CHAPTER 1

General Provisions

ARTICLE 1

Department of Transportation

**SECTION 57‑1‑10.** Definitions.

 For the purposes of this title, the following words, phrases, and terms are defined as follows:

 (1) "Commission" means the administrative and governing authority of the Department of Transportation.

 (2) "Department" means the Department of Transportation (DOT).

 (3) "Secretary of Transportation" means the Chief Administrative Officer of the Department of Transportation.

HISTORY: 1962 Code Section 33‑1; 1952 Code Section 33‑1; 1951 (47) 457; 1977 Act No. 82 Sections 2, 11‑13; 1986 Act No. 383, Section 2; 1993 Act No. 181, Section 1503; 2007 Act No. 114, Section 5, eff June 27, 2007.

Effect of Amendment

The 2007 amendment, in item (1), substituted "authority" for "body"; and, in item (3), substituted "Secretary of Transportation" for "Director".

**SECTION 57‑1‑20.** Establishment of Department of Transportation; divisions.

 The Department of Transportation is established as an administrative agency of state government which is comprised of a Division of Intermodal and Freight Programs, a Division of Construction Engineering and Planning, and a Division of Finance and Administration. Each division of the Department of Transportation shall have such functions and powers as provided for by law.

HISTORY: 1962 Code Section 33‑2; 1952 Code Section 33‑2; 1951 (47) 457; 1993 Act No. 181, Section 1503; 2007 Act No. 114, Section 5, eff June 27, 2007; 2010 Act No. 206, Section 1, eff June 7, 2010.

Effect of Amendment

The 2007 amendment reprinted this section with no apparent change.

The 2010 amendment substituted "Intermodal and Freight Programs" for "Mass Transit" in the first sentence; and made nonsubstantive changes.

**SECTION 57‑1‑30.** Functions and purposes of department.

 (A) The department shall have as its functions and purposes the systematic planning, construction, maintenance, and operation of the state highway system and the development of a statewide intermodal and freight system that is consistent with the needs and desires of the public.

 (B) The department shall coordinate all state and federal programs relating to highways among all departments, agencies, and other bodies politic and legally constituted agencies of this State and the performance of such other duties and matters as may be delegated to it pursuant to law. The goal of the department is to provide adequate, safe, and efficient transportation services for the movement of people and goods.

HISTORY: 1962 Code Section 33‑3; 1952 Code Section 33‑3; 1951 (47) 457; 1993 Act No. 181, Section 1503; 2007 Act No. 114, Section 5, eff June 27, 2007; 2010 Act No. 206, Section 2, eff June 7, 2010.

Effect of Amendment

The 2007 amendment designated subsections (A) and (B).

The 2010 amendment, in paragraph (A), substituted "intermodal and freight" for "mass transit" following "development of a statewide".

**SECTION 57‑1‑40.** Prohibited acts; penalties.

 (A) It is unlawful for a member of the commission or an engineer, agent, or other employee, acting for or on behalf of the department or commission, to accept or agree to accept, receive or agree to receive, or ask or solicit, either directly or indirectly, with the intent to have his decision or action on any question, matter, cause, or proceeding which at the time may be pending or which by law may be brought before him in his official capacity or in his place of trust or profit influenced, any:

 (1) money;

 (2) contract, promise, undertaking, obligation, gratuity, or security for the payment of money or for the delivery or conveyance of anything of value;

 (3) political appointment or influence, present, or reward;

 (4) employment; or

 (5) other thing of value.

 A person violating the provisions of subsection (A) is guilty of a felony and, upon conviction, must be imprisoned not more than five years and is disqualified forever from holding any office of trust or profit under the Constitution or laws of this State.

 (B) It is unlawful for a person to give or offer to give, promise, or cause or procure to be promised, offered, or given, either directly or indirectly, to a member of the commission or an engineer, agent, or other employee acting for or on behalf of the commission or department with the intent to have his decision or action on any question, matter, cause, or proceeding which at the time may be pending or which by law may be brought before him in his official capacity or in his place of trust or profit influenced, any:

 (1) money;

 (2) contract, promise, undertaking, obligation, gratuity, or security for the payment of money or for the delivery or conveyance of anything of value;

 (3) political appointment or influence, present, or reward;

 (4) employment; or

 (5) other thing of value.

 A person violating the provisions of subsection (B) is guilty of a felony and, upon conviction, must be imprisoned not more than five years and is disqualified forever from holding any office of trust or profit under the Constitution or laws of this State.

 (C) The members and employees of the commission and employees of the department are subject to the provisions of Chapter 13, Title 8, the State Ethics Act, and the provisions of Chapter 78, Title 15, the South Carolina Tort Claims Act.

HISTORY: 1962 Code Section 33‑4; 1952 Code Section 33‑4; 1951 (47) 457; 1993 Act No. 181, Section 1503; 1993 Act No. 184, Section 83; 2007 Act No. 114, Section 5, eff June 27, 2007.

Code Commissioner's Note

Section 57‑1‑60 was amended by 1993 Act No. 184, Section 83, without recognizing that Section 57‑1‑60 was amended by 1993 Act No. 181, Section 1503. As amended by Act No. 181, the substance of former Section 57‑1‑60 was transferred to Section 57‑1‑40. At the direction of the Code Commissioner, the amendment of Section 57‑1‑60 by Act No. 184, was executed to Section 57‑1‑40.

Effect of Amendment

The 2007 amendment added subsection (C) relating to applicability of the State Ethics and the Tort Claims Acts.

**SECTION 57‑1‑50.** Assent to federal aid for construction of highways and related transportation projects.

 The assent of the State is hereby given to the terms and provisions of any act providing for federal aid to the states for the construction of highways and other related transportation projects. The good faith of the State is hereby pledged to provide sufficient funds to meet the requirements of said federal act, so as to acquire the benefits thereof.

HISTORY: 1962 Code Section 33‑5; 1952 Code Section 33‑5; 1951 (47) 457; 1993 Act No. 181, Section 1503; 2007 Act No. 114, Section 5, eff June 27, 2007.

Effect of Amendment

The 2007 amendment reprinted this section with no apparent change.

**SECTION 57‑1‑60.** Duties of Governor with respect to highway safety transportation programs and activities.

 The Governor, in addition to other duties and responsibilities conferred upon him by the Constitution and laws of this State, is charged with the responsibility for the administration of the state's highway safety programs and is further charged with the duty of contracting and doing all other things necessary on behalf of this State and, in so doing, to work with federal and state agencies, agencies private and public, interested organizations, and with individuals to effectuate that purpose. The Governor shall be the official of this State having the ultimate responsibility for dealing with the federal government with respect to highway safety transportation programs and activities. To that end the Governor shall coordinate the activities of any and all departments and agencies of this State and its subdivisions.

HISTORY: 1962 Code Section 33‑6; 1952 Code Section 33‑6; 1951 (47) 457; 1960 (51) 1602; 1993 Act No. 181, Section 1503; 2007 Act No. 114, Section 5, eff June 27, 2007.

Code Commissioner's Note

Section 57‑1‑60 was amended by 1993 Act No. 184, Section 83, without recognizing that Section 57‑1‑60 had been amended by 1993 Act No. 181, Section 1503. As amended by Act No. 181, the substance of former Section 57‑1‑60 was transferred to Section 57‑1‑40. At the direction of the Code Commissioner, the amendment of Section 57‑1‑60 by Act No. 184, was executed to Section 57‑1‑40.

Effect of Amendment

The 2007 amendment reprinted this section with no apparent change.

**SECTION 57‑1‑70.** Department to act in compliance with Federal Aid Highway Act.

 It is the sense of the General Assembly that the Department of Transportation should comply with Section 105(f) of the Federal Aid Highway Act. The department is directed to effectuate and assure the compliance through contract documents and regulations as may be necessary and such input from the Office of the Governor (Office of Small and Minority Business Assistance) in the promulgation of the regulations.

HISTORY: 1962 Code Section 33‑7; 1967 (55) 208; 1993 Act No. 181, Section 1503; 2007 Act No. 114, Section 5, eff June 27, 2007.

Effect of Amendment

The 2007 amendment reprinted this section with no apparent change.

**SECTION 57‑1‑80.** List of all public railroad crossings and upgrades; publication on website; installation of railroad signals and crossing arms.

 The Department of Transportation shall publish on its website the list of all public railroad crossings. The department also shall publish on its website the list of railroad crossings programmed for upgrades and designate it on its website "John's Law". Contingent upon the receipt of additional funds for the installation of public railroad signals and gates, the department is directed to increase the number of installations of railroad signals or crossing arms, or both, utilizing all funds available for this type of work at dangerous railroad crossings throughout the State.

HISTORY: 2011 Act No. 54, Section 2, eff June 14, 2011.

Editor's Note

2011 Act No. 54, Section 1, provides as follows:

"This act may be cited as 'John's Law'".

**SECTION 57‑1‑90.** Motorcycles.

 (A) In formulating transportation policy, promulgating regulations, allocating funds, and planning, designing, constructing, equipping, operating and maintaining transportation facilities, no action of the South Carolina Transportation Commission, or the South Carolina Department of Transportation shall have the effect of discriminating against motorcycles, motorcycle operators, or motorcycle passengers. No regulation or action of the commission, or department shall have the effect of enacting a prohibition or imposing a requirement that applies only to motorcycles or motorcyclists, and the principal purpose of which is to restrict or inhibit access or motorcycles and motorcyclists to any highway, bridge, tunnel, or other transportation facility.

 (B) The allocation of parking space square footage specifically in transportation facilities, and other projects undertaken or operated by a political subdivision of this State where state or local source funds have been used in whole or in part to plan, design, construct, equip, operate, or maintain the facility must make reasonable accommodations for motorcycle parking. In carrying forward this requirement, among other options, the facility at its discretion may comply by sectioning portions of the area where the size configuration of the space does not meet code requirements for full‑sized vehicles.

 (C) As used in this section, "reasonable accommodations" shall not be interpreted to include, require, or otherwise mandate the structural or technological modification of parking structures constructed or substantially completed before July 1, 2014.

HISTORY: 2014 Act No. 148 (H.3231), Section 1, eff April 7, 2014.

ARTICLE 3

Commission of the Department of Transportation

**SECTION 57‑1‑310.** Commission of the Department of Transportation; composition; qualifications.

 (A) The congressional districts of this State are constituted and created Department of Transportation Districts of the State, designated by numbers corresponding to the numbers of the respective congressional districts. The Commission of the Department of Transportation shall be composed of one member from each transportation district and one member from the State at large, all appointed by the Governor, upon the advice and consent of the Senate, subject to the provisions of Section 57‑1‑325. In making appointments to the commission, the Governor shall take into account race, gender, and other demographic factors, such as residence in rural or urban areas, so as to represent, to the greatest extent possible, all segments of the population of the State; however, consideration of these factors in making an appointment in no way creates a cause of action or basis for an employee grievance for a person appointed or for a person who fails to be appointed.

 (B) The at‑large appointment made by the Governor must be transmitted to the Joint Transportation Review Committee.

 (C) The qualifications that each commission member must possess, include, but are not limited to:

 (1) a baccalaureate or more advanced degree from:

 (a) a recognized institution of higher learning requiring face‑to‑face contact between its students and instructors prior to completion of the academic program;

 (b) an institution of higher learning that has been accredited by a regional or national accrediting body; or

 (c) an institution of higher learning chartered before 1962; or

 (2) a background of at least five years in any combination of the following fields of expertise:

 (a) transportation;

 (b) construction;

 (c) finance;

 (d) law;

 (e) environmental issues;

 (f) management; or

 (g) engineering.

 (D) A member of the General Assembly or member of his immediate family may not be appointed to the commission while the member is serving in the General Assembly; nor shall a member of the General Assembly or a member of his immediate family be appointed to the commission for a period of four years after the member either:

 (1) ceases to be a member of the General Assembly; or

 (2) fails to file for election to the General Assembly in accordance with Section 7‑11‑15.

HISTORY: 1993 Act No. 181, Section 1504; 2007 Act No. 114, Section 5, eff June 27, 2007; 2016 Act No. 275 (S.1258), Section 1, eff July 1, 2016.

Editor's Note

2016 Act No. 275, Section 90 (B) and (C), provide as follows:

"(B) The members of the Commission of the Department of Transportation serving on June 30, 2016, shall continue to serve until their current term expires, and until their successor is appointed and confirmed. If a vacancy occurs in the seat of a member serving on June 30, 2016, before the member's term otherwise expires, the vacancy must be filled in the manner specified in Chapter 1, Title 57 of the 1976 Code, as amended by this act, and the member filling the vacancy shall serve until the term expires. The members serving on June 30, 2016, if otherwise eligible, may be reappointed pursuant to Section 57‑1‑310, as amended by this act.

"(C) The Secretary of Transportation serving on June 30, 2016, shall continue to serve at the pleasure of the commission as provided in this act. No further confirmation proceedings are required. Thereafter, any new appointee to the office of Secretary of Transportation must be filled in the manner specified in Chapter 1, Title 57 of the 1976 Code, as amended by this act."

Effect of Amendment

The 2007 amendment designated subsection (A) and in the second sentence deleted ", upon the advice and consent of the Senate," following "Governor"; and added subsections (B) to (D).

2016 Act No. 275, Section 1, in (A), amended the means of appointment of commissioners, and deleted election provisions; rewrote (B), deleting former (B)(1), relating to screening, and in former (B)(2), deleted the former last two sentences, relating to qualification of the at‑large appointee; and in (D), substituted "A member" for "No member", substituted "may not be appointed" for "shall be elected or appointed", and deleted "elected or" following "immediate family be".

**SECTION 57‑1‑320.** Consecutive terms; limit on commissioners from same county.

 A county within a Department of Transportation district may not have a resident commission member for more than eight consecutive years and in no event shall any two persons from the same county serve as a commission member simultaneously.

HISTORY: 1993 Act No. 181, Section 1504; 2007 Act No. 114, Section 5, eff June 27, 2007; 2016 Act No. 275 (S.1258), Section 1, eff July 1, 2016.

Effect of Amendment

The 2007 amendment reprinted this section with no apparent change.

2016 Act No. 275, Section 1, deleted former (A), relating to divided districts; deleted paragraph designator (B); and substituted "A county" for "No county", substituted "may not have" for "shall have", substituted "eight consecutive years" for "one consecutive term", and deleted "except as provided hereinafter" at the end.

**SECTION 57‑1‑325.** Submittal of district appointees; meeting of legislative delegation to approve or disapprove appointee.

 (A) The Governor shall submit his transportation district appointees to the Senate and the House of Representatives for referral to the appropriate legislative delegation. Legislative delegation for these purposes means legislators residing in the congressional district corresponding to the transportation district of the appointee.

 (B) Upon receipt of a referral, the legislative delegation shall meet to approve or disapprove the Governor's appointee. The legislative delegation shall report its findings to the House of Representatives, the Senate, and the Governor. If the legislative delegation approves the Governor's appointee, the appointment shall be referred to the Joint Transportation Review Committee. If the delegation disapproves the appointee, the Governor shall make another appointment. If the legislative delegation fails to approve of the Governor's appointee within forty‑five days of the appointee's referral to the delegation, the appointee is deemed to have been disapproved.

HISTORY: 1993 Act No. 181, Section 1504; 2007 Act No. 114, Section 5, eff June 27, 2007; 2016 Act No. 275 (S.1258), Section 1, eff July 1, 2016.

Effect of Amendment

The 2007 amendment, in the second undesignated paragraph, in the third sentence substituted "then" for "thereupon".

2016 Act No. 275, Section 1, rewrote the section, substituting approval of appointees for election of commissioners.

**SECTION 57‑1‑330.** Commissioners' terms.

 (A) All commission members are appointed to a term of office of four years which expires on February fifteenth of the appropriate year. However, a commission member may not serve more than two consecutive terms, and may not serve more than twelve years, regardless of when the term was served. Commissioners shall continue to serve until their successors are appointed and confirmed, provided that a commissioner only may serve in a hold‑over capacity for a period not to exceed six months. Any vacancy occurring in the office of commissioner shall be filled by appointment in the manner provided in this article for the unexpired term only. Except for the at‑large member, a person is not eligible to serve as a commission member who is not a resident of that district at the time of his appointment. Failure by such commission member to maintain residency in the district for which he is appointed shall result in the forfeiture of his office.

 (B) The at‑large commission member may be appointed from any county in the State unless another commission member is serving from that county. Failure by the at‑large commission member to maintain residence in the State shall result in a forfeiture of his office.

 Commission members may be removed from office at the discretion of the Governor subject to the prior approval of the appropriate legislative delegation.

HISTORY: 1993 Act No. 181, Section 1504; 1995 Act No. 120, Section 1; 2007 Act No. 114, Section 5, eff June 27, 2007; 2016 Act No. 275 (S.1258), Section 1, eff July 1, 2016.

Effect of Amendment

The 2007 amendment rewrote this section to eliminate provisions relating to the start‑up of the commission in 1994, to consolidate provisions relating to the at‑large commission member and delete the requirement that the at‑large commission member serve as chairman, and to provide for removal of commission members.

2016 Act No. 275, Section 1, rewrote the section, generally removing provisions related to elections, inserting the second sentence in (A) relating to consecutive terms, in (B) deleting the former first sentence relating to service at the pleasure of the Governor, and deleting reference to Section 1‑3‑240.

**SECTION 57‑1‑340.** Oath of commissioner.

 Each commission member, within thirty days after his appointment, and before entering upon the discharge of the duties of his office, shall take, subscribe, and file with the Secretary of State the oath of office prescribed by the Constitution of the State.

HISTORY: 1993 Act No. 181, Section 1504; 2007 Act No. 114, Section 5, eff June 27, 2007; 2016 Act No. 275 (S.1258), Section 1, eff July 1, 2016.

Effect of Amendment

The 2007 amendment reprinted this section with no apparent change.

2016 Act No. 275, Section 1, deleted "election or" following "after his".

**SECTION 57‑1‑350.** Seal; rules and procedures; officers; expenses.

 (A) The commission may adopt an official seal for use on official documents of the department.

 (B) The commission shall elect a chairman and adopt its own rules and procedures and may select such additional officers to serve such terms as the commission may designate.

 (C) Commissioners must be reimbursed for official expenses as provided by law for members of state boards and commissions as established in the annual general appropriations act.

 (D) All commission members are eligible to vote on all matters that come before the commission.

HISTORY: 1993 Act No. 181, Section 1504; 2007 Act No. 114, Section 5, eff June 27, 2007; 2016 Act No. 275 (S.1258), Section 1, eff July 1, 2016.

Effect of Amendment

The 2007 amendment, in subsection (B), added "elect a chairman"; and added subsection (D) relating to eligibility of commission members to vote on matters before the commission.

2016 Act No. 275, Section 1, reenacted the section with no change.

**SECTION 57‑1‑360.** Chief internal auditor; standards for audits; staff and office space.

 (A) The State Auditor shall employ an individual to serve as the chief internal auditor of the department, and other professional, administrative, technical, and clerical personnel as the State Auditor determines to be necessary. The State Auditor also must provide professional, administrative, technical, and clerical personnel, as the State Auditor determines to be necessary, for the chief internal auditor to properly discharge his duties and responsibilities authorized by the State Auditor or provided by law. Except as otherwise provided, any employees hired pursuant to this section shall serve at the pleasure of the State Auditor.

 (B)(1) The chief internal auditor must be a Certified Public Accountant and possess any other experience the State Auditor may require. The chief internal auditor must establish, implement, and maintain the exclusive internal audit function of all departmental activities. The State Auditor shall set the salary for the chief internal auditor as allowed by statute or applicable law.

 (2) The audits performed by the chief internal auditor must comply with recognized governmental auditing standards. The department and any entity contracting with the department must fully cooperate with the chief internal auditor in the discharge of his duties and responsibilities and must timely produce all books, papers, correspondence, memoranda, and other records considered necessary in connection with an internal audit. All final audit reports must be submitted to the commission and the Chairman of the Senate Transportation Committee, the Chairman of the Senate Finance Committee, the Chairman of the House of Representatives Education and Public Works Committee, and the Chairman of the House of Representatives Ways and Means Committee before being made public.

 (3) The State Auditor is vested with the exclusive management and control of the chief internal auditor.

 (C) The department, at its own expense, must provide appropriate office space within its headquarters, building, and facility service, including janitorial, utility and telephone services, computer and technology services, and related supplies, for the chief internal auditor and his support staff.

HISTORY: 2007 Act No. 114, Section 5, eff June 27, 2007; 2016 Act No. 275 (S.1258), Section 1, eff July 1, 2016.

Editor's Note

2016 Act No. 275, Section 87, provides as follows:

"SECTION 87. (A) The chief internal auditor of the Department of Transportation and all associated support staff, and all authorized appropriations associated with the chief internal auditor and associated support staff are transferred to and become part of the State Auditor's Office, State Fiscal Accountability Authority. The chief internal auditor of the Department of Transportation and all associated support staff, whether classified or unclassified personnel, employed by the Department of Transportation on the effective date of this act, either by contract or by employment at will, shall become employees of the State Auditor's Office, State Fiscal Accountability Authority, with the same compensation, classification, and grade level, as applicable.

"(B) The chief internal auditor of the Department of Transportation on June 30, 2016, shall continue to serve until the State Auditor employs a successor. Nothing in this section shall prevent the State Auditor from retaining the chief internal auditor of the Department of Transportation as of June 30, 2016, pursuant to the provisions of Section 57‑1‑360, as amended in this act, found in SECTION 1."

Effect of Amendment

2016 Act No. 275, Section 1, rewrote (A) and (B), generally, substituting "state auditor" for "commission", and deleting provisions related to term of office and removal.

**SECTION 57‑1‑370.** Development of long‑range Statewide Transportation Plan; preservation and improvement of existing system.

 (A) The commission must develop the long‑range Statewide Transportation Plan, with a minimum twenty‑year forecast period at the time of adoption, that provides for the development and implementation of the multimodal transportation system for the State. The plan must be developed in a manner consistent with all federal laws or regulations and in consultation with all interested parties, particularly the metropolitan planning organizations and the nonmetropolitan planning organization area local officials. The plan may be revised from time to time as permitted by and in the manner required by federal laws or regulations.

 (B) Concerning the development, content, and implementation of the Statewide Transportation Improvement Program, the commission must:

 (1) develop a process for consulting with nonmetropolitan local officials, with responsibility for transportation, that provides an opportunity for their participation in the development of the long‑range Statewide Transportation Plan and the Statewide Transportation Improvement Program;

 (2) approve the Statewide Transportation Improvement Program and ensure that it is developed pursuant to federal laws and regulations and approve an updated Statewide Transportation Improvement Program from time to time as permitted by and in the manner required by federal laws or regulations;

 (3) develop and revise the transportation plan for inclusion in the Statewide Transportation Improvement Program, for each nonmetropolitan planning area in consultation with local officials with responsibility for transportation;

 (4) work in consultation with each metropolitan planning organization to develop and revise a transportation improvement program for each metropolitan planning area;

 (5) select from the approved Statewide Transportation Improvement Program the transportation projects undertaken in nonmetropolitan areas in consultation with the affected nonmetropolitan local officials with responsibility for transportation;

 (6) select projects to be undertaken, in consultation with each metropolitan planning organization, from the metropolitan planning organization's approved transportation improvement plan in metropolitan areas not designated as a transportation management area;

 (7) consult with each metropolitan planning organization, in metropolitan areas designated as transportation management areas, concerning the projects selected to be undertaken from the approved transportation improvement program and in accordance with the priorities approved by the transportation improvement program; and

 (8) when selecting projects to be undertaken from nontransportation management area metropolitan planning organizations' transportation improvement programs, or selecting the nonmetropolitan area projects to be undertaken that are included in the Statewide Transportation Improvement Program, and when consulting with metropolitan planning organizations designated as transportation management areas, the commission shall establish a priority list of projects to the extent permitted by federal laws or regulations, taking into consideration at least the following criteria:

 (a) financial viability including a life cycle analysis of estimated maintenance and repair costs over the expected life of the project;

 (b) public safety;

 (c) potential for economic development;

 (d) traffic volume and congestion;

 (e) truck traffic;

 (f) the pavement quality index;

 (g) environmental impact;

 (h) alternative transportation solutions; and

 (i) consistency with local land use plans.

 (C)(1) To the extent that state funds are available to address the needs of the state highway system, the commission must develop a comprehensive plan specifying objectives and performance measures for the preservation and improvement of the existing system. The projects included in this plan must be supported solely by state funds including the Non‑Federal Aid Highway Fund or other state revenue source. When developing the plan required by this subsection, the commission must consider, but is not limited to, considering the criteria in subsection (B)(8).

 (2) When state funding is programmed for a project selected from the plan to be undertaken, the department may use federal law, regulations, or guidelines relevant to the type of project being undertaken to be eligible for federal matching funds.

 (D) The commission must approve the department's annual budget.

 (E) The commission shall have any other rights, duties, obligations, or responsibilities as specifically provided by law.

HISTORY: 2007 Act No. 114, Section 5, eff June 27, 2007; 2016 Act No. 275 (S.1258), Section 1, eff July 1, 2016.

Editor's Note

2007 Act No. 114, Section 8, provides as follows:

"The Department of Transportation is authorized and directed to promulgate regulations to implement the policies and purposes of this act including, but not limited to, regulations concerning the chief internal auditor, approval of projects by the commission pursuant to Section 57‑1‑370(N), and the secretary's approval of routine operations and maintenance and emergency repairs requests. All regulations promulgated pursuant to this section must be reviewed and approved by the Department of Transportation Commission before they are submitted to the General Assembly for consideration."

Effect of Amendment

2016 Act No. 275, Section 1, in (C)(1), substituted ", considering" for "considering,"; deleted former (D) through (I) and (K) through (N), relating to federal enhancement grants, consulting contracts, prior authorization for adding or removing roads, hearings, prioritization of projects, and surplus property; redesignated former (J) as (D) and former (O) as (E); and in (E), inserted "specifically".

ARTICLE 5

Secretary of Transportation and Other Employees of the Department of Transportation

**SECTION 57‑1‑410.** Appointment of Secretary of Transportation.

 The commission shall appoint, with the advice and consent of the Senate, a Secretary of Transportation who shall serve at the pleasure of the commission. A person appointed to this position shall possess practical and successful business and executive ability and be knowledgeable in the field of transportation. The Secretary of Transportation shall receive such compensation as may be established under the provisions of Section 8‑11‑160 and for which funds have been authorized in the general appropriations act.

HISTORY: 1993 Act No. 181, Section 1505; 2007 Act No. 114, Section 5, eff June 27, 2007; 2016 Act No. 275 (S.1258), Section 2, eff July 1, 2016.

Editor's Note

2007 Act No. 114, Section 6, provides as follows:

"Unless extended by subsequent act of the General Assembly, the Governor's authority to appoint the Secretary of the Department of Transportation pursuant to Section 57‑1‑410 terminates and is devolved upon the Department of Transportation Commission effective July 1, 2015. All other provisions regarding the rights, powers, and duties of the secretary shall remain in full force and effect."

Effect of Amendment

The 2007 amendment, in the first sentence, substituted "Governor shall appoint, with the advice and consent of the Senate, a Secretary of Transportation" for "commission shall employ a director", in the second sentence, substituted "possess" for "be a citizen of", and, in the third sentence, substituted "Secretary of Transportation" for "director" and made nonsubstantive and conforming changes.

2016 Act No. 275, Section 2, twice substituted "commission" for "Governor".

**SECTION 57‑1‑430.** Duties and powers; employment of personnel.

 (A) The secretary is charged with the affirmative duty to carry out the policies of the commission, to administer the day‑to‑day affairs of the department, to direct the implementation of the Statewide Transportation Improvement Program and the Statewide Mass Transit Plan, and to ensure the timely completion of all projects undertaken by the department, and routine operation and maintenance requests, and emergency repairs. He must represent the department in its dealings with other state agencies, local governments, special districts, and the federal government. The secretary must prepare an annual budget for the department that must be approved by the commission before becoming effective.

 (B) For each division, the secretary may employ such personnel and prescribe their duties, powers, and functions as he considers necessary and as may be authorized by statute and for which funds have been authorized in the annual general appropriations act.

HISTORY: 1993 Act No. 181, Section 1505; 2007 Act No. 114, Section 5, eff June 27, 2007.

Effect of Amendment

The 2007 amendment rewrote this section to provide for the powers and duties of the secretary rather than the director.

**SECTION 57‑1‑440.** Chief counsel; staff attorneys; independent adjusters.

 The secretary shall have the exclusive authority to employ a chief counsel and such staff attorneys and support staff as are necessary to represent the department in legal matters, condemnation procedures, and other such litigation. Any extra legal services that may be required shall be performed by attorneys selected by the secretary. The department is authorized to retain independent adjusters for purposes of investigating and adjusting claims and suits resulting from motor vehicle damage and personal injury damage programs involving department liability exposure and recovery potential. Expenses for the administration and implementation of this section shall be paid for from the state highway fund.

HISTORY: 1993 Act No. 181, Section 1505; 2007 Act No. 114, Section 5, eff June 27, 2007.

Effect of Amendment

The 2007 amendment substituted "secretary" for "director" in the first and second sentences.

**SECTION 57‑1‑450.** Appointment of directors.

 The secretary shall appoint a director for each division of the department who shall serve at the pleasure of the secretary and shall recommend the salary for each director as allowed by statute or applicable law.

HISTORY: 1993 Act No. 181, Section 1505; 1995 Act No. 145, Part II, Section 5; 2007 Act No. 114, Section 5, eff June 27, 2007.

Editor's Note

2007 Act No. 114, Section 9, provides as follows:

"References in the 1976 Code to the "director" that refer to the chief administrative officer of the Department of Transportation, mean the "Secretary of the Department of Transportation" or "secretary", as appropriate; and references to "Department of Transportation Commissioner" and references to "deputy director" changed to "division director" in Section 57‑1‑450 mean "division director". The Code Commissioner shall change references in the 1976 Code to conform to this act, and such changes must be included in the next printing of replacement volumes or cumulative supplements."

Effect of Amendment

The 2007 amendment substituted "secretary" for "director" in two places and deleted "deputy" preceding "director" in two places.

**SECTION 57‑1‑460.** Evaluation and approval of routine operation and maintenance and emergency repairs by secretary; definitions.

 (A)(1) For purposes of this section "routine operation and maintenance" includes, but is not limited to, signage of routes, pavement marking, replacement and installation of guard rails, repair and installation of signals, "chip seal" of existing roads, enhancement projects such as streetscaping, adopt an interchange, bike lanes, curb cuts, installation of overhead message boards and cameras, research projects funded with federal aid, and pavement management system mapping.

 (2) For purposes of this section "emergency repairs" means, but is not limited to, unforeseen deterioration of roads, bridges, or equipment due to accidents, natural disasters, or other causes that could not have been expected or that pose an immediate danger to the public.

 (B) The secretary is charged with evaluating and approving the routine operation and maintenance requests or emergency repairs that are needed for existing roads and bridges that are not included in the Statewide Transportation Improvement Program. However, requests made for resurfacing, installation of new signals, curb cuts on primary roads, bike lanes, or construction projects under ten million dollars must be approved by the commission pursuant to Section 57‑1‑370(N).

HISTORY: 2007 Act No. 114, Section 5, eff June 27, 2007.

**SECTION 57‑1‑470.** Commission review of routine maintenance and emergency repair requests approved by secretary.

 (A) At each commission meeting the secretary must provide a detailed written report of all:

 (1) requests that he has received since the last commission meeting for routine operation and maintenance or emergency repairs, his decision concerning those requests, and a status report on all approved requests; and

 (2) pending projects approved by the commission pursuant to Section 57‑1‑370(N) and the status of those projects, if there has been any material change in the status since the last commission meeting.

 (B) The commission must review the report and make findings as to whether the requests approved by the secretary meet the needs of the public based upon objective and quantifiable factors.

 (C) The commission may question the secretary concerning the approval or denial of any request and the process the secretary employed to reach his decision. The commission also may request additional information concerning any request and further investigate any request, approval, or denial of a project by the secretary. The secretary must fully cooperate with any request made of him or his office by the commission regarding any further investigation undertaken by the commission.

 (D) The text of the secretary's written report and the findings made by the commission must be included in the commission meeting minutes. A list of all projects approved by the commission at its last meeting, together with its explanation of the objective and quantifiable factors used to justify its approval, also must be included in the commission meeting minutes.

HISTORY: 2007 Act No. 114, Section 5, eff June 27, 2007.

**SECTION 57‑1‑490.** Annual audits.

 (A) The department shall be audited by a certified public accountant or firm of certified public accountants once each year to be designated by the State Auditor. The designated accountant or firm of accountants shall issue audited financial statements in accordance with generally accepted accounting principles, and such financial statements must be made available annually by October fifteenth to the General Assembly. The costs and expenses of the audit must be paid by the department out of its funds.

 (B) The Materials Management Office of the State Fiscal Accountability Authority annually must audit the department's internal procurement operation to ensure that the department has acted properly with regard to the department's exemptions contained in Section 11‑35‑710. The audit must be performed in accordance with applicable state law, including, but not limited to, administrative penalties for violations found as a result of the audit. The results of the audit must be made available by October fifteenth to the Department of Transportation Commission, the State Auditor, the Governor, the Chairmen of the Senate Finance and Transportation Committees, and the Chairmen of the House of Representatives Ways and Means and Education and Public Works Committees. The costs and expenses of the audit must be paid by the department out of its funds.

 (C) The Legislative Audit Council shall contract for an independent performance and compliance audit of the department's finance and administration division, mass transit division, and construction engineering and planning division. This audit must be completed by January 15, 2010. The Legislative Audit Council may contract for follow‑up audits or conduct follow‑up audits as needed based upon the audit's initial findings. The costs of these audits, including related administrative and management expenses of the Legislative Audit Council, are an operating expense of the department. The department shall pay directly to the Legislative Audit Council the cost of the audits.

 (D) Copies of every audit conducted pursuant to this section must be made available to the Department of Transportation Commission, the State Auditor, the Governor, the Chairmen of the Senate Finance and Transportation Committees, and the Chairmen of the House of Representatives Ways and Means and Education and Public Works Committees.

HISTORY: 1993 Act No. 181, Section 1505; 2007 Act No. 114, Section 5, eff June 27, 2007; 2016 Act No. 275 (S.1258), Section 4, eff July 1, 2016.

Code Commissioner's Note

At the direction of the Code Commissioner, references in this section to the offices of the former State Budget and Control Board, Office of the Governor, or other agencies, were changed to reflect the transfer of them to the Department of Administration or other entities, pursuant to the directive of the South Carolina Restructuring Act, 2014 Act No. 121, Section 5(D)(1), effective July 1, 2015.

Editor's Note

2007 Act No. 114, Section 7, provides as follows:

"The initial procurement audit required by Section 5 of this act must be transmitted to the chairmen of the Senate Finance Committee and the House of Representatives Ways and Means Committee on or before October 15, 2008, and then annually thereafter as provided in Section 57‑1‑490."

Effect of Amendment

The 2007 amendment designated subsection (A) and added subsections (B) to (D).

2016 Act No. 275, Section 4, in (A), substituted "financial statements must be" for "financial statements shall be"; in (B), substituted "State Fiscal Accountability Authority" for "Department of Administration" and "State Auditor" for "Department of the Transportation's chief internal auditor", and twice substituted "Chairmen" for "chairmen"; and in (D), substituted "State Auditor" for "Department of Transportation chief internal auditor" and twice substituted "Chairmen" for "chairmen".

**SECTION 57‑1‑500.** Ethics workshop.

 The secretary must provide for a workshop of at least two biennial contact hours concerning ethics and the Administrative Procedures Act for the commissioners, the secretary, the chief internal auditor, and senior management employees of the Department of Transportation; and a biennial ethics workshop of at least two contact hours for all other department employees.

HISTORY: 2007 Act No. 114, Section 5, eff June 27, 2007.

ARTICLE 7

Joint Transportation Review Committee

**SECTION 57‑1‑710.** Joint Transportation Review Committee established.

 There is hereby established a committee to be known as the Joint Transportation Review Committee, hereinafter referred to as the review committee, which must exercise the powers and fulfill the duties described in this article.

HISTORY: 2007 Act No. 114, Section 5, eff June 27, 2007.

**SECTION 57‑1‑720.** Membership.

 (A) The review committee is composed of the following ten members.

 (1) From the Senate:

 (a) the chairman of the Finance Committee or his designee;

 (b) the chairman of the Judiciary Committee or his designee;

 (c) the chairman of the Transportation Committee or his designee; and

 (d) two members appointed by the President Pro Tempore, one member upon the recommendation of the Senate Majority Leader and one member upon the recommendation of the Senate Minority Leader.

 (2) From the House of Representatives:

 (a) the chairman of the Ways and Means Committee or his designee;

 (b) the chairman of the Education and Public Works Committee or his designee;

 (c) one member of the House of Representatives appointed by the Speaker of the House of Representatives; and

 (d) two members appointed by the Speaker of the House of Representatives from the state at large.

 (B) In making appointments to the review committee, race, gender, and other demographic factors, such as residence in rural or urban areas, must be considered to assure nondiscrimination, inclusion, and representation to the greatest extent possible of all segments of the population of the State.

 (C) The review committee must meet as soon as practicable after appointment and organize itself by electing one of its members as chairman and such other officers as the review committee may consider necessary. Thereafter, the review committee must meet as necessary to screen appointees to the commission and at the call of the chairman or by a majority of the members. A quorum consists of six members.

HISTORY: 2007 Act No. 114, Section 5, eff June 27, 2007; 2016 Act No. 275 (S.1258), Section 3.B, eff July 1, 2016.

Effect of Amendment

2016 Act No. 275, Section 3.B, in (C), substituted "appointees" for "candidates for election".

**SECTION 57‑1‑730.** Powers and duties.

 The review committee has the following powers and duties:

 (1) to screen appointees to the commission;

 (2) in screening appointees and making its findings, the review committee must give due consideration to:

 (a) ability, area of expertise, dedication, compassion, common sense, and integrity of each appointee; and

 (b) the impact that each appointee would have on the racial and gender composition of the commission, and each appointee's impact on other demographic factors represented on the commission, such as residence in rural or urban areas, to assure nondiscrimination to the greatest extent possible of all segments of the population of the State;

 (3) to determine if each appointee is qualified and meets the requirements provided by law to serve as a member of the Department of Transportation Commission; and

 (4) to submit the names of all qualified appointees to the Senate for advice and consent.

HISTORY: 2007 Act No. 114, Section 5, eff June 27, 2007; 2016 Act No. 275 (S.1258), Section 3.A, eff July 1, 2016.

Effect of Amendment

2016 Act No. 275, Section 3.A, rewrote the section, generally substituting "appointee" for "candidate"; in (3), deleted provisions relating to findings of qualifications; and in (4), substituted "appointees to the Senate for advice and consent" for "candidates to the congressional district delegation for election".

**SECTION 57‑1‑740.** Reserved.

HISTORY: Former Section, titled Vacancies; election to fill vacancy, had the following history: 2007 Act No. 114, Section 5, eff June 27, 2007; 2010 Act No. 253, Sections 1, 2, eff June 11, 2010. Reserved by 2016 Act No. 275, Section 3.A, eff July 1, 2016.

**SECTION 57‑1‑750.** Compensation of members; expenses associated with review of appointees for Department of Transportation Commission.

 (A) Committee members are entitled to such mileage, subsistence, and per diem as authorized by law for members of boards, committees, and commissions while in the performance of the duties for which appointed. These expenses shall be paid from the general fund of the State on warrants duly signed by the chairman of the review committee and payable by the authorities from which they are appointed.

 (B) The expenses associated with the review committee's duties to screen appointees to the Department of Transportation Commission must be paid from the legislative appropriation of the general fund of the State.

HISTORY: 2007 Act No. 114, Section 5, eff June 27, 2007; 2016 Act No. 275 (S.1258), Section 3.C, eff July 1, 2016.

Effect of Amendment

2016 Act No. 275, Section 3.C, in (B), substituted "screen appointees to" for "qualify and nominate candidates for".

**SECTION 57‑1‑760.** Clerical and professional staffing.

 (A) The review committee must use clerical and professional employees of the General Assembly for its staff, who must be made available to the review committee.

 (B) The review committee may employ or retain other professional staff, upon the determination of the necessity for other staff by the review committee and as may be funded in the legislative appropriation of the annual general appropriations act.

 (C) The costs and expenses of the review committee must be funded in the legislative appropriation of the annual general appropriations act.

HISTORY: 2007 Act No. 114, Section 5, eff June 27, 2007.