

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

1
2 ENROLLED, An Act,

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

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

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

24 "~~(3) The director is encouraged to hire at least two~~
25 ~~black employees of the five new assistant directors to be~~

1 ~~hired~~ The makeup of the assistant secretaries shall be
2 inclusive and should reflect the racial, gender, geographic,
3 urban/rural, and economic diversity of the state.

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

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

15 "§41-9-202.

16 "(a) The ~~Alabama Development Office~~ Department of
17 Commerce shall be the principal staff agency of the executive
18 branch to plan with the other departments of state government
19 and with other governmental units for the comprehensive
20 development of the state's human, economic and physical
21 resources and their relevance for programs administered by the
22 state and the governmental structure required to put such
23 programs into effect. It shall provide information, assistance
24 and staff support by all appropriate means. The ~~Alabama~~
25 ~~Development Office~~ Department of Commerce shall perform all

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

20 " (b) All of the powers and authority heretofore
21 vested in the Alabama ~~program development office, created by~~
22 ~~executive order of the Governor number 2, dated July 17, 1968,~~
23 ~~are confirmed, continued, transferred to and hereafter~~
24 ~~Development Office and the Director of Development shall be~~
25 ~~vested in the Alabama Development Office Department of~~

1 Commerce created by this article and the Secretary of
2 Commerce, respectively. A reference in any provision of law to
3 the Alabama Development Office or the Director of Development
4 shall be deemed a reference to the Department of Commerce and
5 Secretary of Commerce, respectively. All books, records,
6 supplies, funds, equipment and personnel of the Alabama
7 program development office heretofore created by executive
8 order of the Governor are hereby transferred to the Alabama
9 Development Office.

10 "(c) Without in any way limiting the foregoing
11 general powers and duties, the ~~Alabama development office~~
12 Department of Commerce shall have the following additional
13 powers and duties:

14 "(1) To formulate a long-range state comprehensive
15 plan, to be submitted by the Governor to the Legislature for
16 its consideration~~;~~.

17 "(2) To formulate, for approval by the Governor and
18 the Legislature, long-range plans and policies for the orderly
19 and coordinated growth of the state, including, but not
20 limited to, functional plans~~;~~.

21 "(3) To prepare special reports and make available
22 the results of the agency's research, studies and other
23 activities through publications, memoranda, briefings and
24 expert testimony~~;~~.

1 "(4) To analyze the quality and quantity of services
 2 required for the continued orderly and long-range growth of
 3 the state, taking into consideration the relationship of
 4 activities, capabilities and future plans of local units of
 5 government, area commissions, development districts, private
 6 enterprise and the state and federal governments7.

7 "(5) To encourage the coordination of the planning
 8 and programming activities of all state departments, agencies
 9 and institutions, local levels of government and other public
 10 and private bodies within the state7.

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

13 "(7) To work with the state budget agency and other
 14 state departments, agencies and institutions to study and
 15 review plans, programs and federal aid applications filed with
 16 the federal government7.

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

21 "(9) To apply for and accept advances, loans,
 22 grants, contributions and any other form of assistance from
 23 the federal government, the state or other public body or from
 24 any sources, public or private, for the purposes of this
 25 article and to enter into and carry out contracts or

1 agreements in connection therewith and to include in any
 2 contract for financial assistance with the federal government
 3 such conditions imposed pursuant to federal laws as it may
 4 deem reasonable and appropriate and which are not inconsistent
 5 with the purposes of this article~~7~~.

6 "(10) To review and comment on all local and
 7 areawide applications for federal planning assistance or to
 8 delegate such authority to a regional planning and development
 9 commission~~7~~ and.

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

13 "(d) The ~~Alabama Development Office~~ Department of
 14 Commerce is hereby authorized to make grants from
 15 appropriations to regional planning and development
 16 commissions which are certified to receive such grants by the
 17 Governor under the provisions of Sections 11-85-50 through
 18 11-85-55.

19 "§41-9-202.1.

20 "(a) (1) The ~~Director~~ Secretary of the ~~Alabama~~
 21 ~~Development Office~~ (the "~~director~~") Department of Commerce
 22 shall be notified, either orally or in writing, about the
 23 general parameters of a project if an entity is considering
 24 locating or expanding a facility at a site within this state
 25 and intends to claim any of the incentives provided by the

1 State of Alabama that are described in subdivision (2). The
2 required notification should be made as soon as the project's
3 parameters are generally known or when a site or sites have
4 been identified by an investing entity or entities or a visit
5 is made to the State of Alabama by the entity or its
6 representative. The initial required notification may be made
7 on an anonymous basis (i.e., "Project Alpha") in order to
8 protect the confidentiality of a proposed project. Upon timely
9 notifying the ~~director~~ secretary within the time frame
10 specified in this subdivision, the ~~director~~ secretary shall
11 transmit a letter to the company or its representative
12 acknowledging receipt of the required notification (the
13 "notification acknowledgment letter").

14 "(2) The required notification set forth in
15 subdivision (1) applies to (i) capital investment credits
16 pursuant to Act 95-187, as amended; (ii) site preparation
17 grants pursuant to Act 91-635, as amended; (iii) funding for
18 access roads and bridges through the Alabama Industrial Access
19 Road and Bridge Corporation pursuant to Act 85-549, as
20 amended; (iv) training or other assistance from the Alabama
21 Industrial Development Training Program where the annual
22 expenditures of cash is estimated to be in excess of one
23 million dollars (\$1,000,000); and (v) any direct or indirect
24 cash payment for a project from the State of Alabama, whether

1 in the form of an in-kind contribution of a site, building, or
2 equipment, or otherwise.

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

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

17 "(d) All applications to the State Industrial
18 Development Authority for site preparation grants pursuant to
19 Act 91-635, 1991 Regular Session, as last amended by Act
20 97-645, 1997 Regular Session, ~~must~~ shall include the
21 notification acknowledgment letter from the ~~director~~
22 secretary.

23 "(e) All applications to the Industrial Access Road
24 and Bridge Corporation for funding for access roads and

1 bridges ~~must~~ shall include the notification acknowledgment
2 letter from the ~~director~~ secretary.

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

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

25 "§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~~ Commerce.

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
20 immediately following its passage and approval by the
21 Governor, or its otherwise becoming law.

