

1 SB205  
2 182218-1  
3 By Senator Ward  
4 RFD: Transportation and Energy  
5 First Read: 16-FEB-17

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8 SYNOPSIS: Under existing law, the Department of  
9 Transportation is under the direction of the  
10 director who is appointed by the Governor.

11 This bill would create the State  
12 Transportation Commission composed of nine members  
13 appointed by the Governor from the nine divisions  
14 of the State Transportation Department to  
15 coordinate and develop the activities of the  
16 Department of Transportation.

17 This bill would provide for the appointment  
18 of the Director of the Department of Transportation  
19 by the commission and for the duties of the  
20 director. The bill would also provide that the  
21 department would not be subject to the Budget  
22 Management Act.

23  
24 A BILL  
25 TO BE ENTITLED  
26 AN ACT  
27

1           Relating to the Department of Transportation; to  
2           establish the State Transportation Commission; to provide for  
3           the members, duties, responsibilities, and compensation and  
4           expenses of the commission; to prohibit a person serving on  
5           the State Transportation Commission from benefiting by  
6           entering employment with or contracting with companies that do  
7           business with the Department of Transportation while he or she  
8           serves on the Commission or for a period of two years  
9           thereafter; to provide for the appointment and duties of the  
10          Director of the Department of Transportation; and for this  
11          purpose to amend Sections 23-1-21 and 23-1-21.2, Code of  
12          Alabama 1975, relating to the appointment and authority of the  
13          Director of the Department of Transportation.

14         BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

15                 Section 1. (a) There shall be a State Transportation  
16                 Commission which shall consist of nine members appointed by  
17                 the Governor. One member shall be appointed from each division  
18                 of the Department of Transportation as set out in Section 2.

19                 (b) The members appointed from the Department of  
20                 Transportation Divisions One, Four, and Seven shall serve an  
21                 initial term of two years. The members appointed from the  
22                 Department of Transportation Divisions Two, Five, and Eight  
23                 shall serve an initial term of four years. The members  
24                 appointed from the Department of Transportation Divisions  
25                 Three, Six, and Nine shall serve an initial term of six years.  
26                 After the initial appointments, the term of the members shall  
27                 be six years except that a member shall serve until a

1 successor is appointed and qualified. A member of the  
2 commission may not serve consecutive terms. The membership of  
3 the commission shall be inclusive and shall reflect the  
4 racial, gender, geographic, urban/rural, and economic  
5 diversity of the state.

6 The commission shall report to the Legislature by  
7 the second legislative day of each Regular Session the extent  
8 to which the membership of the commission has met the  
9 diversity requirements of this section.

10 (c) If any one or more of the commission members  
11 dies, resigns, or is removed from office, the Governor shall  
12 fill the vacancy by appointment for the unexpired term within  
13 30 days of the vacancy.

14 (d) The commission shall elect from its members a  
15 chair. Five members of the board shall constitute a quorum for  
16 the transaction of the official business of the commission.

17 (e) The members of the commission shall serve  
18 part-time in the performance of their official duties, but  
19 shall hold no other office of profit during their incumbency.  
20 In addition, the members shall not be employed in the  
21 roadbuilding or any affiliated industry or as a lobbyist.

22 (f) The compensation of the members of the  
23 commission shall be 30 percent of the compensation of the  
24 cabinet members of the Governor pursuant to Section 36-6-6,  
25 Code of Alabama 1975, and the compensation shall be paid in  
26 installments from the State Treasury in the same manner that  
27 salaries of other state officers are paid.

1 (g) Before entering upon the duties of the office,  
2 each commission member shall execute to the state a bond, to  
3 be approved by the Governor in an amount fixed by the  
4 Governor, for the faithful performance of his or her duties.

5 (h) The necessary office, supplies, stationery, and  
6 equipment shall be provided for the commission by the State  
7 Department of Transportation. Each member of the commission  
8 shall maintain an office in the division headquarters in his  
9 or her division.

10 (i) Meetings of the commission shall be held at the  
11 call of the chair or as may be determined by a quorum of the  
12 commission.

13 (j) The State Transportation Commission shall be  
14 responsible for and have the authority to assume all duties of  
15 the Director of the Department of Transportation unless the  
16 commission by resolution delegates the duties to the director.

17 (k) No person who serves on the State Transportation  
18 Commission shall enter employment with or contract with a  
19 company or organization or enter employment with or contract  
20 with a company or organization that contracts with a company  
21 or organization that benefited from work approved by the  
22 commission during the time such person was on the commission.  
23 If a person who has served on the State Transportation  
24 Commission becomes employed or contracts with a company or  
25 organization, that company or organization is prohibited from  
26 entering into contracts with the Department of Transportation,  
27 either directly or indirectly, for a period of two years after

1 the completion of their term of service as a member of the  
2 commission.

3 Section 2. The Divisions of the State Department of  
4 Transportation for the purpose of the appointment of members  
5 of the State Transportation Commissions are as follows:

6 (1) Division One: Cherokee, Cullman, DeKalb, Etowah,  
7 Jackson, Limestone, Madison, Marshall, and Morgan Counties.

8 (2) Division Two: Colbert, Franklin, Lauderdale,  
9 Lawrence, Marion, and Winston Counties.

10 (3) Division Three: Blount, Jefferson, Shelby, St.  
11 Clair, and Walker Counties.

12 (4) Division Four: Calhoun, Chambers, Clay,  
13 Cleburne, Coosa, Lee, Randolph, Russell, Talladega, and  
14 Tallapoosa Counties.

15 (5) Division Five: Bibb, Chilton, Fayette, Greene,  
16 Hale, Lamar, Perry, Pickens, and Tuscaloosa Counties.

17 (6) Division Six: Autauga, Bullock, Butler, Dallas,  
18 Elmore, Lowndes, Macon, and Montgomery Counties.

19 (7) Division Seven: Barbour, Crenshaw, Coffee,  
20 Convington, Dale, Geneva, Henry, Houston, and Pike Counties.

21 (8) Division Eight: Clarke, Choctaw, Marengo,  
22 Monroe, Sumter, Washington, and Wilcox Counties.

23 (9) Division Nine: Baldwin, Conecuh, Escambia, and  
24 Mobile Counties.

25 Section 3. Sections 23-1-21 and 23-1-21.2, Code of  
26 Alabama 1975, are amended to read as follows:

27 "§23-1-21.

1  
2           "(a) The chief executive officer of the State  
3 Department of Transportation shall be known as the Director of  
4 Transportation, who shall be appointed by the ~~Governor~~ State  
5 Transportation Commission and shall hold office at the  
6 pleasure of the ~~Governor~~. ~~All the powers, authority, and~~  
7 ~~duties vested in the State Department of Transportation shall~~  
8 ~~be exercised by the Director of Transportation~~ commission. The  
9 Director of Transportation shall have the authority and duties  
10 delegated to him or her by the State Transportation  
11 Commission.

12           "Before entering upon the duties of office, the  
13 Director of Transportation shall execute to the State of  
14 Alabama a bond, to be approved by the ~~Governor~~ State  
15 Transportation Commission, in an amount to be fixed by the  
16 ~~Governor~~ commission, for the faithful performance of his or  
17 her duties.

18           "(b) The Director of the Department of  
19 Transportation shall have the following minimum  
20 qualifications:

21           "(1) Possess a wide knowledge of the transportation  
22 system and needs of Alabama.

23           "(2) Possess a wide knowledge of the principles of  
24 transportation organization and administration.

25           "(3) Possess selected training or expertise in the  
26 field of transportation.

1           "(c) No person who is a member of the State  
2 Transportation Commission within two years next preceding his  
3 or her service on the commission shall be eligible to be  
4 chosen as director of the department. The director shall give  
5 his or her entire time to the duties of the office.

6           "(d) In the event of a vacancy in the office of the  
7 director, the chief engineer of the department shall serve as  
8 acting director until the commission selects a replacement.  
9 The commission shall name a new director within 90 days of a  
10 vacancy.

11           "§23-1-21.2.

12           "(a) The director, acting alone or through, and in  
13 cooperation with local entities, is hereby delegated the  
14 authority to:

15           "(1) Enter into agreements with local entities to  
16 provide public transportation and to administer any program or  
17 programs, whether rural or urban, relative to public  
18 transportation resulting from federal transportation  
19 legislation. This shall include, but not be limited to,  
20 applying for, accepting, and expending federal public  
21 transportation funds in accordance with applicable federal  
22 laws and regulations.

23           "(2) Enter into agreements with the United States  
24 for federal assistance for public transportation.

25           "(3) Enter into agreements with local entities to  
26 perform and/or cooperate in the performance of transportation  
27 planning for public transportation improvements. However, the



1 director shall not perform such planning until such time as  
2 the local entities affected enter into agreement with the  
3 director to carry out a planning process.

4 "(4) Provide any available technical assistance to  
5 local entities for formulating a program of public  
6 transportation projects to assure that said projects are in  
7 accordance with the comprehensive transportation planning  
8 process where such process is established and is a  
9 prerequisite for federal assistance.

10 "(5) Administer any state funds authorized from time  
11 to time by the Legislature for the purpose of public  
12 transportation.

13 "(6) Develop and promulgate such rules and  
14 regulations as are determined necessary to insure compliance  
15 with federal laws and regulations.

16 "(b) In addition to the duties listed in subsection  
17 (a), the director shall do all of the following:

18 "(1) Administer the policies promulgated by the  
19 commission.

20 "(2) Supervise and direct all administrative and  
21 technical activities of the department.

22 "(3) Organize the offices of the department.

23 "(4) Coordinate the activities of the various  
24 offices of the department.

25 "(5) Recommend studies and investigations subject to  
26 commission approval as he or she may deem appropriate and

1 carry out the approved recommendations in conjunction with the  
2 various offices.

3 "(6) Prepare and deliver to the Legislature and the  
4 Governor on or before January 1 of each year, and at other  
5 times as may be required by the Legislature or Governor, a  
6 full report of the work of the department and the office  
7 thereof, including a detailed statement of expenditures of the  
8 department, a detailed construction update, information  
9 concerning the status of roads, mass transit, and aviation,  
10 and any recommendations the department may have.

11 "(7) Have general supervision over all matters  
12 relating to the construction or maintenance of the state  
13 highways, letting of contracts therefor, and the selection of  
14 materials to be used in the construction of state highways and  
15 the employment, promotion, demotion, reprimand, suspension,  
16 termination, reassignment, transfer, moving or relocation of  
17 all personnel not specifically authorized by statute to be  
18 employed by the commission. The director may authorize the  
19 payment of expenses of any personnel reassigned, transferred,  
20 moved, or relocated in accordance with rules and regulations  
21 as are promulgated by the commission.

22 "(8) Sign all contracts and agreements in the name  
23 of the state."

24 Section 4. The provisions of this act shall be  
25 operative only after the Attorney General gives his or her  
26 opinion in writing that this act does not materially affect

1 the case styled, Johnny Reynolds v. Alabama Department of  
2 Transportation, 85-T-665-N Middle District of Alabama.

3 Section 5. Notwithstanding the provisions of the  
4 Budget Management Act, neither the Governor nor the Finance  
5 Director shall have any authority to withhold funds, deny  
6 transfer of funds, or re-direct specific projects contrary to  
7 either the five year plan of the commission or the annual  
8 revenue and expenditure plan of the commission.

9 Section 6. Commission members shall be subject to  
10 the Alabama Ethics Law.

11 Section 7. This act shall become effective on the  
12 first day of the next term of the Governor following its  
13 passage and approval by the Governor, or its otherwise  
14 becoming law.