

First Extraordinary Session, 2006

SENATE BILL NO. 9

BY SENATOR BOASSO AND REPRESENTATIVE K. CARTER

FLOODS/FLOODING. Constitutional amendment to provide for the establishment of a regional flood protection authority. (2/3 - CA13s1(A))

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A JOINT RESOLUTION

Proposing to amend Section 38(A) and Section 39(A) and to add Section 38.1 of Article VI of the Constitution of Louisiana and to redesignate the title to Part III of said Article, relative to flood protection; to provide for the establishment of a regional flood protection authority and its governing authority, powers, duties, functions; to provide for the governing authority of levee districts within the territorial jurisdiction of the regional flood protection authority; to provide for the establishment of regions within the authority; to provide for taxing authority; and to specify an election for submission of the proposition to electors and provide a ballot proposition.

Section 1. Be it resolved by the Legislature of Louisiana, two-thirds of the members elected to each house concurring, that there shall be submitted to the electors of the state, for their approval or rejection in the manner provided by law, a proposal to amend Section 38(A) and Section 39(A) and to add Section 38.1 of Article VI of the Constitution of Louisiana and to redesignate the title to Part III of said Article, to read as follows:

PART III. LEVEE DISTRICTS

AND REGIONAL FLOOD PROTECTION AUTHORITY

§38. Levee Districts

1 Section 38.(A) Retention; Reorganization; Consolidation. Levee districts as
2 organized and constituted on January 1, 1974 shall continue to exist, except that

3 (1) The legislature may provide by law for the consolidation, division, or
4 reorganization of existing levee districts ~~or~~, **may create new levee districts, or may**
5 **establish a regional flood protection authority and regions therein as authorized**
6 **by Section 38.1 of this Part.** However, **except for the board of commissioners of**
7 **the regional flood protection authority and regions established therein,** the
8 members of the board of commissioners of a district heretofore or hereafter created
9 shall be appointed or elected from among residents of the district, as provided by
10 law.

11 (2)~~A~~ **Except for any levee district within the territorial jurisdiction of a**
12 **regional flood protection authority,** a levee district whose flood control
13 responsibilities are limited to and which is situated entirely within one parish may
14 be consolidated and merged into such parish under the terms and conditions and in
15 the manner provided in Section 16 of this Article.

16 * * *

17 **§38.1. Regional flood protection authority**

18 **Section 38.1.(A) Establishment. The legislature by law may establish a**
19 **regional flood protection authority and provide for its territorial jurisdiction,**
20 **regions within the authority, governing authority, powers, duties, and functions**
21 **for the purpose of constructing and maintaining levees, levee drainage, flood**
22 **protection, and hurricane flood protection within the territorial jurisdiction of**
23 **the authority, and for all other purposes incidental thereto. The authority shall**
24 **be governed by a board of commissioners which shall also be the governing**
25 **authority of each region and levee district within the territorial jurisdiction of**
26 **the authority.**

27 **(B) Authority Wide Tax. In addition to the taxes authorized to be levied**
28 **by any levee district situated within the territorial jurisdiction of the regional**
29 **flood protection authority and the taxes authorized to be levied by any region**

1 of the authority by Paragraph C of this Section, the board of commissioners of
2 the authority may levy annually a tax on the dollar of the assessed valuation of
3 all taxable property situated within the territorial jurisdiction of the authority.
4 The necessity and the levy and rate of the tax, or any increase thereof, shall be
5 submitted to the electors within the territorial jurisdiction of the authority, and
6 the tax or increase shall take effect only if approved by a majority of the
7 electors voting thereon within the territorial jurisdiction of the authority in an
8 election held for that purpose.

9 (C) Region Wide Tax. In addition to the taxes authorized to be levied by
10 any levee district situated within a region of the regional flood protection
11 authority and the taxes authorized to be levied by the regional flood protection
12 authority by Paragraph B of this Section, the board of commissioners of the
13 authority may levy annually a tax on the dollar of the assessed valuation of all
14 taxable property situated within the territorial jurisdiction of any region of the
15 authority. The necessity and the levy and rate of the tax, or any increase
16 thereof, shall be submitted to the electors within the region, and the tax or
17 increase shall take effect only if approved by:

18 (1) a majority of the electors voting thereon within that region, and
19 (2) at least seventy-five percent of the parishes in that region, by a
20 majority of the electors voting thereon in each parish, in an election held for
21 that purpose.

22 (D) Notwithstanding the provisions of Article VII, Section 10.2(D) of this
23 Constitution, the legislature may appropriate up to five hundred thousand
24 dollars annually to the authority from the Coastal Protection and Restoration
25 Fund.

26 (E) Obligation of Contract Affirmed. No action taken under this Section
27 shall impair the obligation of outstanding bonded indebtedness or of any other
28 contract of a levee district.

29 (F) The phrase "levee district" when used in Sections 40 and 41 of this

1 **Part and in Articles VII and IX of this Constitution shall include the regional**
 2 **flood protection authority and its regions.**

3 §39. Levee District Taxes

4 Section 39.(A) District Tax; Millage Limit. For the purpose of constructing
 5 and maintaining levees, levee drainage, flood protection, hurricane flood protection,
 6 and for all other purposes incidental thereto, the governing authority of a levee
 7 district **existing on the effective date of Section 38.1 of this Part, or created**
 8 **thereafter outside of the territorial jurisdiction of the regional flood protection**
 9 **authority, may levy annually on the dollar of the assessed valuation of all taxable**
 10 **property situated within the alluvial portions of the district subject to overflow**
 11 a tax not to exceed five mills **or the maximum millage authorized for such district**
 12 **as of the effective date of Section 38.1 of this Part,** except ~~that~~ the Board of Levee
 13 Commissioners of the Orleans Levee District, **or its successor,** ~~which~~ may levy
 14 annually a tax not to exceed two and one-half mills **or the maximum millage**
 15 **authorized for such district as of the effective date of Section 38.1 of this Part;**
 16 ~~on the dollar of the assessed valuation of all taxable property situated within the~~
 17 ~~alluvial portions of the district subject to overflow.~~

18 * * *

19 Section 2. Be it further resolved that this proposed amendment shall be submitted
 20 to the electors of the state of Louisiana at the statewide election to be held on April 29, 2006.

21 Section 3. Be it further resolved that on the official ballot to be used at said election
 22 there shall be printed a proposition, upon which the electors of the state shall be permitted
 23 to vote FOR or AGAINST, to amend the Constitution of Louisiana, which proposition shall
 24 read as follows:

25 To authorize the legislature to establish a regional flood protection authority
 26 and provide for its governing authority, powers, duties, and functions, for the
 27 governing authority of levee districts within the territorial jurisdiction of the
 28 regional authority, and for establishing regions within the authority, and
 29 authorizing ad valorem taxes subject to voter approval. (Amends Article VI,

The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Jerry J. Guillot.

DIGEST

Present constitution, relative to levee districts, authorizes the legislature to provide by law for the consolidation, division, or reorganization of existing levee districts or create new levee districts.

Proposed constitutional amendment retains present constitution and additionally authorizes the legislature to establish a regional flood protection authority and regions therein as authorized in proposed constitutional amendment.

Present constitution requires that the members of the board of commissioners of a district heretofore or hereafter created be appointed or elected from among residents of the district, as provided by law.

Proposed constitutional amendment retains present constitution, but provides that the district residence requirement shall not apply to any levee district within the territorial jurisdiction of a regional flood protection authority.

Present constitution provides that a levee district whose flood control responsibilities are limited to and which is situated entirely within one parish may be consolidated and merged into such parish under the terms and conditions and in the manner provided in Art. VI, Sec. 16 of the Constitution. Proposed constitutional amendment retains that authority for any levee district, not subject to the governing authority of a regional flood protection authority.

Proposed constitutional amendment authorizes the legislature, by law, to establish a regional flood protection authority for the purpose of constructing and maintaining levees, levee drainage, flood protection, hurricane flood protection and provide for its territorial jurisdiction, governing authority, powers, duties, and functions.

Provides that:

1. The governing authority of an authority may levy annually a tax on the dollar of the assessed valuation of all taxable property situated within the territorial jurisdiction of the authority. Requires that the necessity and the levy and rate of the tax, or any increase thereof, be submitted to the electors within the authority, and provides that the tax or increase shall take effect only if approved by a majority of the electors voting thereon in an election held for that purpose.
2. The governing authority of the authority may levy annually a tax on the dollar of the assessed valuation of all taxable property situated within the territorial jurisdiction of any region of the authority. Requires that the necessity and the levy and rate of the tax, or any increase thereof, be submitted to the electors within the region, and provides that the tax or increase shall take effect only if approved by (a) a majority of the electors voting thereon within the region and (b) at least 75% of the parishes in the region, by a majority of electors voting in each parish, in an election held for that purpose.

Present constitution establishes the Wetlands Conservation and Restoration Fund and provides that the money in the fund may be appropriated for purposes consistent with the Wetlands Conservation and Restoration Plan developed by the Wetlands Conservation and Restoration Authority, or its successor. Further, no appropriation shall be made from the fund inconsistent with the purposes of the plan. Proposed constitutional amendment (Act

69 of 2005 1ES) pending vote of electorate on April 29, 2006 redesignates the fund as the Coastal Protection and Restoration Fund and provides that the money in the fund may be appropriated for purposes consistent with the Coastal Protection Plan developed by the Coastal Protection and Restoration Authority, or its successor. Further, no appropriation shall be made from the fund inconsistent with the purposes of the plan.

Proposed constitutional amendment provides that notwithstanding Art. VII, Sec. 10.2(D) of the Constitution, the legislature may appropriate to the authority up to \$500,000 annually from the Coastal Protection and Restoration Fund.

Proposed constitutional amendment provides that no action taken under proposed constitutional amendment shall impair the obligation of outstanding bonded indebtedness or of any other contract of a levee district.

Present constitution provides that:

1. Subject to State Bond Commission approval, the governing authority of a levee district may fund the proceeds of its taxes or other revenues into bonds or other evidences of indebtedness; with proceeds therefrom being used for the levee district purposes or for funding or payment of any outstanding indebtedness; provided that such bonds be sold as provided by law. (Art. IV, Sec. 40)
2. The governing authority of any levee district may cooperate with the federal government in constructing and maintaining levees in this state, under terms and conditions provided by the federal authorities and accepted by the governing authority. (Art. IV, Sec. 41)
3. Except for transfers provided for in Terrebonne Parish, lands and mineral interests of a levee district shall not be lost by prescription. (Art. IX, Sec. 4)

Proposed constitutional amendment provides that when "levee district" is used in Article VI, Secs. 40-41 and in Articles VII and IX of the Constitution, it includes a regional flood protection authority.

Present constitution provides that for the purpose of constructing and maintaining levees, levee drainage, flood protection, hurricane flood protection, and for all other purposes incidental thereto, the governing authority of a levee district may levy annually a tax not to exceed five mills, except the Board of Levee Commissioners of the Orleans Levee District, which may levy annually a tax not to exceed two and one-half mills, on the dollar of the assessed valuation of all taxable property situated within the alluvial portions of the district subject to overflow.

Proposed constitutional amendment provides that for the purpose of constructing and maintaining levees, levee drainage, flood protection, hurricane flood protection, and for all other purposes incidental thereto, the governing authority of a levee district existing on the effective date of proposed constitutional amendment, or created thereafter outside of the territorial jurisdiction of the authority, may levy annually on the dollar of the assessed valuation of all taxable property situated within the alluvial portions of the district subject to overflow a tax not to exceed five mills or the maximum millage authorized for such district as of such date, except that the Board of Levee Commissioners of the Orleans Levee District, or its successor, may levy annually a tax not to exceed two and one-half mills or the maximum millage authorized for such district as of such date. Further, no provision of this Paragraph shall be construed or interpreted to make the taxes or other revenue of a levee district payable for the liability of another levee district or for any liability of a regional flood protection authority when acting on behalf of another levee district.

Specifies submission of the amendment to the voters at the statewide election to be held on April 29, 2006.

(Amends Const. Art. VI, Sec. 38(A) and 39(A) and adds Const. Art. VI, Sec. 38.1)