

By: Dunnam

H.B. No. 2701

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to the abolition of the Texas Transportation Commission,  
3 the creation of the commissioner of transportation as an elected  
4 statutory state officer and the commissioner's power and duties.

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

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

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

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

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

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

22 Department of Transportation to take an action shall be construed  
23 to authorize the commissioner of transportation to take that action

24 ~~[to a member of the commission means a commissioner]~~.

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

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

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

8 (b) A person is not eligible for election as commissioner  
9 if, at any time during the five-year period immediately preceding  
10 the person's election, a ~~[The members shall be appointed to reflect~~  
11 ~~the diverse geographic regions and population groups of this state.~~  
12 ~~One member must reside in a rural area.~~

13 ~~[(c) Each member of the commission must represent the~~  
14 ~~general public.~~

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

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

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

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

5           (4) was [~~is~~] registered, certified, or licensed by the  
6 department; [~~or~~]

7           (5) was an [~~(f) An~~] officer, employee, or paid  
8 consultant of a Texas trade association in the field of road  
9 construction or maintenance, aviation, or outdoor advertising or a  
10 Texas trade association of automobile dealers; or [~~may not be a~~  
11 ~~member of the commission.~~

12           ~~(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 may not be a member of the~~  
16 ~~commission.]~~

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

22           (c) A vacancy in the office of commissioner of  
23 transportation is filled by election by the legislature. The  
24 legislature fills a vacancy by the vote of each house sitting  
25 separately. A person is elected as commissioner of transportation  
26 by the legislature if the person receives a majority of the votes  
27 cast in each house for the person's election. [~~(i) Appointments to~~

1 ~~the commission shall be made without regard to race, color,~~  
2 ~~disability, sex, religion, age, or national origin of the~~  
3 ~~appointees and shall reflect the diversity of the population of the~~  
4 ~~state as a whole.~~

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

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

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

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

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

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

24 ~~(2)] represent the department in dealing with the~~  
25 ~~governor;~~

26 (2) [~~(3)~~] report to the governor on the state of  
27 affairs of the department at least quarterly;

1           (3) [~~(4)~~] [~~report to the commission the governor's~~  
2 ~~suggestions for department operations,~~

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

6           (4) [~~(6)~~] periodically review the department's  
7 organizational structure and submit recommendations for structural  
8 changes to the governor[~~, the commission~~], the standing, special,  
9 and joint committees of each house of the legislature with  
10 jurisdiction over the department, and the Legislative Budget Board;

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

15           (6) [~~(8)~~] ~~create subcommittees, appoint commissioners~~  
16 ~~to subcommittees, and receive the reports of subcommittees to the~~  
17 ~~commission as a whole,~~

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

20           (7) [~~(10)~~] serve as the department's [~~departmental~~]  
21 liaison with the governor and the Office of State-Federal Relations  
22 to maximize federal funding for transportation.

23           ~~[Sec. 201.054. COMMISSION MEETINGS. The commission shall~~  
24 ~~hold regular meetings at least once a month and special meetings at~~  
25 ~~the call of the chair. Commissioners shall attend the meetings of~~  
26 ~~the commission. The chair shall oversee the preparation of an~~  
27 ~~agenda for each meeting and ensure that a copy is provided to each~~

1 ~~commissioner at least seven days before the meeting.]~~

2 Sec. 201.055 [~~201.0545~~]. RECOMMENDATIONS TO LEGISLATURE.

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

7 (b) The commissioner [~~On behalf of the commission, the~~  
8 ~~chair~~] shall report to the governor, the lieutenant governor, the  
9 speaker of the house of representatives, and the presiding officers  
10 of the standing, special, and joint committees of each house of the  
11 legislature with jurisdiction over the department [~~relevant~~  
12 ~~legislative committees~~] on legislative recommendations adopted by  
13 the commissioner [~~commission~~] and relating to the operation of the  
14 department.

15 Sec. 201.056 [~~201.056~~]. COMPENSATION. The commissioner [~~A~~  
16 ~~member of the commission~~] is entitled to compensation as provided  
17 by the General Appropriations Act. If compensation for the  
18 commissioner [~~members~~] is not provided by that Act, the  
19 commissioner [~~each member~~] is entitled to compensation equal to  
20 one-half of the compensation paid to the governor [~~reimbursement~~  
21 ~~for actual and necessary expenses incurred in performing functions~~  
22 ~~as a member of the commission~~].

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

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

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

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

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

10 ~~(b) The validity of an action of the commission is not~~  
11 ~~affected by the fact that it is taken when a ground for removal of a~~  
12 ~~commissioner exists.~~

13 ~~(c) If the director knows that a potential ground for~~  
14 ~~removal exists, the director shall notify the chair of the~~  
15 ~~commission of the ground, and the chair shall notify the governor~~  
16 ~~and the attorney general that a potential ground for removal~~  
17 ~~exists. If the potential ground for removal relates to the chair,~~  
18 ~~the director shall notify another commissioner, who shall notify~~  
19 ~~the governor and the attorney general that a potential ground for~~  
20 ~~removal exists.]~~

21 ~~Sec. 201.058. INFORMATION ON QUALIFICATIONS AND CONDUCT.~~  
22 ~~The department shall provide to the members of the commission, as~~  
23 ~~often as necessary, information concerning the members'~~  
24 ~~qualifications for office under Subchapter B and their~~  
25 ~~responsibilities under applicable laws relating to standards of~~  
26 ~~conduct for state officers.~~

27 ~~Sec. 201.059. TRAINING ON DEPARTMENT AND CERTAIN LAWS~~

1 ~~RELATING TO DEPARTMENT. (a) To be eligible to take office as a~~  
2 ~~member of the commission, a person appointed to the commission must~~  
3 ~~complete at least one course of a training program that complies~~  
4 ~~with this section.~~

5 ~~(b) The training program must provide information to the~~  
6 ~~person regarding:~~

- 7 ~~(1) this subchapter,~~
- 8 ~~(2) the programs operated by the department,~~
- 9 ~~(3) the role and functions of the department,~~
- 10 ~~(4) the rules of the department with an emphasis on the~~  
11 ~~rules that relate to disciplinary and investigatory authority,~~
- 12 ~~(5) the current budget for the department,~~
- 13 ~~(6) the results of the most recent formal audit of the~~  
14 ~~department,~~
- 15 ~~(7) the requirements of the:~~
  - 16 ~~(A) open meetings law, Chapter 551, Government~~  
17 ~~Code,~~
  - 18 ~~(B) open records law, Chapter 552, Government~~  
19 ~~Code, and~~
  - 20 ~~(C) administrative procedure law, Chapter 2001,~~  
21 ~~Government Code,~~
- 22 ~~(8) the requirements of the conflict of interest laws~~  
23 ~~and other laws relating to public officials, and~~
- 24 ~~(9) any applicable ethics policies adopted by the~~  
25 ~~commission or the Texas Ethics Commission.~~

26 ~~(c) A person appointed to the commission is entitled to~~  
27 ~~reimbursement for travel expenses incurred in attending the~~



1 ~~training program, as provided by the General Appropriations Act and~~  
2 ~~as if the person were a member of the commission.]~~

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

5 Sec. 201.201. GOVERNANCE OF DEPARTMENT. The ~~[commission~~  
6 ~~governs the Texas Department of Transportation]~~ department is under  
7 the direction of the commissioner, who is responsible for  
8 exercising the powers and performing the duties assigned to the  
9 department by this code or other law.

10 Sec. 201.202. DIVISIONS; DIVISION PERSONNEL. (a) The  
11 commissioner ~~[commission]~~ shall organize the department into  
12 divisions to accomplish the department's functions and the duties  
13 assigned to it, including divisions for:

- 14 (1) aviation;  
15 (2) highways and roads;  
16 (3) public transportation; ~~[and]~~  
17 (4) motor vehicle titles and registration; and  
18 (5) rail transportation.

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

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

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

3 [~~SUBCHAPTER E. DIRECTOR~~]

4 Sec. 201.053 [~~201.301~~]. [~~EXECUTIVE DIRECTOR.~~ (a) ~~The~~  
5 ~~commission shall elect an executive director for the department.~~  
6 ~~The director must be a registered professional engineer in this~~  
7 ~~state and experienced and skilled in transportation planning,~~  
8 ~~development, construction, and maintenance.~~

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

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

11 [~~(1) serve the commission in an advisory capacity,~~  
12 ~~without vote, and~~

13 [~~(2) submit to the commission, quarterly, annually,~~  
14 ~~and biennially, detailed reports of the progress of public road~~  
15 ~~construction, detailed reports of public and mass transportation~~  
16 ~~development, and detailed statements of expenditures.~~

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

20 [~~Sec. 201.302.~~] STATE ROAD MAP. The commissioner  
21 [~~director~~] shall make, regularly revise, and keep in a form  
22 convenient for examination in the office of the department a  
23 complete road map of the state that shows road construction in the  
24 counties.

25 Sec. 201.054 [~~201.303~~]. USE OF UNIVERSITY LABORATORIES FOR  
26 ANALYZING MATERIALS. The commissioner [~~director~~] may use  
27 laboratories maintained at Texas A&M University and The University

1 of Texas to test and analyze road and bridge material. Persons in  
2 charge of the laboratories shall cooperate with and assist the  
3 commissioner [~~director~~] with those tests and analyses.

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

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

- 7 (1) a member of the legislature;
- 8 (2) the governor;
- 9 (3) the lieutenant governor;
- 10 (4) a justice of the supreme court;
- 11 (5) a judge of the court of criminal appeals;
- 12 (6) the attorney general;
- 13 (7) the commissioner of the General Land Office;
- 14 (8) the comptroller;
- 15 (9) a member of the Railroad Commission of Texas;
- 16 (10) the commissioner of agriculture;
- 17 (11) the commissioner of transportation;
- 18 (12) the secretary of state; or
- 19 (13) [~~(12)~~] a member of the State Board of Education.

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

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

- 24 (1) governor;
- 25 (2) lieutenant governor;
- 26 (3) attorney general;
- 27 (4) comptroller of public accounts;

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

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

12 SECTION 8. (a) On the effective date of this Act:

13 (1) The Texas Transportation Commission and the office  
14 of executive director of the Texas Department of Transportation are  
15 abolished.

16 (2) The members of the Texas Transportation Commission  
17 and the executive director of the Texas Department of  
18 Transportation do not continue in office.

19 (3) The members of the Texas Transportation Commission  
20 and the executive director of the Texas Department of  
21 Transportation serving on the effective date of this Act are not  
22 entitled to any further compensation or reimbursement of actual and  
23 necessary expenses incurred in the performance of their duties that  
24 are incurred after the effective date of this Act.

25 (b) The first commissioner of transportation elected under  
26 the changes in law made by this Act shall be elected at the general  
27 election held in November 2010 to serve for a term that begins

1 January 1, 2011.

2 (c) Until the first commissioner of transportation elected  
3 under this Act takes office, the governor may not make an  
4 appointment to fill a vacancy in the office of commission of  
5 transportation. The legislature shall elect the initial  
6 commissioner of transportation by the vote of each house sitting  
7 separately. A person is elected as commissioner of transportation  
8 by the legislature if the person receives a majority of the votes  
9 cast in each house for the person's election. A person's election  
10 is not void if the person is elected before the effective date of  
11 this Act.

12 (d) If, on January 1, 2011, there is a vacancy in the new  
13 office of commissioner of transportation created under this Act  
14 because the first commissioner of transportation-elect has died or  
15 refuses or is permanently unable to serve, the legislature shall  
16 elect a commissioner in the manner provided under Subsection (c).

17 (e) The commissioner of transportation succeeds to all  
18 powers, duties, rights, and obligations of the Texas Transportation  
19 Commission, and the abolition of the Texas Transportation  
20 Commission does not affect the validity of any right, duty,  
21 decision, rule, or action of any kind taken by or under the  
22 authority of the commission.

23 SECTION 9. This Act takes effect immediately if it receives  
24 a vote of two-thirds of all the members elected to each house, as  
25 provided by Section 39, Article III, Texas Constitution. If this  
26 Act does not receive the vote necessary for immediate effect, this  
27 Act takes effect September 1, 2009.