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## **BUREAU OF GOVERNMENTAL RESEARCH**

### **COMMENTS TO THE GOVERNOR'S SEWERAGE AND WATER BOARD OF NEW ORLEANS TASK FORCE**

**March 14, 2024**

Good afternoon, I am Rebecca Mowbray, President & CEO of the Bureau of Governmental Research in New Orleans. BGR conducts independent, nonpartisan research on public policy issues important to the New Orleans area. We appreciate your engagement on the critical issues facing the Sewerage & Water Board. And we appreciate your interest in BGR's research on the governance structure of the utility. It is a core vulnerability for the Sewerage & Water Board and the public it serves.

By "governance structure," we mean the legal and policy framework that defines the powers, roles, and responsibilities of the utility and those involved in its operations. Problems with that structure can undermine the hard work of the board and its executive leadership to improve performance.<sup>1</sup>

For example, last week's Task Force meeting highlighted the unusual division of drainage responsibility. Essentially, the City's Department of Public Works manages catch basins and minor pipes that feed stormwater runoff into the Board's major drainage system. This division hurts the performance of the entire system. And it discourages a holistic approach to stormwater management. BGR recommends verifying the financial shortfall for the entire system, then developing an adequate funding source, such as a stormwater fee.<sup>2</sup> Once sufficient recurring funding is established, the City should

transfer responsibility for maintaining and repairing the minor system to Sewerage & Water Board.

Today, I would like to talk about another major governance problem – the misalignment of operational responsibility and funding control – and what you can do about it.

The problem arises because the Sewerage & Water Board operates New Orleans' water, sewer, and major drainage systems, but the City Council controls their funding sources.<sup>3</sup>

Historically, this misalignment has elevated politics in funding decisions. It has resulted in cycles of underfunding, deferred maintenance, deteriorating infrastructure, and then crisis-driven ratemaking. These cycles have unfairly shifted costs from one generation of ratepayers to the next. In 2020, for example, the average residential customer paid nearly seven times what was charged in 1970 for water and sewer on an inflation-adjusted basis.

BGR has recommended the mayor lead a study of two long-term solutions to the misalignment. One would strengthen governance of the Sewerage & Water Board as an independent utility. The other would go the opposite way and fold the utility into City government. Both paths are feasible but would require additional planning for how to handle bonds, civil service, pensions and other issues.

But the success of either path depends on improving the City Council's funding reviews and utility oversight. This is where the Task Force and the Legislature can make a difference.

First, the City Council lacks a formal process to objectively evaluate the utility's funding proposals. State law, which sets up the council's funding control, offers little direction. It does not specify what information the Sewerage & Water Board should provide with its

funding requests. Nor does it say how the council should evaluate them, or how the council should reach a decision.

At the same time, the City Council's general oversight is limited to those areas specified in State statutes. Since 2017, the Legislature has increased the Sewerage & Water Board's reporting requirements. It has also granted the council new authority to audit the agency and resolve billing disputes. However, the council still lacks a comprehensive framework for effective oversight. Unless the council has specific power in State law, it cannot mandate that the Sewerage & Water Board comply with a council decision or force the utility to make specific changes. As a result, the council tends to rely on the main tool it does have – its funding control – as leverage to hold the Sewerage & Water Board accountable.

In general, public utilities lack the profit motive of private utilities to spur performance. But effective oversight can keep a public utility focused on improving operations. It can also promote sound decision making, balance the interests of ratepayers, and build trust in the utility's management. Effective oversight can encourage cooperation between the oversight body and the public utility to set standards of behavior.<sup>4</sup>

The Legislature can improve the laws governing both the council's funding review and ongoing oversight, and the Task Force should support that effort.

BGR recommends that a process for objective review of funding proposals should have at a minimum:

- Independent expert analysis of Sewerage & Water Board funding requests,
- Opportunities for public comment, and
- Clear timelines, requirements and criteria for evaluating and approving proposals.

A comprehensive oversight process should include, at a minimum:

- Regular review of strategic and financial plans and reports,
- Updates on operations, and
- Regular monitoring of system performance, with goals and measurable outcomes.

A stronger oversight process should keep the council informed throughout the year and ready to respond to Sewerage & Water Board issues or requests. It also should help the council remain objective and transparent. This would diminish the influence that politics has historically had on funding decisions. Further, enhanced accountability would help the public understand how the council’s decisions affect operations, maintenance and performance.

We encourage the Task Force to explore these potential near-term improvements to the Sewerage & Water Board’s governance structure. They also have implications for the long-run success of any stormwater fee the council may levy. BGR is happy to serve as a resource in your discussions. Thank you.

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<sup>1</sup> See BGR’s full report on S&WB governance, *Waterworks in Progress*: <https://bit.ly/BGR-SWB-Report>

<sup>2</sup> See BGR’s primer on stormwater fees, *Beneath the Surface*: <https://bit.ly/BGR-Stormwater-Fees>

<sup>3</sup> The Sewerage & Water board’s funding laws are found at La. R.S. 33:4096 (water rates), 33:4121 (sewer rates), 33:4124 et seq. (“three mill” drainage tax), 33:4137 et seq. (“six mill” drainage tax), and 33:4147 (“nine mill” drainage tax).

<sup>4</sup> Beecher, Janice A., *Economic Regulation of Utility Infrastructure*, prepared for the Lincoln Institute of Land Policy, May 2013.