

109TH CONGRESS
2D SESSION

S. 2421

To establish the Louisiana Hurricane and Flood Protection Council for the improvement of hurricane and flood protection in Louisiana.

IN THE SENATE OF THE UNITED STATES

MARCH 15, 2006

Mr. VITTER introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

A BILL

To establish the Louisiana Hurricane and Flood Protection Council for the improvement of hurricane and flood protection in Louisiana.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Louisiana Hurricane
5 and Flood Protection Council Act of 2006”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

8 (1) COUNCIL.—The term “Council” means the
9 Louisiana Hurricane and Flood Protection Council
10 established by section 3(a).

★(Star Print)

1 (2) DISASTER AREA.—The term “disaster area”
 2 means any area along the coast of the State of Lou-
 3 isiana in which a major disaster relating to Hurri-
 4 cane Katrina or Hurricane Rita was declared by the
 5 President to exist on or after August 29, 2005, in
 6 accordance with section 401 of the Robert T. Staf-
 7 ford Disaster Relief and Emergency Assistance Act
 8 (42 U.S.C. 5170).

9 (3) SECRETARY.—The term “Secretary” means
 10 the Secretary of the Army.

11 **SEC. 3. ESTABLISHMENT OF COUNCIL.**

12 (a) ESTABLISHMENT.—There is established a council
 13 to be known as the “Louisiana Hurricane and Flood Pro-
 14 tection Council”.

15 (b) PURPOSES.—The purposes of the Council are—

16 (1) to manage and oversee each aspect of the
 17 implementation of a system-wide, comprehensive
 18 plan for projects of the Corps of Engineers (includ-
 19 ing the study, planning, engineering, design, con-
 20 struction, operation, and maintenance of the projects
 21 or components of projects and functions or activities
 22 of the Corps of Engineers relating to other projects)
 23 that addresses hurricane protection, flood control,
 24 ecosystem restoration, storm surge damage reduc-
 25 tion, or navigation in the disaster area that—

1 (A) on a system-wide basis, as the Council
2 determines to be practicable, coordinates and
3 integrates projects or components of projects
4 that comprehensively implement activities for
5 hurricane protection, flood control, ecosystem
6 restoration, storm surge damage reduction, and
7 navigation projects in order to—

8 (i) ensure consistency and efficiency
9 between projects and components of
10 projects;

11 (ii) enhance project effectiveness and
12 the overall effectiveness of the larger com-
13 prehensive plan; and

14 (iii) ensure that projects and compo-
15 nents of projects of the comprehensive plan
16 are implemented in an efficient, timely,
17 and reliable manner to maximize results
18 and reduce costs in implementing projects
19 or components of projects;

20 (B) restores and reconstructs critical
21 coastal wetlands;

22 (C) protects the disaster area from future
23 flooding and reduces storm damage and devas-
24 tation caused by hurricanes; and

25 (D) provides for navigational interests; and

(2) through the demonstration program established under section 4(b), to manage each aspect of the implementation of projects of the Corps of Engineers in the disaster area (including the study, planning, engineering, design, construction, operation, and maintenance of such projects or components of projects and functions or activities of the Corps of Engineers relating to other projects), including projects for—

(A) hurricane protection;

(B) flood control;

(C) coastal and ecosystem restoration;

(D) storm surge damage reduction; and

(E) navigation.

(c) MEMBERSHIP.—

(1) COMPOSITION OF COUNCIL.—

(A) DEFINITION OF EXPERTISE.—In this paragraph, the term “expertise”, with respect to a field of work or study, means—

(i) at least 10 years of professional experience in the field of work or study; or

(ii) a master’s degree (or the equivalent) in the field of work or study.

1 (B) COMPOSITION.—The Council shall be
2 composed of 9 members appointed by the Presi-
3 dent, of whom—

4 (i) 3 members shall be selected from
5 the Corps of Engineers, 1 of whom shall be
6 appointed by the President, by and with
7 the advice and consent of the Senate (un-
8 less the member is already confirmed by
9 the Senate), as Chairperson of the Council;
10 and

11 (ii) 6 members shall be selected from
12 individuals who are not otherwise employed
13 by the Federal Government or a State gov-
14 ernment, of whom—

15 (I) 2 members shall have exper-
16 tise in civil engineering relating to
17 hurricane and flood protection;

18 (II) 2 members shall have exper-
19 tise in the environment relating to—

20 (aa) the interaction of salt-
21 water and freshwater estuaries;
22 and

23 (bb) coastal ecosystem res-
24 toration;

1 (III) 1 member shall have exper-
2 tise in civil engineering relating to
3 navigation; and

4 (IV) 1 member shall have exper-
5 tise in fiscal matters relating to
6 project management.

7 (C) SUGGESTIONS OF GOVERNOR.—The
8 Governor of Louisiana may suggest to the
9 President nominees for consideration for ap-
10 pointment to the Council under subparagraph
11 (B)(ii).

12 (D) LOUISIANA RESIDENCE OR WORK RE-
13 QUIRED.—Of the members of the Council ap-
14 pointed under subparagraph (B)(ii), at least 2
15 members shall—

16 (i) have resided in the State of Lou-
17 isiana for not less than 2 years and have
18 expertise in the field of work or study of
19 the member; or

20 (ii) have worked in the applicable field
21 of expertise in the State of Louisiana for
22 not less than 2 years.

23 (2) DATE OF APPOINTMENTS.—The appoint-
24 ment of a member of the Council shall be made not

1 later than 30 days after the date of enactment of
2 this Act.

3 (d) TERM; VACANCIES.—

4 (1) TERM.—

5 (A) CORPS OF ENGINEERS.—A member
6 appointed under subsection (c)(1)(B)(i) (or a
7 designee of such a member) shall be appointed
8 for the life of the Council, subject to removal by
9 the President.

10 (B) NON-FEDERAL EMPLOYEES.—A mem-
11 ber appointed under subsection (c)(1)(B)(ii)
12 shall be appointed for a term of 5 years and
13 may be reappointed, except that, of the mem-
14 bers first appointed—

15 (i) of the members appointed under
16 subsection (c)(1)(B)(ii)(I), 1 member shall
17 be appointed for a term of 4 years; and

18 (ii) of the members appointed under
19 subsection (c)(1)(B)(ii)(II), 1 member
20 shall be appointed for a term of 4 years.

21 (2) VACANCIES.—A vacancy on the Council—

22 (A) shall not affect the powers of the
23 Council; and

24 (B) shall be filled not later than 30 days
25 after the date on which the vacancy occurred in

1 the same manner as the original appointment
2 was made.

3 (e) INITIAL MEETING.—Not later than 30 days after
4 the date on which the majority of members of the Council
5 have been appointed, the Council shall hold the initial
6 meeting of the Council.

7 (f) MEETINGS.—The Council shall meet at the call
8 of the Chairperson, who shall provide due notice of the
9 meetings to members of the Council.

10 (g) QUORUM.—A majority of the members of the
11 Council shall constitute a quorum, but a lesser number
12 of members may hold hearings.

13 (h) VICE CHAIRPERSON.—The Council shall select a
14 Vice Chairperson from among the members of the Council
15 appointed under subsection (c)(1)(B)(ii).

16 (i) CLERK.—

17 (1) IN GENERAL.—The Council shall select a
18 Clerk from among the members of the Council ap-
19 pointed under subsection (c)(1)(B)(ii).

20 (2) DUTIES.—The Clerk shall establish and
21 maintain an accurate record of—

22 (A) proceedings of the Council;

23 (B) information received by the Council;

24 and

1 (C) reports or recommendations prepared
2 by the Council.

3 (j) LOCATION.—The headquarters, general offices,
4 and meetings of the Council shall be at a location des-
5 ignated by the Secretary.

6 **SEC. 4. DUTIES.**

7 (a) COMPREHENSIVE PLAN.—

8 (1) IN GENERAL.—The Council shall manage
9 and oversee each aspect of the implementation of a
10 system-wide, comprehensive plan for projects of the
11 Corps of Engineers in the disaster area (including
12 the study, planning, engineering, design, construc-
13 tion, operation, and maintenance of the projects, and
14 functions and activities of the Corps of Engineers
15 relating to other projects or components of projects)
16 in accordance with the comprehensive hurricane pro-
17 tection program authorized by Congress during 2005
18 to take a comprehensive approach to improving hur-
19 ricane protection, flood control, coastal and eco-
20 system restoration, storm surge damage reduction,
21 and navigation in the disaster area.

22 (2) REQUIREMENTS.—In managing and over-
23 seeing the plan under paragraph (1), the Council
24 shall—

1 (A) integrate, as the Council determines to
2 be practicable, projects and components of
3 projects that comprehensively implement activi-
4 ties for hurricane protection, flood control,
5 coastal and ecosystem restoration, storm surge
6 damage reduction, and navigation in the dis-
7 aster area;

8 (B) recommend priorities among the
9 projects and components of projects identified
10 under the comprehensive plan;

11 (C) establish a benefit/risk analysis for the
12 disaster area that properly accounts for risks
13 posed to high population areas to assist in
14 prioritizing projects described in subparagraph
15 (A);

16 (D) review Corps of Engineers documents
17 and prepare recommendations and modifica-
18 tions for Congress to enhance project or compo-
19 nent effectiveness and the overall larger com-
20 prehensive plan;

21 (E) request comments regarding, and pro-
22 pose resolutions for, problems confronted in im-
23 plementing any project or component within the
24 comprehensive plan; and

1 (F) ensure that the comprehensive plan is
2 implemented in an efficient, timely, and reliable
3 manner to maximize results and reduce costs in
4 implementing projects described in subpara-
5 graph (A).

6 (b) DEMONSTRATION PROGRAM.—

7 (1) IN GENERAL.—During the 20-year period
8 beginning on the date of enactment of this Act, the
9 Council shall establish and carry out a demonstra-
10 tion program for the study, design, integrated imple-
11 mentation, and system-wide management of any
12 project or component of a project of the Corps of
13 Engineers in the disaster area, including the integra-
14 tion of projects relating to—

- 15 (A) hurricane protection;
- 16 (B) flood control;
- 17 (C) coastal and ecosystem restoration;
- 18 (D) storm surge damage reduction; and
- 19 (E) navigation.

20 (2) FUTURE DISASTERS.—

21 (A) RECOMMENDATIONS.—

22 (i) IN GENERAL.—In carrying out the
23 demonstration program under paragraph
24 (1), the Council shall develop, and submit
25 to the Committee on Environment and

1 Public Works of the Senate and the Com-
2 mittee on Transportation and Infrastruc-
3 ture of the House of Representatives, rec-
4 ommendations for an emergency strategy
5 to repair infrastructure relating to projects
6 or components of projects under the com-
7 prehensive plan and to supplement the au-
8 thority of the Corps of Engineers under
9 any other law, in any area in Louisiana af-
10 fected by a major disaster or emergency
11 declared by the President to exist in ac-
12 cordance with section 401 of the Robert T.
13 Stafford Disaster Relief and Emergency
14 Assistance Act (42 U.S.C. 5170) during
15 the period of the demonstration program.

16 (ii) REQUIREMENTS.—The rec-
17 ommendations under clause (i) shall—

18 (I) be in accordance with the
19 comprehensive plan under subsection
20 (a); and

21 (II) include recommendations or
22 modifications regarding priorities of
23 the comprehensive plan as the com-
24 prehensive plan relates to projects or
25 components of projects for purposes

1 of restoring, repairing, rebuilding, or
2 protecting affected disaster areas.

3 (B) APPROVAL PROCESS.—The approval
4 process described in paragraph (3)(C)(ii) shall
5 apply to recommendations of the Council under
6 subparagraph (A), in accordance with para-
7 graph (3)(C)(iii)(II)(bb).

8 (C) EFFECT OF PARAGRAPH.—Nothing in
9 this paragraph affects any authority of the
10 Corps of Engineers under any other law, includ-
11 ing section 5 of the Act of August 18, 1941
12 (commonly known as the “Flood Control Act of
13 1941”) (55 Stat. 650; 69 Stat. 186).

14 (3) CORPS OF ENGINEERS STUDIES.—

15 (A) IN GENERAL.—Notwithstanding any
16 other law (including regulations), each study of
17 the Corps of Engineers in the disaster area au-
18 thorized pursuant to a study resolution of a
19 Committee of Congress during the 20-year pe-
20 riod beginning on the date of enactment of this
21 Act shall be conducted in accordance with the
22 demonstration program established under para-
23 graph (1).

24 (B) STUDY REPORTS.—Not later than 18
25 months after the date on which a study under

1 subparagraph (A) is authorized, the Council
2 shall submit to the Committee on Environment
3 and Public Works of the Senate and the Com-
4 mittee on Transportation and Infrastructure of
5 the House of Representatives a report describ-
6 ing the results of the study and any rec-
7 ommendations, including modifications, of the
8 Council.

9 (C) IMPLEMENTATION OF RECOMMENDA-
10 TIONS.—

11 (i) IN GENERAL.—The Corps of Engi-
12 neers shall not implement a report or rec-
13 ommendation of the Council until the re-
14 port or recommendation is approved in the
15 manner of a study resolution by the Com-
16 mittee on Environment and Public Works
17 of the Senate and the Committee on
18 Transportation and Infrastructure of the
19 House of Representatives under clause (ii).

20 (ii) APPROVAL PROCESS.—

21 (I) IN GENERAL.—Not later than
22 120 days after the date of receipt of
23 a recommendation or report describ-
24 ing the results of a study under sub-
25 paragraph (B), the Committee on En-

1 vironment and Public Works of the
2 Senate and the Committee on Trans-
3 portation and Infrastructure of the
4 House of Representatives shall deter-
5 mine whether to adopt a resolution in
6 the manner of a study resolution ap-
7 proving each report or recommenda-
8 tion submitted by the Council.

9 (II) ADDITIONAL INFORMA-
10 TION.—To facilitate a Committee de-
11 scribed in subclause (I) in making a
12 determination under that subclause,
13 the Council may submit to the Com-
14 mittee such additional information re-
15 lating to a report or recommendation
16 of the Council as the Committee may
17 request, including information from
18 the Corps of Engineers.

19 (III) RESCISSION OF AP-
20 PROVAL.—If the Corps of Engineers
21 fails to begin the implementation of a
22 report or recommendation of the
23 Council by not later than 1 year after
24 the date of approval of the report or
25 recommendation, the Committee on

1 Environment and Public Works of the
2 Senate or the Committee on Trans-
3 portation and Infrastructure of the
4 House of Representatives, by resolu-
5 tion, may rescind the approval of the
6 Committee of the report or rec-
7 ommendation.

8 (iii) PERIOD OF EFFECTIVENESS.—

9 (I) IN GENERAL.—Except as pro-
10 vided in subclause (II), the approval
11 process described in clause (ii) shall
12 apply only during the 6-year period
13 beginning on the date of enactment of
14 this Act.

15 (II) EXTENSION.—Notwith-
16 standing subclause (I), the approval
17 process described in clause (ii) shall
18 apply with respect to a report or rec-
19 ommendation of the Council sub-
20 mitted after the date that is 6 years
21 after the date of enactment of this
22 Act if—

23 (aa) during the 2-year pe-
24 riod preceding the date on which
25 the report or recommendation is

1 submitted, a major bill reauthor-
2 izing water resource programs of
3 the United States has not been
4 enacted; or

5 (bb) a major disaster or
6 emergency is declared by the
7 President to exist in accordance
8 with section 401 of the Robert T.
9 Stafford Disaster Relief and
10 Emergency Assistance Act (42
11 U.S.C. 5170) in any area of
12 southeast Louisiana after that
13 date.

14 (iv) EFFECT OF SUBPARAGRAPH.—

15 The approval process described in this sub-
16 paragraph shall apply only in a case in
17 which such an approval process is nec-
18 essary, as determined by the Committee,
19 because of a major disaster or emergency
20 declared by the President to exist in ac-
21 cordance with section 401 of the Robert T.
22 Stafford Disaster Relief and Emergency
23 Assistance Act (42 U.S.C. 5170) after Au-
24 gust 1, 2005, that caused a significant loss
25 of life or property.

1 (v) FEDERAL SHARE.—

2 (I) IN GENERAL.—The Federal
3 share of the cost of implementing a
4 recommendation of the Council shall
5 be—

6 (aa) for the period of fiscal
7 years 2006 through 2016, 90
8 percent; and

9 (bb) for the period of fiscal
10 years 2017 and thereafter for the
11 life of the demonstration pro-
12 gram, 85 percent.

13 (II) RECOMMENDATIONS.—The
14 Council may make recommendations
15 to reduce or modify the cost share for
16 any project or component of a project
17 in the comprehensive plan.

18 (D) EFFECT OF PARAGRAPH.—In imple-
19 menting a report or recommendation of the
20 Council under this paragraph, the Corps of En-
21 gineers may waive a requirement under the Na-
22 tional Environmental Policy Act of 1969 (42
23 U.S.C. 4321 et seq.) only if the Council deter-
24 mines that—

- 1 (i) an imminent threat to life requires
2 the waiver; and
3 (ii) the waiver will not result in sig-
4 nificant environmental damage.

5 (c) NONAPPLICABILITY OF FACA.—The Federal Ad-
6 visory Committee Act (5 U.S.C. App.) shall not apply to
7 the Council in carrying out this Act.

8 **SEC. 5. POWERS.**

9 (a) HEARINGS.—The Council may hold such hear-
10 ings, meet and act at such times and places, take such
11 testimony, and receive such evidence as the Council con-
12 siderers advisable to carry out this Act.

13 (b) INFORMATION FROM FEDERAL AGENCIES.—

14 (1) IN GENERAL.—The Council may secure di-
15 rectly from a Federal agency such information as
16 the Council considers necessary to carry out this
17 Act.

18 (2) PROVISION OF INFORMATION.—On request
19 of the Chairperson of the Council, the head of the
20 agency shall provide the information to the Council.

21 (c) POSTAL SERVICES.—The Council may use the
22 United States mails in the same manner and under the
23 same conditions as other agencies of the Federal Govern-
24 ment.

1 (d) GIFTS.—The Council may accept, use, and dis-
2 pose of gifts or donations of services or property.

3 **SEC. 6. COUNCIL PERSONNEL MATTERS.**

4 (a) COMPENSATION OF MEMBERS.—

5 (1) NON-FEDERAL EMPLOYEES.—A member of
6 the Council who is not an officer or employee of the
7 Federal Government shall be compensated at a rate
8 equal to the daily equivalent of the annual rate of
9 basic pay prescribed for level IV of the Executive
10 Schedule under section 5315 of title 5, United
11 States Code, for each day (including travel time)
12 during which the member is engaged in the perform-
13 ance of the duties of the Council.

14 (2) FEDERAL EMPLOYEES.—A member of the
15 Council who is an officer or employee of the Federal
16 Government shall serve without compensation in ad-
17 dition to the compensation received for the services
18 of the member as an officer or employee of the Fed-
19 eral Government.

20 (b) TRAVEL EXPENSES.—A member of the Council
21 shall be allowed travel expenses, including per diem in lieu
22 of subsistence, at rates authorized for an employee of an
23 agency under subchapter I of chapter 57 of title 5, United
24 States Code, while away from the home or regular place

1 of business of the member in the performance of the duties
2 of the Council.

3 (c) DETAIL OF FEDERAL GOVERNMENT EMPLOY-
4 EES.—

5 (1) IN GENERAL.—An employee of the Federal
6 Government may be detailed to the Council without
7 reimbursement.

8 (2) CIVIL SERVICE STATUS.—The detail of the
9 employee shall be without interruption or loss of civil
10 service status or privilege.

11 **SEC. 7. AUTHORIZATION OF APPROPRIATIONS.**

12 There are authorized to be appropriated such sums
13 as are necessary to carry out this Act, to remain available
14 until expended.

15 **SEC. 8. TERMINATION OF COUNCIL.**

16 The Council shall terminate on December 31, 2026.

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