**South Carolina General Assembly**

118th Session, 2009-2010

**H. 4565**

**STATUS INFORMATION**

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Introduced in the House on February 17, 2010

Currently residing in the House Committee on **Education and Public Works**

Summary: Department of Transportation

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

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**VERSIONS OF THIS BILL**

[2/17/2010](file:///p:\pprever\2009-10\4565_20100217.docx)

**A** **BILL**

TO AMEND SECTION 1‑30‑10, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE DEPARTMENTS OF STATE GOVERNMENT AND THEIR GOVERNING BODIES, SO AS TO DELETE THE PROVISION THAT PROVIDES THAT THE PART OF THE GOVERNING BODY OF THE DEPARTMENT OF TRANSPORTATION IS A SEVEN‑MEMBER COMMISSION; TO AMEND SECTION 1‑30‑105, AS AMENDED, RELATING TO THE ESTABLISHMENT OF THE DEPARTMENT OF TRANSPORTATION, SO AS TO PROVIDE THAT THE GOVERNING AUTHORITY OF THE DEPARTMENT OF TRANSPORTATION IS THE SECRETARY OF TRANSPORTATION; TO AMEND SECTION 1‑3‑240, AS AMENDED, RELATING TO THE REMOVAL OF CERTAIN OFFICERS BY THE GOVERNOR, SO AS TO DELETE THE PROVISION THAT PROVIDES THE DEPARTMENT OF TRANSPORTATION COMMISSIONERS MAY BE REMOVED FROM OFFICE BY THE GOVERNOR UNDER CERTAIN CIRCUMSTANCES; TO AMEND SECTION 8‑13‑1110, AS AMENDED, RELATING TO PUBLIC OFFICIALS WHO MUST FILE A STATEMENT OF ECONOMIC INTEREST, SO AS TO PROVIDE THAT THE DEPARTMENT OF TRANSPORTATION DISTRICT ENGINEERS MUST FILE STATEMENTS OF ECONOMIC INTEREST; TO AMEND SECTIONS 57‑1‑10, 57‑1‑20, 57‑1‑40, 57‑1‑350, 57‑1‑410, 57‑1‑430, 57‑1‑490, ALL AS AMENDED, RELATING TO THE ESTABLISHMENT OF THE DEPARTMENT OF TRANSPORTATION, ITS DUTIES AND RESPONSIBILITIES, SO AS TO ELIMINATE THE DEPARTMENT OF TRANSPORTATION COMMISSION AND ITS RESPONSIBILITIES, DEFINE THE TERM “HIGHWAY ENGINEERING DISTRICT”, TO CREATE DIVISIONS OF HUMAN RESOURCE AND INTERNAL AUDIT, TO ALLOW THE GOVERNOR TO APPOINT THE SECRETARY OF TRANSPORTATION WITHOUT THE ADVICE AND CONSENT OF THE SENATE, TO ELIMINATE THE AUDIT PERFORMED BY THE MATERIALS MANAGEMENT OFFICE OF THE STATE BUDGET AND CONTROL BOARD, AND REVISE AUDITS THAT ARE CONDUCTED BY THE LEGISLATIVE AUDIT COUNCIL; TO AMEND SECTION 11‑11‑150, AS AMENDED, RELATING TO CALCULATING ESTIMATED STATE AND CORPORATE INCOME TAX REVENUES, AND THE TRUST FUND FOR TAX RELIEF, SO AS TO PROVIDE THAT CERTAIN AMOUNTS OF GENERAL FUND REVENUE COLLECTED DURING CERTAIN FISCAL YEARS MUST BE CREDITED TO THE DEPARTMENT OF TRANSPORTATION AND DISTRIBUTED PURSUANT TO SECTION 57‑11‑410; TO AMEND SECTION 11‑35‑710, AS AMENDED, RELATING TO GOVERNMENTAL ENTITIES EXEMPTED FROM PURCHASING ITEMS THROUGH THE CHIEF PROCUREMENT OFFICER, SO AS TO REVISE THE LIST OF DEPARTMENT OF TRANSPORTATION PROJECTS THAT ARE SUBJECT TO THIS PROVISION, AND TO GRANT EXEMPTIONS TO COUNTY TRANSPORTATION COMMITTEES, COUNCILS ON GOVERNMENTS, AND THE SOUTH CAROLINA TRANSPORT INFRASTRUCTURE BANK; TO AMEND SECTION 11‑35‑1230, AS AMENDED, RELATING TO THE AUDITING OF STATE PROCUREMENTS, SO AS TO PROVIDE THAT PROCUREMENT AUDITS SHALL VERIFY THAT PROCUREMENT CODE EXEMPTIONS GRANTED TO THE DEPARTMENT OF TRANSPORTATION ARE VALID; TO AMEND SECTION 57‑3‑20, RELATING TO THE RESPONSIBILITIES AND DUTIES OF THE DEPARTMENT OF TRANSPORTATION’S DIVISION DEPUTY DIRECTORS, SO AS TO ESTABLISH THE RESPONSIBILITIES FOR THE DIVISION DEPUTY DIRECTORS FOR HUMAN RESOURCES AND INTERNAL AUDITS; BY ADDING ARTICLE 5 TO CHAPTER 11, TITLE 57 SO AS TO PROVIDE FOR THE DISTRIBUTION OF FUNDS THAT THE DEPARTMENT OF TRANSPORTATION RECEIVES PURSUANT TO SECTION 11‑11‑150; BY ADDING SECTION 1‑30‑12 SO AS TO PROVIDE THAT THE DIVISION OF OMBUDSMAN AND CITIZENS’ SERVICES SHALL EMPLOY TWO PERSONS TO HANDLE CITIZENS’ COMPLAINTS THAT PERTAIN TO THE DEPARTMENT OF TRANSPORTATION; TO AMEND SECTION 11‑43‑140, RELATING TO THE TRANSPORTATION INFRASTRUCTURE BANK, SO AS TO SUBSTITUTE THE TERM “SECRETARY OF TRANSPORTATION” FOR THE TERM “CHAIRMAN OF THE DEPARTMENT OF TRANSPORTATION COMMISSION”; TO AMEND SECTIONS 57‑3‑10 AND 57‑3‑50, RELATING TO THE DIVISIONS OF THE DEPARTMENT OF TRANSPORTATION, AND THE ESTABLISHMENT OF HIGHWAY DISTRICTS, SO AS TO SUBSTITUTE THE TERM “DEPARTMENT” FOR THE TERM “COMMISSION”; TO AMEND SECTION 57‑11‑20, AS AMENDED, RELATING TO STATE AND FEDERAL AID HIGHWAY FUNDS, SO AS TO PROVIDE THAT AFTER JUNE 30, 2010, THE GENERAL ASSEMBLY SHALL APPROPRIATE REVENUES TO BOTH FUNDS; AND TO REPEAL SECTIONS 57‑1‑310, 57‑1‑320, 57‑1‑325, 57‑1‑330,57‑1‑340, 57‑1‑360, 57‑1‑370, 57‑1‑460, 57‑1‑500, ARTICLE 7, CHAPTER 1, TITLE 56, AND SECTIONS 6, 7, AND 8 OF ACT 114 OF 2007 ALL RELATING TO THE CREATION AND FUNCTIONS OF THE DEPARTMENT OF TRANSPORTATION.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Section 1‑30‑10(B) of the 1976 Code, as last amended by Act 114 of 2007, is further amended to read:

“(B)(1) The governing authority of each department ~~shall be~~ is either:

(i) a director, and in the case of the Department of Commerce, the secretary, who must be appointed by the Governor with the advice and consent of the Senate, subject to removal from office by the Governor pursuant to provisions of Section 1‑3‑240;

(ii) a seven member board to be appointed and constituted in a manner provided for by law;

(iii) in the case of the Department of Agriculture and the Department of Education, the State Commissioner of Agriculture and the State Superintendent of Education, respectively, elected to office under the Constitution of this State; or

(iv) in the case of the Department of Transportation, a ~~seven member commission constituted in a manner provided by law, and a~~ Secretary of Transportation appointed by and serving at the pleasure of the Governor.”

SECTION 2. Section 1‑30‑105 of the 1976 Code, as last amended by Act 114 of 2007, is further amended to read:

“Section 1‑30‑105. (A) Effective on July 1, 1993, the following agencies, boards, and commissions, including all of the allied, advisory, affiliated, or related entities as well as the employees, funds, property, and all contractual rights and obligations associated with any such agency, except for those subdivisions specifically included under another department, are hereby transferred to and incorporated in and shall be administered as part of the Department of Transportation to be initially divided into divisions for Mass Transit, Construction and Maintenance, Engineering and Planning, and Finance and Administration; however, the State Highway Commission as constituted on June 30, 1993, under the provisions of Title 56, shall be the governing authority for the department until February 15, 1994, or as soon as its successors are elected or appointed and qualified, whichever is later.

Department of Highways and Public Transportation, except the Motor Vehicle Division, which was established as the Department of Motor Vehicles by Section 56‑1‑5, and the State Highway Patrol, formerly provided for at Section 56‑1‑10, et seq.

(B) Notwithstanding another provision of law, effective July 1, 2010, the governing authority of the Department of Transportation is the Secretary of Transportation as provided in Section 57‑1‑410.”

SECTION 3. Section 1‑3‑240(C)(1) of the 1976 Code, as last amended by Act 73 of 2009, is further amended to read:

“(1) Persons appointed to the following offices of the State may be removed by the Governor for malfeasance, misfeasance, incompetency, absenteeism, conflicts of interest, misconduct, persistent neglect of duty in office, or incapacity:

(a) Workers’ Compensation Commission;

(b) ~~Department of Transportation Commission;~~ Reserved

(c) Ethics Commission;

(d) Election Commission;

(e) Professional and Occupational Licensing Boards;

(f) Juvenile Parole Board;

(g) Probation, Parole and Pardon Board;

(h) Director of the Department of Public Safety;

( i) Board of the Department of Health and Environmental Control, excepting the chairman;

( j) Chief of State Law Enforcement Division;

(k) South Carolina Lottery Commission;

( l) Executive Director of the Office of Regulatory Staff; ~~and~~

(m) Directors of the South Carolina Public Service Authority appointed pursuant to Section 58‑31‑20. A director of the South Carolina Public Service Authority also may be removed for his breach of any duty arising under Section 58‑31‑55 or 58‑31‑56. The Governor must not request a director of the South Carolina Public Service Authority to resign unless cause for removal, as established by this subsection, exists. Removal of a director of the South Carolina Public Service Authority, except as is provided by this section or by Section 58‑31‑20(A), must be considered to be an irreparable injury for which no adequate remedy at law exists~~.~~; and

(n) State Ports Authority.”

SECTION 4. Section 8‑13‑1110(B) of the 1976 Code, as last amended by Act 114 of 2007, is further amended to read:

“(B) Each of the following public officials, public members, and public employees must file a statement of economic interests with the appropriate supervisory office, unless otherwise provided:

(1) a person appointed to fill the unexpired term of an elective office;

(2) a salaried member of a state board, commission, or agency;

(3) the chief administrative official or employee and the deputy or assistant administrative official or employee or director of a division, institution, or facility of any agency or department of state government;

(4) the city administrator, city manager, or chief municipal administrative official or employee, by whatever title;

(5) the county manager, county administrator, county supervisor, or chief county administrative official or employee, by whatever title;

(6) the chief administrative official or employee of each political subdivision including, but not limited to, school districts, libraries, regional planning councils, airport commissions, hospitals, community action agencies, water and sewer districts, and development commissions;

(7) a school district and county superintendent of education;

(8) a school district board member and a county board of education member;

(9) the chief finance official or employee and the chief purchasing official or employee of each agency, institution, or facility of state government, and of each county, municipality, or other political subdivision including, but not limited to, those named in item (6);

(10) a public official;

(11) a public member who serves on a state board, commission, or council; and

(12) Department of Transportation District ~~Engineering Administrators~~ Engineers.”

SECTION 5. Section 57‑1‑10 of the 1976 Code, as last amended by Act 114 of 2007, is further amended to read:

“Section 57‑1‑10. 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)~~(2) ‘Secretary of Transportation’ means the Chief Administrative Officer of the Department of Transportation.

(3) ‘Highway Engineering District’ means the seven geographical regions created by the Department of Transportation.”

SECTION 6. Section 57‑1‑20 of the 1976 Code, as last amended by Act 114 of 2007, is further amended to read:

“Section 57‑1‑20. The Department of Transportation is established as an administrative agency of state government which is comprised of a Division of Mass Transit; a Division of Construction Engineering and Planning; a Division of Human Resources, an Internal Audit Division; 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.”

SECTION 7. Section 57‑1‑40(C) of the 1976 Code, as last amended by Act 114 of 2007, is further amended to read:

“(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.”

SECTION 8. Section 57‑1‑350 of the 1976 Code, as last amended by Act 114 of 2007, is further amended to read:

“Section 57‑1‑350. (A) The ~~commission~~ department may adopt an official seal for use on its official documents ~~of the department~~.

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

SECTION 9. Section 57‑1‑410 of the 1976 Code, as last amended by Act 114 of 2007, is further amended to read:

“Section 57‑1‑410. The Governor shall appoint~~, with the advice and consent of the Senate,~~ a Secretary of Transportation who shall serve at ~~the~~ his pleasure ~~of the Governor~~. 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.”

SECTION 10. Section 57‑1‑430 of the 1976 Code, as last amended by Act 114 of 2007, is further amended to read:

“Section 57‑1‑430. (A) The secretary is charged with the affirmative duty to carry out the policies of the ~~commission~~ department, 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.”

SECTION 11. Section 57‑1‑490 of the 1976 Code, as last amended by Act 114 of 2007, is further amended to read:

“Section 57‑1‑490. (A) The department ~~shall~~ must 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 shall 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 Budget and Control Board 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 Department of the Transportation’s chief internal 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~~ conduct performance and compliance ~~audit~~ audits 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~~ department. These audits must be completed by January first of each year. 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)~~(C) Copies of every audit conducted pursuant to this section must be made available to ~~the Department of Transportation Commission, the Department of Transportation chief internal 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.”

SECTION 12. Section 11‑11‑150 of the 1976 Code, as last amended by Part 1, Section 4A of Act 388 of 2006, is further amended by adding at the end:

“(H) In calculating estimated state individual and corporate income tax revenues for a fiscal year, the Board of Economic Advisors shall deduct the following amounts that must be credited to the Department of Transportation and distributed pursuant to Section 57‑11‑410:

Fiscal Year 2010‑2011 $40,000,000

Fiscal Year 2011‑2012 $80,000,000

Fiscal Year 2012‑2013 $120,000,000

Fiscal Year 2013‑2014 $160,000,000

Fiscal Year 2014‑2015 and thereafter $200,000,000.”

SECTION 13. Section 11‑35‑710 of the 1976 Code, as last amended by Act 376 of 2006, is further amended to read:

“Section 11‑35‑710. The board, upon the recommendation of the designated board office, may exempt governmental bodies from purchasing certain items through the respective chief procurement officer’s area of responsibility. The board may exempt specific supplies, services, information technology, or construction from the purchasing procedures required in this chapter and for just cause by unanimous written decision limit or may withdraw exemptions provided for in this section. The following exemptions are granted from this chapter:

(1) ~~the construction, maintenance, and repair of bridges, highways, and roads;~~ vehicle and road equipment maintenance and repair; and other emergency‑type parts or equipment utilized by ~~the Department of Transportation or~~ the Department of Public Safety;

(2) the purchase of raw materials by the South Carolina Department of Corrections, Division of Prison Industries;

(3) South Carolina State Ports Authority;

(4) Division of Public Railways of the Department of Commerce;

(5) South Carolina Public Service Authority;

(6) expenditure of funds at state institutions of higher learning derived wholly from athletic or other student contests, from the activities of student organizations, and from the operation of canteens and bookstores, except as the funds are used for the procurement of construction, architect‑engineer, construction‑management, and land surveying services;

(7) livestock, feed, and veterinary supplies;

(8) articles for commercial sale by all governmental bodies;

(9) fresh fruits, vegetables, meats, fish, milk, and eggs;

(10) South Carolina Arts Commission and South Carolina Museum Commission for the purchase of one‑of‑a‑kind items such as paintings, antiques, sculpture, and similar objects. Before a governmental body procures the objects, the head of the purchasing agency shall prepare a written determination specifying the need for the objects and the benefits to the State. The South Carolina Arts Commission shall review the determination and forward a recommendation to the board for approval;

(11) published books, periodicals, and technical pamphlets;

(12) South Carolina Research Authority;

(13) the purchase of supplies, services, or information technology by state offices, departments, institutions, agencies, boards, and commissions or the political subdivisions of this State from the South Carolina Department of Corrections, Division of Prison Industries;

(14) Medical University Hospital Authority, if the Medical University Hospital Authority has promulgated a procurement process in accordance with its enabling provision~~.~~;

(15) the construction, maintenance, and repair of bridges, highways, and roads by the Department of Transportation when these projects receive federal funding and must comply with applicable federal laws and regulations;

(16) County Transportation Committees;

(17) Councils of Government; and

(18) the South Carolina Transport Infrastructure Bank.”

SECTION 14. Section 11‑35‑1230(1) of the 1976 Code, as last amended by Act 376 of 2006, is further amended to read:

“(1) The designated board office, through consultation with the chief procurement officers, shall develop written plans for the auditing of state procurements.

In procurement audits of governmental bodies thereafter, the auditors from the designated board office shall review the adequacy of the system’s internal controls in order to ensure compliance with the requirement of this code and the ensuing regulations. Additionally, the procurement audits shall verify that exemptions contained in Section 11‑35‑710(15) are valid. A noncompliance discovered through audit must be transmitted in management letters to the audited governmental body and the Budget and Control Board. The auditors shall provide in writing proposed corrective action to governmental bodies. Based upon audit recommendations of the designated board office, the board may revoke certification as provided in Section 11‑35‑1210 and require the governmental body to make all procurements through the appropriate chief procurement officer above a dollar limit set by the board, until such time as the board is assured of compliance with this code and its regulations by that governmental body.”

SECTION 15. Section 57‑3‑20 of the 1976 Code is amended to read:

“Section 57‑3‑20. The responsibilities and duties of the following division deputy directors must include, but not be limited to, the following:

(1) division deputy director for finance and administration:

a. financial planning and management;

b. accounting systems necessary to comply with all federal and/or state laws and/or regulations as well as all policies established by the Comptroller General; and

c. administrative functions, including recording proceedings of the commission and developing policy and procedures to ensure compliance with these policies and procedures~~.~~ ;

(2) division deputy director for construction, engineering, ~~and~~ planning:

a. development of statewide strategic highway plans; and

b. directs highway engineering activities, including construction, design, construction oversight, and maintenance of state highways~~.~~ ;

(3) division deputy director for mass transit:

a. development of a statewide mass transit system; and

b. coordinate the preservation and revitalization of existing rail corridors~~.~~ ;

(4) division deputy director for human resources:

a. employ an ethics compliance officer to ensure that the department’s employees and commission comply fully with all laws that govern their ethical conduct;

b. conduct two hours of mandatory ethics training seminars for all department employees and commissioners on a biennial basis. However, it must conduct a mandatory two hour ethics seminar for each newly hired employee and newly elected commissioner within one month of their employment or election;

(5) division deputy director for internal audits shall examine the finances of the department and provide an annual financial report to the commission.”

SECTION 16. Chapter 11, Title 57 of the 1976 Code is amended by adding:

“Article 5

Department of Transportation General Fund Revenue Transfers

Section 57‑11‑410. Of the amount set aside pursuant to Section 11‑11‑150(H), the South Carolina Department of Transportation must:

(1) make the following annual contributions from nonstate tax resources to the State Highway Account of the South Carolina Transportation Infrastructure Bank:

Fiscal Year 2010‑2011 $20,000,000

Fiscal Year 2011‑2012 $40,000,000

Fiscal Year 2012‑2013 $60,000,000

Fiscal Year 2013‑2014 $80,000,000

Fiscal Year 2014‑2015 and thereafter $100,000,000; and

(2) make the following annual contributions to the State Non‑Federal Aid Highway Fund of the South Carolina Department of Transportation for construction and maintenance:

Fiscal Year 2010‑2011 $20,000,000

Fiscal Year 2011‑2012 $40,000,000

Fiscal Year 2012‑2013 $60,000,000

Fiscal Year 2013‑2014 $80,000,000

Fiscal Year 2014‑2015 and thereafter $100,000,000.”

SECTION 17. Chapter 30, Title 1 of the 1976 Code is amended by adding:

“Section 1‑30‑12. The Division of Ombudsman and Citizens’ Services shall employ two persons to handle citizens’ complaints that pertain to the Department of Transportation.”

SECTION 18. Section 11‑43‑140 of the 1976 Code, as added by Act 148 of 1997, is amended to read:

“Section 11‑43‑140. The board of directors is the governing board of the bank. The board consists of seven voting directors as follows: the ~~Chairman of the Department of Transportation Commission~~ Secretary of Transportation, ex officio; one director appointed by the Governor who shall serve as chairman; one director appointed by the Governor; one director appointed by the Speaker of the House of Representatives; one member of the House of Representatives appointed by the Speaker, ex officio; one director appointed by the President Pro Tempore of the Senate; and one member of the Senate appointed by the President Pro Tempore of the Senate, ex officio. Directors appointed by the Governor, the Speaker, and the President Pro Tempore shall serve terms coterminous with those of their appointing authority. The terms for the legislative members are coterminous with their terms of office. The vice chairman must be elected by the board. Any person appointed to fill a vacancy must be appointed in the same manner as the original appointee for the remainder of the unexpired term.”

SECTION 19. Section 57‑3‑10 of the 1976 Code is amended to read:

“Section 57‑3‑10. The Department of Transportation must be divided into ~~such~~ divisions as the ~~commission~~ department may prescribe but must consist of the following principal divisions: finance and administration; construction, engineering, and planning; and mass transit. The ~~commission~~ department may establish other divisions, or ancillary or service divisions as may be necessary for the efficient and economic operation of the division and to carry out the functions and purposes of the division.”

SECTION 20. Section 57‑3‑50 of the 1976 Code is amended to read:

“Section 57‑3‑50. The ~~commission~~ department may establish such highway districts as in its opinion ~~shall be~~ are necessary for the proper and efficient performance of its duties. The ~~commission~~ department, every ten years, must review the number of highway districts and the territory embraced within the districts and make ~~such~~ changes ~~as~~ that may be necessary for the proper and efficient operation of the districts.”

SECTION 21. Section 57‑11‑20 of the 1976 Code, as last amended by Act 176 of 2005, is further amended by adding an appropriately lettered subsection at the end to read:

“( )(1) For fiscal years beginning after June 30, 2010, the General Assembly affirmatively shall appropriate revenues of the State Highway Fund and the State Non‑Federal Aid Highway Fund to the Department of Transportation in the annual general appropriations act and acts and joint resolutions supplemental to it in the same manner that it appropriates general fund revenues for the operation of cabinet agencies. Appropriations of the revenues of the funds must be solely for those purposes comprising the mission and operations of the Department of Transportation. These appropriations must maximize federal matching and other funds available to the department and provide that debt service on state highway bonds must be paid as scheduled before any other appropriations to the department may be paid.

(2) At the time and in the manner that the Board of Economic Advisors estimates and adjusts its estimates of state general fund revenues, it shall similarly estimate and adjust its estimates of the State Highway Fund and State Non‑Federal Aid Highway Fund revenues for use in the budget‑making and appropriations process. If actual revenues to these funds are less than these estimates, then the amounts appropriated to the department are reduced by an amount sufficient to offset the shortfall, and the department shall manage these reductions so as to ensure that the priorities for appropriations of these revenues as provided in item (1) of this subsection are unaffected by the reduction.”

SECTION 22. Sections 57‑1‑310, 57‑1‑320, 57‑1‑325, 57‑1‑330, 57‑1‑340, 57‑1‑360, 57‑1‑370, 57‑1‑460, 57‑1‑500, Article 7, Chapter 1, Title 56 and Sections 6, 7, and 8 of Act 114 of 2007 are repealed.

SECTION 23. This act takes effect upon approval by the Governor.

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