

1 HB325
2 205465-1
3 By Representatives South and Rowe
4 RFD: Boards, Agencies and Commissions
5 First Read: 25-FEB-20

SYNOPSIS: Under existing law, the Alabama Surface Mining Commission is required to meet once every month or more frequently as the Governor requires.

This bill would require the Alabama Surface Mining Commission to meet once every two months or as the Governor otherwise requires.

A BILL
TO BE ENTITLED
AN ACT

Relating to the Alabama Surface Mining Commission; to amend Section 9-16-73, Code of Alabama 1975; to require the Alabama Surface Mining Commission to meet once every two months or as the Governor otherwise requires.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Section 9-16-73, Code of Alabama 1975, is amended to read as follows:

"§9-16-73.

1 "(a) There is continued as previously established
2 the Alabama Surface Mining Reclamation Commission under the
3 name of the Alabama Surface Mining Commission for the purpose
4 of transition in implementing and enforcing this article and
5 carrying out the intent and policy stated in Section 9-16-71.
6 All members of the commission appointed under authority of
7 Section 9-16-33, shall continue their terms as created under
8 that section until all reappointments and filling of vacancies
9 have been filled in the manner as provided in this section. At
10 the expiration of any term, that member shall continue in
11 office until an appointment occurs as provided in this
12 section. After February 25, 1994, no member shall serve more
13 than two full consecutive terms of office.

14 "(b) The commission shall be composed of seven
15 members, who are fair and reasonable citizens of the state and
16 who shall reflect the racial, gender, geographic, urban/rural,
17 and economic diversity of the state, appointed by the
18 Governor, with the advice and consent of the Senate. The
19 Governor shall initially appoint two members of the commission
20 for a term of five years, two members for four years, two
21 members for three years, and one member for two years. All
22 members appointed subsequently shall be appointed for terms of
23 five years.

24 "(1) One commission member shall be appointed from
25 one of the three counties in Alabama which produce the
26 greatest number of tons of surface mined coal, as indicated by
27 the records of the State of Alabama in the complete fiscal

1 year immediately preceding that appointment; and two
2 commission members shall be appointed from any of the
3 coal-producing counties in Alabama, as indicated by the
4 records of the State of Alabama in the complete fiscal year
5 immediately preceding that appointment. One commission member
6 shall be appointed state at large.

7 "(2) One of the appointees to the commission shall
8 be a professional forester duly registered pursuant to the
9 laws of the State of Alabama with not less than 10 years'
10 experience in professional forestry. One of the appointees to
11 the commission shall be a professional civil or mining
12 engineer duly registered pursuant to the laws of the State of
13 Alabama with not less than 10 years' experience in
14 professional engineering in surface mining or technologically
15 related fields. One appointee to the commission shall be an
16 attorney duly licensed to practice law in the State of Alabama
17 having not less than 10 years' experience in the active
18 practice of law, the majority of whose years in practice shall
19 have been in one of the three counties in Alabama which
20 produced the greatest number of tons of surface mined coal as
21 indicated by the records of the State of Alabama in the
22 complete fiscal year immediately preceding that appointment.

23 "(c) Within 10 days of nomination by the Governor,
24 each nominee shall file with the Secretary of the Senate a
25 verified statement setting forth the following information:
26 The names of all coal companies from whom such nominee has
27 received any income of any sort during the 10 years

1 immediately preceding such nomination, the name or names of
2 all coal companies in which the nominee is or in the 10 years
3 immediately preceding such nomination has been an officer,
4 director, stockholder, or partner; and all the names of all
5 organizations, clubs, and associations of which the nominee is
6 or in the 10 years immediately preceding such nomination has
7 been a member. No commission member may have a direct or
8 indirect financial interest in underground or surface coal
9 mining operations, and may not participate in any proceeding
10 conducted pursuant to Section 9-16-79 in which the commission
11 member is an employee, officer, director, shareholder, or
12 partner or where any organization, club, or association of
13 which the commission member is a member, officer, agent,
14 director, or employee instigated the proceeding, is a
15 defendant, or has any other direct interest in the outcome of
16 the proceeding, other than as a member of the commission.

17 "(d) The commission shall annually elect from among
18 its members a chair, a vice chair, and such other officers as
19 necessary to fulfill its duties. In the event of a vacancy
20 among the commissioners, the Governor, within 90 days of being
21 notified of such vacancy, shall make an appointment to such
22 vacancy, which appointment shall be subject to the advice and
23 consent of the Senate at the next regular or special session
24 of the Legislature. In the event such appointee is confirmed,
25 his or her term shall be for the balance of the vacancy so
26 filled.

1 "(e) The commission shall appoint a Director of the
2 Alabama Surface Mining Commission, who must have a working
3 knowledge of the federal and state surface mining statutes,
4 rules, and regulations, and shall fix his or her compensation.
5 The commission may appoint a deputy director as an
6 unclassified position and the compensation of such deputy
7 director shall be fixed by the commission subject to the state
8 Merit System. The director shall be the chief operating
9 officer of the commission and shall be charged with exercising
10 such powers, duties, and functions as may be conferred upon
11 him or her by the commission or this article, except the
12 director shall not have the power to promulgate, modify,
13 suspend, or repeal any standards, rules, or regulations
14 provided for or authorized under this article. The director,
15 subject to the approval of the commission, may create such
16 divisions of his or her office as may be necessary to carry
17 out its functions and may employ professional, technical,
18 legal, or clerical personnel as may be necessary to carry out
19 the duties and functions of the commission. The director, with
20 the approval of the commission, may also contract with private
21 persons, firms, or corporations to provide professional or
22 technical assistance or consultant services to assist his or
23 her office in carrying out the purposes of this article.

24 "(f) The members of the commission shall receive as
25 compensation seventy-five dollars (\$75) per day for each day
26 of official business as approved and validated by the chair.
27 The chair shall receive one hundred dollars (\$100) per day for

1 each full day he or she is occupied with business of the
2 commission. The chair may approve and certify expenses of
3 every member of the commission for reimbursement pursuant to
4 Article 2, commencing with Section 36-7-20, Chapter 7 of Title
5 36.

6 "(g) Five members of the commission shall constitute
7 a quorum, and recusal of a member shall not affect the quorum.
8 The commission shall keep a complete and accurate record of
9 all its meetings, a copy of which shall be kept on file in the
10 office of the commission and open to public inspection. The
11 commission shall meet at least once every ~~month~~ two months, or
12 at ~~such more frequent~~ other occasions as the Governor, the
13 chair, or director determines is necessary to fulfill its
14 duties and obligations.

15 "(h) The commission shall establish and maintain its
16 principal office in Jasper, Alabama, and establish and
17 maintain such field offices in other coal producing counties
18 as it may consider necessary for the proper discharge of its
19 duties.

20 "(i) Funds which are or may become available from
21 any source, appropriations, or otherwise, to accomplish the
22 purposes of this article shall be disbursed by the commission
23 or by the director in accordance with rules prescribed by the
24 commission.

25 "(j) The Governor may remove any member of the
26 commission from office for neglect of duty, malfeasance, or
27 misfeasance, after unanimous consent and agreement by the

1 Lieutenant Governor, Speaker of the House of Representatives,
2 and Attorney General of Alabama, by delivering to the member
3 the charges against him or her in writing with at least 10
4 days' written notice of the time and place at which the
5 Governor will publicly hear the member, who may appear either
6 in person or by counsel, in defense of the charges against him
7 or her. If the member is removed from office, the Governor
8 shall file with the Secretary of State a complete statement of
9 the charges made against the member and a complete report of
10 the proceedings. The action of the Governor removing a member
11 from office is final."

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