

1 HB806
2 121203-1
3 By Representative McClendon
4 RFD: Boards and Commissions
5 First Read: 01-APR-10

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8 SYNOPSIS: Under existing law, termination dates are
9 established for enumerated state agencies. The
10 agencies are periodically reviewed by the Alabama
11 Sunset Committee. After the review process is
12 completed, the committee prepares its
13 recommendations for the agencies to the Legislature
14 in the form of sunset bills which either continue,
15 terminate, or continue with modification each
16 agency reviewed.

17 This bill would provide for the continuance
18 of the Alabama Board of Court Reporting until
19 October 1, 2012, with the following changes: To
20 delete reference to the Alabama Judicial
21 Conference, to provide for the appointment of a
22 board member by the Chief Justice from a list of
23 nominees provided by the Administrative Office of
24 Courts, to allow court reporters to use approved
25 continuing legal education courses for continuing
26 education, to limit the admissibility of
27 depositions, to limit the liability of the board,

1 and to provide for a temporary graduate license for
2 graduates of court reporting schools.

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4 A BILL
5 TO BE ENTITLED
6 AN ACT
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8 Relating to the Alabama Sunset Law; to continue the
9 existence and functioning of the Alabama Board of Court
10 Reporting until October 1, 2012, with certain modifications;
11 to amend Sections 34-8B-4, 34-8B-5, 34-8B-8, 34-8B-9, and
12 34-8B-15, Code of Alabama 1975, so as to delete reference to
13 the Alabama Judicial Conference; to provide for the
14 appointment of a board member by the Chief Justice from a list
15 of nominees provided by the Administrative Office of Courts;
16 to allow court reporters to use approved continuing legal
17 education courses for continuing education; to limit the
18 admissibility of depositions; to limit the liability of the
19 board; and to provide for a temporary graduate license for
20 graduates of court reporting schools.

21 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

22 Section 1. Pursuant to the Alabama Sunset Law, the
23 Sunset Committee recommends the continuance of the Alabama
24 Board of Court Reporting until October 1, 2012, with the
25 additional recommendations for statutory change as set out in
26 Section 3.

1 Section 2. The existence and functioning of the
2 Alabama Board of Court Reporting, created and functioning
3 pursuant to Sections 34-8B-1 to 34-8B-18, inclusive, Code of
4 Alabama 1975, is continued until October 1, 2012, is
5 continued, and those code sections are expressly preserved.

6 Section 3. Sections 34-8B-4, 34-8B-5, 34-8B-8,
7 34-8B-9, and 34-8B-15 of the Code of Alabama 1975, are amended
8 to read as follows:

9 "§34-8B-4.

10 "(a) There is created the Alabama Board of Court
11 Reporting. The board shall be operative within 60 days of June
12 1, 2006. ACRA shall provide administrative support to the
13 board until such time as the board employs sufficient
14 employees to implement and administer this chapter.

15 "(b) The board shall consist of seven members as
16 follows:

17 "(1) Four court reporters certified ~~at a~~
18 ~~professional level~~ by ABCR, NCRA, or NVRA, or by the board, two
19 of whom shall be employed in official capacities and two of
20 whom shall be employed in a freelance setting.

21 "(2) Two members in good standing with the Alabama
22 State Bar Association.

23 "(3) One additional member ~~in good standing with the~~
24 ~~Alabama Judicial Conference~~.

25 "(c) Appointments to the board shall be made as
26 follows:

1 "(1) The Governor shall appoint one official court
2 reporter, one freelance court reporter, and one member of the
3 Alabama State Bar Association. ACRA, NCRA, NVRA, and the
4 Alabama State Bar Association shall respectively submit a list
5 of three names for each appointment to the Governor for
6 consideration.

7 "(2) The Lieutenant Governor shall appoint one
8 member of the Alabama State Bar Association from a list of
9 three names submitted by the Alabama State Bar Association.

10 "(3) The President Pro Tempore of the Senate shall
11 appoint one member who is an official court reporter from a
12 list of three names submitted by ACRA.

13 "(4) The Speaker of the House of Representatives
14 shall appoint one member who is a freelance court reporter
15 from a list of three names submitted by ACRA.

16 "(5) The Chief Justice of the Alabama Supreme Court
17 shall appoint one member ~~who is a member of the Alabama~~
18 ~~Judicial Conference~~ from a list of three names submitted by
19 the ~~Alabama Judicial Conference~~ Administrative Office of
20 Courts.

21 "(d) All members of the board shall be citizens of
22 the United States and the State of Alabama. The lists of names
23 shall be submitted by the designated organizations on or
24 before June 1, 2006. The initial terms shall begin January 1,
25 2007, and all appointments shall be made prior to January 1 of
26 every year.

1 "(e) The initial members shall serve the following
2 terms as designated by the Governor:

3 "(1) Three members shall serve for two years.

4 "(2) Two members shall serve for three years.

5 "(3) Two members shall serve for four years.

6 "(f) Subsequent terms of office shall be for four
7 years. No member shall serve more than two consecutive terms.
8 In the event of a vacancy, the appointing authority for the
9 position shall fill the vacancy. Each member shall serve until
10 his or her successor is duly appointed and qualified.

11 "(g) The membership of the board shall be inclusive
12 and reflect the racial, gender, geographic, urban/rural, and
13 economic diversity of the state. The board shall annually
14 report to the Legislature by the second legislative day of
15 each regular session to what extent the board has complied
16 with the diversity provisions provided for in this subsection.

17 "(h) At its first meeting each calendar year, the
18 board shall elect a chair, vice chair, and secretary from its
19 membership. No member shall be elected to serve more than two
20 consecutive years in the same office.

21 "(i) After the initial appointments have been made,
22 the board shall meet by January 2007, for the purpose of
23 organizing and transacting business. Thereafter, the board
24 shall meet not less than twice annually and as frequently as
25 deemed necessary by the chair or a majority of the members.
26 The board shall meet at such time and place as designated by
27 the board. A quorum shall consist of four members.

1 "(j) Board members shall receive the same travel
2 expenses and per diem as state employees pursuant to Article
3 2, commencing with Section 36-7-20, Chapter 7, Title 36. The
4 compensation and expenses shall be paid out of the funds of
5 the board. Reimbursement shall not be made if funds are
6 insufficient.

7 "§34-8B-5.

8 "The board shall have all of the following duties
9 and responsibilities:

10 "(1) Act on matters concerning competency licensure
11 only and the process of granting, suspending, reinstating, and
12 revoking a license.

13 "(2) Establish a procedure for the investigation of
14 complaints against licensed court reporters and for the
15 conduct of hearings in which complaints are heard.

16 "(3) Set a fee schedule for granting licenses and
17 renewals of licenses subject to the Alabama Administrative
18 Procedure Act.

19 "(4) Maintain a current register of licensed court
20 reporters and a current register of temporarily licensed court
21 reporters. Registers shall be matters of public record.

22 "(5) Maintain a complete record of all proceedings
23 of the board.

24 "(6) Submit an annual report detailing the
25 proceedings of the board to the Governor for the previous
26 fiscal year and file a copy of the report with the Secretary
27 of State.

1 "(7) Adopt continuing education requirements no
2 later than October 1, 2007. Requirements shall be implemented
3 no later than January 1, 2008, and shall include all courses
4 approved by the Alabama State Bar for continuing legal
5 education.

6 "(8) Determine the content of and administer
7 examinations to be given to applicants for licensure as
8 certified court reporters and issue numbered licenses to
9 applicants found qualified.

10 "(9) Maintain records of its proceedings and a
11 register of all persons licensed by the board which shall be a
12 public record and open to inspection.

13 "§34-8B-8.

14 "(a) After January 1, 2007, any person who
15 undertakes or attempts to undertake the practice of court
16 reporting for remuneration without first having procured a
17 license, or who knowingly presents or files false information
18 with the board for the purpose of obtaining a license or who
19 violates this chapter shall be guilty of a Class C
20 misdemeanor. A person who is not licensed may not bring or
21 maintain an action to recover fees for court reporting
22 services that he or she performed in violation of this
23 chapter. Whenever it appears to the board that any court
24 reporter has violated this chapter, the board may, in its own
25 name, petition the circuit court of the county in which the
26 violation occurred to enjoin the violation.

1 "(b) No deposition taken by a court reporter who is
2 a financially interested party or taken under a preferred
3 vendor arrangement with a court reporting entity, unless
4 prepared by or for a governmental agency, may be admitted in
5 an Alabama court, except that the deposition may be admitted
6 by the party not having the financial interest or preferred
7 vendor arrangement with the court reporter if otherwise
8 admissible under the rules of evidence.

9 "§34-8B-9.

10 "(a) The board may sue and be sued in its own name
11 to recover actual or compensatory damages, including interest
12 and court costs, sustained as the result of ~~the conduct of~~
13 disciplinary action taken against any licensee or any other
14 person who violates this chapter or rules promulgated
15 hereunder.

16 "(b) All members of the board shall be immune from
17 civil liability while acting within the scope of their duties
18 as board members.

19 "§34-8B-15.

20 "(a) Any person who has engaged in the practice of
21 court reporting in the State of Alabama for less than one year
22 on June 1, 2006, and who provides to the board satisfactory
23 proof of graduation from an accredited high school or its
24 equivalent and the affidavits of three licensed attorneys,
25 unrelated to the person by blood or marriage, who have
26 utilized his or her services, and who attest to the person's
27 proficiency in court reporting, shall, upon application to the

1 board on forms approved by the board and payment of a fee in
2 an amount determined by the board, be issued a temporary
3 license to practice as a court reporter. This temporary
4 license shall expire on the 60th day following the date upon
5 which the next board-approved examination for licensure is
6 given. No more than two additional temporary licenses shall be
7 issued to any applicant who fails to pass the scheduled
8 examination for licensure.

9 "(b) Commencing on the effective date of the act
10 adding this subsection, any person who is a graduate of a
11 school of court reporting may receive a temporary license to
12 practice as a court reporter from the board. Application for
13 the temporary graduate license shall be made to the board, on
14 forms approved by the board, and the payment of a fee in an
15 amount determined by the board. The license shall be valid on
16 the date of graduation and shall expire 18 months after
17 issuance.

18 "(c) In the event that a temporary license expires
19 without the temporary licensee having passed the examination
20 for full licensure, court reporting services by the temporary
21 licensee shall cease and desist immediately upon the
22 expiration of the temporary license, and the board may not be
23 held liable for lost income to the temporary licensee or to
24 the court reporting firm."

25 Section 4. The Legislature concurs in the
26 recommendations of the Sunset Committee as provided in
27 Sections 1, 2, and 3.

1 Section 5. This act shall become effective
2 immediately upon its passage and approval by the Governor, or
3 its otherwise becoming law.