

2022 Regular Session

HOUSE BILL NO. 686

BY REPRESENTATIVE MINCEY

WATERWAYS: Provides relative to management of the Amite River Basin

1 AN ACT

2 To amend and reenact R.S. 38:3302, 3303(A), (B), (C), and (D), 3305(Section heading),
3 3306(A) and (C), 3307(C), and 3309 and to enact R.S. 38:3301(C), 3303(E) and (F),
4 3304(C)(3), 3306(G), (H), (I), and (J), and 3307(E), relative to management of the
5 Amite River Basin; to provide for the board of commissioners; to provide for
6 appointment and terms of commissioners; to provide for powers and duties of the
7 board; to provide for contact authority; to provide for posting requirements; to
8 provide for technical assistance from the Coastal Protection and Restoration
9 Authority; to provide for taxing authority; and to provide for related matters.

10 Be it enacted by the Legislature of Louisiana:

11 Section 1. R.S. 38:3302, 3303(A), (B), (C), and (D), 3305(Section heading), 3306(A)
12 and (C), 3307(C), and 3309 are hereby amended and reenacted and R.S. 38:3301(C),
13 3303(E) and (F), 3304(C)(3), 3306(G), (H), (I), and (J), and 3307(E) are hereby enacted to
14 read as follows:

15 §3301. Limits of district; limits of Comite River Diversion Canal Impact Area

16 * * *

17 C.(1) The district shall also be comprised of all portions of the geographical
18 area within the watershed limits of the Amite River and Tributaries Basin located in
19 those parts of Iberville, Ascension, and St. James Parishes south of Louisiana
20 Highway 61 and not particularly described in Subsection A of this Section.

1 (2) By January 1, 2023, the Coastal Protection and Restoration Authority in
2 consultation with the office of state lands shall submit to the legislature a detailed
3 legal description of the Amite River and Tributaries Basin as described in Subsection
4 A of this Section and Paragraph (1) of this Subsection.

5 §3302. Board of commissioners

6 The management and control of the district shall be vested in a board of
7 commissioners for the Amite River Basin Drainage and Water Conservation District.
8 The board shall have the authority to establish adequate drainage, flood control, and
9 water resources development to include but not be limited to construction of
10 reservoirs, diversion canals, gravity and pumped drainage systems, and other flood
11 control works. The board of commissioners shall comprehensively manage the
12 district as a single system.

13 §3303. Appointment and term of commissioners

14 A. The board of commissioners shall be composed of ~~thirteen~~ fifteen
15 members.

16 B.(1) One member shall be appointed by the governor from the district at
17 ~~large.~~ Seven members shall be the parish presidents representing the parishes making
18 up the district, or their designee, and shall serve ex officio without appointment.

19 (2) One member shall be the executive director of the Coastal Protection and
20 Restoration Authority board, and one member shall be the president of the
21 Pontchartrain Levee District Board of Commissioners, both serving in a nonvoting
22 advisory role.

23 C.(1) The remaining ~~twelve~~ six members shall serve at large and shall be
24 appointed by the governor as follows:

25 (1) Two qualified electors residing in that portion of each parish within the
26 district from nominations submitted by the members of the legislature serving that
27 portion of each parish within the district, subject to senate confirmation, from
28 nominations submitted by the representatives and senators whose districts include
29 any portion of the district.

1 (2) ~~In the event any present member of the commission shall cease to be a~~
2 ~~member thereof for any reason prior to the expiration of his term, his successor shall~~
3 ~~be appointed from the same parish as the original appointment provided in this~~
4 ~~Chapter. Thereafter, the successors of all of the commissioners shall be appointed~~
5 ~~for terms concurrent with the appointing governor. Any subsequent vacancy on the~~
6 ~~commission for any reason shall be filled for the unexpired portion of the term in the~~
7 ~~same manner as the original appointment. Priority shall be given to nominees that~~
8 ~~reside in the district or any parish within it; however, district or parish residency is~~
9 ~~not required.~~

10 (3)(a) Each legislator may nominate up to two persons meeting the
11 qualification requirements, per vacant position.

12 (b) If no nominees meeting the qualification requirements are submitted for
13 a seat, the governor may choose his own.

14 D. ~~All members of the board appointed by the governor shall serve terms~~
15 ~~concurrent with that of the governor. Each appointment by the governor shall be~~
16 ~~submitted to the Senate for confirmation. At large commissioners shall serve a term~~
17 ~~of four years, staggered with three positions expiring every two years. Initial terms~~
18 ~~shall be two years for three commissioners and four years for three commissioners,~~
19 ~~chosen by lot. The existing board shall terminate effective January 1, following~~
20 ~~enactment of this Act.~~

21 E. All six commissioners at large shall have at least seven years of
22 professional experience in their discipline, of which at least four shall be engineers,
23 project managers, certified floodplain managers, or professionals in a
24 drainage-related field such as geotechnical, hydrological, or environmental science.
25 Parish commissioner designees are encouraged to be, but need not be, professionals
26 as provided for in this Subsection.

27 F. Appointment of, or voting by, public servants to the board of
28 commissioners shall not constitute violation of the dual officeholding and dual
29 employment law, R.S. 42:61 et seq., or the Code of Governmental Ethics, R.S.

1 42:1101 et seq., but such persons shall not vote on any matter in which they have a
2 personal financial interest other than as a resident of the district.

3 §3304. Meetings of board; quorum; officers; removal of commissioners; salaries
4 and expenses; requirements; frequency and location

5 * * *

6 C.

7 * * *

8 (3) The board shall post agendas for all meetings on its website at least
9 twenty four hours prior to meetings. The board shall stream all district meetings live
10 on the internet.

11 §3305. Department of Transportation and Development, Coastal Protection and
12 Restoration Authority, and the Pontchartrain Levee District to advise board

13 The Department of Transportation and Development, the Coastal Protection
14 and Restoration Authority, and the Pontchartrain Levee District shall, upon request,
15 advise the board as to the progress and status of adequate drainage, flood control, and
16 water resources development which shall include but is not limited to construction
17 of reservoirs, diversion canals, gravity and pumped drainage systems, and other flood
18 control wear of the district. The Department of Transportation and Development, the
19 Coastal Protection and Restoration Authority, and the Pontchartrain Levee District
20 shall furnish estimates and specifications and perform all engineering work required
21 of them by the board. The board may request technical assistance from the Coastal
22 Protection and Restoration Authority regardless of whether the area affected is inside
23 the coastal area as defined in R.S. 49:214.2(4). The board may request technical
24 assistance from the Pontchartrain Levee District regardless of whether the area
25 affected is within the boundaries of the Pontchartrain Levee District as defined in
26 R.S. 38:291(L)(1). The Coastal Protection and Restoration Authority and the
27 Pontchartrain Levee District retain the right to be reimbursed for the reasonable cost
28 of its assistance.

29 §3306. General powers and duties of the board

1 A.(1) The board shall adopt bylaws for its own government and for the
2 government of its employees. It shall adopt rules or regulations for comprehensive
3 drainage, flood control and water resources development, reservoir, and diversion
4 canal systems. Prior to the adoption, amendment, or repeal of any rule or regulation
5 by the board, the proposed rule or regulation shall be submitted to the House
6 Committee on Transportation, Highways, and Public Works and the Senate
7 Committee on Transportation, Highways, and Public Works. Oversight review of
8 rules and regulations shall be conducted by the respective committees provided for
9 herein. The board shall keep a record of its proceedings, which shall be published
10 after each meeting in a journal to be selected by it. The board at each regular session
11 shall examine all accounts or operations of the board and determine what work shall
12 be undertaken. All work shall be advertised to be let out by means of sealed
13 proposals to the lowest responsible bidder, reserving to the board authority to reject
14 all bids. In case of emergency, the board may make contracts for the control of
15 flooding without advertisement and sealed proposals.

16 (2) Prior to January 1, 2026, the board shall promulgate regulations for
17 watershed management within the District, insofar as they affect watershed
18 management, that address the following:

19 (a) Planning.

20 (b) Permitting.

21 (c) Selection of and performing projects and programs.

22 (d) Resolution of conflicts among agencies.

23 (e) Use of best available science.

24 (f) Outreach to the public and agencies.

25 (g) Coordination with state agencies and political subdivisions regarding
26 watershed management.

27 (h) Identifying, seeking, receiving, and expending federal and other funding
28 for planning and projects.

1 (i) Providing assistance to political subdivisions in planning, designing and
2 constructing projects, and identifying and obtaining funding.

3 (j) Agreements with public and private entities to identify, seek, receive, and
4 expend funds.

5 (k) Maintaining projects and programs once complete.

6 (l) Providing an appeal process.

7 (m) Defining qualifications for staff and contractors.

8 (n) Creating and managing a wetland mitigation bank, if deemed feasible by
9 the board, on lands owned by the district on January 1st following the effective date
10 of this Act.

11 * * *

12 C. The board shall have the authority to construct and maintain drainage
13 works of all types either in cooperation with one or more parishes, municipalities,
14 drainage districts, or other special districts within its territorial jurisdiction or upon
15 its own undertaking. Projects shall require approval of two thirds of the total voting
16 membership. All other decisions, including technical, planning, and permitting
17 decisions, shall require approval by a simple majority of the total voting
18 membership.

19 * * *

20 G. The board shall develop and implement a plan to manage and maintain
21 all waterways in the district, of state or regional concern, in relation to matters
22 impacting watershed management in the district.

23 H.(1) The board shall develop a master plan for comprehensive drainage,
24 flood control, and water resource management within the district ("watershed
25 management") through the construction and management of projects and programs,
26 including planning, permitting, development, and waterway management. The plan
27 shall address watershed management from both short-term and long-range
28 perspectives, and shall incorporate structural, nonstructural, management, and
29 institutional components of both efforts. The plan shall include a list of projects and

1 programs required for implementation, a schedule and estimated costs, and explain
2 why each project or program was selected and how it advances plan objectives. The
3 plan shall be consistent with the Coastal Protection and Restoration Authority Master
4 Plan. It shall also provide for public outreach and public hearings in at least
5 northern, central, and southern portions of the district. The plan shall be subject to
6 legislative approval. The board shall submit its initial plan prior to the 2025
7 legislative session, and shall review, revise, and amend its plan every six years
8 thereafter.

9 (2) All political subdivisions within the bounds of the district shall
10 administer their regulatory practices, programs, projects, contracts, grants, and all
11 other functions vested in them in a manner consistent with the master plan and shall
12 be consistent with public interest to the maximum extent possible.

13 I. The board shall develop annual plans for watershed management. Each
14 annual plan shall include, at minimum, a three year projection of funding for projects
15 and programs, including funding sources. The plan shall be consistent with the
16 Coastal Protection and Restoration Authority Master Plan. The plan shall provide
17 for public outreach and public hearings in at least northern, central, and southern
18 portions of the district. The plan shall be subject to legislative approval. The board
19 shall submit its initial annual plan by January 1, 2024.

20 J. The board shall place a heavy focus and constant emphasis on plans that
21 include project inventories, implementation plans, and strategies to maximize the use
22 of innovative funding strategies such as public private partnerships, pursuit of grant
23 funding, capital outlay requests, and millage initiatives to the extent necessary to
24 timely fund and implement the board's planned projects and programs.

25 K. The board shall report annually to the parish presidents and parish
26 governing authorities representing the parishes making up the district, the Legislature
27 of Louisiana, and to a committee of representatives and senators whose districts
28 include any portion of the Amite River Basin.

1 L. Each parish within the district shall submit its initial hazard mitigation
 2 plan by January 1, 2023, and thereafter shall submit a hazard mitigation plan to the
 3 board every five years. Each parish within the district shall cooperate with the board
 4 to ensure that the impacts of drainage, flood control, and water resource management
 5 are considered in the development of each hazard mitigation plan. The board shall
 6 participate and assist in the development of each parish hazard mitigation plan within
 7 the district.

8 §3307. Corporate status and powers of board; domicile; evidence of acts and
 9 proceedings; deposit of funds; warrants

10 * * *

11 C. The board may buy and sell property, make and execute all contracts, and
 12 do and perform all things necessary to carry out the objects of this Chapter, subject
 13 to the limitations and duties herein provided. Notwithstanding any provision of law
 14 to the contrary, parishes, municipalities, drainage districts, levee districts, and other
 15 political subdivisions in the district can transfer or donate funds to the board, and the
 16 board may accept such funds. Notwithstanding any provision of law to the contrary,
 17 the board may contract with the federal government, the state, or any other public or
 18 private entity to receive and expend funds and perform projects or plans for
 19 watershed management.

20 * * *

21 E. The board shall identify and consider to what extent matters regarding an
 22 agreement with the state of Mississippi relative to watershed management and how
 23 it may be beneficial to management of the basin in Louisiana, and subject to
 24 approval of the governor, the board may contract with the state of Mississippi for
 25 such purposes including for doing projects.

26 * * *

27 §3309. Authority to levy

28 For the purpose of providing revenue to carry out the objects contemplated
 29 by this Chapter, the board of commissioners may levy on all property in the district,

1 or on all property within the Comite River Diversion Canal Impact Area, subject to
 2 taxation for drainage purposes a district drainage tax not to exceed three mills on the
 3 dollar of its assessed valuation, as provided by Article VI, Section 19 of the
 4 Constitution of Louisiana. The tax shall not be levied unless the proposition to levy
 5 the tax is approved by a majority of the electors of the district, or by a majority of the
 6 electors of the Comite River Diversion Canal Impact Area if limited to such area,
 7 who vote on the proposition. ~~Furthermore, such tax shall be levied only in those~~
 8 ~~parishes in which a majority of the electors of the parish, which are within the~~
 9 ~~district, voting in an election approve such proposition, and such proposition on the~~
 10 ~~ballot provides that the ad valorem tax is to be levied only in said parishes.~~

11 * * *

12 Section 2. The board is prohibited from expending or obligating unrestricted funds,
 13 except funds designated for operational costs or to meet existing contractual obligations,
 14 until January 1st following enactment of this Act.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 686 Engrossed 2022 Regular Session Mincey

Abstract: Modifies management of the Amite River Basin.

Present law establishes the geographical bounds of the district. Proposed law retains present law and provides that the district shall also be comprised of all portions of the geographical area within the watershed limits of the Amite River and Tributaries Basin located in those parts of Iberville, Ascension, and St. James Parishes south of La. Hwy. 61 and not particularly described in present law.

Proposed law further provides that by Jan. 1, 2023, the Coastal Protection and Restoration Authority in consultation with the office of state lands must submit to the legislature a detailed legal description of the Amite River and Tributaries Basin.

Present law provides that the management and control of the Amite River Basin Drainage and Water Conservation District is vested in a board of commissioners for the district. Further provides for the board's authority to establish adequate drainage, flood control, and water resources development to include but not be limited to construction of reservoirs, diversion canals, gravity and pumped drainage systems, and other flood control works. Proposed law retains present law and adds a requirement that the board comprehensively manage the district as a single system.

Present law provides for a 13 person commission. Proposed law increases the number of commissioners from 13 to 15. Present law provides that one member from the district is appointed by the governor and serves at large. Proposed law provides that one member be the executive director of the Coastal Protection and Restoration Authority board and one member be the president of the Pontchartrain Levee District Board of Commissioners to serve in nonvoting advisory roles. Proposed law provides that six members be appointed by the governor to serve at large. Further provides that commissioners at large will serve four year terms staggered with three positions expiring every two years; initial terms shall be two years for three commissioners and four years for three commissioners; be subject to senate confirmation, from nominations submitted by the representatives and senators whose districts include any portion of the district. Specifies that nominees are encouraged to but need not reside in the district or any particular parish within it. Specifies that each legislator may nominate up to two persons meeting the qualification requirements, per vacant position. Specifies that if no nominees meeting the qualification requirements are submitted for a seat, the governor may choose his own. Further provides that all six commissioners at large must have at least seven years of professional experience in their discipline, of which at least four must be engineers, project managers, certified floodplain managers, or professionals in a drainage-related field such as geotechnical, hydrological, or environmental science. Specifies that parish commissioner designees are encouraged to be, but need not be, professionals; however, priority will be given to nominees that reside in the district or any parish within it.

Proposed law requires the board to post agendas for all meetings on its website at least twenty four hours prior to meetings and to stream all district meetings live on the internet.

Present law requires the Dept. of Transportation and Development to provide advice and technical assistance to the board. Proposed law retains present law and adds advice and technical assistance from the Coastal Protection and Restoration Authority and the Pontchartrain Levee District upon request.

Present law provides for the general powers and duties of the board. Proposed law retains present law and adds a requirement that prior to Jan. 1, 2026, the board must promulgate regulations for watershed management within the district, insofar as they affect watershed management, that address the following:

- (1) Planning.
- (2) Permitting.
- (3) Selection of and performing projects and programs.
- (4) Resolution of conflicts among agencies.
- (5) Use of best available science.
- (6) Outreach to the public and agencies.
- (7) Coordination with state agencies and political subdivisions regarding watershed management.
- (8) Identifying, seeking, receiving, and expending federal and other funding for planning and projects.
- (9) Providing assistance to political subdivisions in planning, designing and constructing projects, and identifying and obtaining funding.
- (10) Agreements with public and private entities to identify, seek, receive, and expend funds.

- (11) Maintaining projects and programs once complete.
- (12) Providing an appeal process.
- (13) Defining qualifications for staff and contractors.
- (14) Creating and managing a wetland mitigation bank.

Present law grants the board authority to construct and maintain drainage works of all types either in cooperation with one or more parishes, municipalities, drainage districts, or other special districts within its territorial jurisdiction or upon its own undertaking. Proposed law retains present law and adds a requirement that projects receive approval of two thirds of the total voting membership. Further adds that all decisions, including technical aspects of projects, including planning and permitting decisions, require approval by a simple majority of the total voting membership.

Proposed law requires the board to develop and implement a plan to manage all waterways in the district in relation to matters impacting watershed management in the district. Further requires the board to place a heavy focus and constant emphasis on plans that include project inventories, implementation plans, and strategies to maximize the use of innovative funding strategies such as public private partnerships, pursuit of grant funding, capital outlay requests, and millage initiatives to the extent necessary to timely fund and implement the board's planned projects and programs.

Proposed law requires the board to develop a master plan.

Proposed law requires the board to develop annual plans and report annually to the parish presidents and parish governing authorities representing the parishes making up the district, the legislature, and a committee of representatives and senators whose districts include any portion of the Amite River Basin.

Proposed law requires each parish within the district to submit a hazard mitigation plan by Jan. 1, 2023, and thereafter to submit a hazard mitigation plan to the board every five years. Further requires each parish within the district to cooperate with the board to ensure that the impacts of drainage, flood control, and water resource management are considered in the development of each hazard mitigation plan. Further requires the board to participate and assist in the development of each parish hazard mitigation plan within the district.

Proposed law requires the board to consider to what extent matters regarding an agreement with the state of Mississippi regarding watershed management and how it may be beneficial to management of the basin in La., and authorizes them to contract with the state of Mississippi for such purposes including for doing projects, subject to approval by the governor.

Present law provides for voting on taxes levied by the board to be by individual parish. Proposed law provides for voting on such taxes by everyone in the district as a whole.

Proposed law allows parishes, municipalities, drainage districts, levee districts, and other political subdivisions in the district to transfer or donate funds to the board, and further allows the board to accept such funds.

Proposed law prohibits the board from expending or obligating unrestricted funds, except funds designated for operational costs or to meet existing contractual obligations, until Jan. 1st following enactment of this Act.

(Amends R.S. 38:3302, 3303(A), (B), (C), and (D), 3305(Section heading), 3306(A) and (C), 3307(C), and 3309; Adds R.S. 38:3301(C), 3303(E) and (F), 3304(C)(3), 3306(G), (H), (I), and (J), and 3307(E))

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Natural Resources and Environment to the original bill:

1. Change the board composition from 13 to 15 in order to add two additional nonvoting technical advisors.
2. Add the executive director of the Coastal Protection and Restoration Authority board and the president of the Pontchartrain Levee District Board of Commissioners to the board of commissioners for the Amite River Drainage and Conservation District to serve in nonvoting advisory roles.
3. Add that priority will be given to nominees that reside in the district or any parish within it when considering nominees to the board.
4. Change the number of years of professional experience required to be an at large commissioner from 10 years to 7 years.
5. Add project managers and certified floodplain managers to the list of professions from which at large commissioners can be chosen.
6. Add the Pontchartrain Levee District as one of the entities that can advise the board and provide technical assistance regarding drainage, flooding, and flood management.
7. Require the board to promulgate rules relative to the creation and management of a wetland mitigation bank.
8. Add a requirement that the board place emphasis on plans for projects that include project inventories, implementation plans, and strategies to maximize the use of innovative funding strategies.
9. Require the board to report annually to the parish presidents, parish governing authorities representing the parishes making up the district, and to the legislature.
10. Require each parish within the district to submit an initial hazard mitigation plan by January 1, 2023 and to submit the same to the board every five years thereafter. Further require the board to participate and assist in the development of each parish hazard mitigation plan.
11. Allow for the transfer or donation of funds from the parishes or political subdivisions within the district to the board and allow the board to accept such transfers and donations.
12. Prohibit the board from making expenditures or otherwise obligating unrestricted funds until January 1st following enactment of this Act.
13. Make technical changes.