



**House Commerce and Small Business Engrossed  
Substitute for HB177**

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A BILL  
TO BE ENTITLED  
AN ACT

Relating to municipal water works boards; to amend Section 11-50-300, Code of Alabama 1975, to further provide for municipal water works boards; to add Sections 11-50-300.1, 11-50-300.2, 11-50-300.3, 11-50-300.4, 11-50-300.5, 11-50-300.6, 11-50-300.7, and 11-50-300.8 to the Code of Alabama 1975, to further provide for the composition, manner of appointment, and length of terms of members of certain municipal water works boards; to provide qualifications for and place limits on the employment of directors; to provide for conversion of these boards to regional boards; to further provide for these boards to amend their articles of incorporation; to subject these boards to the ethics laws of Alabama and require training on the matter; to require these boards to produce certain records; and to repeal Sections 11-50-301, 11-50-302, 11-50-303, and 11-50-304, Code of Alabama 1975, relating to certain municipal water works boards.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Section 11-50-300, Code of Alabama 1975, is amended to read as follows:

"§11-50-300



**House Commerce and Small Business Engrossed  
Substitute for HB177**

29           (a) Notwithstanding any other provisions of law, this  
30 division shall apply to any municipal water works board  
31 authorized to be incorporated by a municipality which, on  
32 January 1, 2015, either served water customers or has assets  
33 in four or more counties other than the county where the  
34 authorizing municipality is principally located, or after  
35 January 1, 2015, either serves water customers or has assets  
36 in four or more counties other than the county where the  
37 authorizing municipality is located, and the organization and  
38 operation of the board, shall be subject to this division.

39           (b) The powers or rights provided in this division for  
40 a regional board are cumulative and independent of any powers  
41 or rights provided in any other provisions of the enabling  
42 statute. Except as expressly set forth herein, neither this  
43 division nor anything contained in this division shall be  
44 construed as a restriction or limitation upon any power,  
45 right, or remedy which any board may have pursuant to the  
46 enabling statute.

47           (c) To the extent this division conflicts with any  
48 other provision in the enabling statute, this division shall  
49 control.

50           (d) This division does not apply to a municipal  
51 utilities board which operates a water works system and an  
52 electric distribution system nor to an entity which serves  
53 only wholesale water customers."

54           Section 2. Sections 11-50-300.1, 11-50-300.2,  
55 11-50-300.3, 11-50-300.4, 11-50-300.5, 11-50-300.6,



**House Commerce and Small Business Engrossed  
Substitute for HB177**

56 11-50-300.7, and 11-50-300.8 are added to the Code of Alabama  
57 1975 to read as follows:

58 §11-50-300.1

59 For the purposes of this division, the following terms  
60 have the following meanings:

61 (1) AUTHORIZING MUNICIPALITY. A municipality that  
62 authorized the organization of a board that is converted to a  
63 regional board pursuant to this division.

64 (2) BOARD. A board organized pursuant to the enabling  
65 statute.

66 (3) CONVERSION DATE. The date upon which a board is  
67 converted to a regional board pursuant to this division.

68 (4) ENABLING STATUTE. Divisions 1 through 3 of Article  
69 8 of Chapter 50 of Title 11 of the Code of Alabama 1975.

70 (5) ENGINEERING BACKGROUND. Capability as evidenced by  
71 a degree from an accredited school of engineering or  
72 experience in an engineering discipline.

73 (6) ETHICS ACT. Chapter 25 of Title 36 of the Code of  
74 Alabama 1975.

75 (7) FINANCIAL BACKGROUND. Capability evidenced by a  
76 successful career in banking or other field in which the  
77 candidate under consideration has demonstrated sound financial  
78 management skills in connection with long-term financing.

79 (8) REGIONAL BOARD. A board that meets the requirements  
80 of Section 11-50-300(a).

81 (9) SPONSORING MAYOR. The mayor of the authorizing  
82 municipality of a board that has been converted to a regional  
83 board pursuant to this division.



**House Commerce and Small Business Engrossed  
Substitute for HB177**

84 §11-50-300.2

85 (a) On the effective date of the act adding this  
86 section, a board that meets the requirements of Section  
87 11-50-300(a) as of the date of filing the bill adding this  
88 section shall be converted to a regional board.

89 (b) A board that meets the requirements of Section  
90 11-50-300(a) after the effective date of the act adding this  
91 section shall be converted to a regional board 30 days after  
92 the board meets the requirements.

93 (c) If the certificate of incorporation or bylaws of a  
94 regional board conflicts with this division, this division  
95 shall control.

96 §11-50-300.3

97 (a) The term of the existing directors of the board  
98 shall terminate on the conversion date, notwithstanding the  
99 term or terms for which the existing directors of the board  
100 were appointed or elected. The term of office for directors  
101 appointed pursuant to this division shall begin on the  
102 conversion date, or if any such appointment is made after the  
103 conversion date, on the date specified in the appointment.

104 (b) Appointment of a director shall be evidenced by an  
105 order acknowledged before an officer authorized by the laws of  
106 this state to take acknowledgments of deeds and shall be filed  
107 in the office of the judge of probate where the board's  
108 original certificate of incorporation was filed.

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

111 a. Two members shall be appointed by the sponsoring



**House Commerce and Small Business Engrossed  
Substitute for HB177**

112 mayor.

113           b. Two members shall be appointed by the city council  
114 of the authorizing municipality.

115           c. One member shall be appointed by the county  
116 commission of each county other than the county where the  
117 authorizing municipality is principally located where more  
118 than 5,000 water connections are served by the board or where  
119 the board owns a major reservoir located entirely within the  
120 county.

121           d. One member shall be appointed by the association of  
122 mayors in the county where the authorizing municipality is  
123 located if there is an organized incorporated countywide  
124 association of mayors or by the mayors of the county acting  
125 jointly if not.

126           (2) All members of the board of directors shall be  
127 residents of a county in which the regional board serves  
128 customers.

129           (3) All members of the board of directors must be well  
130 experienced in business affairs of the complexity of the  
131 operation of a water or sewer system.

132           (4) Elected public officials may be appointed as  
133 directors.

134           (5) A person who has had a business relationship with  
135 the regional board in the two-year period prior to  
136 appointment, or who was employed by a firm that has had a  
137 business relationship with the regional board in the two-year  
138 period prior to appointment, shall not be appointed as a  
139 director.



**House Commerce and Small Business Engrossed  
Substitute for HB177**

140 (6) One member appointed by the sponsoring mayor must  
141 have an engineering background and one member appointed by the  
142 sponsoring mayor must have a financial background. One member  
143 appointed by the city council of the authorizing municipality  
144 must have an engineering background and one member appointed  
145 by the city council of the authorizing municipality must have  
146 a financial background.

147 (d) The appointing authority may exercise discretion in  
148 determining whether a person appointed as a director meets the  
149 qualifications provided in this section. Any person appointed  
150 as a director shall be presumed qualified unless and until a  
151 court of competent jurisdiction makes a final determination,  
152 from which no further appeal is available, that such person is  
153 not qualified as a director. The official acts of any person  
154 appointed as a director shall be valid and binding as official  
155 acts of a director for all purposes, whether or not that  
156 person is subsequently determined by a court of competent  
157 jurisdiction to be qualified or not.

158 (e) Members of the board of directors shall serve for a  
159 term of five years. A person appointed to fill a vacancy on  
160 the board shall serve the remainder of the term of the vacant  
161 seat. All board members shall continue to serve until a  
162 successor is appointed and qualified. The members of the board  
163 of directors shall be appointed to hold office for staggered  
164 terms as follows:

165 (1) Of the first two members appointed to the regional  
166 board by the sponsoring mayor, the first term of office of one  
167 member shall be one year and the first term of office of the



**House Commerce and Small Business Engrossed  
Substitute for HB177**

168 other member shall be five years, as shall be designated at  
169 the time of their appointment, and thereafter the term of  
170 office of each member shall be five years.

171 (2) Of the two members appointed to the regional board  
172 by the city council of the authorizing municipality, the first  
173 term of office of one member shall be one year and the first  
174 term of office of the other member shall be four years, as  
175 shall be designated at the time of their appointment, and  
176 thereafter the term of office of each member shall be five  
177 years.

178 (3) Of the members appointed by the county commission  
179 of each county other than the county where the authorizing  
180 municipality is principally located where more than 5,000  
181 water connections are served by the board or where the board  
182 owns a major reservoir located entirely within the county, the  
183 first term of office of each member shall be three years and  
184 thereafter the term of office of each member shall be five  
185 years.

186 (4) The member appointed by the association of mayors  
187 shall serve a first term of office of two years and thereafter  
188 the term of office shall be five years.

189 (f) Members may not serve for more than two full terms.  
190 In addition to the two full terms, members may serve one  
191 additional partial term in the event a member is first  
192 appointed to a term that terminates less than five years after  
193 the date of his or her appointment. Persons who have served  
194 two or more terms on the governing body of a board prior to  
195 its conversion to a regional board may not serve as a member.



**House Commerce and Small Business Engrossed  
Substitute for HB177**

196 (g) Any director may be removed for good cause stated  
197 in writing by the appointing authority who appointed the  
198 director if the appointing authority conducts a hearing that  
199 gives the director an opportunity to address the cause or  
200 causes for removal.

201 (h) Each member of the board of directors shall be  
202 entitled to receive compensation in the amount of one thousand  
203 dollars (\$1000) per month, as well as be reimbursed for  
204 necessary expenses actually incurred and certified by him or  
205 her in connection with the performance of his or her duties.

206 (i) A majority of directors then serving shall  
207 constitute a quorum for the transaction of business of the  
208 board of directors, and any meeting of the board of directors  
209 may be adjourned from time to time by a majority of the  
210 members present. No vacancy in the membership of the board of  
211 directors shall impair the right of a quorum to exercise all  
212 the powers and perform all the duties of the board of  
213 directors.

214 (j) The board of directors shall adopt and maintain  
215 bylaws, not inconsistent with this division, for the  
216 regulation and conduct of its affairs and the operation of the  
217 regional board. The bylaws of the board of directors may  
218 provide for such committees as the board of directors deems  
219 necessary or desirable to make recommendations to the full  
220 board of directors.

221 §11-50-300.4

222 (a) A regional board shall amend its certificate of  
223 incorporation after the conversion date to acknowledge that





**House Commerce and Small Business Engrossed  
Substitute for HB177**

224 the regional board has met the requirements of Section  
225 11-50-300(a), change its name to reflect the regional nature  
226 of such regional board, and make any other amendment that is  
227 not inconsistent with the enabling statute, including this  
228 division.

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

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

234 (2) The amendment shall recite the adoption of the  
235 resolution by the board of directors.

236 (3) After the amendment is executed by the chair or  
237 vice chair of the regional board and acknowledged before an  
238 officer authorized by the laws of this state to take  
239 acknowledgments of deeds, the amendment shall be filed in the  
240 office of the judge of probate where the board's original  
241 certificate of incorporation was filed. The amendment shall be  
242 effective upon filing.

243 §11-50-300.5

244 (a) Directors and employees of a regional board shall  
245 be subject to the provisions of the Ethics Act.

246 (b) Each year members of the board of directors shall  
247 participate in 10 hours of training on the duties and best  
248 practices of directors of organizations engaged in the  
249 operation of water or sewer systems, the obligations of  
250 directors under the Ethics Act, and the reporting requirements  
251 under this division.



**House Commerce and Small Business Engrossed  
Substitute for HB177**

252 §11-50-300.6

253 (a) A regional board shall prepare customary and  
254 appropriate financial statements and other reports, including:

255 (1) An annual budget in monthly form.

256 (2) Monthly financial statements with comparison to the  
257 budget.

258 (3) Annual financial statements with comparison to the  
259 budget.

260 (4) Annual financial statements audited by an  
261 independent auditor.

262 (5) A five-year operating plan with annual revisions  
263 and appropriate comparisons of actual to plan.

264 (6) A 10-year capital plan.

265 (7) Monthly and annual statistical reports to include  
266 the number of employees, number of customer connections by  
267 major geographical location, number of miles of pipe replaced  
268 as a percent of total miles of pipe in a system, volume of  
269 treated and untreated water introduced into transmission  
270 mains, volume of treated and untreated water billed to  
271 customers, and the number of leaks repaired.

272 (b) All statements shall be accompanied by appropriate  
273 operating statistics, actual and projected, and the five-year  
274 operating plan and 10-year capital plan shall be reviewed and  
275 commented upon by a nationally recognized firm of consulting  
276 engineers with expertise in the design, construction, repair,  
277 and operation of water and sewer systems and with no conflicts  
278 in reviewing the work.

279 (c) All statistical reports shall include historical



**House Commerce and Small Business Engrossed  
Substitute for HB177**

280 statistics to the extent available in order to place recent  
281 statistics in context.

282 (d) The reports required by this section shall be made  
283 available to the state legislative delegation of the counties  
284 in which the regional board is located and the Department of  
285 Examiners of Public Accounts by paper copy and email. The  
286 reports shall also be made available to the public on a  
287 website maintained by the regional board.

288 §11-50-300.7

289 For a period of 24 months after a person ceases to be a  
290 director of a regional board, that person may not be employed  
291 by the regional board or by any firm that performs work for  
292 the regional board.

293 §11-50-300.8

294 A regional board shall employ a chief executive officer  
295 with full authority to manage the operations of the regional  
296 board, subject to policy directives and other governance  
297 decisions adopted by the board of directors. Employees of a  
298 regional board shall report to the chief executive officer and  
299 may not be ordered or directed by members of the board of  
300 directors. Employment contracts, construction contracts,  
301 consulting contracts, engineering contracts, and other  
302 contracts between the regional board and other persons shall  
303 be recommended by the chief executive officer, except for the  
304 employment contract of the chief executive officer, which  
305 shall be recommended by the board of directors.

306 Section 3. Sections 11-50-301, 11-50-302, 11-50-303,  
307 and 11-50-304, Code of Alabama 1975, relating to certain



**House Commerce and Small Business Engrossed  
Substitute for HB177**

308 municipal water works boards, are repealed.

309           Section 4. This act shall become effective immediately  
310 following its passage and approval by the Governor, or its  
311 otherwise becoming law.