

Executive Orders

EXECUTIVE ORDER MJF 03-13

Prohibited Expenditure of State Monies
Fiscal Year 2003-2004

WHEREAS, Article IV, Section 5(A) of the Louisiana Constitution declares that the governor shall faithfully support the constitution and laws of the state and the United States and shall see that the laws are faithfully executed;

WHEREAS, Article III, Section 16(A) of the Louisiana Constitution declares that no money shall be withdrawn from the state treasury except through specific appropriations, except as otherwise provided by the constitution;

WHEREAS, Article VII, Section 10(D)(1) of the Louisiana Constitution declares that money shall be drawn from the state treasury only pursuant to an appropriation made in accordance with law, except as otherwise provided by the constitution;

WHEREAS, Article XII, Section 10(C) of the Louisiana Constitution declares that no judgment against the state, a state agency, or a political subdivision shall be exigible, payable, or paid except from funds appropriated therefor by the Louisiana Legislature or by the political subdivision against which the judgment is rendered;

WHEREAS, thirty-five coroners filed suit against the state of Louisiana in *Warren W. Hoag, Jr., et al. v. State of Louisiana, through its Treasurer, John Neely Kennedy*, 19th Judicial District Court, Parish of East Baton Rouge, No. 471,708, for past due and future extra compensation pursuant to R.S. 33:1559¹ which provides that extra compensation for coroners in the amount of \$548.00 shall be payable monthly by the state treasurer on the warrant of the coroners *from funds appropriated* by the Louisiana Legislature for this purpose, and in *Hoag v. State*, 2001-1076 (La. App.1 Cir. 11/20/02), 836 So. 2d 207, *writ den.*, 2002-3199 (La. 3/28/03), 840 So. 2d 570, the First Circuit Court of Appeal held that the legislature's failure to appropriate funds for payment of the extra compensation to coroners violated Article V, Section 31 of the Louisiana Constitution which provides that the salary of a coroner shall not be diminished during his term of office; despite this holding, no reduction or diminution of salary actually occurred during the 1996-2000 or the 2000-2004 terms of office of coroner because no extra compensation was ever appropriated for or paid to the coroners during those terms of office;

WHEREAS, House Bill No. 1632 of the 2003 Regular Session of the Louisiana Legislature would have provided for the appropriation of the amount of the judgment in *Warren W. Hoag, Jr., et al. v. State of Louisiana, through its Treasurer, John Neely Kennedy*, 19th Judicial District Court, Parish of East Baton Rouge, No. 471,708, plus legal interest until paid, but the Louisiana Legislature did not enact the bill into law;

WHEREAS, the judgment against the state in *Warren W. Hoag, Jr., et al. v. State of Louisiana, through its*

Treasurer, John Neely Kennedy, 19th Judicial District Court, Parish of East Baton Rouge, No. 471,708, is final and a writ of mandamus² has been filed praying for the state treasurer to be directed to pay all past due extra compensation for the 1996-2000 and the 2000-2004 terms of office of coroner and, in the alternative, for the Louisiana Legislature, through the Joint Legislative Committee on the Budget, the House Appropriations Committee, and the Senate Finance Committee, to be directed to appropriate funds to pay all past due and future compensation for the 1996-2000 and the 2000-2004 terms of office of coroner;

WHEREAS, R.S. 39:77 prohibits the expenditure of any monies in excess of the funds appropriated or otherwise allocated for expenditure by any board, commission, department, or agency of the state during any fiscal year unless approval for the expenditure has been obtained from the interim emergency board and/or the Louisiana Legislature by a two-thirds vote of the members thereof taken by mail ballot; and

WHEREAS, in the absence of an appropriation by the Louisiana Legislature, the withdrawal, expenditure, payment or disbursement of monies from the state treasury to pay the warrants of the coroners, the extra compensation of the coroners, or the judgment against the state in *Warren W. Hoag, Jr., et al. v. State of Louisiana, through its Treasurer, John Neely Kennedy*, 19th Judicial District Court, Parish of East Baton Rouge, No. 471,708, would have the effect of creating and/or exacerbating a deficit in the state general fund and be in violation of constitutional and statutory requirements placed upon the withdrawal, disbursement, payment or expenditure of monies from the state treasury;

NOW THEREFORE, I, M.J. "MIKE" FOSTER, JR., Governor of the state of Louisiana, by virtue of the authority vested by the Constitution and laws of the state of Louisiana, do hereby order and direct as follows:

SECTION 1: I hereby declare and certify that, based on the official forecast for the state general fund established by the Revenue Estimating Conference compared to total authorized appropriations from the state general fund, without a specific appropriation from the Louisiana Legislature, the withdrawal, disbursement, payment, or expenditure of any monies from the state treasury on the warrant of the coroners, to pay extra compensation to a coroner or coroners, or to satisfy, in whole or in part, the judgment or a writ of mandamus against the state in *Warren W. Hoag, Jr., et al. v. State of Louisiana, through its Treasurer, John Neely Kennedy*, 19th Judicial District Court, Parish of East Baton Rouge, No. 471,708, would have the effect of creating and/or exacerbating a deficit in the state general fund for fiscal year 2003-2004, and be in violation of the requirements placed upon the expenditure of monies by the Louisiana Legislature and the people of Louisiana.

SECTION 2: As chief executive officer of the state of Louisiana, with the constitutional duty and authority to protect and preserve the public fisc and to see that the

constitution and laws of this state pertaining to the expenditure of state monies are faithfully executed, I hereby order that the state treasurer shall not withdraw, disburse, pay or expend any monies from the state treasury on the warrant of the coroners, to pay any extra compensation to a coroner or coroners, or to satisfy, in whole or in part, the judgment or a writ of mandamus against the state in *Warren W. Hoag, Jr., et al. v. State of Louisiana, through its Treasurer, John Neely Kennedy*, 19th Judicial District Court, Parish of East Baton Rouge, No. 471,708, without a specific appropriation from the Louisiana Legislature that has become law.

SECTION 3:

A. The provisions of this Order are supplemental and in addition to those set forth in Executive Order No. MJF 2003-10, issued May 23, 2003.

B. This Order is effective upon signature.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the city of Baton Rouge, on this 15th day of August, 2003.

¹ Act No. 1001 of the 2003 Regular Session of the Louisiana Legislature, effective July 2, 2003, repealed R.S. 33:1559 for all terms of office of coroner that commence after the effective date of the Act, and for all coroners appointed after the Act became effective for the remainder of the 2000-2004 term of office.

² The plaintiffs in *Warren v. Hoag, Jr., et al. v. State of Louisiana, through its Treasurer, John Neely Kennedy*, 19th Judicial District Court, Parish of East Baton Rouge, No. 471,708, claim in their petition for writ of mandamus filed on July 28, 2003, that as of July 1, 2003, the sum of \$1,211,080.00, is owed, together with legal interest thereon from date of judicial demand until paid, attorney fees, and all costs of the proceedings.

M.J. "Mike" Foster, Jr.
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
0309#001

EXECUTIVE ORDER MJF 03-14

Toledo Bend Reservoir Conservation
Pool Level Advisory Council

WHEREAS, pursuant to R.S. 38:2321, et seq., all the territory in the parishes of DeSoto, Sabine, Vernon, Beauregard, Calcasieu, and Cameron, lying within the watershed of the Sabine River and its tributary streams constitute the Sabine River Authority, state of Louisiana, a conservation and reclamation district under the governing authority of a board of commissioners, given powers and duties that include providing for the preservation of the equitable rights of the people of the different sections of the watershed area of the Sabine River and its tributary streams in the beneficial use of the waters of the watershed area, including the Toledo Bend Reservoir; facilitating economic development and promoting recreation within the watershed area; and utilizing, selling and/or leasing the waters or the use of the water of the Sabine River for the generation of hydroelectric power;

WHEREAS, Act. No. 295 of the 2003 Regular Session of the Louisiana Legislature effective primarily on May 1, 2004, amends R.S. 38:2325 to generally restrict the use of the Toledo Bend Reservoir for hydroelectric power generation or production when the mean sea level of the reservoir is below one hundred sixty-eight (168) feet (hereafter a conservation pool level@);

WHEREAS, the use and levels of the waters of the Sabine River and its tributaries, and restrictions and/or prohibitions concerning their use and levels, impact the utility industry and the people, businesses and municipalities in the watershed area; and

WHEREAS, the interests of the citizens of the state of Louisiana will best be served by the creation of an advisory council charged with the duty of studying issues and concerns pertaining to the establishment and/or enforcement of a conservation pool level in the Toledo Bend Reservoir, and advising the governor, the Board of Commissioners for the Sabine River Authority, and the Louisiana Legislature regarding the same;

NOW THEREFORE, I, M.J. "MIKE" FOSTER, JR., Governor of the state of Louisiana, by virtue of the authority vested by the Constitution and laws of the state of Louisiana, do hereby order and direct as follows:

SECTION 1: The Toledo Bend Reservoir Conservation Pool Advisory Council (hereafter a Council@) is established within the executive department, Office of the Governor.

SECTION 2:

A. The duties of the Council shall include, but are not limited to, the following:

1. Identifying the user groups and/or businesses and entities (hereafter a user groups@) that potentially would be impacted by the establishment of a conservation pool level in the Toledo Bend Reservoir and/or the prohibition of hydroelectric power generation by the Sabine River Authority when the mean sea level of Toledo Bend Reservoir is below one hundred sixty-eight (168) feet, and describe the nature and the degree of the impact on each user group;

2. Studying all issues, including the concerns of the various user groups, pertaining to the establishment of a conservation pool level in the Toledo Bend Reservoir and/or the prohibition of hydroelectric power generation by the Sabine River Authority when the mean sea level of Toledo Bend Reservoir is below one hundred sixty-eight (168) feet; and

3. Recommending an action plan that balances and/or recognizes the concerns, needs, and rights of the various user groups.

B. In the performance of its duties under subsection 2(A) of this Order, the Council may hold public hearings and/or receive public comment by other means.

SECTION 3:

A. On or before March 1, 2004, the Council shall submit a preliminary report on the matters set forth in subsection 2(A) of this Order to the governor, the Board of Commissioners of the Sabine River Authority, the chair of the House Committee on Commerce, and the chair of the Senate Committee on Commerce.

B. On or before May 1, 2004, the Council shall submit a final report on the matters set forth in subsection 2(A) of this Order to the governor, the Board of Commissioners of the Sabine River Authority, the chair of the House Committee on Commerce, and the chair of the Senate Committee on Commerce.

SECTION 4: The Council shall be composed of a maximum of seventeen (17) members who, unless otherwise specified, shall be appointed by and serve at the pleasure of the governor. The membership of the Council shall be selected as follows:

- A. the governor, or the governor's designee;
- B. the chair of the Board of Commissioners for the Sabine River Authority, or the chair's designee;
- C. the chair of the House Committee on Commerce, or the chair's designee;
- D. the chair of the Senate Committee on Commerce, or the chair's designee;
- E. one (1) representative of the Louisiana Public Service Commission;
- F. two (2) representatives of the Toledo Bend Citizens Advisory Committee;
- G. two (2) representatives of the CLECO Power, L.L.C.;
- H. two (2) representatives of the Entergy Corporation;
- I. two (2) representatives of the South Toledo Bend Civic Association;
- J. two (2) representatives of the Toledo Bend Lake Association; and
- K. two (2) members at-large.

SECTION 5: The chair of the Council shall be appointed by the governor from the membership of the Council. All other officers, if any, shall be elected by the membership of the Council.

SECTION 6: The Council shall meet at regularly scheduled intervals and at the call of the chair.

SECTION 7:

A. Council members shall not receive additional compensation or a per diem from the Office of the Governor for serving on the Council.

B. Any Council member who is also an employee or an elected public official of the state of Louisiana or a political subdivision of the state of Louisiana may seek reimbursement of travel expenses, in accordance with PPM 49, from their employing and/or elected department, agency and/or office.

C. Any Council member who is also a member of the Louisiana Legislature, the Louisiana Public Service Commission, or the Board of Commissioners of the Sabine River Authority may seek a per diem from the Louisiana Senate, House of Representatives, Louisiana Public Service Commission, or the Board of Commissioners of the Sabine River Authority, as appropriate, for their attendance at Council meetings and/or services on the Council.

SECTION 8: Support staff, facilities, and resources for the Council shall be provided by the Sabine River Authority.

SECTION 9: All departments, commissions, boards, offices, agencies, and officers of the state of Louisiana, or

any political subdivision thereof, are authorized and directed to cooperate with the Council in implementing the provisions of this Order.

SECTION 10: This Order is effective upon signature and shall continue in effect until amended, modified, terminated, or rescinded by the governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the city of Baton Rouge, on this 21st day of August, 2003.

M.J. "Mike" Foster, Jr.
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
0309#021

EXECUTIVE ORDER MJF 03-15

Louisiana Aquaculture Advisory Council

WHEREAS, aquaculture, which is the production, raising, harvesting and marketing of aquatic livestock and/or finfish species within or from a constructed facility, is a vital component of the economy of the state of Louisiana;

WHEREAS, through the enrollment of House Bill No. 2013 of the 2003 Regular Session of the Louisiana Legislature (hereafter "House Bill No. 2013"), the Louisiana Legislature recognized the importance of aquaculture to the state's economy, declared the need to establish an aquaculture council for the purpose of developing a program to oversee, coordinate, and regulate aquaculture in the state of Louisiana and to promote Louisiana aquacultural products, and created an aquaculture council within the Department of Agriculture and Forestry;

WHEREAS, House Bill No. 2013 was vetoed on July 11, 2003, for the reasons that Article IX, Section 7 of the Louisiana Constitution of 1974 expressly vests "the control and supervision of the wildlife of the state, including all aquatic life, ... in the Louisiana Wildlife and Fisheries Commission", and the enforcement capabilities of the Department of Wildlife and Fisheries are needed to reduce potential risks of harm to the state of Louisiana's indigenous aquatic species and native ecosystems from escaping foreign aquatic species, or their intentional or unintentional introduction into native ecosystems; and

WHEREAS, the best interests of the citizens of the state of Louisiana will be served by creating an aquaculture advisory council within the Office of the Governor that is consistent with the Louisiana Legislature's purpose for enrolling House Bill No. 2013 and with the mandates of Article IX, Section 7 of the Louisiana Constitution of 1974, and charging it with the duty to recommend an aquaculture industry regulatory program that ensures the Louisiana Wildlife and Fisheries Commission's role in protecting and preserving the state of Louisiana's native species and ecosystems;

NOW THEREFORE, I, M.J. "MIKE" FOSTER, JR., Governor of the state of Louisiana, by virtue of the authority vested by the Constitution and laws of the state of Louisiana, do hereby order and direct as follows:

SECTION 1: The Louisiana Aquaculture Advisory Council (hereafter "Council") is established within the executive department, Office of the Governor.

SECTION 2:

A. The duties of the Council shall be to:

1. Recommend a regulatory framework for the orderly development of a modern, sustainable aquaculture industry and the promotion of aquaculture and aquacultural products that is consistent with the mandates of Article IX, Section 7 of the Louisiana Constitution of 1974, and environmentally safe and economically feasible;

2. Based on scientific risk assessment, recommend which species of aquatic livestock and/or finfish species are suitable for aquacultural production in the state of Louisiana under controlled conditions and, for each recommended species, describe any specie-specific safeguards that may be necessary to reduce potential risks of harm to the state of Louisiana's indigenous aquatic species and/or native ecosystems;

3. Recommend appropriate criteria for requiring, granting and/or denying Louisiana aquaculture licenses and/or permits consistent with the authority granted to the Louisiana Wildlife and Fisheries Commission in Article IX, Section 7 of the Louisiana Constitution of 1974;

4. Recommend an appropriate fee structure for all proposed Louisiana aquaculture licenses and/or permits;

5. Consistent with the mandates of Article IX, Section 7 of the Louisiana Constitution of 1974, recommend rules and regulations for the enforcement of a Louisiana aquaculture industry regulatory scheme and appropriate penalties for the violation thereof without expanding the authority of any department or agency inconsistent with Article IX, Section 7 of the Louisiana Constitution of 1974;

6. Draft a guidebook which sets forth all regulations, recommendations, and necessary or helpful information associated with the raising, producing, harvesting, marketing, transporting, and/or selling of the various types of aquatic livestock and/or finfish species the Council recommends for Louisiana aquaculture production under controlled conditions;

7. Identify all impediments to the development of an aquaculture industry in the state of Louisiana, including market development, financial incentives, potential predators and research needs, and propose the means to overcome such impediments; and

8. Perform any other advisory function related to aquaculture requested by the governor.

B. In the performance of its duties under subsection 2(A) of this Order, the Council may hold public hearings and/or receive public comment by other means.

SECTION 3:

A. On or before December 31, 2003, the Council shall submit a preliminary report on the issues set forth in Section 2 of this Order to the governor, the commissioner of agriculture, the secretary of the Department of Wildlife and Fisheries, the chair of the Louisiana Wildlife and Fisheries Commission, and the secretary of the Department of Economic Development.

B. On or before August 20, 2004, the Council shall submit a final report on the issues set forth in Section 2 of this Order to the governor, the commissioner of agriculture, the secretary of the Department of Wildlife and Fisheries, the chair of the Louisiana Wildlife and Fisheries Commission, and the secretary of the Department of Economic Development.

SECTION 4: The Council shall be composed of no more than twenty-two (22) members who, unless otherwise specified, shall be appointed by and serve at the pleasure of the governor. The membership of the Council shall be selected as follows:

A. the governor, or the governor's designee;

B. the commissioner of agriculture, or the commissioner's designee;

C. the secretary of the Department of Wildlife and Fisheries, or the secretary's designee;

D. the chair of the Louisiana Wildlife and Fisheries Commission, or the chair's designee;

E. the executive assistant to the governor for coastal activities, or the executive assistant's designee;

F. the secretary of the Department of Economic Development, or the secretary's designee;

G. the chair of the Senate Committee on Agriculture, or the chair's designee;

H. the chair of the House Committee on Agriculture, or the chair's designee;

I. the chair of Senate Committee on Natural Resources, or the chair's designee;

J. the chair of the House Committee on Natural Resources, or the chair's designee;

K. two (2) faculty members of the Louisiana State University, College of Agriculture;

L. an aquatic biologist of the University of Louisiana System;

M. a representative of the Louisiana Farm Bureau Association with expertise in aquatic production;

N. a representative of the Louisiana Vocational Agriscience Teachers' Association with expertise in aquatic production and vocational agriscience;

O. a representative of the Louisiana Catfish Farmers Association with expertise in aquatic production;

P. a representative of the Coastal Conservation Association;

Q. a representative of the Louisiana Crawfish Producers Association that is an active crawfish producer;

R. a representative of the Louisiana Bass Federation;

S. an active aquatic producer nominated by the commissioner of agriculture;

T. an active game fish producer nominated by the secretary of the Department of Wildlife and Fisheries; and

U. an enforcement agent of the Department of Wildlife and Fisheries.

SECTION 5: The chair of the Council shall be appointed by the governor from the membership of the Council. All other officers, if any, shall be elected by and from the membership of the Council.

SECTION 6: The Council shall meet at regularly scheduled intervals and at the call of the chair.

SECTION 7:

A. Council members shall not receive additional compensation or a per diem from the Office of the Governor for serving on the Council.

B. Any Council member who is also an employee or an elected public official of the state of Louisiana or a political subdivision of the state of Louisiana may seek reimbursement of travel expenses, in accordance with PPM 49, from their employing and/or elected department, agency and/or office.

C. Any Council member who is also a member of the Louisiana Legislature may seek a per diem from the Louisiana Senate or House of Representatives, as appropriate, for their attendance at Council meetings and/or services on the Council.

SECTION 8: Support staff, facilities, and resources for the Council shall be arranged and/or provided by the Office of the Governor.

SECTION 9: All departments, commissions, boards, agencies, and officers of the state, or any political subdivision thereof, are authorized and directed to cooperate with the Council in implementing the provisions of this Order.

SECTION 10:

A. This Order shall not be construed to expand and/or recommend the expansion of the authority of any department or agency inconsistent with Article IX, Section 7 of the Louisiana Constitution of 1974.

B. This Order is effective upon signature and shall remain in effect until amended, modified, terminated, or rescinded by the governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the city of Baton Rouge, on this 21st day of August, 2003.

M.J. "Mike" Foster, Jr.
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
0309#013

EXECUTIVE ORDER MJF 03-16

Bond Allocation C Shreveport Home Mortgage Authority

WHEREAS, pursuant to the Tax Reform Act of 1986 and Act 51 of the 1986 Regular Session of the Louisiana Legislature, Executive Order No. MJF 96-25, as amended by Executive Order No. MJF 2000-15, was issued to establish:

(1) a method for allocating bonds subject to private activity bond volume limits, including the method of allocating bonds subject to the private activity bond volume limits for the calendar year of 2003 (hereafter "the 2003 Ceiling");

(2) the procedure for obtaining an allocation of bonds under the 2003 Ceiling; and

(3) a system of central record keeping for such allocations; and

WHEREAS, the Shreveport Home Mortgage Authority has requested an allocation from the 2003 Ceiling to provide mortgage financing for persons with low and moderate income for single family, owner-occupied residences throughout the parishes of Caddo and Bossier, state of Louisiana, in accordance with the provisions of Section 146 of the Internal Revenue Code of 1986, as amended;

NOW THEREFORE I, M.J. "MIKE" FOSTER, JR., Governor of the state of Louisiana, by virtue of the authority vested by the Constitution and laws of the state of Louisiana, do hereby order and direct as follows:

SECTION 1: The bond issue, as described in this Section, shall be and is hereby granted an allocation from the 2003 Ceiling as follows:

Amount of Allocation	Name of Issuer	Name of Project
\$7,500,000	Shreveport Home Mortgage Authority	Single Family Mortgage Revenue Bonds

SECTION 2: The granted allocation shall be used only for the bond issue described in Section 1 and for the general purpose set forth in the Application for Allocation of a Portion of the State of Louisiana Private Activity Bond Ceiling submitted in connection with the bond issue described in Section 1.

SECTION 3: The granted allocation shall be valid and in full force and effect through the end of 2003, provided that such bonds are delivered to the initial purchasers thereof on or before November 22, 2003.

SECTION 4: All references in this Order to the singular shall include the plural, and all plural references shall include the singular.

SECTION 5: The undersigned certifies, under penalty of perjury, that the granted allocation was not made in consideration of any bribe, gift, or gratuity, or any direct or indirect contribution to any political campaign. The undersigned also certifies that the granted allocation meets the requirements of Section 146 of the Internal Revenue Code of 1986, as amended.

SECTION 6: This Order is effective upon signature and shall remain in effect until amended, modified, terminated, or rescinded by the governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the state of Louisiana, at the Capitol, in the city of Baton Rouge, on this 25th day of August, 2003.

M.J. "Mike" Foster, Jr.
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
0309#014