

2020 Regular Session

HOUSE RESOLUTION NO. 39

BY REPRESENTATIVE HILFERTY

SEWERAGE/N O WATER BD: Provides relative to the control and management of sewerage, water, and drainage facilities and services in the city of New Orleans

1 A RESOLUTION

2 To create the Task Force on New Orleans Sewerage, Water, and Drainage Operations to  
3 study the feasibility of granting the control and management of the sewerage, water,  
4 and drainage facilities and services in the city of New Orleans to the New Orleans  
5 City Council and to provide a written report of findings and recommendations  
6 regarding the best strategies and procedures for the management of such facilities  
7 and services by the city council to the mayor of the city of New Orleans, the New  
8 Orleans City Council, and the members of the Orleans Parish legislative delegation  
9 not later than January 31, 2021.

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

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

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

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

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

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

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

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

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

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

22          WHEREAS, in 1934, the Louisiana Supreme Court held in *State ex rel. Porterie v.*  
23 *Walmsley* that the operation of a board controlling sewerage, water, and drainage was not  
24 an ordinary governmental function of municipal government and that the state of Louisiana  
25 had the right under its police powers to create, supervise, and define the role and power of  
26 the Sewerage and Water Board of New Orleans; and

27          WHEREAS, the legislature has continued to change the composition of the Sewerage  
28 and Water Board by statutory amendment and these changes are sometimes in conflict with  
29 the provisions of the home rule charter for the city of New Orleans; and

1           WHEREAS, as the population of the city of New Orleans has grown over the years,  
2 the Sewerage and Water Board has faced many new challenges in its attempt to provide  
3 efficient sewerage, water, and drainage services to the city's residents; and

4           WHEREAS, in 2005, Hurricane Katrina severely damaged the facilities of the  
5 Sewerage and Water Board, and the board has had to contend with rebuilding those facilities  
6 and making necessary infrastructure improvements; and

7           WHEREAS, costs associated with providing sewerage, water, and drainage services  
8 to the city's residents continue to escalate; and

9           WHEREAS, over the last several years, many residents, business owners, and local  
10 officials have questioned whether the Sewerage and Water Board is the best entity to manage  
11 sewerage, water, and drainage facilities and services in the city of New Orleans; and

12           WHEREAS, suggestions abound regarding the best management options for the  
13 city's sewerage, water, and drainage facilities and services, including granting control to the  
14 city council; and

15           WHEREAS, there is an urgent need for a comprehensive review of the management  
16 of the sewerage, water, and drainage facilities and services in the city of New Orleans,  
17 including a review of the state law governing the Sewerage and Water Board, as provided  
18 in R.S. 33:4071 et seq., so that the residents of the city can have confidence that such  
19 facilities and services are being managed as efficiently as possible.

20           THEREFORE, BE IT RESOLVED that the House of Representatives of the  
21 Legislature of Louisiana does hereby create the Task Force on New Orleans Sewerage,  
22 Water, and Drainage Operations to study the feasibility of granting the control and  
23 management of sewerage, water, and drainage facilities and services in the city of New  
24 Orleans to the New Orleans City Council and to provide a written report of findings and  
25 recommendations regarding the best strategies and procedures for the management of such  
26 facilities and services by the city council to the mayor of the city of New Orleans, the New  
27 Orleans City Council, and the members of the Orleans Parish legislative delegation not later  
28 than January 31, 2021.

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

