

By: Zerwas

H.B. No. 641

A BILL TO BE ENTITLED

1 AN ACT

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

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

6 SECTION 1. Section 201.001(a), Transportation Code, is
7 amended to read as follows:

8 (a) In this title:

9 (1) "Commissioner" means the commissioner of
10 transportation [~~"Commission" means the Texas Transportation~~
11 ~~Commission~~].

12 (2) "Department" means the Texas Department of
13 Transportation.

14 (3) "Director" means the executive director of the
15 Texas Department of Transportation.

16 SECTION 2. Section 201.003, Transportation Code, is amended
17 by amending Subsections (b), (d), and (e) and adding Subsection (f)
18 to read as follows:

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

23 (d) A reference in law to the chair of the Texas
24 Transportation Commission means the commissioner of transportation

1 ~~[means the chair of the commission].~~

2 (e) A reference in law to a member of the Texas
3 Transportation Commission ~~[commission]~~ means the commissioner of
4 transportation ~~[a commissioner]~~.

5 (f) A reference in this title to the commission means the
6 commissioner of transportation.

7 SECTION 3. Section 201.051, Transportation Code, is amended
8 to read as follows:

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

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

18 ~~[(c) Each member of the commission must represent the~~
19 ~~general public.~~

20 ~~[(d) Except as provided by Subsection (e), a person is not~~
21 ~~eligible for appointment as a member of the commission if the]~~
22 ~~person or the person's spouse must not:~~

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

26 (2) directly or indirectly own or control ~~[owns or~~
27 ~~controls]~~ more than 10 percent interest in a business entity or

1 other organization that is regulated by or receives funds from the
2 department;

3 (3) use or receive [~~uses or receives~~] a substantial
4 amount of tangible goods, services, or funds from the department,
5 other than compensation or reimbursement authorized by law for
6 [~~commission membership, attendance, or~~] expenses; or

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

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

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

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

26 [~~(i) Appointments to the commission shall be made without~~
27 ~~regard to race, color, disability, sex, religion, age, or national~~

1 ~~origin of the appointees and shall reflect the diversity of the~~
2 ~~population of the state as a whole.]~~

3 (f) [~~(j)~~] In this section, "Texas trade association" means
4 a nonprofit, cooperative, and voluntarily joined association of
5 business or professional competitors in this state designed to
6 assist its members and its industry or profession in dealing with
7 mutual business or professional problems and in promoting their
8 common interest.

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

13 SECTION 4. Section 201.053, Transportation Code, is amended
14 to read as follows:

15 Sec. 201.053. DUTIES OF THE COMMISSIONER [~~CHAIR OF THE~~
16 ~~COMMISSION~~]. [~~(a) The governor periodically shall designate one~~
17 ~~commissioner as the chair of the commission, who shall serve as~~
18 ~~presiding officer of the commission.~~

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

20 (1) [~~preside over commission meetings, make rulings on~~
21 ~~motions and points of order, and determine the order of business,~~

22 [~~(2)~~] represent the department in dealing with the
23 governor;

24 (2) [~~(3)~~] report to the governor on the state of
25 affairs of the department at least quarterly;

26 (3) [~~(4)~~] ~~report to the commission the governor's~~
27 ~~suggestions for department operations,~~

1 ~~(5)~~ report to the governor on efforts, including
2 legislative requirements, to maximize the efficiency of department
3 operations through the use of private enterprise;

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

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

12 ~~(8) create subcommittees, appoint commissioners to~~
13 ~~subcommittees, and receive the reports of subcommittees to the~~
14 ~~commission as a whole;~~

15 ~~(9) appoint a commissioner to act in the chair's~~
16 ~~absence,]~~ and

17 (6) ~~(10)~~ serve as the departmental liaison with the
18 governor and the Office of State-Federal Relations to maximize
19 federal funding for transportation.

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;

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

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

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

- 13 (1) governor;
- 14 (2) lieutenant governor;
- 15 (3) attorney general;
- 16 (4) comptroller of public accounts;
- 17 (5) commissioner of the General Land Office;
- 18 (6) commissioner of agriculture;
- 19 (7) commissioner of transportation;
- 20 (8) railroad commissioner;
- 21 (9) [~~(8)~~] chief justice, supreme court;
- 22 (10) [~~(9)~~] justice, supreme court;
- 23 (11) [~~(10)~~] presiding judge, court of criminal
24 appeals;
- 25 (12) [~~(11)~~] judge, court of criminal appeals.

26 SECTION 7. Sections 201.052, 201.054, 201.0545, 201.056,
27 201.057, 201.058, and 201.059, Transportation Code, are 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 serving on the effective date of this Act
8 shall, unless otherwise removed as provided by law, continue in
9 office under the prior law that governed the composition of the
10 Texas Transportation Commission, and that prior law is continued in
11 effect for that purpose. If on January 1, 2011, there is a vacancy
12 in the new office of commissioner of transportation created under
13 this Act because the first commissioner of transportation-elect has
14 died or refuses or is permanently unable to serve, the members of
15 the Texas Transportation Commission serving on the effective date
16 of this Act shall, unless otherwise removed as provided by law,
17 continue in office under the prior law that governed the
18 composition of the Texas Transportation Commission until the
19 governor fills the vacancy by appointment in the manner provided by
20 law. The prior law that governed the composition of the Texas
21 Transportation Commission is continued in effect for that purpose.
22 At the time that the first commissioner of transportation that is
23 elected, or in extraordinary circumstances appointed, under this
24 Act takes office, the Texas Transportation Commission is abolished.

25 (c) The commissioner of transportation succeeds to all
26 powers, duties, rights, and obligations of the Texas Transportation
27 Commission, and the abolition of the Texas Transportation

1 Commission does not affect the validity of any right, duty,
2 decision, rule, or action of any kind taken by or under the
3 authority of the commission.

4 (d) Not later than January 1, 2012, the commissioner of
5 transportation shall provide to the lieutenant governor, the
6 speaker of the house of representatives, and the presiding officers
7 of the standing committees of each house of the legislature with
8 primary jurisdiction over transportation issues:

9 (1) a strategic plan for the department; and

10 (2) a detailed plan describing how the department
11 intends to meet its goals.

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