

1 HB582
2 212546-2
3 By Representative Rowe
4 RFD: Boards, Agencies and Commissions
5 First Read: 01-APR-21

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ENROLLED, An Act,

Relating to the Alabama Surface Mining Commission;
to amend Section 9-16-73, Code of Alabama 1975; to require the
Alabama Surface Mining Commission to meet once every two
months except in certain circumstances.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Section 9-16-73, Code of Alabama 1975, is
amended to read as follows:

"§9-16-73.

"(a) There is continued as previously established
the Alabama Surface Mining Reclamation Commission under the
name of the Alabama Surface Mining Commission for the purpose
of transition in implementing and enforcing this article and
carrying out the intent and policy stated in Section 9-16-71.
All members of the commission appointed under authority of
Section 9-16-33~~7~~ shall continue their terms as created under
that section until all reappointments and filling of vacancies
have been filled in the manner as provided in this section. At
the expiration of any term, that member shall continue in
office until an appointment occurs as provided in this
section. After February 25, 1994, no member shall serve more
than two full consecutive terms of office.

"(b) The commission shall be composed of seven
members~~7~~ who are fair and reasonable citizens of the state ~~and~~

1 ~~who shall reflect the racial, gender, geographic, urban/rural,~~
2 ~~and economic diversity of the state,~~ appointed by the
3 Governor, with the advice and consent of the Senate.

4 Appointments of members shall be coordinated so that diversity
5 of gender, race, and geographical areas is reflective of the
6 makeup of this state. The Governor shall initially appoint two
7 members of the commission for a term of five years, two
8 members for four years, two members for three years, and one
9 member for two years. All members appointed subsequently shall
10 be appointed for terms of five years.

11 "(1) One commission member shall be appointed from
12 one of the three counties in Alabama which produce the
13 greatest number of tons of surface mined coal, as indicated by
14 the records of the State of Alabama in the complete fiscal
15 year immediately preceding that appointment; and two
16 commission members shall be appointed from any of the
17 coal-producing counties in Alabama, as indicated by the
18 records of the State of Alabama in the complete fiscal year
19 immediately preceding that appointment. One commission member
20 shall be appointed state at large.

21 "(2) One of the appointees to the commission shall
22 be a professional forester duly registered pursuant to the
23 laws of the State of Alabama with not less than 10 years'
24 experience in professional forestry. One of the appointees to
25 the commission shall be a professional civil or mining

1 engineer duly registered pursuant to the laws of the State of
2 Alabama with not less than 10 years' experience in
3 professional engineering in surface mining or technologically
4 related fields. One appointee to the commission shall be an
5 attorney duly licensed to practice law in the State of Alabama
6 having not less than 10 years' experience in the active
7 practice of law, the majority of whose years in practice shall
8 have been in one of the three counties in Alabama which
9 produced the greatest number of tons of surface mined coal as
10 indicated by the records of the State of Alabama in the
11 complete fiscal year immediately preceding that appointment.

12 "(c) Within 10 days of nomination by the Governor,
13 each nominee shall file with the Secretary of the Senate a
14 verified statement setting forth the following information:
15 The names of all coal companies from whom ~~such~~ the nominee has
16 received any income of any sort during the 10 years
17 immediately preceding ~~such~~ the nomination, the name or names
18 of all coal companies in which the nominee is or in the 10
19 years immediately preceding ~~such~~ the nomination has been an
20 officer, director, stockholder, or partner; and all the names
21 of all organizations, clubs, and associations of which the
22 nominee is or in the 10 years immediately preceding ~~such~~ the
23 nomination has been a member. No commission member may have a
24 direct or indirect financial interest in underground or
25 surface coal mining operations, and may not participate in any

1 proceeding conducted pursuant to Section 9-16-79 in which the
2 commission member is an employee, officer, director,
3 shareholder, or partner or where any organization, club, or
4 association of which the commission member is a member,
5 officer, agent, director, or employee instigated the
6 proceeding, is a defendant, or has any other direct interest
7 in the outcome of the proceeding, other than as a member of
8 the commission.

9 "(d) The commission shall annually elect from among
10 its members a chair, a vice chair, and ~~such~~ other officers as
11 necessary to fulfill its duties. In the event of a vacancy
12 among the commissioners, the Governor, within 90 days of being
13 notified of ~~such~~ the vacancy, shall make an appointment to
14 ~~such~~ the vacancy, which appointment shall be subject to the
15 advice and consent of the Senate at the next regular or
16 special session of the Legislature. In the event ~~such~~ the
17 appointee is confirmed, his or her term shall be for the
18 balance of the vacancy so filled.

19 "(e) The commission shall appoint a Director of the
20 Alabama Surface Mining Commission, who must have a working
21 knowledge of the federal and state surface mining statutes,
22 rules, and regulations, and shall fix his or her compensation.
23 The commission may appoint a deputy director as an
24 unclassified position and the compensation of ~~such~~ the deputy
25 director shall be fixed by the commission subject to the state

1 Merit System. The director shall be the chief operating
2 officer of the commission and shall be charged with exercising
3 ~~such~~ the powers, duties, and functions as may be conferred
4 upon him or her by the commission or this article, except the
5 director shall not have the power to ~~promulgate~~ adopt, modify,
6 suspend, or repeal any standards, rules, or regulations
7 provided for or authorized under this article. The director,
8 subject to the approval of the commission, may create ~~such~~
9 divisions of his or her office as may be necessary to carry
10 out its functions and may employ professional, technical,
11 legal, or clerical personnel as may be necessary to carry out
12 the duties and functions of the commission. The director, with
13 the approval of the commission, may also contract with private
14 persons, firms, or corporations to provide professional or
15 technical assistance or consultant services to assist his or
16 her office in carrying out the purposes of this article.

17 "(f) The members of the commission shall receive as
18 compensation seventy-five dollars (\$75) per day for each day
19 of official business as approved and validated by the chair.
20 The chair shall receive one hundred dollars (\$100) per day for
21 each full day he or she is occupied with business of the
22 commission. The chair may approve and certify expenses of
23 every member of the commission for reimbursement pursuant to
24 Article 2, commencing with Section 36-7-20, Chapter 7 of Title
25 36.

1 "(g) Five members of the commission shall constitute
2 a quorum, and recusal of a member shall not affect the quorum.
3 The commission shall keep a complete and accurate record of
4 all its meetings, a copy of which shall be kept on file in the
5 office of the commission and open to public inspection. The
6 commission shall meet at least once every ~~month~~ two months, or
7 at ~~such more frequent~~ other occasions as the Governor, the
8 chair, or director determines is necessary to fulfill its
9 duties and obligations.

10 "(h) The commission shall establish and maintain its
11 principal office in Jasper, Alabama, and establish and
12 maintain ~~such~~ field offices in other coal producing counties
13 as it may consider necessary for the proper discharge of its
14 duties.

15 "(i) Funds which are or may become available from
16 any source, appropriations, or otherwise, to accomplish the
17 purposes of this article shall be disbursed by the commission
18 or by the director in accordance with rules prescribed by the
19 commission.

20 "(j) The Governor may remove any member of the
21 commission from office for neglect of duty, malfeasance, or
22 misfeasance, after unanimous consent and agreement by the
23 Lieutenant Governor, Speaker of the House of Representatives,
24 and Attorney General of Alabama, by delivering to the member
25 the charges against him or her in writing with at least 10

1 days' written notice of the time and place at which the
2 Governor will publicly hear the member, who may appear either
3 in person or by counsel, in defense of the charges against him
4 or her. If the member is removed from office, the Governor
5 shall file with the Secretary of State a complete statement of
6 the charges made against the member and a complete report of
7 the proceedings. The action of the Governor removing a member
8 from office is final."

9 Section 2. This act shall become effective on the
10 first day of the third month following its passage and
11 approval by the Governor, or its otherwise becoming law.

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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 27-APR-21.

Jeff Woodard
Clerk

Senate

17-MAY-21

Passed