

1 HB298
2 130007-2
3 By Representatives Baker, Davis, Faust, McMillan, Chesteen,
4 Clouse, Wren, Boothe, Williams (P), Canfield, Hammon, Fincher,
5 Long, Gaston, McClendon, Hubbard (M), Ball, Wood, McCutcheon,
6 Hill, Sanderford, Johnson (W), Moore (B), Wallace, Oden,
7 Greeson, Jones, Shiver, Johnson (K), Collins, Nordgren and
8 Mask
9 RFD: Economic Development and Tourism
10 First Read: 22-MAR-11

1 ENGROSSED

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3
4 A BILL
5 TO BE ENTITLED
6 AN ACT
7

8 To amend Sections 41-9-201, 41-9-202, 41-9-202.1,
9 41-9-203, and 41-9-204, Code of Alabama 1975, to rename the
10 Alabama Development Office and the Director of Development as
11 the Department of Commerce and the Secretary of Commerce,
12 respectively; to rename certain other positions; and to
13 authorize the Secretary of Commerce to employ certain persons
14 outside of the State Merit System.

15 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

16 Section 1. Sections 41-9-201, 41-9-202, 41-9-202.1,
17 41-9-203, and 41-9-204, Code of Alabama 1975, are amended to
18 read as follows:

19 "§41-9-201.

20 "(a) (1) There is hereby created the Alabama
21 ~~Development Office within the office of the Governor and~~
22 ~~directly under his or her supervision and control~~ Department
23 of Commerce. The Alabama ~~Development Office shall consist of~~
24 ~~the Governor as the state Planning and Development Officer and~~
25 ~~a chief administrative officer to be designated as Director of~~
26 ~~Development~~ Department of Commerce shall be headed by the

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

20 "(2) The ~~five~~ eight additional assistant ~~directors~~
21 secretaries shall be persons experienced in industrial and
22 commercial development for at least the two years prior to
23 their employment. Compensation for the ~~five~~ eight additional
24 assistant ~~directors~~ secretaries shall not exceed the amount of
25 compensation paid for the highest classification of Merit

1 System employees employed by the Alabama Development Office on
2 June 4, 1999.

3 "(3) The director is encouraged to hire at least two
4 black employees of the five new assistant directors to be
5 hired The makeup of the assistant secretaries shall be
6 inclusive and should reflect the racial, gender, geographic,
7 urban/rural, and economic diversity of the state.

8 "(b) The Governor, through the Alabama Development
9 Office Department of Commerce, shall encourage comprehensive
10 and coordinated planning and programming of the affairs of
11 state government.

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

19 "§41-9-202.

20 "(a) The Alabama Development Office Department of
21 Commerce shall be the principal staff agency of the executive
22 branch to plan with the other departments of state government
23 and with other governmental units for the comprehensive
24 development of the state's human, economic and physical
25 resources and their relevance for programs administered by the
26 state and the governmental structure required to put such

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

23 "(b) All of the powers and authority heretofore
24 vested in the Alabama ~~program development office, created by~~
25 ~~executive order of the Governor number 2, dated July 17, 1968,~~
26 ~~are confirmed, continued, transferred to and hereafter~~

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

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

16 "(1) To formulate a long-range state comprehensive
17 plan, to be submitted by the Governor to the Legislature for
18 its consideration~~7.~~

19 "(2) To formulate, for approval by the Governor and
20 the Legislature, long-range plans and policies for the orderly
21 and coordinated growth of the state, including, but not
22 limited to, functional plans~~7.~~

23 "(3) To prepare special reports and make available
24 the results of the agency's research, studies and other
25 activities through publications, memoranda, briefings and
26 expert testimony~~7.~~

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
26 agreements in connection therewith and to include in any

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

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

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

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

18 "§41-9-202.1.

19 "(a) (1) The ~~Director~~ Secretary of the Alabama
20 ~~Development Office (the "director")~~ Department of Commerce
21 shall be notified, either orally or in writing, about the
22 general parameters of a project if an entity is considering
23 locating or expanding a facility at a site within this state
24 and intends to claim any of the incentives provided by the
25 State of Alabama that are described in subdivision (2). The
26 required notification should be made as soon as the project's

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

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

25 "(b) All information concerning a proposed project
26 which is provided to the ~~director~~ secretary and the Alabama

1 ~~Development Office~~ Department of Commerce shall be
2 confidential. The ~~director~~ secretary is authorized to enter
3 into a confidentiality agreement with a prospective entity
4 which prohibits the disclosure of the identity of the
5 prospective entity and any information obtained, whether
6 orally or in writing, about the entity's proposed project.

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

13 "(d) All applications to the State Industrial
14 Development Authority for site preparation grants pursuant to
15 Act 91-635, 1991 Regular Session, as last amended by Act
16 97-645, 1997 Regular Session, ~~must~~ shall include the
17 notification acknowledgment letter from the ~~director~~
18 secretary.

19 "(e) All applications to the Industrial Access Road
20 and Bridge Corporation for funding for access roads and
21 bridges ~~must~~ shall include the notification acknowledgment
22 letter from the ~~director~~ secretary.

23 "(f) All companies seeking training or other
24 assistance from the Alabama Industrial Development Training
25 Program ~~must~~ shall file an application with the ~~Director~~
26 Secretary of the Alabama ~~Development Office~~ Department of

1 Commerce if the annual expenditure of cash is estimated to be
2 in excess of one million dollars (\$1,000,000). The application
3 ~~must~~ shall include the notification acknowledgment letter from
4 the ~~director~~ secretary. The ~~director~~ secretary shall be
5 responsible for reviewing, coordinating, and processing each
6 application. The ~~director~~ secretary shall have 30 days to
7 process each application.

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

19 "§41-9-203.

20 "The Governor, in carrying out his or her
21 responsibilities under this article, may establish advisory
22 committees or councils and appoint the members thereof, who
23 shall serve at his or her pleasure. Members shall serve
24 without compensation. The Governor shall designate the
25 chairmen and such other officers as he or she may deem
26 necessary for each advisory committee or council. Advisory

1 committees or councils established pursuant to this section
2 shall meet at the call of their chairmen or of the ~~director~~
3 secretary of development commerce.

4 "§41-9-204.

5 "All appropriations heretofore or hereafter made to
6 the Industrial Development Board, the Planning and Industrial
7 Development Board (community planning), ~~and~~ the Alabama
8 Program Development Office, and the Alabama Development Office
9 heretofore established by executive order of the Governor are
10 hereby consolidated and transferred to the Alabama ~~Development~~
11 ~~Office~~ Department of Commerce."

12 Section 2. This act shall become effective
13 immediately following its passage and approval by the
14 Governor, or its otherwise becoming law.

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House of Representatives

Read for the first time and re-
ferred to the House of Representa-
tives committee on Economic Devel-
opment and Tourism..... 22-MAR-11

Read for the second time and placed
on the calendar with 1 substitute
and..... 06-APR-11

Read for the third time and passed
as amended..... 21-APR-11

Yeas 91, Nays 1, Abstains 0

Greg Pappas
Clerk