

**Governor-Elect Jindal's New Administration:
A Fresh Start for Protecting & Restoring Louisiana's Coast**
A Position Paper by Restore or Retreat, Inc.

Introduction

With the recent passage of the Water Resources Development Act, a steady funding stream from future federal outer continental shelf oil and gas revenues, a healthy state budget surplus, and a new Administration, the stars seem to have aligned for coastal protection in Louisiana. As a coastal advocacy group created in 2000 by concerned stakeholders in the Barataria and Terrebonne Basins, Restore or Retreat (ROR) has patiently and eagerly awaited this day in our state's history.

For our state to be successful in protecting and sustaining this irreplaceable region, ROR believes there are three key issues which need immediate attention:

- Review of the administrative structure and responsibilities of the Governor's Office of Coastal Activities
- Aggressive implementation of sustainable, naturally-systemic driven restoration strategies and hurricane protection measures.
- Decisive legislative action and policy decisions

Administrative Structure

In February 2002, a 14-member "Committee on the Future of Coastal Louisiana," comprised of diverse stakeholders from across coastal Louisiana, issued a report entitled "Saving Coastal Louisiana: A National Treasure," which included recommendations for implementing an expanded coastal restoration program (Appendix A.) ROR wholeheartedly believes all of the recommendations should have been acted upon immediately five years ago, but it is not too late for the incoming Administration to capitalize on several of the remaining recommendations.

The first recommendation of the report was to fully implement Act 6 of the 1989 2nd extraordinary session of the Louisiana Legislature (Appendix B), which established the Governor's Office of Coastal Activities (GOCA), Office of Coastal Restoration and Management within the Louisiana Department of Natural Resources (DNR), the State's Wetlands Authority (now Coastal Restoration and Protection Authority or CPRA) and financial trust fund under the same name. The report states:

... at the time the act was written, we were not certain about the extent of the problem or how to halt coastal erosion... As a result, while Act 6 offered a sound framework for getting started, its provisions and initial implementation fell far short of what was needed to fully address the problem.

That statement still rings true today. Recently, a few members of the CPRA steering committee, under the guidance of SSA Consultants, began to outline a new organizational structure for the coastal restoration and protection program, with a Memorandum of Understanding (MOU) between GOCA, DNR and the Department of Transportation and Development (DOTD) as the centerpiece. This new structure would also include a new influential position entitled "Director of Implementation."

Considering the authority provided to the Executive Assistant within the Governor's Office of Coastal Activities, this proposed organizational structure is both unnecessary and redundant. Currently, the resources already made available through Act 6 are grossly underutilized, and we now have a wonderful opportunity as a state to maximize the delegated powers and resources to their fullest extent without adding additional layers of bureaucracy.

Several of the expansive powers and duties assigned to the Governor, through the Executive Assistant position, in Act 6 includes:

- Coordination of all state functions and departmental budget requests for programs and projects pertaining to coastal protection
- Review, reconciliation, and representation of state agency comments on federally sponsored coastal protection projects
- Appraisal of the adequacy of statutory and administrative mechanisms, as well as federal, regional, state and local programs to achieve the policies and meet the goals of the state with respect to coastal protection
- Oversight and coordination of federal and state-funded research related to coastal protection
- Coordination of and focus on federal involvement in Louisiana with respect to coastal protection
- Make recommendations on behalf of the Administration to the Legislature and Congress with respect to coastal protection
- Monitor and seek available federal and private funds
- Report annually to the Legislature as to the progress of the projects and programs enumerated in the plan, including estimated construction and maintenance costs, progress reports, and estimated completion timetables for each project or program
- Perform such powers, duties and function as may be delegated to him/her by the Authority.
- Utilize the services of other executive departments of state government upon mutually agreeable terms and conditions.

With these extensive powers previously delegated to the Executive Assistant, he/she already retains the authority as the sole designated leader of the coastal restoration program, including oversight of the coastal activities of both DNR and DOTD. That authority need only be exerted. Act 6 clearly defines the Executive Assistant as the final authority on all things coastal, on behalf of the Governor, who makes the appointment, so a third-party mediator or three-party governing system (DNR, GOCA, DOTD) need not be established.

The Executive Assistant does need, however, the proper financial, logistical and administrative resources to fully execute the office's designated responsibilities. In this way, a Director of Implementation/Construction position may be most effective as a staff position within GOCA to oversee the execution of both restoration and protection projects defined in the state's annual and comprehensive master plans. Responsibilities should include ensuring the reduction of planning time and administrative cost to projects, establishing a working relationship with federal partners, and assuring the timely completion of projects. The person best fit for this role should have expertise in the construction of major, large scale state or federal projects currently on the ground, as well as knowledge of both state and federal protection and restoration projects.

The Coastal Protection and Restoration Authority (CPRA) was created by Act 8 of the 1st Extraordinary Session of 2005 and should remain the lead over-arching body responsible for coastal restoration and protection efforts, under the leadership of the Executive Assistant. With so much activity of the local, state and federal level, the Authority should meet quarterly, at a minimum, with the steering committee meeting monthly.

In 2002, the *Committee on the Future of Coastal Louisiana* recommended the creation of the Governor's Advisory Commission on Coastal Restoration, a 31 member panel representing diverse stakeholders throughout the coast. While this Commission was created, it has been underutilized. The Commission still serves a worthy purpose by bringing together diverse stakeholders from across Louisiana to resolve conflicts, but it has lost its focus and direction. The Commission needs to be reinvigorated with new vision, including advising the CPRA on stakeholder issues. This implies, at the very least, the Commission should meet quarterly to be apprised of any activities or issues involving CPRA or GOCA. This would allow Commission members to make recommendations on

such matters before they reach the CPRA for final resolution, rather than the current situation in which the Commission is simply updated on previous activity and opinions of its members are often dismissed. The existing members of the Commission are well-respected both on the state wide and national level, and have a great working knowledge of coastal Louisiana, which should be utilized to its fullest potential.

In summary, the new Administration should seize the opportunity already afforded to the Executive Assistant and GOCA office through Act 6, combined with the creation of the CPRA through Act 8, to finally maximize the authority necessary for leading the aggressive implementation effort that will take the full cooperation of all departments, as well as the CPRA and Commission.

Restoration and Protection Strategy for the Barataria and Terrebonne Basins

Restore or Retreat believes if Louisianans seriously want to sustain our delicate coast, we must aggressively implement a naturally-systemic driven restoration strategy that coexists with critical protection needs.

In the comprehensive coastal effort conducted in the late 1990's, known as Coast 2050, the only long-term and large-scale solution offered for the Barataria and Terrebonne Basin was the Third Delta Conveyance Channel concept. Intended to mimic the natural delta-building contributions of the Mississippi River prior to it being cut off from the system by levees, the Third Delta concept aims to provide a natural and sustainable solution for the area experiencing the greatest coastal land loss in southern Louisiana. This project, as the only long-term, naturally systemic and sustainable solution for this area, along with any truly equitable alternatives, deserves further investigation in a federal feasibility study by the U.S. Army Corps of Engineers. This has been excluded from the state's comprehensive master plan, but was recently authorized in WRDA 2007 as part of the 2005 Chief's Report regarding Louisiana Coastal Area Study (LCA).

In addition to Third Delta, ROR supports multi-layer and multi-use strategies in our state's coastal restoration and protection efforts. Therefore, this organization advocates aggressive implementation of the following projects in the Barataria and Terrebonne Basins:

- *Barrier Island and Headland Restoration:* As history indicates,, the barrier islands have provided the first line of defense from encroaching salt water and approaching storms
- *Middle/Inland Marsh Restoration*
 - Davis Pond Diversion- Currently an active, though limited, freshwater diversion in St. Charles Parish, further action is needed to bring the project to its original 10,500 cfs operational plan and to institute additional modifications for increased sediment delivery
 - Bayou Lafourche Diversion- Over 15 years in the making, this seemingly simple project should be brought to the forefront of the state's coastal plan. It can bring additional freshwater into a starved wetland system and provide critical drinking water to both Terrebonne and Lafourche Parishes
 - *Atchafalaya Delivery into Western Terrebonne via Gulf Intracoastal Waterway-* As the Atchafalaya River builds new deltas in the Atchafalaya Bay, it a rich, untapped resource for basins south and east. The potential of linking the sediments of the Atchafalaya to southwestern Terrebonne Parish via the GIWW should be seriously examined and considered. This would provide St. Mary Parish with sediment and freshwater concerns.
 - *Long distance sediment delivery from the Mississippi River and offshore:* A worthy near-term means to an end; however, this short-term solution is energy- dependent and not self-sustaining, which will limit its application and beneficial impacts over time.

- *Dedicated dredging*: Increasing support and financing should bolster use of this almost-effortless restoration strategy
- Hurricane Protection Systems
 - *Morganza to the Gulf*: While work has already begun on several reaches of the alignment, this extensive effort should receive top priority for aggressive implementation and construction completion
 - *Larose to Golden Meadow*: Upgrades to the levee system are needed to continue to protect the population and critical infrastructure of south Lafourche.

Experiencing land loss rates of 10 to 13 square miles a year and serving as a home to 200,000 people, as well as vital industry infrastructure, the Bayou Region should be a top restoration and protection priority for the state.

Legislative and Policy Changes

With the coastal effort just beginning to accelerate on the state level, there are several key legislative and policy changes that need to take place.

Great progress in coordination has been made between state departments, including DNR and DOTD, but there is still work to be done. For GOCA, DNR and DOTD, jurisdictional conflicts should be further resolved. By affording the Executive Assistant the powers delegated by Act 6, many of the jurisdictional conflicts experienced between the three departments can be resolved.

Other agencies, such as the Department of Wildlife and Fisheries (DWF), have several outdated policies inconsistent with the current coastal restoration effort. Until recently, DWF was charging thousands of dollars in fees for utilizing state water bottoms to private land owners with privately funded restoration work on private property. This outdated policy is discouraging proactive efforts by the very same landowners local and state governments have been trying to involve for years. An extensive review of all policies and procedures for each department operating within the coastal zone is needed to ensure consistency of goals for the state's coastal plan to improve communication among agencies with oversight in the coastal zone. The Administration may consider the creation of a liaison position within each department to coordinate activities with other agencies.

Finally, it is time for the State to set constructive policy regarding landowner rights and effective participation of landowners in the coastal restoration and protection process. Landowners are often willing participants but are not invited to dialogue until very late in the process. As a result, landowners have often felt their rights were being threatened. Setting policy to enable positive stakeholder engagement is critical for expediting projects that could be delayed for years if issues are not addressed early.

Conclusion

With the will and blessing of the Administration to make coastal restoration and protection a coast-wide priority, including providing the adequate financial, logistical, legislative and political support critical to its success, Louisiana is primed to maximize and utilize its designated resources to sufficiently address its coastal issues to the scale and magnitude of the problem for the long-term sustainability of our irreplaceable region.

Appendixes

Appendix A

Saving Coastal Louisiana: A National Treasure: Recommendations for Implementing an Expanded Coastal Restoration Program

http://www.lacoast.gov/cwppra/reports/saving_coastal_louisiana.pdf

Appendix B

Act 6 of the 1989 2nd Extraordinary Session of the Louisiana Legislature
LA RS 49:213.1, current version with history of amendments

Appendix B
LOUISIANA
1989 Session Laws and Resolutions
Second Extraordinary Session

ACT NO. 6
S.B.No. 26
WETLANDS CONSERVATION AND RESTORATION

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:

LA R.S. 36:4

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 enacted, 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.

LA R.S. 36:351

§ 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.

LA R.S. 36:358

§ 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.

LA R.S. 39:1482

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.

LA Prec. R.S. 49:213.1

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

LA R.S. 49:213.1

§ 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, agricultural, 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.

LA R.S. 49:213.2

§ 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.

LA R.S. 49:213.3

§ 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 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.

LA R.S. 49:213.4

§ 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.

LA R.S. 49:213.5

§ 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.

LA R.S. 49:213.6

§ 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 [FN1] 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).

LA R.S. 49:213.7

§ 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 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 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.

LA Prec. R.S. 49:214.1

SUBPART B.

LOUISIANA COASTAL WETLANDS CONSERVATION AND RESTORATION PROGRAM

LA R.S. 49:214.1

§ 214.1. Short title

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

LA R.S. 49:214.2

§ 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.

LA R.S. 49:214.3

§ 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.

LA R.S. 49:214.4

§ 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.

LA R.S. 49:214.5

§ 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.

LA R.S. 49:213.11

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.

LA R.S. 56:2011

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.

LA R.S. 30:311, R.S. 30:312, R.S. 30:313, R.S. 30:314, R.S. 30:315, R.S. 30:316
Repealed

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.

LA Prec.R.S. 49:213.1, R.S. 49:214.21 Note

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 July 14, 1989.

[FN1] In the introductory paragraph of subsec. B of R.S. 49:213.6 as set forth in Act 6, the phrase "shall include but not limited" is as it appears in the enrolled bill.

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