

SENATE CONCURRENT RESOLUTION NO. 68

BY SENATOR FESI

A CONCURRENT RESOLUTION

To urge and request the attorney general to review the creation of the Office of Environmental Justice within the Environment and Natural Resources Division of the United States Department of Justice, monitor the office's operations, and take any actions necessary, including coordinating actions with attorneys general of other states, to ensure the office's compliance with all laws, including the United States Constitution.

WHEREAS, President Biden signed Executive Order 14008, Tackling the Climate Crisis at Home and Abroad, on January 27, 2021, declaring that environmental justice must be a key consideration in federal governance and directing the Attorney General of the United States to develop a comprehensive environmental justice enforcement strategy to remedy systemic environmental violations, contaminations, and injury to natural resources; and

WHEREAS, the Environment and Natural Resources Division of the United States Department of Justice, in coordination with the Office of Enforcement and Compliance Assurance within the Environmental Protection Agency, developed its Environmental Justice Enforcement Strategy to advance the edicts of Executive Order 14008; and

WHEREAS, the express purpose of the Environmental Justice Enforcement Strategy is to selectively utilize the federal civil and criminal enforcement apparatus to prioritize enforcement against certain entities and to attempt to create economic equity in underserved and marginalized communities, all under the guise of environmental justice; and

WHEREAS, the Department of Justice has created the Office of Environmental Justice within the Environment and Natural Resources Division and has created the Environmental Justice Enforcement Steering Committee comprised of representatives from the Office of the Attorney General, Office of the Deputy Attorney General, Office of the

Associate Attorney General, the Environment and Natural Resources, Civil rights, and Civil Divisions, the Executive Office for U.S. Attorneys, the Offices of Justice Programs, Tribal Justice, and Access to Justice, the Community Relations Service, the Federal Bureau of Investigation, and the Department of Justice's law enforcement agencies; and

WHEREAS, the Department of Justice strategy intends to utilize tools outside of traditional environmental statutes in pursuit of enforcement actions, including the use of Supplemental Environmental Projects (SEP), which often facilitate payments to non-government third parties who are neither victims nor directly involved in the enforcement action and which may bear a tenuous connection to redress of a violation; and

WHEREAS, monetary penalties are imposed in enforcement actions to address the gravity of the violation and to recoup the economic gain realized through noncompliance with the law; SEP diverts penalty funds away from the United States Treasury; and

WHEREAS, the Department of Justice previously prohibited its components from entering into settlement agreements that directed or provided for payments to non-government third parties, under 28 C.F.R. §50.28; however, the department has issued an interim rule rescinding 28 C.F.R. §50.28 and reinstating the use of SEP in enforcement policy; and

WHEREAS, current Department of Justice policy allows for the input of unelected officials in selecting SEP recipients and beneficiaries and does not require the authorization of Congress, presenting a conduit for corruption and undue influence in the enforcement of environmental law, outside the bounds of restitution; and

WHEREAS, the Department of Justice's Environmental Justice Enforcement Strategy threatens the abandonment of the principle of equal justice under the law and presents important questions of separation of powers, constitutional authority, and fairness.

THEREFORE, BE IT RESOLVED that the Legislature of Louisiana does hereby urge and request the attorney general to review the creation of the Office of Environmental Justice within the Environment and Natural Resources Division of the United States Department of Justice, monitor the office's policies and operations, and take any actions necessary, including coordinating actions with attorneys general of other states, to ensure the office's compliance with all laws, including the United States Constitution.

BE IT FURTHER RESOLVED that a copy of this Resolution be transmitted to the attorney general.

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PRESIDENT OF THE SENATE

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SPEAKER OF THE HOUSE OF REPRESENTATIVES