

2025 Regular Session

HOUSE BILL NO. 64

BY REPRESENTATIVE MIKE JOHNSON

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

ATTORNEY GENERAL: Provides relative to legal representation of sovereign interests of the state

1 AN ACT

2 To amend and reenact R.S. 42:265 and R.S. 49:21, relative to the legal representation of the
3 sovereign interests of the state by the attorney general; to provide for the
4 representation of the state, state agencies, state departments, state institutions, state
5 boards, state officials and employees, state agents, and local political subdivisions
6 in matters implicating state interests against intrusion by the federal government; to
7 provide for notice of claims by the federal government against state and local
8 government entities; to provide for submission and approval of proposed consent
9 judgments by the attorney general and the governor; to provide for application to
10 certain pending legal proceedings; and to provide for related matters.

11 Be it enacted by the Legislature of Louisiana:

12 Section 1. R.S. 42:265 is hereby amended and reenacted to read as follows:

13 §265. Special services by ~~Attorney General~~ attorney general

14 The governor may, in his discretion, require and direct the ~~Attorney General~~
15 attorney general to render any special services to any police jury or other parish
16 governing authority, parish school board, or state board or commission, in any matter
17 and when deemed necessary in the case of a state board or commission, to assume
18 full charge and control of all legal proceedings relating to such matter. Nothing in
19 this Section shall limit the authority of the attorney general, as he deems appropriate,

1 to render such special services or assume full charge and control of all legal
2 proceedings relating to such matters.

3 Section 2. R.S. 49:21 is hereby amended and reenacted as follows:

4 §21. Suits to prevent encroachment on state's rights

5 ~~Special counsel shall be employed to preserve and protect the powers~~
6 ~~reserved to the State of Louisiana by the tenth amendment to the Constitution of the~~
7 ~~United States, by means of the institution of suits in the name of the State of~~
8 ~~Louisiana to prevent any governmental agency, including corporations with~~
9 ~~corporate authority only as approved by the President of the United States,~~
10 ~~established by the Congress or by the President of the United States under the~~
11 ~~provisions of any law or resolution of the Congress of the United States, and any~~
12 ~~officer, agent, or employee thereof, from exercising in this State any power not~~
13 ~~delegated to the United States by the Constitution of the United States, but reserved~~
14 ~~by the Constitution of the United States to the State of Louisiana, or expending any~~
15 ~~public funds, appropriated or made available by the Congress, in the exercise or~~
16 ~~attempted exercise of that power.~~

17 A. In recognition of the state's right to self-determination, it is a declared
18 interest of the state that the attorney general preserve and defend the state's
19 autonomy, independence, and sovereignty in all legal matters and disputes involving
20 the federal government and preserve for the state any power not expressly delegated
21 to the federal government.

22 B. The state's sovereign interests refer to any matter, concern, or situation
23 that directly or indirectly affects the status or rights of the state and its citizens and
24 local political subdivisions, whether legal, financial, social welfare, or other interest
25 that pertains to the sovereign power, identity, and autonomy of state government.

26 C. To that end, the attorney general shall have the authority to institute,
27 defend, or intervene in any suit to protect the sovereign interests of the state in any
28 matter involving the federal government, including but not limited to any matter
29 brought in the federal courts.

1 D. Notwithstanding any other law to the contrary and in addition to any other
2 powers, duties, or authority granted the attorney general and the Department of
3 Justice by the constitution and laws of the state, the attorney general may, at her
4 discretion, represent the state and all departments and agencies of state government,
5 state boards and commissions, state officials and employees, and any other state
6 institution, as well as any local political subdivisions created by the Constitution of
7 Louisiana or state law, including but not limited to school boards and charters,
8 whether in her name or through special counsel retained for that purpose in order to
9 preserve, protect, and defend the interests of the state.

10 E. Whenever the state, state department, state agency, state board or
11 commission, state official or employee, any other state institution, or a local political
12 subdivision created by the Constitution of Louisiana or state law, including but not
13 limited to school boards and charters, receives a notice, claim, or demand made by
14 a federal agency, agent, or official of the federal government or any notice, claim,
15 or demand made by any party in litigation which seeks to impose continuing federal
16 court jurisdiction over any state department, agency, board, commission, official,
17 employee, any other state institution, or any local political subdivision created by the
18 Constitution of Louisiana or state law, such entity or political subdivision shall
19 immediately notify the governor and the attorney general by providing a copy of
20 such notice, claim, or demand. Such notice shall be provided within thirty days of
21 receipt of the notice, claim, or demand. The entity shall also notify all parties and
22 the court of the statutory right created in this Section of the attorney general to
23 intervene and shall seek a sixty-day stay of the litigation to provide notice and
24 provide the attorney general time to intervene.

25 F. Neither the state of Louisiana nor any department, agency, board,
26 commission, institution, or local political subdivision created by the Constitution of
27 Louisiana or state law, including but not limited to school boards and charters, or any
28 official or employee thereof in his or her official capacity may enter into a judgment
29 by consent in federal court without the approval of the attorney general and the

1 governor when the proposed judgment creates or establishes continuing jurisdiction
2 or creates binding obligations.

3 Section 3. The provisions of this Act shall apply to any pending consent decree or
4 any judgment that imposes continuing jurisdiction of any court over the state or any state
5 department, board, commission, or other institution, or any local political subdivision created
6 by the Louisiana Constitution or state law, including but not limited to school boards and
7 charters, or any public official or employee thereof. The provisions of this Act shall apply
8 to any pending consent decree or any judgment that imposes continuing jurisdiction over the
9 state, state board, commission, or political subdivision, or any public official thereof.

10 Section 4. The provisions of this Act shall become effective upon signature by the
11 governor or, if not signed by the governor, upon expiration of the time for bills to become
12 law without signature by the governor, as provided by Article III, Section 18 of the
13 Constitution of Louisiana. If vetoed by the governor and subsequently approved by the
14 legislature, this Act shall become 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 64 Engrossed

2025 Regular Session

Mike Johnson

Abstract: Provides specific authority to the attorney general with respect to the representation of the sovereign interests of the state.

Present law (U.S. Const. Amend. X) provides that the powers not delegated to the states by the U.S. Const., nor prohibited by it to the states, are reserved to the states or to the people.

Present law (R.S. 42:265) provides that the governor may require and direct the attorney general to render any special services to any police jury or other parish governing authority or to various other political subdivisions in any matter and when deemed necessary, to assume full charge and control of all legal proceedings relating to such matter.

Proposed law provides that nothing in present law shall limit the authority of the attorney general, as she deems appropriate, to render such special services or assume full charge and control of all legal proceedings relating to such matters.

Present law provides that special counsel shall be employed to preserve and protect the powers reserved to the state by the 10th amendment to the U.S. Const., by means of the institution of suits in the name of the state to prevent any governmental agency from exercising in this state any power not delegated to the U.S. by the constitution.

Proposed law provides that it is a declared interest of the state that the attorney general preserve and defend the state's autonomy, independence, and sovereignty in all legal matters and disputes involving the federal government.

Proposed law provides that the state's sovereign interests refer to any matter, concern, or situation that directly or indirectly affects the status or rights of the state and its citizens.

Proposed law provides that the attorney general shall have the authority to institute, defend, or intervene in any suit to protect the sovereign interests of the state.

Proposed law provides that the attorney general may, in her name or through special counsel, represent the state and all departments and agencies of state government, state boards and commissions, state officials and employees, and any other state institution, as well as any local political subdivisions created by the La. Const. or state law, in order to preserve, protect, and defend the interests of the state.

Proposed law provides that whenever the state, any state institution, or a local political subdivision receives a notice, claim, or demand made by a federal agency or any notice, claim, or demand made by any party in litigation which seeks to impose continuing federal court jurisdiction over any state institution, or any local political subdivision, such entity or political subdivision shall immediately notify the governor and the attorney general by providing a copy of such notice, claim, or demand within 30 days of receipt of the notice, claim, or demand. Proposed law further requires the entity to notify all parties and the court of the statutory right of the attorney general to intervene and shall seek a 60-day stay of the litigation to provide notice and provide the attorney general time to intervene.

Proposed law provides that neither the state nor any department, agency, board, commission, institution, or local political subdivision may enter into a judgment by consent in federal court without the approval of the attorney general and the governor when the proposed judgment creates or establishes continuing jurisdiction or creates binding obligations.

Proposed law provides that the provisions of proposed law shall apply to any pending consent decree or any judgment that imposes continuing jurisdiction of any court over the state or any state department, board, commission, or other institution, or any local political subdivision created by the La. Const. or state law, including but not limited to school boards and charters, or any public official or employee thereof.

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

(Amends R.S. 42:265 and R.S. 49:21)