



# ON THE BALLOT

A Report from the Bureau  
of Governmental Research

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## JEFFERSON, ORLEANS AND ST. TAMMANY PARISHES, NOVEMBER 21, 2015

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### INTRODUCTION

On November 21, voters in parts of Jefferson and Orleans parishes will consider proposed taxes meant to sustain west bank flood protection systems. Voters on the west bank of Jefferson Parish will decide whether to approve a new 5.5-mill property tax. Voters in Algiers will decide whether to renew an existing 6.31-mill property tax.

Meanwhile, voters in St. Tammany Parish will consider nine proposed amendments to the parish's home rule charter. In 2014, the St. Tammany Parish Council initiated a review by forming the St. Tammany Parish Home Rule Charter Committee.<sup>1</sup> The Parish Council accepted some of the committee's recommendations, organized them into nine propositions and approved them for the ballot.<sup>2</sup>

In this report, BGR examines the two west bank flood protection tax propositions and three of the most significant St. Tammany charter propositions.

### JEFFERSON PARISH: WEST JEFFERSON LEVEE DISTRICT NEW PROPERTY TAX

#### What It Would Do

Voters on the west bank of Jefferson Parish will decide whether to approve a new 5.5-mill property tax to maintain post-Katrina infrastructure investments in the West Jefferson Levee District. The tax would take effect in 2016 and remain in place for 30 years, expiring in 2045.<sup>3</sup>

#### Background and Analysis

*Background.* The West Jefferson Levee District (Levee District) is governed by the regional Southeast Louisiana Flood Protection Authority-West (SLFPA-W).

SLFPA-W also governs the Algiers Levee District.<sup>4</sup>

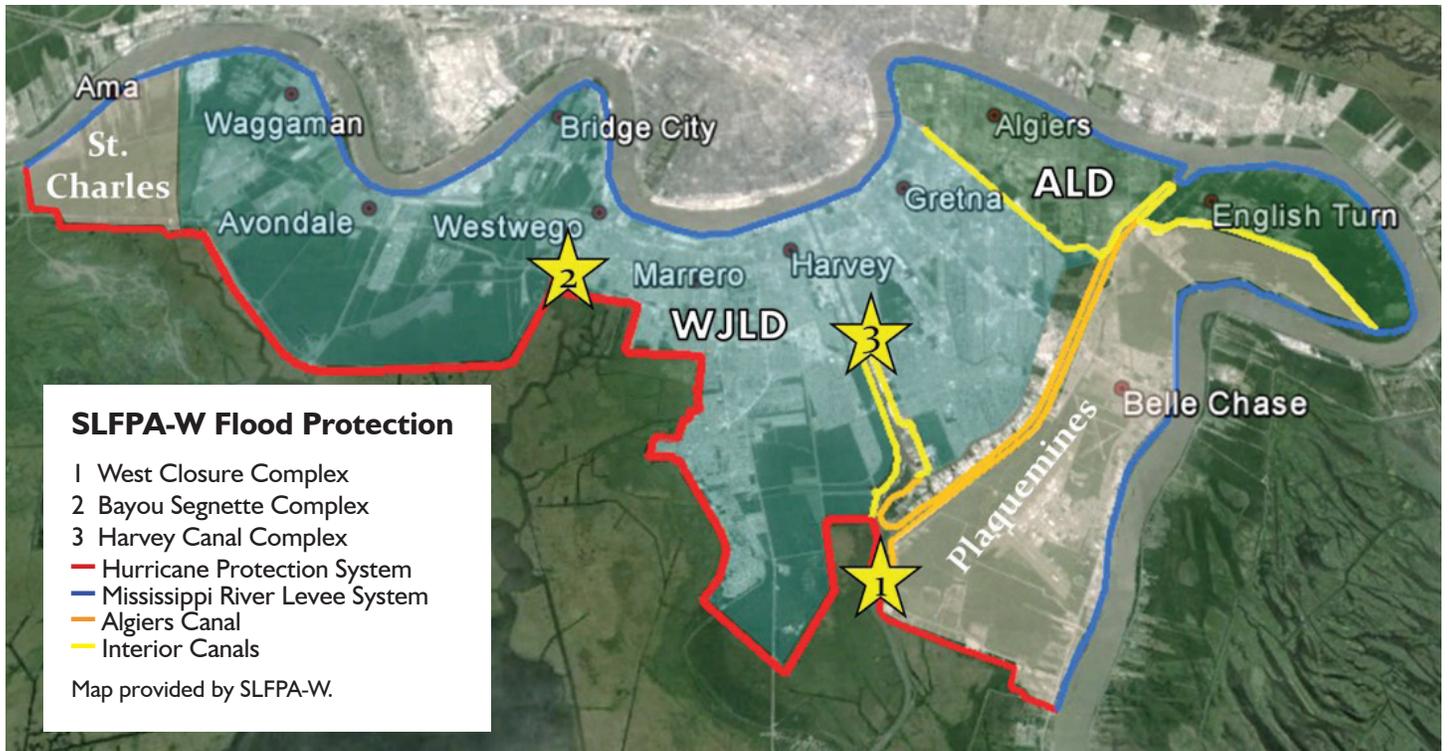
The Levee District encompasses most of the settled areas of the west bank of Jefferson Parish, excluding Crown Point, Lafitte and Grand Isle. It maintains the Jefferson portions of two regional levee systems that also protect Algiers and parts of Plaquemines and St. Charles parishes:

- The federally-built Mississippi River Levee System provides flood protection along the west bank of the Mississippi River.
- The federally-built Hurricane and Storm Damage Risk Reduction System (the Hurricane Protection System) provides flood and storm surge protection from Lake Cataouatche, Lake Salvador and other waterways leading to the Gulf of Mexico.<sup>5</sup>

The Levee District also maintains the local, interior levees and floodwalls along the Harvey Canal.

Since Hurricane Katrina, the federal government has invested \$4.2 billion in hurricane and flood protection infrastructure for those west bank portions of St. Charles, Jefferson, Orleans and Plaquemines within the Hurricane Protection and Mississippi River Levee systems.

The improvements include the widening of existing hurricane protection levees and construction of higher floodwalls (from eight to 14 feet). The improvements also include three new pump station complexes, most notably the Gulf Intracoastal Waterway West Closure Complex, which has the nation's largest sector gates and the world's largest drainage pump station.<sup>6</sup> The West Jefferson Levee District must pay 60% of the cost of operating and maintaining the West Closure Complex, with the Algiers Levee District (20%) and Plaquemines Parish (20%) paying the balance.<sup>7</sup>



Now that the federal government has made this major infrastructure investment, it is up to local residents to keep these improvements maintained and operating. These federally-funded improvements have expanded the Levee District’s responsibilities and its funding needs. Currently, the district receives revenue from a permanent 5.03-mill tax, which generated \$5.1 million in fiscal 2014.<sup>8</sup> In that year, the district’s revenue totaled \$5.8 million.<sup>9</sup> The revenue from the permanent tax has allowed the district to build up an \$8 million surplus during the years when the district’s infrastructure was under construction by the U.S. Army Corps of Engineers. However, the district estimates that it will need an additional \$5.6 million per year to pay for the operation and maintenance of the new infrastructure and to set aside significant funding to meet looming capital expenses.

The proposed new tax would bring in the required \$5.6 million. If approved, the Levee District would receive a projected total of \$10.8 million in tax revenue in 2016, more than doubling the Levee District’s property tax revenue.<sup>10</sup>

*Analysis.* If voters approve the millage, taxpayers would pay an additional 5.5 mills to support the Le-

vee District. A homeowner with a homestead-exempt property valued at \$125,000 would pay an additional \$27.50 per year and see his Levee District taxes rise from \$25.15 to \$52.65.<sup>11</sup> For each additional \$100,000 of value, the new tax would cost \$55. Commercial property owners would pay an additional \$77 per \$100,000. The taxes on a commercial property valued at \$600,000 would increase by \$462 per year, rising from \$422.52 to \$884.52.<sup>12</sup> If voters reject the proposition, taxes will remain at 5.03 mills.

The Levee District will use the new revenue to address a variety of needs.

- **Levee lifts and armoring:** The Levee District plans to lift and armor its Hurricane Protection System levees three times during the next 30 years to account for settling of the new levees, regional subsidence and rising sea level.<sup>13</sup> This work will help to maintain the elevation standards necessary to for the levees to remain certified for inclusion on federal flood insurance rate maps. If the elevation falls below the required level for a sustained period, insurance rates for properties within the system would be calculat-

ed as though there is no levee protection at all.

The first round of levee lifts, totaling \$26 million, will start this year and continue through 2016. The Levee District anticipates spending \$13 million in each of the two years and has already saved \$13.9 million for these lifts. It plans to pay for the remaining \$12.1 million using a combination of revenues from existing sources and the new tax.

The second round of levee lifts and re-armoring, totaling \$30 million, is scheduled to take place from 2023 to 2033. The Levee District will start saving for this work in 2017.

- **Major maintenance:** The Levee District also needs new revenue to meet major maintenance costs at its three new flood gate/pump complexes – the Bayou Segnette Complex,<sup>14</sup> the Harvey Canal Complex<sup>15</sup> and the West Closure Complex. This work, which will take place every 10 years, includes de-watering all floodgates,<sup>16</sup> replacing rip-rap, and overhauling hydraulic and mechanical equipment. The first round of major maintenance is scheduled to take place in 2023 at a cost of \$4 million for the Levee District. Beginning in 2017, it will set aside \$500,000 a year from the new tax to meet this expense.
- **Increased costs for operations and routine maintenance:** The expanded scope and sophistication of the Levee District’s assets require increased funding. Significant new costs are attributable to the West Closure Complex alone. Starting this year, the Levee District must pay \$1.2 million to cover its annual share of the complex’s costs. The district expects the payment to decrease to \$830,000, beginning in 2017.<sup>17</sup>
- **Surveys:** New surveys are also adding to the Levee District’s operating costs. Every three years, SLFPA-W is required to survey the elevation of its levees. Each survey will cost approximately \$1 million. The Levee District plans to set aside \$210,000 annually to cover its share of this continued expense.

**Table 1: Annual Average Projected Spending from New Tax Revenue, 2017-2024**

Expenditure	Projected Cost
Future Levee Armoring	\$2.0 million
Future Levee Lifts	\$1.7 million
West Closure Complex O&M	\$830,000*
Major Maintenance	\$500,000
Levee Lifts completed in 2016	\$400,000
System Surveys	\$210,000
<b>Total</b>	<b>\$5.6 million</b>

Source: BGR calculations based on data provided by SLFPA-W.

\* The Levee District will be paying \$1.2 million annually in 2015 and 2016, but expects payments to decrease starting in 2017.<sup>19</sup>

Table 1 provides a breakdown of projected average spending by category of revenues from the new tax for the years 2017-2024.<sup>18</sup>

If voters reject the millage, the Levee District will not be able to address the costs laid out in Table 1.<sup>20</sup> The consequent deterioration of the system could increase the risk of flooding and lead to flood insurance rate hikes.<sup>21</sup>

Voters should be aware that the Levee District may face costs in the near future that are not accounted for in the current proposition. SLFPA-W officials say the district may have to contribute up to \$9.3 million annually over a period of 30 years as part of a cost-sharing arrangement with the federal government for now-completed west bank flood protection projects, including levee lifts. The matter depends on whether Congress decides to forgive some or all of the local match and how the local cost share is distributed among state and local entities. Because the outcome is uncertain, SLFPA-W does not believe it is appropriate to seek funds from taxpayers at this time.

## **BGR Position**

**FOR.** The Levee District's maintenance and operations obligations have increased dramatically in recent years due to the massive scale and complexity of post-Katrina improvements. In addition, the Levee District is scheduled to perform significant levee improvements and major maintenance on its three pump station complexes during the next 30 years. The proposed millage would provide the funds for this work. Should voters reject the millage, maintenance of levees and infrastructure will suffer and levee improvements will go unfunded, increasing the risk of flooding and likely resulting in higher flood insurance rates.

## **ORLEANS PARISH: ALGIERS LEVEE DISTRICT PROPERTY TAX RENEWAL**

### **What it Would Do**

Voters in Algiers will decide whether to renew a 6.35-mill property tax to support the Algiers Levee District. The renewal would take effect in 2016 and remain in place for 30 years, expiring in 2045.<sup>22</sup>

### **Background and Analysis**

*Background.* The Algiers Levee District (Levee District) is governed by the regional Southeast Louisiana Flood Protection Authority-West (SLFPA-W). SLFPA-W also governs the West Jefferson Levee District.<sup>23</sup>

Created in 2007, the Levee District encompasses the portion of Orleans Parish located on the west bank of the Mississippi River.<sup>24</sup> The Levee District maintains the west bank, Orleans Parish portion of the regional, federally-built Mississippi River Levee System that provides flood protection along the west bank of the Mississippi River. It also maintains the local, interior levees along the Donner Canal.

The Levee District also now shares operations and maintenance responsibilities for the massive Gulf Intracoastal Waterway West Closure Complex.<sup>25</sup> The

post-Katrina complex, which is located in Jefferson and Plaquemines parishes, protects Orleans by preventing storm surge from entering the Algiers Canal.<sup>26</sup> The Algiers Levee District is responsible for 20% of the operations and maintenance costs for the West Closure Complex, which it began paying in 2015. The remainder is shared between the West Jefferson Levee District (60%) and Plaquemines Parish (20%).<sup>27</sup>

Currently, the Levee District receives revenue from three dedicated property taxes: two permanent taxes totaling 6.21 mills and the 6.35-mill tax that will expire at the end of 2015 unless voters renew it. The three millages total 12.56 mills.<sup>28</sup> In fiscal 2014, the Levee District's revenue totaled \$2.8 million. Ad valorem property taxes accounted for \$2.5 million of this amount.<sup>29</sup> The Levee District has built up a \$3.7 million fund balance from which it will draw in the coming years to help meet new expenses.

The proposed millage would maintain the Levee District's property tax revenue at its current level. If approved, the millage would continue uninterrupted in 2016 and expire in 2045.

*Analysis.* If voters renew the 6.35-mill tax, taxpayers would continue paying a total of 12.56 mills to support the Levee District. A homeowner with a homestead exempt property valued at \$160,000 would continue paying \$106.76 per year.<sup>30</sup> Commercial properties would continue paying \$88.90 per \$100,000. The owner of a commercial property valued at \$600,000 would pay \$1,055.04 per year.<sup>31</sup>

If voters reject the proposition, the overall tax rate for the Algiers Levee District would decline from 12.56 to 6.21 mills. A homeowner with a homestead-exempt property valued at \$160,000 would pay \$53.97 less per year and see his taxes for the Levee District decrease from \$106.76 to \$52.79. The taxes on a commercial property valued at \$600,000 would be \$533.40 less per year, decreasing from \$1,055.04 to \$521.64.

By continuing to receive the \$1.3 million from the renewed tax, the Levee District will be able to address a variety of needs.<sup>32</sup>

- **Current expenses:** The Levee District will use a portion of the revenue to continue to meet its existing expenses. In 2016, operations and maintenance costs are expected to total \$2.3 million.<sup>33</sup> The Levee District plans to put \$630,000 from the renewed tax toward these costs. In 2017, the district will increase this amount to \$750,000.<sup>34</sup>
- **Increased costs for operations and routine maintenance:** The Levee District also needs revenue to meet the operations and maintenance costs of the West Closure Complex. Starting this year, the Levee District must pay \$400,000 to cover its annual share of the complex's costs. The district expects the payment to decrease to \$280,000, beginning in 2017.<sup>35</sup>
- **Major maintenance:** The Levee District also needs new revenue to perform major maintenance work at the West Closure Complex. This work, which will take place every 10 years, includes de-watering floodgates,<sup>36</sup> replacing rip-rap, and overhauling hydraulic and mechanical equipment. The first round of major maintenance is scheduled to take place in 2023 at a cost of \$1 million to the Levee District. Beginning in 2017, it will set aside \$140,000 a year from the renewed tax to meet this expense.
- **Surveys:** New surveys are also adding to the Levee District's operating costs. Every three years, SLFPA-W is required to survey the elevation of its levees. Each survey will cost around \$1 million. The Levee District plans to set aside \$120,000 annually from the renewed tax to cover its 36% share of this continued expense.

**Table 2: Projected Spending from Renewed Tax (2017)**

Expenditure	Projected Cost
Existing O&M	\$750,000
West Closure Complex O&M	\$280,000*
Major Maintenance	\$140,000
System Surveys	\$120,000
<b>Total</b>	<b>\$1.3 million</b>

Source: BGR calculations based on data provided by SLFPA-W.

\* The Levee District will be paying \$400,000 annually in 2015 and 2016, but expects payments to decrease starting in 2017.<sup>37</sup>

reserves, which would be exhausted by 2018.<sup>38</sup> Once reserves are depleted, if the Levee District does not find a new revenue source, the subsequent deterioration of the system could increase the risk of flooding and lead to flood insurance rate hikes.<sup>39</sup>

Even with the millage renewal, officials say the Levee District will have insufficient revenue to fully cover its expenditures. Beginning in 2016, the Levee District will meet a structural deficit of approximately \$360,000 per year by drawing down on its \$3.7 million in reserves. SLFPA-W officials say a new tax may be needed by 2025 to maintain sufficient revenues.<sup>40</sup>

The structural deficit could worsen in the near future, depending on the outcome of negotiations with the U.S. Army Corps of Engineers (the Corps) over the Algiers Canal. Historically, the canal and its levees have been maintained by the Corps as part of the federal Hurricane Protection System. However, with the completion of the West Closure Complex, the Corps no longer considers the canal levees as part of the federal perimeter system, but as part of an interior system that is a local responsibility.<sup>41</sup> If the Corps refuses to provide funding, the Levee District says it would have to pay \$200,000 annually to maintain the canal.

SLFPA-W officials say the Levee District may also

Table 2 provides a breakdown of spending by category for 2017.

If voters reject the millage, the Levee District cannot meet the costs laid out in Table 2. To make up for the shortfall, the Levee District would be forced to tap its

need an additional \$1 million in total to lift and armor parts of the Mississippi River Levee System between 2023 and 2033, depending on the outcome of hydrology studies by the Corps. They will evaluate how to pay for the levee improvements once the Corps makes a final determination that the work is necessary.

### **BGR Position**

**FOR.** The Levee District relies on the current millage to meet its existing expenses. It also needs the millage renewal to cover its increased operations and maintenance responsibilities. Should voters reject the millage, maintenance of levees and infrastructure will suffer, increasing the risk of flooding and likely resulting in higher flood insurance rates.

### **ST. TAMMANY PARISH PROPOSITION 2: MANDATORY CHARTER REVIEW**

#### **What It Would Do**

The St. Tammany Parish charter does not require a periodic charter review. The amendment would change that by requiring a charter review at least once every 15 years by an 11-member committee (including at least two council members) appointed in a manner to be determined by the Parish Council. Recommendations of the charter committee would be submitted to the Parish Council for approval and then put to a vote.

#### **Background and Analysis**

Proponents of the amendment say a periodic review of the charter is necessary to ensure that it reflects current needs. They believe that the Parish Council, as the governing body of the parish, should participate in the review committee and have final say over which propositions should appear on the ballot.

Opponents agree that a periodic review of the charter is needed. However, they say an advisory committee to the Parish Council is not the right way to do it. They prefer an approach under state law that allows for the

creation of a charter commission empowered to propose charter amendments directly to voters without being changed by the Parish Council.<sup>42</sup>

The distinction between the two approaches is not academic, as demonstrated by the path of the current charter amendments. For example, the current charter committee recommended that the Parish Council provide the public with the opportunity to vote on three alternative provisions regarding term limits for council members, including an option for voters to choose no term limits, a term limit of three consecutive terms, or a term limit of three consecutive terms with 12 council members elected from single-member districts and two council members elected at-large.<sup>43</sup> The Parish Council rejected placing any term limit propositions on the ballot, only to reverse course when citizens protested. The issue of term limits will now be on the March 2016 ballot, albeit without the at-large option.<sup>44</sup> Had the charter committee been a charter commission instead, the recommendations of that body could have gone directly to voters as originally proposed.

The composition of the proposed charter committee raises an additional concern. If the committee is supposed to serve as an independent advisory body to the Parish Council, the requirement that the committee include “at least” two council members could undermine that independence. The presence of council members on the committee could inhibit the range of proposals and inject political considerations into the dialogue over them. Council members could provide recommendations without being members of the committee. We also note that under the proposed amendment, the council would determine the manner in which appointments are made, giving it further control over the process.

The National Civic League has stated that the “charter process functions best when it is rooted in citizen involvement rather than one influenced (intentionally or unintentionally) by political officials directly serving as members.” As a result, the organization recommends that civic-minded lay people who are not involved in the day-to-day operations of local government be chosen to review a charter. The league further suggests that, while

in many cases the jurisdiction's executive and council play a role in the appointment of commission members, "the involvement of elected officials should end at that point."<sup>45</sup>

### **BGR Position**

**AGAINST.** While mandatory periodic review of the charter is important, the proposed amendment could undermine the integrity of future charter amendment efforts because the proposed charter advisory committee would lack independence from the Parish Council.

### **ST. TAMMANY PARISH PROPOSITION 5: LEGAL REPRESENTATION FOR PARISH GOVERNMENT**

#### **What It Would Do**

Under the current charter, the district attorney serves as the legal adviser to the Parish Council, president, and all parish departments, offices and agencies. He also represents the parish government in legal proceedings. The parish government may retain special legal counsel, but only for a specific purpose and subject to a written contract and approval by a majority of the Parish Council.<sup>46</sup>

Proposition 5 would significantly change legal representation for the parish government. Specifically, the proposition would:

- Remove language naming the district attorney as the legal adviser to the Parish Council, parish president and all parish departments, offices and agencies.
- Require the parish president to appoint an Executive Counsel who would advise and represent the parish president, parish employees and all departments comprising the administration.
- Authorize the parish president to retain outside legal counsel without Parish Council approval on matters where there is a conflict with the council.

### **Background and Analysis**

Proponents of the amendment say it would address several potential conflicts that arise when parish officials are represented by the district attorney, as required under the current charter.

BGR identified the following potential conflicts in a 2002 review of the St. Tammany charter:<sup>47</sup>

- First, requiring parish officials to use the services of an independently elected official (the district attorney), who is answerable to his own constituency, and whose district is not coterminous with the parish (the district attorney is elected from St. Tammany and Washington parishes combined), creates the danger of political and local representation conflicts.
- Second, requiring the different branches of parish government – the council and the parish president – to use the same legal counsel is problematic in situations where separate and independent legal advice would be advisable.

The amendment would address these potential conflicts in part by allowing the parish president to establish the office of Executive Counsel to advise and represent the parish president and parish government generally, as BGR recommended in 2002. Unlike BGR's recommendation, the amendment would not require council approval.

The amendment is in line with the *Model City Charter* of the National Civic League, which recommends that members of the executive or legislative branches select legal counsel in one of the following ways: 1) appointment by the parish executive, 2) appointment by the parish executive subject to confirmation by the council or 3) appointment by the Parish Council.<sup>48</sup> The model charter does not recommend one of these approaches over another.

The district attorney does not oppose the concept of separate legal representation for the parish president. Rather the district attorney and proponents of the amendment disagree on whether it would clearly allow

the Parish Council to hire its own attorney and, if so, whether that is advisable.

While proponents argue that the amendment would give the council that power, the amendment is not specific on that point. The amendment would remove the requirement that the district attorney serve as the legal advisor to the Parish Council. But unlike the provisions related to the parish president, it would not explicitly authorize the council to hire its own attorneys. The amendment originally would have added a new section to the charter specifically addressing the appointment of Parish Council attorneys.<sup>49</sup> However, the Parish Council later voted to remove the section on council attorneys from the proposed amendment.<sup>50</sup>

Proponents maintain that, by removing the requirement that the Parish Council use the district attorney as its legal adviser, the amendment would give the council autonomy to choose its own legal counsel. They also note that the amendment refers to “council attorneys” – specifically, that the Executive Counsel shall “co-administer parish litigation with council attorneys” – indicating that the charter amendment contemplates the Parish Council hiring its own attorneys.

Proponents further point to state law and other charter provisions as authorizing the Parish Council to hire its own attorneys. Under state law, a parish council may use a parish attorney or special attorney instead of the district attorney, if the charter provides for this arrangement.<sup>51</sup> The parish charter, as it stands and with the proposed changes, allows the parish government to retain special legal counsel for a specific purpose, subject to a written contract and approval by a majority of the council.<sup>52</sup> It also authorizes the council to hire any employees deemed necessary to assist it in carrying out its duties and responsibilities, which proponents say, implicitly includes legal counsel.<sup>53</sup> The district attorney disagrees with proponents’ interpretation of this charter provision.

Giving the Parish Council the authority to choose its own attorneys is, in the proponents’ view, critical, especially in situations where the council may have political differences with the administration or the district attorney.

BGR previously recommended that the charter be amended to “specifically allow the Parish Council to hire legal counsel for itself,” for the same reasons it recommended the establishment of an office of parish attorney under the parish president. In the same report, BGR also recommended that St. Tammany consider reducing the size of its 14-member, district-based council and noted potential problems with its lack of at-large representation.<sup>54</sup>

The council’s composition is of key concern to the district attorney with regard to the amendment. The district attorney maintains that a Parish Council comprised of 14 part-time, district council members would be poorly equipped to provide the necessary selection and supervision of legal counsel and the accountability for legal decisions. According to proponents, the council’s size does not hinder its ability to make legal decisions. Proponents compare the council to a business that operates under a board of directors.

The district attorney also points out that the amendment does not explicitly authorize the Parish Council to hire its own attorneys and therefore could lead to litigation over the issue and other unintended consequences. The district attorney further notes that he already has the necessary staff and resources in place to represent the Parish Council.

For these reasons, the district attorney is opposed to the proposition.

### **BGR Position**

**FOR.** While the amendment is less than specific with regard to legal representation for the Parish Council, it would eliminate the potential conflicts that could arise under the current requirement that the parish president and council use the district attorney as their legal adviser. In the future, the Parish should come back to voters with an additional proposition that is more tightly crafted to specifically allow the Parish Council to retain its own attorneys.

## **ST. TAMMANY PARISH PROPOSITION 8: DELETING LANGUAGE ON PERSONNEL AND PARISH DEPARTMENTS**

### **What It Would Do**

The charter currently establishes personnel policies and procedures regarding parish employees and sets forth an array of parish departments and department responsibilities.<sup>55</sup> Proposition 8 would make significant changes to these charter provisions. It would:

- Remove the charter provisions on personnel policies and procedures.
- Add language that would require the parish president to submit personnel policies and procedures in the form of an ordinance to the Parish Council for approval.<sup>56</sup>
- Remove the charter provisions creating all parish departments and department responsibilities, except those of the legal department.

### **Background and Analysis**

Proponents of the amendment say it would bring outdated sections of the charter on personnel policies and procedures and parish departments in line with current parish practices.

The current charter provisions on personnel policies and procedures assume the existence of a civil service system and call for the appointment of a personnel officer<sup>57</sup> and the creation of a five-member personnel board.<sup>58</sup> The parish has never fully implemented these provisions.

Current personnel policies and procedures are found in the parish's code of ordinances.<sup>59</sup> Under these ordinances, the parish is an at-will employer, and personnel matters are handled by the Chief Administrative Officer, the Department of Human Resources and directors and supervisors of the parish's various departments. The proposed amendment follows the parish government's current practice of setting forth the personnel policies and procedures by ordinance.

BGR notes that existing charter language contains a protection against the creation of a spoils system, by requiring that parish government employ the best qualified candidates for a position and that appointments and promotions be made on the basis of merit and fitness.<sup>60</sup> The amendment would remove this language from the charter. While current personnel ordinances require the hiring of qualified candidates and merit-based appointments and promotions,<sup>61</sup> the Parish Council could change these provisions simply by amending the ordinances.<sup>62</sup>

With regard to parish departments, the current charter creates the departments of Finance, Public Works, Engineering, Development, Planning and Permits, and Community Action and sets forth the duties and functions of each department.<sup>63</sup> But the charter also authorizes the parish president to reorganize the departments – including creating, changing, altering, consolidating, removing or reallocating the functions and responsibilities of parish departments – with the approval of the Parish Council.<sup>64</sup>

Since the charter's adoption, the administration has used its power to reorganize the departments; new departments have been created and departmental responsibilities have been reallocated. Up-to-date descriptions of parish departments and functions are in the code of ordinances.

Proponents maintain that the proposed amendment would remove the artifice that certain departments are protected under the charter. The parish government, they say, would continue to operate as it currently does.

There may, however, be an unintended consequence. The Department of Development's responsibilities, as laid out in the charter, contain key directives on comprehensive long-range planning, which would be removed. The amendment would remove language requiring that the long-range plan include "an overall plan for land use by public, commercial and residential interests; traffic and transportation issues; economic and demographic growth; water and drainage concerns and such other items as may be directed by the Parish Council." It would also remove language requiring the plan to be presented to both the Parish Council and Planning and

Zoning Commissions each year “to assure coordination of efforts and allow for public input.”<sup>65</sup> The only remaining charter language on long-range planning would be a directive that the parish “prepare, enact, enforce and maintain comprehensive plans for the development of the Parish.”<sup>66</sup>

BGR previously reviewed the charter’s provisions on planning and recommended a charter amendment to establish a framework for an ongoing comprehensive planning process. BGR noted that such a framework is critical for a fast-growing parish.<sup>67</sup> In 2008, at the request of the Home Rule Charter Ad Hoc Committee, BGR drafted and presented to the Parish Council a charter amendment that would have created a new section on planning and zoning. Among other things, it would have added greater specificity with regard to the elements of the long-range plan, enhanced public input and provided a clearer review process. The Parish Council never acted on BGR’s proposal. By removing the few specific directives on planning in the current charter, the amendment before voters would move the charter in the opposite direction.

### **BGR Position**

**AGAINST.** The proposed amendment would remove language from the charter that protects against a spoils system. It would also move in the wrong direction with regard to planning by deleting what little specificity exists concerning a comprehensive long range plan for parish-wide development.

## ENDNOTES

1 St. Tammany Parish Council, Res. No. C-4129AA, adopted August 7, 2014.

2 St. Tammany Parish Council, Ord. No. C-5398AA, adopted September 23, 2015.

3 Southeast Louisiana Flood Protection Authority-West, Res. No. 081215-01, adopted August 12, 2015.

4 La. R.S. Sec. 38:330.1(B)(2)(a). With the creation of a regional authority, the local boards governing levee districts on the west bank of Jefferson and Orleans parishes were replaced by the SLFPA-W board of commissioners. The SLFPA-W board is authorized to act on behalf of the authority as well as the levee districts. Such authority includes, but is not limited to, the ability to enter into contracts, buy or sell property, and construct and maintain drainage works.

5 The system was built to a 100-year storm standard, meaning that risk from a storm surge has a 1% chance of occurring or being exceeded in any given year.

6 Considered the most important piece of infrastructure to protect the west bank, the West Closure Complex consists of a 225-foot navigable floodgate, 11 pumps, floodwalls, water control structures, shoreline protection and an earthen levee. The other two pump station complexes are the Bayou Segnette Complex and the Harvey Canal Complex.

7 Intergovernmental Agreement by and between the Coastal Protection and Restoration Authority Board, Coastal Protection and Restoration Authority, the Southeast Louisiana Flood Protection Authority-West, and Plaquemines Parish, Interim Agreement for the OMRR&R of the Western Closure Complex of the West Bank Hurricane Protection Project, December 1, 2014.

8 La. Const. Art. VI, Sec. 39(A).

9 Southeast Louisiana Flood Protection Authority-West, Annual Financial Report, Year Ended June 30, 2014, p. 13. The balance of the Levee District's revenue came from intergovernmental funds, interest, royalties, permits, and service charges, fees and commissions.

10 Southeast Louisiana Flood Protection Authority-West, WBV Millage Election Comprehensive Presentation, August 17, 2015, p. 38. The authority projects \$5.2 million from the existing tax in 2016.

11 BGR calculations. BGR used a value of \$125,000 based on data from the New Orleans Metropolitan Association of Realtors, which indicate that this was the average sale price for a single family home in West Jefferson in 2014. See New Orleans Metropolitan Association of Realtors (NOMAR), "Market Statistics," [www.nomar.org/gsrein-mls-public/market-statistics-public.html](http://www.nomar.org/gsrein-mls-public/market-statistics-public.html).

12 BGR assumes that land value accounts for 20% of total value.

13 The lift process involves adding clay fill to increase a levee's height to prevent it from being overtopped. The armoring process involves adding geo-synthetic materials to strengthen a levee's grass covering to prevent it from washing away.

14 The Bayou Segnette Complex protects the area of Westwego to Avondale. The complex is comprised of floodwalls and a 75-foot floodgate that provides storm surge protection from Bayou Segnette. The complex's pump station pumps rain water out of the Company Canal basin.

15 The Harvey Canal Complex protects the east and west sides of the Harvey Canal from the Harvey Lock to Lapalco Boulevard. The complex is comprised of a floodgate and temporary pump station. The Corps of Engineers is in the process of building a permanent pump station for the complex.

16 De-watering is the process of pumping out all water surrounding a floodgate. Once water is completely removed, the gate is sandblasted, repainted and inspected. The inspection includes a full electrical, mechanical and hydraulic systems inspection.

17 In 2014, as part of the Water Resources Reform and Development Act, Congress authorized the Corps of Engineers to pay 65% of the operations and maintenance for the West Closure Complex. While Congress has not yet appropriated funds for this purpose, SLFPA-W officials expect the Corps to begin paying its cost share in 2017. As a result, the Levee District's costs are projected to decrease to \$830,000 annually.

18 In 2016, the revenue will be used entirely for projects currently underway. The projections do not go past 2024, the final year of the current capital plan.

19 In 2014, as part of the Water Resources Reform and Development Act, Congress authorized the Corps of Engineers to pay 65% of the operations and maintenance for the West Closure Complex.

20 SLFPA-W, WBV Millage Election Comprehensive Presentation, p. 32.

21 The areas within SLFPA-W's jurisdiction currently participate in the National Flood Insurance Program (NFIP). Under the NFIP, minimum standards are set by the federal government to qualify for flood insurance. In setting flood insurance rates, the federal government looks at numerous factors including, but not limited to, storm surge protection, levee protection, pump station operations and maintenance, interior drainage, catch basins and building permits. FEMA considers all of these things working together when preparing its flood insurance rate maps. FEMA conducts a compliance review on an annual basis. If infrastructure is diminished or there is a reduction in services, FEMA could consider an area at greater risk of flooding. See 44 C.F.R. Secs. 59.1-75.14.

22 Southeast Louisiana Flood Protection Authority-West, Res. No. 081115-01, adopted August 11, 2015.

23 La. R.S. Sec. 38:330.1(B)(2)(a). With the creation of a regional authority, the local boards governing levee districts on the west bank of Jefferson and Orleans parishes were replaced by the SLFPA-W board of commissioners. The SLFPA-W board is authorized to act on behalf of the authority as well as the levee districts. Such authority includes, but is not limited to, the ability to enter into contracts, buy or sell property, and construct and maintain drainage works.

24 La. R.S. Sec. 38:291(X). Prior to the creation of the Algiers Levee District, the area was part of the Orleans Levee District.

25 The West Closure Complex consists of a 225-foot navigable floodgate, 11 pumps, floodwalls, water control structures, shoreline protection and an earthen levee.

26 La. Atty. Gen. Op. No. 2014-0186. The Attorney General has determined that SLFPA-W is authorized to use tax revenue from the Algiers Levee District to pay for a portion of the West Closure Complex's operations and maintenance.

27 Intergovernmental Agreement by and between the Coastal Protection and Restoration Authority Board, Coastal Protection and Restoration Authority, the Southeast Louisiana Flood Protection Authority-West, and Plaquemines Parish, Interim Agreement for the OMRR&R of the Western Closure Complex of the West Bank Hurricane Protection Project, December 1, 2014.

28 Office of the Legislative Auditor, 2015 Maximum Millage Report, Orleans Parish, March 24, 2015.

29 Southeast Louisiana Flood Protection Authority-West, Annual Financial Report, Year Ended June 30, 2014, p. 13. The balance of the Levee District's revenue came from federal funding, royalties, permits and interest.

30 BGR calculations. BGR used a value of \$160,000 based on data from the New Orleans Metropolitan Association of Realtors, which indicate that this was the average sale price for a single family home in West Orleans (Algiers) in 2014. See New Orleans Metropolitan Association of Realtors (NOMAR), "Market Statistics," [www.nomar.org/gsrein-mls-public/market-statistics-public.html](http://www.nomar.org/gsrein-mls-public/market-statistics-public.html).

31 BGR calculations. BGR assumes that land value accounts for 20% of total value.

32 Southeast Louisiana Flood Protection Authority-West, WBV Millage Election Comprehensive Presentation, August 17, 2015, p. 40.

33 Without the renewal, revenue for 2016 will total \$1.4 million, comprised of the 5.46-mill tax (\$1.1 million), the 0.75-mill tax (\$0.2 million) and payments from royalties and permits (\$0.1 million).

34 Starting in 2017, the Levee District will be able to allocate more for current expenses as its costs for West Closure Complex operations and maintenance are expected to decrease.

35 In 2014, as part of the Water Resources Reform and

Development Act, Congress authorized the Corps of Engineers to pay 65% of the operations and maintenance for the West Closure Complex. While Congress has not yet appropriated funds for this purpose, SLFPA-W officials expect the Corps to begin paying its cost share in 2017. As a result, the Levee District's costs are projected to decrease to \$280,000 annually.

36 De-watering is the process of pumping out all water surrounding a floodgate. Once water is completely removed, the gate is sandblasted, repainted and inspected. The inspection includes a full electrical, mechanical and hydraulic systems inspection.

37 In 2014, as part of the Water Resources Reform and Development Act, Congress authorized the Corps of Engineers to pay 65% of the operations and maintenance for the West Closure Complex.

38 SLFPA-W, WBV Millage Election Comprehensive Presentation, p. 34.

39 The areas within SLPFA-W's jurisdiction currently participate in the National Flood Insurance Program (NFIP). Under the NFIP, minimum standards are set by the federal government to qualify for flood insurance. In setting flood insurance rates, the federal government looks at numerous factors including, but not limited to, storm surge protection, levee protection, pump station operations and maintenance, interior drainage, catch basins and building permits. FEMA considers all of these things working together when preparing its flood insurance rate maps. FEMA conducts a compliance review on an annual basis. If infrastructure is diminished or there is a reduction in services, FEMA could consider an area at greater risk of flooding. See 44 C.F.R Secs. 59.1-75.14.

40 SLFPA-W, WBV Millage Election Comprehensive Presentation, p. 40.

41 If the Algiers Canal is determined to be a local responsibility, operations and maintenance costs would be shared between the Levee District and Plaquemines Parish.

42 La. R.S. Sec. 33:1395.1. See also La. Atty. Gen. Op. Nos. 2003-0110(A), 2003-0375 and 1997-242.

43 St. Tammany Parish Home Rule Charter Committee, *Recommendations to Amend the St. Tammany Parish Home Rule Charter*, March 31, 2015, pp. 16-18. The length of one term is four years.

44 St. Tammany Parish Council, Ord. No. 5430, adopted September 23, 2015.

45 National Civic League, *Guide for Charter Commissions*, Sixth Edition, 2011, pp. 12-13.

46 St. Tammany Parish Home Rule Charter, Sec. 4-03.

47 Bureau of Governmental Research, *The St. Tammany Parish Home Rule Charter: An Assessment*, May 2002, pp. 2 and 8-10.

48 National Civic League, *Model City Charter*, Eighth Edition,

2003, Sec. 4.03.

49 St. Tammany Parish Council, Ord. No. C-5398AA, adopted June 4, 2015. This was the original version of the ordinance; the Parish Council revised the ordinance on September 23.

50 St. Tammany Parish Council, Ord. No. C-5398AA, adopted September 23, 2015.

51 La. R.S. Sec. 16:2(D) provides that “[w]here a parish has adopted a charter for local self-government or other home rule charter and such charter provides for the employment of a parish attorney or a special attorney or counsel, the district attorney shall not be the regular attorney or counsel for such governing authority. Notwithstanding the provisions of R.S. 42:261(C) and 42:263, in a parish which has adopted a charter for local self-government or other home charter, if the charter so provides, the parish governing authority may retain or employ any attorney or counsel to represent it in any special matter without the approval of the attorney general.”

52 Home Rule Charter, Sec. 4-03(B).

53 Ibid., Sec. 2-10(B) provides that “[t]he council may, by ordinance approved by two-thirds of its authorized membership, authorize the hiring of such other employees as may be necessary to assist the council in carrying out its duties and responsibilities. Such employees shall serve at the pleasure of the council.”

54 BGR, *The St. Tammany Parish Home Rule Charter: An Assessment*, pp. 2 and 10-12.

55 Home Rule Charter, Secs. 4-04 to 4-10.

56 The proposed amendment provides that personnel policies and procedures shall generally include, but not be limited to, benefits, compensation and salary, employment, employment procedures and rules, and conduct.

57 Home Rule Charter, Sec. 4-10(B). The charter requires the personnel officer to: 1) administer personnel rules and regulations governing the classified services, 2) maintain a uniform classification and pay plan for all positions in the classified service, 3) administer an employee grievance procedure for dismissals, demotions and other disciplinary matters, subject to review by the personnel board, 4) administer personnel policies for employees not a part of the classified service and 5) perform such other duties and functions as may be directed by the president.

58 Ibid., Sec. 4-10(F)-(J). The charter requires the personnel board to: 1) serve as a review board for personnel policies and rules established by the Parish Council, 2) hold hearings on dismissals, demotions, and other disciplinary matters and 3) perform such other quasi-judicial duties as may be required under the rules developed by the charter.

59 St. Tammany Parish Code of Ordinances, Appendix E.

60 Home Rule Charter, Sec. 4-10(A).

61 Code of Ordinances, Appendix E, p. 4. According to the code,

one of the purposes of the parish’s personnel policies is to ensure that the recruitment, selection, placement, promotion, retention, and separation of employees are based upon the employee’s qualifications and fitness and meet federal and state requirements.

62 See National Civic League, *Model City Charter*, Sec. 4.02.

63 Home Rule Charter, Secs. 4-04 to 4-09. While the charter also creates the Legal Department, the proposed amendment does not remove the Legal Department from the charter.

64 Ibid., Sec. 4-12. A reorganization plan also becomes effective if the Parish Council fails to act within 90 days of receiving the plan.

65 Ibid., Sec. 4-07.

66 Ibid., Sec. 1-04(B).

67 BGR, *The St. Tammany Parish Home Rule Charter: An Assessment*, pp. 1-2. See also BGR, *Slip-Sliding Away? The Challenge of Implementing St. Tammany’s Vision for Growth Management*, November 2003.



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