

1 HB502
2 173363-1
3 By Representative South (N & P)
4 RFD: Local Legislation
5 First Read: 07-APR-16

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9 A BILL
10 TO BE ENTITLED
11 AN ACT
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13 Relating to Fayette County; to amend Sections
14 45-29-140.04 and 45-29-140.06 of the Code of Alabama 1975,
15 relating to the Fayette County Water Coordinating and Fire
16 Prevention Authority; to further provide for the members of
17 the board of directors; and to delete the provision exempting
18 the authority from the competitive bid laws of the state.

19 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

20 Section 1. Sections 45-29-140.04 and 45-29-140.06 of
21 the Code of Alabama 1975, are amended to read as follows:

22 "§45-29-140.04.

23 "(a) The Fayette County Water Coordinating and Fire
24 Prevention Authority shall be governed by a board of
25 directors. All powers of the authority shall be exercised by
26 the board or pursuant to its authorization.

1 "(b) The initial board of directors shall consist of
2 the three citizens appointed to incorporate the authority and
3 four other directors to be appointed within 45 days after the
4 date the authority is incorporated as follows:

5 ~~"(1) In addition to the appointment of one of the~~
6 ~~incorporators who shall serve an initial term of two years,~~
7 ~~the Fayette County Commission shall appoint the county~~
8 ~~engineer as a director. The Fayette County Commission shall~~
9 ~~appoint two members of the board of directors.~~

10 "(2) The Fayette County Firefighters Association
11 shall appoint one member from their association who shall
12 serve an initial term of one year.

13 "(3) With each incorporated municipality regardless
14 of size having one vote in the selection, the elected mayors
15 of all incorporated municipalities in Fayette County shall
16 appoint one director who shall serve an initial term of two
17 years.

18 "(4) The chairs of the water authorities in Fayette
19 County shall appoint one director who shall serve an initial
20 term of three years.

21 "(5) The incorporator appointed by the senator shall
22 serve an initial term of three years and shall be chair of the
23 board of directors during his or her initial term of office.

24 "(6) The incorporator appointed by the member of the
25 House of Representatives shall serve an initial term of two
26 years.

1 "(7) The county engineer shall serve as an ex
2 officio, non-voting director.

3 "(c) In the event an appointment is not made within
4 45 days after the date of incorporation, the Governor shall
5 have the authority to make such appointment.

6 "(d) As soon as may be practicable after the
7 organization of the authority, an election shall be held by
8 the board of directors to elect a vice chair and a
9 secretary-treasurer. After the initial term of three years for
10 the chair, the board of directors shall elect a chair who
11 shall serve two year terms. No chair shall serve more than two
12 consecutive terms.

13 "(e) Upon the expiration of the initial terms,
14 directors shall serve a term of three years and vacancies
15 shall be filled by the respective appointing authority that
16 made the initial appointment. In the event of a vacancy in
17 office due to death, disability, resignation, or impeachment,
18 the unexpired term of such office shall be filled by
19 appointment by the respective appointing authority making the
20 initial appointment. No officer of the state or of any county
21 or municipality, during his or her tenure as such officer,
22 shall be eligible to serve as a director.

23 "(f) Each director appointed shall be a duly
24 qualified elector of that county and shall be a resident of
25 and the owner of real property in that part of the service
26 area of the authority which lies within that county. Directors
27 shall not be eligible to serve for more than two consecutive

1 terms. Each director shall be compensated in an amount not to
2 exceed ten dollars (\$10) per meeting attended but not to
3 exceed one hundred twenty dollars (\$120) per year. In
4 addition, each director shall be entitled to a twenty-five
5 dollar (\$25) per diem expense allowance for each day spent on
6 official business of the authority in the performance of his
7 or her duties.

8 "(g) If any director of the authority is absent from
9 three consecutive, called or scheduled meetings, he or she
10 shall be removed from office and terminated as a member of the
11 authority. Within 45 days of his or her removal, the
12 appointing authority of such director shall make a replacement
13 appointment. Upon failure of the appointing authority to make
14 such replacement appointment within 45 days, the Governor
15 shall appoint a director.

16 "(h) Any director of the authority may be impeached
17 and removed from office in the same manner and on the same
18 grounds provided by Section 175 of the Constitution of Alabama
19 of 1901 and the general laws of the state for impeachment and
20 removal of the officers mentioned in Section 175.

21 "(i) The Fayette County Commission shall provide
22 office space and staff for the authority.

23 "§45-29-140.06.

24 "(a) The authority organized or operating pursuant
25 to this article, in addition to all other powers now or
26 hereafter granted by law, shall have the following powers and
27 rights:

1 "(1) To borrow money for use for any of its
2 corporate purposes.

3 "(2) To sell, transfer, convey, grant options to
4 purchase, or lease all or any part of its system or systems
5 for such consideration and on such terms as it shall deem
6 advisable and in the best interest of the authority.

7 "(3) To consent and agree to the assignment or
8 payment of any income received from the investment of any
9 moneys of funds of the authority to any other public
10 corporation or public entity including, without limitation,
11 the county or the State of Alabama.

12 "(4) To loan or advance its funds to any person at
13 such, if any, interest as it shall determine, for the purpose
14 of financing the construction of a system or any part thereof.

15 "(5) To contract with others for the construction of
16 all or any part of a system or systems or any part thereof.

17 "(b) The moneys held in any special fund established
18 by the authority may be invested in any direct obligations of
19 the United States of America, the obligations of any agency of
20 the United States of America, interest bearing bank deposits,
21 or in any securities the payment of the principal of and
22 interest on which is fully secured by direct obligations of
23 the United States of America.

24 "(c) The authority shall be under no obligation to
25 render service to the citizens of any municipality which shall
26 not have granted the authority and those claiming under it a
27 franchise for any system of the authority within such

1 municipality without payment of any fee, charge, or cost other
2 than the cost of publication of the ordinance granting the
3 franchise.

4 "(d) Any transaction to which the authority or the
5 county is a party shall be exempt from any tax levied pursuant
6 to Article 4, commencing with Section 40-12-220, of Chapter 12
7 of Title 40, or any tax levied in substitution therefor or in
8 lieu thereof.

9 "(e) Any water system, or any part thereof, leased
10 or subleased to, or operated or managed by, the authority or
11 county, whether the lease or sublease be by the authority or
12 any private party including, without limitation, corporations
13 or partnerships, shall be exempt from all state, county, and
14 other taxes including, without limitation, ad valorem taxes,
15 regardless of the entity that shall hold the legal title to
16 such system or facility or any part thereof or any remainder
17 or reversionary interest therein.

18 "(f) The county may acquire by lease or sublease any
19 property comprising all or any part of a water system from the
20 authority or from any vendee or lessee or sublessee of the
21 authority, or may manage or operate the same, having all
22 rights of the authority with respect thereto, upon mutual
23 consent of the parties.

24 ~~"(g) The authority and all contracts made by it~~
25 ~~shall be exempt from the laws of the State of Alabama~~
26 ~~requiring competitive bids for any contract to be entered into~~
27 ~~by municipalities or public corporations authorized by them~~

1 ~~including, but without limitation to, Article 3, commencing~~
2 ~~with Section 41-16-50, of Chapter 16 of Title 41."~~

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