

**OUT OF ORDER**

Senators Jones II of the 22nd, Anderson of the 43rd, and Halpern of the 39th offered the following amendment #2:

1 *Amend the Senate Committee on Finance substitute to SB 410 (LC 59 0402S) by replacing*  
2 *lines 1 and 2 with the following:*

3 To amend Title 46 and Chapter 8 of Title 48 of the Official Code of Georgia Annotated,  
4 relating to public utilities and public transportation and sales and use taxes, respectively,

5 *By inserting after line 6 the following:*

6 to reestablish a consumer utility counsel to represent consumers in matters before the Public  
7 Service Commission or other agencies concerning public utilities; to provide legislative  
8 findings; to provide definitions; to create the Office of the Consumers' Utility Counsel; to  
9 establish the position of director of such office; to provide for the appointment and  
10 compensation of the director; to provide reporting requirements of the director; to provide  
11 for the powers and duties of the director; to provide for notice and service requirements; to  
12 authorize the director to take depositions and conduct discovery; to authorize the director to  
13 employ certain personnel; to require that certain employees of the Public Service  
14 Commission be made available to assist the director; to provide for statutory construction;

15 *By replacing lines 16 and 17 with the following:*

16 Title 46 of the Official Code of Georgia Annotated, relating to public utilities and public  
17 transportation, is amended in Chapter 2, relating to the Public Service Commission, by  
18 adding a new Code section to read as follows:

19 *By inserting after line 33 the following:*

20 **SECTION 1-3.**

21 Said title is further amended by adding a new chapter to read as follows:

22 "CHAPTER 1023 46-10-1.

24 The General Assembly recognizes the importance of effective and economical public  
25 utilities to the economy of the State of Georgia. It is further recognized that the citizens  
26 of Georgia should receive adequate utility services at the lowest reasonable cost to the  
27 consumer while maintaining the ability of public utilities to furnish their products and  
28 services. It is further recognized that consumers should receive the benefit of technological  
29 advances. It is further recognized that the Public Service Commission has been established  
30 for the purpose of regulating public utilities and the rates which they charge the consumer  
31 and that the commission is responsible for representing the public interest. The General  
32 Assembly is aware, however, that the commission must be furnished with all available  
33 information concerning the effects of its decisions in rate cases and proceedings before it.  
34 It is the purpose of this chapter to ensure that the commission receives such information,  
35 particularly in those cases which directly involve the vast majority of Georgia's citizens.

36 46-10-2.37 As used in this chapter, the term:38 (1) 'Consumer' means:39 (A) An individual user, primarily for personal, family, or household purposes, of the  
40 product or service of a public utility which is under the jurisdiction of the commission;41 or42 (B) Any sole proprietorship, partnership, corporation, or other entity which is a  
43 commercial user of the product or service of a public utility which is under the

44 jurisdiction of the commission and which has ten or fewer employees and a net income  
45 after taxes of \$100,000.00 per annum or less for federal income tax purposes.

46 (2) 'Director' means the director of the office.

47 (3) 'Office' means the Office of the Consumers' Utility Counsel.

48 46-10-3.

49 There is created the Office of the Consumers' Utility Counsel, which shall be assigned to  
50 the Department of Law for administrative purposes only as provided in Code  
51 Section 50-4-3. There is created the position of director of the office. The director shall  
52 be appointed and removed by the Governor. The director shall be a practicing attorney  
53 qualified by knowledge and experience to practice in public utility proceedings. The  
54 director shall receive compensation in an amount to be determined by the Governor, but  
55 not to exceed the annual salary set for each district attorney in paragraph (21) of Code  
56 Section 45-7-4. In addition to such compensation, the director shall also receive  
57 reimbursement for his or her reasonable and necessary expenses incurred in the  
58 performance of his or her duties, as provided by law for state employees. The director shall  
59 not engage in the private practice of law while employed as director. The director shall,  
60 by December 31 of each year, submit a written report of the annual activities and  
61 expenditures of the office to the Governor, the Speaker of the House of Representatives,  
62 the President of the Senate, the chairperson of the House Committee on Energy, Utilities,  
63 and Telecommunications, and the chairperson of the Senate Regulated Industries and  
64 Utilities Committee.

65 46-10-4.

66 (a) The director shall be entitled to appear, as a party or otherwise, on behalf of the  
67 consumers of this state of services provided by any person, firm, or corporation subject to  
68 the jurisdiction of the commission in all proceedings before the commission which may

69 involve or affect rates for service or services of utilities and in all other proceedings before  
70 the commission under its regulatory jurisdiction over utilities.

71 (b) The director may also appear in the same representative capacity as provided in  
72 subsection (a) of this Code section in similar administrative proceedings affecting the  
73 consumers of this state before any federal administrative agency or body which has  
74 regulatory jurisdiction over rates, services, and similar matters with respect to public utility  
75 services provided by any public utility doing business in this state.

76 (c) The director shall be authorized in the same representative capacity as provided in  
77 subsection (a) of this Code section to initiate proceedings, by complaint or otherwise,  
78 before any federal or state administrative agency before which he or she is otherwise  
79 authorized to appear, with respect to matters properly within the cognizance of those  
80 agencies.

81 (d) The director shall be authorized in the same representative capacity as provided in  
82 subsection (a) of this Code section to initiate or intervene as of right or otherwise appear  
83 in any judicial proceeding involving or arising out of any action taken by an administrative  
84 agency in a proceeding in which the director is authorized to appear under subsection (a),  
85 (b), or (c) of this Code section.

86 46-10-5.

87 (a) In addition to other requirements of service and notice imposed by law, a copy of any  
88 application, complaint, pleading, or notice filed with or issued by the commission  
89 concerning public utilities shall also be served on the director, and the director shall be  
90 notified of any other correspondence or paper filed with or issued by the commission or its  
91 staff concerning public utilities. The commission shall not proceed to hear or determine  
92 any petition, complaint, or proceeding in which the director is entitled to appear unless it  
93 shall affirmatively appear that the director was given at least ten days' written notice

94 thereof, unless such notice is affirmatively waived in writing or the director appears and  
95 specifically waives such notice.

96 (b) The director is authorized to take depositions and obtain discovery of any matter which  
97 is not privileged and which is relevant to the subject matter involved in any proceeding or  
98 petition before the commission in the same manner and subject to the same procedures  
99 which would otherwise be applicable if such proceeding was then pending before a  
100 superior court. The superior courts and the judges and clerks thereof are authorized to  
101 issue all orders, injunctions, and subpoenas and to take all actions necessary to carry out  
102 this subsection.

103 46-10-6.

104 The director is authorized to employ such assistants as he or she may need and is  
105 authorized to employ or retain and fix the compensation of such consultants, expert  
106 witnesses, accountants, engineers, attorneys, investigators, stenographers, or other technical  
107 or clerical assistance, as may be necessary to carry out his or her duties; provided, however,  
108 that no such employment shall occur nor shall any contracts for payment of fees or  
109 expenses be paid for consultants, expert witnesses, accountants, engineers, attorneys,  
110 investigators, stenographers, or other technical or clerical assistance unless such  
111 employment or such contracts can be achieved using funds appropriated for such purposes.  
112 The office shall keep suitable and proper records of all such expenditures. The  
113 compensation of the director and such staff shall be paid from state funds appropriated to  
114 the commission for the purpose of carrying out the provisions of this chapter.

115 46-10-7.

116 Services of all engineers, experts, accountants, and other technical assistants employed by  
117 the commission shall be made available to the director in the performance of his or her  
118 duties. Such engineers, experts, accountants, and technical assistants shall make such

119 appraisals and audits as the director, with the approval of the commission, may request.  
120 The director and his or her staff shall have access to all records, files, reports, documents,  
121 and other information in the possession or custody of the commission to the same extent  
122 as the members of the commission and its staff have access thereto and subject to the same  
123 limitations imposed on the use thereof by the members of the commission and its staff.

124 46-10-8.

125 This chapter shall not be construed to prevent any party interested in any proceeding or  
126 action before the commission, any court, or any administrative body from appearing in  
127 person or by counsel in such proceeding or action."