SB205

182218-1

By Senator Ward

RFD: Transportation and Energy

First Read: 16-FEB-17

182218-1:n:02/10/2017:FC/th LRS2017-672

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 nine members appointed by the Governor from the nine divisions of the State Transportation Department to coordinate and develop the activities of the Department of Transportation.

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

A BILL

TO BE ENTITLED

AN ACT

Relating to the Department of Transportation; to establish the State Transportation Commission; to provide for the members, duties, responsibilities, and compensation and expenses of the commission; to prohibit a person serving on the State Transportation Commission from benefiting by entering employment with or contracting with companies that do business with the Department of Transportation while he or she serves on the Commission or for a period of two years thereafter; to provide for the appointment and duties of the Director of the Department of Transportation; and for this purpose to amend Sections 23-1-21 and 23-1-21.2, Code of Alabama 1975, relating to the appointment and authority of the Director of the Department of Transportation.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. (a) There shall be a State Transportation Commission which shall consist of nine members appointed by the Governor. One member shall be appointed from each division of the Department of Transportation as set out in Section 2.

(b) The members appointed from the Department of Transportation Divisions One, Four, and Seven shall serve an initial term of two years. The members appointed from the Department of Transportation Divisions Two, Five, and Eight shall serve an initial term of four years. The members appointed from the Department of Transportation Divisions Three, Six, and Nine shall serve an initial term of six years. After the initial appointments, the term of the members shall be six years except that a member shall serve until a

successor is appointed and qualified. A member of the commission may not serve consecutive terms. The membership of the commission shall be inclusive and shall reflect the racial, gender, geographic, urban/rural, and economic diversity of the state.

The commission shall report to the Legislature by the second legislative day of each Regular Session the extent to which the membership of the commission has met the diversity requirements of this section.

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

(d) The commission shall elect from its members a chair. Five members of the board shall constitute a quorum for the transaction of the official business of the commission.

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

(f) The compensation of the members of the commission shall be 30 percent of the compensation of the cabinet members of the Governor pursuant to Section 36-6-6, Code of Alabama 1975, and the compensation shall be paid in installments from the State Treasury in the same manner that salaries of other state officers are paid.

(g) Before entering upon the duties of the office, each commission member shall execute to the state a bond, to be approved by the Governor in an amount fixed by the Governor, for the faithful performance of his or her duties.

(h) The necessary office, supplies, stationery, and equipment shall be provided for the commission by the State Department of Transportation. Each member of the commission shall maintain an office in the division headquarters in his or her division.

(i) Meetings of the commission shall be held at the call of the chair or as may be determined by a quorum of the commission.

(j) The State Transportation Commission shall be responsible for and have the authority to assume all duties of the Director of the Department of Transportation unless the commission by resolution delegates the duties to the director.

(k) No person who serves on the State Transportation Commission shall enter employment with or contract with a company or organization or enter employment with or contract with a company or organization that contracts with a company or organization that benefited from work approved by the commission during the time such person was on the commission. If a person who has served on the State Transportation Commission becomes employed or contracts with a company or organization, that company or organization is prohibited from entering into contracts with the Department of Transportation, either directly or indirectly, for a period of two years after

the completion of their term of service as a member of the commission.

Section 2. The Divisions of the State Department of Transportation for the purpose of the appointment of members of the State Transportation Commissions are as follows:

(1) Division One: Cherokee, Cullman, DeKalb, Etowah, Jackson, Limestone, Madison, Marshall, and Morgan Counties.

(2) Division Two: Colbert, Franklin, Lauderdale, Lawrence, Marion, and Winston Counties.

(3) Division Three: Blount, Jefferson, Shelby, St. Clair, and Walker Counties.

(4) Division Four: Calhoun, Chambers, Clay, Cleburne, Coosa, Lee, Randolph, Russell, Talladega, and Tallapoosa Counties.

(5) Division Five: Bibb, Chilton, Fayette, Greene, Hale, Lamar, Perry, Pickens, and Tuscaloosa Counties.

(6) Division Six: Autauga, Bullock, Butler, Dallas, Elmore, Lowndes, Macon, and Montgomery Counties.

(7) Division Seven: Barbour, Crenshaw, Coffee, Convington, Dale, Geneva, Henry, Houston, and Pike Counties.

(8) Division Eight: Clarke, Choctaw, Marengo, Monroe, Sumter, Washington, and Wilcox Counties.

(9) Division Nine: Baldwin, Conecuh, Escambia, and Mobile Counties.

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

"§23-1-21.

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

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

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

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

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

"(3) Possess selected training or expertise in the field of transportation.

"(c) No person who is a member of the State Transportation Commission within two years next preceding his or her service on the commission shall be eligible to be chosen as director of the department. The director shall give his or her entire time to the duties of the office.

"(d) In the event of a vacancy in the office of the director, the chief engineer of the department shall serve as acting director until the commission selects a replacement. The commission shall name a new director within 90 days of a vacancy.

"§23-1-21.2.

"(a) The director, acting alone or through, and in cooperation with local entities, is hereby delegated the authority to:

"(1) Enter into agreements with local entities to provide public transportation and to administer any program or programs, whether rural or urban, relative to public transportation resulting from federal transportation legislation. This shall include, but not be limited to, applying for, accepting, and expending federal public transportation funds in accordance with applicable federal laws and regulations.

"(2) Enter into agreements with the United States for federal assistance for public transportation.

"(3) Enter into agreements with local entities to perform and/or cooperate in the performance of transportation planning for public transportation improvements. However, the

director shall not perform such planning until such time as the local entities affected enter into agreement with the director to carry out a planning process.

"(4) Provide any available technical assistance to local entities for formulating a program of public transportation projects to assure that said projects are in accordance with the comprehensive transportation planning process where such process is established and is a prerequisite for federal assistance.

"(5) Administer any state funds authorized from time to time by the Legislature for the purpose of public transportation.

"(6) Develop and promulgate such rules and regulations as are determined necessary to insure compliance with federal laws and regulations.

"(b) In addition to the duties listed in subsection (a), the director shall do all of the following:

"(1) Administer the policies promulgated by the commission.

"(2) Supervise and direct all administrative and technical activities of the department.

"(3) Organize the offices of the department.

"(4) Coordinate the activities of the various offices of the department.

"(5) Recommend studies and investigations subject to commission approval as he or she may deem appropriate and

carry out the approved recommendations in conjunction with the various offices.

"(6) Prepare and deliver to the Legislature and the Governor on or before January 1 of each year, and at other times as may be required by the Legislature or Governor, a full report of the work of the department and the office thereof, including a detailed statement of expenditures of the department, a detailed construction update, information concerning the status of roads, mass transit, and aviation, and any recommendations the department may have.

"(7) Have general supervision over all matters relating to the construction or maintenance of the state highways, letting of contracts therefor, and the selection of materials to be used in the construction of state highways and the employment, promotion, demotion, reprimand, suspension, termination, reassignment, transfer, moving or relocation of all personnel not specifically authorized by statute to be employed by the commission. The director may authorize the payment of expenses of any personnel reassigned, transferred, moved, or relocated in accordance with rules and regulations as are promulgated by the commission.

"(8) Sign all contracts and agreements in the name of the state."

Section 4. The provisions of this act shall be operative only after the Attorney General gives his or her opinion in writing that this act does not materially affect

the case styled, Johnny Reynolds v. Alabama Department of Transportation, 85-T-665-N Middle District of Alabama.

Section 5. Notwithstanding the provisions of the Budget Management Act, neither the Governor nor the Finance Director shall have any authority to withhold funds, deny transfer of funds, or re-direct specific projects contrary to either the five year plan of the commission or the annual revenue and expenditure plan of the commission.

Section 6. Commission members shall be subject to the Alabama Ethics Law.

Section 7. This act shall become effective on the first day of the next term of the Governor following its passage and approval by the Governor, or its otherwise becoming law.