

1 HB584  
2 157969-1  
3 By Representative Scott (N & P)  
4 RFD: Jefferson County Legislation  
5 First Read: 11-MAR-14

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9 A BILL  
10 TO BE ENTITLED  
11 AN ACT  
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13 Relating to Jefferson County; to amend Sections 6,  
14 7, and 24 of Act 2013-380, 2013 Regular Session, to limit the  
15 compensation of the chairman of the transit authority board to  
16 a maximum of \$20 per meeting; to provide that no person may  
17 serve as a director of the authority who holds an office for  
18 profit; to provide for limitations on the recovery of damages  
19 for claims of bodily injury, emotional distress or death under  
20 any judgment against the authority and its employees and  
21 agents under certain conditions; to increase the ad valorem  
22 tax collected within the city limits of a municipality served  
23 by the authority; and to repeal Section 15 of Act 2013-380,  
24 2013 Regular Session, relating to the subsequent incorporation  
25 of another authority.

26 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

1           Section 1. Sections 6, 7, and 24 of Act 2013-380,  
2           2013 Regular Session, are amended to read as follows:

3           "Section 6. (a) Each authority shall be governed by  
4           a board. All powers of the authority shall be exercised by or  
5           under the authority of, and the business and affairs of the  
6           authority shall be managed under the direction of, the board  
7           or pursuant to its authorization. In making appointments to  
8           the board, best efforts should be used to reflect the racial,  
9           gender, and economic diversity within the county.

10           "(b) The board shall consist of nine directors. One  
11           director shall be elected by the governing body of the  
12           authorizing county. Five of the directors shall be elected by  
13           the governing body of the principal municipality. One of the  
14           directors shall be elected by the governing bodies of each of  
15           the three participating municipalities having the largest  
16           population according to the last or any subsequent federal  
17           decennial census. If there are not three participating  
18           municipalities, the governing body of the authorizing county  
19           and the governing body of the principal municipality shall  
20           jointly elect a director that would otherwise be elected by  
21           the participating municipality. The term of office of each  
22           person who is a director on the effective date of this act  
23           shall not be changed by this act.

24           "(c) Notwithstanding the provisions of subsection  
25           (b), the terms of this subsection shall apply after January 1,  
26           2014. Every appointment of a director for a new term shall be  
27           for a four-year term, and no one person shall serve more than

1 two consecutive four-year terms unless such person is a  
2 director of the authority on the effective date of this act.  
3 The principal municipality may vary the term of office of any  
4 director it appoints as to cause its appointments to be evenly  
5 spaced over any four-year period. The participating  
6 municipalities and the authorizing county shall, following  
7 consultations with each other, exercise a similar power.

8 "(d) Whenever there is a vacancy on the board, a  
9 successor director to serve for the unexpired term applicable  
10 to the vacancy shall be elected by the public entity that  
11 elected the director whose unexpired term the successor is to  
12 fill. A municipality may not have any continuing or vested  
13 right to elect a director and the power of the governing body  
14 of any municipality to elect or to participate in the election  
15 of a director, whether for a full term or to complete an  
16 unexpired term, shall be determined in accordance with the  
17 most recent federal decennial census.

18 "(e) An officer of the state or of any county or  
19 municipality may not, during his or her tenure as an officer,  
20 be eligible to serve as a director. Each director shall be a  
21 duly qualified elector of the authorizing county. Each  
22 director shall be reimbursed for expenses actually incurred by  
23 him or her in and about the performance of his or her duties.  
24 Each director, except the chair of the board, shall be  
25 compensated in an additional amount not to exceed ten dollars  
26 (\$10) per meeting attended but not to exceed two hundred fifty  
27 dollars (\$250) per year; the chair shall be compensated in an

1 additional amount not to exceed twenty dollars (\$20) per  
2 meeting attended and five hundred dollars (\$500) per year; and  
3 the term "meeting" shall have the meaning given in Section  
4 36-25A-2, Code of Alabama 1975. A director may be impeached  
5 and removed from office in the same manner and on the same  
6 grounds provided by Section 175 of the Official Recompilation  
7 of the Constitution of Alabama of 1901, as amended, and the  
8 general laws of the state for impeachment and removal of the  
9 officers mentioned in Section 175. A person may not serve as a  
10 member of the board if he or she holds any elected or  
11 appointed office for profit under the state or any political  
12 subdivision thereof.

13 "(f) The dollar amounts specified in subsection (e)  
14 shall be adjusted according to the increase in the Consumer  
15 Price Index published by the Bureau of Labor Statistics of the  
16 United States Department of Labor for all Urban Consumers, US  
17 City Average, All Items, Not Seasonally Adjusted, Base Period  
18 1982-84=100 (the "Index"). Adjustments shall occur at the  
19 start of each fiscal year of the authority, and shall be  
20 determined by dividing the most recent information available  
21 for the Index at the start of each fiscal year, by the most  
22 recent information available for the Index upon the effective  
23 date of this act, and multiplying the resultant amount by the  
24 subject number in subsection (e). Any increase or decrease  
25 shall be rounded to the nearest whole dollar.

1           "Section 7. (a) The authority shall exercise powers  
2 and duties necessary to the discharge of its powers and duties  
3 in corporate form as follows:

4           "(1) Have succession by its corporate name in  
5 perpetuity subject to Section 20.

6           "(2) Sue and be sued in its own name in civil suits  
7 and actions and defend suits against it.

8           "(3) Adopt and make use of a corporate seal and  
9 alter the same at its pleasure.

10          "(4) Adopt and alter bylaws for the regulation and  
11 conduct of its affairs and business.

12          "(5) Acquire, receive, take, by purchase, gift,  
13 lease, devise, or otherwise, and hold property of every  
14 description, real, personal, or mixed, whether located in one  
15 or more counties or municipalities and whether located within  
16 or outside the authorizing county.

17          "(6) Make, enter into, and execute contracts,  
18 agreements, leases, and other instruments and take other  
19 actions as may be necessary or convenient to accomplish any  
20 purpose for which the authority was organized, or exercise any  
21 power expressly granted under this act. It is further provided  
22 that personnel employed and vendors hired with funds provided  
23 under this act shall reflect the racial and gender percentages  
24 within the authorizing county.

25          "(7) Plan, establish, develop, acquire, purchase,  
26 lease, construct, reconstruct, enlarge, improve, maintain,  
27 equip, and operate a system for the provision of public

1 transportation service within the authorizing county, or  
2 within any other county of the state, and without any  
3 requirement that the system be interconnected or otherwise  
4 constitute an integrated operational unit.

5 "(8) Acquire real and personal property, franchises,  
6 and easements deemed necessary or desirable in connection with  
7 the system.

8 "(9) Establish long-range plans and an annual  
9 program for public transportation in consultation with plans  
10 adopted by the Metropolitan Planning Organization and the  
11 Regional Planning Commission, the plans and programs to be  
12 coordinated with the plans for land use and development by  
13 counties and municipalities in the geographic area of the  
14 authority, in cooperation with the Regional Planning  
15 Commission and the Metropolitan Planning Organization; assure  
16 consistency between public transportation plans and related  
17 land use policies and plans; and provide for funds sufficient  
18 to ensure the planning and consultation as required among the  
19 authority, the Metropolitan Planning Organization, and the  
20 Regional Planning Commission.

21 "(10) Develop or make grants for development of  
22 alternative transportation projects designed to enhance access  
23 to public transportation service in furtherance of the goal of  
24 improved mobility within the system providing public  
25 transportation service and in accordance with Section 134 of  
26 Title 23 and Chapter 53 of Title 49 of the United States Code.

1           "(11) Own, operate, finance, and provide public  
2 transportation service within the authorizing county or in any  
3 part of any other county upon the terms and for rates or other  
4 consideration as the board may prescribe.

5           "(12) Provide charter service within the state upon  
6 the terms and for the rates or other consideration as the  
7 board may prescribe unless prohibited by federal or state law,  
8 and use or operate any part of any transportation system owned  
9 by the authority in the charter service.

10           "(13) Sell and issue bonds of the authority in order  
11 to provide funds for any corporate function, use or purpose,  
12 the bonds to be payable solely from the sources specified in  
13 Sections 9 and 13.

14           "(14) Assume obligations secured by a lien on, or  
15 payable out of or secured by a pledge of the revenues from,  
16 any transit system or any part thereof, that may be acquired  
17 by the authority, any obligation so assumed to be payable by  
18 the authority solely from the sources from which bonds of the  
19 authority may be made payable pursuant to Sections 9 and 13.

20           "(15) Pledge for payment of any bonds issued or  
21 obligations assumed by the authority any revenues from which  
22 those bonds or obligations are made payable as provided in  
23 this act.

24           "(16) Execute and deliver, in accordance with  
25 Sections 9 and 13, mortgages and deeds of trust and trust  
26 indentures, or either.



1           "(17) Exercise the power of eminent domain, except  
2 as limited by state law, except the authority may not acquire,  
3 without the consent of the owner, any transportation system  
4 from which public transportation service is currently being  
5 furnished. The authority may not by eminent domain acquire any  
6 real property or rights owned or held by public or private  
7 railroads or utilities.

8           "(18) Expend funds for the purchase or lease of  
9 materials, equipment, supplies, or other personal property  
10 without compliance with Chapter 16 of Title 41, Code of  
11 Alabama 1975.

12           "(19) Appoint, employ, contract with, and provide  
13 for the compensation of, officers, employees, and agents,  
14 including, but without limitation to, engineers, attorneys,  
15 management consultants, fiscal advisers, or other consultants  
16 without regard to Chapter 16 of Title 41, Code of Alabama  
17 1975, or any law establishing a civil service or merit system  
18 that might otherwise be applicable, as the business of the  
19 authority may deem necessary or desirable, and also provide a  
20 system of disability pay, employee insurance, retirement  
21 compensation, pensions, or other employee benefit plans as the  
22 authority may deem necessary or desirable. This act may not be  
23 construed to affect the rights and privileges of the employees  
24 of the system.

25           "(20) Make and enforce reasonable rules and  
26 regulations governing the use of any public transportation  
27 service provided by the authority.

1           "(21) Provide for any insurance as the board may  
2 deem advisable.

3           "(22) Invest funds of the authority that the board  
4 may determine are not presently needed in the operation of its  
5 properties in bonds of, or guaranteed by, the United States of  
6 America or any agency of the United States, bonds of the  
7 state, bonds of any county or municipality, interest-bearing  
8 bank deposits, any agreement to repurchase any one or more of  
9 the foregoing, any money market fund consisting of any one or  
10 more of the foregoing, or any combination thereof.

11           "(23) Cooperate with the United States of America or  
12 its agencies or instrumentalities, the state, any county,  
13 municipality, or other political subdivision of the state, and  
14 any public corporation organized under the laws of the state  
15 and make or receive funds from any of them in the terms as the  
16 board may deem advisable or prescribe to make contracts with  
17 them, or any of them, as the board deems advisable to  
18 accomplish the purposes for which the authority was  
19 established.

20           "(24) Sell and convey its properties that may have  
21 become obsolete or worn out or that may no longer be needed or  
22 useful as a part of any transportation system of the  
23 authority.

24           "(25) Sell and convey, with or without valuable  
25 consideration, any of its transit systems or any portion of a  
26 transit system, to any one or more counties, municipalities,  
27 or public corporations organized under the laws of the state,

1 which have the corporate power to operate the system, or  
2 portions of a transit system, conveyed, and the property and  
3 income of which are not subject to taxation except that the  
4 sale and conveyance may be made only of the following:

5 "a. With the consent of the authorizing county, the  
6 principal municipality, and each participating municipality,  
7 the consent to be evidenced by a resolution adopted by the  
8 governing body of each consenting county and municipality.

9 "b. If the conveyance would not constitute a breach  
10 of any then outstanding mortgage and deed of trust, trust  
11 indenture, or other agreement to which the authority is a  
12 party.

13 "(26) Enter into agreements with all or any part of  
14 the employees of the authority or with any groups or  
15 associations representing the employees.

16 "(27) Enter into a management agreement or  
17 agreements with any person for the management by or for the  
18 authority of any public transportation service upon any  
19 mutually agreeable terms and conditions.

20 "(28) Require that all laborers and mechanics  
21 employed by contractors or subcontractors in the performance  
22 of construction work for the authority be paid wages at rates  
23 not less than those prevailing on similar construction in the  
24 locality where the work is performed as determined by the  
25 United States Secretary of Labor or any department, agency or  
26 instrumentality of the United States or of the state.

1           "(29) If the authority acquires an existing system  
2 for the provision of public transportation service, enter into  
3 arrangements necessary or desirable to protect the interest of  
4 employees of any acquired system including, without limiting  
5 the generality of the foregoing:

6           "a. The preservation of rights, privileges, and  
7 benefits including continuation of pension rights and benefits  
8 under existing agreements.

9           "b. The protection of individual employees against a  
10 worsening of their positions with respect to their employment.

11           "c. Assurance of employment to the employees of  
12 acquired transportation systems, except executives and  
13 administrative officers, and priority of reemployment of the  
14 employees terminated or laid off.

15           "d. Paid training or retraining programs.

16           "(30) Fix and revise from time to time reasonable  
17 rates, fees, and other charges for public transportation  
18 service furnished or to be furnished by any system owned or  
19 operated by the authority, and collect all charges made by it.

20           "(31) Prepare, adopt, and implement a set of  
21 policies that shall govern and set standards for, the conduct  
22 of all members of the board and all employees of the authority  
23 which shall include, but are not limited to, the following:

24           "a. Provide for penalties for a violation.

25           "b. Prohibit unethical conduct and require each  
26 director and employee of the authority to comply with all the  
27 provisions of the policy which shall include, but not

1 necessarily be limited to, the provisions of the code of  
2 ethics for public officials and employees as provided for in  
3 Chapter 25 of Title 36, Code of Alabama 1975, and rules and  
4 regulations promulgated thereunder by the state Ethics  
5 Commission.

6 "c. Allow for the reimbursement of the expenses of  
7 directors and employees, subject to any requirements provided  
8 in the policy.

9 "d. Provide a method of keeping records for expenses  
10 of directors and employees.

11 "e. Regulate business dealings and contracts between  
12 the authority and directors or employees of the authority and  
13 business dealings between the authority and members of the  
14 family of directors or employees of the authority.

15 "(32) Do any and all things necessary to own,  
16 operate, facilitate, provide, or promote public transportation  
17 services within the authorizing county or any other county of  
18 the state.

19 "(b) (1) The board shall establish a separate and  
20 independently accountable TCAB. The TCAB shall be established  
21 by the board within 60 days of the effective date of this act.  
22 The TCAB shall be composed of persons each of whom is a duly  
23 qualified elector of the authorizing county. In addition, the  
24 executive director of the authority shall serve as an ex  
25 officio nonvoting member of the TCAB. The procedure for making  
26 appointments to the TCAB and establishing the terms of the  
27 appointments shall be determined by the board in its sole

1 discretion. The procedure shall include the approval of  
2 persons appointed to the TCAB by the authorizing county,  
3 principal municipality, or participating municipalities. In  
4 making appointments to the TCAB the following shall be  
5 considered:

6 "a. Representation from all geographic regions  
7 served by the authority.

8 "b. Minority representation to reflect the racial,  
9 gender and economic diversity within the geographic regions  
10 served by the authority.

11 "c. Representation from users of the system  
12 providing public transportation service, paratransit users,  
13 and advocates.

14 "The board shall ensure that the authorizing county,  
15 the principal municipality and each participating municipality  
16 shall be represented on the TCAB and that the number of  
17 representatives of each shall roughly approximate the funding  
18 normally provided by each.

19 "(2) The TCAB shall be advisory to the authority and  
20 perform the following duties:

21 "a. Serve as a body to advise the authority, the  
22 board, and private persons on the development and  
23 implementation of policies and programs relating to public  
24 transportation, and assist in the coordination of these  
25 activities.

26 "b. Adopt bylaws, elect officers including a chair,  
27 and establish procedures for its operation within 30 days of

1 its creation; provided, however, that the bylaws for the TCAB  
2 shall be subject to approval or amendment by the board.

3 "c. Advise and make recommendations regarding  
4 transit development plans, comprehensive operations analysis,  
5 annual service, marketing and annual advertising plans  
6 developed by the authority.

7 "(3) The board and the TCAB shall meet together at  
8 least once every six months at the time and place as shall be  
9 mutually agreeable.

10 "(4) The board may, by three-fourths vote of the  
11 members of the board, determine to disband and reconstitute  
12 the TCAB.

13 "(c) The board shall establish, from time to time, a  
14 fiscal year for the authority.

15 "(d) A majority of the directors then in office  
16 shall constitute a quorum at any meeting of the board for the  
17 transaction of business. The act of a majority of the  
18 directors present at any meeting at which there is a quorum  
19 shall be an act of the board.

20 "(e) The recovery of damages under any judgment or  
21 judgments against the authority or its employees and agents  
22 acting within the line and scope of their employment or duties  
23 shall be limited to one hundred thousand dollars (\$100,000)  
24 for bodily injury, emotional distress, or death for one person  
25 in any single occurrence. Recovery of damages under any  
26 judgment or judgments against the authority or its employees  
27 or agents acting within the line and scope of their employment

1 or duties shall be limited to three hundred thousand dollars  
2 (\$300,000) in the aggregate where more than three persons have  
3 claims or judgments on account of bodily injury, emotional  
4 distress, or death arising out of any single occurrence.  
5 Recovery of damages under any judgment or judgments against  
6 the authority or its employees and agents acting within the  
7 line and scope of their employment or duties shall be limited  
8 to one hundred thousand dollars (\$100,000) for damage or loss  
9 of property arising out of any single occurrence. The  
10 authority or its employees and agents acting within the line  
11 and scope of their employment or duties may not settle or  
12 compromise any claim for bodily injury, emotional distress,  
13 death, or property damage for an amount in excess of the  
14 amounts stated in this paragraph.

15 "Section 24. The annual amount to be paid to the  
16 authority by the authorizing county is to be ascertained by  
17 first determining the amount of ad valorem taxes collected for  
18 the county from within the city limits of each municipality  
19 served by the authority. The authorizing county shall pay to  
20 the authority each year out of its general funds an amount  
21 equal to five and one-half percent (5.5%) of the first  
22 eighteen million, one hundred eighty-one thousand, eight  
23 hundred nineteen dollars (\$18,181,819) of ad valorem taxes  
24 collected within the city limits of all municipalities served  
25 by the authority plus ~~and two and one-half percent (2.5%)~~ four  
26 percent (4.0%) of the ad valorem tax collected within the city  
27 limits of all municipalities served by the authority in excess



1 of eighteen million, one hundred eighty-one thousand, eight  
2 hundred nineteen dollars (\$18,181,819). In addition, the  
3 governing body of the authorizing county shall, at its sole  
4 discretion, make a determination prior to the end of each  
5 fiscal year as to the number of residents of the county  
6 residing in the unincorporated area thereof having access to  
7 services by the authority within reasonable walking distances  
8 of their residences, but said number shall not be less than in  
9 any preceding year, unless there is a reduction of routes  
10 serving the unincorporated area or the annexation of a portion  
11 of the unincorporated area served by the authority by a  
12 municipality. Such residents shall be deemed to be served by  
13 the authority and there shall be paid annually out of the  
14 general funds of the authorizing county a sum equal to one  
15 dollar (\$1.00) per capita of the residents thus deemed to be  
16 served."

17 Section 2. Section 15 of Act 2013-380, 2013 Regular  
18 Session, relating to the subsequent incorporation of another  
19 authority, is repealed.

20 Section 3. This act shall become effective  
21 immediately following its passage and approval by the  
22 Governor, or its otherwise becoming law.