



TULANE INSTITUTE

ON WATER RESOURCES LAW & POLICY

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[LA Senate Bill 244](#) (substitute for [SB 193](#))

FACT SHEET

Relates to renaming, restructuring of the Louisiana Department of Energy and Natural Resources as well as the creation of new authorities and functions of the Department

This measure proposes to:

- Rename Louisiana Department of Energy & Natural Resources to the Louisiana Department of Conservation & Energy
- Create the following offices:
 - Office of Permitting and Compliance (would encompass the current Office of Coastal Management, Office of Conservation)
 - Office of Enforcement
 - Office of State Resources
 - Office of the Natural Resources Commission
 - Office of Administration
 - Office of Legal Services
- Eliminate the Commissioner of Conservation and place its responsibilities, and the responsibilities of the Assistant Secretary, with the Secretary
- Requires a deputy secretary to be appointed and grants broad authority to deputy sec. to eliminate positions/offices
- Establish authority over surface and ground water
 - Authority to assess fees for groundwater withdrawals and related expenditures
 - Authority to take action to prevent saltwater intrusion or other pollution
 - Establish groundwater use priorities and limit rates of well production when quality/quantity is in danger or there is danger of damaging subsidence
- Develop a comprehensive statewide water resource plan
- **AS AMENDED**: no longer includes new resolution mechanism for oilfield contamination

Potential Legal Concerns

- Broad authority given to Secretary to reorganize, consolidate, or eliminate offices, but it's unclear if it can delegate authority to the executive to alter statutorily created entities
- Potential conflicts of authority and jurisdiction
 - How new offices would impact the Capital Area Groundwater Conservation District (La. R.S. § 38:3071) and other existing groundwater authorities
 - Does giving Secretary more direct discretion over water districts increase their access to political power or increase political powers' access to them?
 - Potential conflict in section creating the Natural Resources Commission, stating it shall “serve as the primary coordination body for water management planning, statewide flood protection” though similar roles are included in the proposed Coordinated Use of Resources for Recreation, Economy, Navigation, and Transportation Authority (CURRENT-A) in [LA SB 97](#)
- Water-specific concerns:
 - How will local groundwater districts be divided and organized?
 - How will the statewide water resources plan be used to inform department policy and regulation?
 - Gives unspecified “office” broad authority to grant exemptions from water-specific laws and regulations
 - Though the importance of surface water management comes up, only groundwater management is included

Key Takeaways for SB 244

- Although amendments have addressed many language issues, drafting inconsistencies remain, for reorganization purposes, it implements many of the more logical reforms discussed throughout LDENR's restructuring process over the last year
 - Consolidating all permitting programs into one office
 - Creating an office of state resources
 - Focus on long-term resource planning
- It proposes a state groundwater management regime much more extensive than Louisiana has had before, and, although it references surface water authority, it leaves that undeveloped.
 - The proposed groundwater regime intends to apply lessons from Sparta Aquifer Authority's success statewide while extracting the state from Capital Area Groundwater Conservation District entanglements, but as amended, leaves the CAGWCD intact (but the fate of existing CAGWCD orders/rule is less clear).
 - However, many questions relating to the authority of positions and offices and larger questions of funding and addressing other natural resource challenges remain.
 - The Louisiana State Law Institute is still in the process of drafting a state water code for Louisiana which is anticipated to be completed this calendar year, but the proposed water management regime does not necessarily conflict with the planned comprehensive water code.