

SB330 INTRODUCED



1 SB330
2 JPTZ7FY-1
3 By Senators Roberts, Waggoner, Shelnutt
4 RFD: County and Municipal Government
5 First Read: 17-Apr-25



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4 SYNOPSIS:

5 Existing law specifies the composition, manner
6 of appointment, and length of terms of members of
7 municipal water works boards that, on January 1, 2015,
8 or thereafter serve customers or have assets in four or
9 more counties other than the county where the
10 authorizing municipality is located.

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

14 This bill would provide certain qualifications
15 for board members as well as place limits on the
16 employment of a former board member by the board.

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

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

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

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

28 This bill would provide duties and unlawful

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29 actions of the board and for the enforcement of
30 violations thereof.

31 This bill would require these boards to retain a
32 consulting engineer to advise the board.

33 This bill would require these boards to prepare
34 certain financial and statistical records to be made
35 available to the public.

36 This bill would also repeal certain sections of
37 the Code of Alabama 1975, relating to these municipal
38 water works boards.

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41 A BILL

42 TO BE ENTITLED

43 AN ACT

44

45 Relating to municipal water works boards; to amend
46 Section 11-50-300, Code of Alabama 1975; to add Sections
47 11-50-300.01, 11-50-300.02, 11-50-300.03, 11-50-300.04,
48 11-50-300.05, 11-50-300.06, 11-50-300.07, 11-50-300.08,
49 11-50-300.09, and 11-50-300.10 to the Code of Alabama 1975; to
50 further provide for the composition, manner of appointment,
51 and length of terms of members of certain municipal water
52 works boards; to provide qualifications for and place limits
53 on the employment of board members; to provide for conversion
54 of these boards to regional boards; to further provide for
55 these boards to amend their articles of incorporation; to
56 subject these boards to the ethics laws of Alabama and require

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57 training on the subject; to provide duties and unlawful
58 actions of these boards; to require a consulting engineer be
59 retained by a board; to require these boards to produce
60 certain financial and statistical records; and to repeal
61 Sections 11-50-301, 11-50-302, 11-50-303, and 11-50-304, Code
62 of Alabama 1975, relating to certain municipal water works
63 boards.

64 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

65 Section 1. (a) The Legislature finds and declares, as
66 the basis of this act, all of the following:

67 (1) Competent and efficient management of municipal
68 water works boards' potable and raw water systems is
69 strategically important to the health, safety, and economic
70 viability of this state and local governments and the
71 well-being of residents thereof.

72 (2) Failures in the management of water systems lead to
73 unreasonably high rates that oppress residents and are a
74 barrier to economic development that is vital to improving job
75 opportunities.

76 (3) Failures in the management of water systems may
77 lead to catastrophic events such as those that have occurred
78 in California; Jackson, Mississippi; Richmond, Virginia; and
79 Detroit, Michigan. Such events may prevent hospitals, fire
80 departments, and other emergency services from operating
81 effectively and result in catastrophic loss of life, property
82 damage, and adverse financial consequences.

83 (4) Failures of management are more likely to occur in
84 water works boards described in Section 11-50-300, Code of

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85 Alabama 1975, where the power to appoint a controlling number
86 of the members of a board of directors is vested in a
87 municipality whose voting residents comprise a fraction of the
88 individuals served by the municipally controlled water works
89 board.

90 (5) Transfers of substantial funds by Alabama municipal
91 water works boards to municipalities appointing all or a
92 majority of their board of directors have been approved by the
93 Alabama Supreme Court in defiance of a founding principle of
94 the United States of America that there should be no taxation
95 without representation.

96 (b) The Alabama Legislature hereby declares that
97 regional water boards should be operated for the exclusive
98 benefit of their customers and any surplus funds should be
99 used to reduce water rates to the benefit of all customers.

100 Section 2. Section 11-50-300, Code of Alabama 1975, is
101 amended to read as follows:

102 "§11-50-300

103 (a) Notwithstanding any other provisions of law, this
104 division shall apply to any municipal water works board
105 authorized to be incorporated by a municipality which, on
106 January 1, 2015, either served water customers or has assets
107 in four or more counties other than the county where the
108 authorizing municipality is principally located, or after
109 January 1, 2015, either serves water customers or has assets
110 in four or more counties other than the county where the
111 authorizing municipality is principally located, and the
112 organization and operation of the board, shall be subject to



113 this division.

114 (b) The powers and rights provided to a regional board
115 pursuant to this division are cumulative and independent of
116 any powers and rights pursuant to the enabling statute. Except
117 as expressly set forth in this division, this division shall
118 not be construed as a restriction or limitation upon any
119 power, right, or remedy that a board may have pursuant to the
120 enabling statute.

121 (c) To the extent this division conflicts with any
122 other provision in the enabling statute, this division shall
123 control.

124 (d) This division does not apply to a municipal
125 utilities board that operates a water works system and an
126 electric distribution system, nor to an entity that serves
127 only wholesale water customers."

128 Section 3. Sections 11-50-300.01, 11-50-300.02,
129 11-50-300.03, 11-50-300.04, 11-50-300.05, 11-50-300.06,
130 11-50-300.07, 11-50-300.08, 11-50-300.09, and 11-50-300.10 are
131 added to the Code of Alabama 1975, to read as follows:

132 §11-50-300.01

133 For the purposes of this division, the following terms
134 have the following meanings:

135 (1) AUTHORIZING MUNICIPALITY. A municipality that
136 authorized the organization of a board that is converted to a
137 regional board pursuant to this division.

138 (2) BOARD. A board organized pursuant to the enabling
139 statute.

140 (3) CONVERSION DATE. The date upon which a board is

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141 converted to a regional board pursuant to this division.

142 (4) ENABLING STATUTE. Divisions 1 through 3 of Article
143 8 of Chapter 50 of Title 11.

144 (5) ENGINEERING BACKGROUND. Capability as evidenced by
145 an engineering degree from an accredited school of engineering
146 and not less than five years experience in an engineering
147 discipline.

148 (6) ETHICS ACT. Chapter 25 of Title 36.

149 (7) FINANCIAL BACKGROUND. Capability as evidenced by a
150 successful career in banking or other field in which the
151 candidate under consideration has demonstrated sound financial
152 management skills in connection with long-term debt financing.

153 (8) GENERAL BUSINESS BACKGROUND. Means well experienced
154 in business affairs, whether related to private, public, or
155 nonprofit entities, of the complexity of the operation of a
156 water or sewer system.

157 (9) PRINCIPALLY LOCATED. With respect to the location
158 of any authorizing municipality, the county where all or the
159 largest portion of the territory of the authorizing
160 municipality is located.

161 (10) REGIONAL BOARD. A board that meets the
162 requirements of Section 11-50-300(a).

163 (11) SPONSORING MAYOR. The mayor of the authorizing
164 municipality of a board that has been converted to a regional
165 board pursuant to this division.

166 §11-50-300.02

167 (a) On the effective date of the act adding this
168 section, a board that meets the requirements of Section

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169 11-50-300(a) as of the date of filing the bill adding this
170 section shall be converted to a regional board.

171 (b) A board that meets the requirements of Section
172 11-50-300(a) after the date of filing the bill adding this
173 section shall be converted to a regional board 30 days after
174 the board meets the requirements, but not before the effective
175 date of this act.

176 (c) If the certificate of incorporation or bylaws of a
177 regional board conflicts with this division, this division
178 shall control.

179 §11-50-300.03

180 (a) The term of the existing directors of the board of
181 directors shall terminate on the conversion date,
182 notwithstanding the term or terms for which the existing
183 directors were appointed or elected. The term of office for
184 directors appointed pursuant to this division shall begin on
185 the conversion date, or if any such appointment is made after
186 the conversion date, on the date of filing for the appointment
187 order with the judge of probate as provided in subsection (b).

188 (b) Appointment of a director shall be evidenced by an
189 order acknowledged before an officer authorized by the laws of
190 this state to take acknowledgment of deeds and shall be filed
191 in the office of the judge of probate where the board's
192 original certificate of incorporation was filed and in the
193 Office of the Secretary of State.

194 (c) (1) The board of directors of a regional board shall
195 be reorganized and comprised as follows:

196 a. One director, who shall have a financial background,



197 in addition to a general business background, shall be
198 appointed by the sponsoring mayor.

199 b. One director, who shall have a financial background,
200 in addition to a general business background, shall be
201 appointed by the Lieutenant Governor.

202 c. One director, who shall have an engineering
203 background, in addition to a general business background,
204 shall be appointed by the president of the governing body of
205 the county in which the authorizing municipality is
206 principally located.

207 d. One director, who shall have a general business
208 background, shall be appointed by the governing body of each
209 county in which the regional board owns a major reservoir
210 located principally within the county.

211 e. One director, who shall have a general business
212 background, shall be appointed by the governing body of the
213 county, other than the county where the authorizing
214 municipality is principally located, where the largest number
215 of accounts serving water customers are located outside the
216 county in which the authorizing municipality is located.

217 (2) All directors shall be residents of a county in
218 which the regional board serves customers.

219 (3) Elected public officials may be appointed as
220 directors.

221 (4) An appointing authority, if an individual, may
222 appoint himself or herself, or, if a group of individuals, may
223 appoint a member of the group.

224 (5) An individual who has had a business relationship



225 with the regional board in the two-year period prior to
226 appointment, or who was employed by a firm that has had a
227 business relationship with the regional board in the two-year
228 period prior to appointment, shall not be appointed as a
229 director.

230 (d) The appointing authority may exercise discretion in
231 determining whether an individual appointed as a director
232 meets the qualifications provided in this section. Any
233 individual appointed as a director shall be presumed qualified
234 unless and until a court of competent jurisdiction makes a
235 final determination, from which no further appeal is
236 available, that such individual is not qualified as a
237 director. The official acts of any individual appointed as a
238 director shall be valid and binding as official acts of a
239 director for all purposes, whether or not that individual is
240 subsequently determined by a court of competent jurisdiction
241 to be qualified or not.

242 (e) Each director shall serve for a term of five years,
243 except the initial directors shall serve terms as follows:

244 (1) The initial director appointed by the sponsoring
245 mayor shall serve a term of one year.

246 (2) The initial director appointed by the Lieutenant
247 Governor shall serve a term of two years.

248 (3) The initial director appointed by the president of
249 the governing body of the county in which the authorizing
250 municipality is principally located shall serve a term of
251 three years.

252 (4) The initial director appointed by the governing



253 body of each county in which the regional board owns a major
254 reservoir located principally within the county shall serve a
255 term of four years.

256 (5) The initial director appointed by the governing
257 body of the county, other than the county where the
258 authorizing municipality is principally located, where the
259 largest number of accounts serving water customers are located
260 outside the county in which the authorizing municipality is
261 located shall serve a term of five years.

262 (f) The initial appointments to the regional board
263 shall be made by the appointing authorities not more than 20
264 days after the effective date of this act. Subsequent
265 appointments, if made to fill a vacancy caused other than by
266 the expiration of a term of office, shall be filled within 30
267 days of the appointing authority receiving notice of the
268 vacancy. Subsequent appointments, if made to fill a vacancy
269 caused by the expiration of a term of office, shall be filled
270 within seven days after the expiration of the term of office.
271 If an appointing authority fails to make an appointment within
272 the time periods provided by this subsection, the Secretary of
273 State shall appoint one of the nominees submitted pursuant to
274 subsection (m).

275 (g) An individual appointed to fill a vacancy on the
276 board shall serve the remainder of the term of the vacant
277 seat. All directors shall continue to serve until a successor
278 is appointed and qualified.

279 (h) A director may not serve for more than two full
280 terms. In addition to the two full terms, a director may serve

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281 one additional partial term in the event a director is first
282 appointed to a term that terminates less than five years after
283 the date of his or her appointment.

284 (i) Any director may be removed for good cause by the
285 appointing authority who appointed the director if the
286 appointing authority conducts a hearing that gives the
287 director an opportunity to address the cause or causes for
288 removal.

289 (j) Each director shall be entitled to receive
290 compensation of two thousand dollars (\$2,000) per month,
291 adjusted annually for increases in the consumer price index,
292 as well as reimbursement for necessary expenses actually
293 incurred by him or her in connection with the performance of
294 his or her duties.

295 (k) A majority of directors then serving shall
296 constitute a quorum for the transaction of business of the
297 board of directors and any meeting of the board of directors
298 may be adjourned by a majority of the members present. No
299 vacancy in the membership of the board of directors shall
300 impair the right of a quorum to exercise all powers and
301 perform all duties of the board of directors.

302 (l) The board of directors shall adopt and maintain
303 bylaws, not inconsistent with this division, for the
304 regulation and conduct of its affairs and the operation of the
305 regional board. The bylaws of the board of directors may
306 provide for such committees as the board of directors deems
307 necessary or desirable to make recommendations to the full
308 board of directors.



309 (m) Members of the Alabama Legislature whose district
310 encompasses areas served by a regional board, and
311 organizations incorporated in this state that have existed for
312 more than five years and that promote economic development in
313 any county served by a regional board, may nominate qualified
314 individuals to serve on a regional board in positions that are
315 vacant or expected to be vacant. Nominations shall be made by
316 submitting in writing the name and qualifications of the
317 individual being nominated to the appointing authority for the
318 position and to the Secretary of State.

319 (n) The Attorney General shall review the
320 qualifications of all appointees to a regional board and upon
321 finding that any appointee is not qualified, shall file a
322 complaint in the Circuit Court of Montgomery County, which
323 shall have exclusive jurisdiction of the matter, seeking to
324 declare the appointee not qualified and the regional board
325 position vacant. Vacancies on a regional board resulting from
326 a ruling by the court favorable to the Attorney General shall
327 be filled by the designated appointing authority. Upon
328 request, the Attorney General may render an opinion on the
329 qualifications of a proposed appointee.

330 §11-50-300.04

331 (a) A regional board shall amend its certificate of
332 incorporation after the conversion date to acknowledge that
333 the regional board has met the requirements of Section
334 11-50-300(a), change its name to reflect the regional nature
335 of the regional board, and make any other amendment that is
336 not inconsistent with this division or the enabling statute.



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

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

342 (2) The amendment shall recite the adoption of the
343 resolution by the board of directors.

344 (3) After the amendment is executed by the chair or
345 vice chair of the regional board and acknowledged before an
346 officer authorized by the laws of this state to take
347 acknowledgment of deeds, the amendment shall be filed in the
348 office of the judge of probate where the board's original
349 certificate of incorporation was filed. The amendment shall be
350 effective upon filing.

351 §11-50-300.05

352 (a) Directors and employees of a regional board shall
353 be subject to the Ethics Act.

354 (b) Each year all directors shall participate in 10
355 hours of training on the duties and best practices of
356 directors of organizations engaged in the operation of water
357 or sewer systems, the obligations of directors under the
358 Ethics Act, and the reporting requirements under this
359 division.

360 §11-50-300.06

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365 compliance with applicable laws and regulations, including
366 this division, and exclusively for the benefit of the
367 customers of the regional board.

368 (b) In assessing compliance with industry best
369 practices, a regional board shall reference the standards
370 published by the American Water Works Association or any
371 successor thereto and standards followed by highly rated water
372 systems.

373 (c) (1) A regional board may not make payments to any
374 municipality, county, or other entity except for reasonable
375 consideration in payment for goods or services required in the
376 operation or management of the systems operated by the
377 regional board.

378 (2) The Attorney General shall enforce this subsection
379 by filing a complaint seeking to prevent or to recoup amounts
380 paid by the regional board in violation of this subsection and
381 to obtain other remedies as may be appropriate under the
382 circumstances, in the Circuit Court of Montgomery County,
383 which shall have exclusive jurisdiction of the matter.

384 \$11-50-300.07

385 (a) A regional board shall follow best practices in
386 preparing or causing to be prepared financial statements and
387 other reports, including all of the following:

388 (1) An annual budget in monthly form.

389 (2) Monthly financial statements with comparison to the
390 budget.

391 (3) Annual financial statements with comparison to the
392 budget.



393 (4) Annual financial statements audited by an
394 independent auditor.

395 (5) A five-year operating plan with annual revisions
396 and appropriate comparisons of actual performance to plan.

397 (6) A 10-year capital plan, including a plan to fund
398 the capital expenditures called for in the capitol plan, and a
399 10-year estimate of rates per year required to fund operating
400 expenses, capitol expenditures, and debt service.

401 (7) Monthly and annual statistical reports to include
402 the number of employees, number of customer connections by
403 major geographical location, number of miles of pipe replaced
404 as a percent of total miles of pipe in a system, volume of
405 treated and untreated water introduced into transmission
406 mains, volume of treated and untreated water billed to
407 customers, and the number of leaks repaired.

408 (8) Monthly and annual schedules of professionals
409 employed other than through a public bid process pursuant to
410 exceptions to competitive bid laws, brief descriptions of
411 their scopes of work, and amounts paid monthly, year-to-date,
412 and for the preceding 12 months.

413 (9) Prior to the adoption of each annual budget of a
414 regional board, a report on the current staffing of the
415 regional board to include a job description of each position,
416 the number of individuals filling each position, the average
417 annual compensation paid to the individuals in each position,
418 and proposed changes in staffing and compensation anticipated
419 in the annual budget to be adopted, together with comparisons
420 as may be available between the staffing of the regional board

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421 and the staffing of other comparable water systems.

422 (b) All financial statements and other reports shall be
423 accompanied by appropriate operating statistics, actual, and
424 projected.

425 (c) All statistical and financial reports shall include
426 historical statistics and financial information to the extent
427 available and necessary to place recent information in
428 historical context and a full description and disclosure of
429 all assumptions made in the preparation of the reports.

430 (d) The reports required by this section shall be made
431 available by paper copy and email to the state legislators
432 representing the counties in which the regional board operates
433 and the Department of Examiners and Public Accounts. The
434 reports shall also be made available to the public on a
435 website maintained by the regional board.

436 \$11-50-300.08

437 (a) A regional board shall retain a consulting engineer
438 with a national reputation for providing high quality
439 engineering services to water systems. The consulting engineer
440 shall provide the services specified in a professional
441 services agreement which shall include all of the following
442 services:

443 (1) From time to time but not less frequently than
444 annually, an assessment of and comments on the regional
445 board's compliance with Section 11-50-300.07, including
446 separate assessments and comments on each of the financial
447 statements and reports required by Section 11-50-300.07.

448 (2) Prior to the approval by the regional board of a

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449 capital project costing two million dollars (\$2,000,000) or
450 more, an assessment and report on the necessity, concept,
451 design, and expected operating and capital cost of the
452 project.

453 (3) Prior to the approval by the regional board of any
454 financing, a report and opinion in customary form on the
455 ability of the board to pay the interest on and principal of
456 the loan or securities comprising the financing when due.

457 (4) Annually, and prior to any increase in rates or
458 other service charges, an analysis and report on the
459 reasonableness of existing and proposed rates and service
460 charges, taking into consideration the factors listed in
461 Section 11-50-300.06, any factors widely adopted in the
462 regulation of utilities in the United States, and any other
463 factors that the consulting engineer deems relevant.

464 (b) A consulting engineer shall be selected by a
465 regional board pursuant to a nationwide search and a request
466 for proposals addressed to not less than five of the largest
467 providers of engineering services to water systems in the
468 United States. The request for proposals shall be posted on
469 the regional board's website and copies of responses shall be
470 available upon request. A regional board shall select a
471 consulting engineer from those submitting proposals based on
472 the recommendations of clients, relevant experience,
473 credentials of the engineers to be assigned to the project,
474 terms of a proposed engagement agreement, and cost.

475 (c) Once selected, a consulting engineer shall serve
476 five years and shall be eligible to be re-selected for one

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477 additional five year term notwithstanding the selection
478 procedures provided by this section.

479 (d) A consulting engineer shall be disqualified from
480 providing project engineering services on projects undertaken
481 by a regional board but shall review and comment on plans and
482 specifications prepared by other engineers for such projects.
483 A consulting engineer shall evaluate, on behalf of the
484 regional board, the qualifications of engineers under
485 consideration to provide project engineering services to a
486 regional board.

487 (e) A consulting engineer may be discharged by a
488 regional board for a material failure to perform as determined
489 by the board after adequate notice and a hearing.

490 \$11-50-300.09

491 For a period of 24 months after an individual ceases to
492 be a director of a regional board, that individual may not be
493 employed by the regional board or by any firm that performs
494 work for the regional board.

495 \$11-50-300.10

496 (a) A regional board shall employ a chief executive
497 officer with full authority to manage the operations of the
498 regional board, subject to policy directives and other
499 governance decisions adopted by the board of directors.
500 Employees of a regional board shall report directly or through
501 subordinates who report to the chief executive officer and may
502 not be ordered or instructed by a director of the board.
503 Employment contracts, construction contracts, consulting
504 contracts, engineering contracts, and other contracts between

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505 the regional board and other persons shall be recommended by
506 the chief executive officer, except for the employment
507 contract of the chief executive officer, which shall be
508 recommended by the board of directors. The chief executive
509 officer shall recommend to the board of directors individuals
510 to serve as chief financial officer and other executive level
511 employees.

512 (b) The employment contract of the chief executive
513 officer shall provide for a fixed term of office that may be
514 extended with or without modification of other terms by
515 agreement of the board of directors and the chief executive
516 officer. The board of directors may terminate the employment
517 of the chief executive officer for a material failure to
518 perform his or her duties after providing reasonable notice of
519 a failure and the opportunity for a hearing thereon.

520 Section 4. Sections 11-50-301, 11-50-302, 11-50-303,
521 and 11-50-304, Code of Alabama 1975, relating to certain
522 municipal water works boards, are repealed.

523 Section 5. This act shall become effective immediately.

524