



**House Transportation, Utilities and Infrastructure
Reported Substitute for HB392**

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A BILL

TO BE ENTITLED

AN ACT

Relating to the Public Service Commission; to amend Sections 37-1-3, 37-1-5, 37-1-6, and 37-1-7, Code of Alabama 1975; to provide for appointment of commissioners to the Public Service Commission; to further provide for qualifications of commissioners; to extend conflict of interest provisions imposed on commissioners to include actions with certain nonutility entities participating in matters before the commission; to require the commission to hold certain periodic public informational meetings with utility representatives; to add Section 37-1-54.1 to the Code of Alabama 1975, to require the commission to ensure lobbying expenses are not charged to ratepayers; to amend Sections 17-14-1, 17-14-2, and 17-14-3, and 36-3-1, Code of Alabama 1975, to make conforming changes; and to make nonsubstantive, technical revisions to update the existing code language to current style.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. The Legislature hereby finds all of the following:

28 (1) Alabama's current model for regulating critical



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29 infrastructure and public service industries was established
30 over 100 years ago and is not the best model for ensuring that
31 Alabamians are best-served and well-positioned for future
32 challenges.

33 (2) Most states in America do not elect their state
34 regulatory bodies. Currently 40 states appoint their version
35 of the public service commission.

36 (3) There are dozens of regulatory bodies and agencies
37 in Alabama and none of them are elected. These include offices
38 regulating complex and critical industries including banking,
39 insurance, and many others.

40 (4) All current members of the public service
41 commission were initially appointed to their position by the
42 Governor.

43 (5) The law currently establishes no conflict of
44 interest restrictions on for profit and nonprofit advocacy
45 organizations' relationships with members of the commission
46 other than those entities that meet the definition of
47 "utility" under current law.

48 Section 2. Sections 37-1-3, 37-1-5, 37-1-6, and 37-1-7,
49 Code of Alabama 1975, are amended to read as follows:

50 "§37-1-3

51 (a) Members of the commission serving on the effective
52 date of this act shall continue to serve until their
53 respective terms expire.

54 (b) The terms of office of the commissioners shall be
55 for four years; ~~at~~ At the election to be held in the state on
56 the first Tuesday after the first Monday in November, 1940,



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57 and every four years thereafter until November 2028, a
 58 president of the commission shall be elected by the qualified
 59 electors of this state; and at the election to be held in the
 60 state on the first Tuesday after the first Monday in November ~~1942~~,
 61 and every four years thereafter until November 2030, two
 62 associates, who, with the president, shall constitute the
 63 commission, shall be elected by the qualified electors of the
 64 state. The result of ~~such the~~ election shall be ascertained
 65 and declared by the same authority and in the same manner as
 66 are the results of election for Chief Justice and associate
 67 justices of the ~~Supreme Court~~supreme court.

68 ~~(b)~~ (c) The ~~persons~~individuals elected to fill the
 69 offices shall enter upon the discharge of their respective
 70 duties on the day after the general election at which they are
 71 elected and expire on the day after the general election held
 72 in the fourth year after their election.

73 ~~(c)~~ (d) If any vacancy ~~should occur~~occurs in any one of
 74 the offices elected under subsection (b), caused by death,
 75 resignation or otherwise, the ~~same~~office shall be filled by
 76 appointment by the Governor, ~~the appointee holding for the~~
 77 ~~balance to serve for the remainder~~ of the unexpired term. If
 78 any ~~person~~individual elected to the office of public service
 79 commissioner ~~shall fail or refuse~~fails or refuses for 30 days
 80 to qualify, ~~such the~~ failure or refusal shall be held to
 81 create a vacancy in the office, ~~which and the~~ vacancy shall be
 82 filled by appointment by the Governor, ~~the appointee to hold~~
 83 ~~for the term for which the person so failing or refusing to~~
~~qualify was elected~~.



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85 (e) (1) Beginning in November 2028, upon the expiration
86 of the term of office of the president of the commission, the
87 position of president shall be filled by the Governor by
88 appointment.

89 (2) Beginning in November 2030, upon the expiration of
90 the term of office of the two associate members of the
91 commission, the associate commissioner positions shall be
92 filled by the Governor by appointment, with each associate
93 position chosen respectively from: (i) a list of three names
94 provided by the Speaker of the House of Representatives after
95 consultation with the Minority Leader of the House of
96 Representatives; and (ii) a list of three names provided by
97 the President Pro Tempore of the Senate after consultation
98 with the Minority Leader of the Senate.

99 (3) Individuals appointed to the commission pursuant to
100 this subsection shall serve for a term of four years beginning
101 on the day after the previous term of the office expired for
102 the initial appointed terms, and beginning on November 1 for
103 subsequent terms.

104 (4) All appointments under this subsection shall be
105 subject to Senate confirmation. Appointed members may begin to
106 serve on the commission even if not yet confirmed by the
107 Senate. If an appointed member of the commission is not
108 confirmed during the first regular session of the Legislature
109 following his or her appointment, the Governor shall appoint
110 another individual in the same manner as the seat was filled
111 under subdivision (1) or (2), who shall immediately begin
112 serving and be subject to Senate confirmation no later than



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the next regular legislative session.

113 (5) In addition to any other requirements set forth in
 114 this chapter, in making appointments to the commission, the
 115 Governor shall select individuals with experience relevant to
 116 the duties of the commission including, but not limited to,
 117 experience with utility regulation, energy or infrastructure
 118 policy or issues, regulatory issues, economics, law,
 119 engineering, agriculture, finance, accounting, business, or
 120 economic growth issues. Each member appointed to the
 121 commission must be a resident of this state and of high moral
 122 character and ability.

123 (6) The Governor shall coordinate appointments so that
 124 the commission membership is inclusive and reflects the
 125 racial, gender, geographic, urban, rural, and economic
 126 diversity of the state.

127 (7) If a vacancy occurs in one of the appointed seats
 128 on the commission under this subsection, the Governor shall
 129 appoint a new member in the same manner as the seat was filled
 130 under subdivision (1) or (2) to serve for the unexpired term
 131 and shall be subject to Senate confirmation as further
 132 provided for in subdivision (4).

133 (f) A member of the commission may be appointed to more
 134 than one term.

135 (d) (g) The provisions of this section shall not
 136 diminish the current term of any member terms elected to the
 137 Public Service Commission before the effective date of this
 138 act."

139 "§37-1-5



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141 No public service commissioner or clerk of the
 142 commission shall, during his or her continuance in office,
 143 personally or through any partner or agent, render any
 144 professional service for public utilities or for any
 145 nonutility entity participating in matters pending before the
 146 commission."

147 "§37-1-6

148 No person owning An individual who owns any stock in,
 149 any utility, or in the employment of any utility or
 150 pecuniarily interested is employed by, or has a pecuniary
 151 interest in any utility, as defined in this title, shall be or
 152 any nonutility entity participating in matters pending before
 153 the commission is not eligible to the office of public service
 154 commissioner."

155 "§37-1-7

156 (a) The commissioners may be impeached and removed from
 157 office by the supreme court for the same causes and in the
 158 same manner as other state officers, and any commissioner who
 159 shall accept accepts directly or indirectly any gift,
 160 gratuity, emolument, or employment from any person, firm,
 161 corporation, company or association, owning or operating in
 162 whole or in part in this state a utility, as defined in this
 163 title, or any nonutility entity participating in matters
 164 pending before the commission during his or her term
 165 continuance in office, except a pass for himself or any
 166 employee of the commission on official business, shall forfeit
 167 his or her office and may be impeached and removed from office
 168 therefor, or for any other cause of impeachment.



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169 (b) Consistent with its duties and responsibilities
170 under this chapter, at least annually, the commission, through
171 its staff, shall convene a public meeting with each utility to
172 provide information to the commission, its staff, and the
173 public on issues affecting its operations, such as cost
174 trends, reliability, and other regulatory issues the
175 commission deems relevant. It is the intent that these
176 meetings be conducted in a manner that facilitates public
177 participation and provides a review of key issues that the
178 commission believes will be helpful to the public in
179 understanding issues that impact services under its
180 jurisdiction."

181 Section 3. Section 37-1-54.1 is added to the Code of
182 Alabama 1975, to read as follows:

183 §37-1-54.1

184 Consistent with its authority under this chapter, the
185 commission shall establish, adopt, or implement requirements
186 as necessary to ensure that all lobbying expenses are
187 appropriately charged under the commission's system of
188 accounts in such a manner that those expenses are not charged
189 to ratepayers.

190 Section 4. Sections 17-14-1, 17-14-2, 17-14-3, and
191 36-3-1, Code of Alabama 1975, are amended to make conforming
192 changes to read as follows:

193 "§17-14-1

194 The following officers in this state shall be elected
195 by the qualified electors thereof: Governor, Lieutenant
196 Governor, Attorney General, Auditor, Secretary of State,



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197 Treasurer, Commissioner of Agriculture and Industries, ~~public~~
198 ~~service commissioners~~, senators and representatives in the
199 Legislature, Chief Justice and associate justices of the
200 Supreme Court, judges of the courts of appeals, circuit
201 courts, and district courts, district attorneys, judges of the
202 probate court, sheriffs, coroners, clerks of the circuit
203 courts, tax assessors, tax collectors, county treasurers in
204 counties of more than 56,000 population, as provided by law,
205 members of county commissions, constables, representatives in
206 Congress, United States senators, electors for President and
207 Vice President of the United States, and such other officers
208 as may be required by law to be elected by the people, when
209 not otherwise specially provided for."

210 "§17-14-2

211 General elections throughout the state shall be held
212 for Governor, Lieutenant Governor, Attorney General, Auditor,
213 Secretary of State, Treasurer, Commissioner of Agriculture and
214 Industries, ~~three public service commissioners, no two of whom~~
215 ~~shall be elected from the same congressional district~~, Chief
216 Justice and associate justices of the Supreme Court, judges of
217 the courts of appeals, electors for President and Vice
218 President of the United States, United States senators, and
219 such other officers as may be required by law to be elected by
220 the voters of the entire state; for a member of Congress in
221 each congressional district; judges of the circuit court in
222 each judicial circuit; judges of the district courts in each
223 district; district attorneys in each judicial circuit; a
224 senator in each senatorial district; a representative in the



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225 Legislature in each house district; a judge of the probate
226 court, sheriff, clerks of the circuit courts, tax assessor,
227 tax collector, a county treasurer in counties of more than
228 56,000 population, as provided by law, coroner, and members of
229 the county commission in each county, and constables in each
230 precinct of the county."

231 "§17-14-3

232 The Governor, Lieutenant Governor, Attorney General,
233 Auditor, Secretary of State, Treasurer, Commissioner of
234 Agriculture and Industries, senators and representatives in
235 the Legislature, a sheriff in each county, one coroner in all
236 counties having a coroner, and other officers not otherwise
237 provided for, shall be elected on the first Tuesday after the
238 first Monday in November 2006, and every fourth year
239 thereafter. ~~A president of the Public Service Commission shall~~
240 ~~be elected on the first Tuesday after the first Monday in~~
241 ~~November 2008, and every fourth year thereafter. Two associate~~
242 ~~public service commissioners shall be elected on the first~~
243 ~~Tuesday after the first Monday in November 2006, and every~~
244 ~~fourth year thereafter."~~

245 "§36-3-1

246 The Governor, Lieutenant Governor, Attorney General,
247 Auditor, Secretary of State, Treasurer, and Commissioner of
248 Agriculture and Industries, ~~the President of the Public~~
249 ~~Service Commission and two associate public service~~
250 ~~commissioners~~ shall hold their respective offices for the term
251 of four years from the time of their installation in office
252 and until their successors shall be elected and qualified,



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253 such installation to take place on the first Monday after the
254 second Tuesday in January next after their election."

255 Section 5. This act shall become effective on December
256 1, 2026.