

BY SENATOR MORRELL AND REPRESENTATIVE BROSSETT

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AN ACT

To amend and reenact R.S. 36:801.1(A), R.S. 38:330.12 and 330.12.1, to enact R.S. 36:509(P) and R.S. 38:330.12.1, and to repeal R.S. 36:509(P), relative to non-flood protection assets, functions, and activities within a levee district within the jurisdiction of an authority; to provide for the management and control of such assets; to create the Non-flood Protection Asset Management Authority within the Department of Transportation and Development and as a political subdivision; to transfer management of such assets from the division of administration to the authority; to provide for the powers, duties, and functions of the authority; to provide for a board of commissioners of the authority; to provide for membership of the board of commissioners; to require financial disclosure; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 36:801.1(A) is hereby amended and reenacted and R.S. 36:509(P) is hereby enacted to read as follows:

§509. Transfer of agencies to Department of Transportation and Development

\* \* \*

**P. The Non-Flood Protection Asset Management Authority (R.S. 38:330.12.1) is placed within the Department of Transportation and Development and shall perform and exercise its powers, duties, functions, and responsibilities in the manner provided for agencies transferred in accordance with the provisions of R.S. 36:801.1.**

\* \* \*

§801.1. Transfer; retention of all functions

A. The agencies transferred by the provisions of R.S. 36:4(D), 4.1(C) and

1 (G), 53(H), 209(R), 259(J), 409(N), 509(O), 509(P), 651(D), 725(A), and 769(J)  
 2 shall continue to be comprised and selected as provided by law.

3 \* \* \*

4 Section 2. R.S. 38:330.12 is hereby amended and reenacted and R.S. 38:330.12.1 is  
 5 hereby enacted to read as follows:

6 §330.12. Ownership and management of non-flood protection functions and  
 7 activities

8 A. ~~On and after January 1, 2007, any~~ Any facility or improvement within a  
 9 levee district within the territorial jurisdiction of an authority, which facility or  
 10 improvement is not directly related to providing adequate drainage, flood control, or  
 11 water resources development pertaining to tidewater flooding, hurricane protection,  
 12 or saltwater intrusion, that is owned or operated by a board of commissioners of the  
 13 levee district, including all land, rights-of-way, servitudes, and improvements  
 14 situated thereon, or connected therewith, for such purpose, shall be managed and  
 15 controlled by the ~~state, through the division of administration,~~ Non-Flood  
 16 Protection Asset Management Authority, hereinafter referred to as the  
 17 "authority", without the necessity of any other act or instrument, except that for  
 18 purposes of the Orleans Levee District, any such facilities or improvement shall  
 19 continue to be owned by the Orleans Levee District. For the purpose of this Section  
 20 only, the ~~division of administration~~ authority shall be the successor to the state and  
 21 the board of commissioners of such levee district. The ~~levee district~~ state through  
 22 the division of administration shall continue the routine maintenance of all such  
 23 non-flood properties or facilities ~~within its jurisdiction~~ until the ~~division of~~  
 24 ~~administration~~ authority receives responsibility for such maintenance.

25 B.(1) The ~~division of administration~~ authority may enter into contracts,  
 26 agreements, or cooperative endeavors of any nature, ~~on behalf of the state~~ with a  
 27 state agency, political subdivision, or other legal entity or person, or any combination  
 28 thereof, for the operation and maintenance of any facility or improvement, which it  
 29 manages or controls pursuant to Subsection A of this Section.

30 (2) The ~~division of administration~~ authority may sell, lease, or otherwise

1 transfer any such property and perform any and all things necessary to carry out the  
 2 objects of this Section, **provided that any such sale, or transfer be for full and**  
 3 **adequate consideration and any proceeds therefrom be used to pay outstanding**  
 4 **debts.** If the ~~division of administration~~ **authority** determines that the sale, lease or  
 5 transfer of such property is appropriate, it shall first offer the property to political  
 6 subdivisions in the parish in which the property is located and state agencies  
 7 conducting operations in that parish, other than levee districts, political subdivisions,  
 8 or agencies responsible for flood control. If any such public entity is interested in  
 9 acquiring the property, the ~~division of administration~~ **authority** shall evaluate  
 10 proposals submitted by those entities. If no such proposal is received, or if such  
 11 proposals are not determined to be in the best interest of the ~~state~~ **authority**, the  
 12 property may be offered for sale or lease as otherwise provided by law.

13 C. Except as required by federal law or regulation or state constitution, the  
 14 expense of operating any facility or improvement referred to in Subsection A of this  
 15 Section, which produces revenue ~~for the levee district~~ shall be collected by the  
 16 ~~division of administration~~ **authority** and, after deducting an amount for the expense  
 17 of managing and controlling such facility or improvement, the remaining revenues  
 18 therefrom shall be disbursed to the **flood protection** authority to the credit of the  
 19 levee district in which the facility or improvement is located.

20 D. The ~~division of administration~~ **authority** may otherwise provide for the  
 21 implementation of this Section by the adoption of rules and regulations pursuant to  
 22 the Administrative Procedure Act. **The authority shall not be subject to the rules**  
 23 **and regulations of the Department of Transportation and Development.**

24 E. No action taken pursuant to this Section or to any provision of this Part  
 25 shall do any of the following:

26 (1) Impair the obligation of outstanding bonded indebtedness or of any other  
 27 contract of any levee district.

28 (2) Impair the ability of any levee district to satisfy **any outstanding**  
 29 **judgment,** any legal action, or claim pending against the district on the effective date  
 30 of this Section.

§330.12.1. Non-Flood Protection Asset Management Authority; creation; composition; powers, duties, functions

A. The Non-Flood Protection Asset Management Authority, hereafter referred to as the "authority", is hereby created possessing full corporate power to manage, control, regulate, operate, and maintain any non-flood protection facility or improvement asset or function within a levee district within the jurisdiction of a flood protection authority.

B. The authority is placed within the Department of Transportation and Development and shall perform and exercise its powers, duties, functions, and responsibilities in the manner provided for agencies transferred in accordance with the provisions of R.S. 36:801.1. The authority shall not be eligible to receive or expend any money from the Transportation Trust Fund.

C. The authority shall be composed of the following members who shall be subject to Senate confirmation, provided that no elected official shall be appointed to serve as a member of the authority:

(1) One member appointed by the Southeast Louisiana Flood Protection Authority East.

(2) One member appointed by each state senator and each state representative in whose district a non-flood asset is located. No member appointed by a state senator or state representative to serve on the board shall be subject to Senate confirmation.

(3) One member appointed by the secretary of the Department of Transportation and Development.

(4) One member appointed by the mayor of the city of New Orleans.

(5) One member appointed by each New Orleans city council member in whose district a non-flood asset is located.

(6) Two members appointed jointly by the presidents of the Lakeshore, Lake Vista, Lake Terrace, and Lake Oaks property owners associations.

(7) One member appointed by the Lake Pontchartrain Basin Foundation.

(8) One member appointed by board for the New Orleans City Park.

1           D.(1) Members of the authority shall serve a term of four years. Any  
 2           vacancy occurring on the authority shall be filled in the same manner as the  
 3           original appointment for the unexpired portion of the position vacated.

4           (2) A majority of the members of the authority shall constitute a quorum  
 5           for the transaction of official business and all official actions of the authority  
 6           shall require an affirmative vote by a majority of the members present and  
 7           voting at a meeting.

8           (3) Members of the authority shall not receive any compensation for  
 9           servicing on the board but members may be reimbursed for mileage expenses  
 10           incurred while in the performance of their official duties at the rate established  
 11           by the division of administration for travel by state officials.

12           (4) Members of the authority shall file annual financial disclosure  
 13           statements pursuant to R.S. 42:1124.2.1.

14           E. The authority shall be domiciled in the parish of Orleans.

15           F. The authority shall elect from its members a chairman and a secretary  
 16           and shall select a vice-chairman to serve in the absence of the chairman. The  
 17           authority may employ an executive director and such personnel as may be  
 18           necessary to implement the provisions of this Section.

19           G. The authority shall be responsible for the development and  
 20           implementation of a management plan to best utilize the assets under its  
 21           jurisdiction and maximize the benefits, attributes, and revenue potentials of  
 22           such assets. Such plan shall include parameters for the interactions between the  
 23           authority and other political subdivisions in the geographical areas of the assets  
 24           under the jurisdiction of the authority and shall detail a procedure and process  
 25           for the operation, maintenance, sale, lease, or transfer of any facility or  
 26           improvement managed or controlled by the authority.

27           Section 3. R.S. 36:801.1(A) is hereby amended and reenacted to read as follows:

28           §801.1. Transfer; retention of all functions

29           A. The agencies transferred by the provisions of R.S. 36:4(D), 4.1(C) and  
 30           (G), 53(H), 209(R), 259(J), 409(N), 509(O), ~~509(P)~~, 651(D), 725(A), and 769(J)

1 shall continue to be comprised and selected as provided by law.

2 \* \* \*

3 Section 4. R.S. 38:330.12.1 is hereby amended and enacted to read as follows:

4 §330.12.1. Non-Flood Protection Asset Management Authority; creation;  
5 composition; powers, duties, functions

6 A. The Non-Flood Protection Asset Management Authority, hereafter  
7 referred to as the "authority", is hereby created **as a political subdivision** possessing  
8 full corporate power to manage, control, regulate, operate, and maintain any non-  
9 flood protection facility or improvement asset or function within a levee district  
10 within the jurisdiction of a flood protection authority.

11 ~~B. The authority is placed within the Department of Transportation and~~  
12 ~~Development and shall perform and exercise its powers, duties, functions, and~~  
13 ~~responsibilities in the manner provided for agencies transferred in accordance with~~  
14 ~~the provisions of R.S. 36:801.1. The authority shall not be eligible to receive or~~  
15 ~~expend any money from the Transportation Trust Fund.~~

16 C. The authority shall be composed of the following members who shall be  
17 subject to Senate confirmation, provided that no state senator or state representative  
18 shall appoint himself as a member of the authority:

19 (1) One member appointed by the **Southeast Louisiana Flood Protection**  
20 **Authority East.** ~~board of commissioners of the levee district where the non-flood~~  
21 ~~asset is located.~~

22 ~~(2) One member appointed by the executive director of the levee district~~  
23 ~~where the non-flood asset is located.~~

24 ~~(3) One member appointed by the state senator elected to represent state~~  
25 ~~Senate District No. 4.~~

26 ~~(4) One member appointed by the state senator elected to represent state~~  
27 ~~Senate District No. 3.~~

28 ~~(5) One member appointed by the state representative elected to represent~~  
29 ~~state House District No. 94.~~

30 ~~(6) One member appointed by the state representative elected to represent~~

1 ~~state House District No. 97.~~

2 ~~(7) One member appointed by the state representative elected to represent~~  
 3 ~~state House District No. 101.~~

4 ~~(8)~~**(2)** One member appointed by each state senator and each state  
 5 representative in whose ~~representative~~ district any non-flood asset is located.

6 ~~(9) One member appointed by the secretary of the Department of~~  
 7 ~~Transportation and Development.~~

8 ~~(10) One member appointed by the commissioner of the division of~~  
 9 ~~administration.~~

10 ~~(11) One member appointed by the chairman of the Coastal Protection and~~  
 11 ~~Restoration Authority.~~

12 **(3) One member appointed by the mayor of the city of New Orleans.**

13 **(4) One member appointed by each New Orleans city council member in**  
 14 **whose district a non-flood asset is located.**

15 **(5) Two members appointed jointly by the presidents of the Lakeshore,**  
 16 **Lake Vista, Lake Terrace, and Lake Oaks property owners associations.**

17 D.(1) Members of the authority shall serve a term of four years. Any vacancy  
 18 occurring on the authority shall be filled in the same manner as the original  
 19 appointment for the unexpired portion of the position vacated.

20 (2) A majority of the members of the authority shall constitute a quorum for  
 21 the transaction of official business and all official actions of the authority shall  
 22 require an affirmative vote by a majority of the members present and voting at a  
 23 meeting.

24 (3) Members of the authority shall not receive any compensation for serving  
 25 on the board but each member may receive not more that fifty dollars per day for  
 26 attendance at meetings of the authority or its subcommittees. In addition, members  
 27 may be reimbursed for mileage expenses incurred while in the performance of their  
 28 official duties at the rate established by the division of administration for travel by  
 29 state officials.

30 **(4) Members of the authority shall file annual financial disclosure**

1 statements pursuant to R.S. 42:1124.2.1.

2 E. The authority shall be domiciled in the parish of Orleans.

3 F. The authority shall elect from its members a chairman and a secretary and  
4 shall select a vice-chairman to serve in the absence of the chairman. The authority  
5 may employ an executive director and such personnel as may be necessary to  
6 implement the provisions of this Section.

7 G. The authority shall be responsible for the development and  
8 implementation of a management plan to best utilize the assets under its jurisdiction  
9 and maximize the benefits, attributes, and revenue potentials of such assets. Such  
10 plan shall include parameters for the interactions between the authority and other  
11 political subdivisions in the geographical areas of the assets under the jurisdiction  
12 of the authority and shall detail a procedure and process for the operation,  
13 maintenance, sale, lease, or transfer of any facility or improvement managed or  
14 controlled by the authority.

15 Section 5. R.S. 36:509(P) is hereby repealed in its entirety.

16 Section 6.(A) This Section and the provisions of law contained in Sections 1 and 2  
17 of this Act shall become effective on August 15, 2010, and shall cease to be effective on  
18 January 1, 2012.

19 (B) The provisions of law contained in Sections 3, 4 and 5 of this Act shall become  
20 effective on January 1, 2012.

\_\_\_\_\_  
PRESIDENT OF THE SENATE

\_\_\_\_\_  
SPEAKER OF THE HOUSE OF REPRESENTATIVES

\_\_\_\_\_  
GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: \_\_\_\_\_