HLS 21RS-302 ORIGINAL

2021 Regular Session

HOUSE BILL NO.684

1

BY REPRESENTATIVE GREGORY MILLER AND SENATOR SMITH

LEVEES/BDS & DISTRICTS: Removes St. Charles Parish from the Lafourche Basin Levee District and creates the St. Charles Parish Levee District

AN ACT

2	To amend and reenact R.S. 38:291(F)(1) and (2)(introductory paragraph) and (f), to enact
3	R.S. 38:291(DD), 329.7, and 334.4 and R.S. 49:214.6.8(B)(1)(t), and to repeal R.S.
4	38:291(F)(2)(e) and 334, relative to levee districts; to remove St. Charles Parish from
5	the Lafourche Basin Levee District; to provide for the membership of the board of
6	commissioners of the Lafourche Basin Levee District; to repeal the revenue
7	allocations in St. Charles Parish by the Lafourche Basin Levee District; to create the
8	St. Charles Parish Levee District; to provide for the powers and duties of the board
9	of commissioners of the district; to provide for revenue utilization; to add a member
10	to the Coastal Louisiana Levee Consortium; and to provide for related matters.
11	Notice of intention to introduce this Act has been published
12	as provided by Article III, Section 13 of the Constitution of
13	Louisiana.
14	Section 1. R.S. 38:291(F)(1) and (2)(introductory paragraph) and (f) are hereby
15	amended and reenacted and R.S. 38:291(DD), 329.7, and 334.4 are hereby enacted to read
16	as follows:

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29

1	§291. Naming; limits of districts; composition of boards
2	* * *
3	F. Lafourche Basin Levee District. (1) All the parishes or parts of parishes,
4	except the parishes of Lafourche, Orleans, Jefferson, and Plaquemines, lying in a
5	district between the Bayou Lafourche, the Mississippi River, and the Gulf of Mexico,
6	heretofore known as the Third Levee District, and comprising a portion of the
7	following parishes: Ascension, St. James, St. John the Baptist, St. Charles, and
8	Assumption shall be embraced in the limits of a levee district to be known as the
9	Lafourche Basin Levee District.
10	(2) In accordance with the provisions of R.S. 38:304, the governor shall
11	appoint eleven seven persons from each parish or part of a parish in the district to
12	serve as levee commissioners as follows:
13	* * *
14	(f) Five Three members to be appointed from the district at large.
15	* * *
16	DD. St. Charles Parish Levee District. (1) On August 1, 2021, and
17	continuing thereafter, all lands on the West Bank of the Mississippi River in the
18	parish of St. Charles shall constitute a levee district to be known as the St. Charles
19	Parish Levee District. These lands and all property thereon situated, not exempt
20	from taxation, shall be subject to the provisions of this Chapter. The land, including
21	mineral rights, in the possession of the Lafourche Basin Levee District in St. Charles
22	Parish, for the purposes of ownership and maintenance and operation of the
23	<u>Lafourche Basin Levee District</u> , shall be transferred and conveyed to the St. Charles
24	Parish Levee District without the necessity of any other act or instrument of grant,
25	transfer, conveyance, or delivery. For the purpose of proving evidence of the
26	transfer, conveyance, and delivery effected by this Paragraph, the Lafourche Basin
27	Levee District shall execute an act setting forth the transfer, conveyance, and
28	delivery of those lands, rights-of-way, servitudes, and revenues therefrom to the St.

Charles Parish Levee District.

1	(2)(a) The initial board of commissioners shall consist of the two current
2	Lafourche Basin Levee District commissioners appointed from St. Charles Parish,
3	the two Lafourche Basin Levee District members-at-large residing in St. Charles
4	Parish, and one commissioner to be selected by the governor pursuant to R.S.
5	38:304. The commissioners shall serve until the governor of the state of Louisiana
6	takes office in the year 2024 or until their replacements have been duly appointed.
7	(b) After the governor takes office in 2024, he shall appoint a board of
8	commissioners consisting of five members selected as follows:
9	(i) The St. Charles Parish president, with the approval of the St. Charles
10	Parish Council, shall submit a list of five names of St. Charles Parish residents
11	residing in the West Bank, and from that list the governor shall appoint two
12	commissioners.
13	(ii) The governor shall appoint three members pursuant to R.S. 38:304.
14	(c) In the event five commissioners are not appointed pursuant to
15	Subparagraph (b) of this Paragraph or in the event of a vacancy occurring by reason
16	of death, resignation, expiration of term, or any other cause, the vacancy shall be
17	filled in the same manner as that prescribed in R.S. 38:304(B).
18	* * *
19	§329.7. St. Charles Parish Levee District; powers and duties
20	A. The management and control of the district shall be vested in the board
21	of commissioners of the St. Charles Parish Levee District. In addition to any other
22	powers and duties provided by law, including the power of taxation as provided for
23	in the Constitution of Louisiana, the board shall have the authority to establish,
24	construct, operate, or maintain flood control works as they relate to hurricane
25	protection, tidewater flooding, and saltwater intrusion and conservation.
26	B. The board may enter into contracts and agreements of any nature for the
27	purposes of this Chapter with any person, corporation, association, or other entity,
28	including public corporations, port authorities, the state and agencies thereof, levee
29	districts, parishes, other political subdivisions, the United States government and

1	agencies thereof, or any combination thereof, or with instrumentalities of any kind
2	to carry out the purposes of and the powers granted in this Chapter.
3	C. The board may enter into contracts or other agreements with any person
4	or entity concerning the provision of lands, servitudes, rights-of-way, and
5	relocations, and may engage jointly in the exercise of any power to include the
6	construction, operation, and maintenance of any facilities and improvements for the
7	purpose of the projects under this Chapter.
8	D. The board shall have the authority to construct and maintain levees,
9	drainage, and levee drainage, and to do all things incidental thereto, and to establish,
10	construct, operate, or maintain flood control works of all types as they relate to
11	hurricane protection, tidewater flooding, and saltwater intrusion and conservation,
12	either in cooperation with one or more parishes, municipalities, or other special
13	districts within its territorial jurisdiction, or upon its own undertaking.
14	E. The board may buy and sell property, make and execute all contracts, and
15	perform any and all things necessary to carry out the objects of this Chapter, subject
16	to the limitations and duties provided in this Section.
17	F. For flood and hurricane protection purposes, the board may acquire
18	property by expropriation prior to judgment, in accordance with the provisions of
19	Part V of Chapter 4 of Title 38 of the Louisiana Revised Statutes of 1950.
20	G. The board may issue bonds or other debt obligations to construct, acquire,
21	extend, or improve any flood control works authorized by law and to pledge to the
22	payment of the principal and interest of such bonds or debt instruments the proceeds
23	of any district tax or other revenues.
24	H. The board may enter into an intergovernmental agreement with the
25	Lafourche Basin Levee District to reimburse the Lafourche Basin Levee District for
26	levee district expenditures made in St. Charles Parish for the benefit of St. Charles
27	Parish.
28	<u>I.(1)</u> On August 1, 2021, ownership of the following property situated in St.
29	Charles Parish and belonging to the Lafourche Basin Levee District shall be

1	transferred to the St. Charles Parish Levee District: (a) immovable property; (b) any
2	mineral lease of the levee district on property situated in St. Charles Parish that is not
3	in production or has been in production for more than ten years prior to the date of
4	the transfer; (c) leases, servitudes, rights-of-way, and other property interests that are
5	not mineral leases; and (d) books, records, and documents.
6	(2) The transfer of ownership set forth in this Subsection shall occur by
7	operation of law and shall be complete without the necessity of any other act,
8	instrument, or deed. However, the St. Charles Parish Levee District shall confect
9	instruments as necessary for filing, recordation, or other purposes, showing the
10	transfer of the property or property interest.
11	(3) The transfer of the property or property interest shall relieve the
12	Lafourche Basin Levee District from liability for the property or property interest.
13	J.(1) All rights and obligations, including but not limited to those belonging
14	to any and all parishes or cities and the parish of St. Charles, arising from any and
15	all contractual agreements, including "Acts of Assurances" and "Agreements for
16	Local Cooperation", with the United States Department of the Army and relating to
17	levee, floodwall, and floodgate property, exclusive of drainage pumps that are
18	situated within St. Charles Parish, are hereby transferred to the St. Charles Parish
19	Levee District.
20	(2) The transfer of all rights and obligations set forth in this Subsection shall
21	occur by operation of law and shall be complete without the necessity of any other
22	act, instrument, or deed.
23	K. The board shall have the authority to serve as the sole nonfederal, local
24	sponsor for all federal levees, floodwalls, and flood control structures situated within
25	St. Charles Parish.
26	* * *
27	§334.4. Revenue utilization; St. Charles Parish Levee District.
28	Nothing shall prohibit the St. Charles Parish Levee District from expending
29	tax funds directly for projects to provide for hurricane protection, tidewater flooding,

1	saltwater intrusion, and conservation within St. Charles Parish, or pledging such
2	funds for the payment of principal or interest on any bonds or other debt instruments
3	issued by the district, nor for the construction and maintenance of levees, drainage,
4	and levee drainage, and to do all things incidental thereto.
5	* * *
6	Section 2. R.S. 49:214.6.8(B)(1)(t) is hereby enacted to read as follows:
7	§214.6.8. Coastal Louisiana Levee Consortium; establishment; purposes
8	* * *
9	B.(1) The members of the consortium shall consist of the director, general
10	manager, or president, or their designee, of each board of commissioners of a coastal
11	levee district or flood protection authority, including the following:
12	* * *
13	(t) St. Charles Parish Levee District.
14	* * *
15	Section 3. R.S. 38:291(F)(2)(e) and 334 are hereby repealed in their entirety.

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 684 Original

2021 Regular Session

Gregory Miller

Abstract: Removes St. Charles Parish from the Lafourche Basin Levee District, creates the St. Charles Parish Levee District, and adds the St. Charles Parish Levee District to the Coastal Louisiana Levee Consortium.

Present law includes St. Charles parish within the limits of the Lafourche Basin Levee District.

Proposed law removes St. Charles parish from the district and reduces the number of levee commissioners from 11 to 7. Reduces the number of at large members from five to three.

Proposed law creates the St. Charles Parish Levee and Conservation District, containing all lands on the West Bank of the Mississippi River in the parish of St. Charles.

Present law requires each member of the legislative delegation serving the district submit a list of nominations and the governor to appoint one member from each legislator's list.

Proposed law requires the initial board of commissioners consist of the two current Lafourche Basin Levee District commissioners appointed from St. Charles Parish, the two Lafourche Basin Levee District members-at-large residing in St. Charles Parish, and one

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commissioner to be selected by the governor pursuant to <u>present law</u> (R.S. 38:304). Requires the commissioners serve until the governor of the state of La. takes office in the year 2024 or until their replacements have been duly appointed. Requires the St. Charles Parish president, with the approval of the St. Charles Parish Council, submit a list of five names of St. Charles Parish residents residing in the West Bank, and from that list the governor is required to appoint two commissioners. Requires the governor select the remaining three members pursuant to <u>present law</u> (R.S. 38:304).

<u>Proposed law</u> further requires any vacancy be filled pursuant to <u>present law</u> (R.S. 38:304(B)) in the event that five commissioners are not appointed as provided above, or in the event of a vacancy occurring by reason of death, resignation, expiration of term, or any other cause.

<u>Proposed law</u> authorizes the St. Charles Parish Levee and Conservation District to issue bonds and to levy taxes for the payment of principal and interest thereon.

<u>Proposed law</u> requires the district have all rights and powers conferred upon levee districts by law together with such additional rights and powers as may be granted by the legislature.

<u>Proposed law</u> authorizes the St. Charles Parish Levee and Conservation District and the Lafourche Basin Levee District to enter into joint conservation efforts through intergovernmental agreements.

Proposed law provides for the following powers and duties of the board:

- (1) To establish, construct, operate, or maintain flood control works as they relate to hurricane protection, tidewater flooding, and saltwater intrusion and conservation.
- (2) To enter into contracts and agreements with any person, corporation, association, or other entity, including public corporations, port authorities, the state, levee districts, parishes, other political subdivisions, the U.S. government, or with instrumentalities of any kind to carry out the purposes of the district.
- (3) To enter into contracts or other agreements concerning the provision of lands, servitudes, rights-of-way, and relocations, and engage jointly in the exercise of any power to include the construction, operation, and maintenance of any facilities and improvements for the purpose of the projects of the district.
- (4) To establish, construct, operate or maintain flood control works of all types as they relate to hurricane protection, tidewater flooding, and saltwater intrusion and conservation, either in cooperation with one or more parishes, municipalities, or other special districts within its territorial jurisdiction, or upon its own undertaking.
- (5) To buy and sell property.
- (6) For flood and hurricane protection purposes, to acquire property by expropriation prior to judgment, in accordance with <u>present law</u> authority granted to levee districts (R.S. 38:351, et seq.).
- (7) To issue bonds or other debt obligations to fund flood control works and to pledge to the payment of the principal and interest of such bonds or debt instruments the proceeds of any district tax or other revenues.
- (8) To construct and maintain levees, drainage, and levee drainage, and to do all other things incidental thereto.

<u>Proposed law</u> transfers all rights and obligations including but not limited to those belonging to any parish or city, and the parish of St. Charles arising from any and all contractual agreements with the U.S. Dept. of the Army and relating to levee, floodwall, and floodgate

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property, exclusive of drainage pumps that are situated within St. Charles Parish, to the St. Charles Parish Levee District.

<u>Proposed law</u> authorizes the authority for the board of commissioners for the St. Charles Parish Levee District to serve as the nonfederal, local sponsor for all federal levees, floodwalls, and flood control structures situated in St. Charles Parish.

<u>Present law</u> requires all taxes collected by the Lafourche Basin Levee District from property located in St. Charles Parish located west of the Mississippi river, not less than 57% of tax monies be expended for the purpose of levee construction and maintenance, and other flood and drainage works within the parish. Requires these expenditures be in cash or in-kind services determined by the parish governing body, not to exceed 50% of such expenditures for in-kind services. Requires expenditures certified as received by the parish's governing body at the end of each fiscal year.

<u>Present law</u> requires the provisions of <u>present law</u> not apply during any tax year in which the Lafourche Basin Levee District maintains the St. Charles Parish West Bank Hurricane Protection Levee system, including the West Bank and general vicinity, Western Tie-In, Davis Pond Freshwater Diversion Levee, Willowridge Levee, Ellington Levee, Magnolia Levee, and Sunset Drainage District levee, as a whole or as each section is transferred to the Lafourche Basin Levee District for maintenance, operation, and control, subject to any amendments made by the state of La.

<u>Present law</u> requires no provision of <u>present law</u> be construed so as to prohibit the Lafourche Basin Levee District from the use of public funds to engage drainage work not incidental to the construction and maintenance of levees in the jurisdictional boundaries of the Lafourche Basin Levee District.

Proposed law removes present law.

<u>Present law</u> establishes the Coastal La. Levee Consortium, which includes members from levee districts or parishes situated in coastal south Louisiana.

<u>Proposed law</u> adds an additional member to the consortium to represent the St. Charles Parish Levee District.

<u>Proposed law</u> authorizes the St. Charles Parish Levee District to expend tax funds directly for projects to provide for hurricane protection, tidewater flooding, saltwater intrusion and conservation within the St. Charles Parish Levee District and to pledge these funds to the payment of debt instruments issued by the district. Also authorizes the St. Charles Parish Levee District to expend tax funds directly for the construction and maintenance of levees, drainage, and levee drainage, and to do all things incidental to this construction maintenance.

(Amends R.S. 38:291(F)(1) and (2)(intro. para.) and (f); Adds R.S. 38:291(DD), 329.7, and 334.4 and R.S. 49:214.6.8(B)(1)(t); Repeals R.S. 38:291(F)(2)(e) and 334)