HLS 16RS-2931 REENGROSSED

2016 Regular Session

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

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

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 4 Louisiana Flood Protection Authority-East and Southeast Louisiana Flood Protection 5 Authority-West Bank; to provide relative to the nominating process for vacancies on the board of commissioners of the Southeast Louisiana Flood Protection Authority-7 East and the Southeast Louisiana Flood Protection Authority-West Bank; to provide 8 relative to the terms of members of the boards of commissioners of the Southeast 9 Flood Louisiana Protection Authority-East and the Southeast Louisiana Flood 10 Protection Authority-West Bank; to provide relative to the powers and duties of the 11 board of commissioners of the Southeast Louisiana Flood Protection Authority-East 12 and the Southeast Louisiana Flood Protection Authority-West Bank; and to provide 13 for related matters. 14 Notice of intention to introduce this Act has been published 15 as provided by Article III, Section 13 of the Constitution of 16 Louisiana. 17 Be it enacted by the Legislature of Louisiana: 18 Section 1. R.S. 38:330.1(C)(3) and (4), (D)(2), (E), (F)(1), and (H) are hereby 19 amended and reenacted and R.S. 38:330.1(C)(5) and (D)(3) and 330.2(A)(2)(c) are hereby enacted to read as follows: 20

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

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.

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

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

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

- (c) If the nominating committee fails to submit a nominee within ninety one hundred twenty days after the occurrence of a vacancy notification of the chairman of the Coastal Protection and Restoration Authority of the occurrence of such unexpected vacancy, the governor shall appoint a person meeting the requirements of this Section within thirty days of the expiration of such time and submit such appointee to the Senate for confirmation within forty-eight hours following the appointment, regardless of whether the legislature is in regular session.
- (d) In the event that the Senate fails to confirm an appointment made pursuant to this Paragraph by taking no action at all or voting not to confirm an appointee in open session by the end of a regular session, the position shall be considered as having an unexpected vacancy and the process required by this Paragraph shall occur until such position is filled. Any appointee the Senate fails to

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

Protection and Restoration Authority of any vacancy which will occur on a board in the following year due to expiration of a term, hereinafter in this Paragraph referred to as "expected vacancy". The chairman of the Coastal Protection and Restoration Authority shall cause notification of each expected vacancy to be published in the official journal of the state and of each parish within the territorial jurisdiction of the authority. Such notification shall be published no later than thirty days following receipt by the chairman of the Coastal Protection and Restoration Authority of notice of an expected vacancy.

(b) The nominating committee shall begin to meet and continue to meet as necessary to determine the nominations to send to the governor to fill each expected vacancy no sooner than thirty days after the latest date of publication set forth in Subparagraph (a) of this Paragraph and no later than ninety days after the latest date of publication set forth in Subparagraph (a) of this Paragraph. The committee shall consider each name submitted to the committee from whatever source and the committee members may propose names of persons to be considered. After review, the committee shall select the nominees for each expected vacancy who meet the requirements of this Section. The committee shall submit one nominee for an expected vacancy in a position provided for in Item (1)(a)(i) or (b)(i) of this Subsection and shall submit two nominees for each expected vacancy in a position provided for in Item (1)(a)(ii) or (iii) of this Subsection or Item (1)(b)(ii) or (iii) of this Subsection. A majority vote of the total membership of the nominating committee shall be required to nominate persons to positions on the board. The committee shall submit its nominations for each expected vacancy to the governor for consideration no later than thirty days prior to the start of regular session. The governor shall appoint one of the nominees submitted by the committee not later than thirty days after receipt of the nominations and shall submit such appointee to

2	regardless of whether the legislature is in regular session. If confirmed, the
3	appointee shall take office the day after the expiration of the term of the board
4	member whose term is expiring.
5	(c) If the nominating committee fails to submit a nominee for an expected
6	vacancy thirty days prior to the start of regular session, the governor shall appoint
7	a person meeting the requirements of this Section. The governor shall submit such
8	appointee to the Senate for confirmation within forty-eight hours after the
9	appointment is made, regardless of whether the legislature is in session. If confirmed,
10	the appointee shall take office the day after the expiration of the term of the board
11	member whose term is expiring.
12	(d) In the event that the Senate fails to confirm an appointment made
13	pursuant to this Paragraph by taking no action at all or voting not to confirm an
14	appointee in open session by the end of a regular session, an unexpected vacancy
15	shall occur the day after the expiration of the term of the board member whose term
16	is expiring and such unexpected vacancy shall be filled in the manner set forth in
17	Paragraph (3) of this Subsection. Any appointee whom the Senate failed to confirm
18	shall not be appointed to the same position during any recess of the legislature.
19	(4)(5) Each appointment made to the board shall be subject to confirmation
20	by the Senate.
21	D.
22	* * *
23	(2) All commissioners thereafter appointed, except a commissioner
24	appointed to fill an unexpired term, shall be appointed as provided in Subsection C
25	of this Section for staggered terms of four years. No member shall serve more than
26	two consecutive four-year terms. If a person serves two years or more of an
27	unexpired term, such service shall constitute a term. A former board member may
28	be reappointed to the board after sitting out four years from the completion of his last
29	consecutive term.

the Senate for confirmation within forty-eight hours afer the appointment is made,

1	(3) Notwithstanding R.S. 24:14(K), no person shall serve on the board
2	beyond the expiration of a term unless reappointed to a position on the board by the
3	process required by either Paragraph (C)(3) or (4) of this Section.
4	E. Immediately after the members of the board of commissioners have been
5	appointed, or as soon as thereafter is practicable, they shall meet and organize by
6	electing from their number a president, vice president, and secretary who shall
7	perform the duties normally required of such officers. In case of death or resignation
8	of the president, the vice president shall call the board together to fill the vacancy
9	position of the president. In case of absence, inability, or failure to act of the
10	president, the vice president shall perform all the duties of the president.
11	F.(1) A majority of the sitting commissioners of the board shall constitute
12	a quorum to do business. They shall designate the time and select the place for
13	holding their regular sessions, which shall be convened each month. Special
14	meetings may be convened at any time upon the call of the president. Regular
15	monthly meetings of the board shall be convened on a rotating basis at a place to be
16	determined by the board in a levee district under the jurisdiction of the authority.
17	* * *
18	H. A vacancy created by reason of death, resignation, expiration of term,
19	removal, or any other cause shall be filled in the same manner as the original
20	appointment, other than the expiration of a term, shall be an unexpected vacancy to
21	be filled according to Paragraph (C)(3) of this Section.
22	* * *
23	§330.2. Board of commissioners; powers and duties
24	A.
25	* * *
26	(2)
27	* * *
28	(c) After January 1, 2018, the authority or any levee district within the
29	territorial jurisdiction of the authority may divest itself of any drainage or pumping

1 responsibilities that would otherwise fall to the responsibility of a parish governing

2 <u>authority.</u>

3 * * *

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 1149 Reengrossed

2016 Regular Session

Leger

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

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

<u>Proposed law</u> changes <u>present law</u> 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).

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

<u>Proposed law</u> 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.

<u>Proposed law</u> 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.

<u>Proposed law</u> 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.

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

<u>Proposed law</u> provides that if a person serves two years or more of an unexpired term, such service will constitute a term.

<u>Proposed law</u> 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.

<u>Present law</u> 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:

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CODING: Words in struck through type are deletions from existing law; words <u>underscored</u> are additions.

(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.

<u>Proposed law</u> provides that notwithstanding <u>present law</u> 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.

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

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

<u>Present law</u> 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.

<u>Proposed law</u> 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.

<u>Proposed law</u> 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))

Summary of Amendments Adopted by House

The House Floor Amendments to the engrossed bill:

- 1. Clarify when the nominating committee can meet to determine nominations to send to the governor for expected and unexpected vacancies on a board of commissioners.
- 2. Provide that if a person serves two years or more of an unexpired term on a board of commissioners that such service shall constitute a term.