

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

SYNOPSIS: Under existing law, privately owned sewer systems, with certain exceptions, are regulated by the Alabama Department of Environmental Management with regard to sewage treatment, but are not regulated by the Public Service Commission with regard to rates and consumer protection.

This bill proposes a local constitutional amendment for Shelby County, to bring certain privately owned sewer systems that use public rights-of-way of public roads under the jurisdiction of the Public Service Commission under certain conditions.

A BILL  
TO BE ENTITLED  
AN ACT

Relating to Shelby County, to propose a local constitutional amendment to the Constitution of Alabama of 1901, relating to privately owned sewer systems; to bring

1 certain privately owned sewer systems that use public  
2 rights-of-way of public roads under the jurisdiction of the  
3 Public Service Commission under certain conditions.

4 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

5 Section 1. The following amendment to the  
6 Constitution of Alabama of 1901, is proposed and shall become  
7 valid as a part of the Constitution when all requirements of  
8 this act are fulfilled:

9 PROPOSED AMENDMENT

10 (a) This amendment shall apply only in Shelby  
11 County.

12 (b) Except as provided for in subsection (c), any  
13 private entity and any privately owned plant, property, or  
14 facility for the collection, treatment, or disposal of sewage  
15 that uses, directly or through a lease or contract, public  
16 rights-of-way of public roads for any part of its collection  
17 or disposal system, that discharges to a Grade III or higher  
18 wastewater treatment facility as defined in and by the current  
19 classification system used by the Alabama Department of  
20 Environmental Management on January 1, 2020, and its  
21 equivalent classification thereafter, and that has residential  
22 or commercial customers that are billed a flat service fee or  
23 fee based on water usage, hereinafter referred to as utility  
24 or utilities, shall be certified and regulated by the Public  
25 Service Commission, which regulation shall include, but not be  
26 limited to, regulation of the rates, charges, and increases in  
27 rates or charges imposed on its customers. The Public Service

1 Commission shall certify and regulate the entities, plants,  
2 facilities, and utilities affected hereby, based on and in  
3 accordance with Title 37, Code of Alabama 1975, as amended.  
4 Implementation of this amendment, whether gradual or at one  
5 time, shall be determined by the Public Service Commission.  
6 Until the Public Service Commission determines applicable  
7 rates and charges to be imposed on customers, the rates and  
8 charges shall be in accord with and governed by the most  
9 recent and controlling rate control agreement or in the event  
10 there is not a controlling rate control agreement, that  
11 utility's most recent published rate.

12 (c) If the county, a municipality, or a governmental  
13 utility service corporation (GUSC) in the county enters into a  
14 rate control agreement with an entity or facility described in  
15 subsection (b), the county, municipality, or GUSC may opt out  
16 of regulation by the Public Service Commission as to and for  
17 any residential or commercial customers affected by and are  
18 subject to the rate control agreement. In the event a rate  
19 control agreement or any part thereof is found to be invalid,  
20 or is terminated by the county, municipality, or GUSC that  
21 entered into the rate control agreement, or becomes  
22 unenforceable or void in whole or in part, then the  
23 jurisdiction of the Public Service Commission and the  
24 provisions in subsection (b) pertaining to regulation by the  
25 Public Service Commission shall by operation of law be  
26 restored and enforced to the full force and effect of this  
27 amendment.

1 (d) In the event Public Service Commission  
2 jurisdiction is restored after the county, municipality, or  
3 GUSC has exercised its opt-out provision provided in  
4 subsection (c) and has voluntarily terminated the rate control  
5 agreement, the county, municipality, or GUSC may not again  
6 exercise its power to opt out of Public Service Commission  
7 jurisdiction and rate control for a period of five years from  
8 the date Public Service Commission jurisdiction is reinstated.

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

15 Section 2. An election upon the proposed amendment  
16 shall be held in accordance with Sections 284 and 284.01 of  
17 the Constitution of Alabama of 1901, now appearing as Sections  
18 284 and 284.01 of the Official Recompilation of the  
19 Constitution of Alabama of 1901, as amended, and the election  
20 laws of this state.

21 Section 3. The appropriate election official shall  
22 assign a ballot number for the proposed constitutional  
23 amendment on the election ballot and shall set forth the  
24 following description of the substance or subject matter of  
25 the proposed constitutional amendment:

26 "Relating to Shelby County, proposing an amendment  
27 to the Constitution of Alabama of 1901, to bring certain

1 privately owned sewer systems that use public rights-of-way of  
2 public roads under the jurisdiction of the Public Service  
3 Commission under certain conditions.

4 "Proposed by Act \_\_\_\_\_"

5 This description shall be followed by the following  
6 language:

7 "Yes ( ) No ( )."