

1 HB180
2 115894-2
3 By Representatives Thigpen, Harper and Beasley
4 RFD: County and Municipal Government
5 First Read: 12-JAN-10

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

ENROLLED, An Act,

To amend Sections 11-50-15 and 11-50-313, Code of Alabama 1975, relating to boards of directors of municipal corporations providing water and sewer services, and to amend Section 11-88-6, Code of Alabama 1975, relating to boards of directors of municipal and county water, sewer, and fire protection authorities, to provide further for the compensation of members and chairs of such boards, with certain exceptions.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Sections 11-50-15, 11-50-313, and 11-88-6, Code of Alabama 1975, are amended to read as follows:

"§11-50-15.

"In any instance where a public corporation heretofore or hereafter organized pursuant to the provisions of Sections 11-50-231 through 11-50-238, 11-50-240 and 11-50-241, or under the provisions of Sections 11-50-310 through 11-50-318 and 11-50-320 through 11-50-324 owns and operates one or more utility systems, the board of directors of such corporation may at its election authorize the payment by such corporation of the following directors' fees to the members of the board of directors in lieu of the directors' fees authorized in the statute under which such corporation was organized. No fee shall be paid to any director for

1 services rendered with respect to a sanitary sewer system. In
2 any instance when the system or systems owned and operated by
3 the corporation are any one or more of a water system, a gas
4 system, and an electric system, the chair of the board of
5 directors may be paid a directors' fee in an amount not
6 exceeding ~~three hundred dollars (\$300)~~ six hundred dollars
7 (\$600) per meeting attended, not to exceed ~~three thousand six~~
8 ~~hundred dollars (\$3,600)~~ seven thousand two hundred dollars
9 (\$7,200) per year, for one system and twenty-five dollars
10 (\$25) each meeting for each additional system, and each member
11 of the board of directors other than the chair may be paid a
12 director's fee in an amount not exceeding ~~two hundred dollars~~
13 ~~(\$200)~~ four hundred dollars (\$400) per meeting attended, not
14 to exceed ~~two thousand four hundred dollars (\$2,400)~~ four
15 thousand eight hundred dollars (\$4,800) per year, for each
16 system and twenty dollars (\$20) each meeting attended, not to
17 exceed ~~two thousand four hundred dollars (\$2,400)~~ four
18 thousand eight hundred dollars (\$4,800) per year, for each
19 additional system.

20 "Upon the adoption of a resolution by the board of
21 directors of such corporation electing to come within the
22 provisions of this section and fixing the amount of the
23 directors' fees to be paid within the limitations set forth in
24 this section, the corporation shall thereafter be authorized
25 to pay the fees so fixed.

1 "Nothing in Act 2007-458 and nothing in this act
2 shall apply to the City of Montgomery, the City of Prichard
3 Water and Sewer Board, or to the City of Cullman or the City
4 of Mobile.

5 "The amendatory provisions of this section as
6 provided in this act and in Act 2007-458 shall not affect the
7 current board director and member fees in the City of
8 Birmingham.

9 "§11-50-313.

10 "(a) Each corporation formed or the certificate of
11 incorporation of which is amended under this article shall
12 have a board of directors which shall constitute the governing
13 body of the corporation, which board shall consist of at least
14 three members. In any Class 4 municipality which has adopted a
15 mayor-council form of government pursuant to Chapter 43B
16 (commencing with Section 11-43B-1) of this title, any
17 corporation formed pursuant to this chapter may have a
18 governing body which shall consist of seven members. Any
19 corporation, located in any Class 5 municipality, which is
20 governed by a local law enacted in the 1995 Regular Session
21 may have a governing body which shall consist of seven
22 members.

23 "No fee shall be paid to any director for services
24 rendered with respect to a sanitary sewer system. In any
25 instance where the system or systems owned and operated by the

1 corporation are any one or more of a water system, a gas
2 system, and an electric system, the chair of the board of
3 directors may, at the discretion of the governing body of the
4 municipality with respect to which the corporation was
5 primarily organized, be paid a director's fee in an amount to
6 be set and established by the governing body in an amount not
7 exceeding ~~three hundred dollars (\$300)~~ six hundred dollars
8 (\$600) per meeting attended, not to exceed ~~three thousand six~~
9 ~~hundred dollars (\$3,600)~~ seven thousand two hundred dollars
10 (\$7,200) per year, for one system and ten dollars (\$10) each
11 meeting for each additional system. Each member of the board
12 of directors, other than the chair, may be paid a director's
13 fee in an amount to be set and established by the governing
14 body in an amount not exceeding ~~two hundred dollars (\$200)~~
15 four hundred dollars (\$400) per meeting attended, not to
16 exceed ~~two thousand four hundred dollars (\$2,400)~~ four
17 thousand eight hundred dollars (\$4,800) per year for the
18 system. Notwithstanding the foregoing, where the municipality
19 with respect to which the corporation was primarily organized
20 has less than 5,000 inhabitants according to the most recent
21 official census, the maximum total amount of director's fees
22 which may be paid to the chair of its board of directors shall
23 not exceed ~~three hundred dollars (\$300)~~ six hundred dollars
24 (\$600) per meeting attended, not to exceed ~~three thousand six~~
25 ~~hundred dollars (\$3,600)~~ seven thousand two hundred dollars

1 ~~(\$7,200)~~ per year, and the maximum total amount of director's
2 fees which may be paid to any other member of the board of
3 directors shall not exceed ~~two hundred dollars (\$200)~~ four
4 hundred dollars (\$400) per meeting attended, not to exceed ~~two~~
5 ~~thousand four hundred dollars (\$2,400)~~ four thousand eight
6 hundred dollars (\$4,800) per year. In all cities having
7 populations of not less than 6,500 nor more than 8,500
8 according to the most recent federal decennial census, the
9 members of the board of directors, including the chair, may
10 each be paid a director's fee. The chair of the board shall be
11 compensated in an amount not to exceed ~~three hundred dollars~~
12 ~~(\$300)~~ six hundred dollars (\$600) per meeting attended, not to
13 exceed ~~three thousand six hundred dollars (\$3,600)~~ seven
14 thousand two hundred dollars (\$7,200) per year. Each director,
15 other than the chair, shall be compensated in an amount not to
16 exceed ~~two hundred dollars (\$200)~~ four hundred dollars (\$400)
17 per meeting attended, not to exceed ~~two thousand four hundred~~
18 ~~dollars (\$2,400)~~ four thousand eight hundred dollars (\$4,800)
19 per year. In all cities having populations of not less than
20 12,500 nor more than 13,500 according to the most recent
21 federal decennial census, the chair of the board of directors,
22 at the discretion of the board, may be paid a director's fee
23 in an amount not exceeding ~~three hundred dollars (\$300)~~ six
24 hundred dollars (\$600) per meeting attended, not to exceed
25 ~~three thousand six hundred dollars (\$3,600)~~ seven thousand two

1 hundred dollars (\$7,200) per year, and each member of the
2 board other than the chair may be paid a director's fee in an
3 amount not exceeding ~~two hundred dollars (\$200)~~ four hundred
4 dollars (\$400) per meeting attended, not to exceed ~~two~~
5 ~~thousand four hundred dollars (\$2,400)~~ four thousand eight
6 hundred dollars (\$4,800) per year. In all cities having
7 populations of not less than 23,000 nor more than 27,000
8 according to the most recent federal decennial census, the
9 chair of the board of directors, at the discretion of the
10 board, may be paid a director's fee in an amount not exceeding
11 ~~three hundred dollars (\$300)~~ six hundred dollars (\$600) per
12 meeting attended, not to exceed ~~three thousand six hundred~~
13 ~~dollars (\$3,600)~~ seven thousand two hundred dollars (\$7,200)
14 per year, and each member of the board other than the chair
15 may be paid a director's fee in an amount not exceeding ~~two~~
16 ~~hundred dollars (\$200)~~ four hundred dollars (\$400) per meeting
17 attended, but not to exceed ~~two thousand four hundred dollars~~
18 ~~(\$2,400)~~ four thousand eight hundred dollars (\$4,800) per
19 year. In all cities located in Jefferson County, Alabama, the
20 chair of the board of directors, at the discretion of the
21 board, may be paid a director's fee in an amount not exceeding
22 four hundred fifty dollars (\$450) each month for one system
23 and fifty dollars (\$50) per month for each additional system;
24 and each member of the board other than the chair may be paid
25 a director's fee in an amount not exceeding four hundred

1 dollars (\$400) each month for one system and forty dollars
2 (\$40) per month for each additional system. In all the cities
3 in Franklin County, including all Franklin County water or
4 sewer board or utility system or boards, or both, located
5 therein, the director's fee shall not exceed six hundred
6 dollars (\$600) each month for each system. The board in the
7 cities of Franklin County may also establish a chair's fee in
8 a higher amount by a vote of such body not to exceed seven
9 hundred fifty dollars (\$750) per meeting. All members of the
10 board of directors of any corporation organized pursuant to
11 this article shall be reimbursed for actual expenses incurred
12 in and about the performance of their duties pursuant to this
13 article.

14 "Except as provided herein, any officer of the
15 municipality shall be eligible for appointment and may serve
16 as a member of the board of directors for the term for which
17 he or she is appointed or during his or her tenure as a
18 municipal officer, whichever expires first, and may receive a
19 fee for his or her services, provided it is first approved by
20 the board of directors. At no time shall the board consist of
21 more than two officers of the municipality. The directors of
22 the corporation shall be elected by the governing body of the
23 municipality, and they shall be elected to hold office for
24 staggered terms. The first term of office of one director
25 shall be two years, of another director shall be four years,

1 and of a third director shall be six years, as shall be
2 designated at the time of their election, and thereafter the
3 term of office of each director shall be six years. The
4 governing body of any municipality which has heretofore or
5 hereafter authorized the creation of a corporation as provided
6 in this article may increase the board of directors from three
7 to five members to serve according to all the conditions and
8 terms set forth in this article. In the event the governing
9 body elects to increase the board of directors from three to
10 five members, one member added to the board shall be appointed
11 for a term of four years and the remaining member for a term
12 of six years, and thereafter the term of each director shall
13 be six years. At no time shall the board consist of more than
14 three officers of the municipality. Any officer of the
15 municipality appointed to serve as a member of the board of
16 directors shall serve for the term for which he or she is
17 appointed or during his or her tenure as a municipal officer,
18 whichever expires first. Notwithstanding the foregoing, the
19 certificate of incorporation or an amendment to the
20 certificate heretofore or hereafter adopted may restrict or
21 prohibit service on the board of directors by officers of the
22 municipality.

23 "Nothing in Act 2007-458 and nothing in this
24 subsection (b) of this section as amended by this act shall

1 apply to the City of Montgomery, or the City of Prichard Water
 2 and Sewer Board.

3 "The amendatory provisions of subsection (a) of this
 4 section as provided in this act and the provisions of Act
 5 2007-458 shall not affect the current board director and
 6 member fees in the City of Birmingham.

7 "(b) The governing body of any municipality which
 8 has a population of less than 5,000 according to the most
 9 recent federal census and which has heretofore or hereafter
 10 authorized the creation of a corporation as provided in this
 11 division may increase the board of directors from five to
 12 seven members to serve according to all the conditions and
 13 terms set forth in this division. In the event the governing
 14 body elects to increase the board of directors from five to
 15 seven members, one member added to the board shall be
 16 appointed for a term of four years and the remaining member
 17 for a term of six years, and thereafter the term of each
 18 director shall be six years. At no time shall the board
 19 consist of more than three officers of the municipality. Any
 20 officer of the municipality appointed to serve as a member of
 21 the board of directors shall serve for the term for which he
 22 or she is appointed or during his or her tenure as a municipal
 23 officer, whichever expires first.

24 "§11-88-6.

1 "(a) Each authority shall be governed by a board of
2 directors. All powers of the authority shall be exercised by
3 the board or pursuant to its authorization.

4 "(b) The board shall consist initially of three
5 directors, elected, as soon as may be practicable after the
6 organization of the authority, by the governing body of the
7 determining county for staggered terms as follows: The first
8 term of one director shall begin immediately upon his election
9 and shall end at noon on March 1 of the next succeeding
10 odd-numbered calendar year following his election; the first
11 term of another director shall begin immediately upon his
12 election and shall end at noon on March 1 of the second
13 succeeding odd-numbered calendar year following his election;
14 and the first term of the remaining director shall begin
15 immediately upon his election and shall end at noon on March 1
16 of the third succeeding odd-numbered calendar year following
17 his election. Thereafter, the term of office of each director
18 shall be six years.

19 "(c) If any amendment to the certificate of
20 incorporation of the authority, effected pursuant to the
21 provisions of Section 11-88-5, shall increase the membership
22 of the board, the board shall thereafter consist of such
23 number of directors, elected by such governing bodies, as may
24 be specified in the said amendment. The terms of office of any
25 new directors added by any such amendment shall be so arranged

1 that, taking into consideration the terms of office of the
2 original three directors, the terms of office of approximately
3 one-third of all directors (or as nearly one-third thereof as
4 may be practicable) will end at noon on March 1 in each
5 odd-numbered year following the effective date of the said
6 amendment. The term of office of each new director, added by
7 amendment as aforesaid, shall following the initial term of
8 such new director be for a period of six years. If at any time
9 there should be a vacancy on the board, a successor director
10 to serve for the unexpired term applicable to such vacancy
11 shall be elected by that governing body which elected the
12 director whose unexpired term he is to fill. Each election of
13 a director, whether for a full six-year term or to complete an
14 unexpired term, shall be made not earlier than 30 days prior
15 to the date on which such director is to take office as such.
16 No officer of the state or of any county or municipality
17 shall, during his tenure as such officer, be eligible to serve
18 as a director.

19 "(d) Each director elected by a county governing
20 body shall be a duly qualified elector of that county and
21 shall be a resident of and the owner of real property in that
22 part of the service area of the authority which lies within
23 that county. Directors shall be eligible for reelection. Each
24 director shall be reimbursed for expenses actually incurred by
25 him in and about the performance of his duties. If the

1 certificate of incorporation so provides, each director except
2 the chairman of the board shall be compensated in an
3 additional amount not to exceed ~~two hundred dollars (\$200)~~
4 four hundred dollars (\$400) per meeting attended but not to
5 exceed ~~two thousand four hundred dollars (\$2,400)~~ four
6 thousand eight hundred dollars (\$4,800) per year. The chairman
7 shall, if the certificate so provides, be compensated in an
8 additional amount not to exceed ~~three hundred dollars (\$300)~~
9 six hundred dollars (\$600) per meeting attended but not to
10 exceed ~~three thousand six hundred dollars (\$3,600)~~ seven
11 thousand two hundred dollars (\$7,200) per year.

12 "(e) Any director of the authority may be impeached
13 and removed from office in the same manner and on the same
14 grounds provided by Section 175 of the Constitution of Alabama
15 and the general laws of the state for impeachment and removal
16 of the officers mentioned in said Section 175.

17 "(f) If the service area, or the greater part
18 thereof, in which an authority is authorized by its
19 certificate of incorporation or any amendment thereto to
20 render water service, fire protection service, sewer service,
21 or any one or more thereof, includes a resort area pursuant to
22 Article 2 of this chapter and the service area is incorporated
23 or annexed into a municipality subsequent to the creation of
24 an authority, and if the municipality has assumed and taken
25 over the fire protection responsibility and the sewer service

1 originally placed upon the authority, the board of directors
2 of the authority shall be increased in membership by a
3 sufficient number of new members to increase membership on the
4 board of directors to a maximum of seven members. Each of the
5 new members to the board of directors shall be appointed by
6 the governing body of the municipality by ordinance duly
7 adopted. The first term of each new member so appointed shall
8 be staggered for terms of one, two, three, and four years, as
9 needed. Thereafter, the term of the new members added pursuant
10 to this subsection shall be six years. The governing body of
11 the determining county shall continue to make appointments and
12 fill vacancies as heretofore authorized. After May 18, 1993,
13 the governing body of the municipality shall make appointments
14 and fill vacancies as provided in this subsection. All members
15 of the board of directors of the authority shall have all the
16 authority, privileges, immunities, and qualifications as
17 provided in this article."

18 "g. Nothing in this section as amended by this act
19 shall apply to the City of Prichard Water and Sewer Board.

20 Section 2. This act shall become effective
21 immediately following its passage and approval by the
22 Governor, or its otherwise becoming law.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17

Speaker of the House of Representatives

President and Presiding Officer of the Senate

House of Representatives

I hereby certify that the within Act originated in
and was passed by the House 09-FEB-10.

Greg Pappas
Clerk

Senate	08-APR-10	Amended and Passed
House	08-APR-10	Concurred in Senate Amendment