

1 HB278
2 188280-2
3 By Representatives Mooney, Wingo, Farley, Ellis, Williams (P),
4 Drake, Treadaway, Fridy, England, Carns and Weaver
5 RFD: State Government
6 First Read: 23-JAN-18

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8 SYNOPSIS: Under existing law, privately owned sewer
9 systems, with certain exceptions, are regulated by
10 the Alabama Department of Environmental Management
11 with regard to sewage treatment, but are not
12 regulated by the Public Service Commission with
13 regard to rates and consumer protection.

14 This bill would bring certain privately
15 owned sewer systems that use public rights-of-way
16 of public roads under the jurisdiction of the
17 Public Service Commission.

18
19 A BILL
20 TO BE ENTITLED
21 AN ACT
22

23 Relating to privately owned sewer systems; to amend
24 Sections 22-25B-2 and 37-4-1, Code of Alabama 1975, to bring
25 certain privately owned sewer systems that use public
26 rights-of-way of public roads under the jurisdiction of the
27 Public Service Commission.

1 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

2 Section 1. Sections 22-25B-2 and 37-4-1, Code of
3 Alabama 1975, are amended to read as follows:

4 "§22-25B-2.

5 "The following entities shall not be certified or
6 regulated by the commission, but shall be subject to ~~all other~~
7 the requirements of this chapter:

8 "(1) Cooperatives transacting business in this state
9 pursuant to Chapter 6 of Title 37 deemed to be general welfare
10 cooperatives.

11 "(2) Municipalities and county governments and any
12 public corporations, boards, agencies, or entities created by
13 a municipality or county government. Nothing herein prohibits
14 municipal and county governmental entities from contracting
15 with any other public or private entity to manage, maintain,
16 or service wastewater systems owned by them.

17 "(3) Entities managing small-flow cluster systems.
18 Notwithstanding the foregoing, entities managing small-flow
19 cluster systems may elect to be subject to all requirements of
20 this chapter.

21 "(4) Entities owning wastewater systems including
22 the source, collection, treatment, and disposal of the
23 wastewater and all of the dwelling structures or commercial
24 establishments served by them. Examples include, but are not
25 limited to, a trailer park or apartment complex under single
26 ownership.

1 ~~"(5) Entities that assume or acquire ownership or~~
2 ~~management of wastewater systems that were previously owned by~~
3 ~~entities of state, county, or local governments.~~

4 "~~(6)~~ (5) Wastewater treatment systems owned or
5 operated by industrial facilities.

6 "§37-4-1.

7 "Unless otherwise specified, when used in this
8 article, these terms shall have the following meanings:

9 "(1) COMMISSION. The Alabama Public Service
10 Commission.

11 "(2) COMMISSIONER. A member of the commission.

12 "(3) MUNICIPALITY. Any municipal corporation
13 organized under the laws of this state.

14 "(4) PERSON. Such term shall mean and include
15 individuals, associations of individuals, firms, partnerships,
16 companies, corporations, municipalities, governmental
17 agencies, their lessees, trustees, or receivers appointed by
18 any court whatsoever, in the singular number as well as in the
19 plural.

20 "(5) NONUTILITY. Any federal agency,
21 instrumentality, or corporation, owned by the United States,
22 and any corporation or joint stock company in which the United
23 States or any of its departments, establishments, or agencies,
24 owns more than 50 percent of the voting shares of stock of
25 such corporation or joint stock company.

26 "(6) SECURITIES. Such term shall mean and include
27 stock, stock certificates, bonds, notes, debentures, or other

1 evidences of indebtedness, authorized, issued, or executed by
2 any utility.

3 "(7) UTILITY. Such term shall mean and include every
4 person, not engaged solely in interstate business, that now or
5 may hereafter own, operate, lease, or control:

6 "a. Any plant, property, or facility for the
7 generation, transmission or distribution, sale or furnishing
8 to or for the public of electricity for light, heat, or power,
9 or other uses, including any conduits, ducts, or other
10 devices, materials, apparatus, or property for containing,
11 holding, or carrying conductors used or to be used for the
12 transmission of electricity for light, heat, or power, or
13 other uses.

14 "b. Any plant, property, or facility for the
15 manufacture, storage, distribution, sale, or furnishing to or
16 for the public of natural or manufactured gas for light, heat,
17 or power, or other uses.

18 "c. Any plant, property, or facility for the supply,
19 storage, distribution, or furnishing to or for the public of
20 water for manufacturing, municipal, domestic, or other uses.

21 "d. Any plant, property, or facility for the
22 production, transmission, conveyance, delivery, or furnishing
23 to or for the public of steam for heat or power, or other
24 uses.

25 "e. Any public wharf, dock, or terminal.

1 "f. Any boat line propelled by any power and not
2 regulated by the laws of this state heretofore or hereafter
3 enacted as a steamboat or steam packet line.

4 "g. Any privately owned plant, property, or facility
5 for the collection, treatment, or disposal of sewage that
6 uses, directly or through a lease or contract, public
7 rights-of-way of public roads for any part of its collection
8 or disposal system; that has residential or commercial
9 customers that are billed a flat service fee or fee based on
10 water usage; and that is not otherwise exempt under Section
11 22-25B-2.

12 "The term "utility" shall also mean and include two
13 or more utilities rendering joint service.

14 "(8) RATE. Such term shall mean and include, in the
15 plural number as well as in the singular, every individual or
16 joint rate, classification, fare, toll, charge, or other
17 compensation for service rendered, or to be rendered, by any
18 utility, and every rule, regulation, practice, act,
19 requirement, or privilege in any way relating to such rate,
20 fare, toll, charge, or other compensation, and any schedule or
21 tariff, or part of a schedule or tariff thereof.

22 "(9) SERVICE REGULATION. Such term shall mean and
23 include every rule, regulation, practice, act, or requirement
24 in any way relating to the service or facilities of a utility,
25 including the voltage of electricity, the heat units, pressure
26 and candlepower of gas, the supply, rates, and pressure of

1 water, and in general the quality of any commodity, service,
2 or product supplied.

3 "(10) HOLDING COMPANY. Such term shall mean and
4 include firms, partnerships, companies, corporations,
5 individuals, and associations made up in whole or in part of
6 individuals, firms, partners, companies, trusts at common law,
7 corporations, or any other legal entities, their lessees,
8 trustees, or receivers appointed by any court whatsoever, in
9 the singular number as well as in the plural, who own or
10 control as much as 10 percent in number or amount of the
11 outstanding shares of common stock of any utility engaged in
12 any intrastate business in this state.

13 "(11) COMMON STOCK. Such term shall mean and include
14 any and all stock, shares, or interest in any such utility of
15 such nature that the ownership or control of a majority of the
16 stock, shares, or interest, in number and amount, or in number
17 or amount thereof, vests the control and management of such
18 utility in the holders or owners thereof.

19 "(12) AFFILIATED INTERESTS. Such term shall mean and
20 include the following:

21 "a. Every corporation and person owning or holding
22 directly or indirectly five percent or more of the voting
23 securities of any utility engaged in any intrastate business
24 in this state.

25 "b. Every corporation and person, other than those
26 specified in paragraph a. hereof, in any chain of successive
27 ownership of five percent or more of voting securities, the

1 chain beginning with the holder or holders of the voting
2 securities of such utility.

3 "c. Every corporation or person with which the
4 utility has a management or service contract."

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