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SYNOPSIS:

Existing law specifies the composition, manner of appointment, and length of terms of members of a municipal water works board that, on January 1, 2015, or thereafter serves customers or has assets in four or more counties other than the county where the authorizing municipality is located.

This bill would further provide for the composition, manner of appointment, and length of terms of the members of these municipal water works boards.

This bill would provide certain qualifications for board members as well as place limits on the employment of a director by the board after his or her term.

This bill would provide for the conversion of these municipal water works boards into regional boards.

Existing law also provides a procedure for and circumstances under which these water works boards may amend their articles of incorporation.

This bill would further provide for the amending of these boards' articles of incorporation.

This bill would place these boards under the ethics laws of Alabama and provide for yearly training on the subject.



29 This bill would also require these boards to
30 prepare certain records to be made available to the
31 public.

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A BILL

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TO BE ENTITLED

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AN ACT

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38 Relating to municipal water works boards; to amend
39 Section 11-50-300, Code of Alabama 1975, to further provide
40 for municipal water works boards; to add Sections 11-50-300.1,
41 11-50-300.2, 11-50-300.3, 11-50-300.4, 11-50-300.5,
42 11-50-300.6, 11-50-300.7, and 11-50-300.8 to the Code of
43 Alabama 1975, to further provide for the composition, manner
44 of appointment, and length of terms of members of certain
45 municipal water works boards; to provide qualifications for
46 and place limits on the employment of directors; to provide
47 for conversion of these boards to regional boards; to further
48 provide for these boards to amend their articles of
49 incorporation; to subject these boards to the ethics laws of
50 Alabama and require training on the matter; to require these
51 boards to produce certain records; and to repeal Sections
52 11-50-301, 11-50-302, 11-50-303, and 11-50-304, Code of
53 Alabama 1975, relating to certain municipal water works
54 boards.

55

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

56

Section 1. Section 11-50-300, Code of Alabama 1975, is



57 amended to read as follows:

58 "§11-50-300

59 (a) Notwithstanding any other provisions of law, this
60 division shall apply to any municipal water works board
61 authorized to be incorporated by a municipality which, on
62 January 1, 2015, either served water customers or has assets
63 in four or more counties other than the county where the
64 authorizing municipality is principally located, or after
65 January 1, 2015, either serves water customers or has assets
66 in four or more counties other than the county where the
67 authorizing municipality is located, and the organization and
68 operation of the board, shall be subject to this division.

69 (b) The powers or rights provided in this division for
70 a regional board are cumulative and independent of any powers
71 or rights provided in any other provisions of the enabling
72 statute. Except as expressly set forth herein, neither this
73 division nor anything contained in this division shall be
74 construed as a restriction or limitation upon any power,
75 right, or remedy which any board may have pursuant to the
76 enabling statute.

77 (c) To the extent this division conflicts with any
78 other provision in the enabling statute, this division shall
79 control.

80 (d) This division does not apply to a municipal
81 utilities board which operates a water works system and an
82 electric distribution system nor to an entity which serves
83 only wholesale water customers."



84 Section 2. Sections 11-50-300.1, 11-50-300.2,
85 11-50-300.3, 11-50-300.4, 11-50-300.5, 11-50-300.6,
86 11-50-300.7, and 11-50-300.8 are added to the Code of Alabama
87 1975 to read as follows:

88 §11-50-300.1

89 For the purposes of this division, the following terms
90 have the following meanings:

91 (1) AUTHORIZING MUNICIPALITY. A municipality that
92 authorized the organization of a board that is converted to a
93 regional board pursuant to this division.

94 (2) BOARD. A board organized pursuant to the enabling
95 statute.

96 (3) CONVERSION DATE. The date upon which a board is
97 converted to a regional board pursuant to this division.

98 (4) ENABLING STATUTE. Divisions 1 through 3 of Article
99 8 of Chapter 50 of Title 11 of the Code of Alabama 1975.

100 (5) ENGINEERING BACKGROUND. Capability as evidenced by
101 a degree from an accredited school of engineering or
102 experience in an engineering discipline.

103 (6) ETHICS ACT. Chapter 25 of Title 36 of the Code of
104 Alabama 1975.

105 (7) FINANCIAL BACKGROUND. Capability evidenced by a
106 successful career in banking or other field in which the
107 candidate under consideration has demonstrated sound financial
108 management skills in connection with long-term financing.

109 (8) REGIONAL BOARD. A board that meets the requirements
110 of Section 11-50-300(a).

111 (9) SPONSORING MAYOR. The mayor of the authorizing



112 municipality of a board that has been converted to a regional
113 board pursuant to this division.

114 §11-50-300.2

115 (a) On the effective date of the act adding this
116 section, a board that meets the requirements of Section
117 11-50-300(a) as of the date of filing the bill adding this
118 section shall be converted to a regional board.

119 (b) A board that meets the requirements of Section
120 11-50-300(a) after the effective date of the act adding this
121 section shall be converted to a regional board 30 days after
122 the board meets the requirements.

123 (c) If the certificate of incorporation or bylaws of a
124 regional board conflicts with this division, this division
125 shall control.

126 §11-50-300.3

127 (a) The term of the existing directors of the board
128 shall terminate on the conversion date, notwithstanding the
129 term or terms for which the existing directors of the board
130 were appointed or elected. The term of office for directors
131 appointed pursuant to this division shall begin on the
132 conversion date, or if any such appointment is made after the
133 conversion date, on the date specified in the appointment.

134 (b) Appointment of a director shall be evidenced by an
135 order acknowledged before an officer authorized by the laws of
136 this state to take acknowledgments of deeds and shall be filed
137 in the office of the judge of probate where the board's
138 original certificate of incorporation was filed.

139 (c) (1) The board of directors of a regional board shall



140 be reorganized and comprised as follows:

141 a. Two members shall be appointed by the sponsoring
142 mayor.

143 b. Two members shall be appointed by the city council
144 of the authorizing municipality.

145 c. One member shall be appointed by the county
146 commission of each county other than the county where the
147 authorizing municipality is principally located where more
148 than 5,000 water connections are served by the board or where
149 the board owns a major reservoir located entirely within the
150 county.

151 d. One member shall be appointed by the association of
152 mayors in the county where the authorizing municipality is
153 located if there is an organized incorporated countywide
154 association of mayors or by the mayors of the county acting
155 jointly if not.

156 (2) All members of the board of directors shall be
157 residents of a county in which the regional board serves
158 customers.

159 (3) All members of the board of directors must be well
160 experienced in business affairs of the complexity of the
161 operation of a water or sewer system.

162 (4) Elected public officials may be appointed as
163 directors.

164 (5) A person who has had a business relationship with
165 the regional board in the two-year period prior to
166 appointment, or who was employed by a firm that has had a
167 business relationship with the regional board in the two-year



168 period prior to appointment, shall not be appointed as a
169 director.

170 (6) One member appointed by the sponsoring mayor must
171 have an engineering background and one member appointed by the
172 sponsoring mayor must have a financial background. One member
173 appointed by the city council of the authorizing municipality
174 must have an engineering background and one member appointed
175 by the city council of the authorizing municipality must have
176 a financial background.

177 (d) The appointing authority may exercise discretion in
178 determining whether a person appointed as a director meets the
179 qualifications provided in this section. Any person appointed
180 as a director shall be presumed qualified unless and until a
181 court of competent jurisdiction makes a final determination,
182 from which no further appeal is available, that such person is
183 not qualified as a director. The official acts of any person
184 appointed as a director shall be valid and binding as official
185 acts of a director for all purposes, whether or not that
186 person is subsequently determined by a court of competent
187 jurisdiction to be qualified or not.

188 (e) Members of the board of directors shall serve for a
189 term of five years. A person appointed to fill a vacancy on
190 the board shall serve the remainder of the term of the vacant
191 seat. All board members shall continue to serve until a
192 successor is appointed and qualified. The members of the board
193 of directors shall be appointed to hold office for staggered
194 terms as follows:

195 (1) Of the first two members appointed to the regional



196 board by the sponsoring mayor, the first term of office of one
197 member shall be one year and the first term of office of the
198 other member shall be five years, as shall be designated at
199 the time of their appointment, and thereafter the term of
200 office of each member shall be five years.

201 (2) Of the two members appointed to the regional board
202 by the city council of the authorizing municipality, the first
203 term of office of one member shall be one year and the first
204 term of office of the other member shall be four years, as
205 shall be designated at the time of their appointment, and
206 thereafter the term of office of each member shall be five
207 years.

208 (3) Of the members appointed by the county commission
209 of each county other than the county where the authorizing
210 municipality is principally located where more than 5,000
211 water connections are served by the board or where the board
212 owns a major reservoir located entirely within the county, the
213 first term of office of each member shall be three years and
214 thereafter the term of office of each member shall be five
215 years.

216 (4) The member appointed by the association of mayors
217 shall serve a first term of office of two years and thereafter
218 the term of office shall be five years.

219 (f) Members may not serve for more than two full terms.
220 In addition to the two full terms, members may serve one
221 additional partial term in the event a member is first
222 appointed to a term that terminates less than five years after
223 the date of his or her appointment. Persons who have served



224 two or more terms on the governing body of a board prior to
225 its conversion to a regional board may not serve as a member.

226 (g) Any director may be removed for good cause stated
227 in writing by the appointing authority who appointed the
228 director if the appointing authority conducts a hearing that
229 gives the director an opportunity to address the cause or
230 causes for removal.

231 (h) Each member of the board of directors shall be
232 entitled to receive compensation in the amount of one thousand
233 dollars (\$1000) per month, as well as be reimbursed for
234 necessary expenses actually incurred and certified by him or
235 her in connection with the performance of his or her duties.

236 (i) A majority of directors then serving shall
237 constitute a quorum for the transaction of business of the
238 board of directors, and any meeting of the board of directors
239 may be adjourned from time to time by a majority of the
240 members present. No vacancy in the membership of the board of
241 directors shall impair the right of a quorum to exercise all
242 the powers and perform all the duties of the board of
243 directors.

244 (j) The board of directors shall adopt and maintain
245 bylaws, not inconsistent with this division, for the
246 regulation and conduct of its affairs and the operation of the
247 regional board. The bylaws of the board of directors may
248 provide for such committees as the board of directors deems
249 necessary or desirable to make recommendations to the full
250 board of directors.

251 §11-50-300.4



252 (a) A regional board shall amend its certificate of
253 incorporation after the conversion date to acknowledge that
254 the regional board has met the requirements of Section
255 11-50-300(a), change its name to reflect the regional nature
256 of such regional board, and make any other amendment that is
257 not inconsistent with the enabling statute, including this
258 division.

259 (b) An amendment of the regional board's certificate of
260 incorporation shall be made in the following manner:

261 (1) The board of directors of the regional board shall
262 first adopt a resolution setting forth in full the proposed
263 amendment to the certificate of incorporation.

264 (2) The amendment shall recite the adoption of the
265 resolution by the board of directors.

266 (3) After the amendment is executed by the chair or
267 vice chair of the regional board and acknowledged before an
268 officer authorized by the laws of this state to take
269 acknowledgments of deeds, the amendment shall be filed in the
270 office of the judge of probate where the board's original
271 certificate of incorporation was filed. The amendment shall be
272 effective upon filing.

273 §11-50-300.5

274 (a) Directors and employees of a regional board shall
275 be subject to the provisions of the Ethics Act.

276 (b) Each year members of the board of directors shall
277 participate in 10 hours of training on the duties and best
278 practices of directors of organizations engaged in the
279 operation of water or sewer systems, the obligations of



280 directors under the Ethics Act, and the reporting requirements
281 under this division.

282 §11-50-300.6

283 (a) A regional board shall prepare customary and
284 appropriate financial statements and other reports, including:

285 (1) An annual budget in monthly form.

286 (2) Monthly financial statements with comparison to the
287 budget.

288 (3) Annual financial statements with comparison to the
289 budget.

290 (4) Annual financial statements audited by an
291 independent auditor.

292 (5) A five-year operating plan with annual revisions
293 and appropriate comparisons of actual to plan.

294 (6) A 10-year capital plan.

295 (7) Monthly and annual statistical reports to include
296 the number of employees, number of customer connections by
297 major geographical location, number of miles of pipe replaced
298 as a percent of total miles of pipe in a system, volume of
299 treated and untreated water introduced into transmission
300 mains, volume of treated and untreated water billed to
301 customers, and the number of leaks repaired.

302 (b) All statements shall be accompanied by appropriate
303 operating statistics, actual and projected, and the five-year
304 operating plan and 10-year capital plan shall be reviewed and
305 commented upon by a nationally recognized firm of consulting
306 engineers with expertise in the design, construction, repair,
307 and operation of water and sewer systems and with no conflicts



308 in reviewing the work.

309 (c) All statistical reports shall include historical
310 statistics to the extent available in order to place recent
311 statistics in context.

312 (d) The reports required by this section shall be made
313 available to the state legislative delegation of the counties
314 in which the regional board is located and the Department of
315 Examiners of Public Accounts by paper copy and email. The
316 reports shall also be made available to the public on a
317 website maintained by the regional board.

318 §11-50-300.7

319 For a period of 24 months after a person ceases to be a
320 director of a regional board, that person may not be employed
321 by the regional board or by any firm that performs work for
322 the regional board.

323 §11-50-300.8

324 A regional board shall employ a chief executive officer
325 with full authority to manage the operations of the regional
326 board, subject to policy directives and other governance
327 decisions adopted by the board of directors. Employees of a
328 regional board shall report to the chief executive officer and
329 may not be ordered or directed by members of the board of
330 directors. Employment contracts, construction contracts,
331 consulting contracts, engineering contracts, and other
332 contracts between the regional board and other persons shall
333 be recommended by the chief executive officer, except for the
334 employment contract of the chief executive officer, which
335 shall be recommended by the board of directors.



336 Section 3. Sections 11-50-301, 11-50-302, 11-50-303,
337 and 11-50-304, Code of Alabama 1975, relating to certain
338 municipal water works boards, are repealed.

339 Section 4. This act shall become effective immediately
340 following its passage and approval by the Governor, or its
341 otherwise becoming law.