

SEWERAGE & WATER BOARD GOVERNANCE CHANGE, DECEMBER 8, 2018

IN BRIEF

What am I voting on? On December 8, New Orleans voters will decide whether to change the board composition of the Sewerage and Water Board (S&WB) by amending the City’s home rule charter. As shown in the chart below, the amendment would remove one mayor-appointed citizen member and add a City Council representative to the board. The representative may be either the chair of the council’s public works committee, a committee member appointed by the chair, or a civil engineer appointed by the chair. Any appointee would serve at the pleasure of the chair. The total board size would remain at 11 members.

In addition, voter approval of the charter amendment would determine whether certain other changes to State law would take effect. These would require one of the mayor-appointed board members to be a retired civil engineer, reset all board members’ terms, strengthen the S&WB’s reporting to the council, and require that the S&WB update elected officials on its power and pumping capacities before major weather events.

Why is this on the ballot? The State Legislature proposed the changes to the S&WB board composition in response to citizens’ concerns about S&WB performance in managing widespread flooding during heavy rains in 2017. It came to light that S&WB power and pumping failures contributed to the flooding. Some observers contend that had council members been on the board, they might have raised concerns about the drainage system sooner. The proposed board changes require a public vote because the S&WB board composition is set forth both in State law and the City charter.

HOW THE CHARTER AMENDMENT WOULD ALTER S&WB BOARD COMPOSITION

CURRENT SEWERAGE & WATER BOARD



PROPOSED SEWERAGE & WATER BOARD





IN BRIEF: HIGHLIGHTS AND BGR POSITION

SEWERAGE & WATER BOARD GOVERNANCE CHANGE DECEMBER 8, 2018 BALLOT

REPORT HIGHLIGHTS

- Voters last changed the S&WB board composition in 2013, when they eliminated the seats of the three City Council members then serving on the board. The move was part of a set of S&WB governance reforms intended to reduce politics at the board level. In 2011, BGR found that the presence of elected officials allowed politics to influence the board's proceedings. On multiple occasions, the mayor and the three council members opposed rate and tax proposals. That opposition contributed to a history of underfunding of the S&WB that transferred costs and risk to future generations of citizens.
- Supporters of the proposed amendment do not view a single council representative as a return to past governance problems that occurred when three council members served on the board. Rather, they highlight its potential to enhance oversight, public accountability and citizen representation at the board level. Supporters see it as a way to help restore public trust in the agency.
- Supporters add that the council could gain a greater understanding of the S&WB's needs, while providing an independent check-and-balance on board decision making.
- BGR notes that the council has recently taken steps to strengthen its regulatory oversight of the S&WB, which calls into question the necessity of the amendment for achieving greater S&WB oversight, communication and accountability.
- The amendment would reintroduce some risk of council politics into S&WB governance, albeit to a lesser extent than citizens experienced before the 2013 governance reforms. This risk exists even with an appointed engineer, who would serve at the pleasure of the public works committee chair.
- Because the council's public works committee oversees the S&WB, the amendment would create a conflict of interest for any member of that committee serving on the S&WB. The council member would be responsible for overseeing actions personally taken as a board member. Maintaining independence is a key objective of utility regulators.
- The alternative of appointing an engineer to fill the seat would minimize the potential conflict of interest, while adding to board expertise. However, voters do not know how the council will implement the amendment over time.
- The composition of the board is set forth both in State law and in the City charter, thus the only way it can be amended is by charter amendment. However, the Legislature could have enacted the other changes, including the reporting requirements, without a charter amendment.

BGR POSITION

AGAINST. Despite the proposition's intentions of making the S&WB more effective and accountable to citizens, its risks outweigh its potential benefits. Direct participation on the board by a council member would create a conflict of interest with the council's regulatory oversight role and potentially increase political decision making at the board level. While this risk would be reduced by the appointment of an engineer to fill the new seat, there is no guarantee this would occur. As an alternative to the amendment, BGR urges policy makers to continue to strengthen the City Council's regulatory oversight over the S&WB. Stronger council regulation of the S&WB would produce the same benefits – better oversight, communication and accountability – that motivated the proposed charter amendment.