

1 HB582
2 212546-1
3 By Representative Rowe
4 RFD: Boards, Agencies and Commissions
5 First Read: 01-APR-21

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

This bill would require the Alabama Surface Mining Commission to meet once every two months or as the Governor, the chair of the Alabama Surface Mining Commission, or the Director of the Alabama Surface Mining Commission 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 except in certain circumstances.

1 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

4 "§9-16-73.

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

18 "(b) The commission shall be composed of seven
19 members~~7~~, who are fair and reasonable citizens of the state ~~and~~
20 ~~who shall reflect the racial, gender, geographic, urban/rural,~~
21 ~~and economic diversity of the state,~~ appointed by the
22 Governor, with the advice and consent of the Senate.
23 Appointments of members shall be coordinated so that diversity
24 of gender, race, and geographical areas is reflective of the
25 makeup of this state. The Governor shall initially appoint two
26 members of the commission for a term of five years, two
27 members for four years, two members for three years, and one

1 member for two years. All members appointed subsequently shall
2 be appointed for terms of five years.

3 "(1) One commission member shall be appointed from
4 one of the three counties in Alabama which produce the
5 greatest number of tons of surface mined coal, as indicated by
6 the records of the State of Alabama in the complete fiscal
7 year immediately preceding that appointment; and two
8 commission members shall be appointed from any of the
9 coal-producing counties in Alabama, as indicated by the
10 records of the State of Alabama in the complete fiscal year
11 immediately preceding that appointment. One commission member
12 shall be appointed state at large.

13 "(2) One of the appointees to the commission shall
14 be a professional forester duly registered pursuant to the
15 laws of the State of Alabama with not less than 10 years'
16 experience in professional forestry. One of the appointees to
17 the commission shall be a professional civil or mining
18 engineer duly registered pursuant to the laws of the State of
19 Alabama with not less than 10 years' experience in
20 professional engineering in surface mining or technologically
21 related fields. One appointee to the commission shall be an
22 attorney duly licensed to practice law in the State of Alabama
23 having not less than 10 years' experience in the active
24 practice of law, the majority of whose years in practice shall
25 have been in one of the three counties in Alabama which
26 produced the greatest number of tons of surface mined coal as

1 indicated by the records of the State of Alabama in the
2 complete fiscal year immediately preceding that appointment.

3 "(c) Within 10 days of nomination by the Governor,
4 each nominee shall file with the Secretary of the Senate a
5 verified statement setting forth the following information:
6 The names of all coal companies from whom ~~such~~ the nominee has
7 received any income of any sort during the 10 years
8 immediately preceding ~~such~~ the nomination, the name or names
9 of all coal companies in which the nominee is or in the 10
10 years immediately preceding ~~such~~ the nomination has been an
11 officer, director, stockholder, or partner; and all the names
12 of all organizations, clubs, and associations of which the
13 nominee is or in the 10 years immediately preceding ~~such~~ the
14 nomination has been a member. No commission member may have a
15 direct or indirect financial interest in underground or
16 surface coal mining operations, and may not participate in any
17 proceeding conducted pursuant to Section 9-16-79 in which the
18 commission member is an employee, officer, director,
19 shareholder, or partner or where any organization, club, or
20 association of which the commission member is a member,
21 officer, agent, director, or employee instigated the
22 proceeding, is a defendant, or has any other direct interest
23 in the outcome of the proceeding, other than as a member of
24 the commission.

25 "(d) The commission shall annually elect from among
26 its members a chair, a vice chair, and ~~such~~ other officers as
27 necessary to fulfill its duties. In the event of a vacancy

1 among the commissioners, the Governor, within 90 days of being
2 notified of ~~such~~ the vacancy, shall make an appointment to
3 ~~such~~ the vacancy, which appointment shall be subject to the
4 advice and consent of the Senate at the next regular or
5 special session of the Legislature. In the event ~~such~~ the
6 appointee is confirmed, his or her term shall be for the
7 balance of the vacancy so filled.

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

1 persons, firms, or corporations to provide professional or
2 technical assistance or consultant services to assist his or
3 her office in carrying out the purposes of this article.

4 "(f) The members of the commission shall receive as
5 compensation seventy-five dollars (\$75) per day for each day
6 of official business as approved and validated by the chair.
7 The chair shall receive one hundred dollars (\$100) per day for
8 each full day he or she is occupied with business of the
9 commission. The chair may approve and certify expenses of
10 every member of the commission for reimbursement pursuant to
11 Article 2, commencing with Section 36-7-20, Chapter 7 of Title
12 36.

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

22 "(h) The commission shall establish and maintain its
23 principal office in Jasper, Alabama, and establish and
24 maintain ~~such~~ field offices in other coal producing counties
25 as it may consider necessary for the proper discharge of its
26 duties.

1 "(i) Funds which are or may become available from
2 any source, appropriations, or otherwise, to accomplish the
3 purposes of this article shall be disbursed by the commission
4 or by the director in accordance with rules prescribed by the
5 commission.

6 "(j) The Governor may remove any member of the
7 commission from office for neglect of duty, malfeasance, or
8 misfeasance, after unanimous consent and agreement by the
9 Lieutenant Governor, Speaker of the House of Representatives,
10 and Attorney General of Alabama, by delivering to the member
11 the charges against him or her in writing with at least 10
12 days' written notice of the time and place at which the
13 Governor will publicly hear the member, who may appear either
14 in person or by counsel, in defense of the charges against him
15 or her. If the member is removed from office, the Governor
16 shall file with the Secretary of State a complete statement of
17 the charges made against the member and a complete report of
18 the proceedings. The action of the Governor removing a member
19 from office is final."

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