

HOUSE SUMMARY OF SENATE AMENDMENTS

House Bill No. 640 by Representative Billiot

LEVEES: Revises provisions relative to the rights and powers of levee districts

Synopsis of Senate Amendments

- 1. Deletes the provision that provides as a condition of the issuance of a permit, the district may require the applicant to construct an asphalt or concrete ramp or crossing in accordance with specifications for the construction thereof approved by the governing authority.
- 2. Adds a provision that requires levee districts to issue permits for servitude of passage over roadway upon top of levee to owners of enclosed estates if such servitude provides shortest and least injurious route to and from such enclosed estate.
- 3. Adds a provision that owners of land, lessees and servitude holders may continue to conduct normal activities on, under, nearby, or through a levee as previously authorized by appropriate governmental authority and that no new or additional authorization is required for such persons to continue to conduct normal activities.
- 4. Adds a provision to restrict the prohibition to tie or moor logs, rafts, boats, watercraft, or floating objects to levees or to objects within 180 feet of any levee to federally authorized and funded levees or levees recognized by OCPR.
- 5. Changes the provision for a levee board or commission to issue permits for levee crossings after approval or issuance of letter of no objection by Corps of Engineers, DOTD or OCPR from permissive to mandatory.
- 6. Deletes provision that levee crossing permit or letter of no objection does not alleviate necessity to obtain or comply with requirements of other local, state, or federal permits.
- 7. Revises limits of West Jefferson Levee District as it existed on January 1, 2007.
- 8. Revises limits of Lafitte Area Independent Levee District as it existed on January 1, 2011.
- 9. Transfers certain books, records, documents, and property between West Jefferson Levee District and Lafitte Area Independent Levee District.

Digest of Bill as Finally Passed by Senate

Present law provides for restriction of certain activities on public levees or coastal protection projects, unless provisions are made by the levee district, DOTD, or the Office of Coastal Protection and Restoration (OCPR). Provides for penalties. Exempts an employee of the state from performing their duties or the interference with the crossing of public levees by projects of DOTD or OCPR.

Proposed law retains present law except that it adds a provision that requires each levee district to publish guidance, erect signage, and require special permits as they deem appropriate to allow them to make provisions for limited riding, driving, or hauling.

Present law requires that whoever violates present law shall be fined not more than \$50 or imprisoned for not more than 30 days, or both.

Proposed law deletes this provision and authorizes each governing authority to set the penalty for violation of present law, provided that the penalty does not exceed the penalty for criminal trespass as defined in present law. Proposed law further provides that the authority may seek injunctive relief and collect all expenses for policing, inspecting, and repairing the levee, structure, and rights-of-way caused by the violation.

Present law provides that nothing in present law or proposed law shall interfere with the crossing over any public levees, at ramps or inclines established under plans and specifications of DOTD, or for levees or integrated coastal protection projects in the coastal area as defined in R.S. 49:214.2(3), the OCPR, for the purpose of transporting any material that may be used or required in the business of the population living behind the levees.

Proposed law retains present law except that it removes the provision that provides the specific reason for crossing over the public levees at ramps or inclines.

Proposed law provides that no new or additional authorization is required for previously authorized people to continue to conduct "normal activities and further requires levee districts to issue permits for servitude of passage over roadway upon top of levee to owners of enclosed estates if such servitude provides shortest and least injurious route to and from such enclosed estate.

Present law prohibits any person from placing upon any part of the levees fronting any waterway subject to the control or surveillance, any object, material, or matter of any kind or character which obstructs or interferes with the safety of the levees or is an obstacle to the inspection, construction, maintenance, or repair of any levee.

Proposed law retains present law and adds a restriction of 15 feet.

Present law prohibits any person to tie or moor logs, rafts, boats, watercraft, or floating objects of any description to the levees, or, when the water is against the levees, tie or moor floating objects insecurely to mooring posts, revetments, trees, or other stationary or supposedly stationary objects on the foreshore where they can be driven against the levees during windstorms.

Proposed law retains present law but limits application to federally authorized and funded levees or levees recognized by OCPR and expands present law to include any floating objects from being tied or moored to any object within 180 feet of any levee.

Proposed law provides that no person, when the water is against the levees, drive or push any logs, rafts, boats, watercraft, or floating objects of any description onto or against any levee.

Proposed law exempts the mooring or berthing of floating vessels at such locations that have been permitted for this purpose by the U.S. Coast Guard Captain of the port, Corps of Engineers, DOTD, OCPR, and other permitting authority.

Present law provides for permits or letters of no objection from the corps, DOTD, and OCPR for issuance of a permit to a project which involves a levee crossing and further provides as a ministerial duty of the executive or administrative officer to issue the requested permit or letter of no objection, subject to any conditions or stipulations contained therein. Further authorizes the board or commission to impose fees, bonds, and general stipulations, to be enforced by the executive or administrative officer.

Proposed law deletes the provision that provides for the permits or letters of no objection to come from the corps, DOTD, or OCPR and further provides that permits or letters of no objection shall be issued by the board or commission of a levee district, after submitting the request to the Corps of Engineers, DOTD, or OCPR.

Proposed law allows the board to require insurance bonds of those obtaining permits a letter of objection.

Proposed law revises the boundaries of the West Jefferson Levee District and the Lafitte Area Independent Levee District and requires the transfer of books, records, documents, and property between the districts which are related to the boundary revision.

Proposed law authorizes a levee district or levee drainage district to purchase certain items through an existing public contract of another political subdivision within one year of opening of bids, provided that the contract is in compliance with public bid law; the total purchases do not exceed two times the purchase by the political subdivision; written consent is obtained, as well as the contract number; the vendor agrees to the additional purchase; and the vendor or items are identical to those specified in the existing public contract, and the price is the same as the original contract price.

(Amends R.S. 38:213, 225(A)(1)(a) and (2) and (D), 226, 291(R)(1) and (Y)(1); adds R.S. 38:321.1)