

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 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:

- 1 (1) The mayor of the city of New Orleans or his designee.
- 2 (2) The director of the public works department of the city of New Orleans or his
3 designee.
- 4 (3) The chairperson of the Public Works, Sanitation and Environment
5 Committee of the New Orleans City Council or his designee.
- 6 (4) The bond attorney for the city of New Orleans or his designee.
- 7 (5) A member of the Board of Liquidation, City Debt as designated by the board.
- 8 (6) The managing director of the Business Council of New Orleans and the River
9 Region or his designee.
- 10 (7) The executive director of the Sewerage and Water Board of New Orleans or
11 his designee.
- 12 (8) The chairman of the House Committee on Municipal, Parochial and Cultural
13 Affairs or his designee.
- 14 (9) The chairman of the Senate Committee on Local and Municipal Affairs or his
15 designee.

16 BE IT FURTHER RESOLVED that the mayor or his designee shall serve as the
17 chairman of the task force and the chairperson of the Public Works, Sanitation and
18 Environment Committee of the New Orleans City Council or his designee shall serve as the
19 vice chairman.

20 BE IT FURTHER RESOLVED that the chairman shall call the first meeting of the
21 task force, and the meeting shall be held no later than August 1, 2020.

22 BE IT FURTHER RESOLVED that all representatives and designees shall be named
23 no later than July 1, 2020.

24 BE IT FURTHER RESOLVED that a copy of this Resolution be transmitted to the
25 mayor of the city of New Orleans, the New Orleans City Council, and the members of the
26 Orleans Parish legislative delegation.

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)]

HR 39 Engrossed

2020 Regular Session

Hilferty

Creates the Task Force on New Orleans Sewerage, Water, and Drainage Operations to study the feasibility of granting the control and management of sewerage, water, and drainage facilities and services in the city of New Orleans to the New Orleans City Council. Provides for a written report of findings and recommendations regarding the best strategies and procedures for the management of the facilities and services by the city council to the mayor of the city of New Orleans, the New Orleans City Council, and the members of the Orleans Parish legislative delegation not later than Jan. 31, 2021.

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Municipal, Parochial and Cultural Affairs to the original resolution:

1. Add the chairmen of the House Committee on Municipal, Parochial and Cultural Affairs and the Senate Committee on Local and Municipal Affairs, or their designees, as members of the task force.
2. Authorize task force members to designate persons to serve in their stead.
3. Provide that the Board of Liquidation, City Debt selects the member representing the board.