

Regular Session, 2011

HOUSE BILL NO. 640 (Substitute for House Bill No. 430 by Representative Billiot)

BY REPRESENTATIVE BILLIOT

AN ACT

To amend and reenact R.S. 38:213, 225(A)(1)(a) and (2) and (D), and 291(R)(1) and (Y)(1)(a) and to enact R.S. 38:321.1 and 225(E) and (F), relative to levee districts and flood control structures; to restrict access upon a levee or flood control structure in certain circumstances; to provide for penalties; to provide exceptions for access upon public levees or flood control structures; to provide relative to the obstruction of levees; to authorize a levee district or levee drainage district to purchase certain items through an existing public contract of another political subdivision; to provide for the limits of certain levee districts and the transfer of certain books, records, documents, and property between certain levee districts; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 38:213, 225(A)(1)(a) and (2) and (D), and 291(R)(1) and (Y)(1)(a) are hereby amended and reenacted and R.S. 38:321.1 and 225(E) and (F) are hereby enacted to read as follows:

§213. Riding or hauling on levees prohibited

A. No person shall ride, drive, or haul upon the public levees or integrated coastal protection projects or their rights-of-way except where, in the judgment of the levee commissioners of a district and the Department of Transportation and

1 Development, or, for levees or integrated coastal protection projects in the coastal
2 area as defined in R.S. 49:214.2(3), the Office of Coastal Protection and Restoration,
3 ample provision has been made to guard against any damage to which the levees or
4 integrated coastal protection projects may thereby be exposed from wear, tear, and
5 abuse. Each levee district shall publish guidance, erect signage, and require special
6 permits as they deem appropriate to allow them to make provisions for limited
7 riding, driving, or hauling.

8 B. ~~Whoever violates this Section shall be fined not more than fifty dollars~~
9 ~~or imprisoned for not more than thirty days, or both~~ Each governing authority is
10 authorized to set the penalty for violation of this Section, provided that the penalty
11 shall not exceed the penalty for criminal trespass, as defined in R.S. 14:63, and the
12 governing authority may seek injunctive relief and collect all expenses incurred as
13 a result of the violation.

14 C. This Section shall not be construed to restrict the proper officers of the
15 state or of any levee district or parish while in the performance of duty in inspecting,
16 guarding, or repairing the levees or integrated coastal protection projects.

17 D. Nothing in this Section shall interfere with the crossing over any public
18 levees, at ramps or inclines established under plans and specifications of the
19 Department of Transportation and Development, or, for levees or integrated coastal
20 protection projects in the coastal area as defined in R.S. 49:214.2(3), the Office of
21 Coastal Protection and Restoration, ~~for the purpose of transporting any material that~~
22 ~~may be used or required in the business of the population living behind the levees.~~
23 Nothing in this Section shall interfere with the ability of the Coastal Protection and
24 Restoration Authority to carry out its responsibilities as the local sponsor for all
25 integrated coastal protection projects, in its jurisdiction, pursuant to R.S.
26 49:214.1(F).

27 * * *

28 §225. Obstructions on levees, waterways, and ~~rights-of-way~~ rights-of-way therefor;
29 removal at expense of person responsible; destroying markers prohibited

1 A. No person shall:

2 (1)(a) Place or cause to be placed upon or within ~~six~~ fifteen feet of any part
3 of the levees fronting any waterway subject to the control or surveillance of police
4 juries, levee boards, municipal corporations, or other authorized boards or
5 departments any object, material, or matter of any kind or character which obstructs
6 or interferes with the safety of the levees or is an obstacle to the inspection,
7 construction, maintenance, or repair of any levee; or place or cause to be placed any
8 object, structure, material, or matter of any kind or character upon any part of any
9 land which the state or any agency or subdivision thereof may own or acquire by
10 deed, lease, servitude, charge, or otherwise, and through its authorized
11 representative, may donate, grant, or otherwise convey to the United States' rights-
12 of-way, easements, or other servitudes for the construction, improvement, or
13 maintenance of any flood-control structures or natural or other waterway, which may
14 obstruct or interfere with the improvement or maintenance of such waterway or use
15 of the land for flood-control purposes.

16 * * *

17 (2)(a)(i) Tie or moor logs, rafts, boats, ~~water craft~~ watercraft, or floating
18 objects of any description to the levees, or, when the water is against the levees, tie
19 or moor any floating objects ~~insecurely~~ to mooring posts, revetments, trees, or other
20 stationary or supposedly stationary objects ~~on the foreshore where they can be driven~~
21 ~~against the levees during windstorms~~ within one hundred eighty feet from the crown
22 of any federally authorized and funded levees or levees designated by the Office of
23 Coastal Protection and Restoration or the Department of Transportation and
24 Development;

25 (ii) When the water is against the levees, drive or push any logs, rafts, boats,
26 watercraft, or floating objects of any description onto or against any levees;

27 (b) Nothing herein shall prohibit the mooring or berthing of floating vessels
28 at such locations as have been permitted for this purpose by the United States Coast

Guard Captain of the Port, United States Army Corps of Engineers, the Louisiana Department of Transportation and Development, the jurisdictional levee district or flood protection authority, the Office of Coastal Protection and Restoration, or any other permitting authority;

* * *

D. Whoever violates this Section shall be ~~fin~~~~ed not more than one hundred~~
~~dollars or imprisoned for not more than six months, or both.~~ subject to the following
penalties:

(1) Not more than one hundred dollars for each violation or, in the case of willful and wanton violations, imprisonment for not more than six months, or both.

(2)(a) Within the parishes of Jefferson and Orleans, a civil fine of not more than ten thousand dollars for each violation or, in the case of willful and wanton violations, imprisonment for not more than six months, or both. Second and any subsequent violations shall be subject to a civil fine of up to twenty thousand dollars for each violation or, in the case of willful and wanton violations, imprisonment for not more than six months, or both.

(b) The provisions of this Paragraph shall remain in effect until such time as the Coastal Protection and Restoration Authority promulgates regulations that will provide levee districts, within the coastal area, as defined in R.S. 49:214.2(3), with the authority to enforce the necessary prohibitions related to Subparagraph (2)(a) of this Section as determined or approved by the Coastal Protection and Restoration Authority.

E. The governing authority that has jurisdiction of a levee, may bring a civil action for damages and/or injunctive relief, including but not limited to the issuance of a mandatory injunction. In any suit for the issuance of an injunction, proof of irreparable harm shall not be necessary.

F. Nothing in this Section shall interfere with the ability of the Coastal Protection and Restoration Authority to carry out its responsibilities as the local

sponsor for all flood control projects, in its jurisdiction, pursuant to R.S. 49:214.1(F).

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

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R. West Jefferson Levee District. (1) The West Jefferson Levee District as it existed on January 1, 2007, is reorganized as provided by this Paragraph and as provided by Paragraph (Y)(1) of this Section. All lands in the parish of Jefferson lying north of Latitude ~~29° 17' 52" N~~ 29° 47' 00" N and on the west side of the Mississippi River, except that area of land contained in the Lafitte Area Independent Levee District, shall constitute a levee district to be known as the West Jefferson Levee District. These lands and all property thereon situated, not exempt from taxation, shall be subject to the provisions of this Chapter.

* * *

Y. Lafitte Area Independent Levee District. (1)(a) The West Jefferson Levee District as it existed on January 1, ~~2007~~ 2011, is reorganized as provided by this Paragraph and as provided by Paragraph (R)(1) of this Section. The Lafitte Area Independent Levee District as it existed on January 1, 2011, is reorganized as provided by this Paragraph and as provided by this Subsection shall be comprised of all of the lands in the parish of Jefferson ~~located in Townships 15 South—Range 23 East, Township 16 South—Range 24 East, Township 16 South—Range 23 East and Township 16 South—Range 24 East, Parish of Jefferson, State of Louisiana.~~ More fully described as follows:

~~Beginning at a point having a Latitude of 29 degrees 47 minutes 25 seconds North and a Longitude of 90 degrees 08 minutes 30 seconds West; Thence along the Northern boundary N 89 degrees 23 minutes 16 seconds E for a distance of 20,794.06 feet to a point having a Latitude of 29 degrees 47 minutes 25 seconds North and a Longitude of 90 degrees 04 minutes 34 seconds West; Thence along the Eastern boundary S 00 degrees 37 minutes 43 seconds E for a distance of 54,446.53~~

feet to a point having a Latitude of 29 degrees 38 minutes 26 seconds North and a Longitude of 90 degrees 04 minutes 34 seconds West; Thence along the southern boundary S 89 degrees 23 minutes 16 seconds W for a distance of 20,825.20 feet to a point having a Latitude of 29 degrees 38 minutes 26 seconds North and a Longitude 90 degrees 08 minutes 30 seconds West, Thence along the western boundary N 00 degrees 35 minutes 45 seconds W for a distance of 54,446.53 feet to the Point of Beginning. lying north of Latitude 29° 17' 52" N and lying south of 29° 47' 00" N. These lands and all property thereon situated, not exempt from taxation, shall be subject to the provisions of this Chapter.

* * *

§321.1. Additional procurement methods; levee districts

A. In addition to the procurement methods available to all political subdivisions, as an alternate cost-effective means of acquiring materials, supplies, vehicles, and equipment, a levee district or levee drainage district may purchase these items through an existing public contract of another political subdivision within one year of the opening of bids, provided that the following conditions are met:

(1) The contract was bid in compliance with R.S. 38:2211 et seq.

(2) The total purchases on the contract do not exceed two times what was purchased by the political subdivision bidding the contract.

(3) The written consent of the political subdivision which bid the contract is obtained, as well as the contract number, and if applicable, the resolution accepting the contract.

(4) The vendor agrees to the additional purchase.

(5) The vendor, product, materials, supplies, vehicles, or equipment are identical to those specified in the existing public contract of the other political subdivision, and the price is the same as the original contract price.

B. The levee district or levee drainage district may rely on a certificate of the
political subdivision that the contract was bid in compliance with state law.

1 Section 2. Any books, records, documents, movable property, lands, or immovable
2 property owned by the West Jefferson Levee District situated within the Lafitte Area
3 Independent Levee District, that are owned by or in the possession of the West Jefferson
4 Levee District and that are situated in or pertain to the operations in the jurisdiction of the
5 Lafitte Area Independent Levee District shall, upon the effective date of this Act, become
6 property of and shall be transferred to the Lafitte Area Independent Levee District without
7 the necessity of any other act, instrument, or deed.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____