

2022 Regular Session

HOUSE BILL NO. 686

BY REPRESENTATIVES MINCEY, BACALA, BOURRIAQUE, BUTLER, CARRIER, CORMIER, COUSSAN, DEVILLIER, FISHER, GEYMAN, KERNER, LANDRY, ORGERON, RISER, ROMERO, SCHAMERHORN, SCHEXNAYDER, ST. BLANC, AND WHEAT AND SENATOR WHITE

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

1 those parts of Iberville, Ascension, and St. James Parishes south of Louisiana
2 Highway 61 and not particularly described in Subsection A of this Section.

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

7 §3302. Board of commissioners

8 The management and control of the district shall be vested in a board of
9 commissioners for the Amite River Basin Drainage and Water Conservation District.

10 The board shall have the authority to establish adequate drainage, flood control, and
11 water resources development to include but not be limited to construction of
12 reservoirs, diversion canals, gravity and pumped drainage systems, and other flood
13 control works. The board of commissioners shall comprehensively manage the
14 district as a single system.

15 §3303. Appointment and term of commissioners

16 A. The board of commissioners shall be composed of ~~thirteen~~ fifteen
17 members.

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

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

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

27 (1) ~~Two qualified electors residing in that portion of each parish within the~~
28 district from nominations submitted by the members of the legislature serving that
29 portion of each parish within the district, subject to senate confirmation, from

1 nominations submitted by the representatives and senators whose districts include
2 any portion of the district.

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

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

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

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

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

1 Pontchartrain Levee District retain the right to be reimbursed for the reasonable cost
2 of its assistance.

3 §3306. General powers and duties of the board

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

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

22 (a) Planning.

23 (b) Permitting.

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

25 (d) Resolution of conflicts among agencies.

26 (e) Use of best available science.

27 (f) Outreach to the public and agencies.

28 (g) Coordination with state agencies and political subdivisions regarding
29 watershed management.

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

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

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

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

27 K. The board shall report annually to the parish presidents and parish
28 governing authorities representing the parishes making up the district, the Legislature

1 of Louisiana, and to a committee of representatives and senators whose districts
2 include any portion of the Amite River Basin.

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

10 §3307. Corporate status and powers of board; domicile; evidence of acts and
11 proceedings; deposit of funds; warrants

12 * * *

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

22 * * *

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

28 * * *

1 §3309. Authority to levy

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

14 * * *

15 Section 2. The board is prohibited from expending or obligating unrestricted funds,
16 except funds designated for operational costs or to meet existing contractual obligations,
17 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 Reengrossed 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 will 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 (CPRA) 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

CODING: Words in ~~struck through~~ type are deletions from existing law; words underscored are additions.

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 CPRA, or his designee, and one member be the president of the Pontchartrain Levee District Board of Commissioners, or his designee, 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 are 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 CPRA 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 Jan. 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 Jan. 1st following enactment of this Act.
13. Make technical changes.

The House Floor Amendments to the engrossed bill:

1. Clarify that one member of the board of commissioners be the executive director of the Costal Protection and Restoration Authority or his designee.
2. Clarify that one member of the board of commissioners be the president of the Pontchartrain Levee District Board of Commissioners or his designee.