

# HB177 INTRODUCED



1 WV31EE-1  
2 By Representatives Carns, Faulkner  
3 RFD: Commerce and Small Business  
4 First Read: 21-Mar-23  
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SYNOPSIS:

Existing law specifies the composition, manner of appointment, and length of terms of members of municipal water works boards that, on January 1, 2015, or thereafter serves customers or has assets in four or more counties other than the county where the authorizing municipality is located.

This bill would further provide for the composition, manner of appointment, and length of terms of the members of these municipal water works boards.

This bill would provide certain qualifications for board members as well as place limits on the employment of a director by the board after his or her term.

This bill would provide for the conversion of these municipal water works boards into regional boards.

Existing law also provides a procedure for and circumstances under which these water works boards may amend their articles of incorporation.

This bill would further provide for the amending of these boards' articles of incorporation.

This bill would place these boards under the ethics laws of Alabama and provide for yearly training on the subject.



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29                   This bill also would require these boards to  
30                   prepare certain financial records to be made available  
31                   to the public.

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A BILL

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TO BE ENTITLED

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AN ACT

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39                   Relating to municipal water works boards; to amend  
40                   Section 11-50-300, Code of Alabama 1975, and to add Sections  
41                   11-50-300.1, 11-50-300.2, 11-50-300.3, 11-50-300.4,  
42                   11-50-300.5, 11-50-300.6, 11-50-300.7, and 11-50-300.8 to the  
43                   Code of Alabama 1975, to further provide for the composition,  
44                   manner of appointment, and length of terms of members of  
45                   certain municipal water works boards; to provide  
46                   qualifications for and place limits on the employment of  
47                   directors; to provide for conversion of these boards to  
48                   regional boards; to further provide for these boards to amend  
49                   their articles of incorporation; to subject these boards to  
50                   the ethics laws of Alabama and require training on the matter;  
51                   to require these boards to produce certain financial records;  
52                   and to repeal Sections 11-50-301, 11-50-302, 11-50-303, and  
53                   11-50-304, Code of Alabama 1975, relating to certain municipal  
54                   water works boards.

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BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

56                   Section 1. Section 11-50-300, Code of Alabama 1975, is



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57 amended to read as follows:

58 "§11-50-300

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

69 (b) The powers or rights provided in this division for  
70 a regional board are cumulative and independent of any powers  
71 or rights provided in any other provisions of the enabling  
72 statute. Except as expressly set forth herein, neither this  
73 division nor anything contained in this division shall be  
74 construed as a restriction or limitation upon any power,  
75 right, or remedy which any board may have pursuant to the  
76 enabling statute.

77 (c) To the extent this division conflicts with any  
78 other provision in the enabling statute this division shall  
79 control.

80 (d) This division does not apply to a municipal  
81 utilities board which operates a water works system and an  
82 electric distribution system nor to an entity which serves  
83 only wholesale water customers."



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84 Section 2. Sections 11-50-300.1, 11-50-300.2,  
85 11-50-300.3, 11-50-300.4, 11-50-300.5, 11-50-300.6,  
86 11-50-300.7, and 11-50-300.8 are added to the Code of Alabama  
87 1975 to read as follows:

88 §11-50-300.1

89 For the purposes of this division, the following terms  
90 have the following meanings:

91 (1) AUTHORIZING MUNICIPALITY. A municipality that  
92 authorized the organization of a board that is converted to a  
93 regional board pursuant to this division.

94 (2) BOARD. A board organized pursuant to the enabling  
95 statute.

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

98 (4) ENABLING STATUTE. Divisions 1 through 3 of Article  
99 8 of Chapter 50 of Title 11 of the Code of Alabama 1975.

100 (5) ENGINEERING BACKGROUND. Capability as evidenced by  
101 a degree from an accredited school of engineering or  
102 experience in an engineering discipline.

103 (6) ETHICS ACT. Chapter 25 of Title 36 of the Code of  
104 Alabama 1975.

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

109 (8) REGIONAL BOARD. A board that meets the requirements  
110 of Section 11-50-300(a).

111 (9) SPONSORING MAYOR. The mayor of the authorizing



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112 municipality of a board that has been converted to a regional  
113 board pursuant to this division.

114 §11-50-300.2

115 (a) On the effective date of the act adding this  
116 section, a board that meets the requirements of Section  
117 11-50-300(a) as of the date of filing the bill adding this  
118 section shall be converted to a regional board.

119 (b) A board that meets the requirements of Section  
120 11-50-300(a) after the effective date of the act adding this  
121 section shall be converted to a regional board 30 days after  
122 the board meets the requirements.

123 (c) If the certificate of incorporation or bylaws of a  
124 regional board conflicts with this division, this division  
125 shall control.

126 §11-50-300.3

127 (a) The term of the existing directors of the board  
128 shall terminate on the conversion date, notwithstanding the  
129 term or terms for which the existing directors of the board  
130 were appointed or elected. The term of office for directors  
131 appointed by the Governor or the sponsoring mayor shall begin  
132 on the conversion date, or if any such appointment is made  
133 after the conversion date, on the date specified in the  
134 appointment.

135 (b) Appointment of a director by the Governor or the  
136 sponsoring mayor shall be evidenced by an order acknowledged  
137 before an officer authorized by the laws of this state to take  
138 acknowledgment of deeds and shall be filed in the office of  
139 the judge of probate where the board's original certificate of



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140 incorporation was filed.

141 (c) The board of directors of a regional board shall be  
142 reorganized and comprised as follows:

143 (1) The board of directors shall consist of seven  
144 members. Four of the members shall be appointed by the  
145 sponsoring mayor and three of the members shall be appointed  
146 by the Governor.

147 (2) All members of the board of directors shall be  
148 residents of a county in which the regional board serves  
149 customers.

150 (3) All members of the board of directors must be well  
151 experienced in business affairs of the complexity of the  
152 operation of a water or sewer system.

153 (4) Elected public officials may be appointed as  
154 directors.

155 (5) A person who has had a business relationship with  
156 the regional board in the two-year period prior to  
157 appointment, or who was employed by a firm that has had a  
158 business relationship with the regional board in the two-year  
159 period prior to appointment, shall not be appointed as a  
160 director.

161 (6) One member appointed by the sponsoring mayor must  
162 have an engineering background and one member appointed by the  
163 sponsoring mayor must have a financial background. One member  
164 appointed by the Governor must have an engineering background  
165 and one member appointed by the Governor must have a financial  
166 background.

167 (d) The Governor or sponsoring mayor may exercise his



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168 or her discretion in determining whether a person appointed as  
169 a director meets the qualifications provided in this section.  
170 Any person appointed as a director shall be presumed qualified  
171 unless and until a court of competent jurisdiction makes a  
172 final determination, from which no further appeal is  
173 available, that such person is not qualified as a director.  
174 The official acts of any person appointed as a director shall  
175 be valid and binding as official acts of a director for all  
176 purposes, whether or not that person is subsequently  
177 determined by a court of competent jurisdiction to be  
178 qualified or not.

179 (e) Members of the board of directors shall serve for a  
180 term of five years. A person appointed to fill a vacancy on  
181 the board shall serve the remainder of the term of the vacant  
182 seat. All board members shall continue to serve until a  
183 successor is appointed and qualified. The members of the board  
184 of directors shall be appointed to hold office for staggered  
185 terms. Of the first four members appointed to the regional  
186 board by the sponsoring mayor, the first term of office of one  
187 member shall be one year, of another two members shall be  
188 three years, and of the fourth member shall be five years, as  
189 shall be designated at the time of their appointment, and  
190 thereafter the term of office of each member shall be five  
191 years. Of the first three members appointed to the regional  
192 board by the Governor, the first term of office of one member  
193 shall be one year, of another member shall be three years, and  
194 of the third member shall be five years, as shall be  
195 designated at the time of their appointment, and thereafter



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196 the term of office of each member shall be five years.

197 (f) Members may not serve for more than two full terms.

198 In addition to the two full terms, members may serve one  
199 additional partial term in the event a member is first  
200 appointed to a term that terminates less than five years after  
201 the date of his or her appointment. Persons who have served  
202 two or more terms on the governing body of a board prior to  
203 its conversion to a regional board may not serve as a member.

204 (g) Any director may be removed for good cause by the  
205 public official who appointed the director if the public  
206 official conducts a hearing that gives the director an  
207 opportunity to address the cause or causes for removal.

208 (h) Each member of the board of directors shall serve  
209 without compensation, but may be reimbursed for necessary  
210 expenses actually incurred by him or her in connection with  
211 the performance of his or her duties.

212 (i) A majority of directors then serving shall  
213 constitute a quorum for the transaction of business of the  
214 board of directors, and any meeting of the board of directors  
215 may be adjourned from time to time by a majority of the  
216 members present. No vacancy in the membership of the board of  
217 directors shall impair the right of a quorum to exercise all  
218 the powers and perform all the duties of the board of  
219 directors.

220 (j) The board of directors shall adopt and maintain  
221 bylaws, not inconsistent with this division, for the  
222 regulation and conduct of its affairs and the operation of the  
223 regional board. The bylaws of the board of directors may



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224 provide for such committees as the board of directors deems  
225 necessary or desirable to make recommendations to the full  
226 board of directors.

227 §11-50-300.4

228 (a) A regional board shall amend its certificate of  
229 incorporation after the conversion date to acknowledge that  
230 the regional board has met the requirements of Section  
231 11-50-300(a), change its name to reflect the regional nature  
232 of such regional board, and make any other amendment that is  
233 not inconsistent with this division or the enabling statute.

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

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

239 (2) Consent of the Governor and the sponsoring mayor  
240 shall be required for amendment of the certificate of  
241 incorporation. Consent of the Governor and the sponsoring  
242 mayor shall be evidenced by an order acknowledged before an  
243 officer authorized by the laws of this state to take  
244 acknowledgment of deeds.

245 (3) The amendment shall recite the adoption of the  
246 resolution by the board of directors and consent by the  
247 Governor and the sponsoring mayor.

248 (4) After the amendment is executed by the chair or  
249 vice-chair of the regional board and acknowledged before an  
250 officer authorized by the laws of this state to take  
251 acknowledgment of deeds, the amendment and the consents



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252 executed by the Governor and sponsoring mayor shall be filed  
253 in the office of the judge of probate where the board's  
254 original certificate of incorporation was filed. The amendment  
255 shall be effective upon filing.

256 §11-50-300.5

257 (a) Directors and employees of a regional board shall  
258 be subject to the provisions of the Ethics Act.

259 (b) Each year members of the board of directors shall  
260 participate in 10 hours of training on the duties and best  
261 practices of directors of organizations engaged in the  
262 operation of water or sewer systems, the obligations of  
263 directors under the Ethics Act, and the reporting requirements  
264 under this division.

265 §11-50-300.6

266 (a) A regional board shall prepare customary and  
267 appropriate financial statements and other reports, including:

268 (1) An annual budget in monthly form.

269 (2) Monthly financial statements with comparison to  
270 budget.

271 (3) Annual financial statements with comparison to  
272 budget.

273 (4) Annual financial statements audited by an  
274 independent auditor.

275 (5) A five-year operating plan with annual revisions  
276 and appropriate comparisons of actual to plan.

277 (6) A 10-year capital plan.

278 (b) All statements shall be accompanied by appropriate  
279 operating statistics, actual and projected, and the five-year



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280 operating plan and 10-year capital plan shall be reviewed and  
281 commented upon by a nationally recognized firm of consulting  
282 engineers with expertise in the design, construction, repair,  
283 and operation of water and sewer systems and with no conflicts  
284 in reviewing the work.

285 (c) The reports required by this section shall be made  
286 available to the public on a website maintained by the  
287 regional board.

288 §11-50-300.7

289 For a period of 24 months after a person ceases to be a  
290 director of a regional board, that person may not be employed  
291 by the regional board or by any firm that performs work for  
292 the regional board.

293 §11-50-300.8

294 A regional board shall employ a chief executive officer  
295 with full authority to manage the operations of the regional  
296 board, subject to policy directives and other governance  
297 decisions adopted by the board of directors. Employees of a  
298 regional board shall report to the chief executive officer and  
299 may not be ordered or directed by members of the board of  
300 directors. Employment contracts, construction contracts,  
301 consulting contracts, engineering contracts, and other  
302 contracts between the regional board and other persons shall  
303 be recommended by the chief executive officer, except for the  
304 employment contract of the chief executive officer, which  
305 shall be recommended by the board of directors.

306 Section 3. Sections 11-50-301, 11-50-302, 11-50-303,  
307 and 11-50-304, Code of Alabama 1975, relating to certain



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308 municipal water works boards, are repealed.

309           Section 4. This act shall become effective immediately  
310 following its passage and approval by the Governor, or its  
311 otherwise becoming law.