

1 HB151
2 135758-2
3 By Representative Baker
4 RFD: Economic Development and Tourism
5 First Read: 07-FEB-12
6 PFD: 02/03/2012

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8 SYNOPSIS: Under existing law, the Alabama Development
9 Office is headed by the Director of Development.
10 Under existing law, the director may appoint up to
11 five assistant directors who are not classified
12 employees under the State Merit System. Under
13 existing law, the director also may employ subject
14 to the State Merit System other employees as are
15 necessary to carry out the functions of the office.

16 This bill would change the name of the
17 Alabama Development Office to the Department of
18 Commerce and would name the head of the department
19 the Secretary of Commerce. This bill would also
20 provide that the assistant directors would be
21 called assistant secretaries of commerce.

22 This bill would also authorize the Secretary
23 of Commerce to hire other employees outside of the
24 State Merit System.

25
26 A BILL
27 TO BE ENTITLED

1 AN ACT

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3 To amend Sections 41-9-201, 41-9-202, 41-9-202.1,
4 41-9-203, and 41-9-204, Code of Alabama 1975, to rename the
5 Alabama Development Office and the Director of Development as
6 the Department of Commerce and the Secretary of Commerce,
7 respectively; to rename certain other positions; and to
8 authorize the Secretary of Commerce to employ certain persons
9 outside of the State Merit System.

10 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

11 Section 1. Sections 41-9-201, 41-9-202, 41-9-202.1,
12 41-9-203, and 41-9-204, Code of Alabama 1975, are amended to
13 read as follows:

14 "§41-9-201.

15 "(a) (1) There is hereby created the ~~Alabama~~
16 ~~Development Office~~ Department of Commerce within the office of
17 the Governor and directly under his or her supervision and
18 control. The ~~Alabama Development Office~~ shall consist of the
19 ~~Governor as the state Planning and Development Officer and a~~
20 ~~chief administrative officer to be designated as Director of~~
21 ~~Development~~ Department of Commerce shall be headed by the
22 Secretary of Commerce, who shall be a person possessed with
23 extensive responsible experience in development of economic,
24 human, and physical resources and promotion of industrial and
25 commercial development. The ~~director~~ secretary shall be
26 appointed by the Governor and serve at his or her pleasure at
27 a salary of any reasonable amount not to exceed by forty

1 thousand dollars (\$40,000) the highest authorized salary for
2 employees of the ~~Alabama Development Office~~ Department of
3 Commerce who are subject to the Merit System law. In fixing
4 such salary, the Governor shall give due consideration of the
5 salaries of comparable positions in other states and in
6 private industry. All other employees necessary to carry out
7 the duties and functions of the ~~Alabama Development Office~~
8 Department of Commerce shall be employed subject to the Merit
9 System law. In addition to any other employees, there may be
10 employed a total of ~~five~~ eight assistant ~~directors~~ secretaries
11 for the office, who shall not be subject to the Merit System
12 law and whose compensation shall be determined by the ~~director~~
13 secretary.

14 "(2) The ~~five~~ eight additional assistant ~~directors~~
15 secretaries shall be persons experienced in industrial and
16 commercial development for at least the two years prior to
17 their employment. Compensation for the ~~five~~ eight additional
18 assistant ~~directors~~ secretaries shall not exceed the amount of
19 compensation paid for the highest classification of Merit
20 System employees employed by the Alabama Development Office ~~on~~
21 ~~June 4, 1999~~.

22 "~~(3) The director is encouraged to hire at least two~~
23 ~~black employees of the five new assistant directors to be~~
24 ~~hired~~ The makeup of the assistant secretaries shall be
25 inclusive and should reflect the racial, gender, geographic,
26 urban/rural, and economic diversity of the state.

1 "(b) The Governor, through the ~~Alabama Development~~
2 ~~Office~~ Department of Commerce, shall encourage comprehensive
3 and coordinated planning and programming of the affairs of
4 state government.

5 "(c) The Governor may direct any state department or
6 other agency of state government directly under his or her
7 control and supervision to furnish the ~~Alabama Development~~
8 ~~Office~~ Department of Commerce with such personnel, equipment,
9 and services as are necessary to enable it to carry out its
10 responsibilities and duties and prescribe the terms thereof,
11 including reimbursement of costs thereof.

12 "§41-9-202.

13 "(a) The ~~Alabama Development Office~~ Department of
14 Commerce shall be the principal staff agency of the executive
15 branch to plan with the other departments of state government
16 and with other governmental units for the comprehensive
17 development of the state's human, economic and physical
18 resources and their relevance for programs administered by the
19 state and the governmental structure required to put such
20 programs into effect. It shall provide information, assistance
21 and staff support by all appropriate means. The ~~Alabama~~
22 ~~Development Office~~ Department of Commerce shall perform all
23 the duties and exercise all the powers and authority relative
24 to state regional and local planning and industrial
25 development heretofore vested in the ~~state Planning and~~
26 ~~Industrial Development Board. All the functions, powers,~~
27 ~~authority and duties relative to carrying on a planning~~

1 program for the promotion of the commercial and industrial
2 development of the state and the counties and the
3 municipalities thereof, including the preparation of a state
4 master plan, as well as the authority to provide an assistance
5 program to regions, counties and municipalities in the
6 preparation of comprehensive physical plans for such regions,
7 counties and municipalities vested by Sections 41-9-180
8 through 41-9-184 in the state Planning and Industrial
9 Development Board, are confirmed, continued, transferred to
10 and hereafter shall be vested in the Alabama Development
11 Office. All books, records, supplies, funds, equipment and
12 personnel of the ~~state Planning and Industrial~~ Alabama
13 Development board Office are also hereby transferred to the
14 Alabama Development Office Department of Commerce.

15 " (b) All of the powers and authority heretofore
16 vested in the Alabama ~~program development office, created by~~
17 ~~executive order of the Governor number 2, dated July 17, 1968,~~
18 ~~are confirmed, continued, transferred to and hereafter~~
19 Development Office and the Director of Development shall be
20 vested in the ~~Alabama Development Office~~ Department of
21 Commerce created by this article and the Secretary of
22 Commerce, respectively. A reference in any provision of law to
23 the Alabama Development Office or the Director of Development
24 shall be deemed a reference to the Department of Commerce and
25 Secretary of Commerce, respectively. All books, records,
26 supplies, funds, equipment and personnel of the Alabama
27 program development office heretofore created by executive

1 ~~order of the Governor are hereby transferred to the Alabama~~
2 ~~Development Office.~~

3 "(c) Without in any way limiting the foregoing
4 general powers and duties, the ~~Alabama development office~~
5 Department of Commerce shall have the following additional
6 powers and duties:

7 "(1) To formulate a long-range state comprehensive
8 plan, to be submitted by the Governor to the Legislature for
9 its consideration~~7.~~

10 "(2) To formulate, for approval by the Governor and
11 the Legislature, long-range plans and policies for the orderly
12 and coordinated growth of the state, including, but not
13 limited to, functional plans~~7.~~

14 "(3) To prepare special reports and make available
15 the results of the agency's research, studies and other
16 activities through publications, memoranda, briefings and
17 expert testimony~~7.~~

18 "(4) To analyze the quality and quantity of services
19 required for the continued orderly and long-range growth of
20 the state, taking into consideration the relationship of
21 activities, capabilities and future plans of local units of
22 government, area commissions, development districts, private
23 enterprise and the state and federal governments~~7.~~

24 "(5) To encourage the coordination of the planning
25 and programming activities of all state departments, agencies
26 and institutions, local levels of government and other public
27 and private bodies within the state~~7.~~

1 "(6) To advise and consult with regional, county and
2 local planning and development agencies7.

3 "(7) To work with the state budget agency and other
4 state departments, agencies and institutions to study and
5 review plans, programs and federal aid applications filed with
6 the federal government7.

7 "(8) To survey, review and appraise the
8 accomplishments of state government in achieving its goals and
9 objectives at the direction of the Governor and in cooperation
10 with the state budget agency7.

11 "(9) To apply for and accept advances, loans,
12 grants, contributions and any other form of assistance from
13 the federal government, the state or other public body or from
14 any sources, public or private, for the purposes of this
15 article and to enter into and carry out contracts or
16 agreements in connection therewith and to include in any
17 contract for financial assistance with the federal government
18 such conditions imposed pursuant to federal laws as it may
19 deem reasonable and appropriate and which are not inconsistent
20 with the purposes of this article7.

21 "(10) To review and comment on all local and
22 areawide applications for federal planning assistance or to
23 delegate such authority to a regional planning and development
24 commission;~~and.~~

25 "(11) To exercise all other powers necessary and
26 proper for the discharge of its duties, including the
27 promulgation of reasonable rules and regulations.

1 "(d) The ~~Alabama Development Office~~ Department of
2 Commerce is hereby authorized to make grants from
3 appropriations to regional planning and development
4 commissions which are certified to receive such grants by the
5 Governor under the provisions of Sections 11-85-50 through
6 11-85-55.

7 "§41-9-202.1.

8 "(a) (1) The ~~Director~~ Secretary of the ~~Alabama~~
9 ~~Development Office~~ (the "director") Department of Commerce
10 shall be notified, either orally or in writing, about the
11 general parameters of a project if an entity is considering
12 locating or expanding a facility at a site within this state
13 and intends to claim any of the incentives provided by the
14 State of Alabama that are described in subdivision (2). The
15 required notification should be made as soon as the project's
16 parameters are generally known or when a site or sites have
17 been identified by an investing entity or entities or a visit
18 is made to the State of Alabama by the entity or its
19 representative. The initial required notification may be made
20 on an anonymous basis (i.e., "Project Alpha") in order to
21 protect the confidentiality of a proposed project. Upon timely
22 notifying the ~~director~~ secretary within the time frame
23 specified in this subdivision, the ~~director~~ secretary shall
24 transmit a letter to the company or its representative
25 acknowledging receipt of the required notification (the
26 "notification acknowledgment letter").

1 "(2) The required notification set forth in
2 subdivision (1) applies to (i) capital investment credits
3 pursuant to Act 95-187, as amended; (ii) site preparation
4 grants pursuant to Act 91-635, as amended; (iii) funding for
5 access roads and bridges through the Alabama Industrial Access
6 Road and Bridge Corporation pursuant to Act 85-549, as
7 amended; (iv) training or other assistance from the Alabama
8 Industrial Development Training Program where the annual
9 expenditures of cash is estimated to be in excess of one
10 million dollars (\$1,000,000); and (v) any direct or indirect
11 cash payment for a project from the State of Alabama, whether
12 in the form of an in-kind contribution of a site, building, or
13 equipment, or otherwise.

14 "(b) All information concerning a proposed project
15 which is provided to the ~~director~~ secretary and the ~~Alabama~~
16 ~~Development Office~~ Department of Commerce shall be
17 confidential. The ~~director~~ secretary is authorized to enter
18 into a confidentiality agreement with a prospective entity
19 which prohibits the disclosure of the identity of the
20 prospective entity and any information obtained, whether
21 orally or in writing, about the entity's proposed project.

22 "(c) All written statements of intent to claim the
23 capital credit which may be filed with the Department of
24 Revenue at anytime prior to the date on which a qualifying
25 project is placed in service pursuant to Section 40-18-191,
26 ~~must~~ shall include the notification acknowledgment letter from
27 the ~~director~~ secretary.

1 "(d) All applications to the State Industrial
2 Development Authority for site preparation grants pursuant to
3 Act 91-635, 1991 Regular Session, as last amended by Act
4 97-645, 1997 Regular Session, ~~must~~ shall include the
5 notification acknowledgment letter from the ~~director~~
6 secretary.

7 "(e) All applications to the Industrial Access Road
8 and Bridge Corporation for funding for access roads and
9 bridges ~~must~~ shall include the notification acknowledgment
10 letter from the ~~director~~ secretary.

11 "(f) All companies seeking training or other
12 assistance from the Alabama Industrial Development Training
13 Program ~~must~~ shall file an application with the ~~Director~~
14 Secretary of the ~~Alabama Development Office~~ Department of
15 Commerce if the annual expenditure of cash is estimated to be
16 in excess of one million dollars (\$1,000,000). The application
17 ~~must~~ shall include the notification acknowledgment letter from
18 the ~~director~~ secretary. The ~~director~~ secretary shall be
19 responsible for reviewing, coordinating, and processing each
20 application. The ~~director~~ secretary shall have 30 days to
21 process each application.

22 "(g) An application must be filed with the ~~director~~
23 secretary before any direct or indirect cash payments are
24 expended for a project from the State of Alabama, whether the
25 payment is in the form of an in-kind contribution of a site,
26 building, equipment, or otherwise. The application ~~must~~ shall
27 include the notification acknowledgment letter from the

1 ~~director~~ secretary. The ~~director~~ secretary shall be
2 responsible for reviewing, coordinating, processing, and
3 approving each application for direct or indirect cash
4 payments and shall have 30 days to approve or deny each
5 application.

6 "§41-9-203.

7 "The Governor, in carrying out his or her
8 responsibilities under this article, may establish advisory
9 committees or councils and appoint the members thereof, who
10 shall serve at his or her pleasure. Members shall serve
11 without compensation. The Governor shall designate the
12 chairmen and such other officers as he or she may deem
13 necessary for each advisory committee or council. Advisory
14 committees or councils established pursuant to this section
15 shall meet at the call of their chairmen or of the ~~director~~
16 Secretary of ~~development~~ Commerce.

17 "§41-9-204.

18 "All appropriations heretofore or hereafter made to
19 the Industrial Development Board, the Planning and Industrial
20 Development Board (community planning), ~~and~~ the Alabama
21 Program Development Office, and the Alabama Development Office
22 heretofore established by executive order of the Governor are
23 hereby consolidated and transferred to the ~~Alabama Development~~
24 Office Department of Commerce."

25 Section 2. This act shall become effective
26 immediately following its passage and approval by the
27 Governor, or its otherwise becoming law.

