

SB330 ENROLLED



1 SB330
2 JPTZ7FY-3
3 By Senators Roberts, Waggoner, Shelnuttt
4 RFD: County and Municipal Government
5 First Read: 17-Apr-25



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1 Enrolled, An Act,

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4 Relating to municipal water works boards; to amend
5 Section 11-50-300, Code of Alabama 1975; to add Sections
6 11-50-300.01, 11-50-300.02, 11-50-300.03, 11-50-300.04,
7 11-50-300.05, 11-50-300.06, 11-50-300.07, 11-50-300.08,
8 11-50-300.09, and 11-50-300.10 to the Code of Alabama 1975; to
9 further provide for the composition, manner of appointment,
10 and length of terms of members of certain municipal water
11 works boards; to provide qualifications for and place limits
12 on the employment of board members; to provide for conversion
13 of these boards to regional boards; to further provide for
14 these boards to amend their articles of incorporation; to
15 subject these boards to the ethics laws of Alabama and require
16 training on the subject; to provide duties and unlawful
17 actions of these boards; to require a consulting engineer be
18 retained by a board; to require these boards to produce
19 certain financial and statistical records; and to repeal
20 Sections 11-50-301, 11-50-302, 11-50-303, and 11-50-304, Code
21 of Alabama 1975, relating to certain municipal water works
22 boards.

23 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

24 Section 1. (a) The Legislature finds and declares, as
25 the basis of this act, all of the following:

26 (1) Competent and efficient management of municipal
27 water works boards' potable and raw water systems is
28 strategically important to the health, safety, and economic



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29 viability of this state and local governments and the
30 well-being of residents thereof.

31 (2) Failures in the management of water systems lead to
32 unreasonably high rates that oppress residents and are a
33 barrier to economic development that is vital to improving job
34 opportunities.

35 (3) Failures in the management of water systems may
36 lead to catastrophic events such as those that have occurred
37 in California; Jackson, Mississippi; Richmond, Virginia; and
38 Detroit, Michigan. Such events may prevent hospitals, fire
39 departments, and other emergency services from operating
40 effectively and result in catastrophic loss of life, property
41 damage, and adverse financial consequences.

42 (4) Failures of management are more likely to occur in
43 water works boards described in Section 11-50-300, Code of
44 Alabama 1975, where the power to appoint a controlling number
45 of the members of a board of directors is vested in a
46 municipality whose voting residents comprise a fraction of the
47 individuals served by the municipally controlled water works
48 board.

49 (5) Transfers of substantial funds by Alabama municipal
50 water works boards to municipalities appointing all or a
51 majority of their board of directors have been approved by the
52 Alabama Supreme Court in defiance of a founding principle of
53 the United States of America that there should be no taxation
54 without representation.

55 (b) The Alabama Legislature hereby declares that
56 regional water boards should be operated for the exclusive



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57 benefit of their customers and any surplus funds should be
58 used to reduce water rates to the benefit of all customers.

59 Section 2. Section 11-50-300, Code of Alabama 1975, is
60 amended to read as follows:

61 "§11-50-300

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

73 (b) The powers and rights provided to a regional board
74 pursuant to this division are cumulative and independent of
75 any powers and rights pursuant to the enabling statute. Except
76 as expressly set forth in this division, this division shall
77 not be construed as a restriction or limitation upon any
78 power, right, or remedy that a board may have pursuant to the
79 enabling statute.

80 (c) To the extent this division conflicts with any
81 other provision in the enabling statute, this division shall
82 control.

83 (d) This division does not apply to a municipal
84 utilities board that operates a water works system and an



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85 electric distribution system, nor to an entity that serves
86 only wholesale water customers."

87 Section 3. Sections 11-50-300.01, 11-50-300.02,
88 11-50-300.03, 11-50-300.04, 11-50-300.05, 11-50-300.06,
89 11-50-300.07, 11-50-300.08, 11-50-300.09, and 11-50-300.10 are
90 added to the Code of Alabama 1975, to read as follows:

91 §11-50-300.01

92 For the purposes of this division, the following terms
93 have the following meanings:

94 (1) AUTHORIZING MUNICIPALITY. A municipality that
95 authorized the organization of a board that is converted to a
96 regional board pursuant to this division.

97 (2) BOARD. A board organized pursuant to the enabling
98 statute.

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

101 (4) ENABLING STATUTE. Divisions 1 through 3 of Article
102 8 of Chapter 50 of Title 11.

103 (5) ENGINEERING BACKGROUND. Capability as evidenced by
104 an engineering degree from an accredited school of engineering
105 and not less than five years experience in an engineering
106 discipline.

107 (6) ETHICS ACT. Chapter 25 of Title 36.

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

112 (8) GENERAL BUSINESS BACKGROUND. Means well experienced



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113 in business affairs, whether related to private, public, or
114 nonprofit entities, of the complexity of the operation of a
115 water or sewer system.

116 (9) PRINCIPALLY LOCATED. With respect to the location
117 of any authorizing municipality, the county where all or the
118 largest portion of the territory of the authorizing
119 municipality is located.

120 (10) REGIONAL BOARD. A board that meets the
121 requirements of Section 11-50-300(a).

122 (11) SPONSORING MAYOR. The mayor of the authorizing
123 municipality of a board that has been converted to a regional
124 board pursuant to this division.

125 §11-50-300.02

126 (a) On the effective date of the act adding this
127 section, a board that meets the requirements of Section
128 11-50-300(a) as of the date of filing the bill adding this
129 section shall be converted to a regional board.

130 (b) A board that meets the requirements of Section
131 11-50-300(a) after the date of filing the bill adding this
132 section shall be converted to a regional board 30 days after
133 the board meets the requirements, but not before the effective
134 date of this act.

135 (c) If the certificate of incorporation or bylaws of a
136 regional board conflicts with this division, this division
137 shall control.

138 §11-50-300.03

139 (a) The term of the existing directors of the board of
140 directors shall terminate on the conversion date,



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141 notwithstanding the term or terms for which the existing
142 directors were appointed or elected. The term of office for
143 directors appointed pursuant to this division shall begin on
144 the conversion date, or if any such appointment is made after
145 the conversion date, on the date of filing for the appointment
146 order with the judge of probate as provided in subsection (b).

147 (b) Appointment of a director shall be evidenced by an
148 order acknowledged before an officer authorized by the laws of
149 this state to take acknowledgment of deeds and shall be filed
150 in the office of the judge of probate where the board's
151 original certificate of incorporation was filed and in the
152 Office of the Secretary of State.

153 (c) (1) The board of directors of a regional board shall
154 be reorganized and comprised as follows:

155 a. One director, who shall have a financial background,
156 in addition to a general business background, shall be
157 appointed by the sponsoring mayor.

158 b. One director, who shall have a financial background,
159 in addition to a general business background, shall be
160 appointed by the Lieutenant Governor.

161 c. One director, who shall have an engineering
162 background, in addition to a general business background,
163 shall be appointed by the president of the governing body of
164 the county in which the authorizing municipality is
165 principally located.

166 d. One director, who shall have a general business
167 background, shall be appointed by the governing body of each
168 county in which the regional board owns a major reservoir



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169 located principally within the county.

170 e. One director, who shall have a general business
171 background, shall be appointed by the governing body of the
172 county, other than the county where the authorizing
173 municipality is principally located, where the largest number
174 of accounts serving water customers are located outside the
175 county in which the authorizing municipality is located.

176 f. One director, who shall have a general business
177 background and who shall be a resident of the county in which
178 the authorizing municipality is principally located, shall be
179 appointed by the Governor.

180 g. One director, who shall be a resident of the county
181 in which the authorizing municipality is principally located,
182 shall be appointed by the governing body of the authorizing
183 municipality.

184 (2) All directors shall be residents of a county in
185 which the regional board serves customers.

186 (3) Elected public officials may be appointed as
187 directors.

188 (4) An appointing authority, if an individual, may
189 appoint himself or herself, or, if a group of individuals, may
190 appoint a member of the group.

191 (5) An individual who has had a business relationship
192 with the regional board in the two-year period prior to
193 appointment, or who was employed by a firm that has had a
194 business relationship with the regional board in the two-year
195 period prior to appointment, shall not be appointed as a
196 director.



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197 (d) The appointing authority may exercise discretion in
198 determining whether an individual appointed as a director
199 meets the qualifications provided in this section. Any
200 individual appointed as a director shall be presumed qualified
201 unless and until a court of competent jurisdiction makes a
202 final determination, from which no further appeal is
203 available, that such individual is not qualified as a
204 director. The official acts of any individual appointed as a
205 director shall be valid and binding as official acts of a
206 director for all purposes, whether or not that individual is
207 subsequently determined by a court of competent jurisdiction
208 to be qualified or not.

209 (e) Each director shall serve for a term of five years,
210 except the initial directors shall serve terms as follows:

211 (1) The initial director appointed by the sponsoring
212 mayor shall serve a term of one year.

213 (2) The initial director appointed by the Lieutenant
214 Governor shall serve a term of two years.

215 (3) The initial director appointed by the president of
216 the governing body of the county in which the authorizing
217 municipality is principally located and the initial director
218 appointed by the Governor shall serve a term of three years.

219 (4) The initial director appointed by the governing
220 body of each county in which the regional board owns a major
221 reservoir located principally within the county and the
222 initial director appointed by the governing body of the
223 authorizing municipality shall serve a term of four years.

224 (5) The initial director appointed by the governing



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225 body of the county, other than the county where the
226 authorizing municipality is principally located, where the
227 largest number of accounts serving water customers are located
228 outside the county in which the authorizing municipality is
229 located shall serve a term of five years.

230 (f) The initial appointments to the regional board
231 shall be made by the appointing authorities not more than 20
232 days after the effective date of this act. Subsequent
233 appointments, if made to fill a vacancy caused other than by
234 the expiration of a term of office, shall be filled within 30
235 days of the appointing authority receiving notice of the
236 vacancy. Subsequent appointments, if made to fill a vacancy
237 caused by the expiration of a term of office, shall be filled
238 within seven days after the expiration of the term of office.
239 If an appointing authority fails to make an appointment within
240 the time periods provided by this subsection, the Secretary of
241 State shall appoint one of the nominees submitted pursuant to
242 subsection (m).

243 (g) An individual appointed to fill a vacancy on the
244 board shall serve the remainder of the term of the vacant
245 seat. All directors shall continue to serve until a successor
246 is appointed and qualified.

247 (h) A director may not serve for more than two full
248 terms. In addition to the two full terms, a director may serve
249 one additional partial term in the event a director is first
250 appointed to a term that terminates less than five years after
251 the date of his or her appointment.

252 (i) Any director may be removed for good cause by the



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253 appointing authority who appointed the director if the
254 appointing authority conducts a hearing that gives the
255 director an opportunity to address the cause or causes for
256 removal.

257 (j) Each director shall be entitled to receive
258 compensation of two thousand dollars (\$2,000) per month,
259 adjusted annually for increases in the consumer price index,
260 as well as reimbursement for necessary expenses actually
261 incurred by him or her in connection with the performance of
262 his or her duties.

263 (k) A majority of directors then serving shall
264 constitute a quorum for the transaction of business of the
265 board of directors and any meeting of the board of directors
266 may be adjourned by a majority of the members present. No
267 vacancy in the membership of the board of directors shall
268 impair the right of a quorum to exercise all powers and
269 perform all duties of the board of directors.

270 (l) The board of directors shall adopt and maintain
271 bylaws, not inconsistent with this division, for the
272 regulation and conduct of its affairs and the operation of the
273 regional board. The bylaws of the board of directors may
274 provide for such committees as the board of directors deems
275 necessary or desirable to make recommendations to the full
276 board of directors.

277 (m) Members of the Alabama Legislature whose district
278 encompasses areas served by a regional board, and
279 organizations incorporated in this state that have existed for
280 more than five years and that promote economic development in



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281 any county served by a regional board, may nominate qualified
282 individuals to serve on a regional board in positions that are
283 vacant or expected to be vacant. Nominations shall be made by
284 submitting in writing the name and qualifications of the
285 individual being nominated to the appointing authority for the
286 position and to the Secretary of State.

287 (n) The Attorney General shall review the
288 qualifications of all appointees to a regional board and upon
289 finding that any appointee is not qualified, shall file a
290 complaint in the Circuit Court of Montgomery County, which
291 shall have exclusive jurisdiction of the matter, seeking to
292 declare the appointee not qualified and the regional board
293 position vacant. Vacancies on a regional board resulting from
294 a ruling by the court favorable to the Attorney General shall
295 be filled by the designated appointing authority. Upon
296 request, the Attorney General may render an opinion on the
297 qualifications of a proposed appointee.

298 §11-50-300.04

299 (a) A regional board shall amend its certificate of
300 incorporation after the conversion date to do all of the
301 following:

302 (1) Acknowledge that the regional board has met the
303 requirements of Section 11-50-300(a).

304 (2) Change its name to reflect the regional nature of
305 the board. The new name shall include the name of the
306 authorizing municipality.

307 (3) Make any other necessary amendment that is not
308 inconsistent with this division or the enabling statute.



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

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

314 (2) The amendment shall recite the adoption of the
315 resolution by the board of directors.

316 (3) After the amendment is executed by the chair or
317 vice chair of the regional board and acknowledged before an
318 officer authorized by the laws of this state to take
319 acknowledgment of deeds, the amendment shall be filed in the
320 office of the judge of probate where the board's original
321 certificate of incorporation was filed. The amendment shall be
322 effective upon filing.

323 §11-50-300.05

324 (a) Directors and employees of a regional board shall
325 be subject to the Ethics Act.

326 (b) Each year all directors shall participate in 10
327 hours of training on the duties and best practices of
328 directors of organizations engaged in the operation of water
329 or sewer systems, the obligations of directors under the
330 Ethics Act, and the reporting requirements under this
331 division.

332 §11-50-300.06

333 (a) A regional board shall assure that the rates for
334 water and other services are reasonable and that industry best
335 practices are followed. A regional board shall assure that the
336 regional board operates its system or systems efficiently, in



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337 compliance with applicable laws and regulations, including
338 this division, and exclusively for the benefit of the
339 customers of the regional board.

340 (b) In assessing compliance with industry best
341 practices, a regional board shall reference the standards
342 published by the American Water Works Association or any
343 successor thereto and standards followed by highly rated water
344 systems.

345 (c) (1) A regional board may not make payments to any
346 municipality, county, or other entity except for reasonable
347 consideration in payment for goods or services required in the
348 operation or management of the systems operated by the
349 regional board.

350 (2) The Attorney General shall enforce this subsection
351 by filing a complaint seeking to prevent or to recoup amounts
352 paid by the regional board in violation of this subsection and
353 to obtain other remedies as may be appropriate under the
354 circumstances, in the Circuit Court of Montgomery County,
355 which shall have exclusive jurisdiction of the matter.

356 §11-50-300.07

357 (a) A regional board shall follow best practices in
358 preparing or causing to be prepared financial statements and
359 other reports, including all of the following:

360 (1) An annual budget in monthly form.

361 (2) Monthly financial statements with comparison to the
362 budget.

363 (3) Annual financial statements with comparison to the
364 budget.



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365 (4) Annual financial statements audited by an
366 independent auditor.

367 (5) A five-year operating plan with annual revisions
368 and appropriate comparisons of actual performance to plan.

369 (6) A 10-year capital plan, including a plan to fund
370 the capital expenditures called for in the capitol plan, and a
371 10-year estimate of rates per year required to fund operating
372 expenses, capitol expenditures, and debt service.

373 (7) Monthly and annual statistical reports to include
374 the number of employees, number of customer connections by
375 major geographical location, number of miles of pipe replaced
376 as a percent of total miles of pipe in a system, volume of
377 treated and untreated water introduced into transmission
378 mains, volume of treated and untreated water billed to
379 customers, and the number of leaks repaired.

380 (8) Monthly and annual schedules of professionals
381 employed other than through a public bid process pursuant to
382 exceptions to competitive bid laws, brief descriptions of
383 their scopes of work, and amounts paid monthly, year-to-date,
384 and for the preceding 12 months.

385 (9) Prior to the adoption of each annual budget of a
386 regional board, a report on the current staffing of the
387 regional board to include a job description of each position,
388 the number of individuals filling each position, the average
389 annual compensation paid to the individuals in each position,
390 and proposed changes in staffing and compensation anticipated
391 in the annual budget to be adopted, together with comparisons
392 as may be available between the staffing of the regional board



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393 and the staffing of other comparable water systems.

394 (b) All financial statements and other reports shall be
395 accompanied by appropriate operating statistics, actual, and
396 projected.

397 (c) All statistical and financial reports shall include
398 historical statistics and financial information to the extent
399 available and necessary to place recent information in
400 historical context and a full description and disclosure of
401 all assumptions made in the preparation of the reports.

402 (d) The reports required by this section shall be made
403 available by paper copy and email to the state legislators
404 representing the counties in which the regional board operates
405 and the Department of Examiners and Public Accounts. The
406 reports shall also be made available to the public on a
407 website maintained by the regional board.

408 §11-50-300.08

409 (a) A regional board shall retain a consulting engineer
410 with a national reputation for providing high quality
411 engineering services to water systems. The consulting engineer
412 shall provide the services specified in a professional
413 services agreement which shall include all of the following
414 services:

415 (1) From time to time but not less frequently than
416 annually, an assessment of and comments on the regional
417 board's compliance with Section 11-50-300.07, including
418 separate assessments and comments on each of the financial
419 statements and reports required by Section 11-50-300.07.

420 (2) Prior to the approval by the regional board of a



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421 capital project costing two million dollars (\$2,000,000) or
422 more, an assessment and report on the necessity, concept,
423 design, and expected operating and capital cost of the
424 project.

425 (3) Prior to the approval by the regional board of any
426 financing, a report and opinion in customary form on the
427 ability of the board to pay the interest on and principal of
428 the loan or securities comprising the financing when due.

429 (4) Annually, and prior to any increase in rates or
430 other service charges, an analysis and report on the
431 reasonableness of existing and proposed rates and service
432 charges, taking into consideration the factors listed in
433 Section 11-50-300.06, any factors widely adopted in the
434 regulation of utilities in the United States, and any other
435 factors that the consulting engineer deems relevant.

436 (b) A consulting engineer shall be selected by a
437 regional board pursuant to a nationwide search and a request
438 for proposals addressed to not less than five of the largest
439 providers of engineering services to water systems in the
440 United States. The request for proposals shall be posted on
441 the regional board's website and copies of responses shall be
442 available upon request. A regional board shall select a
443 consulting engineer from those submitting proposals based on
444 the recommendations of clients, relevant experience,
445 credentials of the engineers to be assigned to the project,
446 terms of a proposed engagement agreement, and cost.

447 (c) Once selected, a consulting engineer shall serve
448 five years and shall be eligible to be re-selected for one



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449 additional five year term notwithstanding the selection
450 procedures provided by this section.

451 (d) A consulting engineer shall be disqualified from
452 providing project engineering services on projects undertaken
453 by a regional board but shall review and comment on plans and
454 specifications prepared by other engineers for such projects.
455 A consulting engineer shall evaluate, on behalf of the
456 regional board, the qualifications of engineers under
457 consideration to provide project engineering services to a
458 regional board.

459 (e) A consulting engineer may be discharged by a
460 regional board for a material failure to perform as determined
461 by the board after adequate notice and a hearing.

462 §11-50-300.09

463 For a period of 24 months after an individual ceases to
464 be a director of a regional board, that individual may not be
465 employed by the regional board or by any firm that performs
466 work for the regional board.

467 §11-50-300.10

468 (a) A regional board shall employ a chief executive
469 officer with full authority to manage the operations of the
470 regional board, subject to policy directives and other
471 governance decisions adopted by the board of directors.
472 Employees of a regional board shall report directly or through
473 subordinates who report to the chief executive officer and may
474 not be ordered or instructed by a director of the board.
475 Employment contracts, construction contracts, consulting
476 contracts, engineering contracts, and other contracts between



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477 the regional board and other persons shall be recommended by
478 the chief executive officer, except for the employment
479 contract of the chief executive officer, which shall be
480 recommended by the board of directors. The chief executive
481 officer shall recommend to the board of directors individuals
482 to serve as chief financial officer and other executive level
483 employees.

484 (b) The employment contract of the chief executive
485 officer shall provide for a fixed term of office that may be
486 extended with or without modification of other terms by
487 agreement of the board of directors and the chief executive
488 officer. The board of directors may terminate the employment
489 of the chief executive officer for a material failure to
490 perform his or her duties after providing reasonable notice of
491 a failure and the opportunity for a hearing thereon.

492 Section 4. Sections 11-50-301, 11-50-302, 11-50-303,
493 and 11-50-304, Code of Alabama 1975, relating to certain
494 municipal water works boards, are repealed.

495 Section 5. This act shall become effective immediately.

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President and Presiding Officer of the Senate

Speaker of the House of Representatives

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Senate 24-Apr-25

I hereby certify that the within Act originated in and passed the Senate, as amended.

Patrick Harris,
Secretary.

House of Representatives
Amended and passed: 01-May-25

By: Senator Roberts