

By: Senator(s) Thompson, Wiggins, England,
DeLano

To: Ports and Marine
Resources

SENATE BILL NO. 2564

1 AN ACT ENTITLED THE "MISSISSIPPI COMPREHENSIVE COASTAL
 2 CONSERVATION AND RESTORATION PLAN ACT OF 2023" TO DECLARE
 3 LEGISLATIVE FINDINGS AND PURPOSE; TO CREATE A TECHNICAL ADVISORY
 4 BOARD (TAB) TO DEVELOP AND ANNUALLY REVISE A COMPREHENSIVE PLAN
 5 FOR RESTORATION, CONSTRUCTION, STORM PROTECTION, HABITAT
 6 CONSTRUCTION AND RESTORATION, AND WATER QUALITY PROJECTS ON THE
 7 MISSISSIPPI GULF COAST; TO PROVIDE FOR THE COMPOSITION OF THE
 8 TECHNICAL ADVISORY BOARD AND ITS ORGANIZATION; TO PRESCRIBE THE
 9 DUTIES AND RESPONSIBILITIES OF THE TECHNICAL ADVISORY BOARD; TO
 10 REQUIRE STATE AND LOCAL AGENCIES TO COOPERATE WITH THE FUNCTIONS
 11 OF THE TECHNICAL ADVISORY BOARD; TO REQUIRE AN ANNUAL REPORT; TO
 12 AMEND SECTIONS 49-15-305, 49-2-13 AND 29-15-7, MISSISSIPPI CODE OF
 13 1972, IN CONFORMITY THERETO; AND FOR RELATED PURPOSES.

14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

15 **SECTION 1.** This act shall be known and may be cited as the
 16 "Mississippi Comprehensive Coastal Conservation and Restoration
 17 Plan Act of 2023."

18 **SECTION 2.** (1) The purpose of this act is to create a
 19 comprehensive Plan for restoration, conservation, storm
 20 protection, habitat creation, and water quality projects on the
 21 Mississippi Gulf Coast. The proposed Plan shall establish
 22 priorities, goals, and expected results for these projects. The
 23 Plan will facilitate multiyear, long-term planning effort and



24 provide coordination among state agencies and funding resources.
25 The Plan will provide guidance to project applicants, state
26 agencies and other stakeholders. It is the intent of the
27 Legislature that the Plan will be developed with input from the
28 Mississippi Department of Marine Resources (DMR), the Mississippi
29 Department of Environmental Quality (DEQ) and other public and
30 nonpublic entities as prescribed in this act. It is further the
31 intent of the Legislature that all future coastal conservation,
32 restoration, habitat, construction, water quality improvement and
33 other similar projects administered by DMR and DEQ shall meet the
34 goals and priorities of the Plan.

35 (2) The Legislature finds that there is:

36 (a) A need for a comprehensive, tactical, strategic
37 plan to address coastal conservation, restoration, water quality,
38 habitat loss, or other issues in the Mississippi Sound and
39 surrounding waterways;

40 (b) A need for formal collaboration between DMR, DEQ,
41 or other state agencies and offices involved in coastal
42 restoration and conservation projects; and

43 (c) A need for continuity and consistency in the design
44 and awarding of coastal conservation, restoration, habitat
45 construction, water quality improvement and other similar
46 projects.

47 **SECTION 3.** (1) There is hereby created a Technical Advisory
48 Board (TAB) to develop and annually revise a Comprehensive Coastal



49 Conservation and Restoration Plan for all future restoration,
50 conservation, storm protection, habitat construction and
51 restoration, and water quality projects on the Mississippi Gulf
52 Coast, and oversee implementation of the plan. Technical Advisory
53 Board members shall include: (a) a Chairman knowledgeable with
54 the subject matter of Mississippi coastal restoration appointed by
55 the Governor; (b) a representative of the Department of
56 Environmental Quality appointed by the Executive Director; (c) a
57 representative of the Department of Marine Resources appointed by
58 the Executive Director; (d) a representative appointed by the
59 Secretary of State; (e) a representative of The University of
60 Southern Mississippi appointed by the President of The University
61 of Southern Mississippi; (f) a representative of Mississippi State
62 University appointed by the President of Mississippi State
63 University; (g) a representative from nonprofit environmental
64 groups appointed by the Governor; a member of the House of
65 Representatives appointed by the Speaker of the House and a member
66 of the Mississippi Senate appointed by the Lieutenant Governor,
67 who shall serve as nonvoting members.

68 (2) The Technical Advisory Board shall be administered
69 within the Department of Marine Resources which shall provide
70 meeting space and clerical support. Appointments to the Technical
71 Advisory Board shall be made no later than sixty (60) days after
72 the effective date of this act by the appointing authority. The
73 Chairman of the Technical Advisory Board shall call the first



74 meeting of the Technical Advisory Board no later than September 1,
75 2023, and the Technical Advisory Board shall organize for business
76 and adopt rules for operation. Any member of the TAB who is not a
77 public employee shall receive the per diem authorized by law and
78 mileage for attending meetings and necessary business as
79 authorized by the TAB to be paid from available appropriations.

80 **SECTION 4.** (1) The Technical Advisory Board shall develop a
81 Mississippi Comprehensive Coastal Conservation and Restoration
82 Plan ("Plan") for all future coastal conservation and restoration
83 projects.

84 (2) The Plan shall establish planning goals, a planning
85 scope, identifying issues of concern, a process to develop the
86 planning framework, including analyzing existing data and
87 information, creating resiliency and water quality improvement
88 strategies and implementation of the Plan.

89 (3) The Plan shall incorporate short-term and long-term
90 project-monitoring requirements and criteria parallel to the Plan
91 goals and priorities to ensure projects are performing as
92 intended.

93 (4) The Plan shall establish priorities and goals to guide
94 project applicants and state agencies in project ranking,
95 selection and award. The Plan may also provide guidance on
96 specific projects that fit within the Plan.

97 (5) The Plan shall be revised every five (5) years.



98 (6) The intent of the Legislature is to develop an adaptable
99 plan that will accommodate changing coastal conditions and their
100 impacts on the coastal environment and the infrastructure
101 protected by the state's natural storm protection resources. The
102 Plan will also create continuity among the funding sources
103 available to state agencies for coastal restoration, conservation,
104 habitat construction, and water quality improvement projects.

105 **SECTION 5.** (1) The Technical Advisory Board shall prepare
106 an annual report on the current state of identified areas of
107 concern and status of monitoring efforts to evidence whether
108 priorities and goals of the Plan are being met.

109 (2) The administration expenses of the Technical Advisory
110 Board in carrying out its duties under this act shall not exceed
111 one percent (1%) of the amount of the funds administered by the
112 Technical Advisory Board under this act.

113 **SECTION 6.** Section 49-15-305, Mississippi Code of 1972, is
114 amended as follows:

115 49-15-305. (1) The Governor shall appoint the Executive
116 Director of the Department of Marine Resources, with the advice
117 and consent of the Senate, who shall serve at the will and
118 pleasure of the Governor. The executive director shall be
119 knowledgeable and experienced in marine resources management.

120 (2) The executive director of the department shall have the
121 following powers and duties:



122 (a) To supervise and direct all administrative,
123 inspection and technical activities and personnel of the
124 department;

125 (b) To employ qualified professional personnel in the
126 subject matter or fields, and any other technical and clerical
127 staff as may be required for the operation of the department;

128 (c) To coordinate all studies in the State of
129 Mississippi concerned with the supply, development, use and
130 conservation of marine resources;

131 (d) To prepare and deliver to the Legislature and the
132 Governor on or before January 1 of each year, and at any other
133 times as may be required by the Legislature or Governor, a full
134 report of the work of the department, including a detailed
135 statement of expenditures of the department and any
136 recommendations the department may have;

137 (e) To enter into cooperative agreements with any
138 federal or state agency or subdivision thereof, or any public or
139 private institution located inside or outside the State of
140 Mississippi, or any person, corporation or association in
141 connection with studies and investigations pertaining to marine
142 resources, provided the agreements do not have a financial cost in
143 excess of the amounts appropriated for the purposes by the
144 Legislature; * * *



145 (f) To carry out all regulations and rules adopted by
146 the department and enforce all licenses and permits issued by the
147 department * * *; and

148 (g) To carry out all responsibilities required of the
149 Department of Marine Resources under the Mississippi Comprehensive
150 Coastal Conservation and Restoration Plan Act of 2023.

151 **SECTION 7.** Section 49-2-13, Mississippi Code of 1972, is
152 amended as follows:

153 49-2-13. The executive director shall have the following
154 powers and duties:

155 (a) To administer the policies of the commission within
156 the authority granted by the commission;

157 (b) To supervise and direct all administrative and
158 technical activities of the department;

159 (c) To organize the administrative units of the
160 department in accordance with the plan adopted by the commission
161 and, with commission approval, alter such organizational plan and
162 reassign responsibilities as he may deem necessary to carry out
163 the policies of the commission;

164 (d) To coordinate the activities of the various offices
165 of the department;

166 (e) To employ, subject to the approval of the
167 commission, qualified professional personnel in the subject matter
168 or fields of each office, and such other technical and clerical
169 staff as may be required for the operation of the department;



170 (f) To recommend to the commission such studies and
171 investigations as he may deem appropriate, and to carry out the
172 approved recommendations in conjunction with the various offices;

173 (g) To merge and coordinate functions and duties where
174 possible to eliminate the possibility of two (2) separate
175 organizational entities performing the same or similar functions,
176 including, but not limited to, functions of audit, inspection,
177 collection, personnel, motor vehicles, accounting, data
178 processing, payroll and any other such administrative, procedural
179 or enforcement function;

180 (h) To coordinate all studies in the State of
181 Mississippi concerned with the supply, development, use and
182 conservation of natural resources within the jurisdiction of the
183 department;

184 (i) To prepare and deliver to the Legislature and the
185 Governor on or before January 1 of each year, and at such other
186 times as may be required by the Legislature or Governor, a full
187 report of the work of the department and the offices thereof,
188 including a detailed statement of expenditures of the department
189 and any recommendations the commission may have;

190 (j) To issue, modify or revoke any and all orders under
191 authority granted by the commission which include, but are not
192 limited to those which (i) prohibit, control or abate discharges
193 of contaminants and wastes into the air and waters of the state;

194 (ii) require the construction of new disposal systems or



195 air-cleaning devices or any parts thereof, or the modification,
196 extension or alteration of existing disposal systems or
197 air-cleaning devices or any parts thereof, or the adoption of
198 other remedial measures to prevent, control or abate air and water
199 pollution or to cause the proper management of solid wastes; (iii)
200 impose penalties pursuant to Section 17-17-29 and Section 49-17-43
201 which have been agreed upon with alleged violators; and (iv)
202 require compliance with the conditions of any permit issued by the
203 Permit Board created in Section 49-17-28 and all regulations of
204 the commission; * * *

205 (k) With the approval of the commission, to enter into
206 contracts, grants and cooperative agreements with any federal or
207 state agency or subdivision thereof, or any public or private
208 institution located inside or outside the State of Mississippi, or
209 any person, corporation or association in connection with carrying
210 out the provisions of this chapter, provided the agreements do not
211 have a financial cost in excess of the amounts appropriated for
212 such purposes by the Legislature * * *; and

213 (l) To carry out all responsibilities required of the
214 Mississippi Department of Environmental Quality under the
215 Mississippi Comprehensive Coastal Conservation and Restoration
216 Plan Act of 2023.

217 **SECTION 8.** Section 29-15-7, Mississippi Code of 1972, is
218 amended as follows:



219 29-15-7. (1) The Secretary of State, in cooperation with
220 other state agencies, shall prepare a Preliminary Map of Public
221 Trust Tidelands. The preliminary map shall depict the boundary as
222 the current mean high water line where shoreline is undeveloped
223 and in developed areas or where there have been encroachments,
224 such maps shall depict the boundary as the determinable mean high
225 water line nearest the effective date of the Coastal Wetlands
226 Protection Act.

227 (2) The state recognizes that the boundary of the public
228 trust tidelands is ambulatory and that the natural inland
229 expansion of tide waters over land not previously subject to the
230 ebb and flow of the tide increases the land subject to the public
231 trust, while natural accretion, the gradual and imperceptible
232 accumulation of land by natural causes, and natural reliction, the
233 increase of land by permanent withdrawal or retrocession of tidal
234 waters by natural causes, diminish the land subject to the public
235 trust and increase the property owned by the contiguous upland
236 owner. Likewise, the state recognizes the common law doctrine as
237 it pertains to such tidelands, submerged lands and riparian and
238 littoral rights and declares such to be the law of this state.

239 (3) The preliminary map shall be transmitted to each of the
240 chancery clerks of the coastal counties, and each chancery clerk
241 shall post such map in a public place in his office. The
242 Secretary of State shall also cause to be published in a newspaper
243 of general circulation within each coastal county a notice



244 announcing that a copy of the Preliminary Map of Public Trust
245 Tidelands is available for public inspection at the office of the
246 chancery clerk of that county, and shall post a similar notice in
247 at least three (3) public places in each coastal county in this
248 state. The preliminary map shall also be open to public
249 inspection at the Office of the Secretary of State.

250 (4) The Secretary of State shall allow sixty (60) days after
251 publication of the preliminary map for submission of comments
252 and/or additional documentation and may, at his discretion, revise
253 the map accordingly. Within twenty (20) days of the completion of
254 the period for submission of comments, the Secretary of State
255 shall have incorporated any revisions to the Preliminary Map of
256 Public Trust Tidelands and certify its final adoption. The
257 certified map as finally adopted shall be published as provided
258 hereinabove. The final certified map shall be duly recorded in
259 the land records of the chancery clerks office in Hancock,
260 Harrison and Jackson Counties. Upon recordation, the certified
261 map shall be final to those properties not subject to the trust.
262 The Secretary of State shall issue to all consenting property
263 owners a certificate stating that the described property does not
264 lie within the boundary of the public trust tidelands and is not
265 subject to the trust. The Secretary of State shall duly file such
266 certificates with the proper chancery clerks office for
267 recordation. In addition, the certified map shall be placed in
268 the Secretary of State's permanent register which shall be open to



269 public inspection. Within one hundred twenty (120) days of final
270 adoption of the certified map, the Secretary of State shall
271 determine those property owners whose lands are subject of the
272 public trust and are in violation of such trust. The Secretary of
273 State shall notify all such owners by certified mail and shall
274 include an explanation of the procedure available to the occupant
275 to resolve any dispute with respect to this map. The notice shall
276 also inform occupants that after three (3) years the boundary as
277 set forth in the certified map shall become final unless the
278 occupant has submitted a contrary claim to the office of the
279 Secretary of State. Such property owner shall have six (6) months
280 to negotiate and settle differences with the Secretary of State.
281 The Secretary of State may allow extensions at his discretion. A
282 boundary determination shall be final upon agreement of the
283 Secretary of State and the owner and an instrument setting forth
284 the boundary agreement shall be duly executed and recorded in the
285 chancery court where the property is located. Any such boundary
286 agreement shall be binding on the state and other parties thereto.

287 (5) If any dispute as to the location of the boundary of the
288 public trust cannot be negotiated and settled between the affected
289 property owners and the Secretary of State within six (6) months
290 after notice by the state of its claim, either the state or a
291 person claiming an interest in the property may apply to the
292 chancery court of the county in which the property is located for
293 a resolution of the dispute and a determination of the location of



294 the boundary. All persons having an interest in the property
295 subject to the dispute shall be made a party to such proceeding.
296 In any such action, the state shall have the burden of proof by a
297 preponderance of evidence that any such land is subject to the
298 trust.

299 (6) Nothing in this section is intended to preclude any
300 party from pursuing remedies otherwise available at law, including
301 but not limited to those provided in Sections 11-17-1 et seq.,
302 except that if no action is taken by the occupant within three (3)
303 years of receipt of notice as described above, the boundary as
304 determined by the certified map shall become final.

305 (7) In addition to the duties charged to the Secretary of
306 State under this section, he shall carry out all responsibilities
307 required of the Office of the Secretary of State under the
308 Mississippi Comprehensive Coastal Conservation and Restoration
309 Plan Act of 2023.

310 **SECTION 9.** This act shall take effect and be in force from
311 and after July 1, 2023.

