

# LOUISIANA COASTAL LAW

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EDITORS: MIKE WASCOM & PAUL HRIBERNICK  
SEA GRANT LEGAL PROGRAM - LSU LAW CENTER



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## 1981 REGULAR SESSION OF THE LOUISIANA LEGISLATURE

### WILDLIFE AND FISHERIES ACTS

The Louisiana Legislature has recently completed the 1981 Regular Session. In this issue of "Louisiana Coastal Law", we present a brief explanation of the most important legislation and resolutions enacted during this legislative session dealing with wildlife and fisheries, natural resources, and the environment. Further information about any of the laws or resolutions discussed in this issue may be obtained by contacting the Sea Grant Legal Program, 52 Law Center, L.S.U., Baton Rouge, LA, 70803-1018 (504) 388-5931.

With this issue we welcome the managing editors of "Louisiana Coastal Law" for the 1981-82 academic year; Charles Neupert, Jr. and James Magee, both seniors at the L.S.U. Law Center.

This session, Louisiana lawmakers overhauled wildlife and fisheries laws by adopting a legislative package which resulted from a two year study of shortcomings in these laws. The wildlife and fisheries provisions of Title 56 of the Louisiana Revised Statutes have been substantially reorganized and revised. First, a complete list of definitions appears at the beginning of the chapter and applies uniformly throughout the chapter. This replaces a series of fragmented definition sections in the old Title 56. Second, the legislature has set up a uniform penalty system for violations of the wildlife and fisheries law (Act 837). Third, the new legislation has closed a serious gap in the authority of the Department of Wildlife and Fisheries by giving it an express statutory mandate to regulate finfish (Act 787). One piece of the reform package, HB 1691, designated to clarify the respective duties of the Department of Wildlife and Fisheries and the Louisiana Wildlife and Fisheries Commission, was vetoed.

In an effort to provide for the future well-being of Louisiana's ailing seafood industry, the lawmakers passed Act 890 creating the Louisiana Seafood Marketing and Promotion Board. The Board's purpose is to develop markets and marketing strategies for Louisiana seafood. In addition, the legislators passed a package of concurrent resolutions, which call for various actions by agencies of state government to facilitate the development and well-being of the Louisiana fishing industry. [Recent state and federal fisheries promotion and development legislation will be the subject of an upcoming issue of LCL.]

The attention given to seafood promotion by the legislature in the 1981 Regular Session is an indication of legislative interest and commitment in maintaining a strong fishing industry in Louisiana. The following represent some of the laws recently passed dealing with wildlife and fisheries:

**Act 60** (Soileau) increases the number of members appointed by the governor to the State Parks and Recreation Commission from nine to ten members.

**Act 78** (McVea) would have made it illegal to enter property if a person reasonably should have known his entry was unauthorized. In effect, the act would have voided many local trespass laws. At the end of the session, the act was suspended by Concurrent Resolution 2411 until after the 1982 legislature concludes. Presumably, next year's legislature will work major changes on this act.

**Act 136** (Nunez) states that the legal commercial size limit of five inches for hardshell crabs is inapplicable when such crabs are held for processing as soft-shell crabs or sold to a processor for making softshell crabs. The legal commercial size limit for softshell crabs is now 4½ inches in width.

**Act 157** (Dykes) requires government entities that purchase fish, shrimp, oysters, crabs and other seafood to purchase products that were produced or harvested in Louisiana waters or seas. To qualify under this act, the seller must hold a valid commercial license under Louisiana law. This issue is also addressed in Act 851.

**Act 209** (Andrepoint) establishes the hunting fees for Alabama and Florida residents. Alabama and Florida residents' license fees for the entire season or a basic trip license shall be the fee charged a Louisiana resident for the same license by the state of residence of the applicant.

**Act 265** (Hogan) empowers the Department of Wildlife and Fisheries to sell and transfer title to 12 parcels of land on the Boeuf Wildlife management area amounting to approximately 24 acres for \$200 per acre to claimants of this disputed land.

**Act 422** (West) abolishes the Anacoco-Prairie State Game and Fish Commission and transfers the responsibilities of that commission to the Department of Wildlife and Fisheries.

**Act 428** (Sevario) empowers the local governing authority of a parish or municipality to establish and post speed limits on waterways within its jurisdiction. This act does not apply to commercial or passenger vessels operating on the Mississippi River, Mississippi River Gulf Outlet or the Gulf Intra-coastal Waterway. Sheriffs, local law enforcement officers, state police, and personnel of the Department of Wildlife and Fisheries will enforce any speed limit established.

**Act 477** (Nunez) allows up to one quarter of the funds collected in the Fishermen's Gear Compensation Fund to be used to

implement an investigation of existing and potential underwater obstructions to commercial fishermen.

Act 478 (Nunez) limits to one year the duration of experimental permits for the development of new gear and equipment for the harvesting of underutilized species of fish. These permits are subject to the monitoring and review of the Secretary of Wildlife and Fisheries.

Act 484 (Keith) sets the allowable size of mesh in hoop nets for the taking of commercial fish from Caddo Lake. These hoop nets cannot be less than two inches square or four inches stretched after treating with tar or copper.

Act 492 (Nunez) sets the fees for shrimp seine, trawl, and vessel licenses for nonresidents at double the fee paid by Louisiana residents.

Act 526 (Ullo) entitles any Louisiana citizen who is 62 years of age or older to a reduction of the fee charged for camping privileges in an amount equal to the general admission charge of the park.

Act 602 (Williams) allows the sale of legally taken squirrel tails and hides to licensed fur buyers, licensed fur dealers and other commercial buyers. Fur buyers must dispose of the squirrel tails within 30 days after the season and file a complete report, under oath, containing the addresses of all persons who purchased these tails or hides. Additional reports must be filed at sixty day intervals after the initial report.

Act 671 (Dewitt) dictates that the basic fishing license fee and the basic trip license fee for a person whose state of residence is Arkansas, Mississippi, Alabama, Florida, or Texas, shall be an amount equal to the fee charged a Louisiana resident for the same license in the state of residence of the applicant.

Acts 736/838 (Hogan) makes numerous substantive and terminological changes in Title 56 dealing with the regulation of wild birds and quadrupeds. These acts establish regulations and licensing procedures for the hunting of alligator and alligator eggs. Acts 736 and 838 allow the taking of alligator by hook and line and restricts nonresident alligator hunters to not more than three alligators per season. Alligator and alligator eggs are now subject to a severance tax. The tax is set at 25 cents on each alligator and 25 cents on each egg.

These acts also exempt Louisiana residents over sixty years of age from paying a hunting or fishing license fee. Additionally, commissioned Wildlife and Fisheries agents and employees now have the authority to carry weapons, inspect warehouses and make warranted arrests and searches.

Act 737 (Hogan) consolidates all definitions used in Wildlife and Fisheries laws into one section (section 8). The effect of the act will be to eliminate confusion in Title 56 caused by duplicate definitions in different sections of the title. Also adds two definitions: "edible fish" and "purse seine". This act is a major part of the Title 56 recodification effort.

Act 752 (Patti) directs the secretary of the Department of Wildlife and Fisheries to reject any lease application for a water bottom if it exceeds 10 percent of the acreage described in the initial application for that particular lease.

Act 753 (Patti) eliminates the words "hold" and "control" in Louisiana Revised Statutes 56:427, thereby permitting a person to "hold" or "control" more than 1000 acres of oyster leases on state water bottoms.

Act 784 (Campbell) provides a method whereby an individual may designate on his state income tax return that all or any portion of a refund due be donated by him to the Wildlife and Fisheries Commission for the preservation, protection and enhancement of game and nongame wildlife in the state.

Act 787 (Nunez) gives the Wildlife and Fisheries Commission the explicit power to adopt rules and regulation to provide for control of finfish.

Act 818 (Sevario) allows motor vehicles operated by classified wildlife agents and other commissioned employees of the Department of Wildlife to be equipped with emergency vehicle devices when acting in an official capacity.

Act 836 (Leblue) continues the restriction that oysters in Calcasieu Lake must be harvested exclusively by "tonging" unless other practices are authorized by the Department of Wildlife and Fisheries. Violation of this act now carries criminal penalties.

Act 837 (Hogan) provides a uniform system of penalties for violations of wildlife and fisheries laws. Instead of placing the penalty for a violation in every section of the law, this act establishes seven categories of offenses at the beginning of the title (class one is the least serious, class seven is the most serious). Each individual section now refers to a violation as class one, two, or three (etc). The penalty may be easily ascertained by referring to the front of the title. The act also relocates and reorganizes wildlife and fisheries enforcement procedure in Title 56. Finally, the act relocates sections of the law dealing with the Gulf States Marine Fisheries Compact and Bureau of Scientific Research and Statistics.

Act 858 (Laborde) transfers the function of various game and fish preserves to the secretary of the Department of Wildlife and Fisheries. The act also gives the parishes the authority to appoint fish and game commissions.

Act 890 (Nunez) creates the Louisiana Seafood Promotion and Marketing Board within the office of the secretary of the Department of Wildlife and Fisheries. The functions of the board include promoting and developing of seafood markets, advertising of seafood products, and providing loans for the purchase, construction or improvement of equipment used in harvesting and processing seafood in Louisiana.

Act 905 (Randolph) states that the Louisiana Tourist Development Commission shall serve in an advisory capacity to

the secretary of the Department of Culture, Recreation and Tourism for the promotion of recreation, tourism and cultural matters.

Act 925 (Hogan) makes numerous changes in the regulation of the oyster industry. Recreational oyster fishermen on unleased areas are limited to no more than two sacks a day. Lessees of oyster beds can now maintain an action for damages against a person who harms oyster beds

under lease. This action must be brought within one year from occurrence of the negligent act or date of discovery. This act authorizes that the surplus of raw oyster shell can be used for road building purposes. Act 925 also empowers the Department of Wildlife and Fisheries to settle all boundary disputes between leases of bedding grounds subject to court appeal.

## RESOLUTIONS

The following are resolutions passed by the legislature concerning Wildlife and Fisheries:

SCR 96/SCR 96 requests that the Louisiana Wildlife and Fisheries Commission enforce the laws requiring dealers to report in detail the weight of each kind of fish purchased from commercial and sports fishermen during the preceding month.

SCR 281 asks the House and Senate Committees on Natural Resources to establish a joint committee to study the problems associated with the dredging of shells along the Louisiana coast.

SCR 50 directs the Senate Committee on Natural Resources to study the Louisiana Cooperative Extension Service with particular reference to the seafood industry.

SCR 68 asks the Seafood Marketing and Promotion Task Force to plan for the marketing and promotion of Louisiana seafood.

SCR 71 asks the Senate and House Committees on Natural Resources to form a joint committee to evaluate the Fishermen's Gear Compensation Fund and the problem of underwater obstructions.

SCR 83 urges the Senate and House Committees on Natural Resources to form a joint committee to study problems surrounding the enforcement of wildlife statutes, rules, and regulations in this state.

SCR 99 asks the Louisiana Cooperative Extension Service to promote the use of underutilized species of seafood.

SCR 116 directs the state central purchasing agency to include underutilized species of fish and seafood products on the bid request list.

## NATURAL RESOURCES ACTS

In the area of natural resources, the newly enacted legislation attempts to promote energy production and induce resource development. Three major pieces of legislation clearly illustrate the current legislative policy concerning natural resources. The legislature, through Acts 942 and 943, has placed on the 1982 primary election ballot (September, 1982) two proposals which would exempt certain fuels from state ad valorem taxation. In addition, Act 760 permits private industry to condemn land if the industry is marketing carbon dioxide for use in a secondary or tertiary oil and gas recovery project. Making various incentives available to private industry demonstrates the legislature's interest in stimulating increased energy production in the state.

Act 1 (Kiefer) makes the State Water-bottom Management Law inapplicable to any deep water port commission in the state.

Act 2 (Kiefer) permits the governing authorities of the deep water port commissions of the state or municipalities having a populations in excess of five thousand inhabitants, to allow riparian landowners and their lessees to erect structures on the beds or banks of navigable waterways if the structures are required by commerce, navigation, or another public purpose.

Act 155 (Nunez) repeals La. Rev. Stat. 51:1501, thereby simplifying the procedures necessary for a business to take over a natural resource company.

Act 223 (Decuir) requires the Commissioner of Agriculture to prepare and administer studies and programs regarding the utilization of agricultural products as an alternate source of fuel.

Act 393 (Borne) gives the Bayou Lafourche Freshwater District additional freshwater sources wherever available. The act also provides authority for the district to construct and operate additional pumping facilities.

Act 420 (Scogin) authorizes the governing authority of any waterworks district in St. Tammany Parish to establish, construct, improve and maintain a waterworks system within the district. This act also authorizes a waterworks district in St. Tammany to levy and collect local or special assessment on the real property situated in the district sufficient in amount to defray the total cost of a waterworks program.

Act 427 (Brinkhaus) makes certain indemnification agreements (those which attempt to absolve negligence of an indemnitee) void if they affect industries engaged in the development, exploration and exploitation of sources of energy. This would allow the insuring party to assert the negligence of the insured as a defense. This act has no application to public utilities or companies who drill with the Frasch Process. Additionally, this provision does not apply to bodily injury or death arising out of radioactivity, the clean up and removal of structural waste subsequent to a wild well, or the performance of services to control a wild well.

Act 454 (Gee) states that the governing authority of a deepwater port or a municipality having a population greater than 5,000 persons may lease the use of property on a navigable waterway, which it lawfully occupies or uses, to the riparian owner.

Act 459 (Lanier) authorizes the governing authority of Tangipahoa Parish to adopt ordinances prohibiting the transportation of underground or surface water from the parish. Violation of this act carries criminal penalties.

Act 465 (Nicholson) authorizes the secretary of the Department of Transportation and Development to convey land purchased by the state for a highway unit to the town of Grand Isle. This act specifically reserves the mineral rights to the land conveyed under the Act.

Act 488 (Nunez) repeals authorization for the lease of Fort McComb State Commemorative Area to a private concessionaire.

Act 516 (Nunez) provides incentive for industry to conserve energy by exempting sales, leases and other transactions involving energy conservation equipment from state sales and use tax. This provision does not apply to any property, manufacturing establishment or public utility unless the total energy saved per year will be greater than 30 million BTU's.

Act 591 (Fowler) exempts equipment used in the logging of timber from the ad valorem tax if the equipment is owned or leased by the landowner.

Act 612 (Kimball) provides that if a mineral lease is terminated before it would normally expire, the former lessee

must record an act evidencing the expiration of the lease in the official records of all parishes where the lease is recorded. This must be done within 30 days after the extinguishment of the lease and prior to the expiration of the primary term.

Act 682 (Lanier) authorizes the governing body of Tangipahoa Parish to create a water conservation commission to regulate both surface and subsurface water within the parish boundaries.

Act 733 (Baker) provides for state regulation of the construction, operation, and maintenance of existing and future federal and state dams within Louisiana. The act provides criminal penalties for violation of regulations established by the act.

Act 757 (Blount) allows authorized parish recreation districts to sell their mineral rights and royalties.

Act 760 (Simoneaux) allows private companies to expropriate land if they are engaged in the piping or marketing of carbon dioxide for use in a secondary or tertiary oil and gas recovery project.

Act 824 (Kelly) creates the Energy Impacted Area Assistance Act of 1981. This act sets up a scheme to provide financial assistance to local governments which must expand public facilities and services as a consequence of large-scale lignite (low-grade coal commonly mined in Northern Louisiana) development. The act directs the secretary of the Department of Natural Resources to appoint an administrator to implement the act.

Act 846 (Grisbaum) requires that the permit fees for dealers of liquified petroleum gas or gas equipment will be paid to the Liquified Petroleum Gas Commission rather than the secretary of Revenue and Taxation.

Act 865 (Russ) expands the power of the Atchafalaya Basin Levee District to include the authority to construct and maintain levees and other flood control works associated with the tidal flow.

Act 896 (Sevario) creates the Amite River Basin Drainage and Water Conservation District. The act gives this district authority to establish adequate drainage, flood control and water resource development systems.

## RESOLUTIONS

Act 902 (Nunez) authorizes the governing body of the parish of Plaquemines to partially close the Hero Canal located in Plaquemines Parish in order to connect the Belle Chasse and Ollie hurricane protection and levee systems.

Act 930 (Simoneaux) permits the Louisiana Resources Recovery and Development Authority to utilize a competitive negotiation procedure to secure full service arrangements for the design, construction and operation of resource recovery facilities. The effect of the act is to exempt the authority from the public bid law.

Act 942 (Alario) places on the ballot at the next Congressional primary election (the third Saturday in September 1982) an amendment to Article VII, Section 21 (C) of the state constitution. This amendment would exempt energy sources used by public utilities to generate electricity from ad valorem taxation.

Act 943 (Alario) places on the ballot at the next Congressional primary election (the third Saturday in September 1982) an amendment to Article VII, Section 21 (G) of the state constitution which would exempt stockpiled coal or lignite from ad valorem taxation. Such stockpiles must be located inside the state and be used for industrial, manufacturing, boiler fuel, gasification, feedstock or process purposes.

The following are resolutions passed by the legislature concerning natural resources:

HCR 85 urges the House and Senate Committees on Natural Resources to function as a joint committee to study the Mississippi River as a source of drinking water.

HCR 104/SCR 172 suggests that the Special Joint Natural Resources Study Committee on Nuclear Studies issue a report concerning evacuation routes and create a special oversight committee for the monitoring of nuclear facilities.

HCR 132 urges House and Senate Natural Resources to study the use of freshwater diversion structures and other methods of combatting saltwater intrusion in Plaquemines and St. Bernard parishes.

HCR 155 authorizes the House and Senate Committees on Natural Resources to establish a joint committee to conduct a special interim study on marine accretion and the use of cybernetic architectural devices for coastline protection.

HCR 261 directs the secretary of the Louisiana Department of Natural Resources to establish a comprehensive and environmentally sound plan for the storage, use, and disposal of coal residue produced by industries and coal support facilities in the state.

HCR 285 urges the House and Senate Committees on Natural Resources to study the need for formulating a comprehensive statewide water supply plan dealing with water supply emergencies.

SCR 3 requests that the Senate and House Committees on Natural Resources establish a joint subcommittee to study the necessity and feasibility of creating artificial barrier islands in Grand Lake to prevent future saltwater intrusion in the lake.

SCR 53 creates a special Water Management Task Force for the purpose of developing a comprehensive water management plan for the coastal area of Louisiana.

SCR 101 recommends the creation of the Task Force on the Future of the Mississippi River which shall have the long range planning responsibility for the Mississippi River.

SCR 102 requests that a joint House and Senate Committee be established to study problems of erosion, subsidence, and depletion of coastal wetlands.

SCR 152 asks the Department of Natural Resources and the Department of Health and Human Resources to jointly undertake an assessment of existing environmental conditions in Louisiana.

SCR 225 continues the Energy Development Study Commission established during the 1978 Regular Session.

## ENVIRONMENTAL ACTS

Legislative activity concerning Louisiana's environment focused on sharpening and tightening current law dealing with pollution regulation. This session marks a strengthening of Louisiana's hazardous waste law. New laws now provide criminal penalties for individuals who intentionally discharge hazardous waste from transport vehicles and containers (Act 180 and 245). Additionally, employers are now prohibited from taking reprisals against employees who report environmental violations (Act 280).

The Louisiana legislature has also revamped Louisiana's water control law in an effort to limit the damage caused by a major pollution spill such as the recent phenol spill in the Mississippi River.

The law establishes penalties for failure to quickly notify state and local agencies of a serious pollution discharge into waters of the state (Act 352).

Another recently enacted law attempts to induce industry to reduce air pollution by providing for a system whereby a factory can earn air emission credits if it reduces the amount of pollutants it releases into the air. It is intended that such credits will be available for use by another factory or industry that wishes to locate in Louisiana. This new system will provide incentive for industry to clean up its present facilities, allow new industry to develop, and prevent deterioration in air quality (Act 626).

These and other legislative developments listed below mark a major effort on the part of the Louisiana legislature to solidify Louisiana environmental laws.

Act 119 (Dykes) empowers the agriculture commissioner to stop the sale of livestock feed which contains hazardous substances.

Act 180 (Theriot) prohibits the intentional discharge of the contents of any transport vehicle containing hazardous material between the point of origin and the point of destination unless authorized by the Department of Natural Resources or the Department of Public Safety.

Act 198 (Fernandez) includes the United States Government in the definition of "person" in the Environmental Affairs Act. This places the United States under the same pollution standards as any other person.

Act 246 (Theriot) prohibits tampering with any hazardous waste container or its contents. This act also prohibits the discharge of hazardous waste from transport vehicles between the point of origin and the point of destination.

Act 262 (Fernandez) requires that the Department of Public Safety make all determinations of new hazardous materials in accordance with the Louisiana Administrative Procedures Act.

Act 271 (Kelly) empowers the commissioner of agriculture to establish a weather modification program within the Department of Agriculture.

Act 280 (Fernandez) prohibits an employer from taking any reprisals against employees who report environmental violations. An employer who violates this provision is liable for treble damages to the employee, court costs and attorney fees.

Act 351 (Doucet) changes the population requirement for a parish to be authorized to create an environmental protection district. To qualify for this authorization, a parish must have a population in excess of 200,000 but not more than 500,000 residents.

Act 352 (Ullo) requires that any person who discharges any substance into the waters of the state in violation of a permit or license issued under the Louisiana Water Control Law must notify the state Office of Environmental Affairs of the nature and amount of the discharge and the circumstances surrounding it. Failure to make this notification or any actual or attempted concealment of a discharge is a violation of the act. Each day of failure to notify the Office of Environmental Affairs is a separate violation.

Act 389 (Fernandez) provides that the assistant secretary of the Office of Conservation of the Department of Natural Resources shall regulate and control the underground injection of hazardous wastes. The act prohibits any person from injecting, pumping, disposing, or in any manner allowing the escape of any hazardous waste into a well or underground strata in violation of a rule, order, or regulation issued by the assistant secretary or without obtaining a permit from the assistant secretary. Act 389 also provides civil or criminal penalties for violation of its provision.

Act 391 (Moutin) called the Louisiana Pesticide Waste Control Law, this act establishes a comprehensive system for pesticide waste control under the

Department of Agriculture. The act requires "custom applicators" (e.g. exterminators, crop dusters) to obtain a permit from the Department of Agriculture and to keep adequate records of possession and disposal of pesticide wastes. Civil and criminal penalties are established for noncompliance. Farmers are exempted from some provisions of the act.

Act 521 (Fernandez) strengthens criminal penalties for violations of Louisiana's environmental laws by making it a felony to violate the law in a manner that poses a danger to human life. As provided in the act, a person who willfully discharges, emits, or disposes of any substance in violation of Louisiana environmental law, when the substance is one which could endanger human life, will now be guilty of a felony and fined not more than \$25,000 per day for violation or imprisoned at hard labor for not more than 10 years or both. One who willfully discharges, emits, or disposes of any substance in violation of Louisiana law, when the substance does not endanger or could not endanger human life or health, will be guilty of a misdemeanor and fined not more than \$25,000 per day of violation or imprisoned for not more than one year or both.

Act 610 (Fernandez) transfers to the Environmental Control Commission the authority to operate a construction grant program to abate water pollution. The act provides for transfer of personnel and records from the Department of Health and Human Resources to implement the change. Additionally, the Commission may delegate these responsibilities to the Office of Environmental Affairs.

Act 626 (Fernandez) empowers the Environmental Control Commission to formulate regulations establishing an air pollution emission reduction credit banking system as an inducement for Louisiana industries to reduce emission of air pollutants. The act provides criteria for the establishment of regulations under which an industry can earn air emission "credits" which can be sold to another industry to assist that industry in meeting air emission requirements.

Act 702 (Fernandez) amends several sections of Louisiana's environmental statutes. Of particular importance is the provision in Act 702 that allows the assistant secretary of the Office of Environmental Affairs in the Department of Natural Resources to accept and receive grants, donations, or other forms of assistance from private sources (including industry) which are dedicated to a specific designated pollution source by the private entity. No liability or presumption of liability for the designated pollution source is created against the donor, and the amount donated can be taken into consideration by the Commission or Assistant Secretary in assessing penalties and damages on the designated pollution source. More substantively, the act allows for acquisition of emergency rights of way to effect proper cleanup of abandoned hazardous waste sites. The act makes a change in the treatment of abandoned hazardous waste sites by providing that if the owner refuses to undertake cleanup measures, the Environmental Control Commission may immediately declare the site abandoned and pursue appropriate cleanup actions. Additionally, the act allows for the creation of a lien against abandoned property to the extent of the problem or to the extent of the appraised value after said expenditures, whichever is less. The lien is to be recorded in the mortgage record of the parish where the property is located. Act 702 amends the Abandoned Hazardous Waste Site Fund to provide that interest earned through

investment of the Fund capital may be used for research concerning the disposal, treatment, and resource recovery of hazardous wastes.

Act 741 (Fernandez) provides for appointment of up to three administrative law judges by the Governor to perform certain functions for and on behalf of the Environmental Control Commission. These include the taking of depositions and affidavits, collecting evidence, conducting hearings, issuing orders and rendering decisions on any matter within the Commission's jurisdiction. The administrative law judges are also empowered to conduct any hearing or collect any evidence on behalf of the Commission and at the Commission's direction. The act sets out the qualifications for the administrative law judges and provides that decisions or orders rendered by administrative law judges may be appealed to the Commission.

Act 754 (Laborde) transfers from the Public Service Commission to the Office of Conservation of the Department of Natural Resources the power and authority to make rules and regulations pertaining to the malodorization of gas. The act also transfers employees of the Public Service Commission employed in the malodorization of gas program to the Department of Natural Resources.

Act 773 (Decuir) creates the Louisiana Control and Recycling Commission within the Department of Development and Transportation. The Commission has the authority to effectuate a statewide anti-littering and recycling campaign. The act outlaws littering and provides penalties for violations. Additionally, the act authorizes each state court to set up a special litter violation bureau to deal with offenders.

Act 853 (Simoneaux) increases the penalty for violation of a rule, regulation, or order of the Commissioner of Conservation (the assistant secretary of the Office of Conservation in the Department of Natural Resources) from \$1,000 to \$5,000 a day for each day of violation and for each act of violation. However, if the violation concerns the disposal of hazardous wastes, the penalty is not more than \$25,000 per day of violation, or if it is a willful and knowing violation of the law, rules, regulations, or orders, not more than \$25,000 per day of violation or imprisonment for not more than one year, or both. [Editors note: The penalties for hazardous waste were subsequently amended by the legislature in Act 521.]

Act 915 (Lowenthal) gives the Environmental Control Commission regulatory authority to control and abate noxious odors. The act exempts from regulation, however, odors caused by agricultural, fiber, timber, poultry, fisheries and seafood production or by-products from such production.

## VETOED LEGISLATION

Several pieces of legislation affecting wildlife and fisheries, natural resources, and the environment were vetoed by Governor Treen. Below is a summary of the bills and an explanation of their veto.

House Bill 53 would have prevented the study of salt domes as radioactive waste depositories if a parish government, the House or Senate Natural Resources Committees, or the Secretary of the Department of Natural Resources objected. In vetoing the bill, Governor Treen stated that he has received assurances from the federal government that the Salt Dome Agreement of 1978 (which prevents salt domes from being used as nuclear waste depositories if the state objects) will be honored.

House Bill 515 would have taken five million dollars from the Rockefeller Wildlife Refuge and Game Preserve Fund for use in fish and wildlife research. The Governor stated that such research funds should come from a general appropriation rather than from the game preserve fund.

House Bill 612 would have required protection and management of salt domes in the state and prohibited their use for any purpose not specifically approved by the Department of Natural Resources. The governor felt the purpose of this law was unclear. If it was intended to prohibit radioactive waste storage in salt domes, the governor stated that existing law already contains such a prohibition.

House Bill 641 would have placed a two year moratorium on the issuance of commercial shrimp licenses to nonresidents. Governor Treen vetoed the bill because it would unconstitutionally discriminate against out-of-state fishermen. Additionally, the governor stated that the bill could detrimentally affect the economy.

House Bill 957 would have prohibited local governments from enacting an ordinance defining as an offense any conduct that is a crime under Title 14. The governor felt this would conflict with the trespass law enacted (and subsequently suspended) by the legislature this year.

House Bill 1094 would have allowed persons selling hunting and fishing licenses to charge an additional fifty cent fee at their option. Governor Treen felt the option would cause confusion and create inequities so he vetoed the bill.

House Bill 1591 would have expanded the coastal zone to include Iberville, Ascension and Assumption parishes. The governor felt the inclusion of these parishes in the coastal zone management scheme was inappropriate as the parishes are geographically removed from the real coastal zone.

House Bill 1691 was intended to be part of the overhaul of wildlife and fisheries laws. The purpose of the bill was to delineate the responsibilities of the Wildlife and Fisheries Commission and the Department of Wildlife and Fisheries. In his veto message, Governor Treen indicated that the Secretary of the Department of Wildlife and Fisheries should have complete control over the budgetary process. Therefore, because the bill gave the Commission authority to review the budget, Governor Treen was forced to veto an otherwise meritorious bill.

Due to the importance of this newly enacted legislation, we have postponed the issue of "Louisiana Coastal Law" concerning hazardous waste regulation and an analysis of the state's Hazardous Waste Management Program.

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