the commission in the performance of its duties pursuant to this Part.

C. Notwithstanding any other provision hereof to the contrary, those persons duly appointed to the Louisiana Coastal Commission pursuant to the provisions of Act 582 of the 1976 Regular Session of the Louisiana Legislature shall continue to serve and function as the Louisiana Coastal Commission provided for in this Act until August 15, 1978, at which time their term shall be considered to have expired. Thereafter, the Louisiana Coastal Commission shall consist of twenty-one members as follows: ten representatives, one from each of the following coastal parishes: Cameron, Vermilion, Iberia, St. Mary, Terrebonne, Lafourche, Jefferson, Plaquemines, St. Bernard, and Orleans; the governor shall appoint ten members with one appointee representing the oil and gas industry; with one appointee representing agriculture and forestry; with one appointee representing commercial fishing and trapping; with one appointee representing sport fishing, hunting and outdoor recreation; with one appointee representing ports, shipping and transportation; with one appointee representing nature preservation and environmental protection; with one appointee representing coastal landowners; with one appointee representing municipalities; with one appointee representing producers of solid minerals; and with one appointee representing industrial development; and the secretary of the Department of Wildlife and Fisheries or his designee. The governor shall also appoint an alternate for each of the members that he appoints. The alternate may vote and speak on behalf of the representative in his absence.

D. The ten members on the commission representing local government shall be appointed by the local governing authority of the designated coastal parishes. At least six of the members appointed by the governor shall be residents of the designated coastal parishes, and one shall be a resident of St. Tammany Parish.

E. Within sixty days of the effective date of this Act, the local governing authority of each parish shall select one person as its representative and one person as an alternate who may vote and speak on behalf of the representative in his absence.

F. The presiding officer from each local governing authority of each parish shall submit a letter to the governor naming the representative and alternate for that parish within sixty days of the effective date of this Act. Members of the commission shall serve for terms of two years which shall run from the date of the first organizational meeting of the commission. Members may succeed themselves indefinitely, but every second year they shall be confirmed by the appropriate appointing authority. Failure of a parish to appoint shall not prevent the commission from conducting its business.

G. (1) The governor shall designate one of the parish representatives as acting chairman of the commission. The acting chairman shall call an organizational meeting of the commission promptly after the sixty days provided for making appointments has elapsed or after all members have been appointed, whichever first occurs. At the first meeting the commission shall elect a chairman and a vice chairman and decide upon the rules for conducting commission business.

(2) The agreed upon rules of procedure of the commission shall be promulgated pursuant to the Louisiana Administrative Procedures Act, provided that such rules of procedure shall be submitted to the House of Representatives and Senate natural resources committees in accordance with or in the absence of law, such rules of procedure shall be submitted to said committees for their review and recommendations prior to said rules of procedure being published in the state register. The rules shall provide that a quorum of at least fourteen members of the commission shall be necessary to transact business and that all acts requiring a vote must be approved by a majority of such quorum.

(3) The commission shall meet as often as necessary to conduct its business but no less frequently than once every three months. Members of the commission shall be compensated fifty dollars per diem for each day spent attending commission meetings and on business duly authorized by the commission at a meeting. In addition, all members shall be reimbursed for mileage.

H. Each member of the commission shall serve in an individual capacity and not as a representative of his employer or organization.

I. Vacancies occurring in the membership of the commission shall be filled for the unexpired term by the local government making the appointment to the vacated position or by the governor if the position was first appointed by the governor.

§213.5. Management guidelines; procedures

A. In order to provide practical continuity throughout the coastal zone, the commission shall, by two-thirds vote and with the advice of the appropriate agency, establish broad standards and criteria which shall serve as minimum standards and criteria to be followed by each agency in setting up the management program over its respective area of jurisdiction. Such standards and criteria shall be developed after proper notice and a public hearing, pursuant to the Louisiana Administrative Procedures Act, and shall, without exclusion, incorporate, accomplish and reflect the following:

(1) That there is a state and local interest in the protection of the coastal zone in the consideration of uses having a significant and direct impact upon the coastal waters of the state;

(2) That state and local government have an interest in returning protection of the coastal zone to state and local management as far as practicable under the Federal Coastal Zone Management Act of 1972, Public Law 92-586;

(3) That management of the coastal zone in the consideration of uses under this Act may recognize that some areas of the coastal zone are more suited for development than other areas and hence development of use guidelines may contain different, reasonable restrictions for the same uses in different areas;

(4) That agencies should establish minimum guidelines which are easily understood by users applying for such permits as may be required for uses having significant and direct impact upon the coastal waters of the state;

(5) That compatibility of different and multiple uses should be recognized, considered and enhanced;

(6) That uses which alter the natural system should be examined to determine if the alterations will enhance or will seriously and irrevocably damage biological life within the coastal zone; and

(7) That encourages the participation of appropriate federal and state agencies, local governments, regional organizations, port authorities, and other suitably interested parties, in carrying out the provisions of this Part.

B. No later than one year and one hundred twenty days after the promulgation of the standards and criteria required by Subsection A hereof, the commission shall recommend procedures for use by agencies in establishing priority of competing uses in particular areas, all in accordance with this Part.

C. Acquisition, directly or indirectly, of privately owned property is not necessary to achieve the intents and purposes of this Part. No rule, regulation, ordinance, order or standard, the purpose or application of which is to effect an involuntary acquisition or taking of such property, shall be adopted, enacted or implemented pursuant to the provisions of this Part by the commission or any agency.

D. Any rules, regulations, or guidelines adopted by the commission must be submitted to and approved by the House and Senate standing committees on natural resources, meeting jointly, prior to promulgation thereof.

§213.6. Management program

A. The coastal zone management program recognizes multiple uses of the coastal zone of Louisiana. Its purpose is to protect, develop, utilize and where feasible, restore or enhance the resources within the coastal zone. The program consists of all applicable constitutional provisions, laws and regulations of this state which affect the coastal zone. In order to reexamine these provisions; to provide for more orderly administration of the coastal zone plans and activities; to provide for the refinement of the coastal permitting processes; to protect public and private property rights; to improve upon these laws and regulations; and to improve upon the overall management of the coastal zone, each agency hereafter referred to shall prepare its coastal zone management plan employing the existing constitutional provisions, laws and regulations, and the scientific and technical data and coordination provided by the Louisiana Coastal Commission.

In the coastal zone management program, the uses hereinafter set forth are under the jurisdiction of the following specified agencies:

(1) The control and supervision of the wildlife of the state including all aquatic life shall be vested in the Department of Wildlife and Fisheries pursuant to the provisions of Article IX, Section 7 of the Louisiana Constitution of 1974 and Title 56 of the Louisiana Revised Statutes of 1950.

(2) The practice of forestry and the functions of the state relating to the promotion, protection and advancement of agriculture shall be under the jurisdiction of the office of forestry and the commissioner of agriculture, respectively, in accordance with the respective provisions of Article IX, Section 8 and Article IV, Section 10 of the

Louisiana Constitution of 1974 and the provisions of Titles 56 and 3 of the Louisiana Revised Statutes of 1950, respectively.

(3) Oil, gas and other mineral exploration, production and transportation shall be under the jurisdiction of the assistant secretary of the office of conservation pursuant to the provisions of Title 30 of the Louisiana Revised Statutes of 1950.

(4) All uses of the coastal zone relating to water and erosion control, dredging, effluent, fill and drainage, as land use measures, shall be under the jurisdiction of the respective local governments. Such uses shall be under the jurisdiction of the office of public works insofar as they relate to the administrative functions of the state set forth in Section 2 of Title 38 of the Louisiana Revised Statutes of 1950.

(5) All uses of the coastal zone relating to transportation shall be under the jurisdiction of the following agencies:

(a) Aviation uses shall be under the jurisdiction of the respective local governments with respect to land use and zoning measures; and, insofar as the functions of the state are concerned relating to programs affecting aeronautics and aviation facilities within the state and the management of state-owned aircraft, said aviation activities shall be under the jurisdiction of the office of aviation of the Department of Transportation and Development.

(b) Uses relating to roads and highways shall be under the jurisdiction of the office of highways of the Department of Transportation and Development insofar as they pertain to state-owned and maintained roads, highways and bridges and they shall be under the jurisdiction of the respective local governments insofar as they pertain to non-state-owned and maintained highways and bridges.

(c) Uses and activities relating to the control of waterborne transportation shall be under the jurisdiction of the respective port authorities or port, harbor and terminal districts.

(6) All uses and activities concerning habitation in the coastal zone shall be under the jurisdiction of the respective local governments in the exercise of their land use and zoning powers.

(7) All uses affecting the functions of the respective levee districts within the coastal zone shall be under the jurisdiction of such levee districts, or the local government in the case of a levee district consolidated and merged into a parish, all in accordance with the provisions of Article VI, Section 38 of the Louisiana Constitution of 1974 and pursuant to the provisions of Title 38 of the Louisiana Revised Statutes of 1950.

(8) The ownership, construction and operation of offshore terminal facilities, as defined in R.S. 34:3102(1), which are subject to the jurisdiction of the Offshore Terminal Authority, shall be deemed to be uses within an area of particular concern within the state and local coastal resources management program. The environmental protection plan required by R.S. 34:3113 shall constitute special management guidelines applicable to such area and uses, the environmental protection plan being a segment of the coastal zone management program of the state of Louisiana in the area directly impacted by air and water development in the coastal zone resulting from such offshore terminal facilities. This environmental protection plan is a part of the coastal zone management program and shall continue to be administered and enforced by the Offshore Terminal Authority or its successor in accordance with the policies and objectives of the state coastal zone management program. No approvals or permits, other than those required by the Offshore Terminal Authority with respect to uses and activities under its jurisdiction, shall be required under this Act or under any subsequent Act providing for the state and local coastal zone management program or under any state or local plans adopted pursuant to such Act or Acts. Nothing in this Paragraph shall be construed to extend the jurisdiction of the Offshore Terminal Authority to the taking control or operation of existing, proposed or future facilities of existing port authorities or port, harbor and terminal districts except by mutual agreement, nor shall this Section be construed to amend or repeal any provision of Act No. 444 of the 1972 Regular Session of the Louisiana Legislature, as amended (Chapter 35 of Title 34 of the Louisiana Revised Statutes of 1950).

B. A local government may adopt regulations within the coastal zone for land use, zoning and historic preservation, create commissions and districts to implement those regulations, review decisions of any such commission or agency and adopt standards and criteria for the use, construction, demolition and modification of areas and structures subject to uniform procedures established by law in accordance with Article VI, Section 17 of the Louisiana Constitution of 1974. More particularly, but without limiting the generality of the foregoing, such regulations may:

(1) Affect wildlife and wildlife related uses not in conflict with the jurisdiction of the Department of Wildlife and Fisheries.

(2) Affect forestry and agriculture not in conflict with the respective jurisdictions of the office of forestry and the commissioner of agriculture.

(3) Pertain to the exploration, production and transportation of oil, gas and other minerals, not in conflict with the jurisdiction of the

assistant secretary of conservation, pursuant to Title 30 of the Louisiana Revised Statutes of 1950.

(4) Pertain to waterborne transportation, not in conflict with the jurisdiction of the respective port authorities and port, harbor and terminal districts.

C. The above uses and activities shall not be exclusive and additional uses and activities may be permitted in the coastal zone under the rules and regulations which may be adopted by the legislature, by the appropriate state agency, or by the local government having jurisdiction over the subject matter. In accordance with the provisions of the Louisiana Administrative Procedures Act, and with the advice of the Louisiana Coastal Commission on general uses and activities, each agency shall have the authority to establish and amend such management guidelines as such agency deems are required for the appropriate regulation of uses and activities within that agency's jurisdiction.

D. (1) The coastal zone management plan developed by each state agency pursuant to the provisions of this Section shall be subject to periodic administrative review by the commission under such rules, regulations and procedures as the commission may establish.

(2) Each local government may appoint a coastal zone committee. Such committee shall assist in the development and implementation of the local coastal zone management plan and shall have such powers and authority as the local government shall deem appropriate to confer on it. Any plan, or rule or regulation thereof, which may be developed or implemented by a local coastal zone committee pursuant to the provisions of this Paragraph shall be subject to periodic administrative review by the local government under such rules, regulations and procedures as the local government may establish.

E. In the event any provisions of this Part are in conflict, the provisions of this Section shall prevail.

§213.7. Use exclusions; uses partially in the coastal zone; coordination

A. The following lands and uses shall be excluded from the provisions of this Part and shall not require a permit:

(1) Lands and uses occurring within areas protected by publicly owned or otherwise validly existing levees, otherwise referred to as fastlands;

(2) Lands and uses consistent with past use for agriculture, silvicultural, or aquacultural production;

(3) Uses which do not have a direct and significant impact on coastal waters;

(4) Hunting, fishing, trapping, and preservation of scenic, historic and scientific areas and wildlife preserves;

(5) Normal maintenance or repair of existing structures and developments including damage by accident, fire and elements;

(6) Construction of a single family residence or a camp for the use of a natural person or his family;

(7) Construction of a dock, designed for pleasure craft only, for private noncommercial use, the cost or fair market value of which, whichever is higher, does not exceed two thousand five hundred dollars;

(8) Construction and modification of navigational aids such as channel markers and anchor buoys;

(9) Construction of normal protective bulkheads common to single family residences; or

(10) Emergency construction necessary to protect life or property from damage by the elements.

Provided, however, that nothing in this Subsection shall be construed as abrogating present authority of agencies and local governing authorities to adopt rules and regulations for uses in the coastal zone and to issue licenses and permits pursuant thereto.

B. When only a part of a proposed use occurs within the coastal zone, only that portion which occurs within the coastal zone shall be considered a use under this Part. The agency shall coordinate the review of any such application with state agencies having jurisdiction over the remainder of the use occurring outside of the coastal zone.

C. All agencies are required to fully coordinate their activities within the coastal zone with the management program established by this Part. When the commission finds that activities outside the coastal zone will significantly affect land or water resources within the coastal zone, it shall notify the agencies concerned with such activities. The commission shall make reasonable recommendations to such other agencies or departments in order that serious adverse effects to the coastal zone may be minimized.

D. Regulations adopted pursuant to the coastal zone management program shall not apply to any individual specific activity legally commenced or established prior to the effective date of this Part.

E. This Part shall apply to all federal lands within the coastal zone unless specifically excluded by federal law or other provisions of this Part.

§213.8. Coastal use permit; procedures and appeals

The plan adopted by each agency shall provide for a permit procedure whereby any person desiring to use the coastal zone must first secure a permit from the agency or agencies having jurisdiction of such use. Each person desiring a permit shall file an application with the appropriate agency. An agency may hold a public hearing to afford interested parties the opportunity to express their views or to develop pertinent data to evaluate the permit application. If an application is denied administratively, the applicant shall have the right to a public hearing. After any public hearing the decision of the agency shall be based upon the evidence presented at the hearing and shall be in writing with reasons stated. Appeals by the applicant or any interested person adversely affected by the decision may be taken in the form of an injunctive action against the agency to the district court having jurisdiction in the parish in which the proposed use is to take place. All such appeals to the district court shall be instituted within thirty days from the effective date of the decision and shall be tried with preference. Either party may have such a case set for trial at any time after ten days notice to all parties through their attorneys of record. The decision of the agency shall be taken as prima facie valid and the burden of proof shall be upon plaintiff.

§213.9. General permits

A. Agencies are authorized to issue general permits when in their opinion the issuance of such permits will not impair this Part.

B. A general permit is an authorization from an agency to one or more prospective users to perform a specific use activity within a prescribed area of the coastal zone which makes unnecessary the independent review of each proposed use. The agency may prescribe rules for the promulgation and expeditious processing of general permits and activities done pursuant to such permits and may authorize for general permit purposes only variances from the normal permit application and review procedures established in this Part.

§213.10. Enforcement; injunction; penalties and fines

A. An agency may suspend, revoke or modify permits issued under this Part if the user violates any of the conditions of the permit or any other provisions of this Part in accordance with procedural rules issued by the agency.

B. The appropriate district attorney, at the request of the agency, may bring such injunctive, declaratory or other action as is necessary to insure that no uses are made of the coastal zone in conflict with the provisions of this Part or with the rules and regulations adopted hereunder, and may otherwise enforce the provisions of this Part.

C. Any person found to have knowingly and intentionally violated the provisions of a permit granted pursuant to this Part or who

proceeds with a proposed use for which a permit has been denied or who after due notice by the appropriate agency proceeds with a proposed use without a permit shall be guilty of a misdemeanor and subject to a fine of not less than one hundred dollars and not more than five hundred dollars or imprisonment for not more than ninety days, or both. The court in its discretion, may consider each day on which the violation occurs as a separate offense.

§213.11 Fee

Each agency is authorized to establish reasonable fees to be charged to the applicant by the agency for the processing and evaluation of permit applications submitted under this Part.

§213.12 Effective dates

This Act shall become effective immediately upon being signed by the governor or, if not signed by the governor, when it becomes law in accordance with Article III, Section 18 of the constitution; provided, however, that the guidelines, standards, criteria, regulations, and permits required by Section 213.5 through 213.11 of this Part shall not become effective until the United States secretary of commerce or his designee has approved the Louisiana Coastal Zone Management Program for all purposes of the Federal Coastal Zone Management Act of 1972, as amended, 16 U.S.C. Section 1451 et seq.

Section 2. If any provision or item of this Act or the application thereof is held invalid, such invalidity shall not affect other provisions, items or applications of this Act which can be given effect without the invalid provisions, items or applications, and to this end the provisions of this Act are hereby declared severable.

Section 3. All laws or parts of laws in conflict herewith are hereby repealed.

Approved by the Governor: July 26, 1977.

Published in the Official Journal of the State: August 16, 1977.

A true copy:

PAUL J. HARDY
Secretary of State.

ACT No. 706

Senate Bill No. 794. By: Mr. Decuir.

AN ACT

To amend Chapter 4 of Subtitle II of Title 39 of the Louisiana Revised Statutes of 1950, by adding thereto a new Part, to be designated

as Part XIII thereof, comprised of Sections 1011 through 1024, relative to bonded indebtedness and special taxes, to authorize political subdivisions in Iberia Parish except the school board, to issue bonds or other debt obligations to construct, acquire, extend, or improve any work of public improvement; to provide that such bonds or other debt obligations may be secured by mortgage on the lands, buildings, machinery, and equipment or by the pledge of the income and revenues of any work of public improvement pursuant to Article VI, Section 37 of the constitution; to provide the procedures for the issuance and sale of the bonds or other debt obligations including the approval of the State Bond Commission, the maximum interest that may be provided, the rights of holders of the bonds or other debt obligations on default in payment, the imposition of fees and charges sufficient to pay operating expenses and principal and interest on the bonds or other debt obligations; to provide a prescriptive period for contest of the legality of the bonds or other debt obligations, and to exempt the bonds or other debt obligations from ad valorem taxation.

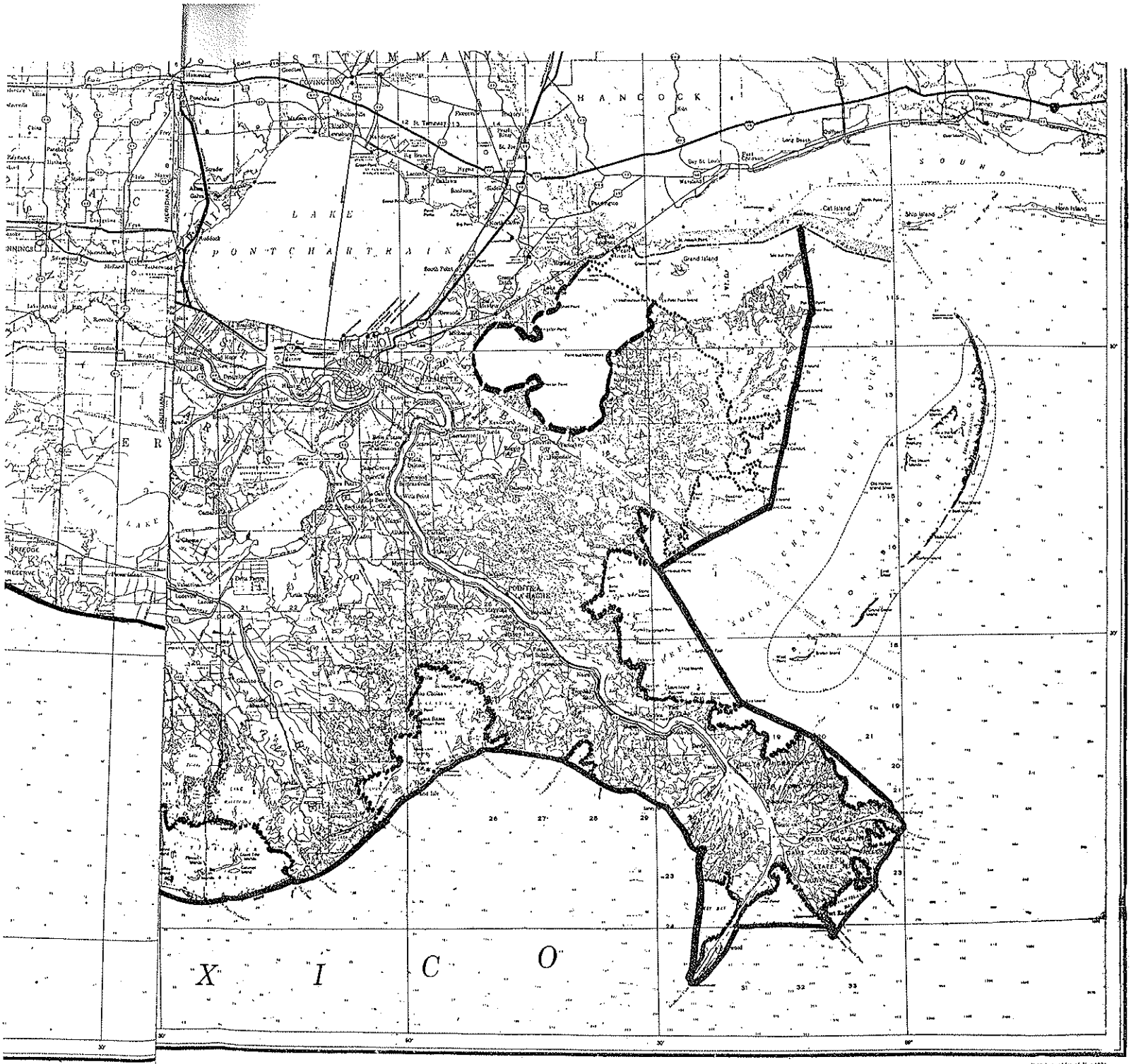
Be it enacted by the Legislature of Louisiana:

Section 1. Part XIII of Chapter 4 of Subtitle II of Title 39 of the Louisiana Revised Statutes of 1950, comprising Sections 1011 through 1024, is hereby enacted to read as follows:

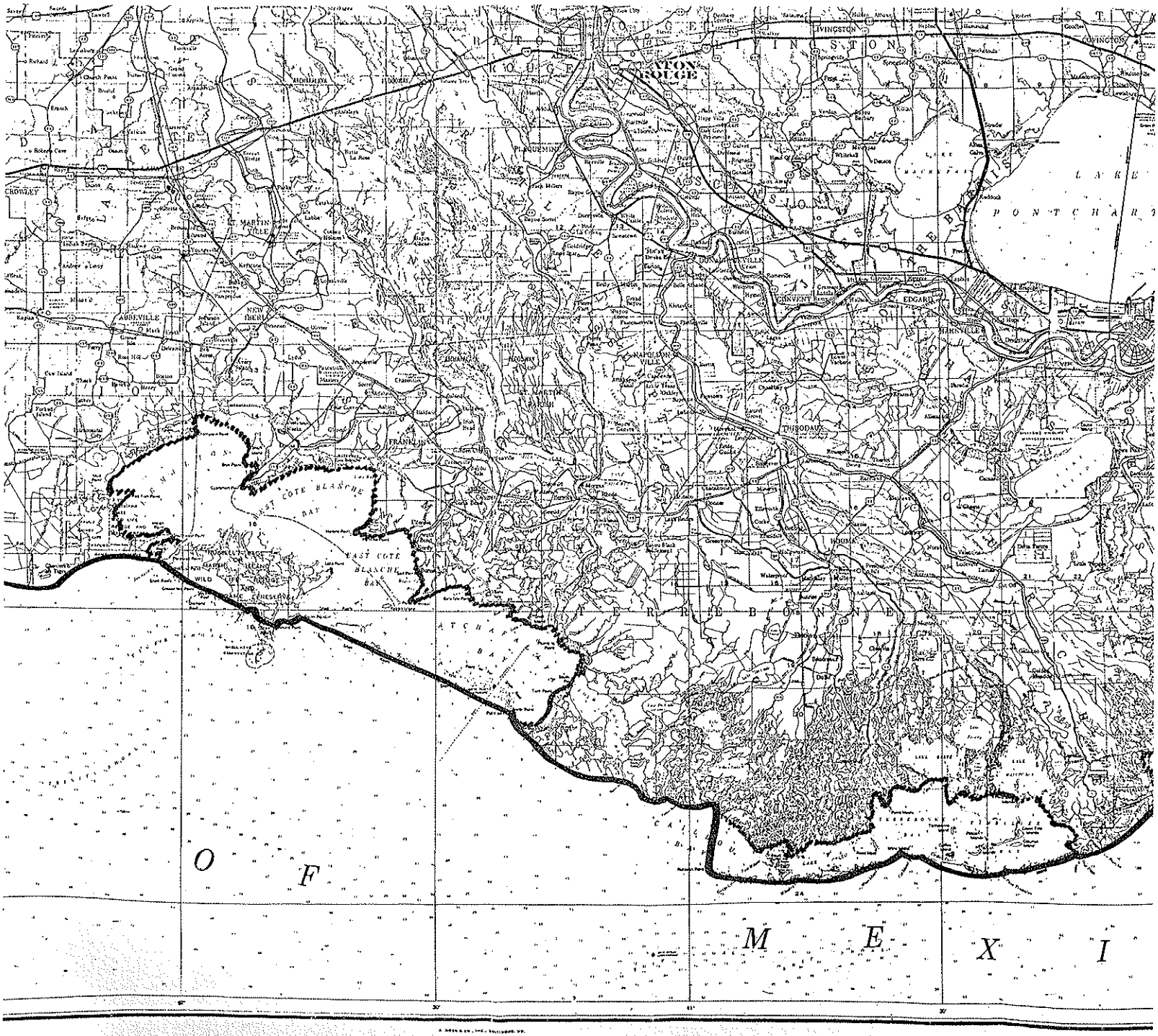
PART XIII. BONDS AND OTHER DEBT OBLIGATIONS FOR WORKS OF PUBLIC IMPROVEMENT

§1011. Authorization to issue bonds or other debt obligations

A. Any political subdivision, in Iberia Parish, as defined in Article VI, Section 44(2) of the constitution but excepting the school board, including but not limited to municipalities, parishes, sewerage districts, water districts, airport authorities, airport districts, and port commissions may issue bonds or other debt obligations including but not limited to notes and certificates of indebtednesses, to construct, acquire, extend, or improve any work of public improvement. The bonds or other debt obligations may be secured by mortgage on the lands, buildings, machinery, and equipment or by the pledge of the income and revenues derived or to be derived from the work of public improvement owned, leased, or operated by such political subdivision, sufficient in amount to pay the principal of and the interest on such bonds or other debt obligations as they severally mature, and such bonds and other debt obligations shall not be a charge upon the other income and revenues of the political subdivision as prohibited under the provisions of Article VI, Section 37 of the constitution. Any project or undertaking by any such political subdivision from which revenue is or will be derived,



Published and Issued May 1971.



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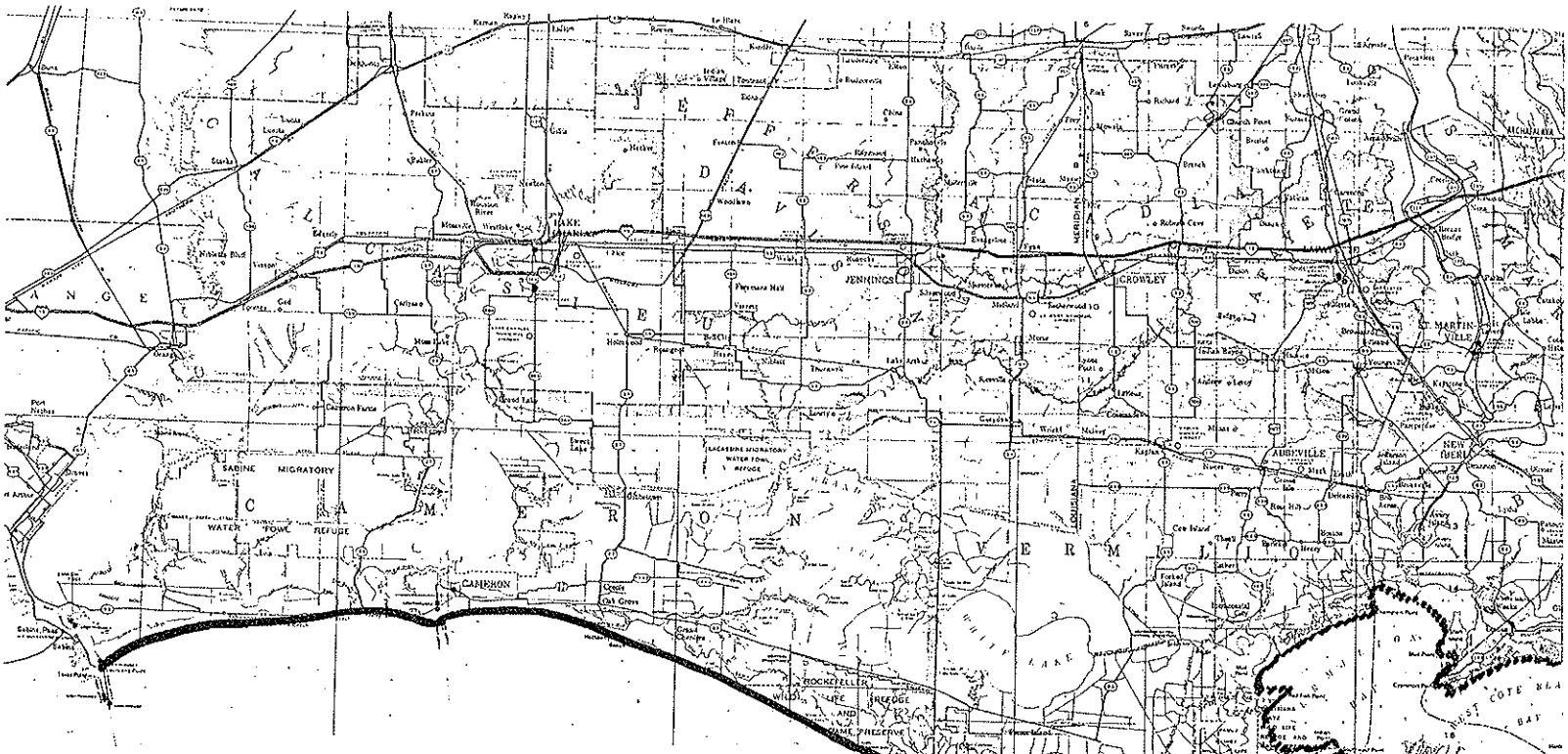


Coastline of Louisiana as established in United States v. Louisiana, 422 U.S. 13, 44 L. Ed. 2d 652 (1975), modified to exclude consideration of "Ascension Bay", the Chandeleur Islands, and islands south of Marsh Island and Atchafalaya Bay

First Bay or similar water body immediately adjacent to above coastline of Louisiana

Lake Borgne

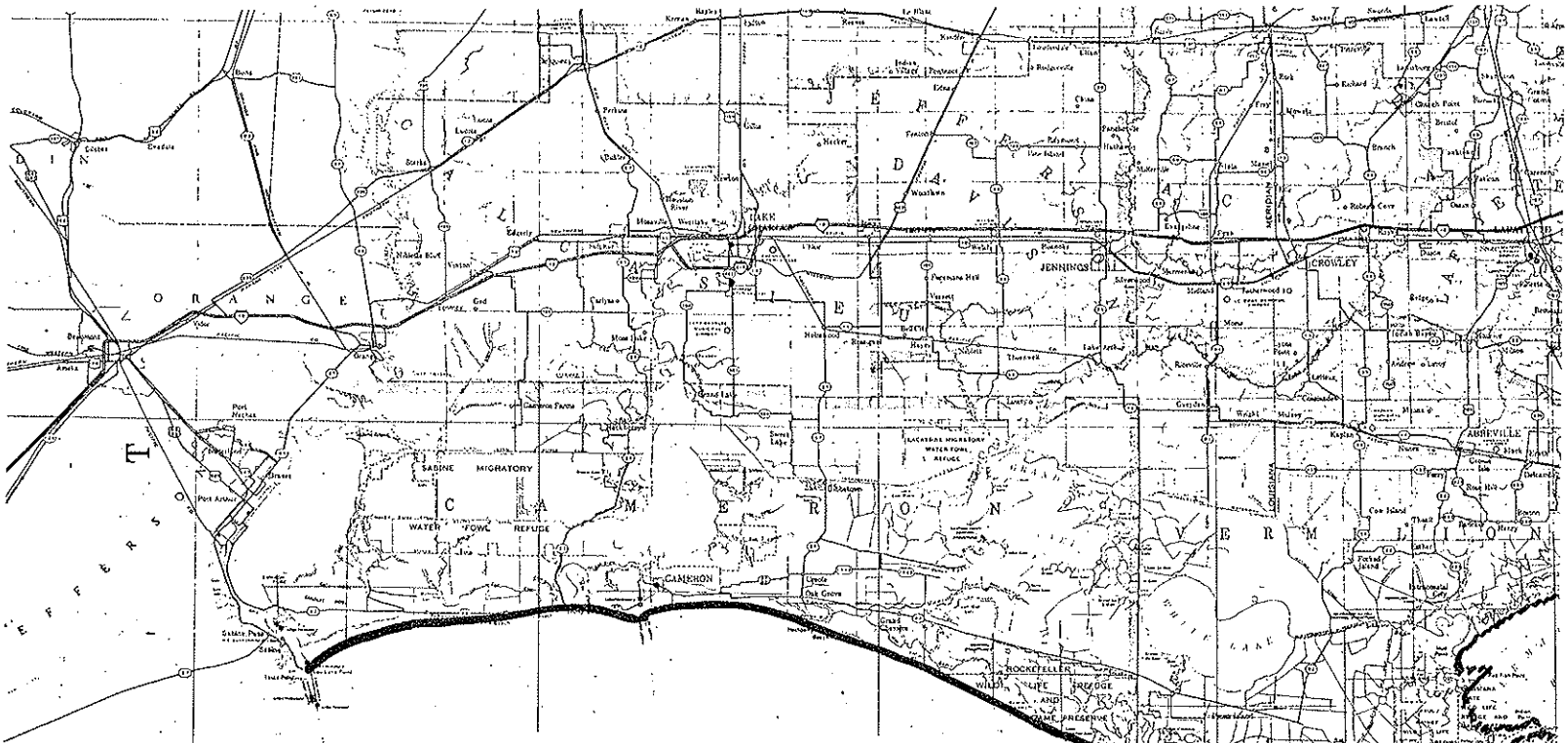
Paraphed to identify map attached to Senate Bill No. 425.

Speaker of the House of Representatives

President of the Senate

Governor of the State of Louisiana

EXHIBIT 1



Coastline of Louisiana as established in United States v. Louisiana, 422 U.S. 13, 44 L. Ed. 2d 652 (1975), modified to exclude consideration of "Ascension Bay", the Chandeleur Islands, and islands south of Marsh Island and Atchafalaya Bay

First Bay or similar water body immediately adjacent to above coastline of Louisiana

Lake Borgne

Paraphed to identify map attached to Senate Bill No. 426.

Speaker of the House of Representatives

President of the Senate

Governor of the State of Louisiana

EXHIBIT I

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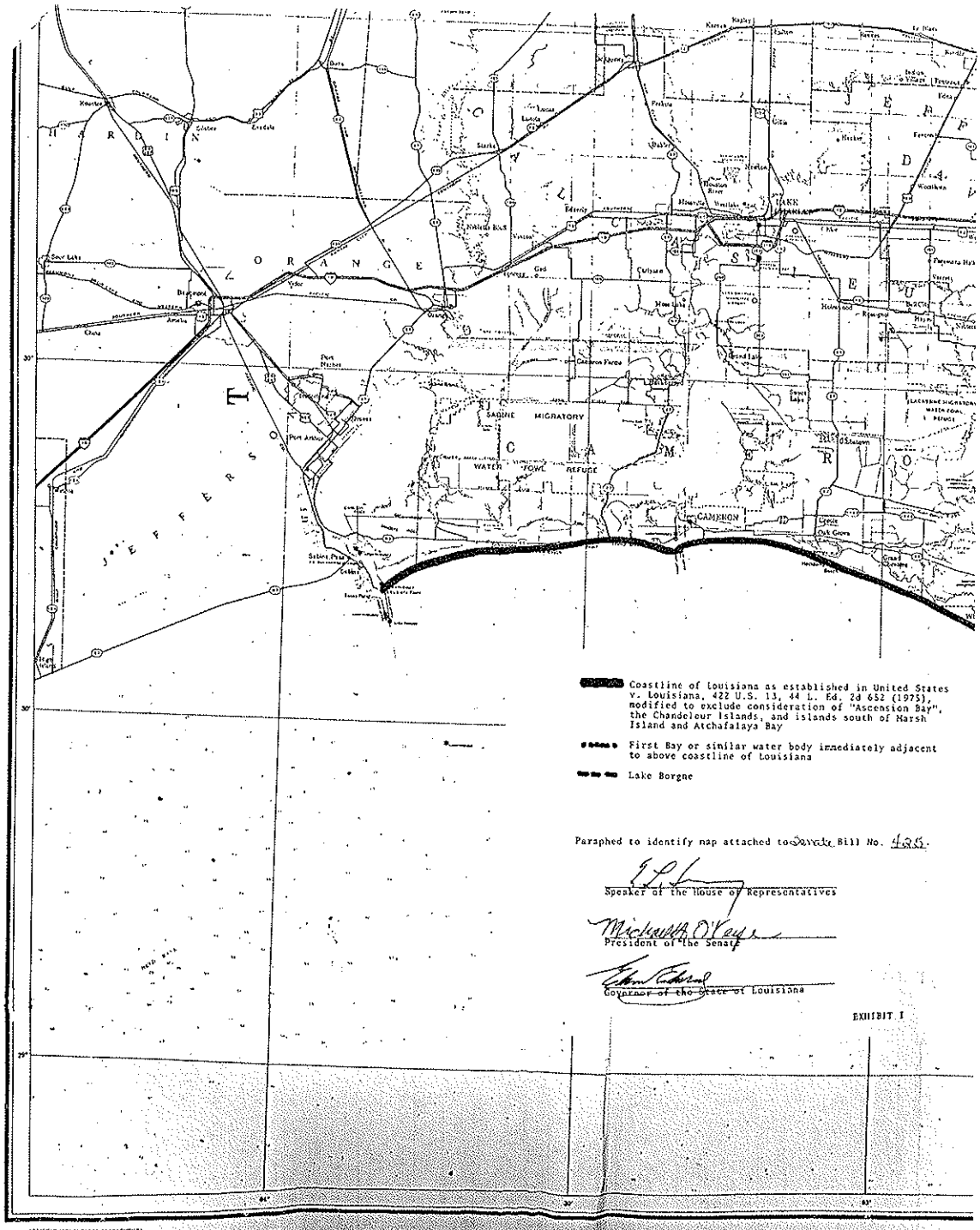

Paraphed to identify map attached to Senate Bill No. 426.

Speaker of the House of Representatives

President of the Senate

Governor of the State of Louisiana

EXHIBIT I

STATE OF LOUISIANA

ACTS OF THE LEGISLATURE

VOLUME I

REGULAR SESSION 1978

Published by Authority of the State of Louisiana

PAUL J. HARDY
Secretary of State

Baton Rouge, Louisiana
1978

Published in the Official Journal of the State: July 29, 1978.

A true copy:

PAUL J. HARDY
Secretary of State.

ACT No. 360

House Bill No. 1568. By: Mr. Reilly (Substitute for House Bill No. 411 by Mr. Scott).

AN ACT

To appropriate the sum of Eight Hundred Ninety-seven and 92/100 ($897.92) Dollars, plus legal interest from date of judicial demand, October 16, 1974, until paid and costs of court which the state may be legally liable, out of the General Fund of the state of Louisiana to be used to pay the final judgment in the suit entitled "Commercial Union Assurance Company vs. Louisiana State Highway Department," bearing Number 176,209 on the docket of the Nineteenth Judicial District Court for the parish of East Baton Rouge, state of Louisiana.

Be it enacted by the Legislature of Louisiana:

Section 1. The sum of Eight Hundred Ninety-seven and 92/100 ($897.92) Dollars, plus legal interest from date of October 16, 1974 until paid and costs of court for which the state may be legally liable, is hereby appropriated out of the General Fund of the state of Louisiana to be used to pay the final judgment in the suit entitled "Commercial Union Assurance Company vs. Louisiana State Highway Department," bearing Number 176,209 on the docket of the Nineteenth Judicial District Court for the parish of East Baton Rouge, state of Louisiana.

Section 2. 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.

Section 3. The judgment provided for in Section 1 hereof shall be deemed to have been paid on the effective date of this Act and legal interest shall cease to run as of that date.

Approved by the Governor: July 10, 1978.

Published in the Official Journal of the State: July 29, 1978.

A true copy:

PAUL J. HARDY
Secretary of State.

ACT No. 361

Senate Bill No. 930. By: Mr. Duval, Chairman of the Senate Committee on Natural Resources, and Representatives Tauzin and Ullo (Substitute for Senate Bill No. 302 by Mr. Duval).

AN ACT

To amend and reenact Part II of Chapter 2 of Title 49 of the Louisiana Revised Statutes of 1950, consisting of Sections 213.1 through 213.21, both inclusive, to provide with respect to coastal zone management; to provide for a short title; to provide for legislative findings and policy; to provide definitions; to provide for boundaries; to provide for the Coastal Management Section, its duties and responsibilities; to provide for the Louisiana Coastal Commission, its membership, duties, and responsibilities; to provide for management programs at the state and local level and rules and procedures applicable thereto; to provide for special areas; to provide for permits and permit procedures; to provide for the effect on existing authorities; to provide for intergovernmental coordination and consistency; to provide for permitted uses, to provide for appeals; to provide for enforcement injunctions, penalties, and fines; to provide for legislative review of rules; to provide for the effect on title; to provide for the effective date of this Act; and to provide otherwise both generally and specifically with respect thereto.

Be it enacted by the Legislature of Louisiana:

Section 1. Part II of Chapter 2 of Title 49 of the Louisiana Revised Statutes of 1950, consisting of Sections 213.1 through 213.21, is hereby amended and reenacted to read as follows:

PART II. LOUISIANA COASTAL ZONE MANAGEMENT PROGRAM

§213.1. Short title

This Part shall be known and may be cited as the State and Local Coastal Resources Management Act of 1978.

§213.2. Declaration of public policy

The legislature declares that it is the public policy of the state:

(1) To protect, develop, and, where feasible, restore or enhance the resources of the state's coastal zone.

(2) (a) To assure that, to the maximum extent feasible, constitutional and statutory authorities affecting uses of the coastal zone

should be included within the Louisiana Coastal Management Program and that guidelines and regulations adopted pursuant thereto shall not be interpreted to allow expansion of governmental authority beyond those laws.

(b) To express certain regulatory and non-regulatory policies for the coastal zone management program. Regulatory policies are to form a basis for administrative decisions to approve or disapprove activities only to the extent that such policies are contained in the statutes of this state or regulations duly adopted and promulgated pursuant thereto. They are to be applicable to each governmental body only to the extent each governmental body has jurisdiction and authority to enforce such policies. Other policies are nonregulatory. They are included in the Coastal Zone Management Plan to help set out priorities in administrative decisions and to inform the public and decision makers of a coherent state framework, but such policies are not binding on private parties.

(3) To support and encourage multiple use of coastal resources consistent with the maintenance and enhancement of renewable resource management and productivity, the need to provide for adequate economic growth and development and the minimization of adverse effects of one resource use upon another, and without imposing any undue restriction on any user.

(4) To employ procedures and practices that resolve conflicts among competing uses within the coastal zone in accordance with purpose of this Part and simplify administrative procedures.

(5) To develop and implement a coastal resources management program which is based on consideration of our resources, the environment, the needs of the people of the state, the nation, and of state and local government.

(6) To enhance opportunities for the use and enjoyment of the recreational values of the coastal zone.

(7) To develop and implement a reasonable and equitable coastal resources management program with sufficient expertise, technical proficiency, and legal authority to enable Louisiana to determine the future course of development and conservation of the coastal zone and to ensure that state and local governments have the primary authority for managing coastal resources.

§213.3 Definitions

(1) "Administrator" shall mean the administrator of the Coastal Management Section within the Louisiana Department of Transportation and Development.

(2) "Commission" shall mean the Louisiana Coastal Commission as provided herein.

(3) "Coastal waters" shall mean bays, lakes, inlets, estuaries, rivers, bayous, and other bodies of water within the boundaries of the coastal zone which have measurable seawater content (under normal weather conditions over a period of years).

(4) "Coastal Zone" shall mean the coastal waters and adjacent shorelands within the boundaries of the coastal zone established in Section 213.4, which are strongly influenced by each other, and in proximity to the shorelines, and uses of which have a direct and significant impact on coastal waters.

(5) "Local government" shall mean the governmental body having general jurisdiction and operating at the parish level.

(6) "Person" shall mean any individual, partnership, association, trust, corporation, public agency or authority, or state or local government body.

(7) "Secretary" shall mean the secretary of the Department of Transportation and Development.

(8) "Use" shall mean any use or activity within the coastal zone which has a direct and significant impact on coastal waters.

(9) "Fastlands" are lands surrounded by publicly owned, maintained, or otherwise validly existing levees, or natural formations, as of the effective date of this Part or as may be lawfully constructed in the future, which levees or natural formations would normally prevent activities, not to include the pumping of water for drainage purposes, within the surrounded area from having direct and significant impacts on coastal waters.

(10) "Guidelines" means those rules and regulations adopted pursuant to Section 213.8.

(11) "Public hearing", wherever required in this Part, shall mean a hearing announced to the public at least 30 days in advance, and at which all interested persons shall be afforded a reasonable opportunity to submit data, views, or arguments, orally or in writing. At the time of the announcement of the public hearing all materials pertinent to the hearing, including documents, studies, and other data, in the possession of the party calling the hearing, must be made available to the public for review and study. As similar materials are subsequently developed, they shall be made available to the public as they become available to the party which conducted the hearing.

(12) "Coastal use permit" shall mean the permits required by Section 213.11 of this Part and shall not mean or refer to, and shall be

in addition to, any other permit or approval required or established pursuant to any other constitutional provision or statute.

§213.4. Coastal zone boundary

A. The seaward boundary of the coastal zone of Louisiana shall be the seaward limit of the state of Louisiana as determined by law.

B. The interstate boundaries of the coastal zone shall be the boundary separating Louisiana from Texas on the west and the boundary separating Louisiana from Mississippi on the east, as each is determined by law.

C. The inland boundary of the coastal zone shall generally be a line beginning at the intersection of the northern line of the Intracoastal Canal and the Louisiana/Texas boundary, thence proceeding easterly along the northern bank of the Intracoastal Canal to Highway 82, thence northeasterly along Highway 82 to Highway 690, thence easterly along Highway 690 to Highway 330, thence northeasterly along Highway 330 to Highway 14, thence easterly along Highway 14 to Highway 90, thence southeasterly along Highway 90 to Highway 85, thence northeasterly along Highway 85 to Highway 90, thence easterly along Highway 90 to the intersection of Highway 90 and the eastern bank of the Atchafalaya River at Morgan City, thence southerly along the eastern bank of the Atchafalaya River to the northern bank of the Gulf Intracoastal Waterway, thence proceeding southeasterly along the northern bank of the Gulf Intracoastal Waterway to the vicinity of the Bayou du Large Ridge, thence proceeding southerly along the western edge of the Bayou du Large Ridge to the intersection of the Falgout Canal, thence proceeding easterly along the north bank of the Falgout Canal to the eastern edge of the Bayou du Large Ridge, thence proceeding northerly along the eastern edge of the Bayou du Large Ridge to the vicinity of Crozier, thence proceeding easterly to the western edge of the Grand Caillou Ridge, thence proceeding southerly along the western edge of the Grand Caillou Ridge to the vicinity of Dulac, thence proceeding easterly to the eastern edge of the Grand Caillou Ridge, thence proceeding northerly along the eastern edge of the Grand Caillou Ridge to the northern bank of the St. Louis Canal, thence proceeding easterly along the northern bank of the St. Louis Canal to the western edge of the Petit Caillou Ridge, thence proceeding southerly along the western edge of the Petit Caillou Ridge to the vicinity of Chauvin, thence proceeding easterly to Highway 55, thence proceeding northerly along Highway 55 to its intersection with Highway 665, thence easterly along Highway 665 to Bayou Point au Chien, thence northerly along Bayou Point au Chien to Highway 55, thence northerly along Highway 55 to Highway 24, thence easterly along Highway 24 to Highway 308, thence northerly along Highway 308 to a point of intersection with

the northern bank of the Gulf Intracoastal Waterway, thence northeasterly along the northern bank of the Gulf Intracoastal waterway to a point of intersection with Canal Tisamond Foret, thence proceeding northeasterly along the northern bank of the Canal Tisamond Foret to a point of intersection with a line one hundred yards inland from the mean high tide line of Lake Salvador, thence proceeding northerly along the line one hundred yards inland from the mean tide of Lake Salvador to a point of intersection with the western bank of Bayou Des Allemands, thence proceeding northerly along the western bank of Bayou Des Allemands to a point nearest the intersection of the northern boundary of the Salvador Wildlife Management Area and the eastern bank of Bayou Des Allemands, thence proceeding northeasterly across Bayou Des Allemands, and along the northern-most boundary of the Salvador Wildlife Management Area to the northeast corner of the Salvador Wildlife Management Area, thence proceeding due east to a point of intersection with the boundary separating St. Charles and Jefferson Parishes, thence proceeding northerly along the St. Charles/Jefferson Parish boundary to a point of intersection with the Mississippi River, thence proceeding in an upstream direction along the centerline of the Mississippi River to a point of intersection with the boundary separating St. James and Ascension Parishes, thence proceeding northeasterly along the St. James/Ascension Parish boundary to a point of intersection with the boundary separating St. James and St. John the Baptist Parishes, thence proceeding northerly along the Ascension/St. John the Baptist Parish boundary to a point of intersection with the boundary separating St. John the Baptist and Livingston Parishes, thence proceeding easterly along the Livingston/St. John the Baptist Parish boundary to a point of intersection with a line 100 yards inland from the mean high tide of the western shore of Lake Maurepas, thence proceeding northerly and easterly along the line 100 yards inland from the mean high tide of the western shore of Lake Maurepas to a point of intersection with the boundaries of Tangipahoa and Livingston Parishes, thence proceeding northerly along the Livingston-Tangipahoa Parish line to a point of intersection with Interstate Highway 12, thence proceeding easterly along Interstate Highway 12 to a point of intersection with Interstate Highway 10, thence proceeding easterly along Interstate Highway 10 to a point of intersection with the boundary separating Louisiana and Mississippi.

D. Within 180 days of the enactment of this Part, the secretary shall adopt a fully delineated inland boundary in accordance with the provisions of Subsection C, which boundary shall not depart appreciably from the boundary delineated therein, provided that the secretary shall be authorized to amend the boundary as may be appropriate to follow the corporate limits of any municipality divided

by the boundary. The boundary, as adopted, shall be clearly marked on large scale maps or charts, official copies of which shall be available for public inspection in the offices of the secretary, the Louisiana Coastal Commission, the Coastal Management Section, and each local government in the coastal zone.

§213.5. Types of uses

A. Uses of the coastal zone subject to the coastal use permitting program shall be of two types:

(1) Uses of state concern: Those uses which directly and significantly affect coastal waters and which are in need of coastal management and which have impacts of greater than local significance or which significantly affect interests of regional, state, or national concern. Uses of state concern shall include, but not be limited to:

(a) Any dredge or fill activity which intersects with more than one water body.

(b) Projects involving use of state owned lands or water bottoms.

(c) State publicly funded projects.

(d) National interest projects.

(e) Projects occurring in more than one parish.

(f) All mineral activities, including exploration for, and production of, oil, gas, and other minerals, all dredge and fill uses associated therewith, and all other associated uses.

(g) All pipelines for the gathering, transportation or transmission of oil, gas and other minerals.

(h) Energy facility siting and development.

(i) Uses of local concern which may significantly affect interests of regional, state or national concern.

(2) Uses of local concern: Those uses which directly and significantly affect coastal waters and are in need of coastal management but are not uses of state concern and which should be regulated primarily at the local level if the local government has an approved program. Uses of local concern shall include, but not be limited to:

(a) Privately funded projects which are not uses of state concern.

(b) Publicly funded projects which are not uses of state concern.

(c) Maintenance of uses of local concern.

(d) Jetties or breakwaters.

(e) Dredge or fill projects not intersecting more than one water body.

(f) Bulkheads

(g) Piers.

(h) Camps and cattlewalks.

(i) Maintenance dredging.

(j) Private water control structures of less than $15,000 in cost.

(k) Uses on cheniers, salt domes, or similar land forms.

B. Subject to the provisions of this Part, the delineation of uses of state or local concern shall not be construed to prevent the state or local governments from otherwise regulating or issuing permits for either class of use pursuant to another law.

C. The secretaries of the Departments of Natural Resources, Transportation and Development, and Wildlife and Fisheries are authorized to jointly develop for adoption by the secretary, after notice and public hearing, rules for the further delineation of the types of uses which have a direct and significant impact on coastal waters and which demonstrate a need for coastal management, the classification of uses not listed herein, and for the modification and change of the classifications of uses, provided that no changes shall be made in the classifications of the uses listed in Subsection A.

D. In order for the state to exercise all or part of the federal government's authority for the issuance of permits for discharges of dredged or fill material within the coastal zone, the secretary is authorized to adopt necessary and appropriate rules, consistent with the other provisions of this statute, for the regulation of discharges of dredged or fill material into waters in the coastal zone subject to Section 404 regulation by the Corps of Engineers.

E. When only part of a use lies within the coastal zone, only that portion of the use which is located within the coastal zone is considered a use subject to a coastal use permit under this Part.

F. All uses and activities within the coastal zone are permissible, except as subject to the permitting requirements of this Part.

§213.6. Coastal management section

A. There is hereby created a Coastal Management Section.

(1) A Coastal Management Section shall be created within the Department of Transportation and Development and the secretary shall administer the Coastal Management Section.

(2) The Coastal Management Section shall be under the supervision and control of an administrator selected and appointed by the secretary in accordance with the Louisiana Civil Service laws.

(3) The secretary is authorized to select and appoint such additional staffing as may be necessary to carry out the provisions of this Part.

B. The administrator shall:

(1) Receive, evaluate, and make recommendations to the secretary concerning applications for coastal uses permits.

(2) Conduct or cause to be conducted investigations, studies, planning, and research.

(3) Systematically monitor and conduct surveillance of permitted uses to ensure that conditions of coastal use permits are satisfied.

(4) Coordinate closely with the secretary and local, state, regional, and federal agencies with respect to coastal management.

C. The administrator shall have the authority to:

(1) Take appropriate enforcement measures for violations of this Part.

(2) Seek civil relief, as provided by Section 213.17(D).

(3) Provide advice and technical assistance to the secretary, the commission, and local governments.

(4) Conduct such activities or make such decisions as may be delegated or authorized by the secretary.

D. The secretary shall make decisions on applications for coastal use permits and may establish conditions on the granting of coastal use permits.

E. The secretary is further authorized to carry out those duties delegated to the administrator by Subsections B and C of this Section.

§213.7. Louisiana Coastal Commission; membership; etc.

A. The Louisiana Coastal Commission is hereby created as an independent body within the Department of Transportation and Development and shall be staffed by the Department of Transportation and Development. It shall function as an administrative appeals body for decisions regarding coastal use permits and approval of local programs and as hereinafter provided.

B. The commission shall be composed of twenty three members as follows: one each shall be appointed by the local governing authority of the parishes of Cameron, St. Tammany, Vermilion, Iberia, St. Mary, Terrebonne, Lafourche, Jefferson, Plaquemines, St. Bernard and Orleans; the governor shall appoint 11 members with one representing the oil and gas industry, one representing agriculture and

forestry, one representing commercial fishing and trapping, one representing sport fishing, hunting and outdoor recreation, one representing ports, shipping and transportation, one representing nature preservation and environmental protection, one representing coastal landowners, one representing municipalities, one representing the utility industry, one representing producer of solid minerals, and one representing industrial development; the secretary of the Department of Wildlife and Fisheries, or his designee, shall be a member. Of the governor's appointees, one shall be domiciled in Calcasieu parish; one shall be domiciled in St. Charles Parish; one shall be domiciled in St. John the Baptist parish; one shall be domiciled in Tangipahoa parish; one shall be domiciled in St. James parish. The local governments and the governor shall also appoint an alternate for each of the members that they appoint. The alternate may vote and speak on behalf of the representative in his absence. All appointments by the governor to the commission shall be first confirmed by the Senate.

C. The members on the commission representing local government shall be appointed by the local governing authority of the designated coastal parishes. The members appointed by the governor shall be residents of the designated coastal parishes. All members of the commission shall serve at the pleasure of the appointing authority.

D. Within sixty days of the effective date of this Part, the local governing authority of each parish shall select one person as its representative and one person as an alternate who may vote and speak on behalf of the representative in his absence.

E. The presiding officer from each of the local governments appointing members shall submit a letter to the governor naming the representative and alternate for that parish within sixty days of the effective date of this Part. Members of the commission shall serve for terms of two years which shall run from the date of the first organizational meeting of the commission. Members may succeed themselves indefinitely, but every second year they shall be confirmed by the appropriate appointing authority. Failure of a parish to appoint shall not prevent the commission from conducting its business.

F. (1) The governor shall designate one of the parish representatives as acting chairman of the commission. The acting chairman shall call an organizational meeting of the commission promptly after the sixty days provided for making appointments has elapsed or after all members have been appointed, whichever first occurs. At the first meeting the commission shall elect a chairman and a vice chairman and decide upon the rules for conducting commission business.

(2) The commission shall meet as often as necessary to conduct its

business but no less frequently than once every three months. A quorum shall consist of at least twelve members of the commission.

G. Each member of the commission shall serve in an individual capacity and not as a representative of his employer or organization.

H. Vacancies occurring in the membership of the commission shall be filled for the unexpired term by the local government making the appointment to the vacated position or by the governor if the position was first appointed by the governor.

I. Members of the commission shall be compensated fifty dollars per diem for each day spent attending commission meetings and on business duly authorized by the commission at a meeting. In addition, all members shall be reimbursed for mileage at the rate of sixteen cents per mile.

§213.8. Coastal management program

A. The secretary shall develop the overall state coastal management program consisting of all applicable constitutional provisions, laws and regulations of this state which affect the coastal zone in accordance with the provisions of this Part and shall include within the program such other applicable constitutional or statutory provisions or other regulatory or management programs or activities as may be necessary to achieve the purposes of this Part or necessary to implement the guidelines hereinafter set forth.

B. Prior to the effective date of this Part, the secretary shall begin to develop a management program and shall develop guidelines in conjunction with the secretaries of the Department of Wildlife and Fisheries and the Department of Natural Resources. Notice of the issuance of the proposed guidelines shall be given to relevant federal, state, and local governmental bodies and the general public and public hearings shall be held. After consideration of comments received, the secretary shall submit the jointly developed guidelines to the commission for their review and approval. The commission may disapprove individual guidelines giving their reason in writing for each guideline disapproved. The commission shall have sixty days to act, and lack of official action shall constitute approval. Any guidelines disapproved shall be returned to the secretaries of the Departments of Transportation and Development, Natural Resources, and Wildlife and Fisheries, acting jointly, for further consideration. The secretaries shall submit within thirty days revised guidelines to the commission. The commission shall have thirty days to act pursuant to the above procedures. Any guideline so rejected shall be submitted to the the* House Committee on Natural Resources and Senate Committee on Natural Resources pursuant to §213.18 and then to the

*As it appears in the enrolled bill.

governor for final determination. The secretary shall adopt those guidelines approved by the commission or the governor.

The adopted guidelines shall be followed in the development of the state program and local programs, and shall serve as criteria for the granting, conditioning, denying, revoking, or modifying of coastal use permits. The secretary, jointly with the secretaries of the Department of Wildlife and Fisheries and the Department of Natural Resources, shall review the guidelines at least once each year to consider modifications to the guidelines as a result of experience in issuing coastal use permits and results of research and planning activities. Any modifications shall be subject to the approval of the commission pursuant to the procedures set forth in this subsection.

C. The state guidelines shall have the following goals:

(1) To encourage full use of coastal resources while recognizing it is in the public interest of the people of Louisiana to establish a proper balance between development and conservation.

(2) Recognize that some areas of the coastal zone are more suited for development than other areas and hence use guidelines which may differ for the same uses in different areas.

(3) Require careful consideration of the impacts of uses on water flow, circulation, quantity, and quality and require that the discharge or release of any pollutant or toxic material into the water or air of the coastal zone be within all applicable limits established by law, or by federal, state, or local regulatory authority.

(4) Recognize the value of special features of the coastal zone such as barrier islands, fishery nursery grounds, recreation areas, ports and other areas where developments and facilities are dependent upon the utilization of or access to coastal waters, and areas particularly suited for industrial, commercial, or residential development and manage those areas so as to enhance their value to the people of Louisiana.

(5) Minimize, whenever feasible and practical, deterimental impacts on natural areas and wildlife habitat and fisheries by such means as encouraging minimum change of natural systems and by multiple use of existing canals, directional drilling, and other practical techniques.

(6) Provide for adequate corridors within the coastal zone for transportation, industrialization, or urbanization and encouraging the location of such corridors in already developed or disturbed areas when feasible or practicable.

(7) Reduce governmental red tape and costly delays and ensure more predictable decisions on permit applications.

(8) Encourage such multiple uses of the coastal zone as are consistent with the purposes of this Part.

(9) Minimize detrimental effects of foreseeable cumulative impacts on coastal resources from proposed or authorized uses.

(10) Provide ways to enhance opportunities for the use and enjoyment of the recreational values of the coastal zone.

(11) Require the consideration of available scientific understanding of natural systems, available engineering technology and economics in the development of management programs.

(12) Establish procedures and criteria to ensure that appropriate consideration is given to uses of regional, state, or national importance, energy facility siting and the national interests in coastal resources.

D. In the development and implementation of the overall management program, reasonable efforts shall be made to inform the people of the state about the coastal management program and participation and comments by federal, state, and local governmental bodies, including port authorities, levee boards, regional organizations, planning bodies, municipalities and public corporations and the general public shall be invited and encouraged.

All governmental bodies may participate to ensure that their interests are fully considered.

§213.9. Local coastal management programs

A. Local governments may develop local coastal management programs in accordance with the provisions of this Section.

B. Within one hundred twenty days of the effective date of this Part, the secretary shall adopt, after notice and public hearing, rules and procedures for the development, approval, modification, and periodic review of local coastal management programs.

C. The rules and procedures adopted pursuant to this Section shall be consistent with the state guidelines and shall provide particularly, but not exclusively, that:

(1) Local governments, in developing local programs, shall afford full opportunity for municipalities, state and local government bodies, and the general public to participate in the development and implementation of the local program.

(2) A public hearing to receive comments on a proposed local program shall be held in the area to be subject to the program by the local government proposing the program or its duly appointed local committee.

(3) A local program developed under this Section shall be consistent with the state guidelines and with the policies and objectives of this Part and shall particularly, but not exclusively, consist of:

(a) A description of the natural resources and the natural resource users of the coastal zone area within the parish, the social and economic needs within particular areas of the coastal zone of the parish, and the general order or priority in which those needs which directly and significantly affect coastal waters should be met within the coastal zone of the parish.

(b) Procedures to be used by the local government to regulate uses of local concern.

(c) Special procedures and methods for considering use within special areas, uses of greater than local benefit, and uses affecting the state and national interest.

(4) Each local government preparing a local program under this Section may appoint a coastal advisory committee (hereinafter called "local committee"). The local committee shall be composed of a reasonable number of persons who represent users of coastal resources and shall include representation of users concerned with conservation and preservation of renewable coastal resources and users concerned with development of resources for commercial purposes. The local committee shall assist local government in the development and implementation of a local program and in the development of special management programs affecting special areas. The local committee may report progress or problems in the implementation of the state and local programs and may convey ideas and suggestions to the local governments and the administrator.

(5) Local programs shall be submitted to the secretary for review and may be submitted after promulgation of the state guidelines and the rules adopted pursuant to this Section.

D. In approving a local program, the secretary, acting jointly with the secretaries of the Department of Natural Resources and the Department of Wildlife and Fisheries, may make reasonable interpretations of the state guidelines insofar as they affect that particular local program, which are necessary because of local environmental conditions or user practices. The secretary may otherwise provide for the requirements for approval of local programs.

E. Within ninety days after receipt of a proposed local program, the secretary shall either approve the program or notify the local government of the specific changes which must be made in order for it to be approved. Before making his decision the secretary shall consider each proposed local program, the comments received from other agencies, interested persons and the public hearing, the state

guidelines and the rules adopted pursuant to this Section. A local program may be resubmitted, or amended following the same procedures outlined herein.

F. A local government or any other persons adversely affected by a decision of the secretary pursuant to Subsection E may appeal the decision to the commission pursuant to Section 213.16.

G. No local coastal program shall become effective until it has been approved by the secretary. Once approved, a local program shall be available for public inspection at the offices of the local government and of the administrator.

H. Once a local program is approved by the secretary:

(1) Uses of local concern within the parish's coastal zone must be consistent with the local program and shall be subject to the issuance of coastal use permits by the local government.

(2) The local program may be altered or modified only with approval of the secretary pursuant to the procedures provided for approval of local program.

(3) The local program, its procedures and implementation shall be subject to periodic review by the secretary to ensure continued consistency with the state program, guidelines, and with the policies and purpose of this Part. The secretary shall require the modification of the local program or its procedures when necessary to ensure such consistency pursuant to the procedures provided for approval of a local program.

J. The secretary is authorized to enter into contracts with local governments to provide financial assistance on a matching fund basis to aid the development and implementation of approved local programs under this Part. The secretary shall develop rules and procedures after notice and public hearing, under which local governments may qualify for such assistance. Whenever such financial assistance is a loan from the federal government under the Coastal Energy Impact Program or its successor program, it is state policy that the local government should not pay interest on such loan at a rate to exceed four per cent per annum.

§213.10 Special areas and projects

A. Special areas are areas within the coastal zone which have unique and valuable characteristics requiring special management procedures. Special areas may include important geological formations, such as beaches, barrier islands, shell deposits, salt domes, or formations containing deposits of oil, gas or other minerials*; historical or archaeological sites; corridors for transportation, industrialization or urbanization; areas subject to flooding, subsidence, salt water intrusion or the like; unique, scarce, fragile, vulnerable, highly productive or essential habitat for living resources; ports or other developments or facilities dependent upon access to water; recreational areas; freshwater storage areas; and such other areas as may be determined pursuant to this Section.

*As it appears in the enrolled bill.

B. The secretary shall adopt, after notice and public hearing, rules for the identification, designation, and utilization of special areas and for the establishing of guidelines or priorities of uses in each area, subject to the approval of the commission.

C. Those areas and facilities subject to the jurisdiction of the Offshore Terminal Authority are deemed to be special areas. The environmental protection plan required by R.S. 34:3113 shall constitute the management guidelines for this special area and shall continue to be administered and enforced by the Offshore Terminal Authority or its successor in accordance with the policies and objectives of the state program.

D. The secretary shall have the authority to set priorities, consistent with this Act, for funding available under Section 308 of the Federal Coastal Zone Management Act (PL 92 - 583 as amended by PL 94 - 370).

E. The secretary is authorized to assist approved local programs and state and local agencies carrying out projects consistent with the guidelines, related to the management development, preservation, or restoration of specific sites in the coastal zone or to the development of greater use and enjoyment of the resources of the coastal zone by financial, technical, or other means, including aid in obtaining federal funds. Whenever the financial assistance is a loan from the federal government under the Coastal Energy Impact Program or its successor program, it is state policy that the borrowing entity should not pay interest on such loan at a rate to exceed four percent per annum.

§213.11 Coastal use permits

A. No person shall commence a use of state or local concern without first applying for and receiving a coastal use permit. Decisions on coastal use permit applications shall be made by the secretary, except that the local government shall make coastal use permit decisions as to uses of local concern in areas where an approved local program is in effect.

B. Within one hundred twenty days after the effective date of this Part, the secretary shall adopt, after notice and public hearing, rules and procedures consistent with this Part for both the state coastal

management program and approved local programs regarding the form and information requirements for coastal use permit applications, the coastal use permit review process, public notice and public comments, criteria and guidelines for decision making, appeals and emergency activities.

C. The rules promulgated pursuant to this Section shall, among other things, provide that:

(1) Coastal use permit applications shall be submitted to the administrator, except that applications for uses in areas subject to an approved local program may instead be submitted to the local government. Local governments with an approved program to whom applications are submitted shall make the initial determination, subject to review by the administrator with a right of appeal to the commission, as to whether the proposed use is of state concern or local concern. In the event of an appeal to the commission, the burden of proof shall be on the administrator. Copies of all applications submitted to local governments, and the local government's use-type determination, shall be transmitted to the administrator within two days of receipt.

(2) Within ten days of receipt of a coastal use permit application by the administrator, copies of the application shall be distributed to the local government or governments in whose parish the use is to occur and all appropriate state and local agencies and public notice shall be given. A public hearing on an application may be held.

(3) The decision to approve, approve with modifications, or otherwise condition approval, or deny the coastal use permit shall be made within thirty days after public notice or within fifteen days after a public hearing, whichever is later. The coastal use permit decision must be consistent with the state program and approved local programs for affected parishes and must represent an appropriate balancing of social, environmental and economic factors. In all instances local government comments shall be given substantial consideration.

(4) The decision to approve, approve with modifications, or otherwise condition approval, or deny the application for a coastal use permit shall be in writing and copies of the decisions shall be sent to all parties.

(5) Public notice of coastal use permit decisions shall be given.

(6) The secretary may adopt rules providing for alternate procedures for the filing of applications, distribution of copies, giving of notices, and public hearings in order to implement the coordinated coastal permitting process established pursuant to Section 213.14.

D. The applicant, the secretary, and affected local government or

affected federal, state, or local agency, any aggrieved person, or any other person adversely affected by a coastal use permit decision may appeal the coastal use permit decision to the commission. An appeal must be filed in writing within thirty days following public notice of the final decision and shall be in accordance with procedures adopted by the commission.

E. The secretary is authorized to adopt rules and procedures for the issuance of general coastal use permits and for the issuance of variances from the normal coastal use permitting requirements. For the purposes of this Part, a general coastal use permit is an authorization to prospective users to perform specific uses within prescribed areas of the coastal zone without the necessity for a complete, independent review of each proposed use and allows the shortest time period of review possible. The rules and procedures which may be adopted pursuant to this Section shall provide for expeditious processing of applications for general coastal use permits and may authorize variances from the normal coastal use permit application and review procedures. General coastal use permits and variances from the normal coastal use permitting requirements may not be issued except when the issuance of such general coastal use permits or variances does not impair the fulfillment of the objectives and policies of the Part.

F. The secretary shall adopt rules whereby specified types of activities may be carried out under prescribed emergency conditions without the necessity of obtaining a coastal uses permit in advance.

G. The secretary is authorized to establish a reasonable schedule for fees to be charged to the applicant for the processing and evaluation of coastal uses permit applications.

§213.12. Existing authority of certain state departments and local governments retained

A. Nothing in this Part shall abridge the constitutional authority of any department of state government or any agency or office situated within a department of state government. Nor shall any provision, except as clearly expressed herein, repeal the statutory authority of any department of state government or any agency or office situated in a department of state government.

B. Permits issued pursuant to existing statutory authority of the office of conservation in the Department of Natural Resources for the location, drilling, exploration and production of oil, gas, sulphur or other minerals shall be issued in lieu of coastal use permits, provided that the office of conservation shall coordinate such permitting actions pursuant to §213.13(B) and (D) and shall ensure that all activities so permitted are consistent with the guidelines, the state program and any affected local program.

C. Permits issued pursuant to existing statutory authority by the Department of Wildlife and Fisheries for the leasing, seeding, cultivation, planting, harvesting or marking of oyster bedding grounds shall be issued in lieu of coastal use permits, provided that the Department of Wildlife and Fisheries shall coordinate such permitting actions pursuant to §213.13(B) and (D) and shall ensure that all activities so permitted are consistent with the guidelines, the state program and any affected local program.

D. The provisions of this Part are not intended to abridge the constitutional authority of any local governments, levee boards or other political subdivisions.

§213.13. Intergovernmental coordination and consistency

A. Deep water port commissions and deep water port, harbor, and terminal districts, as defined in Article 6, Sections 43 and 44 of the Louisiana Constitution of 1974, shall not be required to obtain coastal use permits. Provided, however, that their activities shall be consistent to the maximum extent practicable with the state program and affected approved local programs.

B. Any governmental body undertaking, conducting, or supporting activities directly affecting the coastal zone shall ensure that such activities shall be consistent to the maximum extent practicable with the state program and any affected approved local program having geographical jurisdiction over the action.

C. Consistency determinations shall be made by the secretary except that consistency determinations for uses carried out under the secretary's authority shall be made by the governor.

D. Governmental bodies shall fully coordinate their activities directly affecting the coastal zone with the state program and affected approved local programs. When the secretary finds that governmental actions not subject to the coastal use permitting program may significantly affect land and water resources within the coastal zone, he shall notify the secretaries of the Department of Natural Resources and Wildlife and Fisheries and the concerned governmental body carrying out the action. Any governmental body so notified shall coordinate fully with the secretaries, acting jointly, at the earliest possible stage of the proposed action. The secretaries shall make comments to such other agencies in order to assure that such actions are consistent with the state program and affected local programs. Comments received from the secretaries shall, to the maximum extent practicable, be incorporated into the action commented upon.

E. Provided that neither the state nor any local government having an approved local program shall be liable for any damages

resulting from activities occuring* in connection with the granting of any coastal use permit pursuant to this Section; and provided further that any person undertaking any use within the coastal zone in accordance with the terms and conditions of a coastal use permit issued pursuant to this Section shall be considered in full compliance with the purposes and provisions of this Part.

§213.14. Coordinated coastal permitting process

A. This Section is intended to expedite and streamline the processing of issuing coastal use permits and of obtaining all other concurrently required permits or approvals from other governmental bodies having separate regulatory jurisdiction or authority over uses of the coastal zone without impinging on the regulatory jurisdiction or authority of such other governmental bodies.

B. To implement this intent, within one year of the effective date of this Part, the secretary, the administrator, local governments, and all other relevant governmental bodies having such other regulatory jurisdiction or authority over uses of the coastal zone shall in cooperation with one another and under the direction of the governor establish a coordinated coastal permitting process by means of binding interagency agreements wherein:

(1) One application form serves as the application form for all required permits or approvals from all governmental bodies taking part in the coordinated coastal permitting process.

(2) The application contains sufficient information so that all necessary reviews by all affected governmental bodies can be expeditiously carried out.

(3) A "one window" system for applications is established, with copies of the application being transmitted to all governmental bodies taking part in the coordinated coastal permitting process.

(4) Only one public hearing, if any, need be held on the application. Any public hearing held shall be deemed to serve for all governmental bodies taking part in the coordinated coastal permitting process.

(5) The shortest practicable period for review of applications by all governmental bodies taking part in the coordinated coastal permitting process insofar as the application pertains to the regulatory jurisdiction or authority of such governmental body, is provided for.

(6) The coordinated coastal permitting process shall not affect the powers, duties, or functions of any governmental body particularly the Department of Wildlife and Fisheries and the Office of Conservation in the Department of Natural Resources.

*As it appears in the enrolled bill.

(7) If practicable, a joint permitting process with federal agencies issuing permits shall be established incorporating the coordinated coastal permitting process.

C. Provided that local zoning, subdivision, building, health, and other similar permits, reviewing, or approvals which are not part of an approved local program shall not be included within the unified permitting program; nor shall any other permit review or approval which, in the discretion of the secretary, would be inappropriate for inclusion in a unified permit.

D. Prior to the implementation of the unified coastal permitting program, the secretary is authorized to develop interim interagency agreements with the respective governmental bodies to coordinate permit handling, decision making, and appeal procedures.

§213.15. Activities not requiring a coastal use permit

A. The following activities shall not require a coastal use permit.

(1) Activities occurring wholly on lands five feet above mean sea level except when the secretary finds, subject to appeal to the commission, that the particular activity would have direct and significant impacts on coastal waters. In the event of appeal to the commission the burden of proof shall be on the secretary.

(2) Activities occurring within fast lands except when the secretary finds, subject to appeal to the commission, that the particular activity would have direct and significant impacts on coastal waters. In the event of appeal to the commission the burden of proof shall be on the secretary.

(3) Agricultural, forestry, and aquaculture activities on lands consistently used in the past for such activities.

(4) Hunting, fishing, trapping, and the preservation of scenic, historic, and scientific areas and wildlife preserves.

(5) Normal maintenance or repair of existing structures including emergency repairs of damage caused by accident, fire, or the elements.

(6) Uses and activities within the special area established in Section 213.10(C) which have been permitted by the Offshore Terminal Authority in keeping with its environmental protection plan.

(7) Construction of a residence or camp.

(8) Construction and modification of navigational aids such as channel markers and anchor buoys.

(9) Construction, maintenance, repair, or normal use of any

dwelling, apartment complex, hotel, motel, restaurant, service station, garage, repair shop, school, hospital, church, office building, store, amusement park, sign, driveway, sidewalk, parking lot, fence, or utility pole or line, when these activities occur wholly on lands five feet or more above mean sea level or on fast lands except when the secretary finds, subject to appeal to the commission, that the particular activity would have direct and significant impacts on coastal waters. In the event of appeal to the commission the burden of proof shall be on the secretary.

(10) Uses which do not have a significant impact on coastal waters.

B. The secretary shall adopt rules for the implementation of this Section and may, by such rules, specify such other activities not requiring a coastal use permit as are consistent with the purposes of this Part.

Provided, however, that nothing in this Subsection shall be construed as otherwise abrogating the lawful authority of agencies and local governments to adopt zoning laws, ordinances, or rules and regulations for those activities within the coastal zone not requiring a coastal use permit and to issue licenses and permits pursuant thereto. Provided further that individual specific uses legally commenced or established prior to the effective date of the coastal use permit program shall not require a coastal use permit.

§213.16. Appeals

A. All appeals to the commission shall be conducted in accordance with the adjudication procedure of the Louisiana Administrative Procedures Act except as otherwise provided herein.

B. The commission shall, in the interest of justice, grant a stay of a decision on a coastal use permit or approval of a local program until the appeal decision is rendered.

C. The commission shall affirm, modify, or reverse the decision, provided that a majority vote shall be required to modify or reverse. A modification or reversal of a decision can be based only on one or more of the following criteria:

(1) The decision represents an unreasonable interpretation of the state program or guidelines or of the affected approved local program.

(2) The decision places an onerous and inequitable burden on the applicant and only minimal and inconsequential variance from the objectives and policies of this Part would result from not requiring compliance with the state program and guidelines or an approved local program, or both.

(3) The decision is clearly contrary to the provisions of this Part, or to the evidence presented to the secretary, the administrator, or to the local government.

(4) The decision is unreasonable, arbitrary or capricious, or characterized by an abuse of discretion, or a clearly unwarranted exercise of discretion.

D. All hearings on appeals shall be conducted by the commission at public hearings. The commission shall decide the appeal on the basis of the record compiled before the secretary or approved local program and the record of the hearing provided for in this subsection. The commission's decision shall be rendered within forty-five days of receipt of a petition for an appeal and shall be issued in accordance with the adjudication provisions of the Louisiana Administrative Procedures Act. Appropriate notice of decisions shall be given to parties and the public.

Once the commission's decision has been reached, the commission shall direct the secretary, the administrator or local government to take the action necessary to resolve the issues presented by the application and the commission's decision.

E. The commission's decision shall constitute final agency action under the Louisiana Administrative Procedures Act.

F. Only final decisions by the commission shall be subject to judicial review. The applicant, the administrator, the secretary, an affected state or local governmental body, or any person adversely affected by the final decision shall be entitled to judicial review.

G. Judicial review shall otherwise be pursuant to the Louisiana Administrative Procedures Act, provided that all such cases shall be tried with preference and priority. Trial de novo shall be held upon request of any party.

H. Venue for purposes of this Section shall be any parish in which the proposed use is to be situated.

§213.17. Enforcement; injunction; penalties and fines

A. The administrator and each local government with an approved program shall initiate a field surveillance program to ensure the proper enforcement of the management program. The secretary may enter into interagency agreements with appropriate agencies to assist in the surveillance, monitoring, and enforcement activities pursuant to this Part.

B. The secretary, and each local government with an approved program as to uses under its jurisdiction, shall have the authority to

issue cease and desist orders against any person found to be in violation of this Part or the rules and regulations issued hereunder.

C. The secretary, and each local government with an approved program as to coastal use permits issued by it, shall have the authority to suspend, revoke, or modify coastal use permits if the user is found to have violated any of the conditions of the coastal use permit.

D. The secretary, the administrator, the attorney general, an appropriate district attorney, or a local government with an approved program may bring such injunctive, declaratory, or other actions as are necessary to ensure that no uses are made of the coastal zone for which a coastal use permit has not been issued when required or which are not in accordance with the terms and conditions of a coastal use permit.

E. A court may impose civil liability and assess damages; order, where feasible and practical, the payment of the restoration costs; require, where feasible and practical, actual restoration of areas disturbed; or otherwise impose reasonable and proper sanctions for uses conducted within the coastal zone without a coastal use permit where a coastal use permit is required or which are not in accordance with the terms and conditions of a coastal use permit. The court in its discretion may award costs and reasonable attorney's fees to the prevailing party.

F. Any person found to have knowingly and intentionally violated the provisions of this Part, any of the rules and regulations issued hereunder, or the terms or conditions of any coastal use permit shall be subject to a fine of not less than one hundred dollars and not more than five hundred dollars, or imprisonment for not more than ninety days, or both.

G. Any action pursuant to this Section, whether criminal or civil, must be brought in any parish in which the use or activity is situated. If the use or activity is situated in one or more parishes, then any action may be brought in either of the parishes in which the use or activity is situated.

§213.18. Approval of rules, regulations, or guidelines

Any rule, regulation, or guideline shall be proposed or adopted pursuant to the rule making procedures set forth in the Louisiana Administrative Procedures Act and shall be subject to approval by the House Committee on Natural Resources and Senate Committee on Natural Resources. Such approval shall be presumed unless either committee submits objections in writing within fifteen days after receipt of the proposed rule, regulation, or guideline. Provided that

such written objections shall be subject to override by the governor within five days after receipt of the objections by the governor.

§213.19. Affect on titles

A. Nothing in this Part shall be construed as affecting the status of the title of the state or other governmental body to real rights in lands or water bottoms.

B. The involuntary acquisition, directly or indirectly, of privately owned property is not necessary to achieve the intents and purposes of this Part. No rule, regulation, ordinance, order, or standard, the purpose or application of which is to effect an involuntary acquisition or taking of such property, shall be adopted, enacted, or implemented pursuant to the provisions of this Part.

§213.20. Effective date

This Part shall become effective on January 1, 1979, except that the coastal use permit program established pursuant to Section 213.11 shall not commence until thirty days after the adoption of guidelines pursuant to Section 213.8.

§213.21. Transfer of authority

The authority vested in the secretary of the Department of Transportation and Development as defined in Section 213.3(7) may be vested in the secretary of the Department of Natural Resources or in the secretary of the Department of Wildlife and Fisheries upon order of the governor.

Section 2. If any provision or item of this Act or the application thereof is held invalid, such invalidity shall not affect other provisions, items, or applications of this Act which can be given effect without the invalid provisions, items, or applications, and to this end the provisions of this Act are hereby declared severable.

Section 3. All laws or parts of laws in conflict herewith are hereby repealed.

Approved by the Governor: July 10, 1978.

Published in the Official Journal of the State: July 29, 1978.

A true copy:

PAUL J. HARDY
Secretary of State.

ACT No. 362

House Bill No. 109. By: Ms. Bajoie and Messrs. Alexander,

Bares, Charbonnet, Connor, Delpit, Fernandez, J. Jackson, Jasper, Simoneaux and Turnley.

AN ACT

To repeal Article 1488 of the Louisiana Civil Code of 1870, relative to restrictions on giving property to adulterous or incestuous children.

Be it enacted by the Legislature of Louisiana:

Section 1. Article 1488 of the Louisiana Civil Code of 1870 is hereby repealed.

Approved by the Governor: July 12, 1978.

Published in the Official Journal of the State: July 29, 1978.

A true copy:

PAUL J. HARDY
Secretary of State.

ACT No. 363

House Bill No. 119. By: Mr. S. LeBlanc.

AN ACT

To amend and reenact Section 4 of Act No. 179 of the Regular Session of the Louisiana Legislature of 1977, the title to which reads as follows: "An Act to amend and reenact Article 2166 of the Louisiana Code of Civil Procedure, relative to the manner of applying for a rehearing to the court of appeal and to provide for the effective date thereof," to delete the restriction on applicability based upon the date on which the order of appeal was granted; to provide further that the provisions of said Article 2166 shall apply in all cases in which judgment is rendered by a court of appeal on or after the effective date hereof; and otherwise to provide with respect thereto.

Be it enacted by the Legislature of Louisiana:

Section 1. Section 4 of Act No. 179 of the Regular Session of 1977 is hereby amended and reenacted to read as follows:

Section 4. The effective date of this Act is January 1, 1978.

Section 2. The provisions of Article 2166 of the Louisiana Code of Civil Procedure shall apply to all cases in which a judgment is rendered by a court of appeal on or after the effective date hereof.

STATE OF LOUISIANA

ACTS OF THE LEGISLATURE

VOLUME II

REGULAR SESSION OF 1979

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Published by Authority of the State of Louisiana

PAUL J. HARDY
Secretary of State

Baton Rouge, Louisiana
1979

(9) The district attorney may file a petition in accordance with the Code of Juvenile Procedure to have the child adjudicated in need of care as defined in the Code of Juvenile Procedure. The district attorney shall represent the interest of the state, which interest shall be the protection of the child.

(10) If a child is continued in custody, a petition shall be filed within thirty days of the hearing to determine continued custody. If a petition is not filed, the child shall be released unless good cause is shown to continue the child in custody.

(11) The court may set the matter for an adjudication hearing without requiring an appearance or answer. If the child is continued in custody, the court shall set the matter for an adjudication hearing within forty-five days from the filing of the petition.

(12) Except as otherwise provided herein, the case shall proceed in accordance with and shall be governed by the Code of Juvenile Procedure.

* * *

Section 2. If any provision or item of this Act or the application thereof is held invalid, such invalidity shall not affect other provisions, items or applications of this Act which can be given effect without the invalid provisions, items or applications, and to this end the provisions of this Act are hereby declared severable.

Section 3. All laws or parts of law in conflict herewith are hereby repealed.

Approved by the Governor: July 18, 1979.

Published in the Official Journal of the State: August 13, 1979.

A true copy:

PAUL J. HARDY
Secretary of State.

ACT No. 665

Senate Bill No. 719. By: Mr. Sevario and Representative Accardo.

AN ACT

To amend and reenact Subsection C of Section 213.4 of Title 49 of the Louisiana Revised Statutes of 1950, pertaining to coastal zone management, to amend the coastal zone boundary therein delineated to include within the boundary certain portions of Lafourche, St. James, St. Charles, St. John the Baptist and

Livingston Parishes and the corporate limits of the city of Morgan City.

Be it enacted by the Legislature of Louisiana:

Section 1. Subsection C of Section 213.4 of Title 49 of the Louisiana Revised Statutes of 1950 is hereby amended and reenacted to read as follows:

§213.4. Coastal zone boundary

* * *

C. The inland boundary of the coastal zone shall generally be a line beginning at the intersection of the northern line of the Intracoastal Canal and the Louisiana/Texas boundary, thence proceeding easterly along the northern bank of the Intracoastal Canal to Highway 82, thence northeasterly along Highway 82 to Highway 690, thence easterly along Highway 690 to Highway 330, thence northeasterly along Highway 330 to Highway 14, thence easterly along Highway 14 to Highway 90, thence southeasterly along Highway 90 to Highway 85, thence northeasterly along Highway 85 to Highway 90, thence easterly along Highway 90 to the intersection of Highway 90 and the eastern bank of the Atchafalaya River at Morgan City, thence northerly along the eastern bank of the Atchafalaya River to the southern bank of the alternate route of the Intracoastal Waterway, thence following the boundary of the corporate limits of the city of Morgan City to where it intersects with the northern bank of the Gulf Intracoastal Waterway, thence along the northern bank of the Gulf Intracoastal Waterway to the vicinity of the Bayou du Large Ridge, thence proceeding southerly along the western edge of the Bayou du Large Ridge to the intersection of the Falgout Canal, thence proceeding easterly along the north bank of the Falgout Canal to the eastern edge of the Bayou du Large Ridge, thence proceeding northerly along the eastern edge of the Bayou du Large Ridge to the vicinity of Crozier, thence proceeding easterly to the western edge of the Grand Caillou Ridge, thence proceeding southerly along the western edge of the Grand Caillou Ridge to the vicinity of Dulac, thence proceeding easterly to the eastern edge of the Grand Caillou Ridge, thence proceeding northerly along the eastern edge of the Grand Caillou Ridge to the northern bank of the St. Louis Canal, thence proceeding easterly along the northern bank of the St. Louis Canal to the western edge of the Petit Caillou Ridge, thence proceeding southerly along the western edge of the Petit Caillou Ridge to the vicinity of Chauvin, thence proceeding easterly to Highway 55, thence proceeding northerly along Highway 55 to its intersection with Highway 665, thence easterly along Highway 665 to Bayou Point au Chien, thence northerly along Bayou Point au Chien to Highway 55, thence northerly along Highway 55 to

Highway 24, thence easterly along Highway 24 to Highway 308, thence northerly along Highway 308 to a point of intersection with the northern bank of the Gulf Intracoastal Waterway, thence northeasterly along the northern bank of the Gulf Intracoastal Waterway to a point of intersection with Canal Tisamond Foret, thence proceeding northeasterly along the northern bank of the Canal Tisamond Foret to a point of intersection with a line one hundred yards inland from the mean high tide line of Lake Salvador, thence proceeding northerly along the line one hundred yards inland from the mean high tide of Lake Salvador to a point of intersection with a line one hundred yards from the mean high water line of Bayou Des Allemands, thence proceeding northwesterly along the line one hundred yards inland from the western mean high water line of Bayou Des Allemands and the Petit Lac Des Allemands to a point of intersection with the boundary separating Ward 7 and 8 of Lafourche Parish, thence proceeding southwesterly along said boundary to a point of intersection with the Midway Canal, thence proceeding northwesterly along the Midway Canal, and in a northwesterly straight line prolongation of said canal, to a point of intersection with U.S. Highway 90, thence proceeding northeasterly along U.S. Highway 90 to a point of intersection with the line one hundred yards from the western mean high water line of Baie Des Deux Chenes, thence proceeding northwesterly along said line one hundred yards from the western mean high water line of Baie Des Deux Chenes to a point of intersection with the line one hundred yards from the mean high water line of Lac Des Allemands, thence proceeding westerly along said line to a point of intersection with a line one hundred yards from the mean high water line of Bayou Boeuf, thence proceeding southerly along the line one hundred yards from the mean high water line of Bayou Boeuf to a point of intersection with Highway 307, thence proceeding westerly along Highway 307 to a point of intersection with Highway 20, thence proceeding northerly along Highway 20 to a point of intersection with the boundary separating St. James Parish and Lafourche Parish, thence proceeding westerly along said boundary to a point of intersection with the boundary separating St. James Parish and Assumption Parish, thence proceeding northerly along said boundary to a point of intersection with the boundary separating St. James Parish and Ascension Parish, thence proceeding northerly and easterly along said boundary to a point of intersection with the boundary separating Ascension Parish and St. John the Baptist Parish, thence proceeding northerly along said boundary to a point of intersection with the boundary separating Ascension Parish and Livingston Parish, thence proceeding northwesterly along said boundary to a point of intersection with the boundary separating Livingston Parish and East Baton Rouge Parish, thence proceeding northwesterly along said boundary to a point of intersection with Interstate Highway 12

thence, proceeding easterly along Interstate Highway 12 to a point of intersection with Interstate Highway 10, thence proceeding easterly along Interstate Highway 10 to a point of intersection with the boundary separating Louisiana and Mississippi.

Section 2. 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.

Section 3. If any provision or item of this Act or the application thereof is held invalid, such invalidity shall not affect other provisions, items, or applications of this Act which can be given effect without the invalid provisions, items, or applications, and to this end the provisions of this Act are hereby declared severable.

Section 4. All laws or parts of laws in conflict herewith are hereby repealed.

Approved by the Governor: July 18, 1979.

Published in the Official Journal of the State: August 13, 1979.

A true copy:

PAUL J. HARDY
Secretary of State.

ACT No. 666

Senate Bill No. 720. By: Mr. Kiefer and Representative Grisbaum.

AN ACT

To amend Title 13 of the Louisiana Revised Statutes of 1950 by adding thereto a new Section to be designated as Section 1587.3 relative to the power of certain ranking officers in the juvenile division in municipalities and parishes to administer oaths and verify complaints of other police officers for the taking into custody of children; and to provide further with respect thereto.

Be it enacted by the Legislature of Louisiana:

Section 1. Section 1587.3 of Title 13 of the Louisiana Revised Statutes of 1950 is hereby enacted to read as follows:

§1587.3 Municipalities and parishes; special authority of ranking police officers in juvenile division

In any municipality or parish, any law enforcement officer assigned to the juvenile division of the law enforcement department

STATE OF LOUISIANA

ACTS OF THE LEGISLATURE

VOLUME I

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JAMES H. "Jim" BROWN
Secretary of State

Baton Rouge, Louisiana
1980

§441.10. Town of Simmesport; appointment of court magistrate; duties; salary

The board of aldermen of the town of Simmesport shall upon request of the mayor, appoint an attorney who shall be designated as court magistrate and who shall serve at the pleasure of the mayor and may from time to time be designated by the mayor to serve in his stead as the presiding official over the mayor's court. Whenever the magistrate is so designated by the mayor to preside over the mayor's court, he shall exercise the powers and authority of the mayor over said court. The magistrate shall receive a salary fixed and paid by the board of aldermen.

Section 2. If any provision or item of this Act or the application thereof is held invalid, such invalidity shall not affect other provisions, items, or applications of this Act which can be given effect without the invalid provisions, items, or applications, and to this end the provisions of this Act are hereby declared severable.

Section 3. All la
repealed.

Approved by the

Published in the

A true copy:

JAMES H. "Ji
Secretary of

Although the summary states that the Atchafalaya Basin within the boundary of the East and West protection levees, south of Hwy 190 shall be within the coastal zone, the boundary description does not support the inclusion of the Atchafalaya Basin.

ACT No. 396

House Bill No. 525. By: Mr. J. J. Guidry.

AN ACT

To amend and reenact Subsection C of Section 213.4 of Title 49 of the Louisiana Revised Statutes of 1950, relative to the boundary of the coastal zone, to provide that the Atchafalaya Basin within the boundary of the East and West Atchafalaya Basin Protection Levees, south of Highway 190, shall be within the coastal zone, and otherwise to provide with respect thereto.

Be it enacted by the Legislature of Louisiana:

Section 1. Subsection C of Section 213.4 of Title 49 of the Louisiana Revised Statutes of 1950 is hereby amended and reenacted to read as follows:

§213.4. Coastal zone boundary

* * *

C. The inland boundary of the coastal zone shall generally be a line beginning at the intersection of the northern line of the Intracoastal Canal and the Louisiana/Texas boundary, thence proceeding easterly along the northern bank of the Intracoastal Canal to Highway 82, thence northeasterly along Highway 82 to Highway 690, thence easterly along Highway 690 to Highway 330, thence northeasterly along Highway 330 to Highway 14, thence easterly along Highway 14 to Highway 90, thence southeasterly along Highway 90 to Highway 85, thence northeasterly along Highway 85 to Highway 90, thence easterly along Highway 90 to the intersection of Highway 90 and the East Atchafalaya Basin Protection Levee thence northerly along the East Atchafalaya Basin Protection Levee to the intersection of the boundary which separates the parishes of St. Martin and Iberia, thence easterly along the boundary separating Iberia Parish from St. Martin Parish, to the intersection of the St. Martin Parish boundary with the boundary separating St. Martin Parish from Assumption Parish, thence southerly along the boundary separating St. Martin Parish from Assumption Parish to the intersection of the boundary with the northern shore of Lake Palourde, thence westerly along the northern shore of Lake Palourde to the intersection of the shore with the northern boundary of the city of Morgan City, thence following the boundary of the corporate limits of the city of Morgan City to where it intersects with the northern bank of the Gulf Intracoastal Waterway, thence along the northern bank of the Gulf Intracoastal Waterway to the vicinity of the Bayou du Large Ridge, thence proceeding southerly along the western edge of the Bayou du Large Ridge to the intersection of the Falgout Canal, thence proceeding easterly along the north bank of the Falgout Canal to the eastern edge of the Bayou du Large Ridge, thence proceeding northerly along the eastern edge of the Bayou du Large Ridge to the vicinity of Crozier, thence proceeding easterly to the western edge of the Grand Caillou Ridge, thence proceeding southerly along the western edge of the Grand Caillou Ridge to the vicinity of Dulac, thence proceeding easterly to the eastern edge of the Grand Caillou Ridge, thence proceeding northerly along the eastern edge of the Grand Caillou Ridge to the northern bank of the St. Louis Canal, thence proceeding easterly along the northern bank of the St. Louis Canal to the western edge of the Petit Caillou Ridge, thence proceeding southerly along the western edge of the Petit Caillou Ridge to the vicinity of Chauvin, thence proceeding easterly to Highway 55, thence proceeding northerly along Highway 55 to its intersection with Highway 665, thence easterly along Highway 665 to Bayou Pointe au Chien, thence northerly along Bayou Pointe au Chien to Highway 55, thence northerly along Highway 55 to Highway 24, thence easterly along Highway 24 to Highway 308, thence northerly along Highway 308 to a point of intersection with the northern bank of the Gulf Intracoastal Wa-

terway, thence northeasterly along the northern bank of the Gulf Intracoastal Waterway to a point of intersection with Canal Tisamond Foret, thence proceeding northeasterly along the northern bank of the Canal Tisamond Foret to a point of intersection with a line one hundred yards inland from the mean high tide line of Lake Salvador, thence proceeding northerly along the line one hundred yards inland from the mean high tide of Lake Salvador to a point of intersection with a line one hundred yards from the mean high water line of Bayou Des Allemands, thence proceeding northwesterly along the line one hundred yards inland from the western mean high water line of Bayou Des Allemands and the Petit Lac Des Allemands to a point of intersection with the boundary separating Wards 7 and 8 of Lafourche Parish, thence proceeding southwesterly along said boundary to a point of intersection with the Midway Canal, thence proceeding northwesterly along the Midway Canal, and in a northwesterly straight line prolongation of said canal, to a point of intersection with U. S. Highway 90, thence proceeding northeasterly along U. S. Highway 90 to a point of intersection with the line one hundred yards from the western mean high water line of Baie Des Deux Chenes, thence proceeding northwesterly along said line one hundred yards from the western mean high water line of Baie Des Deux Chenes to a point of intersection with the line one hundred yards from the mean high water line of Lac Des Allemands, thence proceeding westerly along said line to a point of intersection with a line one hundred yards from the mean high water line of Bayou Boeuf, thence proceeding southerly along the line one hundred yards from the mean high water line of Bayou Boeuf to a point of intersection with Highway 307, thence proceeding westerly along Highway 307 to a point of intersection with Highway 20, thence proceeding northerly along Highway 20 to a point of intersection with the boundary separating St. James Parish and Lafourche Parish, thence proceeding westerly along said boundary to a point of intersection with the boundary separating St. James Parish and Assumption Parish, thence proceeding northerly along said boundary to a point of intersection with the boundary separating St. James Parish and Ascension Parish, thence proceeding northerly and easterly along said boundary to a point of intersection with the boundary separating Ascension Parish and St. John the Baptist Parish, thence proceeding northerly along said boundary to a point of intersection with the boundary separating Ascension Parish and Livingston Parish, thence proceeding northwesterly along said boundary to a point of intersection with the boundary separating Livingston Parish and East Baton Rouge Parish, thence proceeding northwesterly along said boundary to a point of intersection with Interstate Highway 12 thence, proceeding easterly along Interstate Highway 12 to a point of intersection with Interstate Highway 10, thence proceeding easterly along Interstate Highway 10 to a point

of intersection with the boundary separating Louisiana and Mississippi.

* * *

Section 2. If any provision or item of this Act or the application thereof is held invalid, such invalidity shall not affect other provisions, items, or applications of this Act which can be given effect without the invalid provisions, items, or applications, and to this end the provisions of this Act are hereby declared severable.

Section 3. All laws or parts of laws in conflict herewith are hereby repealed.

Approved by the Governor: July 18, 1980.

Published in the Official Journal of the State: August 9, 1980.

A true copy:

JAMES H. "Jim" BROWN
Secretary of State.

ACT No. 397

House Bill No. 596. By: Messrs. Wall, Sheridan, Patti, Deen, Fowler and R. Thompson.

AN ACT

To amend Title 17 of the Louisiana Revised Statutes of 1950, by adding thereto three new Sections to be designated as Sections 655.1, 935.1, and 1282.1 thereof, relative to the Teachers' Retirement System of Louisiana, Louisiana School Employees' Retirement System, and the Louisiana School Lunch Employees' Retirement System, to provide with respect to the collection and transmittal of insurance premiums for retirees relative to the State Employees Group Benefits Program; participation in insurance plans by retirees; administrative responsibilities with respect to such plans; and to provide with respect to matters related thereto.

Notice of intention to introduce this Act has been published as required by Article X, Section 29(C) of the Constitution of Louisiana.

Be it enacted by the Legislature of Louisiana:

Section 1. Sections 655.1, 935.1, and 1282.1 of Title 17 of the Louisiana Revised Statutes of 1950 are hereby enacted to read as follows:

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JAMES H. "Jim" BROWN
Secretary of State

Baton Rouge, Louisiana
1983

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This Part, being intended to carry out a function of the state to protect the health and welfare of the inhabitants of the portion of the state to be affected hereby, shall be liberally construed by the courts to effect its purposes.

Section 2. If the sales tax to be dedicated for the funding of the district is not approved by the electors of the Rapides Sales Tax District No. 2, as provided in R.S. 33:2738.61, the provisions of this Act shall be null, void, and of no effect.

Approved by the Governor: July 21, 1983.

Published in the Official Journal of the State: August 23, 1983.

A true copy:

JAMES H. "Jim" BROWN
Secretary of State.

ACT No. 705

House Bill No. 1001. By: Mr. Laborde.

AN ACT

To amend and reenact R.S. 30:206, R.S. 30:1152 through R.S. 30:1159, R.S. 30:1202(8), R.S. 30:1354(1), R.S. 30:1355(A), R.S. 36:354(A), R.S. 49:213.3(7), R.S. 49:213.4(D), R.S. 49:213.5(C), R.S. 49:213.6, R.S. 49:213.7(A), R.S. 49:213.8(B), R.S. 49:213.9(B), (C)(4), (D), and (G), R.S. 49:213.11(C)(1) and (2), R.S. 49:213.13(D), R.S. 49:213.14(B), R.S. 49:213.15(B), R.S. 49:213.16(A), (C)(3), and (F), R.S. 49:213.17(A) and (D), R.S. 51:1602(13), R.S. 51:1603, R.S. 51:1605(B)(12), R.S. 56:700.1(3), R.S. 56:700.2(A) and (C), R.S. 56:700.3(A) and (B), R.S. 56:700.4(A) and (D), and Chapter 1 of Title 41 of the Louisiana Revised Statutes of 1950, to be comprised of R.S. 41:1 through R.S. 41:13; to enact R.S.36:354(B)(10), (D), and (E) and R.S. 49:213.14(E); to repeal R.S. 30:1355(E), R.S. 36:359(C), R.S. 49:213.3(1), R.S. 49:213.21, and R.S. 51:1604(F); and to rescind and repeal House Concurrent Resolution No. 214 of the 1979 Regular Session, all relative to the organization, powers, duties, and functions of the Department of Natural Resources and its officers and agencies, including provisions to provide that certain powers, duties, and functions of the department relative to land, water, and research shall be administered and performed by the secretary or his designee, including functions relating to the geological survey, certain functions relating to research and development of solar energy sources, development and implementation of building energy conservation, energy impacted area

assistance, coastal zone management and the coastal energy impact program, state lands, the fishermen's gear compensation fund, and powerplant and industrial fuel use, to authorize the secretary to establish in his office a capacity for policy analysis, development of planning information and statistics, and generation of economic information related to the natural resources and environmental affairs of the state, to authorize the secretary or his designee to establish reasonable fees for certain services relative to state lands, to repeal provisions for the Advisory Board on Nuclear Energy, to provide with respect to the administration of the coastal zone management program, and otherwise to provide with respect thereto.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S.36:354(A) is hereby amended and reenacted and R.S. 36:354(B)(10), (D), and (E) are hereby enacted to read as follows:

§354. Powers and duties of secretary of natural resources

A. In addition to the functions, powers, and duties otherwise vested in the secretary by law, he shall:

(1) Represent the public interest in the administration of this Chapter and shall be responsible to the governor, the legislature, and the public therefor.

(2) Determine the policies of the department except as otherwise provided by this Title.

(3) Make, alter, amend, and promulgate rules and regulations necessary for the administration of the functions of the department, except as otherwise provided by this Title.

(4) Organize, plan, supervise, direct, administer, execute, and be responsible for the functions and programs vested in the department, in the manner and to the extent provided by this Title.

(5) Advise the governor on problems concerning the administration of the department.

(6) Study existing energy policies of the state and formulate plans and advise the governor and the legislature with respect to short and long-term energy policies of the state.

(7) Undertake, or in necessary cases, designate one of the offices within the department or its assistant secretary to prepare all necessary studies regarding alternate fuel sources for the state of Louisiana.

(8) Assist the institutions of higher learning in this state desiring

to establish programs dealing with the utilization of the natural resources of this state.

(9) Conduct or cause to be conducted public meetings for the purpose of receiving suggestions from the public regarding the energy policy of the state.

(10) Act as the sole agent of the state or, in necessary cases, designate one of the offices within the department or its assistant secretary to cooperate with the federal government and with other state and local agencies in matters of mutual concern and in the administration of federal funds granted to the state or directly to the department or an office thereof to aid in the furtherance of any function of the department and its offices. For this purpose he may take such actions, in accordance with applicable state law, necessary to meet such federal standards as are established for the administration and use of such federal funds, except as otherwise specifically provided in this Title or by the constitution and laws of this state.

(11) Make and publish an annual report to the governor and the legislature concerning the operations of the department and submit with each report such recommendations as he deems necessary for the more effective internal structure and administration of the department and make other reports and recommendations on his own initiative or upon request by the governor, the legislature, or any committee or member thereof.

(12) Provide for the ongoing merger and consolidation of the agencies and functions transferred to his department and submit a report thereon to the governor and the legislature, which report shall accompany the budget statement which he submits under provisions of R.S. 39:45. Such report shall include a statement of the goals of the department and of the programs thereof and shall summarize the accomplishments of the department in meeting such goals and implementing such programs. The report shall also contain a specific statement of the reorganization and consolidation plan for the department for the next year and shall include a report on the implementation of such reorganization and consolidation plan for the previous year. The report concerning reorganization shall specifically detail the extent to which the department has achieved goals stated the previous year with respect to merger and consolidation of functions, abolition of agencies, consolidation of offices, elimination of job positions, and efficiency and economy in delivery of services. The report shall contain any recommendations with respect to organization which may require legislative action under the provisions of this Title. A copy of the report and recommended legislation shall also be submitted by the secretary to the presiding officer of each house of the legislature. The presiding officer shall refer the report to the appropriate committee having jurisdiction of the subject matter as provided in the rules of the respective house.

(13) Contract, if the secretary so desires, or, if the secretary deems necessary, designate one of the offices within the department or its assistant secretary, under the secretary's supervision, to do so, with private or public research organizations for the purchase, out of funds available to the Department of Natural Resources, of services in scientific, economic, and technological research, including but not limited to surveys, studies, and experiments with a view toward protecting and replenishing the natural resources of the state under the jurisdiction of the Department of Natural Resources, toward preventing the waste, wasteful use, and wasteful utilization thereof, except as defined in R.S. 30:3, toward preventing the use of said natural resources in such a manner and in such quantities as will threaten with premature exhaustion, extinction, and destruction of the supply of these resources in the state, and toward the energy policy of this state, and to prepare and implement plans and programs in relation thereto.

(14) Prepare an analysis of all potential gas prospects in the state and develop a plan for state owned lands which will promote and encourage the exploration and production of gas from such prospects for use in Louisiana.

(15) Set priorities for coastal energy impact program funds as provided in R.S. 49:213.10(D).

(16) Review all proposals for the lease or use of state property and resources within the jurisdiction of the department to determine if they meet current policies regarding the development and/or use of such property and resources, periodically review the activities of lessees and users of such property and resources and ascertain if they likewise conform to such current policies, and formulate programs, and take the necessary action through the appropriate office of the department to implement his findings with respect thereto.

(17) Deposit or cause to be deposited in the state treasury receipts from royalties, rentals, and bonuses derived from state lands under mineral leases or any other contract.

B. The secretary shall have authority to:

* * *

(10) Establish in his office a capacity for policy analysis, development of information and statistics, and generation of economic information relating to the natural resources and environmental affairs of the state.

* * *

D. The procedures set forth in the Administrative Procedure Act shall be utilized for the adoption, promulgation, amendment, or rescission of rules and regulations authorized in this Section.

E. The secretary or his designee shall perform and exercise the following powers, duties, functions, and responsibilities relative to land, water, and research, all in accordance with law:

(1) The functions of the state which relate to the administration and supervision of state lands, including the maintaining of accounts of the sales of lands which were donated to the state; furnishing annually to the commissioner of administration and to parish assessors listings by parish of lands sold; disseminating title information to attorneys, abstractors, surveyors, and the general public, upon request; maintaining as a public record a listing of state controlled properties; locating, surveying, and evaluating lands under agency jurisdiction for possible revenue production; and performing other functions formerly assigned to the register of the state land office.

(2) Maintain current surface and subsurface geological surveys of the entire state in cooperation with the school of geology and the graduate school of the Louisiana State University, or otherwise at the discretion of the secretary or his designee; conduct geological mapping; prepare geological hazards assessments and resource inventories; and conduct process investigations and related studies.

(3) Plan and execute an energy research and development program, including but not limited to research necessary to assist the secretary in the formulation of energy plans and policy and the administration and implementation of energy conservation programs, and other energy studies, all in accordance with law. Specifically excluded from these functions are the functions of the secretary as provided in R.S. 36:354(B)(10). In implementing these functions the secretary or his designee may conduct a program to disseminate information relating to energy for the citizens of Louisiana whereby they can be advised of methods to conserve energy.

(4) Administer and implement laws relating to the foregoing, including without limitation the laws relative to research and development of solar energy sources, building energy conservation, and energy impacted area assistance; the laws relative to state lands; the laws relative to coastal energy impact assistance; the laws relative to powerplant and industrial fuel use; and the laws relative to the Fishermen's Gear Compensation Fund.

Section 2. R.S.30:206, R.S.30:1152 through R.S.30:1159, R.S. 30:1202(8), R.S. 30:1354(1), and R.S. 30:1355(A) are hereby amended and reenacted to read as follows:

§206. Publication of survey

The results of the geological surveys shall be published by the Department of Natural Resources.

* * *

§1152. Development and coordination of program; priorities

A. The secretary of the Department of Natural Resources or his designee, hereafter in this Chapter referred to as the "secretary," shall develop and coordinate a program of research and development in solar energy supply, consumption, and conservation and the technology of siting facilities and shall give priority to those forms of research and development which are of particular importance to the state, including, but not limited to, all of the following:

(1) Expansion and accelerated development of alternative sources of energy, including geothermal and solar resources, including, but not limited to, participation in large-scale demonstrations of alternative energy systems sited in Louisiana in cooperation with federal agencies, regional compacts, other state governments, and other participants. For purposes of this Paragraph, "participation" shall be defined as any of the following: direct interest in a project, research and development to insure acceptable resolution of environmental and other impacts of alternative energy systems, research and development to improve siting and permitting methodology for alternative energy systems, experiments utilizing the alternative energy systems, and research and development of appropriate methods to insure the widespread utilization of economically useful alternative energy systems. Large-scale demonstrations of alternative energy systems are exemplified by the one hundred kilowatt to ten kilowatt range demonstrations of solar, wind, and geothermal systems contemplated by federal agencies, regional compacts, other state governments, and other participants.

(2) Improved methods of construction, design, and operation of solar energy facilities.

B. To accomplish the purposes of Paragraph A(1), an amount not more than one-half of the total state funds appropriated for the solar energy research and development program shall be allocated for large-scale demonstration of alternative energy systems.

§1153. Technical assessment studies

The secretary shall carry out technical assessment studies on all forms of solar energy and energy-related problems, in order to influence federal research and development priorities and to be informed on future energy options and their impacts.

§1154. Regulations governing solar devices

A. The secretary shall develop and adopt, in cooperation with af-

fected industry and consumer representatives and after one or more public hearings, regulations governing solar devices. The regulations shall be designed to encourage the development and use of solar energy and to provide maximum information to the public concerning solar devices. The regulations may include the following:

(1) Standards for testing, inspection, certification, sizing, and installation of solar devices.

(2) Provisions for the enforcement of the standards.

(3) Accreditation of laboratories to test and certify solar devices.

(4) Requirements for on-site inspection of solar devices, including specifying methods for inspection, to determine compliance or noncompliance with the standards.

(5) Requirements for submission of any data resulting from the testing and inspection of solar devices.

(6) Prohibitions on the sale of solar devices which do not meet minimum requirements for safety and durability as established by the secretary, and

(7) Dissemination of the results of the testing, inspection, and certification program to the public.

B. The secretary shall give due consideration to the effect of the regulations on the cost of purchasing, installing, operating, and maintaining solar devices, reassess and amend the regulations as often as deemed necessary considering their effect upon the benefits and disadvantages to the widespread adoption of solar energy systems and the need to encourage creativity and innovative adaptations of solar energy.

C. Under no circumstances may the secretary preclude any person from developing, installing, or operating a solar device on his own property.

D. Any violation of any regulation adopted by the secretary pursuant to this Section may be enjoined in the manner prescribed by law.

§1155. Mass market deployment of solar systems; preparation; thermal systems

The secretary shall prepare for mass market deployment of solar systems by developing designs and specifications for prototype housing to utilize passive or semipassive thermal systems for heating or heating and cooling purposes.

§1156. Manual of design types, costs, performance and evaluation procedures for certain thermal systems

The secretary shall develop a manual of design types, costs, performance, and evaluation procedures for passive and semipassive thermal systems. The evaluation procedures shall be such as will facilitate the determination of the performance of different passive and semipassive designs in different regions of Louisiana. The secretary shall also procure thermal performance data from monitoring a number of existing passive or semipassive thermal systems in buildings in Louisiana to generate data for the manual.

§1157. Conferences to coordinate adoption of regulations

The secretary shall confer with officials of federal agencies, including the National Aeronautics and Space Administration, the National Bureau of Standards, the Energy Research and Development Administration, and the Department of Housing and Urban Development, to coordinate adoption of regulations pursuant to R.S. 30:1154 and 30:1155.

§1158. Effective date of regulations

The secretary may, in adopting regulations pursuant to this Chapter, specify the date when the regulations shall take effect. The secretary may specify different dates for different regulations.

§1159. Contracts for materials and services

For purposes of carrying out the provisions of this Chapter, the secretary may, subject to departmental contract management, contract with any person for materials and services that cannot be performed by his staff or other state agencies and may apply for federal grants or any other funding.

* * *

§1202. Definitions

Except where the context clearly indicates otherwise, as used in this Chapter:

* * *

(8) "Secretary" means the secretary of the Department of Natural Resources or his designee.

* * *

§1354. Definitions

As used in this Chapter, the following terms shall have the following meanings unless the context clearly indicates otherwise:

(1) "Administrator" means the administrator provided for in R.S. 30:1355. The secretary or his designee shall be the administrator.

* * *

§1355. Administrator; secretary, duties

A. The secretary or his designee shall administer the provisions of this Chapter and appoint necessary personnel, all in accordance with applicable civil service rules and regulations and departmental budgetary and personnel policies.

* * *

Section 3. Chapter 1 of Title 41 of the Louisiana Revised Statutes of 1950, to be comprised of R.S. 41:1 through R.S. 41:13, is hereby amended and reenacted to read as follows:

CHAPTER 1. STATE LANDS

§1. Functions relative to state lands; responsibility of secretary

A. The secretary of the Department of Natural Resources or his designee, hereinafter in this Chapter referred to as the "secretary," shall perform the functions of the state which relate to the administration and supervision of state lands, as provided by law. The secretary may name a designee to perform certain of these functions as more specifically provided in this Chapter.

B. For purposes of this Title and any other provision of law, the terms "state land office" or "Register of the State Land Office" shall be deemed to refer to the secretary or his designee.

§2. Accounts and lists to be kept by secretary or his designee

The secretary or his designee shall:

A. Keep accounts of the sales of lands which were donated to the state by:

(1) Setting forth in the certificate issued therefor the section, parts of sections, township and range, district and parish, to whom and when sold, and for what price.

(2) Causing to be marked on the official plats or maps on file in his office the numbers of the certificates, which books and maps shall be bound and preserved as official records.

B. Furnish annually to the commissioner of administration, on or before the twentieth day of December of each year, a descriptive list, by parish, of all lands sold during the preceding year, together with all data that may be afforded by his records.

§3. Proceeds of sale of warrants or public land

All money arising from the sale of warrants or public land shall be paid by the purchaser to the state treasurer, on the warrant of the commissioner of administration. The state treasurer shall receive the money within forty-eight hours after the issuance of the warrant.

§4. Description of land or warrants in receipt

A. A description of the land or warrants shall be included in the order on the state treasurer to receive the money for the lands. No entry shall be made upon the books, maps, or other official record until the receipt of the state treasurer, also describing the land or warrants, has been submitted and filed in the office of the secretary or his designee.

B. Whoever violates the provision of this Section shall be fined five thousand dollars and shall be imprisoned for a term not more than ten nor less than two years.

§5. Receipt to purchaser

The state treasurer shall deliver to the purchaser or his agent a receipt, which shall contain a correct description, by section, township and range, of the lands sold by the state. The state treasurer shall receive no extra compensation for this service.

§6. Issuance of patents

The governor shall issue patents :

(1) For all lands sold, on presentation of the treasurer's receipt.

(2) For lands located by warrants, whenever he is satisfied that the lands have been legally sold and located.

§7. Annual list of lands entered or sold to be sent to parish assessors

The secretary or his designee shall furnish, annually, on the first Monday of February, to the assessors of each parish, the list of all the lands that may have been entered or sold during the preceding year, together with the names of the persons entering or purchasing them, in order that they may be assessed for taxes.

§8. Fees of the secretary or his designee

The secretary or his designee shall promulgate regulations establishing reasonable fees, not to exceed the cost of providing the services, for:

(1) Redemption certificates.

(2) Cancellation certificates.

(3) Original patents executed by the secretary or his designee and the governor.

(4) Copies of official township plats, field notes, patents, and related matter.

(5) Each certification attached to copies of items listed in Paragraph (4).

(6) Copies of any other document pertaining to state lands.

§9. Disposition of fees collected

All fees shall be collected and deposited into the state treasury.

§10. Right of appeal from decisions of secretary

The secretary shall decide all conflicting claims of preference of right to any land granted to the state by acts of congress. After they have been decided by the secretary and after he has assessed the land to the person first locating or settling thereon, the claimant aggrieved by the decision shall have the right, within six months after the decision of the secretary, to appeal to the district court of the parish in which the land is situated.

§11. Transcript of copy of proceedings

As soon as an application for an appeal is made to the secretary, he shall deliver to the party applying for the appeal a certified transcript or copy of all the proceedings had in his office relative to the conflicting claims. The party shall forthwith file the transcript in the office of the clerk of the parish in which the land is situated and give security for costs as in ordinary cases, and the matter shall be tried by the court de novo.

§12. Filing of final judgment

As soon as a final judgment has been rendered, a certified copy of the judgment shall be filed in the office of the secretary or his designee.

§13. Listing of lands owned, leased, or rented by state or instrumentalities of state; subsequent acquisitions or alienations

A. The secretary or his designee shall prepare and maintain in his office at all times and make available as a public record a listing which shall show the lands and improvements thereon and all royalty or mineral rights belonging to or under the control of the state, whether or not held directly in the name of the state or in the name of any state board, commission, department, or agency. Such listing shall clearly describe the land owned, leased or rented, or otherwise held or under the control of the state or its instrumentality and shall show its location, acreage or other area, any improvements thereon, the date of acquisition and the value thereof, and such other information with regard thereto as may be required by rules and regulations of the secretary or his designee.

B. Whenever any acquisition or alienation or other change in ownership or control of any land or immovable property or royalty or mineral rights is made with regard to any lands or improvements thereon, a report thereof shall be made to the secretary or his designee within thirty days thereafter.

Section 4. R.S. 49:213.3(7), R.S. 49:213.4(D), R.S. 49:213.5(C), R.S. 49:213.6, R.S. 49:213.7(A), R.S. 49:213.8(B), R.S. 49:213.9(B), (C)(4), (D), and (G), R.S. 49:213.11(C)(1) and (2), R.S. 49:213.13(D), R.S. 49:213.14(B), R.S. 49:213.15(B), R.S. 49:213.16(A), (C)(3), and (F), R.S. 49:213.17(A) and (D) are hereby amended and reenacted, and R.S. 49:213.14(E) is hereby enacted, to read as follows:

§213.3. Definitions

* * *

(7) "Secretary" shall mean the secretary of the Department of Natural Resources or his designee as provided in R.S. 49:213.6(A)(1).

* * *

§213.4. Coastal zone boundary

* * *

D. The secretary shall adopt a fully delineated inland boundary in accordance with the provisions of Subsection C, which boundary shall not depart appreciably from the boundary delineated therein. The secretary shall be authorized to amend the boundary as may be appropriate to follow the corporate limits of any municipality divided by the boundary. The boundary, as adopted, shall be clearly marked on large scale maps or charts, official copies of which shall be available for public inspection in the offices of the coastal management program of the Department of Natural Resources and each local government in the coastal zone.

§213.5. Types of uses

* * *

C. The secretaries of the Departments of Natural Resources and Wildlife and Fisheries are authorized to jointly develop for adoption by the secretary, after notice and public hearing, rules for the further delineation of the types of uses which have a direct and significant impact on coastal waters and which demonstrate a need for coastal management, the classification of uses not listed herein, and for the modification and change of the classifications of uses, provided that no changes shall be made in the classifications of the uses listed in Subsection A.

* * *

§213.6. Coastal management program; administration

A. (1) A coastal management program is hereby established within the Department of Natural Resources. The secretary or his designee shall administer the coastal management program.

(2) The secretary is authorized to employ such additional staffing as may be necessary to carry out the coastal management program.

B. The person designated by the secretary to administer the program shall:

(1) Receive, evaluate, and make recommendations to the secretary concerning applications for coastal uses permits.

(2) Conduct or cause to be conducted investigations, studies, planning, and research.

(3) Systematically monitor and conduct surveillance of permitted uses to ensure that conditions of coastal use permits are satisfied.

(4) Coordinate closely with the secretary and local, state, regional, and federal agencies with respect to coastal management.

(5) Make recommendations to the secretary relative to appropriate enforcement measures for violations of this Part and measures to obtain civil relief, as provided by Section 213.17(D).

(6) Provide advice and technical assistance to the secretary, the commission, and local governments.

(7) Conduct such activities or make such decisions as may be delegated or authorized by the secretary.

C. The secretary shall make decisions on applications for coastal use permits and may establish conditions on the granting of coastal use permits.

D. The secretary is further authorized to carry out those duties delegated to his designee by Subsection B of this Section.

§213.7. Louisiana Coastal Commission; membership; etc.

A. The Louisiana Coastal Commission is hereby created as an independent body within and staffed by the Department of Natural Resources. It shall function as an administrative appeals body for decisions regarding coastal use permits and approval of local programs and as hereinafter provided.

* * *

§213.8. Coastal management program; development; guidelines

* * *

B. (1) The secretary shall develop a management program and

guidelines in conjunction with the secretary of the Department of Wildlife and Fisheries or his designee. Notice of the issuance of the proposed guidelines shall be given to relevant federal, state, and local governmental bodies and the general public and public hearings shall be held. After consideration of comments received, the secretary shall submit the jointly developed guidelines to the commission for its review and approval. The commission may disapprove individual guidelines giving their reason in writing for each guideline disapproved. The commission shall have sixty days to act, and lack of official action shall constitute approval. Any guidelines disapproved shall be returned to the secretary and the secretary of Wildlife and Fisheries or his designee, acting jointly, for further consideration, who shall submit within thirty days revised guidelines to the commission. The commission shall have thirty days to act pursuant to the above procedures. Any guideline so rejected shall be submitted to the House Committee on Natural Resources and Senate Committee on Natural Resources pursuant to R.S. 49:212.18 and then to the governor for final determination. The secretary shall adopt those guidelines approved by the commission or the governor.

(2) The adopted guidelines shall be followed in the development of the state program and local programs, and shall serve as criteria for the granting, conditioning, denying, revoking, or modifying of coastal use permits. The secretary, jointly with the secretary of the Department of Wildlife and Fisheries or his designee, shall review the guidelines at least once each year to consider modifications to the guidelines as a result of experience in issuing coastal use permits and results of research and planning activities. Any modifications shall be subject to the approval of the commission pursuant to the procedures set forth in this Subsection.

* * *

§213.9. Local coastal management programs

* * *

B. The secretary shall adopt, after notice and public hearing, rules and procedures for the development, approval, modification, and periodic review of local coastal management programs. Such rules and procedures may subsequently be amended by the secretary.

C. The rules and procedures adopted pursuant to this Section shall be consistent with the state guidelines and shall provide particularly, but not exclusively, that:

* * *

(4) Each local government preparing a local program under this Section may appoint a coastal advisory committee (hereinafter called

"local committee"). The local committee shall be composed of a reasonable number of persons who represent users of coastal resources and shall include representation of users concerned with conservation and preservation of renewable coastal resources and users concerned with development of resources for commercial purposes. The local committee shall assist local government in the development and implementation of a local program and in the development of special management programs affecting special areas. The local committee may report progress or problems in the implementation of the state and local programs and may convey ideas and suggestions to the local governments and the secretary.

* * *

D. In approving a local program, the secretary, acting jointly with the secretary of the Department of Wildlife and Fisheries or his designee, may make reasonable interpretations of the state guidelines insofar as they affect that particular local program, which are necessary because of local environmental conditions or user practices. The secretary may otherwise provide for the requirements for approval of local programs.

* * *

G. No local coastal program shall become effective until it has been approved by the secretary. Once approved, a local program shall be available for public inspection at the offices of the local government and of the coastal management program.

* * *

§213.11. Coastal use permits

* * *

C. The rules promulgated pursuant to this Section shall, among other things, provide that:

(1) Coastal use permit applications shall be submitted to the secretary, except that applications for uses in areas subject to an approved local program may instead be submitted to the local government. Local governments with an approved program to whom applications are submitted shall make the initial determination, subject to review by the secretary with a right of appeal to the commission, as to whether the proposed use is of state concern or local concern. In the event of an appeal to the commission, the burden of proof shall be on the secretary. Copies of all applications submitted to local governments, and the local government's use-type determination, shall be transmitted to the secretary within two days of receipt.

(2) Within ten days of receipt of a coastal use permit application

by the secretary, copies of the application shall be distributed to the local government or governments in whose parish the use is to occur and all appropriate state and local agencies and public nnotice* shall be given. A public hearing on an application may be held.

* * *

§213.13. Intergovernmental coordination and consistency

* * *

D. Governmental bodies shall fully coordinate their activities directly affecting the coastal zone with the state program and affected approved local programs. When the secretary finds that governmental actions not subject to the coastal use permitting program may significantly affect land and water resources within the coastal zone, he shall nnotify* the secretary of the Department of Wildlife and Fisheries or his designee and the concerned governmental body carrying out the action. Any governmental body so nnotified* shall coordinate fully with the secretaries or their designees, acting jointly, at the earliest possible stage of the proposed action. The secretaries or their designees, shall make comments to such other agencies in order to assure that such actions are consistent with the state program and affected local programs. These comments shall, to the maximum extent practicable, be incorporated into the action commented upon.

* * *

§213.14. Coordinated coastal permitting process

* * *

B. To implement this intent, within one year of the effective date of this Part, the secretary, local governments, and all other relevant governmental bodies having such other regulatory jurisdiction or authority over uses of the coastal zone shall in cooperation with one another and under the direction of the governor establish a coordinated coastal permitting process by means of binding interagency agreements wherein:

(1) One application form serves as the application form for all required permits or approvals from all governmental bodies taking part in the coordinated coastal permitting process.

(2) The application contains sufficient information so that all necessary reviews by all affected governmental bodies can be expeditiously carried out.

(3) A "one window" system for applications is established, with

*As it appears in the enrolled bill.

copies of the application being transmitted to all governmental bodies taking part in the coordinated coastal permitting process.

(4) Only one public hearing, if any, need be held on the application. Any public hearing held shall be deemed to serve for all governmental bodies taking part in the coordinated coastal permitting process.

(5) The shortest practicable period for review of applications by all governmental bodies taking part in the coordinated coastal permitting process insofar as the application pertains to the regulatory jurisdiction or authority of such governmental body, is provided for.

(6) The coordinated coastal permitting process shall nnot* affect the powers, duties, or functions of any governmental body particularly the Department of Wildlife and Fisheries and the Office of Conservation in the Department of Natural Resources.

(7) If practicable, a joint permitting process with federal agencies issuing permits shall be established incorporating the coordinated coastal permitting process. Nor shall any other permit review or approval which, in the discretion of the secretary, would be inappropriate for inclusion in a unified permit.

* * *

E. After such process is established as provided in this Section, the secretary shall administer and implement and may modify such process in accordance with the provisions of this Section.

§213.15. Activities nnot* requiring a coastal use permit

* * *

B. (1) The secretary shall adopt rules for the implementation of this Section and may, by such rules, specify such other activities nnot* requiring a coastal use permit as are consistent with the purposes of this Part.

(2) Nnothing* in this Subsection shall be construed as otherwise abrogating the lawful authority of agencies and local governments to adopt zoning laws, ordinances, or rules and regulations for those activities within the coastal zone nnot* requiring a coastal use permit and to issue licenses and permits pursuant thereto. Individual specific uses legally commenced or established prior to the effective date of the coastal use permit program shall nnot* require a coastal use permit.

§213.16. Appeals

A. All appeals to the commission shall be conducted in accordance

*As it appears in the enrolled bill.

with the adjudication procedure of the Louisiana Administrative Procedure Act except as otherwise provided herein.

* * *

C. The commission shall affirm, modify, or reverse the decision. A majority vnote* of the tnotal* membership of the commission shall be required to modify or reverse the decision. Only a majority vnote* of those members present and vnoting,* provided a quorum is present, shall be required on any procedural matter before the commission. A modification or reversal of a decision can be based only on one or more of the following criteria:

* * *

(3) The decision is clearly contrary to the provisions of this Part, or to the evidence presented to the secretary or to the local government.

* * *

F. Only final decisions by the commission shall be subject to judicial review. The applicant, the secretary, an affected state or local governmental body, or any person adversely affected by the final decision shall be entitled to judicial review.

* * *

§213.17. Enforcement; injunction; penalties and fines

A. The secretary and each local government with an approved program shall initiate a field surveillance program to ensure the proper enforcement of the management program. The secretary may enter into interagency agreements with appropriate agencies to assist in the surveillance, monitoring, and enforcement activities pursuant to this Part.

* * *

D. The secretary, the attorney general, an appropriate district attorney, or a local government with an approved program may bring such injunctive, declaratory, or other actions as are necessary to ensure that no uses are made of the coastal zone for which a coastal use permit has nnot* been issued when required or which are nnot* in accordance with the terms and conditions of a coastal use permit.

* * *

Section 5. R.S. 51:1602(13), R.S. 51:1603, and R.S. 51:1605(B)(12), are hereby amended and reenacted to read as follows:

*As it appears in the enrolled bill.

§1602. Definitions

As used in this Act, the following words and phrases have the meaning ascribed to them in this Section except where otherwise provided in this Act or unless a different meaning is plainly required by the context:

* * *

(13) "Secretary of Natural Resources" or "Secretary" means the secretary of the Department of Natural Resources of the state of Louisiana or such persons as he may authorize to act for him as provided in R.S. 51:1603.

* * *

§1603. Jurisdiction, powers, and responsibilities

The Department of Natural Resources, acting through the secretary, shall administer this Chapter. The secretary may authorize officers or employees of the department to administer the provisions of this Chapter, subject to the overall direction and supervision of the secretary. The secretary shall have the following duties and powers and is authorized, empowered, and, as applicable, required to:

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

(2) Receive, by appropriation, gift, grant, donation, or otherwise, any sum of money, aid, or assistance from any person or the United States, its agencies, the state of Louisiana, or any political subdivision thereof for the implementation and enforcement of this Chapter.

(3) Represent personally, or through department personnel or personnel under contract, the state in all matters involving or affecting the interest of the state and its citizens pursuant to this Chapter before any state or federal courts and agencies, offices, officials, legislative or congressional committees, and in all judicial or administrative actions arising out of the proceedings of such agencies, offices, and committees or in relation thereto.

(4) Take such actions, promulgate and amend such rules and regulations, determine those facilities qualifying as support facilities under this Chapter, and issue such orders, licenses, and permits as necessary or appropriate to carry out the general intent and purposes of this Chapter.

(5) Issue, cause to be issued, or take such measures as may be required for the issuance of bonds as authorized in this Chapter.

(6) Plan, finance, construct, operate, acquire, or lease, as lessor or lessee, or develop support facilities, and otherwise facilitate the construction, development, and operation by licensees under this Chapter of such support facilities as are deemed necessary by the secretary to carry out the intent of this Chapter and prnotect* the public interest. Any action which would provide for the ownership or operation of support facilities by the department must be approved by the secretary, rather than any designee of the secretary, and by a joint meeting of the House and Senate natural resources committees.

(7) (a) If deemed in the public interest of the state and, where necessary, in conjunction with the Department of Energy in the implementation and administration of the Powerplant and Industrial Fuel Use Act of 1978, establish and implement a state plan which will assure maximum exemptions from the use of or conversion to coal or other alternate fuel by industries and powerplants in the state; postpone to the extent practicable such use or conversion; and, where such use or conversion is mandated or voluntarily undertaken, facilitate such use or conversion; and implement such measures as are practicable to insure that, to the maximum extent possible, natural gas affected by such conversion is retained within the state.

(b) Such state plan shall include the study and review of conditions presently existing in the state with regard to electrical powerplants and industries to determine the economic and environmental impact of the use of or conversion to coal or other alternate fuel in lieu of natural gas and petroleum.

(c) In establishing and implementing such state plan, the secretary may make rules and regulations; construct and operate support facilities, whether through the department or by contract with licensees under this Chapter or other third parties; issue licenses to persons to construct, operate, and own support facilities; coordinate such state plan with the federal government and its jurisdictional agencies; grant exemptions to conversion requirements under conditions stated in rules and regulations promulgated by the Department of Natural Resources in accordance with the Powerplant and Industrial Fuel Use Act of 1978 and other applicable federal law and regulation; issue bonds; and do such other things as are necessary to establish the state plan within the intent and purposes of this Chapter.

* * *

§1605. Bonds; procedure for issuance

* * *

B. Without reference to any other provisions of the laws of Louisiana and of the Constitution of Louisiana to carry out the purposes

*As it appears in the enrolled bill.

of this Chapter and promnote* continued industrial development in the state, the secretary is authorized, acting through the State Bond Commission in accordance with R.S. 39:1403, to issue revenue bonds and nnotes,* herein collectively called revenue bonds, as hereinafter provided, to finance or assist in the financing of the development, acquisition, or construction, extension, or improvement of support facilities operated or licensed to be operated under this Chapter. The revenue bonds shall be authorized, secured, and have the details and characteristics set out hereunder.

* * *

(12) Limited liability of the state. The revenue bonds shall be limited obligations of the state. The principal of and interest on the revenue bonds shall nnot* be payable by the secretary personally or from funds of the Department of Natural Resources nor shall they constitute a pledge, charge, lien, or encumbrance upon any revenues except the revenues, agreements, and funds pledged under the resolution or trust agreement authorizing such bonds. Neither the credit nor the taxing power of the state shall be pledged for the payment of such principal or interest, and no holder of revenue bonds shall have the right to compel the exercise of the taxing power by the state or the forfeiture of its property in connection with any default thereon. Every revenue bond shall recite in substance that the principal of and interest on such bond is payable solely from the revenues pledged to its payment and that the Department of Natural Resources is nnot* obligated to pay such principal or interest except from such revenues. The face of each interest coupon shall bear a statement to the effect that such coupon is payable solely from certain revenues as set forth in the bond to which such coupon pertains. The revenue bonds issued under the provisions of this Section shall nnot* constitute a debt of this state or of the Department of Natural Resources and the state shall nnot* be liable thereon.

* * *

Section 6. R.S. 56:700.1(3), R.S. 56:700.2(A) and (C), R.S. 56:700.3(A) and (B), and R.S. 56:700.4(A) and (D) are hereby amended and reenacted to read as follows:

§700.1. Definitions

As used in this Part, unless the context requires otherwise, the following terms shall have the following meanings:

* * *

(3) "Secretary" means the secretary of the Department of Natural Resources or his designee.

*As it appears in the enrolled bill.

* * *

§700.2. Establishment, continuance and purposes of fund; geographical coverage; assessments

A. There is hereby established in the state treasury a Fishermen's Gear Compensation Fund into which amounts paid pursuant to this Section shall be deposited. The fund shall be available to the secretary only for the following purposes:

(1) Administrative and personnel expenses of the fund.

(2) Payment of any fully justified claim made in accordance with procedures established herein for actual damages suffered by a commercial fisherman as a result of hitting or snagging an obstruction or hazard in the waters of the state resulting from natural occurrences, oil and gas activities, or other activities where the owner of said obstruction is unknown.

(3) Expenses necessary to implement an investigatory survey of existing pnotential* underwater obstructions which might be due to past drilling, production, and transportation activities. Such survey shall be conducted in nnot* more than three geographical areas which are known to be hazardous as a result of underwater obstructions, the locations and sizes of which shall be approved by the Senate Committee on Natural Resources and the House Committee on Natural Resources, meeting jointly, following a concensus of opinion relative thereto rendered by commercial fishermen and the secretary. The purpose of the survey shall be to reveal the location, size, and density of underwater obstructions, as well as to test investigatory procedures, so as to provide field data and information which might aid fishermen directly and which shall be used to design a program more responsive to the needs of fishermen. Withdrawals from the fund for the purposes of surveying shall be limited to the one-time application described in this Paragraph and shall nnot* exceed one-fourth of the monies remaining in the fund at the time that this Paragraph becomes effective.

* * *

C. The fund shall be established within sixty days of the effective date of this Part, at a level sufficient to meet administrative and personnel expenses of the fund, including implementation of responsibilities set forth in R.S. 56:700.5, as well as payment of justified claims made pursuant to this Part.

To create a workable balance immediately upon establishment of the fund, the secretary shall be authorized and empowered to levy a

*As it appears in the enrolled bill.

fee upon each lessee of a state mineral lease and each grantee of a state right of way, for each lease and right of way in effect at the time of the effective date of this Part and which are located within the coastal zone boundary, in an amount of three hundred dollars. In addition, the state treasurer shall be authorized to pay into the fund a sum in the amount of one hundred thousand dollars from proceeds remaining in the Bond Security and Redemption Fund after compliance with dedications of mineral royalties, leases, bonuses and rights of way and other sums payable to the state as lessor of mineral leases and grantor of rights of way as required pursuant to R.S. 30:136(B) and R.S. 30:136.1(A),(B), and (C), after a sufficient amount has been allocated from the Bond Security and Redemption Fund to pay all obligations secured by the full faith and credit of the state which become due and payable within the fiscal year.

* * *

§700.3. Rules and regulations

A. In carrying out this Part, the secretary shall prescribe, and from time to time amend, regulations for the filing, processing, and the fair and expeditious settlement of claims pursuant to this Part, including a time limitation on the filing of such claims and the appointment of hearing examiner. These regulations shall insure that the whole claim procedure is as simple as possible. Any designee of the secretary authorized to prescribe and amend such rules and regulations shall do so under the overall supervision and control of the secretary.

B. In the formulation of regulations pursuant to this Part, the secretary shall establish a procedure whereby a fisherman may recover for damages from an obstruction encountered previously.

* * *

§700.4. Disbursement of funds; eligibility

A. Payments may be disbursed by the undersecretary of the Department of Natural Resources as authorized by the secretary from the fund to compensate commercial fishermen for actual property damage suffered as a result of hitting or snagging an obstruction or hazard in the territorial waters of the state within the boundaries of the fund but shall nnot* be extended to speculative loss such as anticipated profit or income.

* * *

D. Upon receipt of a claim against the fund, the secretary shall give public nnotice* thereof and shall assign the matter to a hearing examiner for public hearing. At such hearing the claimant and any other

*As it appears in the enrolled bill.

person may submit evidence. The hearing examiner shall have the power to administer oaths and subpoena witnesses and books, records and other evidence pertinent to the issue. The hearing shall be held in the state at a place and time determined by the secretary. After hearing, a prompt adjudication shall be made, all in accordance with rules and regulations adopted pursuant to this Part and the Administrative Procedure Act.

Section 7. House Concurrent Resolution No. 214 of the 1979 Regular Session is hereby rescinded and repealed and R.S. 30:1355(E), R.S. 36:359(C), R.S. 49:213.3(1), R.S. 49:213.21, and R.S. 51:1604(F) are hereby repealed in their entirety.

Section 8. This Act shall become effective on September 1, 1983.

Section 9. The provisions of the introductory paragraph of R.S. 49:213.16(C), as contained in this Act, shall nnot* supersede or take precedence over the provisions of such paragraph in any other Act enacted during the 1983 Regular Session of the legislature.

Approved by the Governor: July 21, 1983.

Published in the Official Journal of the State: August 23, 1983.

A true copy:

JAMES H. "Jim" BROWN
Secretary of State.

ACT No. 706

House Bill No. 1034. By: Messrs. Cusimano and Johnson.

AN ACT

To amend and reenact R.S. 41:1212(A), 1213, 1291, and 1292, all relative to the purposes for which state owned lands may be leased, to allow lessors to lease public lands for additional purposes, to lower the deposit required with application, to provide for deduction of advertising costs from deposit, to remove the authority of agencies of the state to lease public lands and improvements thereon, to remove mineral rights reservation as a required condition of lease, to provide for terms of agreement, to require additional information when land is leased for certain purposes, to provide for exceptions, and otherwise to provide with respect thereto.

Be it enacted by the Legislature of Louisiana:

*As it appears in the enrolled bill.

STATE OF LOUISIANA

ACTS OF THE LEGISLATURE

VOLUME II

REGULAR SESSION OF 1989
SECOND EXTRAORDINARY SESSION OF 1989

(CONTINUED FROM VOLUME I)

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Published by Authority of the State of Louisiana

W. FOX McKEITHEN
Secretary of State

Baton Rouge, Louisiana
1989

Article VI of the Constitution of Louisiana, the additional sales and use tax shall be authorized to exceed the limitation found in Section 29(A) of Article VI of the Constitution of Louisiana and shall be in addition to the four percent level authorized by R.S. 33:2721.6.

C. The sales and use tax so levied shall be imposed by ordinance of the Tangipahoa Parish Council and shall be levied upon the sale at retail, the use, lease, or rental, the consumption and the storage for consumption of corporeal movable property, and on sales of services in the parish, all as defined in R.S. 47:301 through R.S. 47:317. However, the ordinance imposing said tax shall be adopted by the Tangipahoa Parish Council only after the question of the imposition of the tax shall have been submitted to the qualified electors of the parish at an election to be conducted in accordance with the election laws of the state of Louisiana, and the majority of those voting in said election shall have voted in favor of the adoption of the ordinance.

D. This tax shall be in addition to all other taxes and shall be collected at the same time and in the same manner as set forth in R.S. 47:301 through R.S. 47:317.

E. The proceeds of the tax shall be deposited in the general fund of Tangipahoa Parish.

Section 2. 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 in Article III, Section 18 of the Constitution of Louisiana.

Approved by the Governor, July 14, 1989.

Published in the Official Journal of the State:
August 23, 1989.

A true copy:
W. Fox McKeithen
Secretary of State

ACT No. 6

SENATE BILL NO. 26

BY MESSRS. NUNEZ, BAGERT AND CHABERT AND REPRESENTATIVES PATTI, ROACH, BOLIN, S. H. THERIOT, GLOVER, LANDRIEU, ODINET, CAIN, STELLY, STINE, DOWNER, TRICHE, GUIDRY, WARNER, DAMICO, BRADLEY, REILLY, JOHN, HOLDEN AND HAIK

AN ACT

To amend and reenact R.S. 36:351(B) and (C)(1), R.S. 39:1482(A), and R.S. 49:213.11(G); to enact Subpart A of Part II of Chapter 2 of Title 49 of the Louisiana Revised Statutes of 1950, to be comprised of R.S. 49:213.1 through 213.7; to enact Subpart B of Part II of Chapter 2 of Title 49 of the Louisiana Revised Statutes of 1950, to be comprised of R.S. 49:214.1 through 214.5; to enact R.S. 56:2011(C), and R.S. 36:4(J) and 358(B); and to repeal Chapter 5-A of Subtitle I of Title 30 of the Louisiana Revised Statutes of 1950, comprised of R.S. 30:311 through 316; to redesignate the heading of Part II of Chapter 2 of Title 49 of the Louisiana Revised Statutes of 1950 and present sections as "Subpart C. Louisiana Coastal Zone Management Program" consisting of R.S. 49:214.21 through 214.41; relative to wetlands conservation, restoration, and management; to create and provide with respect to the office of coastal restoration and management within the Department of Natural Resources; to create and provide with respect to the Wetlands Conservation and Restoration Authority within the office of the governor; to provide for the gubernatorial appointment of the executive assistant of the authority and for his powers, duties, and responsibilities; to create and provide with respect to the Wetlands Conservation and Restoration Task Force; to create and provide with respect to the wetlands conservation and restoration program and plan; to create and provide with respect to the Wetlands Conservation and Restoration Fund; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 36:351(B) and (C)(1) are hereby amended and reenacted and R.S. 36:4(J) and 358(B) are hereby enact-

ed, all to read as follows:

§4. Structure of executive branch of state government

* * *

J. The Wetlands Conservation and Restoration Authority (R.S. 49:213.1, et seq.) shall be placed within the office of the governor and shall perform and exercise its powers, duties, functions, and responsibilities as provided by law.

* * *

§351. Department of Natural Resources; creation, domicile; composition; purposes and functions

* * *

B. The Department of Natural Resources, through its offices and officers, shall be responsible for the conservation, management, and development of water, minerals, and other such natural resources of the state, including coastal restoration and management, except timber and fish and wildlife and their habitats.

C.(1) The Department of Natural Resources shall be composed of the executive office of the secretary, the office of management and finance, the office of conservation, the office of mineral resources, the office of coastal restoration and management, and such other offices as shall be created by law.

* * *

§358. Offices; purposes and functions

* * *

B.(1) The office of coastal restoration and management shall perform the functions of the state relative to conservation, development and, where feasible, restoration and enhancement of the state's coastal wetlands resources, and will serve as the primary state agency responsible for implementation of the state's coastal vegetated wetlands conservation and restoration plan.

(2) The office of coastal restoration and management shall be composed of the coastal restoration division and the coastal management division. The coastal management division shall implement the coastal zone management program. The coastal restoration division shall perform those functions of the state relating to the

conservation, restoration, creation, and enhancement of coastal wetlands in Louisiana as provided by law.

* * *

Section 2. R.S. 39:1482(A) is hereby amended and reenacted to read as follows:

§1482. Application of the Chapter

A. Except as otherwise provided herein, this Chapter shall apply to every expenditure of public funds by the executive branch of this state, except expenditures by the Department of Transportation and Development and the coastal restoration division within the Department of Natural Resources, under any contract or like business agreement to purchase professional, personal, consulting, or social services. However, this Chapter shall not apply to grants or to contracts or like business agreements between the state and its political subdivisions or other governmental entities or between political subdivisions or other governmental entities, or between higher education boards and institutions under their jurisdiction, except this Chapter shall apply to interagency contracts as defined in R.S. 39:1490(C), and to contracts or grants between the state and its political subdivision to procure social services. A copy of each contract between a higher education board and an institution under its jurisdiction shall be provided to the office of contractual review within fifteen days of its execution.

* * *

Section 3. Subpart A of Part II of Chapter 2 of Title 49 of the Louisiana Revised Statutes of 1950, to be comprised of R.S. 49:213.1 through 213.7, and Subpart B of Part II of Chapter 2 of Title 49 of the Louisiana Revised Statutes of 1950, to be comprised of R.S. 49:214.1 through 214.5, are hereby enacted to read as follows:

SUBPART A. WETLANDS CONSERVATION AND RESTORATION AUTHORITY

§213.1. Statement of intent

A. Coastal land loss in Louisiana continues in catastrophic proportions. Wetlands loss threatens valuable fish and wildlife production and the viability of residential, agricul-

tural, and industrial development in coastal Louisiana.

B. In the past, efforts by the state to address the myriad, interrelated problems of coastal land loss have been inadequate, fragmented, uncoordinated, and lacking in focus and strong direction. 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 immediately to conserve, restore, create, and enhance vegetated wetlands 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 wetlands conservation and restoration be elevated in tandem to a position within state government of high visibility and action and that the conservation, restoration, creation, and nourishment of coastal vegetated wetlands 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 encourage 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 coastal vegetated wetlands conservation and restoration plan in the Wetlands Conservation and Restoration Authority within the office of the governor. Primary responsibility for carrying out the elements of the plan is placed in the office of coastal restoration and management within the Department of Natural Resources.

§213.2. Definitions

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

(1) "Authority" means the Wetlands Conservation and Restoration Authority.

(2) "Conservation and restoration" means the conservation and restoration of coastal wetlands resources including but not limited to coastal vegetated wetlands 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.

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

(4) "Fund" means the Wetlands Conservation and Restoration Fund.

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

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

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

§213.3. Creation; personnel

A. The 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. The executive assistant shall be appointed by the governor, subject to Senate confirmation, to serve at his pleasure. He shall report directly to the governor.

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 restoration and shall administer the pro-

grams 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.

§213.4. Powers and duties

A. The authority shall:

(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) 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 plan by the legislative committees on natural resources and prior to implementation of the plan, in whole or in part, the plan shall be approved by the legislature as provided in R.S. 49:213.6(D).

(3) Approve all state departmental budget 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 Fund.

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

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

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

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

(3) Review and reconcile state agency comments on federally sponsored 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 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 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 wetlands conservation and restoration.

(7) Oversee and coordinate federal and state-funded research related to coastal land loss and subsidence.

(8) Coordinate and focus federal involvement in Louisiana with respect to 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 wetlands conservation and restoration or wetlands loss research.

(10) Monitor and seek available federal and private funds consistent with the purposes of the 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 as to the progress of the projects and programs enumerated in the plan. For each project or program, estimated construction and maintenance costs, progress reports, and estimated completion timetables shall be provided.

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

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 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 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.

(6) Develop guidelines for cost-share agreements with public and private entities undertaking approved coastal restoration projects.

(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 seek to authorize activities which significantly affect wetlands conservation and restoration projects or which significantly diminish the benefits of such projects insofar as they are intended to conserve or enhance coastal wetlands 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 the conservation and restoration of coastal wetlands resources; however, this Subsection shall not affect self-generated or dedicated funds.

§213.5. Wetlands Conservation and Restoration Task Force

A. The Wetlands Conservation and Restoration Task Force is hereby created within the Wetlands Conservation and Restoration Authority.

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

(1) Executive Assistant of the governor.

(2) Secretary of the Department of Natural Resources.

(3) Secretary of the Department of Wildlife and Fisheries.

(4) Secretary of the Department of Environmental Quality.

(5) Secretary of the Department of Transportation and Development.

(6) Assistant Chief of Staff for Health, Welfare, and Environment (governor's office).

(7) Commissioner of Administration.

(8) The director of the State Soil and Water Conservation Committee.

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

§213.6. Wetlands conservation and restoration plan; development; priorities

A. The authority shall, in accordance with the procedures set forth in R.S. 49:953, develop the plan which shall serve as the state's overall strategy for conserving and restoring 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).

B. The plan shall address 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*limited to the following:

(1) A list of projects and programs required for the conservation and restoration of coastal wetlands 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. Where feasible, the plan shall include scientific data and other reasons, including but not limited to the social, geographic, economic, 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.

D.(1) The plan shall be submitted to the natural resources committees of the legislature on or before March 15 of each year beginning in 1990; however, the plan shall not be effective or implemented unless approved in accordance with Paragraphs (2), (3), (4), and (5) of this Subsection.

(2) The natural resources committees shall approve or disapprove of the plan on or before April 1 of each calendar year. 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. 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 committee 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) 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. If the legislature disapproves of 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 plan, or if the legislature fails to disapprove the plan by June first, the authority shall implement the plan. 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 amendment to the plan submitted to the legislature shall conform to the requirements specified in R.S. 49:213.6(B) and (C).

§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, there shall be established in the state treasury on the effective date of this Subpart the Wetlands Conservation 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 such rev-

enues 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 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 forty million dollars.

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

(a) 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.

(b) 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.

(3) The balance of the fund which consists of mineral revenues shall not exceed forty million dollars.

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

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 consists of mineral revenues from severance taxes, royalty payments, bonus payments, or rentals shall not exceed forty million dollars. Any unexpended money remaining in the fund at the end of the fiscal year shall be retained in the fund.

E.(1) The money in the Wetlands Conservation and Restoration Fund is subject to appropriations by the legislature to the office of coastal restoration or to other agencies. 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 plan as it pertains to the conservation and restoration of coastal wetlands and the following purposes:

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

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

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

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

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

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

SUBPART B.
LOUISIANA COASTAL WETLANDS CONSERVATION AND RESTORATION PROGRAM

§214.1. Short title

This Subpart shall be known and may be cited as the Louisiana Coastal Wetlands Conservation and Restoration Act.

§214.2. Policy

The legislature declares that it is the public policy of the state to develop and implement, on a comprehensive and

coordinated basis, a program for coastal vegetated wetlands conservation and restoration in order to reduce if not eliminate the catastrophic rate of coastal land loss in Louisiana. Consistent with this goal, it is the policy of this state to achieve a proper balance between development and conservation and encourage the use of coastal resources.

§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 plan provided for in R.S. 49:213.6.

(2) "Program" means the coastal vegetated wetlands conservation and restoration program provided for in this Subpart.

(3) "Wetlands" means an open water area or an area that is inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances does support, a prevalence of vegetation typically adapted for life in saturated soil conditions, but specifically excluding fastlands and lands more than five feet above mean sea level which occur within the designated coastal zone of the state. Wetlands generally include swamps, marshes, bogs, and similar areas.

§214.4. Wetlands conservation and restoration program; administration; powers and duties

A. A coastal vegetated wetlands conservation and restoration program is hereby established within the division of coastal restoration of the Department of Natural Resources. The secretary shall administer and implement the program in accordance with the plan developed by the authority and shall employ staff necessary for that purpose.

B. The secretary shall:

(1) Implement the coastal vegetated wetlands conservation and restoration plan, as approved by the legislature.

(2) Negotiate and execute contracts, upon such terms as he may agree upon, for legal, financial, engineering, construction, and other professional services necessary in the conduct of the affairs of the office.

(3) Promulgate the necessary rules and regulations to establish and assure uniform criteria for the negotiation and execution of such contracts.

C. The secretary may:

(1) Enter into cost sharing agreements with the federal government, with local governments, or with private entities to implement coastal vegetated wetlands conservation and restoration projects.

(2) Acquire by purchase, donation, or otherwise any land needed for wetlands and coastal restoration or conservation projects and other property required for the operation of the projects that are to be owned and operated by the office or political subdivision of the state; provided, that any property acquired for any project shall reserve the minerals to the landowners, whether private or public, in accordance with the provisions of R.S. 31:149.

(3) Develop procedures to evaluate new and improved coastal restoration and preservation technologies.

(4) Perform pre-construction and post-construction monitoring of projects that will be implemented or have been implemented by the office.

(5) Coordinate coastal restoration efforts with local governments, interest groups, and the public.

(6) Develop, implement, operate, maintain, and monitor coastal restoration plans and projects.

(7) Take any other action necessary to administer the program.

§214.5. Legislative oversight

Any rule, regulation, or guideline developed pursuant to this Subpart shall be proposed or adopted pursuant to the rulemaking procedures set forth in the Administrative Procedure Act.

Section 4. R.S. 49:213.11(G) is hereby amended and reenacted to read as follows:

§213.11. Coastal use permits

* * *

G. The secretary is authorized to establish a reasonable schedule for fees to be charged to the applicant for the processing and evaluation of coastal use permit applications. The fees authorized by this Subsection shall not apply to any

state agency or political subdivision engaged in a coastal restoration activity consistent with the plan as provided in R.S. 49:213.6 nor to local public bodies for constructing drainage improvements. Funds generated from these fees shall be deposited in the Coastal Resources Trust Fund as provided in R.S. 49:214.41.

Section 5. R.S. 56:2011(C) is hereby enacted to read as follows:

§2011. Permit to dredge, royalties

* * *

C. Any state agency, political subdivision, or associated consultant or contractor engaged in a coastal conservation or restoration activity consistent with the plan established pursuant to R.S. 49:213.6 shall be exempt from payment or provision of the fees, royalties, or bond requirements of this Section.

* * *

Section 6. Chapter 5-A of Subtitle I of Title 30 of the Louisiana Revised Statutes of 1950, comprised of R.S. 30:311 through 316 is hereby repealed.

Section 7. The heading of Part II of Chapter 2 of Title 49 of the Louisiana Revised Statutes of 1950 is hereby redesignated as "Louisiana Coastal Wetlands Conservation, Restoration, and Management" and the Louisiana State Law Institute is hereby authorized and requested to redesignate the present sections in Part II as "Subpart (C) Louisiana Coastal Zone Management Program" consisting of R.S. 49:214.21 through 214.41 and make appropriate statutory cross references.

Section 8. 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 in Article III, Section 18 of the Constitution of Louisiana.

Approved by the Governor, July 14, 1989.

Published in the Official Journal of the State:
August 23, 1989.

A true copy:

W. Fox McKeithen
Secretary of State

ACT No. 7

SENATE BILL NO. 39
BY MR. HINTON
AN ACT

To provide that the provisions of the Act of the 1989 Regular Session of the Louisiana Legislature which originated as Senate Bill No. 905 by Mr. Hinton, relative to the Fire Protection District No. 1 of St. Tammany Parish, shall become effective upon signature of the governor or lapse of time for gubernatorial action; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. The provisions of the Act of the 1989 Regular Session of the Louisiana Legislature which originated as Senate Bill No. 905 by Mr. Hinton 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.

Section 2. 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.

Approved by the Governor, July 14, 1989.

Published in the Official Journal of the State:
August 23, 1989.

A true copy:
W. Fox McKeithen
Secretary of State

ACT No. 8

HOUSE BILL NO. 6

First Extraordinary Session, 2005 ACT No. 8 **ENROLLED**

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. GAUTREAUX, N. GAUTREAUX, HEITMEIER, HINES, HOLLIS, JONES, LENTINI, MALONE, MARIONNEAUX, MICHOT, MOUNT, MURRAY, NEVERS, ROMERO, SHEPHERD 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:

Coding: Words which are ~~struck through~~ are deletions from existing law; words in **boldface type and underscored** are additions.

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** ~~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** ~~land 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**

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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~~ **be elevated** to a position within state government of high visibility and action and that **hurricane protection and conservation and restoration of the coastal area** ~~the conservation, restoration, creation, and nourishment of coastal vegetated wetlands~~ 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** ~~encourage~~ 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**

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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.

~~(1)~~**(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.

~~(2)~~**(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.

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

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

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

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

(9) "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.

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

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

~~(7) "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

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governor.

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

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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)~~**(3) 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 plan**s** by the legislative committees ~~on natural resources~~ and prior to implementation of the plan**s**, in whole or in part, the plan**s** shall be approved by the legislature as provided in R.S. 49:213.6(D).

~~(3)~~**(4) 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**

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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 **coastal protection, including hurricane protection and** wetlands conservation and restoration.

(3) Review and reconcile state agency comments on federally sponsored **coastal 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.

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(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

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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.

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

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

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

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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

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

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**s**; 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**

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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**s** 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**s** 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

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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 plan**s** 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

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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) ~~The~~ **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~~ **The** committees shall ~~approve or disapprove of the~~ **take action on the annual** plan on or before May fifteenth of each calendar year.

~~(b)~~**(2)** If either committee disapproves ~~the~~ **a** 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~~ **a** plan by resolution adopted by a majority vote of the members of each house of the legislature ~~provided~~

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~~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 ~~of~~ 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~~ **a** 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

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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 Subsection~~s~~ 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 Subsection~~s~~ 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.

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(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:

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

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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.

* * *

§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.

* * *

§214.3. Definitions

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

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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.

* * *

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.

Coding: Words which are ~~struck through~~ are deletions from existing law; words in **boldface type and underscored** are additions.

~~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** ~~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 **plan development 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.

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(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**

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restoration program.

(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

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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.

_____
PRESIDENT OF THE SENATE

_____
SPEAKER OF THE HOUSE OF REPRESENTATIVES

_____
GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____

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Appendix D

Expanding the Coastal Zone Boundary: Funding Effects

By Seth Bagwell

Overview of the Issue

As a result of Senate Concurrent Resolution 60, the Louisiana Coastal Protection and Restoration Authority authorized the Office of Coastal Restoration and Management (OCRM), a branch of the Department of Natural Resources (DNR), to determine the sufficiency of the State's current coastal zone boundary (CZB) to meet the State's coastal management needs.[1] Several programs allocate money to parishes, or to projects in parishes, on or near the coast for providing for hurricane protection and wetland restoration. One question that has been raised is what effect would an increase in the size of the coastal zone have on the amount of funding received by parishes already in the coastal zone: will the inclusion of more parishes in the coastal zone decrease the amount of money available to parishes already in the coastal zone? This paper will first briefly introduce the reader to the coastal zone boundary. It will then examine some of the most prominent sources of funding available to parishes for coastal protection and restoration and determine what effect a change in the coastal zone boundary would have on the availability of those funds.

Introduction to the Coastal Zone Boundary

With the Coastal Zone Management Act of 1972 (CZMA), Congress gave coastal states the power to establish coastal zone management programs.[2] Congress found and declared a national policy to protect and restore the Nation's coastal zone, to protect flood-prone areas from loss of life and property damage and to manage coastal development.[3] Rather than attempt to achieve these goals through a federal program that would have raised issues with the federal government's authority under the Constitution to undertake local land use planning, Congress passed the CZMA to encourage individual states to create their own programs that would achieve the enumerated goals.[4]

In response to the CZMA, Louisiana passed the State and Local Coastal Resources Management Act (SLCRMA) of 1978.[5] This act established the Louisiana coastal zone management program titled the Louisiana State and Local Coastal Resources Management Act (SCLRMA) in accordance with the requirements of the CZMA. Its goal is to "protect, develop, and where feasible, restore or enhance the resources of the state's

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[1] Louisiana Department of Natural Resources, *DNR Begins Work on Coastal Zone Boundary Study* http://dnr.louisiana.gov/sec/execdiv/pubinfo/newsr/2009/0710crm-boundary.ssi, July10, 2009

[2] Richard J. McLaughlin, Ray Stewart, & Louise Stewart, *The Coastal Zone Management Act and the Procedures it Created*, 4-23A Environmental Law Practice Guide § 23A.01, pg. 1

[3] 16 USCS § 1452 (2009)

[4] 16 USCS § 1452 (2) (2009)

[5] James G. Wilkins ET AL., *Louisiana Coastal Hazard Mitigation Guidebook*, 37, Louisiana Sea Grant College Program; 2008

coastal zone."[6] The coastal zone is defined as "the coastal waters and adjacent shorelands *within* the boundaries of the coastal zone,"[7] and said boundaries are described in great detail in La. R.S. 49:214.24. The SCLRMA is run by the secretary for the Department of Natural Resources and is specifically housed in the Office of Coastal Management within DNR.[8] The SCLRMA regulates the "use" of the coastal zone, where use is defined as "any use or activity within the coastal zone which has a direct and significant impact on coastal waters."[9] To regulate uses of the coastal zone, SCLRMA employs a coastal use permitting process. Coastal use permits are used to ensure that activities affecting the coastal zone are consistent with the SCLRMA. [10] Although the majority of regulation occurs inside the coastal zone boundary, any federal, state, or local governmental action occurring *outside* the coastal zone that *affects* the coastal zone must be consistent with the SCLRMA; this is normally referred to as the consistency requirement.[11]

<u>Coastal Funding Programs</u>:

A. State and Local Coastal Resources Management Act

The program with the closest connection to the coastal zone boundary is the program that established it. SCLRMA is funded in large part by a grant from the National Oceanic and Atmospheric Administration, authorized under section 306 of the CZMA.[12] This money must be matched by the state; fees related to permitting and consistency determinations, as well as money from the Coastal Resources Trust Fund (CRTF) are used to match the NOAA grant.[13] Approximately seventy-five percent of grant funds go towards administering coastal use permitting and consistency determinations and enforcement. The other twenty-five percent goes towards funding local coastal management programs.[14] These local programs are run at the parish level and must be in accord with Louisiana's program.[15] To date, ten parishes have established approved local coastal management programs and two more are currently seeking approval.[16] Local programs are funded on a cost share approach between Louisiana and the parish. [17]

Under the proposed tiered approach, it is possible that some additional parishes, as well as additional portions of parishes already partially included in the current CZB,

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[6] La. R.S. 49:214.22 (2009)
[7] La. R.S. 49:214.23 *emphasis added*
[8] DNR, *Office of Coastal Restoration and Management* http://dnr.louisiana.gjmov/crm/.
[9] La. R.S. 49:214.24 (2009)
[10]Louisiana Department of Natural Resources, *Applying for a Coastal Use Permit (CUP),* http://dnr.louisiana.gov/ CRM/coastmgt/permitsmitigation/permitsmitigation.asp, August 26, 2009
[11] La. R.S. 49:214.32
[12] Telephone Interview with Terry Howey, Coastal Resources Administrator, Office of Coastal Management, Louisiana Department of Natural Resources (January 5, 2010, 3:20 p.m.)
[13] *Id.*
[14] *Id.*
[15] La. R.S. 49:214.28
[16]Louisiana Department of Natural Resources, *Local Coastal Programs,* http://dnr.louisiana.gov/crm/coastmgt/ interagencyaff/lcp/lcp.asp, August 26, 2009
[17] Telephone Interview with Terry Howey

will become subject to coastal use permitting. This increase in regulatory jurisdiction is likely to cause at least some increase in the administrative costs associated with additional permitting.[18] However, the extent of this increase and the degree of service reduction (the amount of time it takes for an application to go through the permit process, for example) to parishes already existing in the coastal zone is hard to predict.[19]

An easier threat to predict comes from the possible establishment of local coastal programs by the newly included parishes. It would be hard if not impossible for the State to meet its share of costs for implementing and running local management programs for parishes that may be added to the permitting jurisdiction of the SCLRMA.[20] It is possible the State would attempt to meet its share of the costs of establishing the new programs by reducing the amount of money it spends on running existing programs in participating parishes.

One solution is to statutorily provide that no parish included in the coastal zone as a result of the amended boundary can establish a local management program for a certain number of years. This would perhaps allow SCLRMA time to locate other sources of funding or cut costs in other areas in order to meet its share of establishing new local programs. Removing the cap that currently limits Louisiana's portion of NOAA grant money for running SCLRMA to two million dollars is another possible solution.[21] If the cap were removed, Louisiana would receive an increase in NOAA grant money based on the formula (consisting of factors of population and length of coastline) used to determine how much money coastal states receive under the Coastal Zone Management Act.[22]

B. Coastal Impact Assistance Program

The Coastal Impact Assistance Program (CIAP), created in 2005, allocates $250 million of Outer Continental Shelf (OCS) revenues per year (from 2007 - 2010) to eligible states (AL, AK, CA, LA, MS, TX) based on the proportion of OCS revenues generated off the shores of the individual state.[23] Funds are available not only to the state itself but also directly to its "coastal political subdivision[s]" (CPS), which includes parishes in Louisiana.[24] In order to qualify as a CPS the parish must meet two criteria:

1. be included in the coastal zone as of August 8, 2005 (date the act creating the CIAP was enacted) [and]
2. not more than 200 nautical miles from the center of any tract leased on the OCS for oil or gas purposes.[25]

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[18] *Id.*
[19] *Id.*
[20] *Id.*
[21] *Id.*
[22] *Id.*
[23] The Department of the Interior Minerals Management Service. *Coastal Impact Assistance Program (CIAP): Program Documents.*<http://www.mms.gov/offshore/CIAPProgramDocuments.htm> PDF revised 10/09/08; pg. 1
[24] *Id.*
[25] *Id.*; 43 U.S.C. 1356a(a)(1)

Therefore, while additional parishes may be added to Louisiana's coastal zone under the proposed tiered approach, the date and distance requirements should effectively prevent CIAP funds from going to these newly included parishes, at least *directly*.

The word "directly" becomes important because it is foreseeable that CIAP funds might be spent by the ***state*** on a project in a newly added parish. The Minerals Management Service (MMS; in charge of CIAP) opened the door somewhat by stating that not all CIAP projects have to be undertaken "solely within a State's coastal zone, but ***project benefits should flow to the coastal zone***."[26] Thus, expanding the coastal zone would appear to make it easier for the state to spend CIAP funds in a parish that is farther from the coast; a larger coastal zone would mean the benefits have less distance to "flow."

However, limitations are provided in that the only projects eligible for funding are those that will be used for:

1. the conservation, protection, or restoration of coastal areas, including wetlands;
2. mitigation of damage to fish, wildlife, or natural resources;
3. planning and administrative costs of complying with CIAP;
4. implementation of a federally-approved marine, coastal, or comprehensive conservation management plan; and
5. mitigation of the impacts of OCS activities through funding of onshore infrastructure projects and public service needs.[27]

A change in the coastal zone boundary should have no effect on number 1, since the term "coastal areas" is not tied to the coastal zone and is already given a fairly liberal interpretation to include things like coastal watersheds, which can extend far inland. [28] Numbers 2 and 5 are not really of concern since both have a mitigation element, which ties the funds to OCS activities; presumably, the state would find it hard to show that a newly included parish, farther from the coast, suffered damages from activities on the outer continental shelf. Number 3 is not of particular interest either since it involves the use of funds for complying with CIAP requirements.

However number 4 may give the state the opportunity to spend funds in newly added parishes. It allows funds for projects implementing a federally approved conservation management plan, and MMS has specifically listed Coastal Zone Management Plans as one example.[29] Thus, it is foreseeable that with the inclusion of more parishes within the coastal zone boundary, the state could seek CIAP funds for projects in those parishes if the project is for implementing the SCLRMA. For example:

> Suppose the new tiered coastal zone boundary is implemented, and XYZ Corporation is attempting to dredge that portion of the Mississippi river that lies in Iberville parish. For the purposes of this example, let's say that Iberville parish lies in the Intergovernmental Coordination (IGC)

[26] *Id.* at 2 emphasis added
[27] *Id.* at 2-3
[28] Interview with David Fruge`, Office of Coastal Protection and Restoration,
[29] *Coastal Impact Assistance Program (CIAP): Program Documents* at 2

> management area of the boundary. The proposed dredging would require a 404 permit from the Army Corps of Engineers and would therefore be subject to a consistency review. If the project will involve dredging over 500,000 cubic yards of the river's bottom the SCLRMA requires that the dredged material be used beneficially for "wetland protection, creation, enhancement, or combinations thereof."[30] Suppose XYZ will have trouble financing the extra costs associated with pumping the dredged materials to a nearby site for wetland protection. It is foreseeable the state could apply for CIAP funds to help XYZ fulfill its duty under the SCLRMA.

This is an example of how CIAP funds could possibly be used in newly added parishes under number 4 of the authorized uses.

However, use of CIAP funds is further limited by the fact that MMS required states to submit a CIAP plan before granting any funds.[31][32] Louisiana's Coastal Impact Assistance Plan (LCIAP) was approved in November of 2007 and identifies the projects that will be funded through CIAP for the four years funding is available (2007-2010). Only projects included in the plan have access to CIAP funding.[33] Thus, expanding the coastal zone boundary could not result in a sudden increase in CIAP funded projects because those projects would not have been included in the LCIAP. Although the LCIAP could be amended to include new projects, the amendment process is tedious and long, and the deadline for amending the plan is December 31, 2010.[34] Therefore, it is unlikely an expansion of the coastal zone boundary will have any effect on the amount of funds parishes already existing in the coastal zone will receive from CIAP related projects.

C. GOMESA

In 2006 Congress passed the Gulf of Mexico Energy Security Act which provides even more OCS revenues to be distributed to the eligible states and their coastal political subdivisions.[35] The pertinent regulations under GOMESA related to the coastal zone boundary are essentially the same as under the CIAP discussed above and therefore the arguments made above will not be repeated here.[36] However, GOMESA funds are not set to expire in 2010 and states are not required to submit a "plan" to be awarded the funds.

D. CWPPRA

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[30] La. R.S. 49:214.30

[31] Coastal Protection and Restoration Authority, *CIAP*, <http://www.lacpra.org/index.cfm?md=pagebuilder&tmp =home&pid=20> Copyright 2010

[32] Telephone Interview with David Fruge`, Office of Coastal Protection and Restoration (January 4, 2010, 10:30 a.m.)

[33] *Id.*

[34] *Id.*; Louisiana Office of Coastal Protection and Restoration, *CIAP December 2009 Program Update*, available via email from David Fruge`, OCPR, (225) 342-7615

[35] 43 U.S.C.A. 1331 note: Pub.L. 109-432, Div. C, Title I, §§ 101 to 105, Dec. 20, 2006, 120 Stat. 3000

[36] *Id.*

The Coastal Wetlands Planning, Protection, and Restoration Act (CWPPRA) was enacted in 1990 and is commonly referred to as the "Breaux Act".[37] It was created with the goal of restoring and preventing the loss of Louisiana's coastal wetlands and seeks to achieve this goal through the use of coastal restoration projects and conservation planning.[38] On average, Louisiana receives about $50 million every year for CWPPRA projects.[39]

The Breaux Act required the formation of a restoration plan and a conservation plan, both of which were to include the identification of the "entire coastal area that contains coastal wetlands."[40] The boundary chosen to designate this area is referred to as the "conservation plan boundary" and was set at the "interior-most limits of tidal (salt water) influence."[41] Although there is considerable overlap between the two, the conservation plan boundary is not the same as the coastal zone boundary.[42] It is contiguous with the coastal zone boundary on the western, eastern, and southern sides of the boundary, but falls both inside and outside the coastal zone boundary on the northern (inland) side of the boundary.[43] Therefore, it appears that a change in the coastal zone boundary would have no effect on the amount of CWPPRA money (in terms of restoration projects) parishes already existing within the CZB receive, since CWPPRA is tied to the conservation plan boundary.

E. LCA

Louisiana Coastal Area (LCA) is designed to provide a plan for achieving no net loss of Louisiana's coastal wetlands.[44] It is currently developing a comprehensive plan for the long term achievement of this goal and simultaneously implementing the most critical projects necessary to achieve no net loss in the short term (about 10 years). Approximately 15 projects were identified as being the most critical. For most of the projects, a study must be conducted and a project document produced outlining the feasibility, potential gains, costs etc. of the project. This document is then presented to Congress for budget approval. If approval is granted, the necessary funds are allocated to the Corps and construction can begin.[45]

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[37]Louisiana Department of Natural Resources, *Louisiana Coastal Wetlands Conservation Plan*, pg. 1, May 1997

[38] *Id.*

[39]Coastal Protection and Restoration Authority, *Coastal Wetlands Planning, Protection, and Restoration Act (CWPPRA)*, <http://www.lacpra.org/index.cfm?md=pagebuilder&tmp=home&nid=32&pnid=24&pid=21&fmid=0&catid=0&elid=0> Copyright 2009

[40] 16 USCS 3952 (b)(1-2) & 3953(a-c)

[41] Louisiana Department of Natural Resources, *Office of Coastal Management: Frequently Asked Questions (FAQ)*, < http://dnr.louisiana.gov/CRM/faq.asp#rul1> updated 12/22/09

[42] *Id.*

[43] *Louisiana Coastal Wetlands Conservation Plan*, pg. 7

[44] Telephone Interview with Timothy Axtman, Project Manager, U.S. Army Corps of Engineers – New Orleans District (December 17, 2009, 9:52 p.m.)

[45] *Id.*

Whether or not a project would be located within the coastal zone boundary was not one of the factors considered in identifying the projects deemed most critical, and future congressional approval of funding is also not dependent on that factor. Furthermore, funds are allocated to the Corps on a project specific basis; parishes themselves do not receive monies thorough LCA, even though an LCA project may be conducted in a particular parish. Thus, it appears that enlargement of the coastal zone will have no effect on the financial resources available to a parish included in the coastal zone, at least not in the short term. However, Mr. Axtman did state in my interview with him that enlargement of the coastal zone might have an effect in the long term, as it relates to the development of the comprehensive plan; that is, the Corps would perhaps be more inclined to look at a bigger area within which to conduct necessary projects. Still, Mr. Axtman did not give any indication that the coastal zone boundary is a factor in deciding which projects will be conducted, and the process for getting a project to the construction phase is rather lengthy and detailed.[46] Therefore, I would conclude that an enlargement of the coastal zone boundary is also not likely to have an effect on where projects are placed in the long term.

F. CPRA / CPRF/ OCPR

CPRA:

The Coastal Protection and Restoration Authority has only been in existence since 2005, but is charged with representing the position of the state on the protection and restoration of the "coastal area" through the use of "projects and programs."[47] In terms of financial resources, CPRA has "discretion to approve all requests for integrated coastal protection programs and projects in the *coastal area*, insofar as such requests are for funds to be appropriated from the Coastal Protection and Restoration Fund."[48] Money allocations to some of these "programs" are listed in CPRA's *Annual Plan* for the year 2010 and include assistance to local levee authorities.[49] Appendix C of the *Annual Plan* contains an extensive list of projected program and project expenditures for the next 3 years. CPRA also has the authority to enter into agreements with parishes located wholly or partially within the *coastal area* for the construction of "any coastal protection, conservation and restoration, hurricane protection, infrastructure, storm damage reduction, or flood control project."[50]

CPRF:

The Coastal Protection and Restoration Fund was placed into the state treasury to provide revenues for use in protecting and restoring Louisiana's *coastal area*.[51] The

[46] *Id.*
[47] La. R.S. 49:214.5.1
[48] La. R.S. 49:214.5.2 (A)(4) emphasis added
[49] CPRA, *Fiscal Year 2010 Annual Plan*
[50] La. R.S. 49:214.5.2 (A)(11) emphasis added
[51] La. R.S. 49:214.5.4 (A)

revenues consist of mineral revenues received by the state, including federal mineral revenues from OCS activities.[52] Money from the fund may only be used for coastal protection and restoration programs and projects, and some examples can be found in Louisiana Revised Statutes 49:214.5.4 (G).

OCPR

The Office of Coastal Protection and Restoration is the "implementation and enforcement arm" of CPRA[53] and receives money from the CPRF to carry out this purpose.[54] Specifically, OCPR implements projects relative to protection and restoration of the *coastal area*.[55]

Coastal Area

The term "coastal area" has been italicized in the preceding three paragraphs to emphasize its importance as the geographic boundary of CPRA, CPRF, and OCPR.[56] Coastal area is currently defined as "the Louisiana Coastal Zone and contiguous areas subject to storm or tidal surge and the area comprising the Louisiana Coastal Ecosystem."[57] The Louisiana Coastal Ecosystem is defined as:

> the coastal area of Louisiana from the Sabine River on the west to the Pearl River on the east, including those parts of the Atchafalaya River Basin and the Mississippi River Deltaic Plain below the Old River Control Structure and the Chenier Plain included within the study area of the restoration plan.[58]

"[T]hose parts… included within the study area of the restoration plan" refers to the Louisiana Coastal Area (discussed above) Ecosystem Restoration Study.[59][60] The study area comprises 20 parishes (only one more than the CZB) and covers only a slightly larger area than the coastal zone boundary.[61]

In sum, CPRA, CPRF, and OCPR are limited to the coastal area, which consists of both the Louisiana coastal zone and the Louisiana coastal ecosystem. It seems,

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[52] La. R.S. 49:214.5.4 (B) & (E)
[53] La. R.S. 49:214.6.1 (A)(2)
[54] La. R.S. 49:214.6.2 (C)(1)
[55] *Id.* at (B)
[56] Telephone Interview with Chris Williams, Engineer Manager, Program Management Section, Office of Coastal Protection and Restoration (January 5, 2010, 10:49 a.m.)
[57] La. R.S. 49:214.2 (3)
[58] Water Resources Development Act of 2007, 110 Public Law 114: 7001
[59] Telephone Interview with James Pahl, Coastal Resources Scientist, Office of Coastal Restoration and Protection, (January 4, 2010, 3:00 p.m.)
[60] US Army Corps of Engineers: New Orleans District, *Louisiana Coastal Area: Ecosystem Restoration Study*, <http://www.lca.gov/final_report.aspx>, Final Study Report, Volume 1 pg. MR 1--5
[61] *Id.* - see maps in document

therefore, that an expansion of the coastal zone, as proposed in the tiered approach, would greatly increase at least the scope of CPRA, CPRF, and OCPR. Whether or not this would result in a significant decrease in the funds available to parishes already existing in the coastal zone is hard to determine.[62] For starters, funds are not allocated to parishes within the coastal area on any type of pro-rata basis but rather on a project specific basis.[63] Expanding the coastal zone (thereby expanding the coastal area) would allow more parishes to propose coastal restoration and protection projects, but not every project is accepted; projects are subject to public comment, evaluation criteria, and must advance the objectives of "protection, conservation, enhancement, and restoration of the coastal area."[64] CPRA has also designed a "project benefit scoring procedure to estimate how well projects in the planning and design stages would meet" the objectives of coastal restoration and protection.[65] Money from the Coastal Protection and Restoration Fund, as stated above, may only be spent on "integrated coastal protection."[66] Thus, any funds spent on projects in newly added parishes would be for the over-arching goals of coastal protection and restoration; the statutes governing CPRA, CPRF and OCPR prevent the misuse of available resources. With these types of checks and balances, it seems unlikely that the inclusion of more parishes in the coastal area would cause a significant decrease in the funds available to parishes already in the coastal area; and any decrease that does occur would be for the main goal of saving Louisiana's coast and protecting its citizens, not for unrelated interests (such as agricultural uses).

[62] Telephone Interview with James Pahl,
[63] CPRA, *Fiscal Year 2010 Annual Plan*, April 27, 2009 pg. 2-4, 15-16; La. R.S. 49:214.2 (1), (10), (13) & (14)
[64] La. R.S. 49:214.5.3
[65] *Annual Plan*, pg. 7
[66] La. R.S. 49:214.5.4