

2022 Regular Session

HOUSE RESOLUTION NO. 168

BY REPRESENTATIVE LANDRY

A RESOLUTION

To create a task force on home rule charter and state law provisions relating to the New Orleans Sewerage and Water Board, which is created to study issues related to the revision or repeal of state law provisions that govern the board and to provide a written report of findings and recommendations regarding the best strategies regarding the revision or repeal of state law provisions to the mayor of the city of New Orleans, the New Orleans City Council, and the members of the Orleans Parish legislative delegation serving in the House of Representatives not later than January 31, 2023.

WHEREAS, on June 6, 1899, the property taxpayers of the city of New Orleans, realizing that the time had come for their city to be provided with better systems of sewerage and water, approved a special tax of two mills on the dollar for forty-three years, subject to the approval of the Legislature of Louisiana and the adoption of an amendment to the Louisiana Constitution; and

WHEREAS, Act No. 6 of the 1899 Extraordinary Session of the Louisiana Legislature made effective the vote and levy of the special tax by authorizing the capitalization of the tax by the issuance of fifty year bonds; and

WHEREAS, Act No. 6 created the Sewerage and Water Board of New Orleans, comprised of the members of the Drainage Commission of the city of New Orleans, to furnish, construct, operate, and maintain a water treatment and distribution system and a sanitary sewerage system for the city of New Orleans; and

WHEREAS, the Drainage Commission was subsequently merged with the Sewerage and Water Board in order to consolidate drainage, water, and sewerage programs under one agency for more efficient operations; and

WHEREAS, Act No. 6 was subsequently made a part of the 1899 Louisiana Constitution; and

WHEREAS, Section 35 of Act No. 6 reserved the right and power of the legislature to amend Act No. 6 in any respect not violative of the conditions upon which the special tax was approved by the property taxpayers and not impairing the vested rights of bondholders; and

WHEREAS, the legislature amended Act No. 6 on several occasions throughout the years to change the composition of the Sewerage and Water Board; and

WHEREAS, many began to question the legislature's authority to make these changes by a simple statutory amendment without the approval of the property taxpayers of the city of New Orleans or an amendment to the state constitution; and

WHEREAS, Act No. 36 of the 1934 2nd Extraordinary Session of the Louisiana Legislature made additional changes to the composition of the Sewerage and Water Board by statutory amendment; and

WHEREAS, the constitutionality of Act No. 36 was challenged as it was argued that the legislature lacked authority to continue to make these changes through statutory amendments as such amendments impaired the vested rights of the property taxpayers and bondholders and was in violation of the "home rule clauses" of the state constitution; and

WHEREAS, in 1935, the Louisiana Supreme Court held in *State ex rel. Porterie v. Walmsley* that the operation of a board controlling sewerage, water, and drainage was not an ordinary governmental function of municipal government and that the state of Louisiana had the right under its police powers to create, supervise, and define the role and power of the Sewerage and Water Board of New Orleans; and

WHEREAS, the legislature has continued to change the composition of the Sewerage and Water Board and make additional changes regarding its powers and duties by statutory amendment and these changes are sometimes in conflict with the provisions of the home rule charter for the city of New Orleans; and

WHEREAS, there is an urgent need for a comprehensive review of the home rule and state law provisions that govern the Sewerage and Water Board to prevent any future conflicts between these provisions.

THEREFORE, BE IT RESOLVED that the Legislature of Louisiana does hereby create a task force on home rule charter and state law provisions relating to the New Orleans Sewerage and Water Board to study issues related to the revision or repeal of state law provisions that govern the board and to provide a written report of findings and recommendations regarding the best strategies regarding the revision or repeal of state law provisions to the mayor of the city of New Orleans, the New Orleans City Council, and the members of the Orleans Parish legislative delegation serving in the House of Representatives not later than January 31, 2023.

BE IT FURTHER RESOLVED that the task force shall be composed of the following members:

(1) The governing board of the Louisiana State Law Institute shall appoint two attorneys who are members of the institute and who have particular knowledge in one or more of the following: taxes, bonds, political subdivisions, utilities.

(2) The governing board of the Louisiana State Bar Association shall appoint two persons who have a particular knowledge of the history of the Louisiana Civil Code.

(3) One member of the Sewerage and Water Board of New Orleans elected by the members of the board.

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

(5) One member appointed by the governor.

(6) One member appointed by the New Orleans City Council.

(7) One member of the Orleans Parish legislative delegation appointed by the speaker of the Louisiana House of Representatives.

BE IT FURTHER RESOLVED that the chairman and vice chairman of the task force shall be elected by the members of the task force.

BE IT FURTHER RESOLVED that the member of the Sewerage and Water Board shall call the first meeting of the task force and serve as chairman until one is elected, and the first meeting shall be held not later than September 1, 2022.

BE IT FURTHER RESOLVED that all members of the task force shall be appointed or elected not later than August 1, 2022.

BE IT FURTHER RESOLVED that a copy of this Resolution be transmitted to the mayor of the city of New Orleans, the New Orleans City Council, and the members of the Orleans Parish legislative delegation serving in the House of Representatives.

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SPEAKER OF THE HOUSE OF REPRESENTATIVES