

House Bill 617

By: Representatives Romman of the 97th, Ridley of the 22nd, Lupton of the 83rd, Powell of the 33rd, Camp of the 135th, and others

A BILL TO BE ENTITLED

AN ACT

1 To amend Title 46 of the Official Code of Georgia Annotated, relating to public utilities and
2 public transportation, so as to reestablish a consumer utility counsel to represent consumers
3 in matters before the Public Service Commission or other agencies concerning public
4 utilities; to provide legislative findings; to provide definitions; to create the Office of the
5 Consumers' Utility Counsel; to establish the position of director of such office; to provide
6 for the appointment and compensation of the director; to provide reporting requirements of
7 the director; to provide for the powers and duties of the director; to provide for notice and
8 service requirements; to authorize the director to take depositions and conduct discovery; to
9 authorize the director to employ certain personnel; to require that certain employees of the
10 Public Service Commission be made available to assist the director; to provide for statutory
11 construction; to provide for related matters; to repeal conflicting laws; and for other
12 purposes.

13 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

14 **SECTION 1.**

15 Title 46 of the Official Code of Georgia Annotated, relating to public utilities and public
16 transportation, is amended by revising Chapter 10, which is reserved, as follows:

H. B. 617

17 "CHAPTER 10

18 46-10-1.

19 The General Assembly recognizes the importance of effective and economical public
20 utilities to the economy of the State of Georgia. It is further recognized that the citizens
21 of Georgia should receive adequate utility services at the lowest reasonable cost to the
22 consumer while maintaining the ability of public utilities to furnish their products and
23 services. It is further recognized that consumers should receive the benefit of technological
24 advances. It is the purpose of this chapter to ensure that the commission receives such
25 information, particularly in those cases which directly involve the vast majority of
26 Georgia's citizens.

27 46-10-2.

28 As used in this chapter, the term:29 (1) 'Consumer' means:

30 (A) An individual user, primarily for personal, family, or household purposes, of the
31 product or service of a public utility which is under the jurisdiction of the commission;
32 or

33 (B) Any sole proprietorship, partnership, corporation, or other entity which is a
34 commercial user of the product or service of a public utility which is under the
35 jurisdiction of the commission and which has ten or fewer employees and a net income
36 after taxes of \$100,000.00 per annum or less for federal income tax purposes.

37 (2) 'Director' means the director of the office.38 (3) 'Office' means the Office of the Consumers' Utility Counsel.

39 46-10-3.

40 (a) There is created the Office of the Consumers' Utility Counsel, which shall be assigned
41 for administrative purposes only to the Department of Law. There is created the position
42 of director of the office. The director shall be appointed and removed by a committee
43 consisting of five members as follows, none of whom shall be employed by or be an officer
44 of any utility while serving on the committee:

45 (1) One member shall be a member of the House of Representatives appointed by the
46 majority leader of the House of Representatives;

47 (2) One member shall be a member of the House of Representatives appointed by the
48 minority leader of the House of Representatives;

49 (3) One member shall be a member of the Senate appointed by the majority leader of the
50 Senate;

51 (4) One member shall be a member of the Senate appointed by the minority leader of the
52 Senate; and

53 (5) One member shall be appointed by the Governor.

54 (b) The director shall be a practicing attorney qualified by knowledge and experience to
55 practice in public utility proceedings. The director shall receive compensation in an
56 amount equal to the annual salary set for each district attorney in paragraph (21) of Code
57 Section 45-7-4. In addition to such compensation, the director shall also receive
58 reimbursement for his or her reasonable and necessary expenses incurred in the
59 performance of his or her duties, as provided by law for state employees. The director shall
60 not engage in the private practice of law while employed as director. The director shall,
61 by December 31 of each year, submit a written report of the annual activities and
62 expenditures of the office to the Governor, the Speaker of the House of Representatives,
63 the President of the Senate, the chairperson of the House Committee on Energy, Utilities,
64 and Telecommunications, and the chairperson of the Senate Regulated Industries and
65 Utilities Committee.

66 46-10-4.

67 (a) The director shall be entitled to appear, as a party or otherwise, on behalf of the
68 consumers of this state of services provided by any person, firm, or corporation subject to
69 the jurisdiction of the commission in all proceedings before the commission which may
70 involve or affect rates for service or services of utilities and in all other proceedings before
71 the commission under its regulatory jurisdiction over utilities.

72 (b) The director may also appear in the same representative capacity as provided in
73 subsection (a) of this Code section in similar administrative proceedings affecting the
74 consumers of this state before any federal administrative agency or body which has
75 regulatory jurisdiction over rates, services, and similar matters with respect to public utility
76 services provided by any public utility doing business in this state.

77 (c) The director shall be authorized in the same representative capacity as provided in
78 subsection (a) of this Code section to initiate proceedings, by complaint or otherwise,
79 before any federal or state administrative agency before which he or she is otherwise
80 authorized to appear, with respect to matters properly within the cognizance of those
81 agencies.

82 (d) The director shall be authorized in the same representative capacity as provided in
83 subsection (a) of this Code section to initiate or intervene as of right or otherwise appear
84 in any judicial proceeding involving or arising out of any action taken by an administrative
85 agency in a proceeding in which the director is authorized to appear under subsection (a),
86 (b), or (c) of this Code section.

87 46-10-5.

88 (a) In addition to other requirements of service and notice imposed by law, a copy of any
89 application, complaint, pleading, or notice filed with or issued by the commission
90 concerning public utilities shall also be served on the director, and the director shall be
91 notified of any other correspondence or paper filed with or issued by the commission or its

92 staff concerning public utilities. The commission shall not proceed to hear or determine
93 any petition, complaint, or proceeding in which the director is entitled to appear unless it
94 shall affirmatively appear that the director was given at least ten days' written notice
95 thereof, unless such notice is affirmatively waived in writing or the director appears and
96 specifically waives such notice.

97 (b) The director is authorized to take depositions and obtain discovery of any matter which
98 is not privileged and which is relevant to the subject matter involved in any proceeding or
99 petition before the commission in the same manner and subject to the same procedures
100 which would otherwise be applicable if such proceeding was then pending before a
101 superior court. The superior courts and the judges and clerks thereof are authorized to
102 issue all orders, injunctions, and subpoenas and to take all actions necessary to carry out
103 this subsection.

104 46-10-6.

105 The director is authorized to employ such assistants as he or she may need and is
106 authorized to employ or retain and fix the compensation of such consultants, expert
107 witnesses, accountants, engineers, attorneys, investigators, stenographers, or other technical
108 or clerical assistance, as may be necessary to carry out his or her duties; provided, however,
109 that no such employment shall occur nor shall any contracts for payment of fees or
110 expenses be paid for consultants, expert witnesses, accountants, engineers, attorneys,
111 investigators, stenographers, or other technical or clerical assistance unless such
112 employment or such contracts can be achieved using funds appropriated for such purposes.
113 The office shall keep suitable and proper records of all such expenditures. The
114 compensation of the director and such staff shall be paid from state funds appropriated to
115 the commission for the purpose of carrying out the provisions of this chapter.

116 46-10-7.

117 Services of all engineers, experts, accountants, and other technical assistants employed by
118 the commission shall be made available to the director in the performance of his or her
119 duties. Such engineers, experts, accountants, and technical assistants shall make such
120 appraisals and audits as the director, with the approval of the commission, may request.
121 The director and his or her staff shall have access to all records, files, reports, documents,
122 and other information in the possession or custody of the commission to the same extent
123 as the members of the commission and its staff have access thereto and subject to the same
124 limitations imposed on the use thereof by the members of the commission and its staff.

125 46-10-8.

126 This chapter shall not be construed to prevent any party interested in any proceeding or
127 action before the commission, any court, or any administrative body from appearing in
128 person or by counsel in such proceeding or action. Reserved."

129 **SECTION 2.**

130 All laws and parts of laws in conflict with this Act are repealed.