

1 HB446
2 208317-7
3 By Representatives Faulkner, Sells, Ingram, Holmes,
4 Sanderford, Wheeler, Oliver, Whitt, Isbell, Estes, Wood (D),
5 Wadsworth, Meadows, Pettus, Brown (K), Brown (C), Wingo,
6 Collins, Wilcox, McMillan, Carns, Smith, Robertson,
7 McCutcheon, Mooney, Hurst and Faust
8 RFD: Transportation, Utilities and Infrastructure
9 First Read: 24-FEB-21

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ENROLLED, An Act,

Relating to energy services; to provide that no governmental entity may prohibit a person or entity from using utility services from a provider that is capable of providing service and is otherwise authorized to do business in this state.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. ~~(a)~~ For the purposes of this section, the following terms shall have the following meanings:

(1) GOVERNMENTAL ENTITY. The state or any political subdivision thereof, or any executive or legislative department, unit, agency, board, commission, or authority of the state, or any political subdivision, or any public corporation, authority, agency, board, commission, or other governmental entity controlled by the state or by any political subdivision of the state.

~~(2) POLICY. Any requirement or prohibition contained in an ordinance, resolution, regulation, code, proclamation or any other requirement adopted by a governmental entity that is on its face enforceable or intended to be enforced or any practice or mandate undertaken in pursuance thereof by a governmental entity against any person, entity, or corporation or other governmental entity providing utility energy service.~~

1 ~~(3) UTILITY ENERGY SERVICE. The retail or wholesale~~
2 ~~sale or provision of energy service, whether in the form of~~
3 ~~electricity, natural gas, fuel oil, propane, methane, ethanol,~~
4 ~~or other fuel, by a person, firm, or corporation engaged in~~
5 ~~the business of providing such service.~~

6 ~~(b) No governmental entity or its governing body,~~
7 ~~officer, agent, or employee thereof, shall adopt, proclaim, or~~
8 ~~enforce any policy that prohibits, or has the effect of~~
9 ~~prohibiting, the provision or purchase of utility energy~~
10 ~~service or the connection or reconnection of piping or wiring,~~
11 ~~equipment, motor, or appliances used or usable for the purpose~~
12 ~~of utilizing any utility energy service to or by any person~~
13 ~~for retail or wholesale use based upon the form or type of~~
14 ~~utility energy service, source of energy therefor, or fuel~~
15 ~~used therefor.~~

16 ~~(c) Nothing in this section shall limit the ability~~
17 ~~of a governmental entity to select, install, or operate~~
18 ~~utility energy services of such type as it may choose for~~
19 ~~properties owned or operated by or for the benefit of the~~
20 ~~governmental entity.~~

21 ~~(d) This section does not apply to the provision or~~
22 ~~purchase of utility energy service by any utility or utility~~
23 ~~system established and operated by a municipality under~~
24 ~~Chapter 50 of Title 11, Code of Alabama 1975.~~

1 (2) UTILITY SERVICE. Electrical, natural gas, or
2 propane gas service provided to an end user.

3 Section 2. Except as otherwise provided in this act,
4 no governmental entity may adopt an ordinance, resolution,
5 regulation, or policy that prohibits, or has the effect of
6 restricting, a person's or entity's ability to use a utility
7 service of a provider that is authorized to do business in
8 this state.

9 Section 3. Nothing in this act shall be construed as
10 affecting a governmental entity's authority to do the
11 following:

12 (1) Exercise existing police powers to review and
13 approve an application before issuing building permits or to
14 otherwise enforce building, fire, and other public safety
15 codes or subdivision regulations. Provided, however, no
16 governmental entity may deny a building permit or subdivision
17 regulation application based solely on the type of utility
18 service proposed for the project.

19 (2) License or permit a provider of a utility
20 service, or regulate the use of rights-of-way by a provider of
21 a utility service, in accordance with existing law. Provided,
22 however, no governmental entity may deny a license or permit
23 based solely on the type of utility service provided by the
24 provider.

1 (3) Regulate the permitting, safe handling, storage,
2 or use of propane gas.

3 ~~(e)~~ Section 4. Nothing in this ~~section~~ act shall be
4 deemed to affect the rules of the Alabama Public Service
5 Commission adopted in accordance with its powers under Title
6 37, Code of Alabama 1975. This section does not limit or
7 restrict the power or authority of a utility to take action
8 pursuant to any rules of the commission or the practices
9 established under the rules.

10 Section 5. Nothing in this act shall be deemed to
11 amend, alter, modify, or in any way affect Chapter 14 of Title
12 37, Code of Alabama 1975.

13 Section 6. This act shall become effective on the
14 first day of the third month following its passage and
15 approval by the Governor, or its otherwise becoming law.

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Speaker of the House of Representatives

President and Presiding Officer of the Senate

House of Representatives

I hereby certify that the within Act originated in
and was passed by the House 01-APR-21, as amended.

Jeff Woodard
Clerk

Senate	<hr/> 20-APR-21 <hr/>	Amended and Passed
House	<hr/> 27-APR-21 <hr/>	Concurred in Sen- ate Amendment