

1 SB180  
2 125760-1  
3 By Senator Marsh  
4 RFD: Job Creation and Economic Development  
5 First Read: 08-MAR-11

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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 Alabama  
18 Department of Commerce and would name the head of  
19 the department the Secretary of Commerce. This bill  
20 would also provide that the assistant directors  
21 would be 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

2  
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~~ Department of Commerce  
19 shall ~~consist of the Governor as the state Planning and~~  
20 ~~Development Officer and a chief administrative officer to be~~  
21 ~~designated as Director of Development~~ 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~~ Any other employees necessary to carry  
7 out the duties and functions of the Alabama ~~Development Office~~  
8 ~~shall~~ Department of Commerce may be employed as unclassified  
9 employees not subject to the Merit System law. In addition to  
10 any other employees, there may be employed a total of five  
11 assistant ~~directors~~ secretaries for the office, who shall not  
12 be subject to the Merit System law and whose compensation  
13 shall be determined by the ~~director~~ secretary.

14 "(2) The five 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 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~~ secretary is encouraged to ~~hire~~  
23 insure that at least two ~~black employees~~ of the five ~~new~~  
24 assistant ~~directors to be hired~~ secretaries are black.

25 "(b) The Governor, through the Alabama ~~Development~~  
26 ~~Office~~ Department of Commerce, shall encourage comprehensive

1 and coordinated planning and programming of the affairs of  
2 state government.

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

10 "§41-9-202.

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

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

13 " (b) All of the powers and authority heretofore  
14 vested in the Alabama ~~program development office, created by~~  
15 ~~executive order of the Governor number 2, dated July 17, 1968,~~  
16 ~~are confirmed, continued, transferred to and hereafter~~  
17 ~~Development Office~~ shall be vested in the Alabama ~~Development~~  
18 ~~Office Department of Commerce~~ created by this article. All  
19 ~~books, records, supplies, funds, equipment and personnel of~~  
20 ~~the Alabama program development office heretofore created by~~  
21 ~~executive order of the Governor are hereby transferred to the~~  
22 ~~Alabama Development Office.~~

23 " (c) Without in any way limiting the foregoing  
24 general powers and duties, the Alabama ~~development office~~  
25 ~~Department of Commerce~~ shall have the following additional  
26 powers and duties:

1           "(1) To formulate a long-range state comprehensive  
2 plan, to be submitted by the Governor to the Legislature for  
3 its consideration7.

4           "(2) To formulate, for approval by the Governor and  
5 the Legislature, long-range plans and policies for the orderly  
6 and coordinated growth of the state, including, but not  
7 limited to, functional plans7.

8           "(3) To prepare special reports and make available  
9 the results of the agency's research, studies, and other  
10 activities through publications, memoranda, briefings, and  
11 expert testimony7.

12           "(4) To analyze the quality and quantity of services  
13 required for the continued orderly and long-range growth of  
14 the state, taking into consideration the relationship of  
15 activities, capabilities, and future plans of local units of  
16 government, area commissions, development districts, private  
17 enterprise, and the state and federal governments7.

18           "(5) To encourage the coordination of the planning  
19 and programming activities of all state departments, agencies,  
20 and institutions, local levels of government, and other public  
21 and private bodies within the state7.

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

24           "(7) To work with the state budget agency and other  
25 state departments, agencies, and institutions to study and  
26 review plans, programs, and federal aid applications filed  
27 with the federal government7.

1           "(8) To survey, review, and appraise the  
2 accomplishments of state government in achieving its goals and  
3 objectives at the direction of the Governor and in cooperation  
4 with the state budget agency.

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

15           "(10) To review and comment on all local and  
16 areawide applications for federal planning assistance or to  
17 delegate such authority to a regional planning and development  
18 commission; ~~and.~~

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

22           "(d) The Alabama ~~Development Office~~ Department of  
23 Commerce is hereby authorized to make grants from  
24 appropriations to regional planning and development  
25 commissions which are certified to receive such grants by the  
26 Governor under the provisions of Sections 11-85-50 through  
27 11-85-55.



1           "§41-9-202.1.

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

21           "(2) The required notification set forth in  
22 subdivision (1) applies to (i) capital investment credits  
23 pursuant to Act 95-187, as amended; (ii) site preparation  
24 grants pursuant to Act 91-635, as amended; (iii) funding for  
25 access roads and bridges through the Alabama Industrial Access  
26 Road and Bridge Corporation pursuant to Act 85-549, as  
27 amended; (iv) training or other assistance from the Alabama

1 Industrial Development Training Program where the annual  
2 expenditures of cash is estimated to be in excess of one  
3 million dollars (\$1,000,000); and (v) any direct or indirect  
4 cash payment for a project from the State of Alabama, whether  
5 in the form of an in-kind contribution of a site, building, or  
6 equipment, or otherwise.

7 "(b) All information concerning a proposed project  
8 which is provided to the ~~director~~ secretary and the Alabama  
9 ~~Development Office~~ Department of Commerce shall be  
10 confidential. The ~~director~~ secretary is authorized to enter  
11 into a confidentiality agreement with a prospective entity  
12 which prohibits the disclosure of the identity of the  
13 prospective entity and any information obtained, whether  
14 orally or in writing, about the entity's proposed project.

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

21 "(d) All applications to the State Industrial  
22 Development Authority for site preparation grants pursuant to  
23 Act 91-635, 1991 Regular Session, as last amended by Act  
24 97-645, 1997 Regular Session, ~~must~~ shall include the  
25 notification acknowledgment letter from the ~~director~~  
26 secretary.

1           "(e) All applications to the Industrial Access Road  
2 and Bridge Corporation for funding for access roads and  
3 bridges ~~must~~ shall include the notification acknowledgment  
4 letter from the ~~director~~ secretary.

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

16           "(g) An application must be filed with the ~~director~~  
17 secretary before any direct or indirect cash payments are  
18 expended for a project from the State of Alabama, whether the  
19 payment is in the form of an in-kind contribution of a site,  
20 building, equipment, or otherwise. The application ~~must~~ shall  
21 include the notification acknowledgment letter from the  
22 ~~director~~ secretary. The ~~director~~ secretary shall be  
23 responsible for reviewing, coordinating, processing, and  
24 approving each application for direct or indirect cash  
25 payments and shall have 30 days to approve or deny each  
26 application.

27           "§41-9-203.

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

11           "§41-9-204.

12           "All appropriations heretofore or hereafter made to  
13 the Industrial Development Board, the Planning and Industrial  
14 Development Board (community planning), ~~and~~ the Alabama  
15 Program Development Office, and the Alabama Development Office  
16 heretofore established by executive order of the Governor are  
17 hereby consolidated and transferred to the Alabama ~~Development~~  
18 ~~Office~~ Department of Commerce."

19           Section 2. This act shall become effective on the  
20 first day of the third month following its passage and  
21 approval by the Governor, or its otherwise becoming law.