

Senate Bill 94

By: Senators Hufstetler of the 52nd, Anavitarte of the 31st, Williams of the 25th, Robertson of the 29th, Albers of the 56th 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:

## 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 further recognized that the Public Service Commission has been established  
25 for the purpose of regulating public utilities and the rates which they charge the consumer  
26 and that the commission is responsible for representing the public interest. The General  
27 Assembly is aware, however, that the commission must be furnished with all available  
28 information concerning the effects of its decisions in rate cases and proceedings before it.  
29 It is the purpose of this chapter to ensure that the commission receives such information,  
30 particularly in those cases which directly involve the vast majority of Georgia's citizens.

31 46-10-2.

32 As used in this chapter, the term:33 (1) 'Consumer' means:34 (A) An individual user, primarily for personal, family, or household purposes, of the  
35 product or service of a public utility which is under the jurisdiction of the commission;36 or37 (B) Any sole proprietorship, partnership, corporation, or other entity which is a  
38 commercial user of the product or service of a public utility which is under the  
39 jurisdiction of the commission and which has ten or fewer employees and a net income  
40 after taxes of \$100,000.00 per annum or less for federal income tax purposes.41 (2) 'Director' means the director of the office.

42 (3) 'Office' means the Office of the Consumers' Utility Counsel.

43 46-10-3.

44 There is created the Office of the Consumers' Utility Counsel, which shall be assigned for  
45 administrative purposes only to the commission. There is created the position of director  
46 of the office. The director shall be appointed and removed by the Governor. The director  
47 shall be a practicing attorney qualified by knowledge and experience to practice in public  
48 utility proceedings. The director shall receive compensation in an amount to be determined  
49 by the Governor, but not to exceed the annual salary set for each district attorney in  
50 paragraph (21) of Code Section 45-7-4. In addition to such compensation, the director  
51 shall also receive reimbursement for his or her reasonable and necessary expenses incurred  
52 in the performance of his or her duties, as provided by law for state employees. The  
53 director shall not engage in the private practice of law while employed as director. The  
54 director shall, by December 31 of each year, submit a written report of the annual activities  
55 and expenditures of the office to the Governor, the Speaker of the House of  
56 Representatives, the President of the Senate, the chairperson of the House Committee on  
57 Energy, Utilities, and Telecommunications, and the chairperson of the Senate Regulated  
58 Industries and Utilities Committee.

59 46-10-4.

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

65 (b) The director may also appear in the same representative capacity as provided in  
66 subsection (a) of this Code section in similar administrative proceedings affecting the

67 consumers of this state before any federal administrative agency or body which has  
68 regulatory jurisdiction over rates, services, and similar matters with respect to public utility  
69 services provided by any public utility doing business in this state.

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

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

80 46-10-5.

81 (a) In addition to other requirements of service and notice imposed by law, a copy of any  
82 application, complaint, pleading, or notice filed with or issued by the commission  
83 concerning public utilities shall also be served on the director, and the director shall be  
84 notified of any other correspondence or paper filed with or issued by the commission or its  
85 staff concerning public utilities. The commission shall not proceed to hear or determine  
86 any petition, complaint, or proceeding in which the director is entitled to appear unless it  
87 shall affirmatively appear that the director was given at least ten days' written notice  
88 thereof, unless such notice is affirmatively waived in writing or the director appears and  
89 specifically waives such notice.

90 (b) The director is authorized to take depositions and obtain discovery of any matter which  
91 is not privileged and which is relevant to the subject matter involved in any proceeding or  
92 petition before the commission in the same manner and subject to the same procedures

93 which would otherwise be applicable if such proceeding was then pending before a  
94 superior court. The superior courts and the judges and clerks thereof are authorized to  
95 issue all orders, injunctions, and subpoenas and to take all actions necessary to carry out  
96 this subsection.

97 46-10-6.

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

109 46-10-7.

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

118 46-10-8.

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

122

**SECTION 2.**

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