

LOUISIANA COASTAL LAW



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1989 REGULAR AND EXTRAORDINARY SESSIONS OF THE LOUISIANA LEGISLATURE

This annual Legislative issue of "Louisiana Coastal Law" is devoted to summarizing acts and resolutions enacted during the 1989 Regular and Extraordinary Sessions of the Louisiana Legislature. Legislation having a general impact on the environment in Louisiana is covered.

Most of these laws became effective upon Governor Roemer's signature. Further information about these laws or resolutions can be obtained by contacting the Sea Grant Legal Program, Room 170, Law Center, LSU, Baton Rouge, Louisiana 70803, (504) 388-5931.

WILDLIFE AND FISHERIES

ACT 84 (HB 1495 Patti)

Provides that oysters shall be culled on the lease or seed grounds, or on the open state designated public grounds where taken and not in areas closed to harvesting oysters. Makes a violation a Class 2 violation.

ACT 85 (HB 1497 Patti)

Provides that there is no limitation as to count on any salt water shrimp, including brown shrimp. Adds that when more than 50% of the catch by weight is sea bobs, a maximum allowable catch of undersized white shrimp shall be permitted but not to exceed 10% by weight of the total catch.

ACT 186 (SB 274 McPherson)

Authorizes the DWF and the Department of Agriculture and Forestry to transfer certain lands between each other.

ACT 206 (HB 710 Downer)

Provides that it is a misdemeanor to commit a battery on, resist arrest by, or obstruct a wildlife enforcement agent.

ACT 235 (HB 1209 Triche et. al)

Provides for forfeiture of quadrupeds, birds or fish seized from violators convicted and penalized pursuant to the penalty provisions for Title 56 of La. R.S. of 1950.

ACT 236 (HB 1216 Scogin et. al)

Provides that in addition to their present authority, wildlife and fisheries officers are vested with the same

authority as other law enforcement officers of the state with respect to arson, litter, theft, or burglary observed during the performance of their normal duties.

ACT 237 (HB 1217 Odinet et. al)

Increases nonresident commercial fishing license fee to \$200.

ACT 238 (HB 1219 Patti et. al)

Provides for revocation of oyster license for taking oysters in a closed area.

ACT 239 (HB 1222 Theriot et. al)

Requires that commercial shark fishermen obtain a permit from the Department of Wildlife and Fisheries and report the number of species and weight of sharks taken each trip.

ACT 240 (HB 1223 Bolin et. al)

Provides for the issuance, distribution, and fee collection of hunting, fishing, and trapping licenses for East Baton Rouge Parish.

ACT 246 (HB 1387 Glover)

Provides that a nonresident possessing a seven-day temporary basic recreational fishing license, may purchase a temporary seven-day saltwater license for \$15.50 or a temporary two-day combination basic fishing and saltwater license for \$8.50.

ACT 247 (HB 1450 Roach and Triche)

Provides that obstructions including trawls, butterfly nets, fyke nets, wings or leads, seines, gill nets, or trammel nets that interfere with the free passageway of fish are prohibited.

ACT 248 (HB 1494 Patti)

Requires permits on public oyster seed grounds. Authorizes secretary of DWF to charge a fee for seasonal permits.

ACT 254 (HB 1701 Theriot)

Provides that the demarcation line between saltwater and freshwater in Vermilion Parish shall be along the east right of way line of Louisiana Highway 82 from its junction with Louisiana Highway 3147 to the Intracoastal Waterway instead of on Louisiana Highway 82.

ACT 290 (HB 1218 Roach, Adley, et. al)

Provides that interest earned and monies in the Wildlife Habitat and Natural Heritage Trust and unexpended monies in the trust at the end of one fiscal year shall remain in that fund.

ACT 303 (SB 12 McPherson)

Authorizes monthly remittance of ad valorem taxes by marine dealers.

ACT 337 (HB 177 Downer)

Deletes provisions for additional salary for state police officers and state wildlife officers.

ACT 414 (HB 404 Benoit)

Provides for a 3000 metric ton quota for taking bait gulf menhaden during the closed menhaden season. Provides that the season shall extend from the close of the regular menhaden season until December 1. If the quota is not reached, the bait menhaden season shall resume April 1 until the quota is reached.

ACT 469 (SB 113 Decuir)

Allows production, purchase, and sale of domestically raised striped bass-yellow bass cross.

ACT 470 (SB 114 Doland)

Authorizes the WFC to establish a special depuration fishery allowing the harvest of molluscan shellfish in closed areas of Calcasieu and Sabine Lakes.

ACT 473 (SB 396 Kelly & others)

Requires wholesale or retail dealers buying fish from anyone other than a licensed wholesale/retail dealer and commercial fisherman selling to anyone other than a resident wholesale/retail dealer to monthly provide the DWF with information, on DWF forms, on the quantity of each kind of fish purchased or sold. Provides that the forms must be submitted to the DWF by the 10th day of the following month. Provides that the data shall be confidential and provides class 4 penalty for violation. Provides for license revocation upon second violation.

ACT 486 (SB 392 Kelly & others)

Provides that the WFC may set possession limits, quotas, seasons, times, and daily take limits for all freshwater and saltwater finfish for which no such limits have been set by statute.

ACT 487 (SB 393 Kelly & others)

Reduces the minimum size limit for blue catfish from 14" to 12" total length. Provides that the hybrids of each species of freshwater game fish are subject to the same daily take and possession limits as are the nonhybrid species. Deletes hybrids of white bass and yellow bass from daily take and possession limits.

ACT 488 (SB 394 Kelly & others)

Allows the WFC to amend size limits, daily take limits, possession limits, seasons, and times set by law for freshwater game fish. Provides that such limits, seasons, and times may vary between and among waterbodies. Repeals specific authority of the WFC over black bass.

ACT 489 (SB 395 Kelly & others)

Provides that the shrimp count shall apply to brown shrimp

taken from 11/15 to 12/20. Provides the count shall apply except for shrimp that are documented as having been legally taken in other states or countries and imported into Louisiana. Provides that when more than 50% by weight of shrimp taken or possessed is seabobs, then the maximum allowable amount of undersized white shrimp shall not exceed 10% by weight of the total saltwater shrimp taken or possessed.

ACT 490 (SB 399 Kelly & others)

Repeals requirement that Louisiana grant commercial fishing privileges to residents of the other Gulf states equal to privileges granted to Louisiana residents in those states. Repeals provision prohibiting a resident of an adjacent state which prohibits butterfly nets from using butterfly nets in Louisiana.

ACT 498 (HB 329 Ater)

Adds one member to the Seafood Promotion and Marketing Board who shall represent the commercial freshwater finfish industry. Provides that the present finfish industry member represents commercial saltwater industry.

ACT 504 (HB 668 Siracusa & Patti)

Fixes the maximum annual rate of rental for oyster leases at \$2 per acre per year.

ACT 510 (HB 1024 Roach)

Provides for setting shrimp seasons on the basis of technical and biological data that indicates that marketable shrimp in sufficient quantities are available for harvest. Requires at least seven days notice prior to the opening or closing of regular shrimp seasons and three days notice for a special season. The notice is to consist of a news release at least seven days prior to any hearing to decide on the opening or closing of the season. The decision is not effective until 72 hours after it is made.

ACT 516 (HB 1590 Siracusa)

Requires an oyster harvesting license to take oysters. The DWF is to provide for the license and the fee by rule. The license is forfeited upon a third violation.

ACT 534 (SB 531 Hinton)

Provides that the limitation of liability as to an owner, lessee, or occupant of premises shall not be affected by the granting of a lease, right of use, or right of occupancy for any recreational purpose which may limit the use of the premises to persons other than the entire public or by the posting of the premises to limit the use of persons other than the entire public.

ACT 590 (HB 921 Miller)

Increases lawful percentage and undersized crabs in crates to 10%.

ACT 591 (HB 922 Miller)

Deletes Lake Des Allemands from the public waters where tending crab traps at night is prohibited.

ACT 592 (HB 923 Miller)

Reduces penalties for taking and selling undersized crabs from a Class 4 to a Class 3 violation.

ACT 607 (HB 1499 Theriot & Patti)

Changes the boundaries for inside and outside waters for shrimping in the areas of Barataria Pass and Caminada Pass.

ACT 616 (SB 398 Kelly et. al)

Eliminates reciprocal hunting license provisions for Arkansas, Mississippi, Alabama, Florida, and Texas.

ACT 645 (HB 1207 Scogin & Bolin)

Provides a state income tax check off for donations to the Wildlife Habitat and Natural Heritage Trust.

ACT 696 (SB 159 McPherson)

Requires a monthly allocation of 25% of hunting license fees to the wildlife habitat and natural heritage trust.

ACT 707 (SB 662 Doland & Picard)

Retains present law but reduces from \$30 million to \$20

million the principal required to be in the Rockefeller Wildlife Refuge Trust and Protection Fund prior to allocation to the DWF. Further provides that any further surplus be allocated by legislation appropriation to DWF to be used for certain specified marsh and wildlife management activities.

ACT 716 (SB 916 Hainkel & Lauricella)
Introduced pursuant to the authority of SCR No. 27. Authorizes and provides for the Greater New Orleans Expressway Commission to restore and preserve the ecology of the Lake Pontchartrain basin.

ACT 738 (HB 924 Miller)
Removes statutory requirements of the marking of crab traps and requires Wildlife and Fisheries commission to promulgate rules and regulations for marking crab traps.

ACT 739 (HB 925 Miller)
Provides for penalty for theft of crab traps, classifying such theft as a Class 7-A violation.

ACT 811 (HB 1212 Roach, Adley, et. al)
Authorizes the secretary of DWF to lease or sell four properties in New Orleans located at 410, 412, and 414 Chartres Street and S29 Conti Street, known as the Old Second City Criminal Court Building and parking garage.

ACT 829 (SB 373 Kelly et. al)
Allows aerial map to be provided prior to expropriation procedures by the Red River Waterway Commission.

ACT 830 (SB 750 Kelly)
Directs the Wildlife and Fisheries Commission to promulgate rules and regulations to manage all wildlife in the state, except redfish and spotted trout.

PROPOSED CONSTITUTIONAL AMENDMENTS

SB 25 (Bagert et. al)
Relative to mineral revenues, creates the Wetlands Conservation and Restoration Fund. Provides for a source of revenues for the fund and use of monies in the fund for purposes consistent with Wetlands Preservation. Specifies submission of the amendment to the voters at the congressional primary election on October 7, 1989. Adds Const. Art. VII Sec. 10.2

HB 87 (Downer)
Constitutional amendment to delete provision permitting legislature to supplement uniform civil service pay plan for certain law enforcement officers.

ADOPTED RESOLUTIONS

SCR 27 (Hainkel)
Authorizes and provides for the Greater New Orleans Expressway Commission to restore and preserve the ecology of the Lake Pontchartrain basin.

SCR 49 (Picard et. al)
Directs the Secretary of DWF to take action necessary to maintain and continue the efficient functioning of the Fur and Refuge Division.

SCR 80 (Bagert)
Memorializes Congress to Enact S. 630 and H.R. 1070 relative to wetlands protection.

SCR 101 (Lauricella)
Directs the Department of Wildlife and Fisheries to take action to improve the nesting habitat for pelicans in the Barataria Bay area.

HCR 11 (Theriot)
Memorializes the U.S. Department of Commerce to delay requiring the use of turtle excluding devices on shrimp trawls.

HCR 23 (Long)
Authorizes and requests LSU, through the Agricultural Center, to study the feasibility of establishing a Louisiana Water Research Station.

HCR 74 (Patti)
Creates the special committee on skimmer nets to study the use of skimmer nets and any possible cumulating effect the use of such nets has on shrimping in Louisiana waters.

HCR 170 (Martin)
Urges and requests the Department of Wildlife and Fisheries to arrange for a display of the prints entered in the Louisiana Duck Stamp Program Design Competition.

HCR 172 (Roach)
Creates the oyster management advisory committee for Calcasieu Lake to study problems and make recommendations regarding harvesting oysters.

HCR 180 (Siracusa)
Establishes a task force to study the possibility of establishing a limited entry system for managing saltwater finfish.

HCR 181 (Roach)
Suspends law for 7 days to allow the importation of ten-inch red drum fingerlings for fish farming operations.

HCR 185 (LaLonde)
Authorizes and directs the DNR to terminate the operations of MAR Service, Inc. in Cankton, Louisiana, St. Landry Parish, for violations of Statewide Order No. 29-B.

SECOND SESSION

ACT 6 (SB 26 Nunez & Bagert et. al)
Creates the Office of Coastal Restoration and Management within the DNR and the Wetlands Conservation and Restoration Authority within the Office of the Governor and provides for funding.

DEPARTMENT OF NATURAL RESOURCES/CONSERVATION

ACT 105 (HB 362 Thompson)
Relative to the state soil and water conservation committee, provides for annual examinations of accounts, provides for audits, and provides for performance of same by the Department of Agriculture and Forestry.

ACT 511 (HB 1143 Bolin & others)
Provides that funds derived from the sale of state lands and timber on state lands be forwarded to the DNR for deposit in the state treasury.

ACT 615 (SB 382 Kelly & others)
Provides for the re-creation for a period of two years, effective July 1, 1988 of the DNR and of the statutory

entities made a part of the DNR by the Executive Reorganization Act. Provides that July 1, 1990 shall be the effective termination date for all statutory authority for the existence of such statutory entities, and provides for the re-creation of such entities.

ACT 720 (HB 166 Miller)
Authorizes the governing authority of the Sunset Drainage District of St. Charles Parish to levy an annual acreage tax for the purpose of improving, operating, and maintaining drainage facilities. Provides with respect to collection of the tax and for related matters.

ACT 729 (HB 641 Ackal)
Creates the Louisiana State Parks Improvement and Repair Fund. Provides for disposition of monies in the fund.

ACT 763 (HB 1635 Adley)
Appropriates \$34,000 out of the Conservation Fund of the State of Louisiana to be used to pay the settlement agreement in the suit entitled "Russell J. Landry vs. State of Louisiana, Department of Wildlife and Fisheries."

ACT 834 (SB 271 Neeson)
Provides for a summer youth litter control program entitled the "Youth Corps Litter Control and Incentive Employment Program." Provides part-time employment for youth during the school year and full-time or part-time

employment combined with training during summer months to eligible youths who enter into a commitment to actively and diligently pursue further education and training. Litter Control is directed mainly at the areas lining state highways.

SECOND SESSION BILLS

ACT 1 (HB 9 Travis)
Requires voter approval for any taxes levied by the Amite River Basin Drainage and Water Conservation District.

ACT 13 (HB 81 Salter)
Relative to taxes on natural resources, to levy a severance tax of 12 cents per ton (2000 lbs.)

ENVIRONMENT/DEPARTMENT OF ENVIRONMENTAL QUALITY

ACT 184 (HB 1198 Holden & others)
Deletes the present hazardous air pollutant emissions control program and provides for the development and implementation of a comprehensive toxic air pollutant emissions control program with a goal of reducing toxic emissions to 50% of the 1987 emissions by December 31, 1994. Provides definitions, deadlines for the promulgation of rules and regulations by DEQ, and enforcement for implementing the Act.

ACT 185 (HB 1199 Bolin & others)
Provides for a comprehensive solid waste recycling and reduction program that effects used oil, waste tires, white goods (appliances), batteries, paper, plastics, packaging, and composting. Provides that this provision applies only to nonhazardous waste. Provides for goals including a reduction of the amount of solid waste being disposed of by 25% by December 31, 1992. Authorizes DEQ to formulate rules and regulations to implement the Act. Provides for prohibitions and funding. Provides for exemptions to the Act.

ACT 200 (HB 609 Jetson & Brun)
Provides that DEQ and the Department of Public Safety and Corrections shall jointly establish a statewide uniform reporting system in the event of an emergency release. Provides for notification procedures and rules for enforcement and implementation.

ACT 232 (HB 1203 Laborde & others)
Relative to the DEQ, removes the inactive and abandoned waste site division from the Office of Solid and Hazardous Waste and authorizes the secretary to delegate its responsibilities to the appropriate office within the DEQ.

ACT 233 (HB 1204 Bolin & others)
Requires the secretary of DEQ to adopt rules regulating infectious waste by 1/15/90 and shall become effective on this date. These rules shall conform to the recommendations of the U.S. Environmental Protection Agency regarding infectious waste management.

ACT 234 (HB 1208 S.H. Theriot & others)
Recreates DEQ. Provides that July 1, 1990 is the termination date of statutory entities made a part of DEQ.

ACT 392 (HB 1362 Bolin & others)
Relative to environmental funds, to provide for the Environmental Trust Fund, to provide for the Hazardous Waste Site Cleanup Fund, to delete certain funds, to provide for imitations, to provide for sources of revenues and uses of the funds, to provide for the recovery of expenditures, to provide for legal proceedings by the attorney general, to provide for emergencies and contracts, and to provide for donations and assistance.

ACT 420 (HB 539 Stine & others)
Relative to litter control, to include interstate highway interchanges, rest areas, and roadside parks in the adopt-a-road litter control program. Allows the adoption of neutral areas in state maintained highways inside municipalities.

ACT 423 (HB 610 Dewitt)
Provides for certain prohibitions relative to the Alexander State Forest, including commercial development, and to provide for the preservation and management of the forest.

ACT 687 (SB 737 Decuir)
Relative to the organization of the Department of Culture, Recreation, and Tourism; creates the office of litter control and recycling in the department. Provides with respect to the powers, duties, and functions of the department and office.

ACT 768 (HB 118 D. Smith & others)
Relative to litter and drug free zones, requires wardens of state correctional institutions to furnish convict labor crews for litter removal along all public roads at the request of local law enforcement authorities. Defines the posting of campaign signs along public rights of way as littering and increases the penalties therefor. Defines the defacing of litter commission signs as littering and subjects to penalties. Defines public rights of way as litter free zones and prohibits littering in such zones. Establishes penalties for violations. Provides for the collection and use of littering fines, including the use of such funds for the costs associated with local law enforcement agency supervision of convict labor used for litter removal. Provides for convict labor crews to post signs and paint markings indicating drug free zones around school property.

ACT 776 (HB 1445 Stine & others)
Deletes the Hazardous Waste Advisory Board in DEQ. Authorizes the Secretary of DEQ to impose up to a 5% additional fee on commercial hazardous waste facility applications. Requires the Secretary to deny an application if he finds the siting is environmentally sensitive (defined in the Act), the siting may pose undue health risks, the siting may preclude economic development because of undue risk associated with the facility, or the proposed facility fails to meet criteria established by rules and regulations adopted pursuant to this section.

ACT 786 (SB 123 Fields)
Relative to air pollution, provides that Southern University Agricultural and Mechanical College, McNeese State University, and Southeastern Louisiana University shall be designated as certified ambient air monitoring facilities. Provides that DEQ shall provide to the universities technical expertise, monitoring equipment and financial assistance as needed for such purpose.

ADOPTED RESOLUTIONS

HCR 8 (Bolin & others)
Suspends until July 1, 1990 the provisions of 30:2205

relative to the creation of the Hazardous Waste Site Cleanup Fund and to authorize and direct DEQ to expend funds for the cleanup of hazardous waste sites.

ACT 2 (HB 36 Montgomery)

Relative to the tax on hazardous waste, provides for the definition of extremely hazardous waste.

PORTS, HARBORS, AND WATERWAYS

ACT 21 (SB 230 Lauricella)

Transfers the Mississippi River deepening project from the Department of Commerce to the Department of Transportation and Development. Provides for related matters.

ACT 51 (HB 219 Cain)

Decreases the membership of the West Allen Parish Water District Board of Commissioners to seven (7) and provides for related matters.

ACT 123 (SB 368 Kelly & others)

Provides for an extension of the authority for the Red River Waterway Commission to expropriate property pursuant to the provisions of Part XVIII of Chapter 1 of Title 48 of the Louisiana Revised Statutes of 1950.

ACT 176 (SB 751)

Changes the name of Black Lake Bayou Recreation and Water Conservation District of Red River Parish to Grand Bayou Reservoir District. Provides for boundaries of the district. Provides for powers, duties, and functions of the board of commissioners. Authorizes the board to enact rules and regulations governing the waters of the district, including improvements thereon. Authorizes the board to issue permits for improvements and to charge a fee therefor. Provides for tax exemptions on immovable property used by the district and provides for related matters.

ACT 302 (HB 1673 introduced pursuant to the authority of HCR 48 Hopkins)

Authorizes the City of Shreveport to create one or more sewerage districts within the boundaries of the bed and waters of Cross Lake and the area surrounding said lake, as defined in Act 39 of 1926. Provides for the powers, operation, and maintenance of said sewerage district and provides for related matters.

ACT 452 (HB 1366 Dastugue & others)

Provides for the creation of a port construction and development priority program in the Department of Transportation and Development. Provides relative to a methodology for port project evaluation. Provides for a report to the Joint Legislative Committee on Transportation, Highways, and Public Works. Provides for public hearings on port projects. Provides for submission

of recommended projects to and for the approval or deletion of such projects by the joint committee. Provides with respect to the implementation and funding of the projects and for an audit of the use of funds for projects. Provides with respect to misuse of funds and provides for related matters.

ACT 483 (SB 374 Kelly & others)

Relative to utilization of ground water resources, requires installation of control devices on free flowing wells producing over 5,000 gallons per day. Further provides for the grouting of upper portions of the annular space of existing unsealed wells to prevent surface runoff from contaminating wells and provides for related matters.

ACT 586 (HB 720 Long & others)

Creates the Red River Development Council to be comprised of representatives of the higher education community for the purpose of developing a master plan for the utilization of the fresh water supply from the Red River and its tributaries for the promotion of economic development. Provides for the powers, duties, functions, and responsibilities of the council. Provides for an advisory board to the council and provides for the submission of the plan to the legislature and the governor. Provides with respect to implementation and provides for related matters.

ACT 671 (HB 1692 introduced pursuant to the authority of HCR 93 Adley)

Prohibits dual membership on the Red River Waterway Commission and any port commission within its jurisdiction. Provides that membership on the commission shall terminate 30 days after July 7, 1989 for any person not in compliance herewith. The vacancy will then be filled in accordance with R.S. 34:2304.

HCR 56 (Guidry & others)

Suspends the provisions of 41:1709(A) until 60 days after the 1990 Regular Session, insofar as it may authorize the office of state lands or its successor to charge rentals for encroachments on state waterbottoms in accordance with leases executed since March 16, 1989. Authorizes the Natural Resources Committee of the Louisiana Senate and the House of Representatives to meet jointly, study, and make recommendations concerning the issue of such rentals.

OIL, GAS, AND MINERALS

ACT 3 (SB 277 Picard & others)

Provides for labeling requirements on gasoline and methanol pumps and containers. Defines gasoline as a fuel containing not more than 90% gasoline and at least 10% ethanol. Defines methanol as a fuel that contains not more than 90% gasoline and at least 10% methanol.

reasonable rules and regulations for the proper drilling and abandonment of certain wells and holes.

ACT 126 (SB 461 Bares & others)

Allows for staggered rates for the renewal of liquefied petroleum gas permit fees. The rate shall be set by the Liquefied Petroleum Gas Commission and shall not exceed 4/10 of 1% of the gross annual sales of liquefied petroleum gas of such dealer or permit holder.

ACT 31 (SB 372 Kelly & others)

Requires certain contractors to be licensed prior to drilling cathodic protection and seismic shot holes and requires certain state licensed drilling contractors to possess two years of drilling experience. Empowers the Department of Transportation and Development to make

ACT 227 (HB 1141, Bolin & others)

Provides that mineral drilling permits are valid for 180 days from date of issuance. After 180 days a new permit must be obtained. Gives authority for collection of fees for initial as well as additional permits.

ACT 280 (HB 852 Sittig & others)

Levies an assessment in the amount of 5/100 of 1% of the gross annual sales of liquefied petroleum gas on each person who holds a Class I or Class IV permit. Provides for conducting referendums. Provides for use of assessment and for refunds of the assessment. Establishes an advisory board of not more than 9 members, to advise the commission on the expenditure of funds under this Section.

ACT 330 (SB 692 Cross)

Removes requirement that a person operating a vehicle acquire a permit or special permission from the Department of Public Safety prior to transporting explosives or inflammables.

ACT 437 (HB 1017 Roach & others)

Declares that the use of production pits in oil and gas related activities is harmful to the wetland and marsh areas of the coastal zone of this state and provides for their closure. Provides for enforcement by Department of Natural Resources. Provides for rules and orders, for plans, requirements and fees. Provides for liability and penalties. Provides for hearings and proceedings, as well as attorneys fees, interest, and costs.

ACT 466 (HB 1705 substitute for HB 1227 by Ackal & others)

Provides that employees of the Municipal Natural Gas Purchasing and Distribution Authority shall not be members

of the classified state civil service, shall not be eligible for participation in any state employee benefit program, and shall be employed at no cost to the state.

ACT 474 (SB 483 Picard & others)

Authorizes a compromise and settlement between the state of Louisiana, State Mineral Board, and the Vermillion Parish School Board relative to the disposition and ownership of certain minerals and mineral revenues derived from the sixteenth section land.

ACT 503 (HB 484 Orr)

Requires certification of surface water quality prior to issuance of drilling permit and requires commissioner of conservation to promulgate rules and regulations which ensure ground water aquifer safety.

ACT 513 (HB 1205 Bolin, Adley & others)

Concerns the underground storage tank program in the Department of Environmental Quality. Defines "eligible participant". Provides that money from the trust fund shall be spent only up to the sum which is necessary to satisfy federal petroleum underground storage tank financial responsibility requirements. Adds owner's liability to third party claims if he has not paid the fees and is not an eligible participant. Limits third party liability to that which is necessary to satisfy federal petroleum underground storage tank financial responsibility requirements.

MISCELLANEOUS**ACT 96 (SB 233 Ewing)**

Authorizes the Industrial Development Bureau of Lincoln Parish, Incorporated, to acquire, own, operate, construct, lease, and sell a water and sewerage system.

ACT 366 (SB 904, Introduced pursuant to the authority of SCR 71 Kelly)

Authorizes and empowers the assistant secretary of the office of state parks in the Department of Culture, Recreation and Tourism to transfer to the National Park Service of the United States Department of the Interior, or its successor, by donation, sale, exchange, or cooperative endeavor and with the written approval of the lieutenant governor and the attorney general certain property together with all buildings and improvements thereon, located in West Carroll Parish.

ACT 431 (HB 784 Jetson & others)

Relative to outdoor advertising, to prohibit local government ordinances requiring the removal or alteration

of lawfully erected outdoor advertising. Provides for compensation to owners for removal or alteration of outdoor advertising.

ACT 467 (HB 1707 Reilly & others)

Designates Highland Road in East Baton Rouge Parish as an historic road and scenic parkway.

ACT 713 (SB 833 Bagernis & Dixon)

Provides that the Federal Safe Drinking Water Act be administered by the state health officer.

ACT 750 (HB 1202 Holden & others)

Prohibits violation of any rule or regulation of the Louisiana School Asbestos Abatement Act.

ACT 825 (SB 101 Neeson)

Provides for the definition, regulation, and use of the term "organic" in labeling and advertising of food products and provides penalties for violations.

Act 6**WETLANDS CONSERVATION AND RESTORATION**

In response to reports from the Governor's Coastal Restoration Technical and Policy Committees and to growing awareness and concern over wetland loss in Louisiana the legislature responded in the 1989 Second Extraordinary Session by passing Act 6. This legislation outlines the most sweeping and comprehensive plan yet devised by the state for taking action towards wetlands protection. Some of the more important provisions of Act 6 are: The creation of an Office of Coastal Restoration and Management within the Department of Natural Resources composed of the existing Coastal Restoration and Coastal Management divisions. This office will be responsible for

conservation, development, and where feasible, restoration and enhancement of coastal wetland resources, and implementation of the states coastal vegetated wetlands conservation and restoration plan. Act 6 also created a Wetlands Conservation and Restoration Authority in the Office of the Governor composed of an executive assistant to the governor and a Task Force. The Authority will among other things "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" The Authority will also develop a plan to be submitted to the legislature for conserving and restoring the states coastal vegetated wetlands consistent with legislative intent and with the policy developed by the Authority. The plan developed by the Authority 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. The plan shall be submitted to the natural resources committees of the legislature on or before March 15th of each year beginning in 1990.

Also under Act 6 the governor shall among other things through the executive assistant: coordinate and focus the functions of all state agencies as they relate to wetlands conservation and restoration; review and reconcile state agency comments on federally sponsored water resource and development projects or permitted conservation and restoration activities; represent the policy and consensus viewpoint of the state at the federal, regional, state, and local levels with respect to wetlands conservation and restoration; appraise the adequacy of statutory and administrative mechanisms for coordinating the state's policies and programs with respect to wetlands conservation and restoration, and focus federal involvement in Louisiana with respect to coastal wetlands conservation and restoration.

Under Act 6 the governor may among other things through his executive assistant: review and modify informal agency policies and procedures to require expeditious permitting of restoration projects, wetlands enhancement, or marsh management plans; review and request that agencies modify formal policies, procedures, programs, rules, and regulations that may affect restoration projects, wetlands enhancement or marsh management plans; review and modify proposed coastal use permits that may affect wetlands conservation and restoration and require the issuance of permits for public or private wetlands enhancement projects or plans.

Act 6 also established in the state treasury a "Wetlands Conservation and Restoration Fund" dedicated to the implementation of the program to conserve and restore Louisiana's coastal vegetated wetlands. This Fund will consist of a portion of state mineral revenues to a maximum balance of forty million dollars. On October 7, 1989 an amendment to the Louisiana Constitution was passed in a general election which established the Fund as a constitutionally protected fund dedicated to the purposes established in Act 6 including projects and structures engineered for the enhancement, creation, or restoration of coastal vegetated wetlands.

Allocations of money from the Fund are to be by appropriations from the legislature upon requests by the various agencies. Such requests are to be coordinated and approved by the Wetlands Conservation and Restoration Authority.

Following are the Relevant Provisions of Act 6:

§4. J. The Wetlands Conservation and Restoration Authority 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. 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. 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. 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.

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.

§213.1 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. In the past, efforts by the state to address the myriad of 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. 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. 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. 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.

§213.3 The Wetlands Conservation and Restoration Authority is hereby created within the office of the governor. The authority shall be composed of the executive assistant to the governor for coastal activities and the Task Force. The governor, through the executive assistant, consistent with the legislative intent 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 by law.

§213.4 The authority shall: develop a comprehensive policy addressing the conservation and restoration of coastal wetlands resources through the construction and management of coastal vegetated wetlands enhancement projects. 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, the plan shall be approved by the legislature as provided in R.S. 49:213.6(D).

§213.5. The task force shall be composed of the following members: Executive Assistant of the governor, Secretary of the Department of Natural Resources, Secretary of the Department of Wildlife and Fisheries, Secretary of the Department of Environmental Quality, Secretary of the Department of Transportation and Development, Assistant Chief of Staff for Health, Welfare, and Environment (governor's office), Commissioner of Administration, and the director of the State Soil and Water Conservation Committee. The executive assistant

shall serve as chairman of the task force and shall develop procedures for the operation of the task force.

§213.6 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). The plan shall address coastal land loss problems from both short and long-range perspectives and shall incorporate structural, management, and institutional components.

§213.7 A. 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. 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. The treasurer shall make the following allocations: to the Bond Security and Redemption Fund, to the political subdivisions of the state, as provided by the requirements of Article VII 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. (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: ten million dollars of the mineral revenues in excess of six hundred million dollars which remain after the allocation provided in Subsection A are made by the treasurer; 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.

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

§214.2 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.

§214.4 A coastal vegetated wetlands conservation and restoration program is 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.

§214.5 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 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. Funds generated from these fees shall be deposited in the Coastal Resources Trust Fund as provided in R.S. 49:214.41.

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