

First Extraordinary Session, 2005

SENATE BILL NO. 95

BY SENATORS BOASSO, ADLEY, AMEDEE, BARHAM, CAIN, CHAISSON, CRAVINS, DARDENNE, DUPLESSIS, ELLINGTON, FONTENOT, B. GAUTREAUX, N. GAUTREAUX, HOLLIS, KOSTELKA, LENTINI, MALONE, MCPHERSON, MICHOT, MOUNT, MURRAY, NEVERS, QUINN, ROMERO, SCHEDLER, SMITH AND THEUNISSEN AND REPRESENTATIVES ALEXANDER, BEARD, BOWLER, BRUNEAU, BURNS, K. CARTER, CROWE, DOVE, DOWNS, ERDEY, GEYMANN, GREENE, JOHNS, KATZ, KENNARD, KLECKLEY, LABRUZZO, LAMBERT, LANCASTER, MARTINY, MCVEA, MORRISH, PITRE, M. POWELL, T. POWELL, SCALISE, SCHNEIDER, SMILEY, JANE SMITH, STRAIN, TRAHAN, TUCKER, WADDELL, WALSWORTH, WHITE AND WINSTON

LEVEES. Reorganizes certain levee boards and creates and provides for the Southeast Louisiana Levee Authority. (gov sig)

AN ACT

To amend and reenact R.S. 38:291 (D)(2) and (3), (G)(2), and 304(A) and (B), to enact R.S. 38:291(G)(3) and (V), and 306.1 through 306.8, and to repeal R.S. 38:304.3, relative to levees; to establish the Southeast Louisiana Levee Authority; to provide for its powers, duties, jurisdiction, and members; to provide for appointments to the board of commissioners of the authority; to provide for qualifications of commissioners; to provide for meetings of the board; to provide for the management of certain levee districts in areas of southeast Louisiana; to terminate the terms of commissioners on certain levee boards; to reorganize the governance of such levee districts by providing for representation of such district on the board of commissioners to the authority; to retain the territorial limits of such levee districts; to transfer authority, duties, powers, functions, and responsibilities from such levee boards to the authority; to provide for obligations, tax proceeds, and property of the district; to provide for qualifications of an executive director; to create a levee district for St. Tammany Parish and provide for the authority, powers, duties, functions, and responsibilities of the district to be exercised by the authority; to provide for funding; to provide for applicability; and to provide for related matters.

1 Be it enacted by the Legislature of Louisiana:

2 Section 1. R.S. 38:291 (D)(2) and (3), (G)(2), and 304(A) and (B), are hereby  
3 amended and reenacted, and R.S. 38:291(G)(3) and (V), and 306.1 through 306.8 are hereby  
4 enacted to read as follows:

5 §291. Naming; limits of districts; composition of boards

6 \* \* \*

7 D. East Jefferson Levee District.

8 \* \* \*

9 ~~(2)(a)~~ **Except as provided in Paragraph (3) of this Subsection, in**

10 accordance with the provisions of R.S. 38:304 the governor shall appoint five  
11 persons to serve as levee commissioners.

12 ~~(3)(b)~~ All appointments to the board shall be submitted to the Senate for  
13 confirmation.

14 **(3)(a) The board appointed pursuant to Paragraph (2) of this Subsection**  
15 **shall be reorganized and the term of office of each commissioner thereof shall**  
16 **terminate on December 31, 2005. All authority granted to the board of**  
17 **commissioners shall be transferred to the Southeast Louisiana Levee Authority**  
18 **pursuant to authority granted under Article VI, Section 38(A)(1) of the**  
19 **Constitution of Louisiana.**

20 **(b) Beginning January 1, 2006 and thereafter, the district shall be**  
21 **governed by the board of commissioners of the Southeast Louisiana Levee**  
22 **Authority. Members of the board shall be appointed in accordance with R.S.**  
23 **38:306.1, two of which shall represent the eastbank of Jefferson Parish.**

24 \* \* \*

25 G. Lake Borgne Basin Levee District.

26 \* \* \*

27 (2) ~~The~~ **Except as provided in Paragraph (3) of this Subsection, the**  
28 governor shall appoint in accordance with the provisions of R.S. 38:304 three  
29 persons from the parish of St. Bernard.



1 other cause occurring in any levee district or levee and drainage district shall be  
 2 filled by the governor from panels of names submitted as follows: each member of  
 3 the House of Representatives representing a parish or part of a parish lying within  
 4 a levee district or levee and drainage district shall submit one name for each vacancy  
 5 to be filled from the parish which he represents in the legislature within said levee  
 6 district or levee and drainage district, and each member of the Senate shall submit  
 7 one name for each vacancy to be filled from the parish or parishes which he  
 8 represents in the legislature within said levee district or levee and drainage district,  
 9 except as provided in R.S. 38:291(P), 291(T), and 304.2 ~~and 304.3~~.

10 (2) In making appointments the governor shall not appoint any person to the  
 11 board of commissioners to represent a specific parish who was not recommended by  
 12 one or more of the legislators who represent that specific parish in the legislature  
 13 except as provided in R.S. 38:291(P), 291(T), and 304.2 ~~and 304.3~~. All members of  
 14 the boards of commissioners of levee districts or levee and drainage districts shall  
 15 be appointed by the governor to serve at the pleasure of the governor making the  
 16 appointment.

17 **(3) The provisions of this Subsection shall not apply to any appointments**  
 18 **made to the Southeast Louisiana Levee Authority pursuant to R.S. 38:306.1.**

19 \* \* \*

20 **§306.1. Southeast Louisiana Levee Authority; board of commissioners;**

21 **appointments; terms, vacancy; officers; meetings; domicile**

22 **A. Establishment. Beginning January 1, 2006, the Southeast Louisiana**  
 23 **Levee Authority, referred to herein as "southeast levee authority," through its**  
 24 **board of commissioners as provided for in this Section shall exercise all**  
 25 **authority over and have management, oversight and control of the East**  
 26 **Jefferson Levee District, Lake Borgne Basin Levee District, and the St.**  
 27 **Tammany Levee District, and all authority over and have management,**  
 28 **oversight, and control of the functions of the Orleans Levee District relating to**  
 29 **the levees and flood control as provided in R.S. 38:307(A), as provided by law**

1 for the boards of commissioners of such levee districts to which the authority  
2 is a successor and to the extent provided for in R.S. 38:306.1 through 306.7.

3 B. Board of commissioners. There is hereby created a board of  
4 commissioners of the southeast levee authority. Any appointment made to the  
5 board shall be subject to confirmation by the Senate. Except as provided for  
6 initial appointments in Subsection C of this Section, the board shall be  
7 composed of the following members:

8 (1) Two members representing the eastbank of Jefferson Parish; one  
9 person shall be appointed by the governing authority of Jefferson Parish, and  
10 one person shall be appointed by the legislative delegation representing  
11 Jefferson Parish.

12 (2) Two members representing St. Bernard Parish; one person shall be  
13 appointed by the governing authority of St. Bernard Parish, and one person  
14 shall be appointed by the legislative delegation representing St. Bernard Parish.

15 (3) Two members representing St. Tammany Parish; one person shall be  
16 appointed by the governing authority of St. Tammany Parish, and one person  
17 shall be appointed by the legislative delegation representing St. Tammany  
18 Parish.

19 (4) Two members representing Orleans Parish; one person shall be  
20 appointed by the governing authority of Orleans Parish, and one person shall  
21 be appointed by the legislative delegation representing Orleans Parish.

22 (5) One person shall be appointed to serve as an at-large member by the  
23 secretary of the Department of Transportation and Development. Such person  
24 shall have a minimum of twenty years of experience in engineering or hydrology  
25 or in the performance of public works functions, related to flood and drainage  
26 control, flood plain management, water resources, soil conservation, land  
27 surveying and mapping, disaster relief, and related functions.

28 (6) Two persons shall be appointed by the governing authority of  
29 Plaquemines Parish to serve as ex-officio and non-voting members.

1            C. Initial Appointments. The initial board of commissioners of the  
2            southeast levee authority shall be composed of each president of the East  
3            Jefferson Levee Board, Orleans Levee Board, and Lake Borgne Basin Levee  
4            Board holding such office on December 31, 2005; a member shall be appointed  
5            by the governing authority of St. Tammany Parish; four members, one of which  
6            shall be appointed by each of the legislative delegations representing the  
7            parishes of Jefferson, Orleans, St. Bernard and St. Tammany; two members  
8            shall be appointed by the governing authority of Plaquemines Parish to serve  
9            as ex-officio and non-voting members; and one member shall be appointed by  
10           the secretary of the Department of Transportation and Development.

11           D. Terms. The members initially appointed shall at their first meeting  
12           determine by lot their terms of office, which shall commence immediately upon  
13           their appointment and shall expire, respectively, as follows: two members in  
14           twelve months, two members in sixteen months, two members in twenty months,  
15           two members in twenty-four months, and three members in thirty months, from  
16           the first day of January in 2006, immediately succeeding such appointment. All  
17           commissioners thereafter appointed, except a commissioner appointed to fill an  
18           unexpired term, shall be appointed as provided in Subsection B of this Section  
19           for staggered terms of four years. No member shall serve more than two  
20           consecutive terms.

21           E. Qualification of commissioners. Except as provided for the  
22           commissioner appointed by the secretary of the Department of Transportation  
23           and Development as provided for in Paragraph (B)(4) of this Section, any  
24           person appointed as a commissioner shall:

25           (1) Have resided in this state the preceding ten years, at a minimum.

26           (2) Have resided in the territory of the respective levee district of the  
27           governing authority or legislative delegation appointing him for at least the  
28           preceding ten years and shall continue to reside and be a qualified voter there  
29           during his term on the board.

1           **(3) Have a minimum of a bachelor's degree from a college or university**  
2           **that was, at the time the degree was granted, accredited by a regional or**  
3           **national higher education accrediting agency recognized by the United States**  
4           **Department of Education.**

5           **F. Officers. Immediately after the members of the board of**  
6           **commissioners have been appointed, or as soon as thereafter is practicable, they**  
7           **shall meet and organize by electing from their number a president,**  
8           **vice-president and secretary who shall perform the duties normally required of**  
9           **such officers. In case of death or resignation of the president, the vice-president**  
10           **shall call the board together to fill the vacancy. In case of absence, inability, or**  
11           **failure to act of the president, the vice-president shall perform all the duties of**  
12           **the president.**

13           **G. Meetings. (1) A majority of the commissioners of the board shall**  
14           **constitute a quorum to do business. They shall designate the time and select the**  
15           **place for holding their regular sessions which shall be convened each month.**  
16           **Special meetings may be convened at any time upon the call of the president.**  
17           **Regular monthly meetings of the board shall be convened on a rotating basis at**  
18           **a place to be determined by the board in a district under the jurisdiction of the**  
19           **southeast levee authority.**

20           **(2) In case of neglect of duty by any board member or of his failure,**  
21           **without good cause, to attend three successive regular meetings, on request of**  
22           **the board, the appointing authority shall remove the commissioner and appoint**  
23           **his successor.**

24           **H. A member of the board of commissioners of the southeast levee**  
25           **authority shall serve at the pleasure of the appointing authority.**

26           **I. A vacancy created by reason of death, resignation, expiration of term,**  
27           **or any other cause of the member appointed shall be filled in the same manner**  
28           **as the original appointment.**

29           **J. The official domicile of the southeast levee authority shall be in the**

1 parish of Orleans. The authority shall maintain an office at its domicile for the  
2 transaction of its business, and where it may employ an executive director and  
3 such other employees as it deems necessary for its proper functioning. It may  
4 also maintain any branch office located in any levee district in which the  
5 southeast levee authority has jurisdiction.

6 K. No member of the board shall own or have any interest or part in any  
7 business, company, or entity conducting business of any kind with the southeast  
8 levee authority or any levee district under the authority, oversight, and control  
9 of the board or any of the facilities controlled by the authority or any such levee  
10 district.

11 §306.2. Southeast Louisiana Levee Authority; board of commissioners, powers  
12 and duties

13 A. The management and control of the East Jefferson Levee District,  
14 Lake Borgne Basin Levee District, and St. Tammany Levee District and the  
15 management and control of the functions of the Orleans Levee District relating  
16 to levee and flood control as provided in R.S. 38:307(A), shall be vested in the  
17 board of commissioners of the Southeast Louisiana Levee Authority. In  
18 addition to any other powers and duties provided by law for the boards of  
19 commissioners of such levee districts to which the authority is a successor, the  
20 board shall have the authority, subject to the limitations concerning funding  
21 provided for in R.S. 38:306.3(B), to establish for the levee districts under its  
22 authority adequate drainage, flood control, and water resources development,  
23 including but not limited to the planning, maintenance, operation, and  
24 construction of reservoirs, diversion canals, gravity and pump drainage  
25 systems, erosion control measures, marsh management, coastal restoration, and  
26 other flood control works as they relate to tidewater flooding, hurricane  
27 protection, and saltwater intrusion.

28 B. Subject to the limitations concerning funding provided for in R.S.  
29 38:306.3(B), the board may enter into contracts and agreements of any nature



1 on behalf of the levee districts under its authority for the purposes of this  
2 Chapter, being limited to contracts or agreements on behalf of the Orleans  
3 Levee District for levee or flood control purposes as provided in R.S. 38:307(A),  
4 with any person or persons, corporation, association, or other entity, including  
5 public corporations, port authorities, the state and agencies thereof, levee  
6 districts, parishes, other political subdivisions, the United States government  
7 and agencies thereof, or any combination thereof, or with instrumentalities of  
8 any kind to carry out the purposes of and the powers granted in this Chapter.

9 C. Subject to the limitations concerning funding provided for in R.S.  
10 38:306.3(B), the board may enter into contracts or other agreements on behalf  
11 of the levee districts under its authority, being limited to contracts or  
12 agreements on behalf of the Orleans Levee District for levee or flood control  
13 purposes as provided in R.S. 38:307(A), with any person or entity concerning  
14 the providing of lands, servitudes, rights-of-way, and relocations, and may  
15 engage the levee districts under its authority jointly with any person or entity  
16 in the exercise of any power to include the construction, operation, and  
17 maintenance of any facilities and improvements for the purpose of the projects  
18 under this Chapter.

19 D. Subject to the limitations concerning funding provided for in R.S.  
20 38:306.3(B), the board shall have the authority to require the levee districts  
21 under its authority to construct and maintain drainage works of all types as  
22 they relate to tidewater flooding, hurricane protection, and saltwater intrusion,  
23 either in cooperation with one or more parishes, municipalities, drainage  
24 districts, or other special districts within its territorial jurisdiction, or upon its  
25 own undertaking.

26 E. Subject to the limitations concerning funding provided for in R.S.  
27 38:306.3(B), the southeast levee authority may buy and sell property of a levee  
28 district under its control, make and execute all contracts on behalf of such levee  
29 districts by affirmation of both commissioners representing a district in which

1 such transaction may occur, and perform any and all things necessary to carry  
2 out the objects of this Chapter, subject to the limitations and duties provided in  
3 this Section.

4 F. Subject to any local ordinance for the construction, erection, and  
5 maintenance of back and side levees to protect any portion of the levee district  
6 under the authority of the southeast levee authority from tidal overflow, the  
7 board of commissioners shall work in conjunction with the parish governing  
8 authority to manage the construction and maintenance of the levees, pursuant  
9 to R.S. 38:143.

10 G. The board shall adopt bylaws for the management and regulation of  
11 its affairs, for the governance of the board and its officers and employees, and  
12 for the operation and governance of the southeast levee authority in accordance  
13 with the Administrative Procedure Act. It shall devise and adopt rules and  
14 regulations for the carrying into effect and perfecting of a comprehensive levee  
15 system, having for its object the protection of the entire territory of the levee  
16 districts under its authority from overflow. Such bylaws may include the  
17 establishment of any standing committees of the board as may be necessary to  
18 carry out the functions of the board.

19 §306.3. Southeast Louisiana Levee Authority; transfer of authority;  
20 obligations; taxes; employees; lands

21 A.(1) The boards of commissioners for the East Jefferson Levee District  
22 and Lake Borgne Basin Levee District are hereby reorganized, and the board  
23 of commissioners for the southeast levee authority shall hereby be the successor  
24 entity to and shall govern the East Jefferson Levee District, Lake Borgne Basin  
25 Levee District, and St. Tammany Levee District.

26 (2)(a) Any legal proceeding to which either the East Jefferson Levee  
27 District or Lake Borgne Basin Levee District is a party and which is filed,  
28 initiated, or pending before any court on January 1, 2006, and all documents  
29 involved in or affected by said legal proceeding, shall retain their effectiveness

1 and shall be continued in the name of the Southeast Louisiana Levee Authority  
2 pursuant to the powers of the authority over the district as set forth by law;  
3 provided, however, that other than the district or districts originally named as  
4 party to the proceedings, the authority shall have no liability for actions  
5 pending or claims arising prior to January 1, 2006.

6 (b) Notwithstanding any other provision of law to the contrary, no  
7 provision of law providing the southeast levee authority with any authority over  
8 and management, oversight, and control of the levee districts provided for in  
9 R.S. 38:306.2(A) shall be construed or interpreted to make the taxes or other  
10 revenue of a levee district payable for the liability of another levee district or for  
11 any liability of the authority when acting on behalf of another levee district.

12 (3) All obligations and unfinished business of the East Jefferson Levee  
13 District and Lake Borgne Basin Levee District shall be managed on behalf of the  
14 districts by the southeast levee authority.

15 B.(1) The proceeds of all taxes collected, for the purpose of constructing  
16 and maintaining levees, levee drainage, flood protection, hurricane flood  
17 protection and for all other purposes incidental thereto, by the East Jefferson  
18 Levee District and Lake Borgne Basin Levee District for the calendar year 2005  
19 and the proceeds of such taxes collected thereafter on all property taxed in the  
20 parishes of Jefferson and St. Bernard by and on behalf of such levee districts  
21 and any other revenue from operations of such districts shall be administered  
22 by the board of commissioners of the southeast levee authority; however, the  
23 taxes and revenues of each such levee district shall only be used and expended  
24 for the purposes of such district. No tax or revenue collected in a levee district  
25 may be used or expended for any purpose other than for one related to the  
26 district where the taxes and revenue are collected except for the operations of  
27 the authority as provided for and limited by R.S. 38:306.5(C).

28 (2) The proceeds of such taxes collected shall be deposited into a separate  
29 account established in the name of each district in which the taxes are collected.

1 There shall be no commingling of funds in such accounts.

2 C. Any books, records, documents, funds, movable property, lands or  
3 immovable property owned by the East Jefferson Levee District or Lake Borgne  
4 Basin Levee District shall be retained as property of the respective levee district  
5 in which such property is situated , but shall be managed by the southeast levee  
6 authority. Any new property improvements, acquisitions, and potential income  
7 shall be retained by the levee district in which such may occur, but shall be  
8 managed by the southeast levee authority.

9 D. Any employee heretofore engaged in the performance of the functions  
10 of a former levee board may, insofar as practicable, continue as an employee of  
11 their respective levee district at the pleasure of the southeast levee authority  
12 created in this Chapter and may, insofar as practicable, retain all rights,  
13 privileges, and benefits enjoyed by each under the former board.

14 §306.4. Southeast Louisiana Levee Authority; employment of executive director

15 A. The southeast levee authority may employ an executive director whose  
16 qualifications, duties, and salary shall be fixed by the board of commissioners.  
17 Such employee shall serve at the pleasure of the board.

18 B. In addition to the qualifications prescribed pursuant to Subsection A  
19 of this Section, the board may also elect to consider as minimum requirements  
20 the following qualifications for an executive director:

21 (1) Be a resident who lives within the territorial boundaries of the  
22 southeast levee authority.

23 (2) Have a bachelor's degree, at a minimum, in the area of business,  
24 engineering, geology, hydrology, natural sciences, environmental sciences,  
25 renewable resources, or similar academic field.

26 (3) Have a minimum of ten years experience in business, engineering or  
27 hydrology, or in the performance of public works functions, related to flood and  
28 drainage control, flood plain management, water resources, soil conservation,  
29 land surveying and mapping, disaster relief, or any related function.

1           C. In addition to the duties prescribed by the board, the executive  
2           director shall keep records of all proceedings, preserve all books, maps,  
3           documents, papers, records, and reports entrusted to its care, and keep them  
4           open for public inspection.

5           §306.5. Funding of authority operations

6           A. The southeast levee authority shall receive no direct funding from the  
7           state for its operations, but may receive incidental services from state agencies  
8           in order to carry out its purpose.

9           B. The southeast levee authority may seek, accept, and expend funds  
10          from any source, including private business, industry, foundations, and other  
11          groups as well as any federal or other governmental funding available for such  
12          purpose.

13          C. The southeast levee authority is hereby prohibited from expending  
14          more than two and three-tenths percent of the annual revenue of any levee  
15          district under its authority to fund its operations.

16          §306.6. Statutory reference

17          Subject to the limitations of liability as set forth in R.S. 38:306.3,  
18          whenever a reference to the "board of commissioners," "levee board" or  
19          "board of levee commissioners" of the East Jefferson Levee District or the Lake  
20          Borgne Basin Levee District appears in any statute, or in a contract, or a legal  
21          pleading, or in any other document, that reference shall be deemed to be a  
22          reference to the board of commissioners of the Southeast Louisiana Levee  
23          Authority.

24          §306.7. Applicability

25          Notwithstanding any provision of law to the contrary, the provisions  
26          herein relative to the authority of the southeast levee authority shall not apply  
27          to any local levee district or board that has been reorganized, merged into, or  
28          consolidated with a parish pursuant to Article VI, Section 16 and 38 of the  
29          Constitution of Louisiana. Such levee district shall continue to have any rights,

1 revenues, resources, jurisdiction, powers, authority, functions, and duties,  
 2 including the levy and collection of any local assessment or forced contribution,  
 3 authorized by law at the time of the reorganization, merger, and consolidation  
 4 with a parish.

5 §306.8. Orleans Levee District; board, powers, duties and functions retained  
 6 Except as specifically provided in R.S. 38:306.1 through 306.7, the board  
 7 and the powers, duties, and functions of the Orleans Levee District are retained.

8 Section 2. R.S. 38:304.3 is hereby repealed.

9 Section 3. This Act shall become effective upon signature by the governor or, if not  
 10 signed by the governor, upon expiration of the time for bills to become law without signature  
 11 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If  
 12 vetoed by the governor and subsequently approved by the legislature, this Act shall become  
 13 effective on the day following such approval.

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The original instrument was prepared by Sherri H. Breaux. The following digest, which does not constitute a part of the legislative instrument, was prepared by Jerry J. Guillot.

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#### DIGEST

Boasso (SB 95)

Present law establishes, names, and provides for the territorial boundaries of the East Jefferson Levee District, the Orleans 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), and all authority over and have management, oversight, and control of the functions of the Orleans Levee District relating to the levees and flood control as provided in R.S. 38:307(A) of present 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, other than the Orleans Levee District, 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) Two members representing Orleans Parish; one person to be appointed by the parish governing authority, and one person to be appointed by the legislative delegation representing Orleans Parish.
- (5) 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.
- (6) 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, the Orleans 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; four members, one of which shall be appointed by each of the legislative delegations representing the parishes of Jefferson, Orleans, 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, determined 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 three members 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, and for the management and control of the functions of the Orleans Levee District relating to levees and flood control as provided in present law, 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.

Provides that, except as specifically provided in this Act, the board and the powers, duties, and functions of the Orleans Levee District are retained.

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 306.8; 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.

Senate Floor Amendments to reengrossed bill.

1. Gives the Southeast Louisiana Levee Authority the authority over and the management, oversight, and control of the functions of the Orleans Levee District relating to levees and flood control.
2. Increases the membership of the Authority by two representatives of Orleans Parish.
3. Provides that, except as specifically provided in this Act, the board and the powers, duties, and functions of the Orleans Levee District are retained.