

1 HB151  
2 135758-3  
3 By Representative Baker  
4 RFD: Economic Development and Tourism  
5 First Read: 07-FEB-12  
6 PFD: 02/03/2012

1 ENGROSSED

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3  
4 A BILL  
5 TO BE ENTITLED  
6 AN ACT  
7

8 To amend Sections 41-9-201, 41-9-202, 41-9-202.1,  
9 41-9-203, and 41-9-204, Code of Alabama 1975, to rename the  
10 Alabama Development Office and the Director of Development as  
11 the Department of Commerce and the Secretary of Commerce,  
12 respectively; to rename certain other positions; and to  
13 authorize the Secretary of Commerce to employ certain persons  
14 outside of the State Merit System.

15 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

16 Section 1. Sections 41-9-201, 41-9-202, 41-9-202.1,  
17 41-9-203, and 41-9-204, Code of Alabama 1975, are amended to  
18 read as follows:

19 "§41-9-201.

20 "(a) (1) There is hereby created the ~~Alabama~~  
21 ~~Development Office~~ Department of Commerce within the office of  
22 the Governor and directly under his or her supervision and  
23 control. The ~~Alabama Development Office shall consist of the~~  
24 ~~Governor as the state Planning and Development Officer and a~~  
25 ~~chief administrative officer to be designated as Director of~~  
26 ~~Development~~ Department of Commerce shall be headed by the  
27 Secretary of Commerce, who shall be a person possessed with

1 extensive responsible experience in development of economic,  
2 human, and physical resources and promotion of industrial and  
3 commercial development. The ~~director~~ secretary shall be  
4 appointed by the Governor and serve at his or her pleasure at  
5 a salary of any reasonable amount not to exceed by forty  
6 thousand dollars (\$40,000) the highest authorized salary for  
7 employees of the ~~Alabama Development Office~~ Department of  
8 Commerce who are subject to the Merit System law. In fixing  
9 such salary, the Governor shall give due consideration of the  
10 salaries of comparable positions in other states and in  
11 private industry. All other employees necessary to carry out  
12 the duties and functions of the ~~Alabama Development Office~~  
13 Department of Commerce shall be employed subject to the Merit  
14 System law. In addition to any other employees, there may be  
15 employed a total of ~~five~~ eight assistant ~~directors~~ secretaries  
16 for the office, who shall not be subject to the Merit System  
17 law and whose compensation shall be determined by the ~~director~~  
18 secretary.

19 "(2) The ~~five~~ eight additional assistant ~~directors~~  
20 secretaries shall be persons experienced in industrial and  
21 commercial development for at least the two years prior to  
22 their employment. Compensation for the ~~five~~ eight additional  
23 assistant ~~directors~~ secretaries shall not exceed the amount of  
24 compensation paid for the highest classification of Merit  
25 System employees employed by the Alabama Development Office ~~on~~  
26 ~~June 4, 1999~~.

1           "3) ~~The director is encouraged to hire at least two~~  
2 ~~black employees of the five new assistant directors to be~~  
3 ~~hired~~ The makeup of the assistant secretaries shall be  
4 inclusive and should reflect the racial, gender, geographic,  
5 urban/rural, and economic diversity of the state.

6           "(b) The Governor, through the ~~Alabama Development~~  
7 ~~Office~~ Department of Commerce, shall encourage comprehensive  
8 and coordinated planning and programming of the affairs of  
9 state government.

10           "(c) The Governor may direct any state department or  
11 other agency of state government directly under his or her  
12 control and supervision to furnish the ~~Alabama Development~~  
13 ~~Office~~ Department of Commerce with such personnel, equipment,  
14 and services as are necessary to enable it to carry out its  
15 responsibilities and duties and prescribe the terms thereof,  
16 including reimbursement of costs thereof.

17           "§41-9-202.

18           "(a) The ~~Alabama Development Office~~ Department of  
19 Commerce shall be the principal staff agency of the executive  
20 branch to plan with the other departments of state government  
21 and with other governmental units for the comprehensive  
22 development of the state's human, economic and physical  
23 resources and their relevance for programs administered by the  
24 state and the governmental structure required to put such  
25 programs into effect. It shall provide information, assistance  
26 and staff support by all appropriate means. The ~~Alabama~~  
27 ~~Development Office~~ Department of Commerce shall perform all

1 the duties and exercise all the powers and authority relative  
2 to state regional and local planning and industrial  
3 development heretofore vested in the ~~state Planning and~~  
4 ~~Industrial Development Board. All the functions, powers,~~  
5 ~~authority and duties relative to carrying on a planning~~  
6 ~~program for the promotion of the commercial and industrial~~  
7 ~~development of the state and the counties and the~~  
8 ~~municipalities thereof, including the preparation of a state~~  
9 ~~master plan, as well as the authority to provide an assistance~~  
10 ~~program to regions, counties and municipalities in the~~  
11 ~~preparation of comprehensive physical plans for such regions,~~  
12 ~~counties and municipalities vested by Sections 41-9-180~~  
13 ~~through 41-9-184 in the state Planning and Industrial~~  
14 ~~Development Board, are confirmed, continued, transferred to~~  
15 ~~and hereafter shall be vested in the Alabama Development~~  
16 ~~Office. All books, records, supplies, funds, equipment and~~  
17 ~~personnel of the state Planning and Industrial Alabama~~  
18 ~~Development board Office are also hereby transferred to the~~  
19 ~~Alabama Development Office Department of Commerce.~~

20 "(b) All of the powers and authority heretofore  
21 vested in the Alabama ~~program development office, created by~~  
22 ~~executive order of the Governor number 2, dated July 17, 1968,~~  
23 ~~are confirmed, continued, transferred to and hereafter~~  
24 ~~Development Office and the Director of Development shall be~~  
25 ~~vested in the Alabama Development Office Department of~~  
26 ~~Commerce created by this article and the Secretary of~~  
27 ~~Commerce, respectively. A reference in any provision of law to~~

1 the Alabama Development Office or the Director of Development  
2 shall be deemed a reference to the Department of Commerce and  
3 Secretary of Commerce, respectively. All books, records,  
4 supplies, funds, equipment and personnel of the Alabama  
5 program development office heretofore created by executive  
6 order of the Governor are hereby transferred to the Alabama  
7 Development Office.

8 "(c) Without in any way limiting the foregoing  
9 general powers and duties, the Alabama development office  
10 Department of Commerce shall have the following additional  
11 powers and duties:

12 "(1) To formulate a long-range state comprehensive  
13 plan, to be submitted by the Governor to the Legislature for  
14 its consideration~~7.~~

15 "(2) To formulate, for approval by the Governor and  
16 the Legislature, long-range plans and policies for the orderly  
17 and coordinated growth of the state, including, but not  
18 limited to, functional plans~~7.~~

19 "(3) To prepare special reports and make available  
20 the results of the agency's research, studies and other  
21 activities through publications, memoranda, briefings and  
22 expert testimony~~7.~~

23 "(4) To analyze the quality and quantity of services  
24 required for the continued orderly and long-range growth of  
25 the state, taking into consideration the relationship of  
26 activities, capabilities and future plans of local units of

1 government, area commissions, development districts, private  
2 enterprise and the state and federal governments7.

3 "(5) To encourage the coordination of the planning  
4 and programming activities of all state departments, agencies  
5 and institutions, local levels of government and other public  
6 and private bodies within the state7.

7 "(6) To advise and consult with regional, county and  
8 local planning and development agencies7.

9 "(7) To work with the state budget agency and other  
10 state departments, agencies and institutions to study and  
11 review plans, programs and federal aid applications filed with  
12 the federal government7.

13 "(8) To survey, review and appraise the  
14 accomplishments of state government in achieving its goals and  
15 objectives at the direction of the Governor and in cooperation  
16 with the state budget agency7.

17 "(9) To apply for and accept advances, loans,  
18 grants, contributions and any other form of assistance from  
19 the federal government, the state or other public body or from  
20 any sources, public or private, for the purposes of this  
21 article and to enter into and carry out contracts or  
22 agreements in connection therewith and to include in any  
23 contract for financial assistance with the federal government  
24 such conditions imposed pursuant to federal laws as it may  
25 deem reasonable and appropriate and which are not inconsistent  
26 with the purposes of this article7.

1           "(10) To review and comment on all local and  
2 areawide applications for federal planning assistance or to  
3 delegate such authority to a regional planning and development  
4 commission;~~and.~~

5           "(11) To exercise all other powers necessary and  
6 proper for the discharge of its duties, including the  
7 promulgation of reasonable rules and regulations.

8           "(d) The ~~Alabama Development Office~~ Department of  
9 Commerce is hereby authorized to make grants from  
10 appropriations to regional planning and development  
11 commissions which are certified to receive such grants by the  
12 Governor under the provisions of Sections 11-85-50 through  
13 11-85-55.

14           "§41-9-202.1.

15           "(a) (1) The ~~Director~~ Secretary of the ~~Alabama~~  
16 ~~Development Office (the "director")~~ Department of Commerce  
17 shall be notified, either orally or in writing, about the  
18 general parameters of a project if an entity is considering  
19 locating or expanding a facility at a site within this state  
20 and intends to claim any of the incentives provided by the  
21 State of Alabama that are described in subdivision (2). The  
22 required notification should be made as soon as the project's  
23 parameters are generally known or when a site or sites have  
24 been identified by an investing entity or entities or a visit  
25 is made to the State of Alabama by the entity or its  
26 representative. The initial required notification may be made  
27 on an anonymous basis (i.e., "Project Alpha") in order to



1 protect the confidentiality of a proposed project. Upon timely  
2 notifying the ~~director~~ secretary within the time frame  
3 specified in this subdivision, the ~~director~~ secretary shall  
4 transmit a letter to the company or its representative  
5 acknowledging receipt of the required notification (the  
6 "notification acknowledgment letter").

7 "(2) The required notification set forth in  
8 subdivision (1) applies to (i) capital investment credits  
9 pursuant to Act 95-187, as amended; (ii) site preparation  
10 grants pursuant to Act 91-635, as amended; (iii) funding for  
11 access roads and bridges through the Alabama Industrial Access  
12 Road and Bridge Corporation pursuant to Act 85-549, as  
13 amended; (iv) training or other assistance from the Alabama  
14 Industrial Development Training Program where the annual  
15 expenditures of cash is estimated to be in excess of one  
16 million dollars (\$1,000,000); and (v) any direct or indirect  
17 cash payment for a project from the State of Alabama, whether  
18 in the form of an in-kind contribution of a site, building, or  
19 equipment, or otherwise.

20 "(b) All information concerning a proposed project  
21 which is provided to the ~~director~~ secretary and the ~~Alabama~~  
22 ~~Development Office~~ Department of Commerce shall be  
23 confidential. The ~~director~~ secretary is authorized to enter  
24 into a confidentiality agreement with a prospective entity  
25 which prohibits the disclosure of the identity of the  
26 prospective entity and any information obtained, whether  
27 orally or in writing, about the entity's proposed project.

1           "(c) All written statements of intent to claim the  
2 capital credit which may be filed with the Department of  
3 Revenue at anytime prior to the date on which a qualifying  
4 project is placed in service pursuant to Section 40-18-191,  
5 ~~must~~ shall include the notification acknowledgment letter from  
6 the ~~director~~ secretary.

7           "(d) All applications to the State Industrial  
8 Development Authority for site preparation grants pursuant to  
9 Act 91-635, 1991 Regular Session, as last amended by Act  
10 97-645, 1997 Regular Session, ~~must~~ shall include the  
11 notification acknowledgment letter from the ~~director~~  
12 secretary.

13           "(e) All applications to the Industrial Access Road  
14 and Bridge Corporation for funding for access roads and  
15 bridges ~~must~~ shall include the notification acknowledgment  
16 letter from the ~~director~~ secretary.

17           "(f) All companies seeking training or other  
18 assistance from the Alabama Industrial Development Training  
19 Program ~~must~~ shall file an application with the ~~Director~~  
20 Secretary of the ~~Alabama Development Office~~ Department of  
21 Commerce if the annual expenditure of cash is estimated to be  
22 in excess of one million dollars (\$1,000,000). The application  
23 ~~must~~ shall include the notification acknowledgment letter from  
24 the ~~director~~ secretary. The ~~director~~ secretary shall be  
25 responsible for reviewing, coordinating, and processing each  
26 application. The ~~director~~ secretary shall have 30 days to  
27 process each application.

1           "(g) An application must be filed with the ~~director~~  
2     secretary before any direct or indirect cash payments are  
3     expended for a project from the State of Alabama, whether the  
4     payment is in the form of an in-kind contribution of a site,  
5     building, equipment, or otherwise. The application ~~must~~ shall  
6     include the notification acknowledgment letter from the  
7     ~~director~~ secretary. The ~~director~~ secretary shall be  
8     responsible for reviewing, coordinating, processing, and  
9     approving each application for direct or indirect cash  
10    payments and shall have 30 days to approve or deny each  
11    application.

12           "§41-9-203.

13           "The Governor, in carrying out his or her  
14    responsibilities under this article, may establish advisory  
15    committees or councils and appoint the members thereof, who  
16    shall serve at his or her pleasure. Members shall serve  
17    without compensation. The Governor shall designate the  
18    chairmen and such other officers as he or she may deem  
19    necessary for each advisory committee or council. Advisory  
20    committees or councils established pursuant to this section  
21    shall meet at the call of their chairmen or of the ~~director~~  
22    Secretary of ~~development~~ Commerce.

23           "§41-9-204.

24           "All appropriations heretofore or hereafter made to  
25    the Industrial Development Board, the Planning and Industrial  
26    Development Board (community planning), ~~and~~ the Alabama  
27    Program Development Office, and the Alabama Development Office

1 heretofore established by executive order of the Governor are  
2 hereby consolidated and transferred to the ~~Alabama Development~~  
3 ~~Office~~ Department of Commerce."

4 Section 2. This act shall become effective  
5 immediately following its passage and approval by the  
6 Governor, or its otherwise becoming law.

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House of Representatives

Read for the first time and re-  
ferred to the House of Representa-  
tives committee on Economic Devel-  
opment and Tourism..... . . . . . 07-FEB-12

Read for the second time and placed  
on the calendar 1 amendment ..... . . . . . 08-FEB-12

Read for the third time and passed  
as amended..... . . . . . 09-FEB-12

Yeas 94, Nays 1, Abstains 0

Greg Pappas  
Clerk