

By: McClendon

H.B. No. 565

A BILL TO BE ENTITLED

AN ACT

relating to the abolition of the Texas Transportation Commission and the creation of the commissioner of transportation as an elected statutory state officer.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 201.003, Transportation Code, is amended to read as follows:

Sec. 201.003. TITLE AND ORGANIZATIONAL CHANGES. (a) A reference in law to the State Highway Department, Texas Highway Department, or State Department of Highways and Public Transportation means the Texas Department of Transportation.

(b) A reference in law to the State Highway Commission, ~~[or]~~ State Highway and Public Transportation Commission, or Texas Transportation Commission means the commissioner of transportation ~~[Texas Transportation Commission]~~.

(c) A reference in law to the State Highway Engineer, ~~[or]~~ State Engineer-Director for Highways and Public Transportation, or ~~[means]~~ the director of the Texas Department of Transportation means the commissioner of transportation.

(d) ~~[A reference in law to the commissioner of transportation means the chair of the commission.]~~

~~[(e)]~~ A ~~[reference in]~~ law that authorizes the Texas Transportation Commission to authorize the director of the Texas Department of Transportation to take an action shall be construed

1 to authorize the commissioner of transportation to take that action  
2 ~~[to a member of the commission means a commissioner]~~.

3 SECTION 2. Subchapter B, Chapter 201, Transportation Code,  
4 is amended to read as follows:

5 SUBCHAPTER B. COMMISSIONER OF ~~[TEXAS]~~ TRANSPORTATION ~~[COMMISSION]~~

6 Sec. 201.051. COMMISSIONER ~~[COMMISSION]~~. (a) The  
7 commissioner is elected for a term of four years ~~[Texas~~  
8 ~~Transportation Commission consists of five members appointed by the~~  
9 ~~governor with the advice and consent of the senate]~~.

10 (b) To be eligible for election as commissioner, or  
11 appointment to fill a vacancy in the office of commissioner, a ~~[The~~  
12 ~~members shall be appointed to reflect the diverse geographic~~  
13 ~~regions and population groups of this state. One member must reside~~  
14 ~~in a rural area.~~

15 ~~[(c) Each member of the commission must represent the~~  
16 ~~general public.~~

17 ~~[(d) Except as provided by Subsection (c), a person is not~~  
18 ~~eligible for appointment as a member of the commission if the]~~  
19 ~~person or the person's spouse~~ may not:

20 (1) be ~~[is]~~ employed by or participate ~~[participates]~~  
21 in the management of a business entity or other organization that is  
22 regulated by or receives funds from the department;

23 (2) directly or indirectly own or control ~~[owns or~~  
24 ~~controls]~~ more than 10 percent interest in a business entity or  
25 other organization that is regulated by or receives funds from the  
26 department;

27 (3) use or receive ~~[uses or receives]~~ a substantial

1 amount of tangible goods, services, or funds from the department,  
2 other than compensation or reimbursement authorized by law for  
3 ~~[commission membership, attendance, or]~~ expenses; or

4 (4) be ~~[is]~~ registered, certified, or licensed by the  
5 department.

6 (c) ~~[(f)]~~ An officer, employee, or paid consultant of a  
7 Texas trade association in the field of road construction or  
8 maintenance, aviation, or outdoor advertising or a Texas trade  
9 association of automobile dealers is not eligible for election or  
10 appointment as commissioner ~~[may not be a member of the~~  
11 ~~commission]~~.

12 (d) ~~[(g)]~~ The spouse of an officer, manager, or paid  
13 consultant of a Texas trade association in the field of road  
14 construction or maintenance, aviation, or outdoor advertising or a  
15 Texas association of automobile dealers is not eligible for  
16 election or appointment as commissioner ~~[may not be a member of the~~  
17 ~~commission]~~.

18 (e) ~~[(h)]~~ A person required to register as a lobbyist under  
19 Chapter 305, Government Code, because of the person's activities  
20 for compensation on behalf of a profession related to the operation  
21 of the department is not eligible for election or appointment as  
22 commissioner ~~[may not serve as a member of the commission]~~.

23 (f) ~~[(i)]~~ ~~Appointments to the commission shall be made~~  
24 ~~without regard to race, color, disability, sex, religion, age, or~~  
25 ~~national origin of the appointees and shall reflect the diversity~~  
26 ~~of the population of the state as a whole.~~

27 ~~[(j)]~~ In this section, "Texas trade association" means a

1 nonprofit, cooperative, and voluntarily joined association of  
2 business or professional competitors in this state designed to  
3 assist its members and its industry or profession in dealing with  
4 mutual business or professional problems and in promoting their  
5 common interest.

6 (g) The commissioner is a successor to the Texas  
7 Transportation Commission for all purposes, including for the  
8 purposes of Sections 49-k, 49-l, 49-m, 49-n, and 49-o, Article III,  
9 Texas Constitution.

10 Sec. 201.052. CERTAIN DUTIES. ~~[TERMS. Members of the~~  
11 ~~commission serve staggered six-year terms, with the terms of either~~  
12 ~~one or two members expiring February 1 of each odd-numbered year.~~

13 ~~[Sec. 201.053. CHAIR OF THE COMMISSION. (a) The governor~~  
14 ~~periodically shall designate one commissioner as the chair of the~~  
15 ~~commission, who shall serve as presiding officer of the commission.~~

16 ~~[(b)]~~ The commissioner ~~[chair]~~ shall:

17 (1) preside over ~~[commission]~~ meetings, make rulings  
18 on motions and points of order, and determine the order of business;

19 (2) represent the department in dealing with the  
20 governor;

21 (3) report to the governor on the state of affairs of  
22 the department at least quarterly;

23 (4) ~~[report to the commission the governor's~~  
24 ~~suggestions for department operations,~~

25 ~~[(5)]~~ report to the governor on efforts, including  
26 legislative requirements, to maximize the efficiency of department  
27 operations through the use of private enterprise;

1           (5) [~~(6)~~] periodically review the department's  
2 organizational structure and submit recommendations for structural  
3 changes to the governor[~~, the commission,~~] and the Legislative  
4 Budget Board;

5           (6) [~~(7)~~] designate one or more employees of the  
6 department as a civil rights division of the department and receive  
7 regular reports from the division on the department's efforts to  
8 comply with civil rights legislation and administrative rules;

9           (7) [~~(8)~~] ~~create subcommittees, appoint commissioners~~  
10 ~~to subcommittees, and receive the reports of subcommittees to the~~  
11 ~~commission as a whole;~~

12           [~~(9)~~] appoint a deputy commissioner to act in the  
13 commissioner's [~~chair's~~] absence; and

14           (8) [~~(10)~~] serve as the departmental liaison with the  
15 governor and the Office of State-Federal Relations to maximize  
16 federal funding for transportation.

17           ~~[Sec. 201.054. COMMISSION MEETINGS. The commission shall~~  
18 ~~hold regular meetings at least once a month and special meetings at~~  
19 ~~the call of the chair. Commissioners shall attend the meetings of~~  
20 ~~the commission. The chair shall oversee the preparation of an~~  
21 ~~agenda for each meeting and ensure that a copy is provided to each~~  
22 ~~commissioner at least seven days before the meeting.]~~

23           Sec. 201.053 [~~201.0545~~]. RECOMMENDATIONS TO LEGISLATURE.

24           (a) The commissioner [~~commission~~] shall consider ways in which the  
25 department's operations may be improved and may periodically report  
26 to the legislature concerning potential statutory changes that  
27 would improve the operation of the department.

(b) The commissioner [~~On behalf of the commission, the chair~~] shall report to the governor, the lieutenant governor, the speaker of the house of representatives, and the presiding officers of relevant legislative committees on legislative recommendations adopted by the commissioner [~~commission~~] and relating to the operation of the department.

Sec. 201.054 [~~201.056~~]. COMPENSATION. The commissioner [~~A member of the commission~~] is entitled to compensation as provided by the General Appropriations Act. If compensation for the commissioner [~~members~~] is not provided by that Act, the commissioner [~~each member~~] is entitled to reimbursement for actual and necessary expenses incurred in performing functions as commissioner [~~a member of the commission~~].

Sec. 201.055 [~~201.057~~]. GROUNDS FOR REMOVAL. [~~(a)~~] It is a ground for removal [~~from the commission~~] if the [~~a~~] commissioner:

(1) does not have at the time of election or appointment or maintain during service as commissioner [~~on the commission~~] the qualifications required by Section 201.051;

(2) violates a prohibition provided by Section 201.051; or

(3) cannot discharge the commissioner's duties for a substantial part of the term for which the commissioner is elected or appointed because of illness or disability [~~, or~~

~~[(4) is absent from more than half of the regularly scheduled commission meetings that the commissioner is eligible to attend during a calendar year, unless the absence is excused by majority vote of the commission].~~

1       ~~[(b) The validity of an action of the commission is not~~  
2 ~~affected by the fact that it is taken when a ground for removal of a~~  
3 ~~commissioner exists.~~

4       ~~[(c) If the director knows that a potential ground for~~  
5 ~~removal exists, the director shall notify the chair of the~~  
6 ~~commission of the ground, and the chair shall notify the governor~~  
7 ~~and the attorney general that a potential ground for removal~~  
8 ~~exists. If the potential ground for removal relates to the chair,~~  
9 ~~the director shall notify another commissioner, who shall notify~~  
10 ~~the governor and the attorney general that a potential ground for~~  
11 ~~removal exists.]~~

12       Sec. 201.056 ~~[201.058]~~. INFORMATION ON QUALIFICATIONS AND  
13 CONDUCT. The department shall provide to the commissioner ~~[members~~  
14 ~~of the commission]~~, as often as necessary, information concerning  
15 the commissioner's ~~[members']~~ qualifications for office and the  
16 commissioner's ~~[under Subchapter B and their]~~ responsibilities  
17 under applicable laws relating to standards of conduct for state  
18 officers.

19       ~~[Sec. 201.059. TRAINING ON DEPARTMENT AND CERTAIN LAWS~~  
20 ~~RELATING TO DEPARTMENT. (a) To be eligible to take office as a~~  
21 ~~member of the commission, a person appointed to the commission must~~  
22 ~~complete at least one course of a training program that complies~~  
23 ~~with this section.~~

24       ~~[(b) The training program must provide information to the~~  
25 ~~person regarding:~~

26               ~~[(1) this subchapter,~~

27               ~~[(2) the programs operated by the department,~~

1           ~~[(3) the role and functions of the department,~~  
2           ~~[(4) the rules of the department with an emphasis on~~  
3 ~~the rules that relate to disciplinary and investigatory authority,~~  
4           ~~[(5) the current budget for the department,~~  
5           ~~[(6) the results of the most recent formal audit of the~~  
6 ~~department,~~  
7           ~~[(7) the requirements of the:~~  
8                   ~~[(A) open meetings law, Chapter 551, Government~~  
9 ~~Code,~~  
10                   ~~[(B) open records law, Chapter 552, Government~~  
11 ~~Code, and~~  
12                   ~~[(C) administrative procedure law, Chapter 2001,~~  
13 ~~Government Code,~~  
14           ~~[(8) the requirements of the conflict of interest laws~~  
15 ~~and other laws relating to public officials, and~~  
16           ~~[(9) any applicable ethics policies adopted by the~~  
17 ~~commission or the Texas Ethics Commission.~~  
18           ~~[(c) A person appointed to the commission is entitled to~~  
19 ~~reimbursement for travel expenses incurred in attending the~~  
20 ~~training program, as provided by the General Appropriations Act and~~  
21 ~~as if the person were a member of the commission.]~~

22           SECTION 3. Sections 201.201 and 201.202, Transportation  
23 Code, are amended to read as follows:

24           Sec. 201.201. GOVERNANCE OF DEPARTMENT. The commissioner  
25 ~~[commission]~~ governs the Texas Department of Transportation.

26           Sec. 201.202. DIVISIONS; DIVISION PERSONNEL. (a) The  
27 commissioner ~~[commission]~~ shall organize the department into



1 divisions to accomplish the department's functions and the duties  
2 assigned to it, including divisions for:

- 3 (1) aviation;  
4 (2) highways and roads;  
5 (3) public transportation; and  
6 (4) rail transportation [~~motor vehicle titles and~~  
7 ~~registration~~].

8 (b) The person designated by the commissioner [~~director~~] to  
9 supervise the division responsible for highways and roads must be a  
10 registered professional engineer experienced and skilled in  
11 highway construction and maintenance.

12 [~~(c) In appointing a person to supervise a function~~  
13 ~~previously performed by the former State Department of Highways and~~  
14 ~~Public Transportation, Texas Department of Aviation, or Texas~~  
15 ~~Turnpike Authority, preference shall be given to a person employed~~  
16 ~~in a similar position in that former agency.~~]

17 SECTION 4. Subchapter E, Chapter 201, Transportation Code,  
18 is amended to read as follows:

19 SUBCHAPTER E. STATE ROAD MAP; UNIVERSITY LABORATORIES [~~DIRECTOR~~]

20 Sec. 201.301. [~~EXECUTIVE DIRECTOR.~~ (a) ~~The commission~~  
21 ~~shall elect an executive director for the department. The director~~  
22 ~~must be a registered professional engineer in this state and~~  
23 ~~experienced and skilled in transportation planning, development,~~  
24 ~~construction, and maintenance.~~

25 [~~(b) The director serves at the will of the commission.~~

26 [~~(d) The director shall:~~

27 [~~(1) serve the commission in an advisory capacity,~~

1 ~~without vote, and~~

2 ~~[(2) submit to the commission, quarterly, annually,~~  
3 ~~and biennially, detailed reports of the progress of public road~~  
4 ~~construction, detailed reports of public and mass transportation~~  
5 ~~development, and detailed statements of expenditures.]~~

6 ~~[(c) The director is entitled to actual expenses for and~~  
7 ~~related to travel away from Austin in performance of the director's~~  
8 ~~duties under the direction of the commission.]~~

9 ~~[Sec. 201.302.]~~ STATE ROAD MAP. The commissioner  
10 ~~[director]~~ shall make, regularly revise, and keep in a form  
11 convenient for examination in the office of the department a  
12 complete road map of the state that shows road construction in the  
13 counties.

14 Sec. 201.302 ~~[201.303]~~. USE OF UNIVERSITY LABORATORIES FOR  
15 ANALYZING MATERIALS. The commissioner ~~[director]~~ may use  
16 laboratories maintained at Texas A&M University and The University  
17 of Texas to test and analyze road and bridge material. Persons in  
18 charge of the laboratories shall cooperate with and assist the  
19 commissioner ~~[director]~~ with those tests and analyses.

20 SECTION 5. Section 504.401(d), Transportation Code, is  
21 amended to read as follows:

22 (d) In this section, "state official" means:

- 23 (1) a member of the legislature;  
24 (2) the governor;  
25 (3) the lieutenant governor;  
26 (4) a justice of the supreme court;  
27 (5) a judge of the court of criminal appeals;

- (6) the attorney general;
- (7) the commissioner of the General Land Office;
- (8) the comptroller;
- (9) a member of the Railroad Commission of Texas;
- (10) the commissioner of agriculture;
- (11) the commissioner of transportation;
- (12) the secretary of state; or
- (13) [~~(12)~~] a member of the State Board of Education.

SECTION 6. Section 52.092(c), Election Code, is amended to read as follows:

(c) Statewide offices of the state government shall be listed in the following order:

- (1) governor;
- (2) lieutenant governor;
- (3) attorney general;
- (4) comptroller of public accounts;
- (5) commissioner of the General Land Office;
- (6) commissioner of agriculture;
- (7) commissioner of transportation;
- (8) railroad commissioner;
- (9) [~~(8)~~] chief justice, supreme court;
- (10) [~~(9)~~] justice, supreme court;
- (11) [~~(10)~~] presiding judge, court of criminal appeals;
- (12) [~~(11)~~] judge, court of criminal appeals.

SECTION 7. Section 223.105, Transportation Code, is repealed.

1           SECTION 8. (a) The first commissioner of transportation  
2   elected under the changes in law made by this Act shall be elected  
3   at the general election held in November 2010 to serve for a term  
4   that begins January 1, 2011.

5           (b) Until the first commissioner of transportation elected  
6   under this Act takes office, the members of the Texas  
7   Transportation Commission and the executive director of the Texas  
8   Department of Transportation serving on the effective date of this  
9   Act shall, unless otherwise removed as provided by law, continue in  
10   office under the prior law that governed the composition of the  
11   Texas Transportation Commission, and that prior law is continued in  
12   effect for that purpose. If, on January 1, 2011, there is a vacancy  
13   in the new office of commissioner of transportation created under  
14   this Act because the first commissioner of transportation-elect has  
15   died or refuses or is permanently unable to serve, the members of  
16   the Texas Transportation Commission and the executive director of  
17   the Texas Department of Transportation serving on the effective  
18   date of this Act shall, unless otherwise removed as provided by law,  
19   continue in office under the prior law that governed the  
20   composition of the Texas Transportation Commission until the  
21   governor fills the vacancy by appointment in the manner provided by  
22   law. The prior law that governed the composition of the Texas  
23   Transportation Commission and the executive director of the Texas  
24   Department of Transportation is continued in effect for that  
25   purpose. At the time that the first commissioner of transportation  
26   that is elected, or in extraordinary circumstances appointed, under  
27   this Act takes office, the Texas Transportation Commission is

1   abolished.

2           (c) The commissioner of transportation succeeds to all  
3 powers, duties, rights, and obligations of the Texas Transportation  
4 Commission, and the abolition of the Texas Transportation  
5 Commission does not affect the validity of any right, duty,  
6 decision, rule, or action of any kind taken by or under the  
7 authority of the commission.

8           SECTION 9. This Act takes effect September 1, 2009.