

2024 Regular Session

HOUSE BILL NO. 941

BY REPRESENTATIVES KNOX AND MCFARLAND

SEWERAGE/NO WATER BD: Provides relative to the New Orleans Sewerage and Water Board

1 AN ACT

2 To amend and reenact R.S. 33:4159.1 and to enact R.S. 33:4071.1, relative to the city of
3 New Orleans; to create a panel to assume the responsibilities of the New Orleans
4 Sewerage and Water Board for one year; to provide for the composition and powers
5 and duties of the panel; to require the panel to prepare a report; to provide for audits
6 of the sewerage and water board, including requirements for certain content; to
7 provide relative to the authority of the legislative auditor; to provide for an effective
8 date; and to provide for related matters.

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

12 Be it enacted by the Legislature of Louisiana:

13 Section 1. R.S. 33:4159.1 is hereby amended and reenacted and R.S. 33:4071.1 is
14 hereby enacted to read as follows:

15 §4071.1. Reformative Entity for New Orleans Water

16 A.(1) The Reformative Entity for New Orleans Water Panel, referred to in
17 this Section as the "panel" is hereby created to assume the responsibilities of the New
18 Orleans sewerage and water board, referred to in this Section as the "board", from
19 January 1, 2025, until January 1, 2026.

1 ~~(2) Notwithstanding R.S. 33:4071(A)(1)(introductory paragraph), during the~~
2 ~~term specified in Paragraph (1) of this Subsection:~~

3 ~~(a) The public water system, the public sewerage system, and the public~~
4 ~~drainage system of the city of New Orleans shall be constructed, controlled,~~
5 ~~maintained, and operated by the panel.~~

6 ~~(b) The panel may exercise any and all powers and duties granted to the~~
7 ~~board by or under Louisiana law.~~

8 ~~(c) The board provided for R.S. 33:4071 shall serve in an advisory capacity~~
9 ~~to the panel.~~

10 ~~(d) All reference to the board or to the New Orleans sewerage and water~~
11 ~~board in this Part or in any other provision of law shall be construed to mean the~~
12 ~~panel.~~

13 ~~B. The panel is comprised of eleven members appointed as follows, each to~~
14 ~~serve at the pleasure of the respective appointing authority:~~

15 ~~(1) The mayor of New Orleans shall appoint a consumer advocate who is~~
16 ~~registered to vote in New Orleans.~~

17 ~~(2) The district attorney in Orleans Parish shall appoint a mediator.~~

18 ~~(3) The New Orleans City Council shall appoint a civil engineer.~~

19 ~~(4) The speaker of the Louisiana House of Representatives shall appoint a~~
20 ~~member of the New Orleans delegation of the Louisiana House of Representatives.~~

21 ~~(5) The president of the Louisiana Senate shall appoint a member of the New~~
22 ~~Orleans delegation of the Louisiana Senate.~~

23 ~~(6) The Public Service Commission shall appoint a Louisiana citizen with~~
24 ~~expertise in utility regulation.~~

25 ~~(7) The chairman of the Legislative Audit Advisory Council shall appoint~~
26 ~~a Louisiana citizen with expertise in public accounting.~~

27 ~~(8) The secretary of the Department of Transportation and Development~~
28 ~~shall appoint a civil engineer licensed in Louisiana from the public works and water~~
29 ~~resources division of the department.~~

1 (9) The Board of Liquidation, City Debt shall appoint a member with
2 expertise in public finance.

3 (10) The governor shall appoint a heavy civil contractor.

4 (11) The governing authority of Greater New Orleans, Inc. shall appoint one
5 member.

6 C.(1) The panel may employ personnel as reasonably necessary, using all
7 available resources of the board as required to fulfill the duties of the panel.

8 (2) The panel shall select one of its members as chair.

9 D. The panel shall develop and implement reforms of the board's policies,
10 procedures, and operations to address, without limitation, the following:

11 (1) Transparency and accountability.

12 (2) The adequacy of drainage, pump, and power systems and other
13 protections against flooding.

14 (3) The accuracy of water testing and the potability of water.

15 (4) Financial and risk management issues including:

16 (a) Billing accuracy and the appeals process.

17 (b) External audits and oversight.

18 (c) The financial strength of the board, including accounts receivable and
19 debt reporting.

20 (d) The collection of accounts receivable.

21 (e) Processes for the timely payment of debts and liabilities to vendors,
22 contractors, rate payers, and judgment creditors.

23 (f) Strategies for settling litigated claims and minimizing legal expenses,
24 including reductions of legal interest accruing on unpaid judgments.

25 (g) Increasing the use of opportunities for funding, including submission of
26 Southeast Louisiana Urban Flood Damage Reduction Project judgments and settled
27 claims pursuant to the United States Army Corps of Engineers' standard operating
28 procedures.

1 (h) Opportunities to minimize costs by selectively implementing certain
2 partnerships or sharing resources and duties with existing public entities.

3 (5) Possibilities for strengthening human resource management.

4 (6) The availability of new funding mechanisms, including an additional
5 dedicated stormwater fee structured to ensure the broadest practical base of
6 ratepayers.

7 (7) The adequacy of liability insurance or a self-insurance fund.

8 (8) Other areas including risk management, insurance, and any other issues
9 that the panel identifies for potential improvement.

10 (9) Setting priorities for upgrades to century-old infrastructure in order to
11 improve flood mitigation.

12 E. No later than January 1, 2026, the panel shall publish a comprehensive
13 report that includes at a minimum the following:

14 (1) A list of all reforms enacted pursuant to Subsection D of this Section.

15 (2) A list of recommended additional reforms related to the concerns
16 identified in Subsection D of this Section.

17 (3) A list of other concerns and issues identified by the panel and
18 recommended reforms therefor.

19 (4) A plan, including proposed legislation, for the transfer, coordination, and
20 consolidation of the authority of various entities over the city's drainage system,
21 specifically regarding the consolidation of shared responsibilities of the board and
22 the New Orleans Department of Public Works and the elimination of inefficient
23 redundancies and overlapping responsibilities. The plan shall specifically provide
24 a process for the transfer of responsibility for maintenance and operation of the city's
25 catch basins to the sewerage and water board, subject to funding provided by the
26 state or the city.

27 (5) Recommendations and plans, including any necessary proposed
28 legislation, for reforms to the governance and possible alternative management

1 structures, including addressing the feasibility of replacing the board with a
2 municipal utility.

3 (6) Recommendations and plans for reducing the environmental degradation
4 and improving the sustainability of practices and installations including use of
5 measures that use plant or soil systems, permeable pavement or other permeable
6 surfaces or substrates, stormwater harvest and reuse, or landscaping to store,
7 infiltrate, or evapotranspirate stormwater and reduce flows to sewer systems or to
8 surface waters.

9 (7) Recommendations regarding funding sources and strategies for financing
10 upgrades and repairs to existing infrastructure.

11 F. The panel shall submit copies of the report to the governor, the speaker
12 of the Louisiana House of Representatives, the president of the Louisiana Senate, and
13 the New Orleans City Council.

14 G. The city council shall have access to and be permitted to examine all
15 papers, books, accounts, records, files, instruments, documents, films, tapes, and any
16 other forms of recordation of the panel, including but not limited to computers and
17 recording devices, and all software and hardware which hold data, is part of the
18 technical processes leading up to the retention of data, or is part of the security
19 system.

20 * * *

21 §4159.1. Regulation; city council

22 A. The legislative auditor and the New Orleans City Council shall have the
23 power to compile financial statements and to examine, audit, or review the books and
24 accounts of the Sewerage and Water Board of New Orleans, referred to in this
25 Section as the "board". The scope of the examinations may include financial
26 accountability, legal compliance, and evaluations of the economy, efficiency, and
27 effectiveness of the board's programs or any combination thereof. In addition, the
28 legislative auditor and the city council shall have access to and be permitted to
29 examine all papers, books, accounts, records, files, instruments, documents, films,

1 tapes, and any other forms of recordation, including but not limited to computers and
2 recording devices, and all software and hardware which hold data, is part of the
3 technical processes leading up to the retention of data, or is part of the security
4 system.

5 B.(1) In lieu of examinations of the records and accounts of the board, the
6 legislative auditor and the city council may, at its discretion, accept an audit or
7 review report prepared by a licensed certified public accountant, provided that such
8 audit or review is performed in accordance with generally accepted governmental
9 auditing standards and the Louisiana Governmental Audit Guide.

10 (2) The audit or report shall include at a minimum the following:

11 (a) A list of all assets and liabilities of the board.

12 (b) Whether the board's most recent full fiscal year ended in a budget surplus
13 or deficit and the amount of such surplus or deficit.

14 (c) A comprehensive list of judgments, consent judgments, settlement
15 agreements, and compromise agreements and whether any of those arise from actual
16 or threatened litigation, and a list of arbitration judgments pursuant to which the
17 board is liable for any monetary sum. The lists required by this Subparagraph shall
18 include the following, as applicable, for each listed item:

19 (i) The date the judgment was rendered or the date the agreement was
20 entered.

21 (ii) The dollar amount owed under the judgment or agreement.

22 (iii) Whether interest is accruing and, if so, how much has accrued to date.

23 (iv) Whether attorneys' fees, costs, or expert fees were awarded and, if so,
24 the dollar amount owed.

25 (v) The date of any payment made in satisfaction of the judgment or
26 agreement and, if any, the amount thereof.

27 (vi) Whether the dispute arose from an alleged breach of contract, tort,
28 expropriation, inverse condemnation, or other.

1 (vii) Whether any funds have been appropriated, set aside, dedicated, or
2 otherwise reserved to satisfy the judgment or agreement and, if so, the dollar amount
3 thereof.

4 (viii) Additionally, for any Southeast Louisiana Urban Flood Control Project,
5 known as the SELA project, judgment or agreement, whether it was submitted to the
6 United States Army Corps of Engineers for credit under its standard operating
7 procedure for such projects against the board's cost share liabilities for the project
8 and, if so, the date submitted, result, and amount of any credit issued.

9 (ix) Whether the board has sufficient funds to fully satisfy all past-due debts
10 owed pursuant to any judgment or agreement.

11 (3) Such audits shall be completed within six months of the close of the
12 board's fiscal year. Reviews shall be conducted in accordance with the authoritative
13 pronouncements issued by the American Institute of Certified Public Accountants
14 and guidance provided in the Louisiana Governmental Audit Guide. For the limited
15 purpose of providing the audits and reviews as provided in this Subsection, the
16 certified public accountant shall have the access and assistance privileges afforded
17 the legislative auditor in R.S. 24:513(E) and (I). However, the certified public
18 accountant shall comply with any and all restrictions imposed by law on documents,
19 data, or information deemed confidential by law and furnished to the certified public
20 accountant during the course of the audit or review.

21 (4) Any such audit or report shall be released publicly and a copy thereof
22 provided to the Joint Legislative Committee on the Budget and the panel established
23 in R.S. 33:4071.1 within thirty days of completion.

24 C. ~~The~~ Except as otherwise provided by this Section, the city council may
25 prescribe the terms and conditions of any such audit or review conducted by a
26 licensed certified public accountant and may approve the terms and conditions prior
27 to its commencement and require the board to present the terms and conditions to the
28 city council for approval. The city council shall also have access to the working
29 papers of the accountant during the examination and subsequent to its termination.

1 D.(1) The board shall comply with any and all audits or reviews conducted
2 pursuant to this Section and shall provide the auditing or reviewing entity with any
3 and all documents and information requested thereby. The city council may issue
4 subpoenas to the board to compel the production of public and private books,
5 documents, records, papers, films, tapes, and electronic data processing media. A
6 subpoena shall be served by registered or certified mail, return receipt requested, to
7 the board's business address.

8 (2) If the board refuses to obey a subpoena issued pursuant to this
9 Subsection, a judicial district court, upon application by the city council, may issue
10 an order requiring a board representative to appear before the court to show cause
11 why the board should not be held in contempt for refusal to obey the subpoena.
12 Failure to obey a subpoena may be punished as a contempt of court.

13 E. The city council ~~may~~ shall adopt ~~any~~ rules and regulations ~~it deems~~
14 necessary to implement the provisions of this Section by January 1, 2025.

15 F. Nothing in this Section shall be construed to limit the powers of the
16 legislative auditor.

17 G. For any fiscal year in which neither the legislative auditor nor the city
18 council commissions an audit or report prepared by a licensed certified public
19 accountant in accordance with Subsection B of this Section, the office of state
20 inspector general shall, within one-hundred eighty days after the end of that fiscal
21 year, conduct such an audit in accordance with Subsection B of this Section.

22 Section 2. In addition to the provisions of this Act, the Louisiana Legislative Auditor
23 shall serve as an advisor to the panel in undertaking the work contemplated by this Act.

24 Section 3. This Act shall become effective upon signature by the governor or, if not
25 signed by the governor, upon expiration of the time for bills to become law without signature
26 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
27 vetoed by the governor and subsequently approved by the legislature, this Act shall become
28 effective on the day following such approval.

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 941 Original

2024 Regular Session

Knox

Abstract: Creates a panel to assume the powers and duties of the New Orleans sewerage and water board for one year.

Present law provides that the public water, sewerage, and drainage systems of the city of New Orleans shall be constructed, controlled, maintained, and operated by the sewerage and water board of New Orleans. Provides for the composition of the board and its powers and duties.

Proposed law creates a panel that will assume all of the responsibilities of the sewerage and water board for two years, from Jan. 1, 2025, until Jan. 1, 2026. Provides that for such period the public water system, the public sewerage system, and the public drainage system of the city of New Orleans shall be constructed, controlled, maintained, and operated by the panel. Provides that the current board shall serve in an advisory capacity to the panel.

Proposed law provides that the panel is composed of 11 members appointed as follows, each to serve at the pleasure of the respective appointing authority:

- (1) The mayor of New Orleans shall appoint a consumer advocate who is registered to vote in New Orleans.
- (2) The district attorney shall appoint a mediator.
- (3) The New Orleans City Council shall appoint a civil engineer.
- (4) The speaker of the La. House of Representatives shall appoint a member of the New Orleans delegation of the La. House of Representatives.
- (5) The president of the La. Senate shall appoint a member of the New Orleans delegation of the La. Senate.
- (6) The Public Service Commission shall appoint a La. citizen with expertise in utility regulation.
- (7) The chairman of the La. Legislative Audit Advisory Council shall appoint a La. citizen with expertise in public accounting.
- (8) The secretary of the Dept. of Transportation and Development shall appoint a civil engineer from the public works and water resources division of the department.
- (9) The Bd. of Liquidation, City Debt shall appoint a member with expertise in public finance.
- (10) The governor shall appoint a heavy civil contractor.
- (11) The governing authority of Greater New Orleans, Inc. shall appoint one member.

Proposed law requires the panel to develop and implement reforms of the board's policies, procedures, and operations to address the following concerns:

- (1) Transparency and accountability.
- (2) The accuracy of drainage, pump, and power systems and other causes of flooding.
- (3) The accuracy of water testing and the potability of water.
- (4) Financial and risk management issues.
- (5) Possibilities for strengthening human resource management.
- (6) The availability of new funding mechanisms, including the potential to assess an additional dedicated stormwater fee.
- (7) The adequacy of liability insurance or a self-insurance fund.
- (8) Other areas including risk management, insurance, and any other issues or concerns.
- (9) Setting priorities for upgrades to century-old infrastructure.

Proposed law further requires the panel to publish a comprehensive report that includes at a minimum the following:

- (1) A list of all reforms enacted by the panel.
- (2) A list of recommended additional reforms.
- (3) A list of other concerns and recommended reforms therefor.
- (4) A plan for coordination and consolidation of the authority of various entities over the city's drainage system.
- (5) Recommendations and plans for reforms to governance.
- (6) Recommendations and plans for reducing the environmental degradation and improving the sustainability of practices and installations.
- (7) Recommendations regarding funding.

Present law authorizes the New Orleans City Council to compile financial statements and to examine, audit, or review the books and accounts of the sewerage and water board or to accept an audit or review report prepared by a licensed certified public accountant.

Proposed law provides that any such audit or review shall include at a minimum the following:

- (1) A list of all assets and liabilities of the board.
- (2) Whether the board's most recent full fiscal year ended in a budget surplus or deficit and the amount of such surplus or deficit.
- (3) A comprehensive list of judgments, consent judgments, settlement agreements, and compromise agreements and whether any of those arise from actual or threatened litigation, and a list of arbitration judgments pursuant to which the board is liable for any monetary sum.

Proposed law requires public release of the audit or report and submission of a copy to the Joint Legislative Committee on the Budget and the panel established by proposed law. Requires the board to comply with audits or reviews. Further provides that for any fiscal

year in which the city council does not commission an audit or report prepared by a licensed certified public accountant, the legislative auditor shall conduct such an audit.

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

(Amends R.S. 33:4159.1; Adds R.S. 33:4071.1)