

1 SB141  
2 202698-1  
3 By Senators Elliott, Whatley, Sessions, Williams and Stutts  
4 RFD: Transportation and Energy  
5 First Read: 06-FEB-20

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

This bill would create the State Transportation Commission composed of five members appointed by the Governor from the five regions of the Department of Transportation to coordinate and develop the activities of the department.

This bill would provide for the appointment of the Director of the Department of Transportation by the commission and for the duties of the director.

This bill would also provide that the department would not be subject to the Budget Management Act.

A BILL  
TO BE ENTITLED  
AN ACT

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 five members appointed by  
17                 the Governor. One member shall be appointed from each region  
18                 of the Department of Transportation as set out in Section 2.

19                 (b) (1) The members appointed from the Regions One  
20                 and Four shall serve an initial term of two years. The members  
21                 appointed from the Regions Two and Five shall serve an initial  
22                 term of four years. The member appointed from the Region Three  
23                 shall serve an initial term of six years. After the initial  
24                 appointments, the term of the members shall be six years  
25                 except that a member shall serve until a successor is  
26                 appointed and qualified. A member of the commission may not  
27                 serve consecutive terms. The membership of the commission

1 shall be inclusive and shall reflect the racial, gender,  
2 geographic, urban/rural, and economic diversity of the state.

3 (2) The commission shall report to the Legislature  
4 by the second legislative day of each Regular Session the  
5 extent to which the membership of the commission has met the  
6 diversity requirements of this section.

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

11 (d) The commission shall elect from its members a  
12 chair. Three members of the board shall constitute a quorum  
13 for the transaction of the official business of the  
14 commission.

15 (e) (1) The members of the commission shall serve  
16 part-time in the performance of their official duties, but  
17 shall hold no other office of profit during their incumbency.  
18 In addition, the members shall not be employed in the  
19 roadbuilding or any affiliated industry or as a lobbyist.

20 (2) The members of the commission shall be subject  
21 to the Alabama Ethics Law.

22 (f) The compensation of the members of the  
23 commission shall be 25 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 region headquarters in the  
9 region where the member resides.

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 the 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 five regions of the Department of  
4 Transportation established by the department on the effective  
5 date of this act shall be the regions for the purpose of the  
6 appointment of members of the State Transportation Commission.  
7 The regions are as follows:

8 (1) Region One: The North Region composed of  
9 Madison, Jackson, DeKalb, Marshall, Cullman, Etowah, Cherokee,  
10 Colbert, Lauderdale, Lawrence, Franklin, Limestone, and Morgan  
11 Counties.

12 (2) Region Two: The East Central Region composed of  
13 Jefferson, Blount, St. Clair, Shelby, Coosa, Tallapoosa,  
14 Calhoun, Chambers, Clay, Cleburne, Randolph, and Talladega  
15 Counties and a portion of Lee County.

16 (3) Region Three: The West Central Region composed  
17 of Tuscaloosa, Bibb, Chilton, Hale, Perry, Sumter, Fayette,  
18 Lamar, Pickens, Greene, Walker, Marion, and Winston Counties.

19 (4) Region Four: The Southeast Region composed of  
20 Elmore, Autauga, Bullock, Macon, Montgomery, Butler, Lowndes,  
21 Dallas, Russell, Houston, Henry, Coffee, Geneva, Convington,  
22 Crenshaw, Dale, Pike, and Barbour Counties and a portion of  
23 Lee County.

24 (5) Region Five: The Southwest Region composed of  
25 Mobile, Baldwin, Conecuh, Escambia, Clarke, Marengo, Choctaw,  
26 Wilcox, Monroe, and Washington Counties.

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

3           "§23-1-21.

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

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

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

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

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

26           "(3) Possess selected training or expertise in the  
27 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~~ adopt 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 adopted by the  
21 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 redirect 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. This act shall become effective on the  
10 first day of the next term of the Governor following its  
11 passage and approval by the Governor, or its otherwise  
12 becoming law.