

Senators Toy, Sanborn, Kuipers, Patterson, Bishop, Goschka, Allen, George, Stamas and Gilbert offered the following resolution:

Senate Resolution No. 109.

A resolution to urge the United States District Court, Eastern District of Michigan, to decline a request to circumvent the regular contract approval process with regard to the Detroit Water and Sewerage Department.

Whereas, In January 2006, United States District Court Judge Feikens, Eastern District of Michigan, terminated the Special Administratorship for the Detroit Water and Sewerage Department (DWSD) filled by the mayor of Detroit because it was no longer needed; and

Whereas, The court order terminating the Special Administrator made no provision for any provisional or temporary transition period for the Special Administrator, nor did it allow for any residual powers to remain with the terminated Special Administrator regarding existing contracts; and

Whereas, The court dismissed Oakland County's motion to replace the Special Administrator with a joint management committee because the termination of the Special Administratorship renders the controversy over who fills this role moot; and

Whereas, If the Special Administrator had retained any provisional or transitional authority or any residual powers regarding existing contracts, then the controversy over who filled this role would be an actual case in controversy and would not be moot; and

Whereas, Judge Feikens' decision gives great weight to the rights of the people of Detroit to establish their own form of government under their city charter and recognizes the importance of home rule by restoring the Detroit City Council's responsibility with regard to the approval of contracts; and

Whereas, In February 2006, the month after Judge Feikens ordered the termination of the Special Administratorship, Detroit Mayor Kwame Kilpatrick petitioned Judge Feikens to circumvent the normal city charter process of approving city contracts and to approve \$12 million in additional payments to DWSD contractors, including a \$10,000 raise for the DWSD director; and

Whereas, Nearly \$8 million of the requested increase--an amount well in excess of the original value of the \$5.2 million contract--would go to a no-bid contract to Ferguson Enterprises, a firm headed by a person with close personal ties to the mayor of Detroit. This request to increase by 144 percent the amount of money paid to this company, headed by an individual currently serving time in the Wayne County Jail for pistol-whipping an employee, has led many observers to express serious concerns over cronyism; and

Whereas, The Governor, through Executive Order No. 2003-1, has taken a strong stand against governmental contracts being awarded to those who have broken the law; and

Whereas, Local leaders, including a member of the Detroit City Council and Wayne County officials, indicate that the January order restores the city council's traditional oversight role on water contracts and that all such contracts should be back before the city council as required by the city charter; and

Whereas, Wayne County also noted that the work of water main replacement falls outside the court's authority under the longstanding federal Clean Water Act case and requests that the court not lend its support and approval to Mayor Kilpatrick's request because the situation does not justify changing the typical process but would be better handled through existing procedures for considering change orders; and

Whereas, Local labor leaders have expressed outrage over the mayor's request to increase the salary of the DWSD director, the highest paid individual in city government, especially at a time when water workers and other city employees face layoffs due to the city's impending budget crisis; and

Whereas, Judge Feikens has indicated that the problems surrounding DWSD will not be resolved by litigation. Accordingly, he should not allow Mayor Kilpatrick to resort to litigation through his court to approve these proposed contract changes, but, rather, should allow the normal governmental process established by the citizens of Detroit in their city charter to be used for the approval of contracts consistent with his January order abolishing the Special Administratorship; and

Whereas, Clearly, there is no justifiable reason to abandon the current contract approval mechanisms in place in the Detroit City Charter. Circumventing the authority of the Detroit City Council by granting the mayor's request would do little to bolster the integrity of the operations of the Detroit Water and Sewerage Department, an important service provider to millions of people in southeastern Michigan; now, therefore, be it

Resolved by the Senate, That we urge Judge John Feikens to stand by and reaffirm his January 2006 order terminating the authority of the Special Administratorship and to deny the request from the mayor of Detroit to circumvent the regular city of Detroit contract approval process to alter contractual provisions and payments regarding the Detroit Water and Sewerage Department; and be it further

Resolved, That copies of this resolution be transmitted to the Honorable John Feikens of the United States District Court, Eastern District of Michigan.