

Coastal zone
management
in Louisiana

LOUISIANA COASTAL LAW

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33 COASTAL LAWS EMERGE . . .

The Governor of Louisiana has recently signed 33 new laws affecting coastal resources. Some are significant, others are routine. This issue of LCL is a digest of those measures, with some introductory comments. Readers interested in obtaining the full text of any act(s) may contact the Secretary of State, P. O. Box 44125, Capitol Station, Baton Rouge, La. 70804, Phone (504) 389-6181. For requests of lengthy acts, there is a copying charge of 10¢ per page.

4 NEW AGENCIES

Most coastal resource measures discussed prior to the session (which began May 8) emerged as law at the end of the session (July 6), usually somewhat altered. However, there were no surprises in the 1972 La. legislature. Three new Boards and one new Council were created. Of the three Boards, one deals with the Atchafalaya Basin, one with a potential Deep Draft Harbor and Terminal (Superport), and one with a Regional Airport for southeast Louisiana. Each was enacted following reports of study groups. Similarly, the three man Council on Environmental Quality was enacted following recommendations of the Joint Legislative Committee on Environmental Quality.

Each of these four major measures is encouraging. Each attempts to meet the problems of resource management in Louisiana. Each mentions long term values as an objective and the need for orderly, rational conservation and growth policies. Each looks at a broad region of the state and tries to meet statewide problems rather than serve strictly local interests. All four acts will have considerable influence on coastal zone planning in Louisiana. Only the Superport Act specifically recognizes the coastal zone planning program of the Louisiana Advisory Commission on Coastal and Marine Resources. As coastal zone management develops, specific coordinating mechanisms among these agencies will be necessary.

ACT 444 (La. R.S. 34:3101) - SUPERPORT . . . The Legislature created the Deep Draft Harbor and Terminal Authority of Louisiana. Governed by a board of nine individuals (one of whom must be an environmentalist) the Authority is authorized to represent the state of Louisiana in the development of any Superport off its coast. Its jurisdiction is in the "coastal waters of Louisiana" extending seaward three nautical miles from the coastline. The

Authority may acquire by lease or purchase waterbottoms for use in the construction, operation or maintenance of superport facilities. The Register of State Lands is required to issue a certificate of title to state-owned waterbottoms which the Authority selects for use in the development of a Superport. Throughout all phases of the Superport Development Program, the Authority must have an environmental protection plan in existence, formulated by the Wildlife and Fisheries Commission director, the director of LSU's Center for Wetland Resources, and the executive director of the Port Authority. The Plan must address a variety of specific environmental problems that might result from the construction or operation of a superport.

ACT 460 - COUNCIL ON ENVIRONMENTAL QUALITY . . . This legislation creates the Governor's Council on Environmental Quality composed of three members appointed by the Governor. The Council advises the Governor on pollution control, natural resource management, and land use activities. It coordinates activities of several agencies with environmental responsibilities and serves as a clearinghouse for environmental impact statements prepared by state agencies under the federal National Environmental Policy Act. To assist the Council an eighteen-man citizens advisory board is provided. The Board reviews laws, regulations and activities of environmental agencies and makes appropriate recommendations for revision. In addition, the Board reports annually to the Governor and the Legislature.

ACT 753 - (La. R.S. 2:651) - REGIONAL AIRPORT AUTHORITY . . . The Louisiana Regional Airport Authority was created to plan for the location of a regional airport in southeast Louisiana. Twenty-two parishes are included in the regional authority. A thirteen member board of commissioners, appointed by the Governor and confirmed by the Senate, governs the Authority. The Authority is empowered to formulate a general master plan for a regional airport and related projects. The Authority has the power to acquire property, issue bonds and develop the facility.

ACT 365 - ATCHAFALAYA BASIN . . . The legislature created the Atchafalaya Basin Division of the Department of Public Works, as well as a Governor's Atchafalaya Basin Commission consisting of twenty-four persons. The Basin is defined broadly from the Old River-Mississippi River juncture on the North, running southward between the flood protection guide levees to the Gulf of Mexico, consisting of close to 1,000,000 acres. The Division must prepare a land and water use plan for the Basin and the area surrounding the access points to the Basin. The land use plan must include a tourist-oriented interpretive center of 1,000 acres to be located adjacent to the interstate highway crossing the Basin. Bonds may be issued to cover the cost of studies, acquisitions and easements. Once the planning, acquisition and construction is completed, the assets are to be transferred to designated state agencies for maintenance and operation -- Louisiana Wildlife and Fisheries Commission, State Parks and Recreation Commission, and the Department of Public Works.

29 ASSORTED ACTS

COMMERCIAL FISHING Act 679 (La. R.S. 56:363) decreased the size limit on channel catfish (locally known as the white cat, eel cat or willow cat) from 13 to 11 inches. Act 694, amending Sec. 364, Title 56, defines unlawful methods of taking commercial fish (poisons, slat traps, electric devices, etc.). Due to the limited geographic areas affected, and the specific methods and devices mentioned, we refer interested readers to the Act. Act 203 defines inside and outside waters for shrimping. A detailed latitude and longitude description, overcoming errors in the previous description, is set forth. (H.B. 1401, which would have decreased to 60 count the size of legal shrimp, was defeated.) Act 583 (La. R.S. 56:420) prohibits the use of gill nets, trammel nets and seines south of the Intracoastal Canal in Terrebonne and Lafourche parishes.

J.

WATER RESOURCES Act 387 (amending La. R.S. 38:286 and 1953 and adding section 19) creates a joint legislative committee to study procedures for consolidating levee boards.

Act 535 provides for gathering data concerning Louisiana's ground water resources and grants to the director of the Department of Public Works, regulatory authority to require maintenance of records and sealing of abandoned wells. The Water Resources Study Commission, which has called attention to the need to protect Louisiana's ground water, was extended for an additional 4-year term by Act 187.

Act 572 provides St. Mary Parish with the authority to organize drainage districts for the purpose of reclaiming land, subject to the approval of the director of the Department of Public Works.

The legislature gave a double endorsement to the construction of an addition to the salinity control structure at Bayou Lamoque in the lower Mississippi River delta region. The Louisiana Wildlife and Fisheries Commission is authorized to pay 2/3 (by Act 698) or 3/4 (by Act 599) of the cost of the addition to the Bayou Lamoque Water Diversion Structure. Except for the fractions, the Acts are identical.

Two proposed Louisiana constitutional amendments dealing with Lake Pontchartrain were passed this session: Act 792 proposes an amendment to Art. XVI of Louisiana's Constitution to authorize a property tax in New Orleans to raise the city's portion of the costs of the Corps of Engineer's Lake Pontchartrain and Vicinity Hurricane Protection Project. Act 795 is a proposed amendment to Art. XIV §38(a) and (j) and to add §38.2 to give the city of Kenner greater authority than the parish of Jefferson in regulating public improvement districts along the shores and bed of Lake Pontchartrain which are within Kenner's city limits.

* * *

NATURAL GAS Concern over natural gas shortages motivated action this session. Act 637 (amends La. R.S. 30:201) directs the Commissioner of Conservation to prepare an analysis of all gas prospects on state-owned land and to develop a plan to promote and encourage the exploration and production of these prospects.

Act 395 authorizes the governor to establish a natural gas commission to work with private industry to plan for the preservation and expansion of existing intrastate pipeline systems and to study the feasibility of a state-owned intrastate pipeline system.

Act 750 establishes the Louisiana Pipeline Authority to plan, construct, and operate a pipeline system to facilitate distribution of natural gas and hydrocarbons. (The legislature is alarmed by federal law (15 U.S.C. 717) which gives the Federal Power Commission jurisdiction over gas produced and consumed in the same state if transported through interstate pipelines.)

Act 636 provides that the Attorney-General shall represent the state in all Federal Power Commission hearings on natural gas matters. The Act amends R.S. 49:461.

* * *

WATER QUALITY Act 157 amends La. R.S. 56:1464.1 to prohibit the willful and intentional discharge of untreated wastes into any body of public water in the state. The Act also provides that all such wastes shall receive the best practicable secondary treatment, or its equivalent, not later than Dec. 31, 1972. The State Board of Health, or the La. Stream Control Commission may certify that reasonable progress in abating the discharge is being made, and extend such deadline indefinitely, thus precluding imposition of the \$10,000 per day civil penalty applicable to the discharge of untreated wastes after Dec. 31, 1972. The Act does not apply to salt water or other wastes produced in mineral operations or unintentional pollution resulting from the production of agricultural products.

Act 615 amends La. R.S. 40:2327 to provide for the issuance of bonds by political subdivisions of the state to raise money to meet the state's portion of water quality control projects funded by federal grants. The state shall refund to the political subdivision funds expended on the state's behalf, no later than September 1, 1975.

* * *

COASTAL PLANNING AND MANAGEMENT . . . Act 708 amends La. R.S. 51:1363 (B) and (C) to increase the Membership of the Louisiana Advisory Commission on Coastal and Marine Resources by adding a southwestern Louisiana farmer. Act 166 adds a special committee on Ocean Engineering and Development to the Commission. The Commission is charged with formulating a comprehensive Coastal Zone Management Plan for Louisiana by September 15, 1973.

Act 376 (amends La. R.S. 41:1501) allows political bodies to be granted leases on portions of meandered state-owned lakes, bays or coves, or state-owned lands reclaimed therefrom, and allows assignment or subleasing in accordance with the statutory procedure for leasing public lands.

Act 607 amends La. R.S. 33:107 to allow parish and municipal planning commissions to join with contiguous planning Commissions to coordinate functions. Act 553 authorizes parishes and municipalities with populations over 300,000 to create New Community Development Corporations to encourage orderly development of well-planned, diversified new communities.

* * *

CONSERVATION & RECREATION The Louisiana Natural and Scenic Rivers System (La. R.S. 56:1841), designed to protect certain bodies of water from channelization or other alteration, received two new additions. Act 590 added Dorcheat Bayou, which enters Lake Bistineau, and Act 352 added the West Pearl River, which flows into Lake Borgne.

Two measures this session dealt with conservation funds. Act 321 added a new section (§10.1) to La. R.S. 45, providing for establishment of a special fund to retain portions of the revenues received by the state from mineral leases on the Rockefeller Foundation Wildlife Refuge and Game Reserve in southwestern Louisiana, to be used for wildlife conservation purposes.

Act 494 amends La. R.S. 56:10 to provide that funds remaining in the Conservation Fund at the close of the fiscal year shall remain in the fund for the exclusive use of the Wildlife and Fisheries Commission.

Acts 499 & 500 (La. R.S. 33:1236) authorize certain parish police juries to pass new trespass ordinances to protect properly posted land.

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