SLS 22RS-2937 ORIGINAL

2022 Regular Session

SENATE CONCURRENT RESOLUTION NO. 68

BY SENATOR FESI

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ENVIRONMENTAL CONTROL. Requests the attorney general to review the Office of Environmental Justice within the United States Department of Justice.

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

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1	is to selectively utilize the federal civil and criminal enforcement apparatus to prioritize
2	enforcement against certain entities and to attempt to create economic equity in underserved
3	and marginalized communities, all under the guise of environmental justice; and
4	WHEREAS, the Department of Justice has created the Office of Environmental
5	Justice within the Environment and Natural Resources Division and has created the
6	Environmental Justice Enforcement Steering Committee comprised of representatives from
7	the Office of the Attorney General, Office of the Deputy Attorney General, Office of the
8	Associate Attorney General, the Environment and Natural Resources, Civil rights, and Civil
9	Divisions, the Executive Office for U.S. Attorneys, the Offices of Justice Programs, Tribal
10	Justice, and Access to Justice, the Community Relations Service, the Federal Bureau of
11	Investigation, and the Department of Justice's law enforcement agencies; and
12	WHEREAS, the Department of Justice strategy intends to utilize tools outside of
13	traditional environmental statutes in pursuit of enforcement actions, including the use of
14	Supplemental Environmental Projects (SEP), which often facilitate payments to
15	non-government third parties who are neither victims nor directly involved in the
16	enforcement action and which may bear a tenuous connection to redress of a violation; and
17	WHEREAS, monetary penalties are imposed in enforcement actions to address the
18	gravity of the violation and to recoup the economic gain realized through noncompliance
19	with the law; SEP diverts penalty funds away from the United States Treasury; and
20	WHEREAS, the Department of Justice previously prohibited its components from
21	entering into settlement agreements that directed or provided for payments to
22	non-government third parties, under 28 C.F.R. §50.28; however, the department has issued
23	an interim rule rescinding 28 C.F.R. §50.28 and reinstituting the use of SEP in enforcement
24	policy; and
25	WHEREAS, current Department of Justice policy allows for the input of unelected
26	officials in selecting SEP recipients and beneficiaries and does not require the authorization
27	of Congress, presenting a conduit for corruption and undue influence in the enforcement of
28	environmental law, outside the bounds of restitution; and
29	WHEREAS, the Department of Justice's Environmental Justice Enforcement Strategy

threatens the abandonment of the principle of equal justice under the law and presents

SLS 22RS-2937

ORIGINAL
SCR NO. 68

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.

The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Jacob K. Wilson.

DIGEST 2022 Regular Session

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SCR 68 Original 2022 Regu

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Requests the attorney general to review the creation, policies, and operation of the United States Department of Justice Office of Environmental Justice and to take action to ensure its compliance with law.