

1 SB387
2 125608-1
3 By Senator Waggoner (N & P)
4 RFD: Local Legislation No. 2
5 First Read: 04-APR-13

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8 SYNOPSIS:

Under existing law, any Class 1
9 municipality is authorized to establish a racing
10 commission under certain conditions. The members of
11 the host county House legislative delegation and
12 the host county Senate legislative delegation each
13 appoint one member to the commission. The host
14 county legislative delegations are defined to
15 include only members of each delegation whose
16 district is composed of all or a majority of
17 residents of the host county. When a vacancy occurs
18 on the commission in the position of a member
19 appointed by the host county legislative
20 delegations, the mayor of the sponsoring
21 municipality calls the meeting to make the
22 appointment to fill the vacancy.

23 This bill would provide that the host county
24 House and Senate delegations would consist of all
25 members of the respective House and Senate host
26 county legislative delegations. The bill would also
27 provide that the chair of the House or Senate host

1 county legislative delegation would call a meeting
2 to fill a vacancy.

3
4 A BILL
5 TO BE ENTITLED
6 AN ACT
7

8 To amend Sections 11-65-2 and 11-65-5 of the Code of
9 Alabama 1975, relating to the racing commission provided for
10 in Class 1 municipalities, to further provide for the
11 procedures for filling vacancies on the commission of members
12 appointed by the host county House and Senate legislative
13 delegations.

14 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

15 Section 1. Sections 11-65-2 and 11-65-5 of the Code
16 of Alabama 1975, are amended to read as follows:

17 "§11-65-2.

18 "(a) The following words and phrases used in this
19 chapter, and others evidently intended as the equivalent
20 thereof, shall, unless the context clearly indicates
21 otherwise, have the following respective meanings:

22 "(1) ALABAMA-BRED. When this term is used with
23 reference to a horse, it means a horse which is registered in
24 the registry designated and administered by a commission in
25 accordance with such rules concerning domicile and
26 registration requirements as may be established by such
27 commission and which is either (i) foaled from a mare

1 domiciled in the state during the 10-year period beginning
2 with January 1, 1991, or (ii) sired by an Alabama stallion and
3 foaled from a mare domiciled in the state at any time after
4 the expiration of such 10-year period.

5 "(2) ALABAMA STALLION. A stallion which is standing
6 in the state at the time he is bred to the dam of an
7 Alabama-bred horse, which is registered with a commission, and
8 which is owned or leased by a resident of the state. For
9 purposes of this definition, the commission with which any
10 Alabama stallion may be registered shall have the power to
11 prescribe rules and regulations governing the qualifications
12 of residence in the state for the owner or lessor of such
13 stallion and the manner by which such qualifications shall be
14 confirmed to the commission.

15 "(3) BREAKAGE. The odd cents by which the amount
16 payable on each dollar wagered exceeds a multiple of 10 cents.

17 "(4) BREEDER. The owner of a mare at the time such
18 mare gives birth to an Alabama-bred foal.

19 "(5) BREEDING FUND. A special fund established by a
20 commission pursuant to the provisions of Section 11-65-34 and
21 any applicable rules and regulations of such commission for
22 the purpose of promoting the breeding, raising, and racing of
23 horses in the state.

24 "(6) BREEDING FUND FEE. A fee payable to a
25 commission by a horse racing operator pursuant to Section
26 11-65-34 for deposit into the breeding fund established by
27 such commission.

1 "(7) COMMISSION. Any public corporation organized
2 pursuant to the provisions of this chapter.

3 "(8) COMMISSION GREYHOUND WAGERING FEE. The license
4 fee payable to a commission by a greyhound racing operator for
5 a particular calendar year, the amount and payment schedule of
6 which are to be determined in accordance with the provisions
7 of Section 11-65-30.

8 "(9) COMMISSION HORSE WAGERING FEE. The license fee
9 payable to a commission by a horse racing operator for a
10 particular calendar year, the amount and payment schedule of
11 which are to be determined in accordance with the provisions
12 of Section 11-65-30.

13 "(10) COMMISSION MUNICIPAL JURISDICTION. The
14 territory of a sponsoring municipality that is located within
15 the boundaries of the host county.

16 "(11) DISQUALIFIED PERSON. Any of the following
17 shall constitute disqualified persons:

18 "a. Any person who has ever been found guilty in a
19 court of competent jurisdiction of any corrupt or fraudulent
20 act, practice, or conduct in connection with horse or dog
21 racing or any activity involving legal gambling in any state
22 of the United States of America or any other country, or any
23 person who has ever had a license or permit to participate in
24 horse or dog racing or in any activity involving legal
25 gambling denied for just cause, suspended, or revoked in any
26 state of the United States of America or in any other country;
27 or

1 "b. Any person who has ever been found guilty in a
2 court of competent jurisdiction of a felony involving moral
3 turpitude, or who has ever been the subject of injunctive or
4 disciplinary action by any federal or state court or
5 regulatory body charged with protecting the public against
6 fraudulent or illegal conduct; or

7 "c. Any person who has ever been indicted by three
8 separate grand juries for any felony or misdemeanor involving
9 moral turpitude, even though such indictments did not result
10 in a conviction; or

11 "d. Any person who has ever been made a principal
12 subject, either singly or in conjunction with others, of
13 investigations by either federal or state law enforcement
14 agencies into activities that violate federal or state laws
15 against criminal conspiracy, racketeering, illegal gambling,
16 and other activities associated with organized crime, provided
17 that no person shall be deemed to be a disqualified person
18 because of any such investigations unless they have involved
19 at least three geographically distinct or factually different
20 instances of illegal conduct, or unless they provide
21 convincing grounds, based upon the seriousness and number of
22 alleged offenses, for believing that the person in question
23 has been actively and systematically involved in organized
24 crime and racketeering with one or more persons previously
25 indicted for or convicted of crimes involving moral turpitude;
26 or

1 "e. Any person if a commission determines that, for
2 any reason, it is not in the best interests of the people of
3 the state, the host county, or the sponsoring municipality for
4 such person to own an interest in a horse racing facility
5 licensee or an operator, or any person if the circuit court of
6 the host county determines, pursuant to a proceeding
7 instituted by the district attorney of the host county under
8 the provisions of Section 11-65-22, that, for any reason, it
9 is not in the best interests of the people of the state, the
10 host county or the sponsoring municipality for such person to
11 own an interest in a horse racing facility licensee or an
12 operator, provided that any such determination, whether made
13 by the commission or the circuit court, is made pursuant to a
14 hearing of the commission or circuit court, as the case may
15 be, of which such person has notice and an opportunity to be
16 heard; or

17 "f. Any person who owns, directly or indirectly, or
18 holds five percent or more of

19 "1. The combined voting power of all classes of
20 stock entitled to vote or the total value of shares of all
21 classes of stock of a corporation, or

22 "2. The capital interest or the profits interest of
23 a partnership, or

24 "3. The beneficial interest of a trust, estate, or
25 other unincorporated entity,

26 "if such corporation, partnership, trust, estate, or
27 unincorporated entity, as the case may be, is a person

1 described in any of the foregoing subparagraphs a through e,
2 inclusive; or

3 "g. The brother or sister, niece or nephew, spouse,
4 ancestor, lineal descendent, or any spouse or former spouse of
5 any person described in the foregoing subparagraphs a through
6 f, inclusive; or

7 "h. A corporation, partnership, trust, estate, or
8 other unincorporated entity of which (or in which) five
9 percent or more of

10 "1. The combined voting power of all classes of
11 stock entitled to vote or the total value of shares of all
12 classes of stock of such corporation, or

13 "2. The capital interest or profits interest of such
14 partnership, or

15 "3. The beneficial interest of such trust, estate or
16 other unincorporated entity is owned, directly or indirectly,
17 or held by one or more persons described in any of the
18 foregoing subparagraphs a through g, inclusive; or

19 "i. Any person who owns, directly or indirectly, or
20 holds five percent or more of

21 "1. The combined voting power of all classes of
22 stock entitled to vote or the total value of shares of all
23 classes of stock of any corporation that is described in any
24 of the foregoing subparagraphs a through h, inclusive, or

25 "2. The capital interest or profits interest of any
26 partnership that is described in any of the foregoing
27 subparagraphs a through h, inclusive, or

1 "3. The beneficial interest of any trust, estate or
2 other unincorporated entity that is described in any of the
3 foregoing subparagraphs a through h, inclusive; or

4 "j. An officer or director (or an individual having
5 powers or responsibilities similar to those of officers or
6 directors), a general or managing partner, an individual
7 acting as executor, administrator or trustee, or a highly
8 compensated employee, professional advisor, or consultant (in
9 any case earning five percent or more of the aggregate yearly
10 wages or other compensation paid by an employer for
11 professional services), of any person described in any of the
12 foregoing subparagraphs a through i, inclusive; or

13 "k. Any person who owns, directly or indirectly, or
14 holds an interest of five percent or more of the capital or
15 profits in any partnership or joint venture of which any
16 person described in any of the foregoing subparagraphs a
17 through j, inclusive, also has an interest of five percent or
18 more of the capital or profits in such partnership or joint
19 venture.

20 "For purposes of subparagraphs f1, h1 and i1, the
21 ownership of stock, membership interests, and voting power or
22 rights shall be determined in accordance with the rules for
23 constructive ownership of stock under Section 267(c) of the
24 Internal Revenue Code of 1986, as amended from time to time
25 and successor provisions thereof, except that, for purposes of
26 this paragraph, Section 267(c)(4) of the Internal Revenue Code
27 of 1986 shall be treated as providing that the members of the

1 family of an individual are the members listed in subparagraph
2 g.

3 "For purposes of subparagraphs f2 and f3, h2 and h3,
4 and i2 and i3, and k the ownership of profits or beneficial
5 interest shall be determined in accordance with the rules for
6 constructive ownership of stock provided in Section 267(c) of
7 the Internal Revenue Code of 1986, as amended from time to
8 time and successor provisions thereof (other than Section
9 267(c)(3)), except that Section 267(c)(4) shall be treated as
10 providing that the members of the family of an individual are
11 the members listed in subparagraph g.

12 "No person shall be deemed to be a disqualified
13 person hereunder unless he is given notice of the
14 determination that he is a disqualified person, together with
15 the reasons therefor, and, upon request filed within ten days
16 of such notice, is granted a hearing before the commission or
17 the circuit court making such determination, is permitted to
18 examine the evidence upon which such determination is based,
19 is permitted to cross-examine any witnesses relied upon in
20 such determination, and is permitted to testify in his own
21 behalf and to present witnesses and other evidence on his
22 behalf in public or closed session, as may be requested by
23 such person. Any determination by a commission shall be
24 subject to appeal as provided in Section 11-65-12 on the
25 record of such hearing.

26 "(12) GREYHOUND RACING HANDLE. When used with
27 reference to any specified period of time, this term means the

1 total amount of all wagers received by a greyhound racing
2 operator for all pari-mutuel pools originated during such
3 period of time with respect to wagering on greyhound racing at
4 the location where such operator is licensed by the commission
5 to conduct greyhound racing (including wagering on greyhound
6 racing events televised to such licensed location from
7 elsewhere).

8 "(13) GREYHOUND RACING OPERATOR. Any corporation,
9 partnership, or other business entity licensed by a commission
10 to conduct greyhound racing and pari-mutuel wagering thereon
11 in accordance with the provisions of this chapter.

12 "(14) HORSE RACING FACILITY LICENSE. A license
13 issued by a commission to own or lease a horse racing
14 facility, or to have and enjoy the use thereof, which is
15 recognized by the commission as effective with respect to a
16 horse racing facility licensee, whether as the result of the
17 original issuance of such license to the licensee, the
18 assignment to the licensee of such license or all or part of
19 any interest therein, or any other legal arrangement providing
20 for the use and enjoyment of such license by the licensee.

21 "(15) HORSE RACING FACILITY LICENSEE. Any person
22 which, through direct issuance by a commission or other legal
23 arrangements accepted or sanctioned by the commission,
24 possesses a horse racing facility license for its use and
25 benefit.

26 "(16) HORSE RACING HANDLE. When used with reference
27 to any specified period of time, this term means the total

1 amount of all wagers received by a horse racing operator for
2 all pari-mutuel pools originated during such period of time
3 with respect to wagering on horse racing at the location where
4 such operator is licensed by the commission to conduct horse
5 racing (including wagering on horse racing events televised to
6 such licensed location from elsewhere).

7 "(17) HORSE RACING OPERATOR. Any corporation,
8 partnership, or other business entity licensed by a commission
9 to conduct horse racing and pari-mutuel wagering thereon in
10 accordance with the provisions of this chapter.

11 "(18) HOST COUNTY. Any county in which a sponsoring
12 municipality is located. With respect to a sponsoring
13 municipality located in more than one county, this term means
14 the county in which a majority of the residents of the
15 sponsoring municipality reside, as determined by the most
16 recent federal decennial census.

17 "(19) HOST COUNTY HOUSE DELEGATION. With respect to
18 a host county, the members of the House of Representatives of
19 the Legislature of Alabama ~~from those representative districts~~
20 ~~in which all or a majority of the residents of such district~~
21 ~~reside in the host county, as determined by the most recent~~
22 ~~federal decennial census~~ who are members of the host county
23 House legislative delegation.

24 "(20) HOST COUNTY SENATE DELEGATION. With respect to
25 a host county, the members of the Senate of the Legislature of
26 Alabama ~~from those senatorial districts in which all or a~~
27 ~~majority of the residents of such district reside in the host~~

1 ~~county, as determined by the most recent federal decennial~~
2 ~~census~~ who are members of the host county Senate legislative
3 delegation.

4 "(21) MEMBER. A member of a commission.

5 "(22) NET COMMISSION REVENUES. All fees (other than
6 breeding fund fees), commissions and other moneys received by
7 a commission and remaining after the payment of all expenses
8 incurred in the administration of this chapter. This term does
9 not include any state horse wagering fees or state dog racing
10 privilege taxes, which are required to be paid directly to the
11 state by the operator liable therefor.

12 "(23) OPERATOR. As may in the context be
13 appropriate, this term means a horse racing operator or a
14 greyhound racing operator.

15 "(24) PERSON. Any natural person, corporation,
16 partnership, joint venture, trust, government or governmental
17 body, political subdivision, or other legal entity as in the
18 context may be possible or appropriate.

19 "(25) RACING DAY. Whether used with reference to
20 horse racing or greyhound racing, this term means a period
21 which begins at 8:00 o'clock, A.M. on any calendar day
22 (including Saturdays) except any Sunday, Thanksgiving Day or
23 Christmas Day and which continues until 2:00 o'clock, A.M. on
24 the next succeeding calendar day.

25 "(26) RACING FACILITY or RACETRACK FACILITY. When
26 used with respect to any facility located in the state, these
27 terms, and any similar thereto, mean a racetrack at which live

1 horse racing or greyhound racing can be conducted for direct
2 viewing by spectators, together with the viewing stands,
3 pari-mutuel wagering facilities, restaurants, and other
4 physical facilities and improvements that together constitute
5 such racing facility or racetrack facility. Under no
6 circumstances shall the terms racing facility or racetrack
7 facility, or any similar thereto, be construed to refer to any
8 public or private place of assembly or accommodation of any
9 kind (other than a racetrack facility where live horse racing
10 or greyhound racing can be conducted) where so-called
11 "off-track betting" could be conducted.

12 "(27) SPONSORING MUNICIPALITY. Any municipality for
13 which a commission shall be created in accordance with the
14 provisions of this chapter.

15 "(28) STALLION OWNER. The owner of a stallion
16 standing in the state at the time he was bred to the dam of an
17 Alabama-bred horse.

18 "(29) STATE. The State of Alabama.

19 "(30) STATE DOG RACING PRIVILEGE TAX. The privilege
20 tax levied by the state pursuant to Chapter 26A, Title 40, on
21 every person engaged in the business of operating a dog racing
22 track.

23 "(31) STATE RACING COMMISSION. Any department,
24 agency, or instrumentality of the state, whether or not
25 constituting a corporate entity separate from the state, that
26 may at any time, whether before or after April 5, 1984, be
27 created, organized or established for the purpose, among other

1 purposes, of licensing, regulating or supervising horse racing
2 and pari-mutuel wagering thereon or greyhound racing and
3 pari-mutuel wagering thereon.

4 "(32) STATE HORSE WAGERING FEE. The license fee
5 payable to the state by a horse racing operator, the amount
6 and payment schedule of which are to be determined in
7 accordance with the provisions of Section 11-65-29 hereof.

8 "(b) The words "herein," "hereby," "hereunder,"
9 "hereof," and other equivalent words refer to this chapter as
10 an entirety and not solely to the particular section or
11 portion thereof in which any such word is used. The
12 definitions set forth herein shall be deemed applicable
13 whether the words defined are used in the singular or plural.
14 Whenever used herein any pronoun or pronouns shall be deemed
15 to include both singular and plural and to cover all genders.

16 "§11-65-5.

17 "(a) Every commission shall have five members, which
18 shall constitute its governing body. All powers of a
19 commission shall be exercised by its members or pursuant to
20 their authorization. The mayor or other chief executive
21 officer of the sponsoring municipality and the president or
22 other designated presiding officer of the county commission of
23 the host county shall each serve as a member ex officio,
24 unless such official exercises his or her right, as provided
25 in subsection (b), to appoint a fixed-term member to serve in
26 lieu of such official. The service of each such official as a
27 member shall begin with the beginning of his or her tenure in

1 such office and shall end with the ending of such tenure or
2 the appointment by such official of a fixed-term member to
3 serve in lieu of his or her ex officio service. The other
4 three members shall be appointed in the manner hereinafter
5 prescribed as soon as may be practicable after the
6 certification to the Secretary of State of a favorable vote at
7 an election called and held pursuant to Section 11-65-4. The
8 Lieutenant Governor of the state, the host county house
9 delegation, and the host county senate delegation shall each
10 appoint one member; provided, however, that the provisions of
11 this chapter conferring upon the Lieutenant Governor of the
12 state the power to appoint one member of each commission are
13 hereby expressly declared to be severable from the other
14 provisions of this chapter, and if the provisions conferring
15 such power upon the Lieutenant Governor shall be determined by
16 any court of competent jurisdiction to be invalid because of
17 any defect in the notice required to be published with respect
18 to this chapter by Sections 106 and 110 of the Constitution of
19 Alabama, as amended, or to be invalid for any other reason,
20 such determination shall not affect, impair, or invalidate the
21 remaining provisions of this chapter, and in such case, the
22 mayor or other chief executive officer of the sponsoring
23 municipality shall have the right to appoint the member of
24 each commission that, absent such determination, would have
25 been appointed by the Lieutenant Governor, all subject to the
26 same terms and conditions herein that would be applicable to
27 an appointment made by the Lieutenant Governor. The

1 appointments of members by the host county house delegation
2 and the host county senate delegation shall be made at
3 meetings of the members of the respective delegations held
4 pursuant to the call of the ~~mayor or other chief executive~~
5 ~~officer of the sponsoring municipality~~ chair of the host
6 county House or Senate legislative delegation, as the case may
7 be, who shall provide the members of ~~each~~ the respective
8 delegation with written notice of any such meeting at least
9 ten days prior to the date set therefor. All meetings of the
10 host county house delegation or the host county senate
11 delegation called and held pursuant to this chapter shall be
12 open to the public. Any appointment of a member by the host
13 county house delegation or the host county senate delegation
14 must be approved by a majority of the members of such
15 delegation voting in person at a public meeting called and
16 held pursuant to this chapter. Any meeting of the host county
17 house delegation or the host county senate delegation at which
18 fewer than a majority of the members of such delegation are
19 present, or at which no appointment of a member is made
20 because of a failure to obtain the approval of a majority of
21 the members of such delegation, may be adjourned to a future
22 time and place announced at such meeting; provided that, if
23 either delegation fails to appoint a member within 30 days of
24 the date of the first meeting called for the purpose of such
25 appointment, the right of such delegation to appoint a member
26 shall terminate and such appointment shall be made as soon

1 thereafter as practicable by the mayor or other chief
2 executive officer of the sponsoring municipality.

3 "(b) The mayor or other chief executive officer of
4 the sponsoring municipality and the president or other
5 designated presiding officer of the county commission of the
6 host county shall each have the right, exercisable in his or
7 her discretion and at any time during his or her tenure as
8 such official, to appoint a member of the commission to serve
9 in lieu of such appointing official for a fixed term from the
10 effective date of such appointment until the end of the
11 current term of office of the appointing official. Any such
12 appointed member shall, during his or her term, exercise the
13 full rights and powers of a member of the commission that the
14 appointing official would have possessed if he or she had
15 chosen to serve as an ex officio member. Any such appointed
16 member shall also comply with the qualifications set forth in
17 subsection (f), except that the mayor or other chief executive
18 officer of the sponsoring municipality may, in his or her
19 discretion, appoint a member of the governing body of the
20 sponsoring municipality to serve as a fixed-term member of the
21 commission, and the president or other designated presiding
22 officer of the county commission of the host county may, in
23 his or her discretion, appoint a member of the county
24 commission to serve as a fixed-term member of the commission.

25 "(c) The mayor or other chief executive officer of
26 the sponsoring municipality and the president or other
27 designated presiding officer of the county commission of the

1 host county shall have the right, exercisable in the
2 discretion of each such official and at any time and from time
3 to time during his or her tenure as such official, to appoint
4 a deputy member of the commission to represent such ex officio
5 member in connection with the business of the commission. In
6 the event that, pursuant to subsection (b), a member of the
7 governing body of the sponsoring municipality is appointed as
8 a fixed-term member of the commission or a member of the
9 county commission of the host county is appointed as a
10 fixed-term member of the commission, then each such appointed
11 member shall have the same right to appoint a deputy member as
12 would belong to the appointing official if he or she chose
13 service as an ex officio member. Any deputy member shall be
14 appointed by a letter signed by the appointing member and
15 filed with the executive secretary of the commission, which
16 letter shall specify the period of time for which such deputy
17 member shall be appointed or, if not for a period of time, the
18 particular meeting or other business for which he or she shall
19 be appointed. Any deputy member shall serve at the pleasure of
20 the appointing member, and his or her appointment may be
21 revoked at any time during the term of office of the
22 appointing member by a letter signed by the appointing member
23 and filed with the executive secretary of the commission. The
24 appointment of any deputy member shall be automatically
25 revoked when the appointing member ceases to be a member of
26 the commission for any reason. Each member of the commission
27 entitled to appoint a deputy member may, during his or her

1 term of office, appoint and remove from office as many deputy
2 members as he or she may choose, provided that at any given
3 time such member may have no more than one validly appointed
4 deputy member. Any deputy member shall comply with the
5 qualifications set forth in subsection (f), except that the
6 mayor or other chief executive officer of the sponsoring
7 municipality or any fixed-term member appointed to serve in
8 lieu of such official, may, in his or her discretion, appoint
9 a member of the governing body of the sponsoring municipality
10 or a full-time officer or employee of such municipality to
11 serve as deputy member, and the president or other designated
12 presiding officer of the county commission of the host county
13 or any fixed-term member appointed to serve in lieu of such
14 official may, in his or her discretion, appoint a member of
15 the county commission of the host county or a full-time
16 officer or employee of such county to serve as deputy member.
17 Any deputy member validly appointed and serving in accordance
18 with the provisions of this section shall be entitled to
19 exercise all powers and perform all functions and duties of
20 the member who appointed such deputy member, including,
21 without limitation, the right to vote on all matters coming
22 before the commission when such appointing member is not
23 present.

24 "(d) The member to be appointed by the Lieutenant
25 Governor of the state shall be appointed for a term beginning
26 immediately upon his appointment and ending at noon on July 1
27 in the third calendar year next following the calendar year in

1 which the election authorizing the incorporation of the
2 commission shall be conducted; the member to be appointed by
3 the host county house delegation shall be appointed for a term
4 beginning immediately upon his appointment and ending at noon
5 on July 1 in the fourth calendar year next following the
6 calendar year in which the election authorizing the
7 incorporation of the commission shall be conducted; the member
8 to be appointed by the host county senate delegation shall be
9 appointed for a term beginning immediately upon his
10 appointment and ending at noon on July 1 in the fifth calendar
11 year next following the calendar year in which the election
12 authorizing the incorporation of the commission shall be
13 conducted. Thereafter, the term of office of each appointed
14 member shall be five years, commencing at noon on the July 1
15 on which the term of the immediate predecessor member shall
16 end.

17 "(e) If at any time there shall be a vacancy among
18 the appointed members of a commission (i.e., those members who
19 do not serve ex officio), a successor member shall be
20 appointed to serve for the unexpired term applicable to such
21 vacancy; provided, however, that any official entitled ex
22 officio (e.g., the mayor of the sponsoring municipality or the
23 president of the county commission of the host county) to a
24 vacant membership previously held by a member appointed in
25 lieu of such official may, instead of appointing a successor,
26 resume his or her ex officio membership by filing written
27 notice to that effect with the Secretary of State and the

1 executive secretary of the commission. The appointment of each
2 member appointed by the Lieutenant Governor, the host county
3 house delegation, or the host county senate delegation, as the
4 case may be (other than those initially appointed), whether
5 for a full five-year term or to complete an unexpired term,
6 shall be made by the officer or legislative delegation
7 responsible for the appointment of the member whose term shall
8 have expired or is to expire or in whose position a vacancy
9 otherwise exists and shall be made not earlier than 30 days
10 prior to the date on which such member is to take office as
11 such. If the term of any such member shall expire prior to the
12 reappointment of such member or prior to the appointment of
13 his successor, such member shall continue to serve until his
14 successor is appointed, and if such member is reappointed for
15 a new term after the expiration of the immediately preceding
16 term which he has been serving, his new term of office shall
17 be deemed to have commenced at noon on the July 1 on which the
18 immediately preceding term shall have expired. Any member
19 appointed pursuant to subsection (b) shall not serve beyond
20 the term for which appointed, and upon the expiration of such
21 term, the position previously held by such member shall
22 immediately revert to the official entitled thereto by reason
23 of his or her office, and such official shall continue as ex
24 officio member of the commission until the expiration of his
25 or her current term of office, the vacation of such office
26 prior to the expiration thereof, or the appointment of someone
27 pursuant to said subsection (b) to serve as a member in lieu

1 of such official, as the case may be. Members appointed by any
2 appointing authority shall be eligible for reappointment
3 without limit as to the number of terms previously served. In
4 the event that any appointments required to be made by the
5 Lieutenant Governor, the host county house delegation, or the
6 host county senate delegation are not made within 60 days
7 after the certification to the Secretary of State of a
8 favorable vote at an election called and held pursuant to this
9 chapter (in the case of initial appointments), or within 30
10 days of the end of a term or other vacancy, then a vacancy
11 shall be filled or a successor member appointed by a majority
12 of the members of the commission holding appointments already
13 made or serving as ex officio members. Appointments shall be
14 evidenced by a written certificate executed by the appointing
15 official, or, in the case of appointments made by a majority
16 of the other members, by a certificate signed by the members
17 making such appointment, or, in the case of appointments made
18 by a legislative delegation, by the members of the delegation
19 voting for such appointment or by a member of the delegation
20 designated to serve as the secretary of the meeting at which
21 such appointment is made and to report the results thereof to
22 the Secretary of State. The certificates evidencing the
23 appointment of members of a commission shall be addressed and
24 delivered to the Secretary of State, who shall maintain the
25 originals of such certificates as official records in his
26 office, and copies of such certificates shall be furnished to
27 the executive secretary of the commission.

1 "(f) Each appointed member of any commission shall
2 have been a resident of the host county for a period of at
3 least five years prior to his or her appointment and shall, at
4 the time of his or her appointment and at all times during his
5 or her term of office, be a resident of the host county and a
6 qualified elector of the state, and a failure by any appointed
7 member to remain so qualified during such term of office shall
8 cause a vacancy of the office of such member. Except as
9 otherwise provided in subsections (b) and (c), no person
10 serving as a member of the Legislature of the state, serving
11 as a member of the governing body of any municipality, county,
12 or other political subdivision of the state, or holding a
13 full-time office or position of employment with the United
14 States of America, the state, any county, or municipality in
15 the state, or any instrumentality, agency, or subdivision of
16 any of the foregoing, shall be eligible for appointment as a
17 member or deputy member of a commission. Service by any person
18 as a member, director, trustee, or other participant in the
19 management or administration of any governmental agency,
20 board, or commission, or public educational institution, or
21 other public body of the United States of America, the state,
22 or any county or municipality or other political subdivision
23 shall not render such person ineligible for appointment as a
24 member of a commission unless such service constitutes
25 full-time employment. Each appointed member shall be of good
26 moral character and shall never have been convicted of a
27 felony or other offense involving moral turpitude. Each

1 appointed member of a commission shall make and submit to the
2 appointing officer or legislative delegation responsible for
3 his or her appointment an affidavit confirming his or her
4 qualifications, as set forth in the preceding provisions of
5 this subsection, to serve as a member of a commission, which
6 affidavit shall be filed with the Secretary of State along
7 with the aforesaid certificate evidencing such appointment.
8 Any appointed member of a commission who in such affidavit
9 intentionally makes a false statement of material fact or
10 intentionally fails to disclose any information necessary to
11 make any statement of material fact made therein not
12 misleading shall be guilty of perjury and shall be subject to
13 prosecution and punishment therefor in the same manner as if
14 he had committed perjury as a witness in open court.

15 "(g) Any person who is an appointed member of a
16 commission shall be deemed to vacate his or her office as such
17 member by (1) the acceptance of any office or employment
18 which, had such person held such office or been so employed at
19 the time of his or her appointment as a member, would have
20 rendered such person ineligible for appointment as a member or
21 (2) the occurrence of any event or circumstance involving the
22 character of such person which, had such event or circumstance
23 occurred prior to the time of his or her appointment as a
24 member, would have precluded such appointment. Any appointed
25 member may be impeached and removed from office as a member of
26 a commission in the same manner and on the same grounds
27 provided in Section 175 of the Constitution of Alabama, or

1 successor provision thereof, and the general laws of the state
2 for impeachment and removal of the public officers subject to
3 said Section 175 or successor provision thereof. The mayor or
4 other chief executive officer of the sponsoring municipality
5 and the president or other designated presiding officer of the
6 county commission of the host county may not be impeached and
7 removed from office as a member of a commission apart from
8 their impeachment and removal from their respective offices by
9 virtue of which, ex officio, they serve as members."

10 Section 2. This act shall become effective
11 immediately following its passage and approval by the
12 Governor, or its otherwise becoming law.