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EDUCATION Georgia Public Telecommunications Commission Act: Change Provisions Relating to the Establishment of the Georgia Public Telecommunications Commission; Change the Composition of the Georgia Public Telecommunications Commission; Provide for Related Matters

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EDUCATION

Georgia Public Telecommunications Commission Act: Change Provisions Relating to the Establishment of the Georgia Public Telecommunications Commission; Change the Composition of the Georgia Public Telecommunications Commission; Provide for Related Matters

CODE SECTIONS: O.C.G.A. §§ 20-13-2, -3 (amended)
BILL NUMBER: HB 200
ACT NUMBER: 187
GEORGIA LAWS: 2001 Ga. Laws 328
SUMMARY: The Act changes the composition of the Georgia Public Telecommunications Commission, which was formerly composed of six members appointed by the Governor and three ex officio members. The ex officio members were the State School Superintendent, the Chancellor of the University System, and the Commissioner of Technical and Adult Education. The Act removes the three ex officio members and mandates that the Governor shall appoint all nine members of the Commission. The terms of office of the three new members appointed under the Act will begin on July 1, 2001, and expire on June 30, 2002. From that point forward, the terms of office of the appointed commissioners created under this Act will change to four years, as is the case for the six current appointed members. The terms of office of the current appointed members are already staggered such that two new members are appointed every two years. Thus, on July 1, 2001, the Governor will appoint the three new members created by the Act. On July 1, 2002 the Governor will appoint five new members. Then, on July 1, 2004, two new members will be appointed.

Subsequently, every two years either five or two new members will be appointed, depending on whether the terms of office of the three appointed members created under the Act will expire that year.

EFFECTIVE DATE: July 1, 2001

History

Prior to the 2001 legislative session, the three ex officio members of the Georgia Public Telecommunications Commission—the State School Superintendent, the Chancellor of the University System, and the Commissioner of Technical and Adult Education—all wrote letters to the Governor requesting to be removed from the Commission.¹ All three ex officio members so requested removal because their busy schedules did not permit them to attend the Commission meetings.²

HB 200

Representative Charlie Smith of the 175th District introduced the bill to the floor of the House on January 24, 2001.³ The House assigned the bill to its Industry Committee, which favorably reported the bill to the full House on February 7, 2001.⁴ Representative Amos Amerson of the 7th District offered a floor amendment to HB 200 that sought to reduce the number of members on the Commission from nine to six.⁵ The full House defeated the Amerson Amendment by a vote of 94 to 69 and passed HB 200 unchanged, by a vote of 126 to 42, on February 12, 2001.⁶ On February 13, 2001, the Senate referred HB 200 to its Education Committee, which favorably reported the bill back to the

1. See Telephone Interview with Rep. Winfred Dukes, House District No. 161 (Apr. 5, 2001) [hereinafter Dukes Interview].

2. See *id.*; see also Audio Recording of House Proceedings, Feb. 12, 2001 (remarks by Rep. Winfred Dukes), at <http://www.state.ga.us/services/leg/audio/2001archive.html> [hereinafter House Audio].

3. See State of Georgia Final Composite Status Sheet, HB 200, Mar. 21, 2001.

4. See *id.*

5. See Failed House Floor Amendment to HB 200, introduced by Rep. Amos Amerson, Feb. 12, 2001; see also Telephone Interview with Rep. Amos Amerson, House District No. 7 (Apr. 4, 2001) [hereinafter Amerson Interview].

6. See Georgia House of Representatives Voting Record, HB 200 (Feb. 12, 2001); State of Georgia Final Composite Status Sheet, HB 200, Mar. 21, 2001; House Audio, *supra* note 2 (vote on HB 200).

floor on February 27, 2001.⁷ The full Senate passed HB 200 on March 13, 2001, by unanimous vote.⁸ The Governor signed HB 200 into law on April 19, 2001.⁹

The Act

Section 1 of the Act amends Title 20 of the Georgia Code by striking the existing Code section 20-13-2 and replacing it with new Code section 20-13-2.¹⁰ Section 1(a) of the Act specifies that all nine members of the Commission shall be appointed by the Governor, and removes all references to the former ex officio members.¹¹ Section 1(b) of the Act strikes the language that established the original staggered terms of office for the six currently-appointed members.¹² In its place, the Act inserts language mandating that the initial term of the three members created by the Act shall be one year, with their successors serving four-year terms.¹³

Section 2 of the Act strikes Code section 20-13-3 and replaces it with new section 20-13-3.¹⁴ The only change made is that the word “appointed” is deleted from language in the Code section authorizing payment of a per diem stipend and actual travel expenses to the members for each day expended in actual service to the commission, as specified in Code section 45-7-21.¹⁵ Code section 45-7-21 specifies that the members of certain State commissions will receive an expense allowance of \$75.00 per day when attending commission meetings, along with actual transportation expenses, including reimbursement for

7. See State of Georgia Final Composite Status Sheet, HB 200, Mar. 21, 2001.

8. See Georgia Senate Voting Record, HB 200 (Mar. 13, 2001); State of Georgia Final Composite Status Sheet, HB 200, Mar. 21, 2001; see also Audio Recording of Senate Proceedings, Mar. 13, 2001, at <http://www.state.ga.us/services/leg/audio/2001archive.html>.

9. See 2001 Ga. Laws 328, § 3, at 329.

10. Compare 1990 Ga. Laws 594, § 1, at 595-96 (formerly found at O.C.G.A. § 20-13-2 (1996)), with O.C.G.A. § 20-13-2 (2001).

11. Compare 1990 Ga. Laws 594, § 1, at 595-96 (formerly found at O.C.G.A. § 20-13-2 (1996)), with O.C.G.A. § 20-13-2 (2001).

12. Compare 1990 Ga. Laws 594, § 1, at 595-96 (formerly found at O.C.G.A. § 20-13-2 (1996)), with O.C.G.A. § 20-13-2 (2001).

13. Compare 1990 Ga. Laws 594, § 1, at 595-96 (formerly found at O.C.G.A. § 20-13-2 (1996)), with O.C.G.A. § 20-13-2 (2001).

14. Compare 1990 Ga. Laws 594, § 1, at 595-96 (formerly found at O.C.G.A. § 20-13-3 (1996)), with O.C.G.A. § 20-13-3 (2001).

15. Compare 1990 Ga. Laws 594, § 1, at 595-96 (formerly found at O.C.G.A. § 20-13-3 (1996)), with O.C.G.A. § 20-13-3 (2001).

Opposition to HB 200

Opposition to HB 200 came primarily from Republicans.¹⁷ In fact, the House floor vote on the Amerson amendment was along party lines.¹⁸ Representative Amerson said he introduced his amendment because he thought that if three members were retiring from the Commission because they did not have enough time to attend the meetings, the sensible course of action was to leave the Commission size at six.¹⁹ Representative Amerson saw the replacement of the three ex officio members with three new members who would be appointed by the Governor as merely adding to the Governor's patronage power.²⁰ Representative Mitchell Kaye, a Republican from the 37th District, echoed that fear during the floor debate, asking Representative Dukes if he foresaw "many other bills this session where we're going to consolidate power with gubernatorial appointments that otherwise don't exist?"²¹ On the floor, Representative Dukes answered that he hoped there were no other such bills.²² Privately, Representative Dukes dismissed the patronage expansion hypothetical with two arguments.²³ First, he said, the positions were not salaried, and no one was going to profit excessively from the per diem expense allowance.²⁴ In fact, Representative Dukes said, people who serve on commissions such as the one at issue almost invariably end up spending more money than they receive through the expense allowance and travel reimbursement.²⁵ Second, Representative Dukes asserted that when the Governor is a member of the majority party, the minority party often complains that the majority party enacts legislation solely to expand gubernatorial power.²⁶ However, given the purely nominal compensation of the appointed positions created by HB 200, Representative Dukes saw no

17. See Dukes Interview, *supra* note 1; Amerson Interview, *supra* note 5.

18. Georgia House of Representatives Voting Record, HB 200 (Feb. 12, 2001).

19. See Amerson Interview, *supra* note 5.

20. See *id.*

21. House Audio, *supra* note 2 (remarks by Rep. Mitchell Kaye).

22. See *id.* (remarks by Rep. Winfred Dukes).

23. See Dukes Interview, *supra* note 1.

24. See *id.*

25. See *id.*

26. See *id.*

meaningful expansion of gubernatorial power, and pointed out that it is notoriously difficult to find persons willing to serve on unsalaried commissions.²⁷

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27. *See id.*