

SENATE CONCURRENT RESOLUTION NO. 41

BY SENATORS GARY SMITH, ALLAIN, CHABERT AND PRICE

A CONCURRENT RESOLUTION

To memorialize the Congress of the United States to allow variances on certain projects regulated by the Clean Water Act and the Rivers and Harbors Act.

WHEREAS, the federal Clean Water Act establishes a program to regulate the discharge of dredged or fill material into waters of the United States, including wetlands; and

WHEREAS, the federal Rivers and Harbors Act requires authorization from the U.S. Army Corps of Engineers for the construction of any structure in or over any navigable waters of the United States, the excavation and dredging or deposition of material, or any obstruction or alteration to a navigable water; and

WHEREAS, protection of the coast and mitigation of wetland loss is vital to the future of this state and the many projects designed to protect and preserve the state's coast invariably require dredging, obstructing, or altering of waters of the United States; and

WHEREAS, the Clean Water Act and the Rivers and Harbors Act mandate that local, municipal, and state projects aimed at mitigating coastal wetland losses require permits from the U.S. Army Corps of Engineers; and

WHEREAS, like federal law, Louisiana law requires compensatory mitigation at a level sufficient to replace the ecological value of the wetlands lost as a result of permitted projects, but allows for variances to this requirement when the permittee has demonstrated that the required mitigation would render the proposed project impracticable if the project has a clearly overriding public interest; and

WHEREAS, the Clean Water Act and the Rivers and Harbors Act do not allow for such variances when a project to mitigate coastal wetland loss is being considered, even when that project has a clearly overriding public interest; and

WHEREAS, in an effort to help the state protect its valuable coast and wetlands, federal law should allow for a variance for a project that has a clearly overriding public interest.

THEREFORE, BE IT RESOLVED that the Legislature of Louisiana memorializes the Congress of the United States to allow for variances on certain projects regulated by the Clean Water Act and the Rivers and Harbors Act.

BE IT FURTHER RESOLVED that a copy of this Resolution shall be transmitted to the secretary of the United States Senate and the clerk of the United States House of Representatives and to each member of the Louisiana delegation to the United States Congress.

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PRESIDENT OF THE SENATE

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SPEAKER OF THE HOUSE OF REPRESENTATIVES