

1 SB212
2 213003-1
3 By Senator Waggoner (N & P)
4 RFD: Local Legislation
5 First Read: 15-FEB-22

2
3
4
5
6
7
8 SYNOPSIS: Under existing law, any Class 1 municipality
9 is authorized to establish a racing commission
10 under certain conditions. The members of the host
11 county House legislative delegation and the host
12 county Senate legislative delegation each appoint
13 one member to the commission. The host county
14 legislative delegations are defined to include only
15 members of each delegation whose district is
16 composed of all or a majority of residents of the
17 host county. When a vacancy occurs on the
18 commission in the position of a member appointed by
19 the host county legislative delegations, the mayor
20 of the sponsoring municipality calls the meeting to
21 make the appointment to fill the vacancy.

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

1 to fill a vacancy to be filled by each host county
2 legislative delegation and would provide a
3 procedure to fill the vacancies if the delegations
4 do not act.

5
6 A BILL
7 TO BE ENTITLED
8 AN ACT

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

16 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

19 "§11-65-2.

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

24 "(1) ALABAMA-BRED. When this term is used with
25 reference to a horse, it means a horse which is registered in
26 the registry designated and administered by a commission in
27 accordance with such rules concerning domicile and

1 registration requirements as may be established by such
2 commission and which is either (i) foaled from a mare
3 domiciled in the state during the 10-year period beginning
4 with January 1, 1991, or (ii) sired by an Alabama stallion and
5 foaled from a mare domiciled in the state at any time after
6 the expiration of such 10-year period.

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

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

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

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

26 "(6) BREEDING FUND FEE. A fee payable to a
27 commission by a horse racing operator pursuant to Section

1 11-65-34 for deposit into the breeding fund established by
2 such commission.

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

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

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

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

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

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

1 state of the United States of America or in any other country;
2 or

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

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

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

1 indicted for or convicted of crimes involving moral turpitude;
2 or

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

19 "f. 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 a corporation, or

24 "2. The capital interest or the profits interest of
25 a partnership, or

26 "3. The beneficial interest of a trust, estate, or
27 other unincorporated entity,

1 "if such corporation, partnership, trust, estate, or
2 unincorporated entity, as the case may be, is a person
3 described in any of the foregoing subparagraphs a through e,
4 inclusive; or

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

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

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

15 "2. The capital interest or profits interest of such
16 partnership, or

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

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

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

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

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

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

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

23 "For purposes of subparagraphs f1, h1 and i1, the
24 ownership of stock, membership interests, and voting power or
25 rights shall be determined in accordance with the rules for
26 constructive ownership of stock under Section 267(c) of the
27 Internal Revenue Code of 1986, as amended from time to time

1 and successor provisions thereof, except that, for purposes of
2 this paragraph, Section 267(c)(4) of the Internal Revenue Code
3 of 1986 shall be treated as providing that the members of the
4 family of an individual are the members listed in subparagraph
5 g.

6 "For purposes of subparagraphs f2 and f3, h2 and h3,
7 and i2 and i3, and k the ownership of profits or beneficial
8 interest shall be determined in accordance with the rules for
9 constructive ownership of stock provided in Section 267(c) of
10 the Internal Revenue Code of 1986, as amended from time to
11 time and successor provisions thereof (other than Section
12 267(c)(3)), except that Section 267(c)(4) shall be treated as
13 providing that the members of the family of an individual are
14 the members listed in subparagraph g.

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

1 subject to appeal as provided in Section 11-65-12 on the
2 record of such hearing.

3 "(12) GREYHOUND RACING HANDLE. When used with
4 reference to any specified period of time, this term means the
5 total amount of all wagers received by a greyhound racing
6 operator for all pari-mutuel pools originated during such
7 period of time with respect to wagering on greyhound racing at
8 the location where such operator is licensed by the commission
9 to conduct greyhound racing (including wagering on greyhound
10 racing events televised to such licensed location from
11 elsewhere).

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

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

25 "(15) HORSE RACING FACILITY LICENSEE. Any person
26 which, through direct issuance by a commission or other legal
27 arrangements accepted or sanctioned by the commission,

1 possesses a horse racing facility license for its use and
2 benefit.

3 "(16) HORSE RACING HANDLE. When used with reference
4 to any specified period of time, this term means the total
5 amount of all wagers received by a horse racing operator for
6 all pari-mutuel pools originated during such period of time
7 with respect to wagering on horse racing at the location where
8 such operator is licensed by the commission to conduct horse
9 racing (including wagering on horse racing events televised to
10 such licensed location from elsewhere).

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

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

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

1 "(20) HOST COUNTY SENATE DELEGATION. With respect to
2 a host county, the members of the Senate of the Legislature of
3 Alabama ~~from those senatorial districts in which all or a~~
4 ~~majority of the residents of such district reside in the host~~
5 ~~county, as determined by the most recent federal decennial~~
6 ~~census~~ who are members of the host county Senate legislative
7 delegation.

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

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

16 "(23) OPERATOR. As may in the context be
17 appropriate, this term means a horse racing operator or a
18 greyhound racing operator.

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

23 "(25) RACING DAY. Whether used with reference to
24 horse racing or greyhound racing, this term means a period
25 which begins at 8:00 o'clock, A.M. on any calendar day
26 (including Saturdays) except any Sunday, Thanksgiving Day or

1 Christmas Day and which continues until 2:00 o'clock, A.M. on
2 the next succeeding calendar day.

3 "(26) RACING FACILITY or RACETRACK FACILITY. When
4 used with respect to any facility located in the state, these
5 terms, and any similar thereto, mean a racetrack at which live
6 horse racing or greyhound racing can be conducted for direct
7 viewing by spectators, together with the viewing stands,
8 pari-mutuel wagering facilities, restaurants, and other
9 physical facilities and improvements that together constitute
10 such racing facility or racetrack facility. Under no
11 circumstances shall the terms racing facility or racetrack
12 facility, or any similar thereto, be construed to refer to any
13 public or private place of assembly or accommodation of any
14 kind (other than a racetrack facility where live horse racing
15 or greyhound racing can be conducted) where so-called
16 "off-track betting" could be conducted.

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

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

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

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

1 "(31) STATE RACING COMMISSION. Any department,
2 agency, or instrumentality of the state, whether or not
3 constituting a corporate entity separate from the state, that
4 may at any time, whether before or after April 5, 1984, be
5 created, organized or established for the purpose, among other
6 purposes, of licensing, regulating or supervising horse racing
7 and pari-mutuel wagering thereon or greyhound racing and
8 pari-mutuel wagering thereon.

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

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

21 "§11-65-5.

22 "(a) Every commission shall have five members, which
23 shall constitute its governing body. All powers of a
24 commission shall be exercised by its members or pursuant to
25 their authorization. The mayor or other chief executive
26 officer of the sponsoring municipality and the president or
27 other designated presiding officer of the county commission of

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

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

1 that, if either delegation fails to appoint a member within 30
2 days of the date of the first meeting called for the purpose
3 of such appointment, the right of such delegation to appoint a
4 member shall terminate and such appointment shall be made as
5 soon thereafter as practicable by the ~~mayor or other chief~~
6 ~~executive officer of the sponsoring municipality~~ respective
7 chair of the host county House or Senate legislative
8 delegation, as the case may be.

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

1 officer of the county commission of the host county may, in
2 his or her discretion, appoint a member of the county
3 commission to serve as a fixed-term member of the commission.

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

1 appointing member by a letter signed by the appointing member
2 and filed with the executive secretary of the commission. The
3 appointment of any deputy member shall be automatically
4 revoked when the appointing member ceases to be a member of
5 the commission for any reason. Each member of the commission
6 entitled to appoint a deputy member may, during his or her
7 term of office, appoint and remove from office as many deputy
8 members as he or she may choose, provided that at any given
9 time such member may have no more than one validly appointed
10 deputy member. Any deputy member shall comply with the
11 qualifications set forth in subsection (f), except that the
12 mayor or other chief executive officer of the sponsoring
13 municipality or any fixed-term member appointed to serve in
14 lieu of such official, may, in his or her discretion, appoint
15 a member of the governing body of the sponsoring municipality
16 or a full-time officer or employee of such municipality to
17 serve as deputy member, and the president or other designated
18 presiding officer of the county commission of the host county
19 or any fixed-term member appointed to serve in lieu of such
20 official may, in his or her discretion, appoint a member of
21 the county commission of the host county or a full-time
22 officer or employee of such county to serve as deputy member.
23 Any deputy member validly appointed and serving in accordance
24 with the provisions of this section shall be entitled to
25 exercise all powers and perform all functions and duties of
26 the member who appointed such deputy member, including,
27 without limitation, the right to vote on all matters coming

1 before the commission when such appointing member is not
2 present.

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

23 "(e) If at any time there shall be a vacancy among
24 the appointed members of a commission (i.e., those members who
25 do not serve ex officio), a successor member shall be
26 appointed to serve for the unexpired term applicable to such
27 vacancy; provided, however, that any official entitled ex

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

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

1 the Secretary of State. The certificates evidencing the
2 appointment of members of a commission shall be addressed and
3 delivered to the Secretary of State, who shall maintain the
4 originals of such certificates as official records in his
5 office, and copies of such certificates shall be furnished to
6 the executive secretary of the commission.

7 "(f) Each appointed member of any commission shall
8 have been a resident of the host county for a period of at
9 least five years prior to his or her appointment and shall, at
10 the time of his or her appointment and at all times during his
11 or her term of office, be a resident of the host county and a
12 qualified elector of the state, and a failure by any appointed
13 member to remain so qualified during such term of office shall
14 cause a vacancy of the office of such member. Except as
15 otherwise provided in subsections (b) and (c), no person
16 serving as a member of the Legislature of the state, serving
17 as a member of the governing body of any municipality, county,
18 or other political subdivision of the state, or holding a
19 full-time office or position of employment with the United
20 States of America, the state, any county, or municipality in
21 the state, or any instrumentality, agency, or subdivision of
22 any of the foregoing, shall be eligible for appointment as a
23 member or deputy member of a commission. Service by any person
24 as a member, director, trustee, or other participant in the
25 management or administration of any governmental agency,
26 board, or commission, or public educational institution, or
27 other public body of the United States of America, the state,

1 or any county or municipality or other political subdivision
2 shall not render such person ineligible for appointment as a
3 member of a commission unless such service constitutes
4 full-time employment. Each appointed member shall be of good
5 moral character and shall never have been convicted of a
6 felony or other offense involving moral turpitude. Each
7 appointed member of a commission shall make and submit to the
8 appointing officer or legislative delegation responsible for
9 his or her appointment an affidavit confirming his or her
10 qualifications, as set forth in the preceding provisions of
11 this subsection, to serve as a member of a commission, which
12 affidavit shall be filed with the Secretary of State along
13 with the aforesaid certificate evidencing such appointment.
14 Any appointed member of a commission who in such affidavit
15 intentionally makes a false statement of material fact or
16 intentionally fails to disclose any information necessary to
17 make any statement of material fact made therein not
18 misleading shall be guilty of perjury and shall be subject to
19 prosecution and punishment therefor in the same manner as if
20 he had committed perjury as a witness in open court.

21 "(g) Any person who is an appointed member of a
22 commission shall be deemed to vacate his or her office as such
23 member by (1) the acceptance of any office or employment
24 which, had such person held such office or been so employed at
25 the time of his or her appointment as a member, would have
26 rendered such person ineligible for appointment as a member or
27 (2) the occurrence of any event or circumstance involving the

1 character of such person which, had such event or circumstance
2 occurred prior to the time of his or her appointment as a
3 member, would have precluded such appointment. Any appointed
4 member may be impeached and removed from office as a member of
5 a commission in the same manner and on the same grounds
6 provided in Section 175 of the Constitution of Alabama, or
7 successor provision thereof, and the general laws of the state
8 for impeachment and removal of the public officers subject to
9 said Section 175 or successor provision thereof. The mayor or
10 other chief executive officer of the sponsoring municipality
11 and the president or other designated presiding officer of the
12 county commission of the host county may not be impeached and
13 removed from office as a member of a commission apart from
14 their impeachment and removal from their respective offices by
15 virtue of which, ex officio, they serve as members."

16 Section 2. This act shall become effective
17 immediately following its passage and approval by the
18 Governor, or its otherwise becoming law.