

Regular Session, 2011

HOUSE BILL NO. 430

BY REPRESENTATIVE BILLIOT

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

LEVEES: Revises provisions relative to the rights and powers of levee districts

1 AN ACT

2 To amend and reenact R.S. 38:213 and 226 and to enact R.S. 38:321.1, relative to levee
3 districts and flood control structures; to restrict access upon a levee or flood control
4 structure in certain circumstances; to increase penalties; to provide exceptions for
5 access upon public levees or flood control structures; to grant sole authority to a
6 board or commission having jurisdiction over a levee to issue or renew permits or
7 letters of no objection; to authorize a levee district or levee drainage district to
8 purchase certain items through an existing public contract of another political
9 subdivision; and to provide for related matters.

10 Be it enacted by the Legislature of Louisiana:

11 Section 1. R.S. 38:213 and 226 are hereby amended and reenacted and R.S. 38:321.1
12 is hereby enacted to read as follows:

13 §213. Riding or hauling on levees prohibited

14 A. No person shall ride, drive, or haul upon the public levees or ~~integrated~~
15 ~~coastal protection projects except where, in the judgment of the levee commissioners~~
16 ~~of a district and the Department of Transportation and Development, or, for levees~~
17 ~~or integrated coastal protection projects in the coastal area as defined in R.S.~~
18 ~~49:214.2(3), the Office of Coastal Protection and Restoration, ample provision has~~
19 ~~been made to guard against any damage to which the levees or integrated coastal~~
20 ~~protection projects may thereby be exposed from wear, tear, and abuse.~~ flood control

1 structures or their rights-of-way during the time water is against the levees or flood
 2 control structures, or at any other time except on private or public roads and ramps
 3 or properly prepared crossings, under permits issued by the governing authority of
 4 the levee or structure, the United States Army Corps of Engineers, and the
 5 Department of Transportation and Development; however, if the combined load
 6 weight is at or exceeds the American Association of State Highways and
 7 Transportation Officials' standard HS-20-44, then a special permit issued by the
 8 governing authority of the levee or structure is required before proceeding.

9 B. Whoever violates this Section shall be fined not more than fifty five
 10 thousand dollars or imprisoned for not more than ~~thirty days~~ six months, or both.

11 C. This Section shall not be construed to restrict the proper officers and
 12 employees of the federal government, the state ~~or of any levee district or parish while~~
 13 ~~in the performance of duty in~~ , the parish, the governing authority of the levee or
 14 flood control structure, or their contractors from performing their duties of
 15 inspecting, guarding, or repairing, or building the levees or ~~integrated coastal~~
 16 ~~protection projects~~ flood control structures.

17 ~~D. Nothing in this Section shall interfere with the crossing over any public~~
 18 ~~levees, at ramps or inclines established under plans and specifications of the~~
 19 ~~Department of Transportation and Development, or, for levees or integrated coastal~~
 20 ~~protection projects in the coastal area as defined in R.S. 49:214.2(3), the Office of~~
 21 ~~Coastal Protection and Restoration, for the purpose of transporting any material that~~
 22 ~~may be used or required in the business of the population living behind the levees.~~

23 * * *

24 §226. Permits for levee crossings

25 ~~If an appointed board or commission having jurisdiction over levees receives~~
 26 ~~letters of no objection from the United States Army Corps of Engineers and the~~
 27 ~~Louisiana Department of Transportation and Development, office of public works,~~
 28 ~~or, for levees in the coastal area as defined in R.S. 49:214.2(3), the Office of Coastal~~
 29 ~~Protection and Restoration, in~~ In response to a request to the board or commission

1 having jurisdiction over levees for a permit or letter of no objection ~~to a levee~~
2 ~~crossing~~ or a request to renew or transfer an existing permit, or letter of no objection,
3 the board or commission may issue the requested permit or letter of no objection
4 administratively or by resolution. ~~it shall be incumbent upon and a ministerial duty~~
5 ~~of the executive or administrative officer to issue the requested permit or letter of no~~
6 ~~objection to the crossing, subject to any conditions or stipulations contained in the~~
7 ~~letters received from the United States Army Corps of Engineers and the Louisiana~~
8 ~~Department of Transportation and Development, office of public works or, for levees~~
9 ~~in the coastal area as defined in R.S. 49:214.2(3), the Office of Coastal Protection~~
10 ~~and Restoration.~~ The board or commission may impose customary fees, insurance,
11 bonds, and other general stipulations. ~~The executive or administrative officer shall~~
12 ~~enforce such permits for levee crossings~~ Such permits shall be enforced only to the
13 extent of the conditions and stipulations contained in the permit or letter of no
14 objection.

* * *

16 §321.1. Additional procurement methods; levee districts

17 A. In addition to the procurement methods available to all political
18 subdivisions, as an alternate cost-effective means of acquiring materials, supplies,
19 vehicles, and equipment, a levee district or levee drainage district may purchase
20 these items through an existing public contract of another political subdivision within
21 one year of the opening of bids, provided that the following conditions are met:

- 22 (1) The contract was bid in compliance with R.S. 38:2211 et seq.
- 23 (2) The total purchases on the contract do not exceed two times what was
24 purchased by the political subdivision bidding the contract.
- 25 (3) The written consent of the political subdivision which bid the contract
26 is obtained, as well as the contract number, and if applicable, the resolution accepting
27 the contract.
- 28 (4) The vendor agrees to the additional purchase.

1 (5) The vendor, product, materials, supplies, vehicles, or equipment are
2 identical to those specified in the existing public contract of the political subdivision,
3 and the price is the same as the original contract price.

4 B. The levee district or levee drainage district may rely on a certificate of the
5 political subdivision that the contract was bid in compliance with state law.

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)]

Billiot

HB No. 430

Abstract: Provides for specific restrictions of certain activities on public levees and further revises the penalties and exceptions associated with the restrictions. Further provides the board or commission of a levee district to have sole authority related to the issuance of permits and letters of no objection. Provides for additional procurement methods for a levee district or levee drainage district.

Present law provides for restriction of certain activities on public levees or coastal protection projects, unless provisions are made by the levee district, DOTD, or the Office of Coastal Protection and Restoration (OCPR). Provides for penalties. Exempts an employee of the state from performing their duties or the interference with the crossing of a public levees by projects of DOTD or OCPR.

Proposed law deletes the required approval or provision by the levee district, DOTD, or OCPR and revises the restrictions to prohibit certain activities during the time water is against the levees or flood control structures or at any other time. Further exempts private or public roads and ramps or properly prepared crossings under permits issued by the governing authority of the levee or structure, the U.S. Army Corps of Engineers (USACE) and DOTD. Further requires a special permit issued by the governing authority of the levee or structure if the weight exceeds certain standards.

Proposed law increases the fine from not more than \$50 to not more than \$5,000 and increases to alternative for imprisonment from not more than 30 days to not more than six months.

Proposed law extends the exemption to include employees of the federal government, the parish, the governing authority of a levee or flood control structure, or their contractors from performing their duties. Deletes the exemption for DOTD and OCPR's crossing of public levees for their respective projects.

Present law provides for permits or letters of no objection from the corps, DOTD, and OCPR for issuance of a permit to a project which involves a levee crossing and further provides as a ministerial duty of the executive or administrative officer to issue the requested permit or letter of no objection, subject to any conditions or stipulations contained therein. Further authorizes the board or commission to impose fees, bonds, and general stipulations, to be enforced by the executive or administrative officer.

Proposed law deletes the provision that provides for the permits or letters of no objection to come from the corps, DOTD, or OCPR and further provides that the permits or letters of no objection will come from the board or commission of a levee district at their discretion will

be issued administratively or by resolution and enforced only to the extent of the conditions and stipulations contained in the permit or letter of no objection. Further allows the board to issue insurance bonds.

Proposed law authorizes a levee district or levee drainage district to purchase certain items through an existing public contract of another political subdivision within one year of opening of bids, provided that the contract is in compliance with public bid law; the total purchases do not exceed two times the purchase by the political subdivision; written consent is obtained, as well as the contract number; the vendor agrees to the additional purchase; and the vendor or items are identical to those specified in the existing public contract and the price is the same as the original contract price.

(Amends R.S. 38:213 and 226; Adds R.S. 38:321.1)