



**House Madison County Legislation Reported
Substitute for HB337**

A BILL

TO BE ENTITLED

AN ACT

To propose an amendment to the Constitution of Alabama of 2022, relating to Madison County, to bring certain privately owned sewer systems that use public rights-of-way of public roads under the jurisdiction of the Public Service Commission under certain conditions.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. The following amendment to the Constitution of Alabama of 2022, is proposed:

PROPOSED AMENDMENT

(a) This amendment shall apply only in Madison County.

(b) Except as provided in subsection (c), any privately owned entity operating a plant, property, or facility that collects, treats, or disposes of sewage shall be certified and regulated by the Public Service Commission, including regulation of the rates, charges, and increases in rates or charges imposed on customers if the private entity does all of the following:

(1) Uses, directly or through a lease or contract, public rights-of-way of public roads for any part of its collection or disposal system.



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(2) Discharges to a Grade I, II, III, or IV wastewater treatment facility as defined in and by the classification system used by the Alabama Department of Environmental Management on January 1, 2020, and its equivalent classification thereafter.

(3) Bills residential or commercial customers a flat service fee or a fee based on water usage.

(c) The Public Service Commission shall certify and regulate all privately owned entities described in subsection (b) in accordance with Title 37, Code of Alabama 1975.

Implementation of this amendment, whether gradual or at one time, shall be determined by the Public Service Commission. Until the Public Service Commission determines applicable rates and charges to be imposed on customers, the rates and charges shall be in accord with and governed by the most recent and controlling rate control agreement, or in the event there is not a controlling rate control agreement, the private entity's most recent published rate on the effective date of this amendment.

(d) (1) If the county or a municipality or governmental utility service corporation (GUSC) in the county enters into a rate control agreement with a privately owned entity described in subsection (b), the county, municipality, or GUSC may opt out of regulation by the Public Service Commission as to and for any residential or commercial customers affected by, and are subject to, the rate control agreement.

(2) If a rate control agreement or any part thereof is found to be invalid, is terminated by the county,



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municipality, or GUSC that entered into the rate control agreement, or becomes unenforceable or void in whole or in part, then the jurisdiction of the Public Service Commission and the provisions in subsection (c) pertaining to regulation by the Public Service Commission shall by operation of law be restored and enforced to the full force and effect of this amendment.

(e) If Public Service Commission jurisdiction is restored after the county, municipality, or GUSC has exercised its opt out provision provided in subsection (c) and has voluntarily terminated the rate control agreement, the county, municipality, or GUSC may not again exercise its power to opt out of Public Service Commission jurisdiction and rate control for a period of five years from the date that Public Service Commission jurisdiction is reinstated.

(f) If a privately owned entity described in subsection (b) serves customers located in more than one municipality, the opt out option provided in subsection (c) shall vest with the municipality that has a rate control agreement executed as of or prior to January 1, 2026, subject to approval of the Madison County Commission.

Upon ratification of this constitutional amendment, the Code Commissioner shall number and place this amendment as appropriate in the constitution omitting this instructional paragraph and may make the following nonsubstantive revisions: change capitalization, hierarchy, spelling, and punctuation for purposes of style and uniformity; correct manifest grammatical, clerical, and typographical errors; revise



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internal or external citations and cross-references; harmonize language; and translate effective dates.

END PROPOSED AMENDMENT

Section 2. An election upon the proposed amendment shall be held in accordance with Sections 284, 284.01, and 285 of the Constitution of Alabama of 2022, and the election laws of this state. The appropriate election official shall assign a ballot number for the proposed constitutional amendment on the election ballot and shall set forth the following description of the substance or subject matter of the proposed constitutional amendment:

"Relating to Madison County, proposing an amendment to the Constitution of Alabama of 2022, to bring under the jurisdiction of the Public Service Commission certain privately owned sewer systems that use public rights-of-way of public roads under certain conditions.

Proposed by Act ____."

This description shall be followed by the following language:

"Yes() No()."

Section 3. The proposed amendment shall become valid as part of the Constitution of Alabama of 2022, when approved by a majority of the qualified electors voting thereon.