

ACT No. 545

SENATE BILL NO. 367

BY SENATOR DUPRE AND REPRESENTATIVES ARNOLD, BALDONE, BILLIOT, CHAMPAGNE, GISCLAIR, HENDERSON, SAM JONES, LABRUZZO, LEGER, PERRY, RICHARD, ST. GERMAIN AND TEMPLET

1 AN ACT

2 To amend and reenact R.S. 38:351 and R.S. 49:213.1(D), 213.2(9), (10), and (11), 213.3(C),
3 213.4(A)(1), (2), (4), (7), (B)(1), (2), (4), (5), (6), (8), (9), (C)(1), (2), (4), and (D),
4 213.5(A)(10), (11), (12), and (13), and 213.6(A)(1), and 213.11 and to enact R.S.
5 38:251 and R.S. 49:213.2(12), 213.4(A)(8) and (E), 213.5(A)(14), and 213.7(C)(3),
6 relative to Louisiana Coastal Protection, Conservation, Restoration, and
7 Management; to provide relative to the Coastal Protection and Restoration Authority;
8 to provide for the powers and duties; to provide definitions, terms and conditions;
9 to provide for membership of the authority; to provide for a three-year projection in
10 the required annual plan; to provide for dedication of funding; to provide for
11 employment of legal counsel; and to provide for related matters.

12 Be it enacted by the Legislature of Louisiana:

13 Section 1. R.S. 49:213.1(D), 213.2(9), (10), and (11), 213.3(C), 213.4(A)(1), (2), (4),
14 (7), (B)(1), (2), (4), (5), (6), (8), (9), (C)(1), (2), (4), and (D), 213.5(A)(10), (11), (12), and
15 (13), and 213.6(A)(1) and 213.11 are hereby amended and reenacted and R.S. 49:213.2(12),
16 213.4(A)(8) and (E), 213.5(A)(14), and 213.7(C)(3) are hereby enacted to read as follows:

17 §213.1. Statement of intent; authority as local sponsor

18 * * *

19 D. It is the intention of the legislature that comprehensive coastal protection
20 be elevated to a position within state government of high visibility and action and
21 that hurricane protection and conservation and restoration of the coastal area be of
22 high priority within that structure. To provide aggressive state leadership, direction,
23 and consonance in the development and implementation of policies, plans, and
24 programs to achieve comprehensive coastal protection, including the encouragement
25 of multiple uses of the coastal zone and to achieve a proper balance between
26 development and conservation, restoration, creation, and nourishment of renewable

1 coastal resources, the legislature places responsibility for the direction and
 2 development of the state's comprehensive master coastal protection plan with the
 3 Coastal Protection and Restoration Authority within the office of the governor.
 4 ~~Primary responsibility for carrying out the elements of the plan relative to coastal~~
 5 ~~wetlands conservation and restoration is placed in the office of coastal restoration~~
 6 ~~and management within the Department of Natural Resources. Primary responsibility~~
 7 ~~for carrying out the elements of the plan relative to hurricane protection is placed~~
 8 ~~with the office of public works, hurricane flood protection, and intermodal~~
 9 ~~transportation within the Department of Transportation and Development. In order~~
 10 to maximize the effectiveness of coastal protection efforts, the secretaries of the
 11 Department of Natural Resources and the Department of Transportation and
 12 Development and the governor's executive assistant for coastal activities shall use
 13 an integrated team effort to jointly coordinate master plan development with federal
 14 agencies and political subdivisions, including levee districts.

15 * * *

16 §213.2. Definitions

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

19 * * *

20 (9) **"Infrastructure" means publicly-owned facilities or systems in the**
 21 **coastal zone that are negatively impacted by coastal land loss or rising seas, and**
 22 **that serve a critical public purpose and are consistent with the priorities stated**
 23 **in the master plan and the eligible uses of the Gulf of Mexico Energy Security**
 24 **Act of 2006. The term shall not include levee, hurricane protection, or coastal**
 25 **restoration systems.**

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

1 A. The authority shall:

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

8 (2) Develop, coordinate, make reports on, and provide oversight for a
9 comprehensive coastal protection master plan and annual coastal protection plans,
10 working in conjunction with state agencies, political subdivisions, including flood
11 protection authorities, levee districts, and federal agencies. The master plan shall
12 include a comprehensive strategy addressing the protection, conservation, and
13 restoration of the coastal area through the construction and management of hurricane
14 protection projects and coastal restoration projects and programs, all consistent with
15 the legislative intent as expressed in R.S. 49:213.1. The annual coastal protection
16 plan shall be developed as the annual implementation of the comprehensive master
17 plan and shall be submitted to the legislature for approval as set forth in R.S.
18 49:213.6. The annual coastal protection plan shall include a description and status
19 of all projects and programs pertaining to hurricane protection, ~~and~~ coastal
20 restoration, **infrastructure**, including privately funded wetland enhancement
21 projects or plans, and addressing those activities requiring a coastal use permit which
22 significantly affect projects set forth in the plan, all consistent with the legislative
23 intent as expressed in R.S. 49:213.1.

24 * * *

25 (4) ~~Have the right and the authority to approve~~ **Have the discretion to**
26 **approve and implement** all requests for programs and projects pertaining to
27 hurricane protection, **infrastructure**, and coastal conservation and restoration, **and**
28 **mitigation projects related to wetlands in the coastal zone**, insofar as such
29 requests are for funds to be appropriated from the Coastal Protection and Restoration
30 Trust Fund; ~~provided that the office of coastal restoration and management of the~~

1 Department of Natural Resources shall receive monies appropriated from the fund
 2 for coastal wetlands conservation and restoration and shall implement any such
 3 program or project and the office of public works, hurricane flood protection, and
 4 intermodal transportation of the Department of Transportation and Development, in
 5 conjunction with political subdivisions, shall receive monies appropriated from the
 6 fund for hurricane protection and shall implement any such program or project.

7 * * *

8 (7) Have the power and authority to enter into any contract with the federal
 9 government or any federal agency or any political subdivision of the state or private
 10 individual for the construction, operation, ~~or~~ maintenance, **repair, rehabilitation,**
 11 **or replacement** of any coastal restoration, hurricane, **infrastructure,** storm damage
 12 reduction, or flood control project and to this end, may contract for the acceptance
 13 of any grant of money upon the terms and conditions, including any requirement of
 14 matching the grants in whole or part, which may be necessary.

15 **(8) Have the power and authority to maximize the use of non-federal**
 16 **funds and in-kind donations to provide for the costs associated with non-federal**
 17 **cost-share requirements associated with coastal protection and restoration**
 18 **projects.**

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

20 (1) Coordinate all state departmental budget requests for programs and
 21 projects pertaining to **infrastructure,** coastal protection, including hurricane
 22 protection and coastal wetlands conservation and restoration, **including mitigation**
 23 **projects related to wetlands in the coastal zone,** as well as all requests for funds
 24 to be appropriated from the Coastal Protection and Restoration Fund.

25 (2) Coordinate and focus the functions of all state agencies as they relate to
 26 **infrastructure,** coastal protection, including hurricane protection and wetlands
 27 conservation and restoration, **and mitigation projects related to wetlands in the**
 28 **coastal zone.**

29 * * *

30 (4) Represent the policy and consensus viewpoint of the state at the federal,

1 regional, state, and local levels with respect to infrastructure, coastal protection,
2 including hurricane protection and wetlands conservation and restoration, and
3 mitigation projects related to wetlands in the coastal zone.

4 (5) Appraise the adequacy of statutory and administrative mechanisms for
5 coordinating the state's policies and programs at both the intrastate and interstate
6 levels with respect to infrastructure, coastal protection, including hurricane
7 protection and wetlands conservation and restoration, and mitigation projects
8 related to wetlands in the coastal zone.

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

13 * * *

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

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

21 * * *

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

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

1 Terrebonne Levee and Conservation District, South Lafourche Levee District, Grand
 2 Isle Independent Levee District, and the Plaquemines Parish Government. The
 3 member from each region shall serve as a member for a term of one year. The
 4 members serving under the provisions of this Paragraph may designate a person to
 5 serve as a proxy.

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

13 Seven members who shall be appointed by the governor, in consultation
 14 with the Police Jury Association of Louisiana and the Association of Levee
 15 Boards of Louisiana, from nominations submitted by levee districts located in
 16 whole or in part in the coastal zone, from legislators who represent districts in
 17 whole or in part in the coastal zone, and from parish governing authorities
 18 located in whole or in part in the coastal zone. The appointees shall be residents
 19 of the coastal zone and shall be appointed on a proportional basis in such a
 20 manner as to reflect the population and land area of the parishes located in
 21 whole or in part in the coastal zone. However, there shall be at least two
 22 appointees who reside in the area of the coastal zone located west of the
 23 Atchafalaya River and at least two appointees who reside in the area of the
 24 coastal zone located east of the Atchafalaya River.

25 (12)(11) The chair of the Governor's Advisory Commission on Coastal
 26 Protection, Restoration, and Conservation or his designee.

27 (13)(12) The director of the Governor's Office of Homeland Security and
 28 Emergency Preparedness or his designee.

29 (13) The Speaker of the House of Representatives, or his designee, who
 30 shall serve as an ex-officio member who shall not have the authority to vote and

1 who shall not be counted for purposes of a quorum.

2 (14) The President of the Senate, or his designee, who shall serve as an
3 ex-officio member who shall not have the authority to vote and who shall not be
4 counted for purposes of a quorum.

5 * * *

6 §213.6. Coastal protection annual plans; development; priorities

7 A.(1)(a) The authority shall, in accordance with the procedures set forth
8 herein, develop a comprehensive master plan for coastal protection and an annual
9 coastal protection plan for protecting, conserving, and restoring the coastal area
10 through the construction and management of hurricane protection and coastal
11 restoration projects and programs, including privately funded marsh management
12 projects or plans, and addressing those activities requiring a coastal use permit which
13 significantly affect such projects, all consistent with the legislative intent as
14 expressed in R.S. 49:213.1, and which plan shall be subject to the approval of the
15 legislature as provided in Paragraph (2) of this Subsection and Subsection D of this
16 Section. In addition, the authority, in accordance with the procedures set forth
17 herein including legislative approval, shall review, revise, and amend the master
18 plan when necessary or, at a minimum, every five years.

19 (b) The comprehensive master plan and the annual plan shall include requests
20 for funding of projects and programs related to hurricane protection and coastal
21 restoration. The annual plan shall include at least a three-year projection of
22 funding of projects and programs related to hurricane protection, coastal
23 restoration, and infrastructure including, but not limited to, relevant public or
24 private funding sources.

25 * * *

26 §213.7. Funding

27 * * *

28 C. * * *

29 (3) In each year, no more than ten percent of the federal revenues
30 received by the state generated from Outer Continental Shelf oil and gas

1 activity may be used for the purposes of infrastructure directly impacted by
2 coastal wetlands losses.

3 * * *

4 §213.11. Legal representation of the Authority; attorney general

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

8 Section 2. R.S. 38:351 is hereby amended and reenacted and R.S. 38:251 is hereby
9 enacted to read as follows:

10 **§251. Infrastructure Priority Program; applications; evaluations**

11 **A.(1) Applications for funding of any infrastructure project may be**
12 **submitted by any political subdivision of the state. For any infrastructure**
13 **projects, applications shall be made to the Department of Transportation and**
14 **Development by November first of each year for consideration of funding in the**
15 **following fiscal year. Applications submitted in accordance with the provisions**
16 **of this Section shall not be subject to the provisions of R.S. 39:101. Agencies**
17 **submitting applications for projects in this program shall be responsible for**
18 **preparation of applications for their respective projects. Information to be**
19 **provided in the application shall include but not be limited to the following:**

20 **(a) Description of the infrastructure impacted by coastal wetlands loss**
21 **and demonstration of need for the project and benefits of the project.**

22 **(b) Preliminary project design and cost estimate.**

23 **(c) Description of project area including the geographical area affected,**
24 **and land ownership information.**

25 **(d) Description of how the project is consistent with the priorities of the**
26 **master plan and how the project will address mitigation issues.**

27 **(2) Project applications shall not be subjected to formal review and**
28 **evaluation until the information required in the application has been submitted**
29 **or is determined to be unavailable.**

30 **B. The applications submitted by agencies shall be evaluated by the**

