SB74

205367-3

By Senator Waggoner (Constitutional Amendment)

RFD: Shelby County Legislation

First Read: 02-FEB-21

PFD: 01/26/2021
ENROLLED, An Act,
Relating to Shelby County, to propose a local constitutional amendment to the Constitution of Alabama of 1901, relating to privately owned sewer systems; to bring certain privately owned sewer systems that use public rights-of-way of public roads under the jurisdiction of the Public Service Commission under certain conditions.
BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:
Section 1. The following amendment to the Constitution of Alabama of 1901, is proposed and shall become valid as a part of the Constitution when all requirements of this act are fulfilled:
PROPOSED AMENDMENT
(a) This amendment shall apply only in Shelby County.
(b) Except as provided for in subsection (c), any private entity and any privately owned plant, property, or facility for the collection, treatment, or disposal of sewage that uses, directly or through a lease or contract, public rights-of-way of public roads for any part of its collection or disposal system, that discharges to a Grade III or higher wastewater treatment facility as defined in and by the current
classification system used by the Alabama Department of Environmental Management on January 1, 2020, and its equivalent classification thereafter, and that has residential or commercial customers that are billed a flat service fee or fee based on water usage, hereinafter referred to as utility or utilities, shall be certified and regulated by the Public Service Commission, which regulation shall include, but not be limited to, regulation of the rates, charges, and increases in rates or charges imposed on its customers. The Public Service Commission shall certify and regulate the entities, plants, facilities, and utilities affected hereby, based on and in accordance with Title 37, Code of Alabama 1975, as amended. Implementation of this amendment, whether gradual or at one time, shall be determined by the Public Service Commission. Until the Public Service Commission determines applicable rates and charges to be imposed on customers, the rates and charges shall be in accord with and governed by the most recent and controlling rate control agreement or in the event there is not a controlling rate control agreement, that utility's most recent published rate.

(c) If the county, a municipality, or a governmental utility service corporation (GUSC) in the county enters into a rate control agreement with an entity or facility described in subsection (b), the county, municipality, or GUSC may opt out of regulation by the Public Service Commission as to and for
any residential or commercial customers affected by and are subject to the rate control agreement. In the event a rate control agreement or any part thereof is found to be invalid, or is terminated by the county, municipality, or GUSC that entered into the rate control agreement, or becomes unenforceable or void in whole or in part, then the jurisdiction of the Public Service Commission and the provisions in subsection (b) pertaining to regulation by the Public Service Commission shall by operation of law be restored and enforced to the full force and effect of this amendment.

(d) In the event Public Service Commission jurisdiction is restored after the county, municipality, or GUSC has exercised its opt-out provision provided in subsection (c) and has voluntarily terminated the rate control agreement, the county, municipality, or GUSC may not again exercise its power to opt out of Public Service Commission jurisdiction and rate control for a period of five years from the date Public Service Commission jurisdiction is reinstated.

(e) In the event that an entity, plant, property, or facility serves customers located in more than one municipality, the opt-out option provided in subsection (c) shall vest with the municipality that has a rate control agreement executed as of or prior to January 1, 2021, subject to approval of the Shelby County Commission.
Section 2. An election upon the proposed amendment shall be held in accordance with Sections 284 and 284.01 of the Constitution of Alabama of 1901, now appearing as Sections 284 and 284.01 of the Official Recompilation of the Constitution of Alabama of 1901, as amended, and the election laws of this state.

Section 3. The appropriate election official shall assign a ballot number for the proposed constitutional amendment on the election ballot and shall set forth the following description of the substance or subject matter of the proposed constitutional amendment:

"Relating to Shelby County, proposing an amendment to the Constitution of Alabama of 1901, to bring certain privately owned sewer systems that use public rights-of-way of public roads under the jurisdiction of the Public Service Commission under certain conditions.

"Proposed by Act _________"

This description shall be followed by the following language:

"Yes ( ) No ( )."
President and Presiding Officer of the Senate

Speaker of the House of Representatives

SB74
Senate 09-FEB-21
I hereby certify that the within Act originated in and passed the Senate.

Patrick Harris,
Secretary.

House of Representatives
Passed: 08-APR-21

By: Senator Waggoner