

Regular Session, 2010

HOUSE BILL NO. 540

BY REPRESENTATIVE GISCLAIR

LEVEES: Provides relative to the appropriation procedures of the South Lafourche Levee District

1 AN ACT

2 To enact R.S. 38:301(C)(1)(b)(iii), (2)(h), and (4), relative to the South Lafourche Levee
3 District; to provide relative to the appropriation of property by the district; to provide
4 relative to notification of property owners; to provide relative to challenges to an
5 appropriation or compensation paid for appropriated property; and to provide for
6 related matters.

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

10 Be it enacted by the Legislature of Louisiana:

11 Section 1. R.S. 38:301(C)(1)(b)(iii), (2)(h), and (4) are hereby enacted to read as
12 follows:

13 §301. Construction and maintenance of levees and drainage; care and inspection of
14 levees; measure of compensation; right of entry; bicycle paths and walkways

15 * * *

16 C.(1)

17 * * *

18 (b)

19 * * *

1 (iii) The South Lafourche Levee District shall provide the notice required by
 2 this Subparagraph by certified mail sent to the last record property owner as reflected
 3 in the parish assessment rolls at the address recorded in the assessment rolls. This
 4 notice shall be complete upon mailing. Notice of adoption of the appropriation
 5 resolution shall also be published in the official journal of the South Lafourche
 6 Levee District within ten days after its adoption.

7 * * *

8 (2)

9 * * *

10 (h)(i) Payment by the South Lafourche Levee District of its estimated
 11 compensation, if any, as required by this Section shall be made by certified mail to
 12 the last record property owner as reflected in the parish assessment rolls at the
 13 address recorded therein.

14 (ii) All claims regarding compensation to be paid by the South Lafourche
 15 Levee District for property appropriated for levee or levee drainage purposes or
 16 matters incidental thereto, which shall be limited to the fair market value of the
 17 property, shall be filed in the Seventeenth Judicial District Court of Lafourche
 18 Parish within one hundred eighty days after the district mails payment of its
 19 estimated compensation to the property owner. Notwithstanding the provisions of
 20 Code of Civil Procedure Article 1201(C), service of the citation shall be requested
 21 to be made immediately upon the district.

22 * * *

23 (4)(a) Any owner or co-owner of property appropriated by the South
 24 Lafourche Levee District for levee or levee drainage purposes or for matters
 25 incidental thereto may, within sixty days after the adoption of the resolution
 26 appropriating the property, contest the validity of the appropriation as it pertains to
 27 the owner's or co-owner's respective ownership interests in the property by filing in
 28 the Seventeenth Judicial District Court of Lafourche Parish a verified petition
 29 contesting the appropriation. Notwithstanding the provisions of Code of Civil

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

1 Procedure Article 1201(C), service of the citation shall be requested to be made
2 immediately upon the district. Failure of any owner or co-owner to contest the
3 appropriation within sixty days after adoption of the appropriation resolution
4 constitutes a loss of all rights or claims of that owner or co-owner of property
5 appropriated for levee or levee drainage purposes or for matters incidental thereto
6 to challenge or contest the appropriation, except for claims for compensation filed
7 in accordance with Subparagraph (2)(h) of this Subsection. The filing of a petition
8 pursuant to this Paragraph shall not interrupt or suspend the sixty-day time period
9 within which any other owner or co-owner of property appropriated for levee or
10 levee drainage purposes or matters incidental thereto must file a petition challenging
11 or contesting the appropriation. Notwithstanding the provisions of Code of Civil
12 Procedure Articles 591 through 597, no class action may be brought or maintained
13 to contest the appropriation by the South Lafourche Levee District of property for
14 levee or levee drainage purposes or matters incidental thereto.

15 (b) In the event that a petition contesting the validity of the appropriation is
16 filed within sixty days of adoption of the resolution, the South Lafourche Levee
17 District may proceed to expropriate petitioner's ownership interest in said property
18 pursuant to R.S. 38:351 et seq., without incurring any obligations, damages, or
19 liability other than the obligation to pay fair market value of the taken property.

20 * * *

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)]

Gisclair

HB No. 540

Abstract: Provides relative to the South Lafourche Levee District and the procedures it uses for appropriating private property.

Present law authorizes levee districts and levee and drainage districts to appropriate such property by adopting a resolution and that the property owner be given written notice of the appropriation within 10 days after passage of the resolution.

Proposed law, applicable only to the South Lafourche Levee District, amends procedures to be used by the district when appropriating property under present law by requiring that such

notice be given by certified mail sent to the last record property owner as reflected in the parish assessment rolls, which notice is complete upon mailing. Further requires publication of notice of the appropriation in the district's official journal within 10 days.

Present law requires that property owners be compensated at fair market value. Requires that the owner be provided with an estimate of the amount of compensation and that compensation be paid within one year.

Proposed law provides that claims regarding compensation are limited to the fair market value and must be filed with the 17th JDC within 180 days after estimated compensation is mailed. Requires that the payment be mailed to the last record property owner as reflected in the parish assessment rolls.

Proposed law provides relative to contesting the validity of an appropriation of property by the South Lafourche Levee District and requires that a property owner file a verified petition with the 17th JDC within 60 days after the adoption of the appropriating resolution. The owner waives his right to contest the appropriation if such a petition is not filed within 60 days. Provides that the filing of a petition does not interrupt or suspend the 60-day limit applicable to other owners. Prohibits class actions to contest an appropriation.

Present law authorizes levee and levee and drainage districts to expropriate property by declaration of taking (quick take authority).

Proposed law authorizes the South Lafourche Levee District to proceed under such authority if any appropriation is contested without incurring any obligations, damages, or liability.

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

(Adds R.S. 38:301(C)(1)(b)(iii), (2)(h), and (4))