

2016 Regular Session

HOUSE BILL NO. 1149 (Substitute for House Bill No. 682 by Representative Leger)

BY REPRESENTATIVE LEGER

LEVEES: Provides relative to the Southeast Flood Protection Authority-East and Southeast Flood Protection Authority-West Bank

1 AN ACT

2 To amend and reenact R.S. 38:330.1(C)(3) and (4), (D)(2), (E), (F)(1), and (H) and to enact  
3 R.S. 38:330.1(C)(5) and (D)(3) and 330.2(A)(2)(c), relative to the Southeast Flood  
4 Protection Authority-East and Southeast Flood Protection Authority-West Bank; to  
5 provide relative to the nominating process for vacancies on the board of  
6 commissioners of the Southeast Flood Protection Authority-East and the Southeast  
7 Flood Protection Authority-West Bank; to provide relative to the terms of members  
8 of the boards of commissioners of the Southeast Flood Protection Authority-East and  
9 the Southeast Flood Protection Authority-West Bank; to provide relative to the  
10 powers and duties of the board of commissioners of the Southeast Flood Protection  
11 Authority-East and the Southeast Flood Protection Authority-West Bank; and to  
12 provide for related matters.

13 Notice of intention to introduce this Act has been published  
14 as provided by Article III, Section 13 of the Constitution of  
15 Louisiana.

16 Be it enacted by the Legislature of Louisiana:

17 Section 1. R.S. 38:330.1(C)(3) and (4), (D)(2), (E), (F)(1), and (H) are hereby  
18 amended and reenacted and R.S. 38:330.1(C)(5) and (D)(3) and 330.2(A)(2)(c) are hereby  
19 enacted to read as follows:

1 §330.1. Southeast Louisiana Flood Protection Authority-East and Southeast  
2 Louisiana Flood Protection Authority-West Bank; territorial jurisdiction;  
3 board of commissioners; appointments; terms; compensation; vacancy;  
4 officers; meetings; domicile

5 \* \* \*

6 C.

7 \* \* \*

8 (3)(a) Within ten days after the occurrence of a ~~an~~ unexpected vacancy on  
9 the flood protection authority board, the board shall ~~advise~~ notify the chairman of the  
10 Coastal Protection and Restoration Authority of such unexpected vacancy. For  
11 purposes of this Paragraph, a vacancy shall be unexpected whenever it occurs for a  
12 reason other than the expiration of a term. Within fourteen days after being advised  
13 of a vacancy on a board, the chairman of the Coastal Protection and Restoration  
14 Authority shall publish notice of the vacancy in the official journal of the state and  
15 of each parish within the territorial jurisdiction of the authority. The chairman of the  
16 Coastal Protection and Restoration Authority shall cause notification of the  
17 unexpected vacancy to be published in the official journal of the state and of each  
18 parish within the territorial jurisdiction of the authority. Such notification shall be  
19 published no later than thirty days following receipt by the chairman of the Coastal  
20 Protection and Restoration Authority of notice of the unexpected vacancy.

21 (b) ~~No sooner than thirty days after the latest date of publication in any of~~  
22 ~~the journals set forth in Subparagraph (a) of this Paragraph nor later than sixty days~~  
23 ~~after that date, the nominating committee shall meet to determine the nominations~~  
24 ~~to send to the governor to fill each vacancy. The nominating committee shall begin~~  
25 ~~meeting to determine the nominations to send to the governor to fill each unexpected~~  
26 ~~vacancy no sooner than thirty days after the latest date of publication set forth in~~  
27 ~~Subparagraph (a) of this Paragraph and no later than ninety days after the latest date~~  
28 ~~of publication set forth in Subparagraph (a) of this Paragraph. The committee shall~~  
29 consider each name submitted to the committee from whatever source and the

1 committee members may propose names of persons to be considered. After review,  
2 the committee shall select the nominees for each unexpected vacancy who meet the  
3 requirements of this Section. The committee shall submit one nominee for ~~a~~ each  
4 unexpected vacancy in a position provided for in ~~R.S. 38:330.1(C)(1)(a)(i) or (b)(i)~~  
5 Item (1)(a)(i) or (b)(i) of this Subsection and shall submit two nominees for each  
6 unexpected vacancy in a position provided for in ~~R.S. 38:330.1(C)(1)(a)(ii) or (iii)~~  
7 ~~or (b)(ii) or (iii)~~ Item (1)(a)(ii) or (iii) of this Subsection or Item (1)(b)(ii) or (iii) of  
8 this Subsection. A majority vote of the total membership of the nominating  
9 committee shall be required to nominate persons to positions on the board. The  
10 committee shall submit its nominations for each unexpected vacancy to the governor  
11 for consideration no later than ~~ninety~~ one hundred twenty days after the ~~occurrence~~  
12 notification of the chairman of the Coastal Protection and Restoration Authority of  
13 the occurrence of such unexpected vacancy. The governor shall appoint one of the  
14 nominees submitted by the committee within thirty days of submission of the  
15 nominations for any unexpected vacancy and submit such appointee to the Senate for  
16 confirmation within forty-eight hours following the appointment, regardless of  
17 whether the legislature is in regular session.

18 (c) If the nominating committee fails to submit a nominee within ~~ninety~~ one  
19 hundred twenty days after ~~the occurrence of a vacancy~~ notification of the chairman  
20 of the Coastal Protection and Restoration Authority of the occurrence of such  
21 unexpected vacancy, the governor shall appoint a person meeting the requirements  
22 of this Section within thirty days of the expiration of such time and submit such  
23 appointee to the Senate for confirmation within forty-eight hours following the  
24 appointment, regardless of whether the legislature is in regular session.

25 (d) In the event that the Senate fails to confirm an appointment made  
26 pursuant to this Paragraph by taking no action at all or voting not to confirm an  
27 appointee in open session by the end of a regular session, the position shall be  
28 considered as having an unexpected vacancy and the process required by this  
29 Paragraph shall occur until such position is filled. Any appointee the Senate fails to

1 confirm shall not be appointed to the same position during any recess of the  
2 legislature.

3 (4)(a) Each July first, the board shall notify the chairman of the Coastal  
4 Protection and Restoration Authority of any vacancy which will occur on a board in  
5 the following year due to expiration of a term, hereinafter in this Paragraph referred  
6 to as "expected vacancy". The chairman of the Coastal Protection and Restoration  
7 Authority shall cause notification of each expected vacancy to be published in the  
8 official journal of the state and of each parish within the territorial jurisdiction of the  
9 authority. Such notification shall be published no later than thirty days following  
10 receipt by the chairman of the Coastal Protection and Restoration Authority of notice  
11 of an expected vacancy.

12 (b) The nominating committee shall begin meeting to determine the  
13 nominations to send to the governor to fill each expected vacancy no sooner than  
14 thirty days after the latest date of publication set forth in Subparagraph (a) of this  
15 Paragraph and no later than ninety days after the latest date of publication set forth  
16 in Subparagraph (a) of this Paragraph. The committee shall consider each name  
17 submitted to the committee from whatever source and the committee members may  
18 propose names of persons to be considered. After review, the committee shall select  
19 the nominees for each expected vacancy who meet the requirements of this Section.  
20 The committee shall submit one nominee for an expected vacancy in a position  
21 provided for in Item (1)(a)(i) or (b)(i) of this Subsection and shall submit two  
22 nominees for each expected vacancy in a position provided for in Item (1)(a)(ii) or  
23 (iii) of this Subsection or Item (1)(b)(ii) or (iii) of this Subsection. A majority vote  
24 of the total membership of the nominating committee shall be required to nominate  
25 persons to positions on the board. The committee shall submit its nominations for  
26 each expected vacancy to the governor for consideration no later than thirty days  
27 prior to the start of regular session. The governor shall appoint one of the nominees  
28 submitted by the committee not later than thirty days after receipt of the nominations  
29 and shall submit such appointee to the Senate for confirmation within forty-eight

1 hours after the appointment is made, regardless of whether the legislature is in regular  
2 session. If confirmed, the appointee shall take office the day after the expiration of  
3 the term of the board member whose term is expiring.

4 (c) If the nominating committee fails to submit a nominee for an expected  
5 vacancy thirty days prior to the start of regular session, the governor shall appoint  
6 a person meeting the requirements of this Section. The governor shall submit such  
7 appointee to the Senate for confirmation within forty-eight hours after the  
8 appointment is made, regardless of whether the legislature is in session. If confirmed,  
9 the appointee shall take office the day after the expiration of the term of the board  
10 member whose term is expiring.

11 (d) In the event that the Senate fails to confirm an appointment made  
12 pursuant to this Paragraph by taking no action at all or voting not to confirm an  
13 appointee in open session by the end of a regular session, an unexpected vacancy  
14 shall occur the day after the expiration of the term of the board member whose term  
15 is expiring and such unexpected vacancy shall be filled in the manner set forth in  
16 Paragraph (3) of this Subsection. Any appointee whom the Senate failed to confirm  
17 shall not be appointed to the same position during any recess of the legislature.

18 ~~(4)~~(5) Each appointment made to the board shall be subject to confirmation  
19 by the Senate.

20 D.

21 \* \* \*

22 (2) All commissioners thereafter appointed, except a commissioner  
23 appointed to fill an unexpired term, shall be appointed as provided in Subsection C  
24 of this Section for staggered terms of four years. No member shall serve more than  
25 two consecutive four-year terms. A former board member may be reappointed to the  
26 board after sitting out four years from the completion of his last consecutive term.

27 (3) Notwithstanding R.S. 24:14(K), no person shall serve on the board  
28 beyond the expiration of a term unless reappointed to a position on the board by the  
29 process required by either Paragraph (C)(3) or (4) of this Section.

1 E. Immediately after the members of the board of commissioners have been  
 2 appointed, or as soon as thereafter is practicable, they shall meet and organize by  
 3 electing from their number a president, vice president, and secretary who shall  
 4 perform the duties normally required of such officers. In case of death or resignation  
 5 of the president, the vice president shall call the board together to fill the ~~vacancy~~  
 6 position of the president. In case of absence, inability, or failure to act of the  
 7 president, the vice president shall perform all the duties of the president.

8 F.(1) A majority of the sitting commissioners of the board shall constitute  
 9 a quorum to do business. They shall designate the time and select the place for  
 10 holding their regular sessions, which shall be convened each month. Special  
 11 meetings may be convened at any time upon the call of the president. Regular  
 12 monthly meetings of the board shall be convened on a rotating basis at a place to be  
 13 determined by the board in a levee district under the jurisdiction of the authority.

14 \* \* \*

15 H. A vacancy created by reason of death, resignation, ~~expiration of term,~~  
 16 removal, or any other cause ~~shall be filled in the same manner as the original~~  
 17 appointment, other than the expiration of a term, shall be an unexpected vacancy to  
 18 be filled according to Paragraph (C)(3) of this Section.

19 \* \* \*

20 §330.2. Board of commissioners; powers and duties

21 A.

22 \* \* \*

23 (2)

24 \* \* \*

25 (c) After January 1, 2018, the authority or any levee district within the  
 26 territorial jurisdiction of the authority may divest itself of any drainage or pumping  
 27 responsibilities that would otherwise fall to the responsibility of a parish governing  
 28 authority.

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**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)]

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HB 1149 Engrossed

2016 Regular Session

Leger

**Abstract:** Changes the nominating and appointment process for the boards of commissioners for the Southeast Flood Protection Authority-East and Southeast Flood Protection Authority-West Bank and provides relative to the powers and duties of such authorities.

Present law provides a process by which the board of commissioners of the Southeast Flood Protection Authority-East and Southeast Flood Protection Authority-West Bank are nominated and appointed.

Proposed law changes present law in that it provides for a process to be followed for a vacancy which will occur due to the expiration of a term (expected vacancy) and a vacancy which occurs for any other reason (unexpected vacancy).

Proposed law requires the nomination process for an expected vacancy to begin one year prior to the occurrence of an expected vacancy.

Proposed law requires the nominating committee for such boards to provide nominations to the governor for appointments for expected and unexpected vacancies in a certain time frame.

Proposed law requires the governor to make appointments within a certain time frame for expected and unexpected vacancies and submit such appointments to the Senate for confirmation within 48 hours of making such appointments.

Proposed law requires the governor, in the event that the nominating committee does not provide nominees to him in a certain amount of time, to make such appointments and submit such appointments to the Senate for confirmation within 48 hours of making such appointments.

Present law provides that all commissioners appointed, except a commissioner appointed to fill an unexpired term, shall be appointed as provided in present law for staggered terms of four years and that no member shall serve more than two consecutive four-year terms.

Proposed law adds that a former board member may be reappointed to the board after sitting out four years from the completion of his last consecutive term.

Present law provides that notwithstanding any other provision of law, all persons who are appointed to a position on a board, commission, committee, or district, which requires Senate confirmation, including persons appointed to a partial term shall be subject to reconfirmation as follows:

- (1) The service of each appointee appointed to a term concurrent with the appointing official or at the pleasure of the appointing official expires at the end of the appointing official's term as provided for in Article IV, §3 of the Constitution of Louisiana or as otherwise provided for by law.

The appointee may continue to serve until the end of the second regular session of the legislature following the beginning of the legislative term at which time the position will

become vacant unless the appointee is reappointed to the position and has been confirmed by the Senate prior to the end of the second legislative session.

- (2) The service of each appointee appointed to a fixed term shall expire at the end of the term to which the appointee was appointed.

The appointee may continue to serve until the end of the second regular session of the legislature following the expiration of the term.

Proposed law provides that notwithstanding present law no person shall serve on the board of commissioners beyond the expiration of a term unless reappointed to a position on the board by the process required by proposed law.

Present law provides that a majority of the commissioners of the board shall constitute a quorum to do business.

Proposed law specifies that a majority of the sitting commissioners of the board shall constitute a quorum to do business.

Present law provides that a vacancy created by reason of death, resignation, expiration of term, removal, or any other cause shall be filled in the same manner as the original appointment.

Proposed law provides that a vacancy created by reason of death, resignation, removal, or any other cause other than the expiration of a term shall be an unexpected vacancy to be filled according to proposed law pertaining to unexpected vacancies.

Proposed law provides that after Jan. 1, 2018, the authority or any levee district within the territorial jurisdiction of the authority may divest itself of any drainage or pumping responsibilities that would otherwise fall to the responsibility of a parish governing authority.

(Amends R.S. 38:330.1(C)(3) and (4), (D)(2), (E), (F)(1), and (H); Adds R.S. 38:330.1(C)(5) and (D)(3) and 330.2(A)(2)(c))