
The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Riley Boudreaux.

DIGEST

Proposed law creates the Bunches Bend Protection District effective July 15, 2012, as a special district and political subdivision of the state for the purpose of repairing, improving, and maintaining the Wilson Point Levee System in the Bunches Bend area.

Proposed law provides that the district shall be comprised of the area of parish of East Carroll which contains the levees composing the Wilson Point Levee System and the area within the Wilson Point Levee System.

Proposed law provides for the district to be administered by a board of six commissioners who shall be owners of property in the district or duly designated representatives of entities which own property within the district, as follows:

1. Two who are appointed by the governor, to serve at his pleasure.
2. One appointed by the member of the House whose district encompasses all or the greater portion of the area of the district, to serve at his pleasure.
3. One appointed by the member of the Senate whose district encompasses all or the greater portion of the area of the district, to serve at his pleasure.
4. Two appointed by the public utilities which own land and/or property or possess servitudes within the district.

The members of the board serve without salary or per diem but are entitled to reimbursement for reasonable, actual, and necessary expenses incurred in the performance of their duties.

A majority of the members of the board constitute a quorum for the transaction of business and, except as provided below for voting on taxes levied by the district, the board takes action by a vote of a majority of the commissioners present.

Proposed law authorizes the board of commissioners to levy and collect by resolution or ordinance adopted by a favorable vote of at least two-thirds of the total number of commissioners, which must include the favorable vote of both of the commissioners appointed by the public utilities, a combination of the following taxes:

1. An ad valorem tax of up to 750 mills within the district.
2. An annual tax to be imposed on a per acre basis on land within the district not to exceed \$30 per acre.

Such combination of taxes can be levied only after the following:

1. The board of commissioners of the district adopts an appropriate resolution giving notice of its intention to levy such taxes, which resolution must include a general description of the taxes to be levied, and notice of this intention must be published once a week for two weeks in the official journal of the parish governing authority, the first publication to appear at least 14 days before the public meeting of the board at which it will meet in open and public session to hear any objections to the proposed levy of the tax. The notice must state the date, time, and place of the public hearing.
2. At the public meeting, the commission is required to establish a mail ballot referendum on the imposition of the proposed tax whereby landowners within the district may inform the board of their approval or disapproval of the proposed tax. The mail ballot referendum must include the following:
 - (a) A procedure whereby the landowners within the district are mailed to their last known address as listed on the ad valorem tax assessment rolls of the parish the mail ballot below and written notice of the following:
 - (i) The rate and term of the taxes proposed to be levied.
 - (ii) The purposes of such levy.
 - (iii) The time period during which the mail balloting must occur which can in no case be less than 30 days, with the stipulation that no mail ballots will be accepted which are postmarked after the last day of the time period.
 - (iv) The address to which the ballots are to be mailed.
 - (b) The form of the mail ballot wherein the landowner expresses his approval or disapproval of the rate and term of the tax. If the landowner is not an individual, the voter is required to provide written documentation of his authority to vote on behalf of the entity which is the landowner.
3. The commission cannot levy any tax unless 75% of the landowners in the district participating in the mail ballot approve the rate and term of the tax.

"Landowner" is defined as:

1. The individual or individuals who own land in the district.
2. A duly authorized representative of any entity which owns land in the district.

Proposed law grants to the district those powers usually provided to such districts to do all things reasonably necessary to accomplish the purposes of the district. In particular, the district may:

1. In its own name and on its own behalf incur debt and issue bonds, notes, certificates and other evidences of indebtedness. For this purpose the district is deemed and considered to be a "public entity", and to the extent not in conflict with the proposed law, has the authority and powers with respect to indebtedness provided for in Chapters 13, 13-A, 14, 14-A, 14-B, 15-A and 18 of Subtitle III of Title 39 of the Louisiana Revised Statutes and any other provisions of law providing authority to political subdivisions with respect to issuing indebtedness which is not in conflict with the proposed law.
2. Except for the approval of the State Bond Commission, no other approval is required for the issuance of indebtedness of the district.
3. For a period of 30 days from the date of publication of any resolution authorizing the issuance of indebtedness of the district, any persons in interest are allowed to contest the legality of the resolution and the legality of the bond issue for any cause, but after that time no one has cause or right of action to contest their legality.
4. Enter onto private property where necessary to perform its duties as provided for in proposed law.
5. However, neither the board nor the district has the power of expropriation.

Proposed law authorizes the district to enter into a cooperative endeavor agreement with the owner or owners of the levee and the owner or owners of land within 250 feet of such levee, whereby the owners agree to all of the following:

1. That representatives of the district may enter upon any lands, waters, and premises of the owner upon which a project for the purpose of repairing, improving, and maintaining such levee system is or will be undertaken by the district, including a provision that the district will indemnify the owner for any loss or injury resulting from entry upon the property and will make reimbursement for any actual damages resulting to lands, waters, and premises as a result of the activities.
2. That no new structures will be placed upon the land subject to the cooperative endeavor agreement without first obtaining a permit or letter of no objection from the district.
3. That the owner will not do, or authorize any person or entity to do, any of the following:
 - (a) Place or cause to be placed upon or within 15 feet of any part of the levee any object, material, or matter of any kind or character which obstructs or interferes with the safety of the levee or is an obstacle to the inspection, maintenance, or repair of the levee.
 - (b) Tie or moor watercraft or floating objects of any description to the levees, or, when the water is against the levees, tie or moor any floating objects to mooring posts, revetments, trees, or other objects within 180 feet from the crown of the

levee.

- (c) When the water is against the levees, drive or push any watercraft or floating objects of any description onto or against the levee.
 - (d) Portage boats, watercraft, logs, driftwood, or other floating objects over the levee under any circumstances, during the time the water is against the levees, or at any other time except at ramps or properly prepared crossings, under permits issued by the district for the purpose in cases where the objects are very heavy.
 - (e) Use explosives to produce heavy detonations for any purpose on such land.
 - (f) Drill, drive, jet, or otherwise sink oil, gas, or deep water wells within 250 feet of the levee.
 - (g) Excavate wells, pumps, reservoirs, fish ponds, drainage canals or ditches, other than small seepage ditches, borrow pits, or pits for cesspools or privies, or for any other purpose, nearer the levee than 150 feet from the levee's land side.
 - (h) Scrape or wear away the surface of the levee or its surfacing of sod by tobogganing, dip-netting, or any other form of abuse.
 - (i) Break off, disturb, remove, or destroy engineers' or surveyors' marker stakes, reference points or bench marks placed on or near the levee.
 - (j) Drive or otherwise sink piles within 250 feet of the levee unless he has first received a permit or a letter of no objection from the district.
4. That if after 48 hours' notice by any district commissioner or other authorized representative of the district the objects, structures, or other obstructions have not been removed, such objects may be removed or the menace abated and any damage repaired by the district at the expense of the owner and that the objects, structures, or other obstructions may be attached and may be removed from the levee or land at the risk and expense of the owner in order to remove the menace to the levee or the obstacle to the repair, improvement or maintenance of the levee.

Proposed law provides that the provisions of R.S. 38:225(A)(2) through (10), (B), (D)(1), and (E) apply to the Wilson Point Levee System and the Bunches Bend Protection District has the authority provided to levee districts in such provisions of law.[Those provisions essentially prohibit non-owners from doing the things listed above and provide a penalty of not more than \$100 dollars for each violation or, in the case of willful and wanton violations, imprisonment for not more than six months, or both. In addition, the district would be authorized to 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 would not be necessary.]

Proposed law provides that the two commissioners appointed by the public utilities which own land and/or property or possess servitudes within the district serve terms of four years beginning July 15, 2012. However, the commissioners serve until they are reappointed or until their successors are appointed. Any vacancy which occurs is to be filled in the same manner as the original appointment.

The board elects from officers from its own members. The board holds such meetings as the president deems necessary, or as called by a written petition of a majority of the members of the board, or may hold special meetings as provided in the bylaws. All such meetings are public meetings subject to the provisions of R.S. 42:4.1 et seq.

The board is required to keep minutes of all meetings and make them available for inspection through the board's secretary. The board must adopt bylaws and prescribe rules to govern its meetings. The domicile of the board is to be established by the board at a location within East Carroll Parish.

Proposed law requires the chief executive of the governing authority of East Carroll Parish to call and designate the location of the first meeting of the board of commissioners of the district at a place to be named by him no later than July 31, 2012. He chairs the meeting until the president thereof is elected at the meeting.

Proposed law provides that the property of the district acquired or held for the purposes of the proposed law is exempt from all taxes of the state or any of its local governmental or political subdivisions; provided, however, that the exemption terminates when the district sells, or otherwise disposes of the property to any purchaser or transferee not a public body.

Proposed law provides that it shall be liberally construed to effect the purposes of the proposed law.

Effective upon signature of the governor or lapse of time for gubernatorial action.

(Adds R.S. 38:1401)