

1                   HB394  
2                   127775-1  
3                   By Representative Hubbard (J)  
4                   RFD: Commerce and Small Business  
5                   First Read: 31-MAR-11

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8 SYNOPSIS: Under existing law, there is a seven-member  
9 Environmental Management Commission which  
10 establishes an environmental management policy for  
11 the state. One member who has been certified by the  
12 National Water Well Association Certification  
13 Program.

14 This bill would provide that the member has  
15 been certified by the National Water Well  
16 Association Certification Program, or its  
17 successor, the National Ground Water Association,  
18 or may be a hydrogeologist or geologist licensed to  
19 practice geology in the State of Alabama.

20 Existing law provides that no member may  
21 serve no more than a total of 18 years.

22 This bill would limit commission members  
23 appointed on or after July 1, 2011, to two terms  
24 and would provide exceptions.

25  
26 A BILL  
27 TO BE ENTITLED

## AN ACT

Relating to the Alabama Environmental Management Commission; to amend Section 22-22A-6 of the Code of Alabama 1975, relating to the membership of the commission, to provide that the member previously required to have been certified by the National Water Well Association Certification Program must be certified at anytime by the National Ground Water Association Certification Program, or may be a hydrogeologist or geologist licensed to practice geology in the State of Alabama; and to further provide for the term of office and to provide exceptions.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Section 22-22A-6 of the Code of Alabama 1975, is amended to read as follows:

"§22-22A-6.

"(a) There is hereby created a seven member Environmental Management Commission of the Alabama Department of Environmental Management which shall have the following duties:

"(1) To select a director for the Department of Environmental Management and to advise the director on environmental matters which are within the department's scope of authority;

"(2) To establish, adopt, promulgate, modify, repeal and suspend any rules, regulations or environmental standards

1 for the department which may be applicable to the state as a  
2 whole or any of its geographical parts;

3                         "(3) To develop environmental policy for the state;  
4 and

5                         "(4) To hear and determine appeals of administrative  
6 actions.

7                         "(b) The Environmental Management Commission shall  
8 be composed of seven members who are citizens of the State of  
9 Alabama. Initial members of the commission shall be appointed  
10 to places on the Environmental Management Commission by the  
11 Governor, Lieutenant Governor, and Speaker of the House of  
12 Representatives pursuant to the procedure set out in  
13 subsection ~~(d)~~ (e) of this section with the advice and consent  
14 of the Senate. Initial appointments shall be made on or before  
15 October 1, 1982. All subsequent appointments to places on the  
16 Environmental Management Commission after the initial  
17 appointments shall be made by the Governor with the advice and  
18 consent of the Senate. No member of the Environmental  
19 Management Commission appointed before July 1, 2011, may serve  
20 more than a total of 18 years. Any member of the commission  
21 appointed on or after July 1, 2011, shall serve no more than  
22 two terms. The two term limitation shall not apply to a member  
23 who serves during the unexpired term of his or her predecessor  
24 or who serves until his or her successor is appointed with the  
25 advice and consent of the Senate. When a vacancy occurs during  
26 a period when the Legislature is not in session to advise and  
27 consent, such appointee shall have the full power of the

1 office until and unless the Senate, upon the reconvening of  
2 the Legislature, shall by affirmative vote refuse to consent  
3 in such appointment. Qualifications of the seven members shall  
4 be as follows:

5 "(1) One member shall be a physician licensed to  
6 practice medicine in the State of Alabama and shall be  
7 familiar with environmental matters;

8 "(2) One member shall be a professional engineer  
9 registered in the State of Alabama and shall be familiar with  
10 environmental matters;

11 "(3) One member shall be an attorney licensed to  
12 practice law in the State of Alabama and shall be familiar  
13 with environmental matters;

14 "(4) One member shall be a chemist possessing as a  
15 minimum a bachelor's degree from an accredited university or a  
16 veterinarian licensed to practice veterinary medicine in the  
17 State of Alabama and shall be familiar with environmental  
18 matters;

19 "(5) One member that who has been certified at any  
20 time by the National Water Well Association Certification  
21 Program, or its successor, the National Ground Water  
22 Association, or who is a hydrogeologist or geologist, as that  
23 term is defined in subdivision (2) of Section 34-41-3,  
24 licensed to practice geology in the State of Alabama or  
25 specifically exempted from licensing under subdivision (1) of  
26 subsection (b) of Section 34-41-7 and who shall be familiar  
27 with environmental matters;

1                         "(6) One member shall be a biologist or an ecologist  
2 possessing as a minimum a bachelor's degree in biology or  
3 ecology from an accredited university and shall ~~have training~~  
4 ~~in be familiar with~~ environmental matters; and

5                         "(7) One member shall be a resident of the state for  
6 at least two years but shall not be required to have any  
7 specialized experience.

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

15                         "~~(c)~~ (d) At the expiration of the terms of all  
16 members initially appointed, their successors shall be  
17 promptly appointed by the Governor for terms of six years. At  
18 the expiration of a term of office or in the event of a  
19 vacancy on the Environmental Management Commission, the  
20 Governor shall promptly make an appointment to fill the  
21 vacancy. The expiring term of an incumbent member shall be  
22 continued until an appointment is made.

23                         "~~(d)~~ (e) ~~Provided however that the~~ The initial  
24 appointments to the Environmental Management Commission shall  
25 be made as follows notwithstanding the other provisions of  
26 this chapter:

1                                 "(1) The Governor shall appoint three members of the  
2 Environmental Management Commission, two of whom shall come  
3 from the voting members of the boards or commissions abolished  
4 by this chapter. The Governor's three initial appointments  
5 shall fill the positions described in subdivisions (4), (6)  
6 and (7) of subsection (b) of this section. The terms of these  
7 initial position appointments shall be for six years.

8                                 "(2) The Lieutenant Governor shall appoint two  
9 members of the Environmental Management Commission, one who  
10 shall come from the voting members of the boards or  
11 commissions abolished by this chapter. The Lieutenant  
12 Governor's appointments pursuant to this subsection shall fill  
13 the positions described in subdivisions (1) and (5) of  
14 subsection (b) of this section. The term of the initial  
15 position described in subdivision (1) of subsection (b) of  
16 this section shall be for four years. The term of the initial  
17 position described in subdivision (5) of subsection (b) of  
18 this section shall be for two years.

19                                 "(3) The Speaker of the House of Representatives  
20 shall appoint two members of the Environmental Management  
21 Commission, one who shall come from the voting members of the  
22 boards or commissions abolished by this chapter. The Speaker  
23 of the House of Representatives' appointments pursuant to this  
24 subsection shall fill the positions described in subdivisions  
25 (2) and (3) of subsection (b) of this section. The term of the  
26 initial position described in subdivision (2) of subsection  
27 (b) of this section shall be for four years. The term of the

1 initial position described in subdivision (3) of subsection  
2 (b) of this section shall be for two years.

3                   "(e) (f) The Environmental Management Commission  
4 shall select a chairman from among its members, and the  
5 chairman's term of office shall be determined by the  
6 Environmental Management Commission, but shall not exceed  
7 three consecutive years. The Environmental Management  
8 Commission shall not take official action unless a quorum is  
9 present. A quorum shall be any four of the seven members.  
10 Recusal of a member shall not affect the quorum.

11                   "(f) (g) The Environmental Management Commission  
12 shall meet regularly, at least once every two months at times  
13 and places to be fixed by the Environmental Management  
14 Commission. Special meetings may be called at the discretion  
15 of the chairman of the Environmental Management Commission and  
16 special meetings shall be called by him on written request of  
17 any four members to take up any matters within the  
18 jurisdiction of the Environmental Management Commission. All  
19 members shall be notified of the time and place of any regular  
20 or special meeting in any one of the following ways: in  
21 writing or by telegram to a member's last known address as  
22 provided to the department or by telephone.

23                   "(g) (h) Any member of the Environmental Management  
24 Commission who misses three consecutive regularly scheduled  
25 meetings, shall immediately cease to be a member of the  
26 commission and the Governor shall promptly appoint a new

1 member with appropriate qualifications to fill the remainder  
2 of the term.

3                   "(h) (i) The Environmental Management Commission  
4 shall keep a complete and accurate record of the proceedings  
5 of all its meetings, a copy of which shall be kept on file in  
6 the office of the director and open to public inspection.

7                   "(i) (j)(1) Each member shall receive \$100.00 per  
8 day for each day of attendance at an official meeting. Members  
9 of the Environmental Management Commission shall be reimbursed  
10 for expenses when attending meetings which are approved and  
11 certified by the director. Reimbursement shall be in  
12 accordance with Sections 36-7-1 through 36-7-42;

13                   "(2) All proper expenses of the Environmental  
14 Management Commission shall be paid from the appropriations to  
15 or funds of the department in the same manner as expenses of  
16 the department are paid.

17                   "(j) (k) Members of the Environmental Management  
18 Commission shall meet all requirements of the state ethics law  
19 and the conflict of interest provisions of applicable federal  
20 laws and regulations."

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