
The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Sherri H. Breaux.

DIGEST

Boasso (SB 95)

Present law establishes, names, and provides for the territorial boundaries of the East Jefferson Levee District and Lake Borgne Basin Levee District. Further provides for each district to be managed and controlled by a board of commissioners to perform any and all acts necessary to ensure the thorough and adequate protection of the lands of the district from damage by flood, and for the adequate drainage control of the district.

Proposed law establishes, beginning Jan. 1, 2006, the Southeast Louisiana Levee Authority, referred to as "southeast levee authority," and through its board of commissioners to exercise all authority over and have management, oversight and control of the East Jefferson Levee District, Lake Borgne Basin Levee District, and St. Tammany Levee District (as created in proposed law).

Proposed law retains such levee districts and the boundaries of each; however, abolishes the levee boards established in present law for East Jefferson and Lake Borgne levee districts and terminates the terms of each commissioner on Dec. 31, 2005.

Board of commissioners

Present law provides for the appointment of levee boards of commissioners by the governor and provides for the filling of vacancies. Provides for every vacancy, whether by reason of death, resignation, expiration of term, or any other cause occurring in any levee district or levee and drainage district to be filled by the governor from panels of names submitted by each member of the House of Representatives and Senate representing a parish or part of a parish lying within a levee district or levee and drainage district. Provides for such legislative members to submit one name for each vacancy to be filled from the parish, which he represents in the legislature within said levee district or levee and drainage district. Provides for all members of the boards of commissioners of levee districts or levee and drainage districts to be appointed by the governor to serve at the pleasure of the governor making the appointment.

Proposed law retains present law relative to gubernatorial appointments for boards of commissioners of levee districts or levee and drainage districts, but excepts the appointments made to the southeast levee authority. Provides, beginning Jan. 1, 2006, and thereafter, the levee districts shall be governed by the board of commissioners of the southeast levee authority.

Proposed law establishes a board of commissioners and requires Senate confirmation of its members. Provides for the board to be composed of the following members:

- (1) Two members representing the eastbank of Jefferson Parish; one person to be appointed by the parish governing authority, and one person to be appointed by the legislative delegation representing Jefferson Parish.

- (2) Two members representing St. Bernard Parish; one person to be appointed by the parish governing authority, and one person to be appointed by the legislative delegation representing St. Bernard Parish.
- (3) Two members representing St. Tammany Parish; one person to be appointed by the parish governing authority, and one person to be appointed by the legislative delegation representing St. Tammany Parish.
- (4) One person shall be appointed to serve as an at-large member by the DOTD secretary, who must have a minimum of twenty years of experience in engineering or hydrology or in the performance of public works functions, related to flood and drainage control, flood plain management, water resources, soil conservation, land surveying and mapping, disaster relief, and related functions.
- (5) Two persons to be appointed by the governing authority of Plaquemines Parish to serve as ex-officio and non-voting members.

Initial appointments

Provides for the initial board to be composed of each president of the East Jefferson Levee Board and the Lake Borgne Basin Levee Board holding such office on Dec. 31, 2005; a member appointed by the governing authority of St. Tammany Parish; three members, one of which shall be appointed by each of the legislative delegations representing the parishes of Jefferson, St. Bernard and St. Tammany; two members appointed by the governing authority of Plaquemines Parish to serve as ex-officio and non-voting members; and one member to be appointed by the DOTD secretary.

Terms

Provides for members initially appointed to, at their first meeting, determine by lot their terms of office to initiate the staggered terms, and to commence immediately upon their appointment and expire, respectively, as follows: two members in 12 months, two members in 16 months, two members in 20 months, two members in 24 months, and one member in 30 months, from the first day of January in 2006. Provides for all commissioners thereafter appointed, except a commissioner appointed to fill an unexpired term, to be appointed for staggered terms of 4 years. Prohibits any member from serving more than two consecutive terms.

Qualifications of commissioners

Provides for such qualifications as follows:

- (1) Have resided in this state the preceding ten years, at a minimum.
- (2) Have resided in the territory of the respective levee district of the governing authority or legislative delegation appointing him for at least the preceding 10 years and then continue to reside and be a qualified voter there during his term on the board.
- (3) Have a minimum of a bachelor's degree from a college or university.

Officers

Provides that after the members of the board of commissioners are appointed, they must meet and organize by electing a president, vice-president and secretary. Provides that, in case of absence, inability, or failure to act by the president, the vice-president will perform all the duties of the president.

Meetings

Requires a majority of the commissioners of the board to constitute a quorum to do business. Requires that they designate the time and place for holding their regular sessions to be convened each month on a rotating basis at a place to be determined by the board in a district under the jurisdiction of the southeast levee authority. Authorizes special meetings to be convened at any time upon the call of the president. Also, in case of neglect of duty by any board member or of his failure, without good cause, to attend three successive regular meetings, on request of the board, requires the appointing authority to remove the commissioner and appoint his successor.

Proposed law provides for any vacancy to be filled in the same manner as the original appointment.

Proposed law provides for the official domicile of the southeast levee authority to be in St. Bernard Parish. Requires the authority to maintain an office at its domicile for the transaction of its business, and authorizes employment of an executive director and such other employees as it deems necessary for its proper functioning. Authorizes any branch office to be located in any levee district under the authority.

Proposed law prohibits any commissioner from owning or having any interest or part in any business, company, or entity conducting business of any kind with the authority or any of the facilities controlled by the authority.

Powers and duties

Provides for the management and control of the East Jefferson Levee District, and Lake Borgne Basin Levee District, and St. Tammany Levee District to be vested in the board of commissioners of the southeast levee authority. Provides that in addition to any other powers and duties provided by present law for such levee boards, authorizes the board to establish for the levee districts under its authority adequate drainage, flood control, and water resources development, including but not limited to the planning, maintenance, operation, and construction of reservoirs, diversion canals, gravity and pump drainage systems, erosion control measures, marsh management, coastal restoration, and other flood control works as they relate to tidewater flooding, hurricane protection, and saltwater intrusion. Authorizes the board to enter into contracts and agreements on behalf of the levee districts under its authority for such purposes. Further authorizes the board to enter into contracts or other agreements on behalf of the levee districts under its authority with any person or entity concerning the providing of lands, servitudes, rights-of-way, and relocations, and may engage the levee districts under its authority jointly with any person or entity in the exercise of any power to include the construction, operation, and maintenance of any facilities and improvements for the purpose of such projects.

Provides that the board has the authority to require the levee districts under its authority to construct and maintain drainage works of all types as they relate to tidewater flooding, hurricane protection, and saltwater intrusion, either in cooperation with one or more parishes, municipalities, drainage districts, or other special districts within its territorial jurisdiction, or upon its own undertaking.

Authorizes the southeast levee authority to buy and sell property of a levee district under its control, make and execute all contracts on behalf of such levee districts by affirmation of both commissioners representing a district in which such transaction may occur.

Requires, subject to any local ordinance for the construction, erection, and maintenance of back and side levees to protect any portion of the levee district under the jurisdiction of the southeast levee authority from tidal overflow, and the board to work in conjunction with the parish governing authority to manage the construction and maintenance of the levees, pursuant to present law (R.S. 38:143).

Legal Proceedings; obligations

Provides that any legal proceeding to which the East Jefferson Levee District or Lake Borgne Basin Levee District is a party and which is filed, initiated, or pending before any court on Jan. 1, 2006, and all documents involved in or affected by said legal proceeding, shall retain their effectiveness and shall be continued in the name of the southeast levee authority pursuant to the powers of the authority over the district as set forth by law; provided, however, that other than the district or districts originally named as party to the proceedings, the authority shall have no liability for actions pending or claims arising prior to Jan. 1, 2006. Provides for no provision of proposed law providing the southeast levee authority with any authority over and management, oversight, and control of the levee districts to be construed or interpreted to make the taxes or other revenue of a levee district payable for the liability of another levee district or for any liability of the authority when acting on behalf of another levee board. Provides that all obligations and unfinished business of the East Jefferson Levee District or Lake Borgne Basin Levee District shall be managed on behalf of the districts by the authority.

Tax Proceeds

Provides that the proceeds of all taxes collected, for the purpose of constructing and maintaining levees, levee drainage, flood protection, hurricane flood protection and for all other incidental purposes, by the East Jefferson Levee District and Lake Borgne Basin Levee District for the calendar year 2005 and the proceeds of such taxes collected thereafter on all property taxed in the parishes of Jefferson and St. Bernard by and on behalf of such levee districts and any other revenue from operations of such districts will be administered by the authority; however, the taxes and revenues of each such levee district shall only be used and expended for the purposes of such district. Provides that no tax or revenue collected in a levee district may be used or expended for any purpose other than for one related to the district where the taxes and revenues are collected, except for the limited expenses for operations of the authority as provided in proposed law. Requires that the proceeds of such taxes collected to be deposited into a separate account established in the name of each district in which the taxes are collected, and prohibits commingling of funds in such accounts.

Property

Proposed law provides that any books, records, documents, funds, movable property, lands or immovable property owned by the East Jefferson Levee District and Lake Borgne Basin Levee District will be retained as property of the respective levee district in which such property is situated, but will be managed by the authority. Requires that any new property improvements, acquisitions, and potential income to be retained by the levee district in which such may occur, but to be managed by the authority.

Employees

Proposed law provides that any employee engaged in the performance of the functions of a former levee board may, insofar as practicable, continue as an employee of his respective levee district at the pleasure of the southeast levee authority and may, insofar as practicable, retain all rights, privileges, and benefits enjoyed by each under the former board.

Executive Director

Proposed law authorizes the southeast levee authority to employ an executive director and for qualifications, duties, and salary to be fixed by the board of commissioners, and for such employee shall serve at the pleasure of the board. Provides the board may also elect to consider as minimum requirements the following qualifications for an executive director:

- (1) Be a resident who lives within the territorial boundaries of the southeast levee authority.
- (2) Have a bachelor's degree, at a minimum, in the area of business, engineering, geology, hydrology, natural sciences, environmental sciences, renewable resources, or similar academic field.
- (3) Have a minimum of 10 years experience in business, engineering or hydrology, or in the performance of public works functions, related to flood and drainage control, flood plain management, water resources, soil conservation, land surveying and mapping, disaster relief, or any related function.

Funding

Proposed law provides for the southeast levee authority to receive no direct funding from the state for its operations, but may receive incidental services from state agencies in order to carry out its purpose. Prohibits any levee district from contributing more than 2.3% of the annual revenue of the district to the authority to fund its operations.

Applicability

Provides that the provisions of proposed law shall not apply to any local levee district or board that has been reorganized, merged into, or consolidated with a parish (Plaquemines). Provides for such levee district to continue to have any rights, revenues, resources, jurisdiction, powers, authority, functions, and duties, including the levy and collection of any local assessment or forced contribution, authorized by law at the time of the reorganization, merger, and consolidation with a parish.

Effective upon signature of the governor or lapse of time for gubernatorial action.

(Amends R.S. 38:291 (D)(2) and (3), (G)(2), and 304(A) and (B); adds R.S. 38:291(G)(3), and (V), and 306.1 through 306.7; repeals R.S. 38:304.3)

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Transportation,
Highways and Public Works to the original bill.

1. Removes from the bill the Orleans Levee District and the West Jefferson Levee District.
2. Subjects the southeast levee authority and districts to the Coastal Protection and Restoration Authority, as provided in Senate Bill 71 of 1ES 2005.
3. Makes all appointments to the board of commissioners of the southeast levee authority subject to Senate confirmation.
4. Sets the initial terms of the commissioners to initiate the staggered terms.
5. Provides that all movable property, funds, books, records and documents of the East Jefferson and Lake Borgne Basin levee districts shall remain the property of such districts.
6. Requires the executive director of the authority to have a bachelor's degree, at a minimum.
7. Makes clear that the southeast levee authority acts through and on behalf of the levee districts in the same manner as the levee boards it replaces.
8. Provides that no taxes or other revenue of a levee district shall be made payable for the liability of another levee district or for any liability of the authority when acting on behalf of another levee district.
9. Makes clear that the taxes and revenues of each district shall only be used and expended for the purposes of such district.