

By: McClendon

H.B. No. 116

A BILL TO BE ENTITLED

AN ACT

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

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

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

8 (1-a) "Commissioner" means the commissioner of
9 transportation.

10 SECTION 2. Section 201.003, Transportation Code, is amended
11 to read as follows:

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

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

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

24 (d) ~~[A reference in law to the commissioner of~~

1 ~~transportation means the chair of the commission.~~

2 ~~[(e)]~~ A ~~[reference in]~~ law that authorizes the Texas
3 Transportation Commission to authorize the director of the Texas
4 Department of Transportation to take an action shall be construed
5 to authorize the commissioner of transportation to take that action
6 ~~[to a member of the commission means a commissioner].~~

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

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

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

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

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

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

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

27 (2) directly or indirectly own or control ~~[owns or~~

1 ~~controls~~] more than 10 percent interest in a business entity or
2 other organization that is regulated by or receives funds from the
3 department;

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

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

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

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

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

27 (f) [~~(i)~~] ~~Appointments to the commission shall be made~~

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

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

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

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

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

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

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

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

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

27 (3) ~~[(4)]~~ ~~report to the commission the governor's~~

1 ~~suggestions for department operations;~~

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

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

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

13 (6) ~~[(8) create subcommittees, appoint commissioners~~
14 ~~to subcommittees, and receive the reports of subcommittees to the~~
15 ~~commission as a whole;~~

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

18 (7) ~~[(10)]~~ serve as the departmental liaison with the
19 governor and the Office of State-Federal Relations to maximize
20 federal funding for transportation.

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

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

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

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

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

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

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

23 (2) violates a prohibition provided by Section
24 201.051; or

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

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

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

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

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

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

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

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

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

5 ~~[(3) the role and functions of the department,~~

6 ~~[(4) the rules of the department with an emphasis on~~
7 ~~the rules that relate to disciplinary and investigatory authority,~~

8 ~~[(5) the current budget for the department,~~

9 ~~[(6) the results of the most recent formal audit of the~~
10 ~~department,~~

11 ~~[(7) the requirements of the:~~

12 ~~[(A) open meetings law, Chapter 551, Government~~
13 ~~Code,~~

14 ~~[(B) open records law, Chapter 552, Government~~
15 ~~Code, and~~

16 ~~[(C) administrative procedure law, Chapter 2001,~~
17 ~~Government Code,~~

18 ~~[(8) the requirements of the conflict of interest laws~~
19 ~~and other laws relating to public officials, and~~

20 ~~[(9) any applicable ethics policies adopted by the~~
21 ~~commission or the Texas Ethics Commission.~~

22 ~~[(c) A person appointed to the commission is entitled to~~
23 ~~reimbursement for travel expenses incurred in attending the~~
24 ~~training program, as provided by the General Appropriations Act and~~
25 ~~as if the person were a member of the commission.]~~

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

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

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

- 7 (1) aviation;
- 8 (2) highways and roads; ~~[and]~~
- 9 (3) public transportation; and
- 10 (4) rail transportation.

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

15 SECTION 5. Subchapter E, Chapter 201, Transportation Code,
16 is amended to read as follows:

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

18 Sec. 201.301. ~~[EXECUTIVE DIRECTOR. (a) The commission~~
19 ~~shall elect an executive director for the department. The director~~
20 ~~must be experienced and skilled in transportation planning and~~
21 ~~development and in organizational management.~~

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

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

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

26 ~~[(2) submit to the commission, quarterly, annually,~~
27 ~~and biennially, detailed reports of the progress of public road~~

1 ~~construction, detailed reports of public and mass transportation~~
2 ~~development, and detailed statements of expenditures.~~

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

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

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

17 SECTION 6. Section 504.401(d), Transportation Code, is
18 amended to read as follows:

- 19 (d) In this section, "state official" means:
- 20 (1) a member of the legislature;
 - 21 (2) the governor;
 - 22 (3) the lieutenant governor;
 - 23 (4) a justice of the supreme court;
 - 24 (5) a judge of the court of criminal appeals;
 - 25 (6) the attorney general;
 - 26 (7) the commissioner of the General Land Office;
 - 27 (8) the comptroller;

- 1 (9) a member of the Railroad Commission of Texas;
- 2 (10) the commissioner of agriculture;
- 3 (11) the commissioner of transportation;
- 4 (12) the secretary of state; or
- 5 (13) [~~(12)~~] a member of the State Board of Education.

6 SECTION 7. Section 52.092(c), Election Code, is amended to
7 read as follows:

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

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

23 SECTION 8. Section 223.105, Transportation Code, is
24 repealed.

25 SECTION 9. (a) The first commissioner of transportation
26 elected under the changes in law made by this Act shall be elected
27 at the general election held in November 2012 to serve for a term

1 that begins January 1, 2013.

2 (b) Until the first commissioner of transportation elected
3 under this Act takes office, the members of the Texas
4 Transportation Commission and the executive director of the Texas
5 Department of Transportation serving on the effective date of this
6 Act shall, unless otherwise removed as provided by law, continue in
7 office under the prior law that governed the composition of the
8 Texas Transportation Commission, and that prior law is continued in
9 effect for that purpose. If, on January 1, 2013, there is a vacancy
10 in the new office of commissioner of transportation created under
11 this Act because the first commissioner of transportation-elect has
12 died or refuses or is permanently unable to serve, the members of
13 the Texas Transportation Commission and the executive director of
14 the Texas Department of Transportation serving on the effective
15 date of this Act shall, unless otherwise removed as provided by law,
16 continue in office under the prior law that governed the
17 composition of the Texas Transportation Commission until the
18 governor fills the vacancy by appointment in the manner provided by
19 law. The prior law that governed the composition of the Texas
20 Transportation Commission and the executive director of the Texas
21 Department of Transportation is continued in effect for that
22 purpose. At the time the first commissioner of transportation that
23 is 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

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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 SECTION 10. This Act takes effect September 1, 2011.