



**House Transportation, Utilities and Infrastructure
Reported Substitute for HB392**

A BILL

TO BE ENTITLED

AN ACT

Relating to the Public Service Commission; to amend Sections 37-1-3, 37-1-5, 37-1-6, and 37-1-7, Code of Alabama 1975; to provide for appointment of commissioners to the Public Service Commission; to further provide for qualifications of commissioners; to extend conflict of interest provisions imposed on commissioners to include actions with certain nonutility entities participating in matters before the commission; to require the commission to hold certain periodic public informational meetings with utility representatives; to add Section 37-1-54.1 to the Code of Alabama 1975, to require the commission to ensure lobbying expenses are not charged to ratepayers; to amend Sections 17-14-1, 17-14-2, and 17-14-3, and 36-3-1, Code of Alabama 1975, to make conforming changes; and to make nonsubstantive, technical revisions to update the existing code language to current style.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. The Legislature hereby finds all of the following:

(1) Alabama's current model for regulating critical



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infrastructure and public service industries was established over 100 years ago and is not the best model for ensuring that Alabamians are best-served and well-positioned for future challenges.

(2) Most states in America do not elect their state regulatory bodies. Currently 40 states appoint their version of the public service commission.

(3) There are dozens of regulatory bodies and agencies in Alabama and none of them are elected. These include offices regulating complex and critical industries including banking, insurance, and many others.

(4) All current members of the public service commission were initially appointed to their position by the Governor.

(5) The law currently establishes no conflict of interest restrictions on for profit and nonprofit advocacy organizations' relationships with members of the commission other than those entities that meet the definition of "utility" under current law.

Section 2. Sections 37-1-3, 37-1-5, 37-1-6, and 37-1-7, Code of Alabama 1975, are amended to read as follows:

"§37-1-3

(a) Members of the commission serving on the effective date of this act shall continue to serve until their respective terms expire.

(b) The terms of office of the commissioners shall be for four years ~~at~~ At the election to be held in the state on the first Tuesday after the first Monday in November ~~1940,~~



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and every four years thereafter until November 2028, a president of the commission shall be elected by the qualified electors of this state; and at the election to be held in the state on the first Tuesday after the first Monday in November, 1942, and every four years thereafter until November 2030, two associates, who, with the president, shall constitute the commission, shall be elected by the qualified electors of the state. The result of ~~such~~ the election shall be ascertained and declared by the same authority and in the same manner as are the results of election for Chief Justice and associate justices of the ~~Supreme Court~~ supreme court.

~~(b)~~ (c) The ~~persons~~ individuals elected to fill the offices shall enter upon the discharge of their respective duties on the day after the general election at which they are elected and expire on the day after the general election held in the fourth year after their election.

~~(e)~~ (d) If any vacancy ~~should occur~~ occurs in any one of the offices elected under subsection (b), caused by death, resignation or otherwise, the ~~same office~~ shall be filled by appointment by the Governor, ~~the appointee holding for the balance to serve for the remainder~~ of the unexpired term. If any ~~person~~ individual elected to the office of public service commissioner ~~shall fail or refuse~~ fails or refuses for 30 days to qualify, ~~such~~ the failure or refusal shall be held to create a vacancy in the office, ~~which and the~~ vacancy shall be filled by appointment by the Governor, ~~the appointee to hold for the term for which the person so failing or refusing to qualify was elected.~~



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(e) (1) Beginning in November 2028, upon the expiration of the term of office of the president of the commission, the position of president shall be filled by the Governor by appointment.

(2) Beginning in November 2030, upon the expiration of the term of office of the two associate members of the commission, the associate commissioner positions shall be filled by the Governor by appointment, with each associate position chosen respectively from: (i) a list of three names provided by the Speaker of the House of Representatives after consultation with the Minority Leader of the House of Representatives; and (ii) a list of three names provided by the President Pro Tempore of the Senate after consultation with the Minority Leader of the Senate.

(3) Individuals appointed to the commission pursuant to this subsection shall serve for a term of four years beginning on the day after the previous term of the office expired for the initial appointed terms, and beginning on November 1 for subsequent terms.

(4) All appointments under this subsection shall be subject to Senate confirmation. Appointed members may begin to serve on the commission even if not yet confirmed by the Senate. If an appointed member of the commission is not confirmed during the first regular session of the Legislature following his or her appointment, the Governor shall appoint another individual in the same manner as the seat was filled under subdivision (1) or (2), who shall immediately begin serving and be subject to Senate confirmation no later than



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the next regular legislative session.

(5) In addition to any other requirements set forth in this chapter, in making appointments to the commission, the Governor shall select individuals with experience relevant to the duties of the commission including, but not limited to, experience with utility regulation, energy or infrastructure policy or issues, regulatory issues, economics, law, engineering, agriculture, finance, accounting, business, or economic growth issues. Each member appointed to the commission must be a resident of this state and of high moral character and ability.

(6) The Governor shall coordinate appointments so that the commission membership is inclusive and reflects the racial, gender, geographic, urban, rural, and economic diversity of the state.

(7) If a vacancy occurs in one of the appointed seats on the commission under this subsection, the Governor shall appoint a new member in the same manner as the seat was filled under subdivision (1) or (2) to serve for the unexpired term and shall be subject to Senate confirmation as further provided for in subdivision (4).

(f) A member of the commission may be appointed to more than one term.

~~(d)~~ (g) The provisions of this section shall not diminish the ~~current term of any member~~ terms elected to the Public Service Commission before the effective date of this act."

"§37-1-5



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No public service commissioner or clerk of the commission shall, during his or her continuance in office, personally or through any partner or agent, render any professional service for public utilities or for any nonutility entity participating in matters pending before the commission."

"§37-1-6

~~No person owning~~ An individual who owns any stock in, ~~any utility, or in the employment of any utility or pecuniarily interested~~ is employed by, or has a pecuniary interest in any utility, ~~as defined in this title, shall be or any nonutility entity participating in matters pending before the commission is not~~ eligible to the office of public service commissioner."

"§37-1-7

(a) The commissioners may be impeached and removed from office by the supreme court for the same causes and in the same manner as other state officers~~, and any commissioner who shall accept~~ accepts directly or indirectly any gift, gratuity, emolument, or employment from any person, ~~firm, corporation, company or association,~~ owning or operating in whole or in part in this state a utility, ~~as defined in this title,~~ or any nonutility entity participating in matters pending before the commission during his or her term ~~continuance~~ in office, ~~except a pass for himself or any employee of the commission on official business,~~ shall forfeit his or her office and may be impeached and removed from office ~~therefor, or for any other cause of impeachment.~~



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(b) Consistent with its duties and responsibilities under this chapter, at least annually, the commission, through its staff, shall convene a public meeting with each utility to provide information to the commission, its staff, and the public on issues affecting its operations, such as cost trends, reliability, and other regulatory issues the commission deems relevant. It is the intent that these meetings be conducted in a manner that facilitates public participation and provides a review of key issues that the commission believes will be helpful to the public in understanding issues that impact services under its jurisdiction."

Section 3. Section 37-1-54.1 is added to the Code of Alabama 1975, to read as follows:

§37-1-54.1

Consistent with its authority under this chapter, the commission shall establish, adopt, or implement requirements as necessary to ensure that all lobbying expenses are appropriately charged under the commission's system of accounts in such a manner that those expenses are not charged to ratepayers.

Section 4. Sections 17-14-1, 17-14-2, 17-14-3, and 36-3-1, Code of Alabama 1975, are amended to make conforming changes to read as follows:

"§17-14-1

The following officers in this state shall be elected by the qualified electors thereof: Governor, Lieutenant Governor, Attorney General, Auditor, Secretary of State,



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Treasurer, Commissioner of Agriculture and Industries, ~~public service commissioners~~, senators and representatives in the Legislature, Chief Justice and associate justices of the Supreme Court, judges of the courts of appeals, circuit courts, and district courts, district attorneys, judges of the probate court, sheriffs, coroners, clerks of the circuit courts, tax assessors, tax collectors, county treasurers in counties of more than 56,000 population, as provided by law, members of county commissions, constables, representatives in Congress, United States senators, electors for President and Vice President of the United States, and such other officers as may be required by law to be elected by the people, when not otherwise specially provided for."

"§17-14-2

General elections throughout the state shall be held for Governor, Lieutenant Governor, Attorney General, Auditor, Secretary of State, Treasurer, Commissioner of Agriculture and Industries, ~~three public service commissioners, no two of whom shall be elected from the same congressional district~~, Chief Justice and associate justices of the Supreme Court, judges of the courts of appeals, electors for President and Vice President of the United States, United States senators, and such other officers as may be required by law to be elected by the voters of the entire state; for a member of Congress in each congressional district; judges of the circuit court in each judicial circuit; judges of the district courts in each district; district attorneys in each judicial circuit; a senator in each senatorial district; a representative in the



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Legislature in each house district; a judge of the probate court, sheriff, clerks of the circuit courts, tax assessor, tax collector, a county treasurer in counties of more than 56,000 population, as provided by law, coroner, and members of the county commission in each county, and constables in each precinct of the county."

"§17-14-3

The Governor, Lieutenant Governor, Attorney General, Auditor, Secretary of State, Treasurer, Commissioner of Agriculture and Industries, senators and representatives in the Legislature, a sheriff in each county, one coroner in all counties having a coroner, and other officers not otherwise provided for, shall be elected on the first Tuesday after the first Monday in November 2006, and every fourth year thereafter. ~~A president of the Public Service Commission shall be elected on the first Tuesday after the first Monday in November 2008, and every fourth year thereafter. Two associate public service commissioners shall be elected on the first Tuesday after the first Monday in November 2006, and every fourth year thereafter.~~"

"§36-3-1

The Governor, Lieutenant Governor, Attorney General, Auditor, Secretary of State, Treasurer, and Commissioner of Agriculture and Industries, ~~the President of the Public Service Commission and two associate public service commissioners~~ shall hold their respective offices for the term of four years from the time of their installation in office and until their successors shall be elected and qualified,



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253 such installation to take place on the first Monday after the
254 second Tuesday in January next after their election."

255 Section 5. This act shall become effective on December
256 1, 2026.