

1 SB74  
2 205367-3  
3 By Senator Waggoner (Constitutional Amendment)  
4 RFD: Shelby County Legislation  
5 First Read: 02-FEB-21  
6 PFD: 01/26/2021

1 SB74

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4 ENROLLED, An Act,

5 Relating to Shelby County, to propose a local  
6 constitutional amendment to the Constitution of Alabama of  
7 1901, relating to privately owned sewer systems; to bring  
8 certain privately owned sewer systems that use public  
9 rights-of-way of public roads under the jurisdiction of the  
10 Public Service Commission under certain conditions.

11 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

12 Section 1. The following amendment to the  
13 Constitution of Alabama of 1901, is proposed and shall become  
14 valid as a part of the Constitution when all requirements of  
15 this act are fulfilled:

16 PROPOSED AMENDMENT

17 (a) This amendment shall apply only in Shelby  
18 County.

19 (b) Except as provided for in subsection (c), any  
20 private entity and any privately owned plant, property, or  
21 facility for the collection, treatment, or disposal of sewage  
22 that uses, directly or through a lease or contract, public  
23 rights-of-way of public roads for any part of its collection  
24 or disposal system, that discharges to a Grade III or higher  
25 wastewater treatment facility as defined in and by the current

1 classification system used by the Alabama Department of  
2 Environmental Management on January 1, 2020, and its  
3 equivalent classification thereafter, and that has residential  
4 or commercial customers that are billed a flat service fee or  
5 fee based on water usage, hereinafter referred to as utility  
6 or utilities, shall be certified and regulated by the Public  
7 Service Commission, which regulation shall include, but not be  
8 limited to, regulation of the rates, charges, and increases in  
9 rates or charges imposed on its customers. The Public Service  
10 Commission shall certify and regulate the entities, plants,  
11 facilities, and utilities affected hereby, based on and in  
12 accordance with Title 37, Code of Alabama 1975, as amended.  
13 Implementation of this amendment, whether gradual or at one  
14 time, shall be determined by the Public Service Commission.  
15 Until the Public Service Commission determines applicable  
16 rates and charges to be imposed on customers, the rates and  
17 charges shall be in accord with and governed by the most  
18 recent and controlling rate control agreement or in the event  
19 there is not a controlling rate control agreement, that  
20 utility's most recent published rate.

21 (c) If the county, a municipality, or a governmental  
22 utility service corporation (GUSC) in the county enters into a  
23 rate control agreement with an entity or facility described in  
24 subsection (b), the county, municipality, or GUSC may opt out  
25 of regulation by the Public Service Commission as to and for

1 any residential or commercial customers affected by and are  
2 subject to the rate control agreement. In the event a rate  
3 control agreement or any part thereof is found to be invalid,  
4 or is terminated by the county, municipality, or GUSC that  
5 entered into the rate control agreement, or becomes  
6 unenforceable or void in whole or in part, then the  
7 jurisdiction of the Public Service Commission and the  
8 provisions in subsection (b) pertaining to regulation by the  
9 Public Service Commission shall by operation of law be  
10 restored and enforced to the full force and effect of this  
11 amendment.

12 (d) In the event Public Service Commission  
13 jurisdiction is restored after the county, municipality, or  
14 GUSC has exercised its opt-out provision provided in  
15 subsection (c) and has voluntarily terminated the rate control  
16 agreement, the county, municipality, or GUSC may not again  
17 exercise its power to opt out of Public Service Commission  
18 jurisdiction and rate control for a period of five years from  
19 the date Public Service Commission jurisdiction is reinstated.

20 (e) In the event that an entity, plant, property, or  
21 facility serves customers located in more than one  
22 municipality, the opt-out option provided in subsection (c)  
23 shall vest with the municipality that has a rate control  
24 agreement executed as of or prior to January 1, 2021, subject  
25 to approval of the Shelby County Commission.

1           Section 2. An election upon the proposed amendment  
2 shall be held in accordance with Sections 284 and 284.01 of  
3 the Constitution of Alabama of 1901, now appearing as Sections  
4 284 and 284.01 of the Official ReCompilation of the  
5 Constitution of Alabama of 1901, as amended, and the election  
6 laws of this state.

7           Section 3. The appropriate election official shall  
8 assign a ballot number for the proposed constitutional  
9 amendment on the election ballot and shall set forth the  
10 following description of the substance or subject matter of  
11 the proposed constitutional amendment:

12                   "Relating to Shelby County, proposing an amendment  
13 to the Constitution of Alabama of 1901, to bring certain  
14 privately owned sewer systems that use public rights-of-way of  
15 public roads under the jurisdiction of the Public Service  
16 Commission under certain conditions.

17                   "Proposed by Act \_\_\_\_\_"

18                   This description shall be followed by the following  
19 language:

20                   "Yes ( ) No ( )."

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President and Presiding Officer of the Senate

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Speaker of the House of Representatives

SB74  
Senate 09-FEB-21  
I hereby certify that the within Act originated in and passed  
the Senate.

Patrick Harris,  
Secretary.

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House of Representatives  
Passed: 08-APR-21

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By: Senator Waggoner