

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

development of the state's comprehensive master coastal protection 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 responsibility for carrying out the elements of the plan relative to hurricane protection is placed with the office of public works, hurricane flood protection, 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:

\* \* \*

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

(10) "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

1  
2 schedules, operations, and related activities to achieve a stated goal or objective.

3 ~~(11)~~**(12)** "Project" means a physical structure or structures designed and  
4 constructed according to the annual plan.

5 §213.3. Creation; personnel

6 \* \* \*

7 C.**(1)** The governor, through the executive assistant, consistent with the  
8 legislative intent as expressed in R.S. 49:213.1, shall coordinate the powers, duties,  
9 functions, and responsibilities of any state agency relative to coastal protection and  
10 restoration and shall administer the programs of the authority. **The executive**  
11 **assistant may use the contracting authority of any state department or agency**  
12 **to implement the provisions of this Subpart. Such contracting authority shall**  
13 **include design-build where appropriate.**

14 **(2)(a)** The executive assistant shall employ necessary staff to carry out the  
15 duties and functions of the authority as provided in this Part or as otherwise provided  
16 by law and may seek and utilize the assistance of personnel in any state department  
17 or agency to carry out the duties and functions as provided in this Part or otherwise  
18 provided by law.

19 **(b) The executive assistant shall commission a study to determine the**  
20 **appropriate education, experience, compensation, background, and credentials**  
21 **necessary for a person to serve as the director of engineering and science. Based**  
22 **on the findings of that study, the executive assistant shall employ a staff person**  
23 **or utilize the services of a person from a state department or agency to function**  
24 **as the director of engineering and science. The executive assistant shall ensure**  
25 **that the person has the respect of the scientific and engineering communities**  
26 **and the appropriate capabilities to serve in such position.**

27 **(c) The executive assistant may employ a necessary staff person or**  
28 **utilize the assistance of a person from any state department or agency to**  
29 **provide services as a director of implementation.**

1. 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

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 \* \* \*

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,

2 procedures, programs, rules, and regulations that are established by law or pursuant  
3 to the Administrative Procedure Act that may affect the design, construction,  
4 operation, management, and monitoring of **infrastructure and** coastal protection  
5 projects, including hurricane protection projects, restoration projects, wetlands  
6 enhancement or marsh management plans, or expenditures from the Fund. Such rule  
7 changes shall be initiated by the appropriate department.

8 \* \* \*

9 (4) Accept and use, in accordance with law, gifts, grants, bequests, and  
10 endowments, **or funds from any public or private source** for purposes consistent  
11 with responsibilities and functions of the agency **authority** and take such actions as  
12 are necessary to comply with any conditions required for such acceptance.

13 \* \* \*

14 D. Approval by the authority shall be required for any request by a state  
15 agency or department for any funds to finance research, programs, **mitigation**, or  
16 projects involving coastal protection, including hurricane protection or the  
17 conservation and restoration of coastal wetlands resources; however, this Subsection  
18 shall not affect self-generated or dedicated funds.

19 **E. The authority shall adopt rules and regulations in accordance with**  
20 **the Administrative Procedure Act to implement the provisions of this Subpart.**

21 §213.5. Coastal Protection and Restoration Authority; members

22 A. The Coastal Protection and Restoration Authority shall consist of the  
23 following members:

24 \* \* \*

25 (10) ~~Four members selected from among and by the presidents of the~~  
26 ~~following levee districts in the Louisiana coastal zone grouped in four regions as~~  
27 ~~follows: Region 1 - Southeast Louisiana Flood Protection Authority- East. Region~~  
28 ~~2 - The Southeast Louisiana Flood Protection Authority-West Bank. Region 3 -~~  
29 ~~Pontchartrain Levee District, Atchafalaya Levee District, Lafourche Basin Levee~~

1  
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**



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**

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.**

1 Department of Transportation and Development which shall hold no less than  
2 three public hearings in separate locations within the Coastal Zone for the  
3 purpose of receiving public testimony and comment from requesting authorities  
4 and citizens regarding the proposed infrastructure projects. The department  
5 shall prioritize and rank such applications. The department shall provide its  
6 application evaluations to the authority.

7 C. Based upon the evaluations of the department, the authority may  
8 compile a list of infrastructure projects to be formally included in the annual  
9 plan.

10 \* \* \*

11 §351. Authority to expropriate and acquire property prior to judgment

12 Notwithstanding any other law to the contrary, and in addition to the methods  
13 and procedures for acquisition or utilization of servitudes for levee and related  
14 purposes by levee districts and levee and drainage districts, whenever any levee  
15 district or levee and drainage district cannot appropriate or amicably acquire  
16 immovable property needed for levee purposes, including but not limited to flooding  
17 and hurricane protection purposes, **or integrated coastal protection projects**, the  
18 levee district or levee and drainage district may acquire the property by expropriation  
19 prior to judgment in accordance with the provisions of this Part. The method of  
20 expropriation provided by this Part shall be authorized for corporeal property and  
21 servitudes and for both riparian and nonriparian property.

\_\_\_\_\_  
PRESIDENT OF THE SENATE

\_\_\_\_\_  
SPEAKER OF THE HOUSE OF REPRESENTATIVES

\_\_\_\_\_  
GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: \_\_\_\_\_