

2025 Regular Session

HOUSE BILL NO. 64

BY REPRESENTATIVES MIKE JOHNSON, BACALA, BAYHAM, BUTLER,
CARRIER, CHENEVERT, DICKERSON, EDMONSTON, EMERSON, FIRMENT,
HORTON, JACOB LANDRY, SCHAMERHORN, SCHLEGEL, THOMPSON,
VILLIO, AND WILDER

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,
20 to render such special services.

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

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

23 ~~Special counsel shall be employed to preserve and protect the powers~~
24 ~~reserved to the State of Louisiana by the tenth amendment to the Constitution of the~~

1 ~~United States, by means of the institution of suits in the name of the State of~~
2 ~~Louisiana to prevent any governmental agency, including corporations with~~
3 ~~corporate authority only as approved by the President of the United States,~~
4 ~~established by the Congress or by the President of the United States under the~~
5 ~~provisions of any law or resolution of the Congress of the United States, and any~~
6 ~~officer, agent, or employee thereof, from exercising in this State any power not~~
7 ~~delegated to the United States by the Constitution of the United States, but reserved~~
8 ~~by the Constitution of the United States to the State of Louisiana, or expending any~~
9 ~~public funds, appropriated or made available by the Congress, in the exercise or~~
10 ~~attempted exercise of that power.~~

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

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

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

24 D. Notwithstanding any other law to the contrary and in addition to any other
25 powers, duties, or authority granted to the attorney general and the Department of
26 Justice by the constitution and laws of the state, the attorney general may, at his
27 discretion, represent the state and all departments and agencies of state government,
28 state boards and commissions, state officials and employees, and any other state
29 institution, as well as any local political subdivisions created by the Constitution of
30 Louisiana or state law, including but not limited to school boards and charters,

1 whether in his name or through special counsel retained for that purpose in order to
2 preserve, protect, and defend the interests of the state.

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

18 F. Neither the state of Louisiana nor any department, agency, board,
19 commission, institution, or local political subdivision created by the Constitution of
20 Louisiana or state law, including but not limited to school boards and charters, or any
21 official or employee thereof in his official capacity may enter into a judgment by
22 consent in federal court without the approval of the attorney general and the
23 governor when the proposed judgment creates, establishes, or imposes injunctive
24 relief, enforceable through continuing oversight by the federal court, with future
25 binding conditions or obligations that exceed sixty days to effect the settlement. This
26 Subsection shall not require consent by the attorney general or the governor if the
27 agreement settles litigation without creating future obligations requiring continuing
28 federal judicial oversight. Any agreement that contains an obligation that exceeds the
29 consenting party's term of office, as a matter of public policy of this state, shall be

1 considered unenforceable against the governmental entity or successor official and
2 an ultra vires act.

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.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____