

The House Committee on Rules offers the following substitute to SB 200:

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 32 of the Official Code of Georgia Annotated, relating to highways, bridges,
2 and ferries, so as to provide for a division and a director of planning; to provide for the
3 development of transportation plans for the state; to specify certain duties for the
4 commissioner of transportation; to specify certain duties for the State Transportation Board;
5 to provide for an organizational structure within the department; to provide a timetable for
6 completion and reporting of transportation plans; to provide for investment policies to guide
7 transportation planning; to provide for the appointment of the director of planning; to provide
8 for identifying and constructing projects with private investment; to provide for priority of
9 expenditures; to provide for the development of allocation formulas for available funding;
10 to amend Article 2 of Chapter 32 of Title 50 of the Official Code of Georgia Annotated,
11 relating to the jurisdiction of the Georgia Regional Transportation Authority, so as to remove
12 a planning function of the authority; to provide for related matters; to provide for an effective
13 date; to repeal conflicting laws; and for other purposes.

14 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

15 **SECTION 1.**

16 Title 32 of the Official Code of Georgia Annotated, relating to highways, bridges, and ferries,
17 is amended in Code Section 32-2-1, relating to the composition of the Department of
18 Transportation, by revising said Code section as follows:

19 "32-2-1.

20 The Department of Transportation shall consist of the State Transportation Board, the
21 commissioner of transportation, the director of planning, the deputy commissioner of
22 transportation, the chief engineer, the treasurer and the assistant treasurer of transportation,
23 and such subordinate employees as may be deemed necessary by the commissioner or the
24 director of planning."

25 **SECTION 2.**

26 Said title is further amended in Code Section 32-2-20, relating to the State Transportation
27 Board generally, by revising subsection (f) of said Code section as follows:

28 "(f) The members of the board shall receive no salary but shall receive for each day of
29 actual attendance at meetings of the board and the committee meetings the per diem and
30 transportation costs prescribed in Code Section 45-7-21. A like sum shall be paid for each
31 day actually spent in studying the transportation needs of the state or attending other
32 functions as a representative of the board, not to exceed 60 days in any calendar year. No
33 per diem shall be paid for meetings of the board conducted by conference call. In addition,
34 they shall receive actual transportation costs while traveling by public carrier or the legal
35 mileage rate for the use of a personal automobile in connection with such attendance and
36 road study. Such per diem and expense shall be paid from funds appropriated to the
37 department upon presentation, by members of the board, of vouchers approved by the
38 chairperson and signed by the secretary."

39 **SECTION 3.**

40 Said title is further amended in Code Section 32-2-21, relating to the powers and duties of
41 the State Transportation Board generally, by revising said Code section as follows:

42 "32-2-21.

43 The board shall be charged with the general control and supervision of the department. In
44 the exercise of such general control and supervision, the board shall have such duties,
45 powers, and authority as are expressly vested in it by this title, including but not limited to:

46 (1) Designation of public roads on the state highway system;

47 (2) Approval of negotiated construction contracts, of authority lease agreements, or of
48 the advertising of nonnegotiated construction contracts; and

49 ~~(3) Confirmation or rejection of the recommendation for appointment of the following~~
50 ~~department officers: the deputy commissioner, the chief engineer, and the treasurer and~~
51 ~~the assistant treasurer of the department; and~~

52 ~~(4)~~(3) Approval of all long-range plans and programs of the department."

53 **SECTION 4.**

54 Said title is further amended by adding after Code Section 32-2-21, relating to the powers
55 and duties of the State Transportation Board generally, a new Code Section 32-2-22 to read
56 as follows:

57 "32-2-22.

58 (a) As used in this chapter and in Article 2 of Chapter 5 of this title, the term:

59 (1) 'Director' means the director of planning provided for by Code Section 32-2-43.

60 (2) 'Division' means the Planning Division of the department provided for by
61 paragraph (4) of subsection (b) of Code Section 32-2-41.

62 (3) 'Metropolitan planning organization' means the forum for cooperative transportation
63 decision making for a metropolitan planning area.

64 (4) 'Metropolitan transportation plan' means the official intermodal transportation plan
65 that is developed and adopted through the metropolitan transportation planning process
66 for a metropolitan planning area.

67 (5) 'Nonmetropolitan area' means a geographic area outside the designated metropolitan
68 planning areas.

69 (6) 'State-wide strategic transportation plan' means the official, intermodal,
70 comprehensive, fiscally constrained transportation plan which includes projects,
71 programs, and other activities to support implementation of the state's strategic
72 transportation goals and policies. This plan and the process for developing the plan shall
73 comply with 23 C.F.R. Section 450.104.

74 (7) 'State-wide transportation improvement program' means a state-wide prioritized
75 listing of transportation projects covering a period of four years that is consistent with the
76 state-wide strategic transportation plan, metropolitan transportation plans, and
77 transportation improvement programs and required for multi-modal projects to be eligible
78 for funding under Title 23 U.S.C. and Title 49 U.S.C. Chapter 53.

79 (8) 'Transportation improvement program' means a prioritized listing of transportation
80 projects covering a period of four years that is developed and formally adopted by a
81 metropolitan planning organization as part of the metropolitan transportation planning
82 process, consistent with the metropolitan transportation plan, and required for projects
83 to be eligible for funding under Title 23 U.S.C. and Title 49 U.S.C. Chapter 53.

84 (b) The director and the division shall:

85 (1) Review and make recommendations to the Governor concerning all proposed
86 regional land transportation plans and transportation improvement programs and
87 negotiate with the propounder of the plans concerning changes or amendments which
88 may be recommended by the department or the Governor, consistent with applicable
89 federal law and regulation;

90 (2) Review any transportation projects proposed by the department and adopt, remove,
91 or otherwise include such projects as all or a portion of department plans, consistent with
92 applicable federal law and regulation;

93 (3) Develop the state-wide strategic transportation plan and the state-wide transportation
94 improvement program and support the various transportation improvement programs;

95 (4) Develop an annual capital construction project list to be reviewed by the Governor
96 and submitted to the General Assembly for consideration in the budget;

97 (5) Promulgate rules and regulations necessary to carry out its duties under the
 98 provisions of this title. The division shall report the content of such rules or regulations
 99 to the Transportation Committees of the Senate and House of Representatives for their
 100 approval by majority vote prior to the promulgation thereof; and

101 (6) Do all things necessary or convenient to carry out the powers expressly given in this
 102 Code section.

103 (c) After review and approval by the Governor, the state transportation improvement
 104 program and the state-wide strategic transportation plan shall be submitted to the State
 105 Transportation Board for approval."

106 **SECTION 5.**

107 Said title is further amended by revising Code Section 32-2-41, relating to the powers, duties,
 108 and authority of the commissioner of transportation, as follows:

109 "32-2-41.

110 (a) As the chief executive officer of the department, the commissioner shall have direct
 111 and full control of the department. He or she shall possess, exercise, and perform all the
 112 duties, powers, and authority which may be vested in the department by law, except those
 113 duties, powers, and authority which are expressly reserved by law to the board or the
 114 director of planning. The commissioner's principal responsibility shall be the faithful
 115 implementation of transportation plans produced by the director of planning and approved
 116 by the Governor and the State Transportation Board, subject to the terms of such
 117 appropriations Acts as may be adopted from time to time. When the board is not in regular
 118 or called session, the commissioner shall perform, exercise, and possess all duties, powers,
 119 and authority of the board except:

120 (1) Approval of the advertising of nonnegotiated construction contracts; and

121 (2) Approval of authority lease agreements;

122 ~~(3) Confirmation or rejection of the recommendation for appointment of the following~~
 123 ~~department officers: the deputy commissioner; the chief engineer; and the treasurer and~~
 124 ~~the assistant treasurer of the department; and~~

125 ~~(4) Approval of long-range plans and programs of the department.~~

126 The commissioner shall also have the authority to exercise the power of eminent domain
 127 and to execute all contracts, authority lease agreements, and all other functions except those
 128 that cannot legally be delegated to him or her by the board.

129 (b)(1) The commissioner shall have the authority to employ, discharge, promote,
 130 supervise, and determine the compensation of such personnel as he or she may deem
 131 necessary or useful to the effective operation and administration of the department except
 132 that the commissioner shall not employ a person who is related within the second degree

133 of consanguinity to the commissioner or any member of the board, provided that such
 134 prohibition shall not be applied so as to terminate the employment of persons employed
 135 before said prohibited relationship was created by the subsequent election of a board
 136 member or appointment of a commissioner. ~~The commissioner shall also have the~~
 137 ~~authority to create, staff, abolish, and regulate such organizational elements as may be~~
 138 ~~deemed necessary or proper for the efficient operation of the department.~~

139 (2) Notwithstanding the provisions of subsection (b) of Code Section 32-6-29, the
 140 commissioner shall have the authority to appoint and employ five nonuniformed
 141 investigators who shall be certified peace officers pursuant to the provisions of Chapter
 142 8 of Title 35, the 'Georgia Peace Officer Standards and Training Act.' The investigators
 143 shall have full arrest powers in cases involving internal affairs of the department and in
 144 cases involving obstruction of, encroaching on, or injury to public roads or rights of way.
 145 In such cases, the investigators shall be authorized:

- 146 (A) To investigate Department of Transportation related crimes committed anywhere
- 147 in the state;
- 148 (B) To arrest any person violating the criminal laws of this state;
- 149 (C) To serve and execute warrants after notifying the law enforcement agency of the
- 150 local jurisdiction of the intent to serve such warrant or warrants;
- 151 (D) To enforce in general the criminal laws of this state;
- 152 (E) To issue citations for civil damage to any person found to be violating the laws,
- 153 rules, and regulations pertaining to vegetation management; and
- 154 (F) To carry firearms while performing their duties but only if such investigators have
- 155 been certified by the Georgia Peace Officer Standards and Training Council as having
- 156 successfully completed the course of training required by Chapter 8 of Title 35, the
- 157 'Georgia Peace Officer Standards and Training Act.'

158 (3) The power granted to the commissioner in paragraph (1) of this subsection shall be
 159 subject to and limited by Article 1 of Chapter 20 of Title 45 establishing a merit system
 160 for department employees, to the extent that the same or any amendments thereto are now
 161 or may be hereafter applicable to department personnel.

162 (4) There shall be a Planning Division of the department, directed and staffed by the
 163 director of planning, which shall be the department's principal unit for developing the
 164 state transportation improvement program and the state-wide strategic transportation plan
 165 and coordinating transportation policies, planning, and programs related to design,
 166 construction, maintenance, operations, and financing of transportation, under the
 167 supervision of the director. The division and the director shall not have jurisdiction over
 168 the funds allocated for the local maintenance and improvement grant program pursuant

169 to subsection (d) of Code Section 32-5-27 except as expressly provided by said
 170 subsection.

171 (5) There shall be an Engineering Division of the department to be supervised by the
 172 chief engineer, a Finance Division of the department to be supervised by the treasurer,
 173 an Administration Division of the department to be supervised by the deputy
 174 commissioner, and a Local Grants Division to be supervised by an appointee serving at
 175 the pleasure of the commissioner. The duties, responsibilities, and personnel of each such
 176 division shall be as established by the commissioner.

177 (6) The commissioner may establish a Construction Division, an Operations and
 178 Maintenance Division, a Permitting Division, and a Public-Private Initiatives Division
 179 of the department. The commissioner shall assign to such divisions, except as otherwise
 180 provided by law, such personnel and such duties and responsibilities as may be necessary
 181 and appropriate for the proper functioning of the department."

182 **SECTION 6.**

183 Said title is further amended in Code Section 32-2-41.1, relating to progress report and
 184 strategic transportation plan, by revising subsection (a) of said Code section as follows:

185 "(a) On or before ~~September 1, 2008~~ October 15, 2009, the ~~commissioner~~ director shall
 186 prepare a report for the Governor, the Lieutenant Governor, the Speaker of the House of
 187 Representatives, and the chairpersons of the Senate Transportation Committee and the
 188 House Committee on Transportation, respectively, detailing the progress the ~~department~~
 189 ~~division~~ has made on preparing a State-wide Strategic Transportation Plan. The
 190 ~~commissioner~~ director shall deliver a draft of the plan for comments and suggestions by
 191 members of the General Assembly and the Governor on or before ~~January 1, 2009~~
 192 December 31, 2009. Comments and suggestions by the House and Senate Transportation
 193 Committees of the General Assembly and the Governor shall be submitted to the
 194 ~~commissioner~~ director no later than ~~February 15, 2009~~ February 15, 2010. This plan shall
 195 include a list of projects realistically expected to begin construction within the next ~~five~~
 196 four years, the cost of such projects, and the source of funds for such projects. The plan
 197 shall also ~~detail how the listed projects will help to mitigate congestion, improve air~~
 198 ~~quality, improve public safety, increase mobility, and encourage economic development~~
 199 be developed with consideration of investment policies addressing:

200 (1) Growth in private-sector employment, development of work force, and improved
 201 access to jobs;

202 (2) Reduction in traffic congestion;

203 (3) Improved efficiency and reliability of commutes in major metropolitan areas;

204 (4) Efficiency of freight, cargo, and goods movement;

205 (5) Coordination of transportation investment with development patterns in major
 206 metropolitan areas;
 207 (6) Market driven travel demand management;
 208 (7) Optimized capital asset management;
 209 (8) Reduction in accidents resulting in injury and loss of life;
 210 (9) Border-to-border and interregional connectivity; and
 211 (10) Support for local connectivity to the state-wide transportation network.
 212 The investment policies provided for in paragraphs (1) through (10) of this subsection shall
 213 also guide the development of the allocation formula provided for under Code Section
 214 32-5-27 and shall expire on April 15, 2012, and every four years thereafter unless amended
 215 or renewed. The final version of the State-wide Strategic Transportation Plan shall be
 216 completed by ~~June 30, 2009~~ April 10, 2010, and shall be delivered to the Governor, the
 217 Lieutenant Governor, the Speaker of the House of Representatives, and the chairpersons
 218 of the Senate Transportation Committee and the House Committee on Transportation. A
 219 report detailing the progress of projects and programs in on or before that date. An updated
 220 version of the State-wide Strategic Transportation Plan shall be prepared and delivered
 221 annually semiannually thereafter, and a revised version shall be prepared and delivered at
 222 least biennially thereafter."

223

SECTION 7.

224 Said title is further amended in Code Section 32-2-41.2, relating to benchmarks and value
 225 engineering studies to be developed by the commissioner of transportation, by revising
 226 subsections (b) and (d) as follows:

227 "(b) The ~~commissioner~~ director shall submit ~~an annual~~ a semiannual report to the
 228 Governor, the Lieutenant Governor, the Speaker of the House of Representatives, and the
 229 chairpersons of the House and Senate Transportation Committees detailing the progress of
 230 every construction project valued at \$10 million or more against the benchmarks. This
 231 report shall include an analysis explaining the discrepancies between the benchmarks and
 232 actual performance on each project as well as an explanation for delays. This report shall
 233 also be published on the website of the department."

234 "(d) Value engineering studies shall be performed on all projects whose costs exceed \$10
 235 million, and the ~~commissioner~~ director shall submit an annual report to the Governor, the
 236 Lieutenant Governor, the Speaker of the House of Representatives, and the chairpersons
 237 of the House and Senate Transportation Committees detailing the amount saved due to the
 238 value engineering studies. This report shall also be published on the website of the
 239 department."

240

SECTION 8.

241 Said title is further amended in Code Section 32-2-42, relating to the appointment of a deputy
 242 commissioner of transportation, chief engineer, treasurer, and assistant treasurer, by revising
 243 said Code section as follows:

244 "32-2-42.

245 (a) The commissioner shall appoint a deputy commissioner of transportation, ~~whose~~
 246 ~~appointment shall be subject to the approval of the board,~~ to serve at the pleasure of the
 247 commissioner. Before assuming the duties of his or her office, the deputy commissioner
 248 shall qualify by giving bond with a corporate surety licensed to do business in this state,
 249 such bond to be in the amount of ~~\$100,000.00~~ \$500,000.00 and payable to the Governor
 250 and his or her successors in office. The bond shall be subject to the approval of the
 251 Governor and shall be conditioned on the faithful discharge of the duties of the office,
 252 including any duties of the office of the commissioner which the deputy commissioner may
 253 be required to perform as acting commissioner. The premium for the bond shall be paid
 254 out of the funds of the department. The deputy commissioner shall be the assistant
 255 commissioner and shall be empowered to act in his or her own name for the commissioner.
 256 The deputy commissioner may exercise to the extent permitted by law only such powers
 257 and duties of the commissioner as have been previously assigned to him or her in writing
 258 by the commissioner. In the event of the commissioner's temporary incapacity which
 259 causes his or her absence from the offices of the Department of Transportation ~~Building~~
 260 in Atlanta, Georgia, for 30 consecutive days, the deputy commissioner shall assume all the
 261 powers and duties of the commissioner, to be exercised until such time as the
 262 commissioner's temporary absence or incapacity shall cease. In the event of the
 263 commissioner's permanent incapacity, the deputy commissioner shall become acting
 264 commissioner, as provided in subsection (c) of Code Section 32-2-40.

265 (b) The commissioner shall appoint a chief engineer, ~~whose appointment shall be~~
 266 ~~confirmed or rejected by the board at the next regular board meeting following his or her~~
 267 ~~appointment,~~ to serve at the pleasure of the commissioner. The chief engineer shall be the
 268 chief engineer of the department and shall be a professional engineer registered in
 269 accordance with Chapter 15 of Title 43 and who shall be experienced in highway
 270 engineering.

271 (c) The commissioner shall appoint a treasurer of the department, ~~whose appointment shall~~
 272 ~~be confirmed or rejected by the board at the next regular board meeting following his~~
 273 ~~appointment,~~ to serve at the pleasure of the ~~board~~ commissioner. Before assuming the
 274 duties of his or her office, the treasurer shall qualify by giving bond with a corporate surety
 275 licensed to do business in this state, such bond to be in the amount of ~~\$100,000.00~~
 276 \$500,000.00 and payable to the Governor and his or her successors in office. The bond

277 shall be subject to the approval of the Governor and shall be conditioned on the faithful
 278 discharge of the duties of the office. The premium for the bond shall be paid out of the
 279 funds of the department. The duties of the treasurer shall be to receive all funds from all
 280 sources to which the department is entitled, to account for all funds received by the
 281 department, and to perform such other duties as may be required of him or her by the
 282 commissioner. The commissioner shall have the authority to appoint an assistant treasurer
 283 in the same manner and under the same conditions as set forth in this subsection for the
 284 appointment of the treasurer, including the qualifying in advance by giving bond of the
 285 same type, amount, and paid for in the same manner as required of the treasurer. The
 286 assistant treasurer shall assume the duties of office of treasurer upon the incapacity or death
 287 of the treasurer and shall serve until a new treasurer is appointed as provided in this
 288 subsection.

289 (d) Any provision of this title or of any other statute or of any rule or regulation to the
 290 contrary notwithstanding, the commissioner or the deputy commissioner may, in addition
 291 to serving as commissioner or deputy commissioner, also simultaneously serve as chief
 292 engineer, provided that he or she shall be appointed ~~and confirmed~~ and shall possess the
 293 qualifications as prescribed in subsection (b) of this Code section. A commissioner or
 294 deputy commissioner simultaneously serving as chief engineer shall be paid for the
 295 discharge of all his or her duties the sum to which he or she is entitled as commissioner or
 296 deputy commissioner."

297 **SECTION 9.**

298 Said title is further amended by adding after Code Section 32-2-42, relating to the
 299 appointment of a deputy commissioner of transportation, chief engineer, treasurer, and
 300 assistant treasurer, a new Code Section 32-2-43 to read as follows:

301 "32-2-43.

302 (a) There shall be a director of planning appointed by the Governor subject to approval by
 303 a majority vote of the House Transportation Committee. The director shall serve during
 304 the term of the Governor by whom he or she is appointed and at the pleasure of the
 305 Governor. Before assuming the duties of his or her office, the director shall qualify by
 306 giving bond with a corporate surety licensed to do business in this state, such bond to be
 307 in the amount of \$500,000.00 and payable to the Governor and his or her successors in
 308 office. The bond shall be subject to the approval of the Governor and shall be conditioned
 309 on the faithful discharge of the duties of the office. The premium for the bond shall be paid
 310 out of the funds of the department.

311 (b) The director of planning's principal responsibility shall be the development of
 312 transportation plans, including the development of the state-wide strategic transportation

313 plan and state-wide transportation improvement program and other comprehensive plans
 314 pursuant to the provisions of Code Section 32-2-3 and Code Section 32-2-22, strategic
 315 transportation plans pursuant to the provisions of Code Section 32-2-41.1, and benchmarks
 316 and value engineering studies pursuant to the provisions of Code Section 32-2-41.2, in
 317 consultation with the board, the Governor, and the commissioner. The director shall be the
 318 director of the Planning Division of the department and shall possess, exercise, and perform
 319 all the duties, powers, and authority which may be vested in the such division by law and
 320 are necessary or appropriate for such purpose, except those duties, powers, and authority
 321 which are expressly reserved by law to the board or the commissioner."

322

SECTION 10.

323 Said title is further amended by striking in their entirety Code Section 32-2-78, relating to
 324 definitions, Code Section 32-2-79, relating to requirements for solicited and unsolicited
 325 proposal for public-private initiative, and Code Section 32-2-80, relating to authority to
 326 contract with proposer for public-private initiative, and inserting in lieu thereof respectively
 327 a new Code Section 32-2-78, a new Code Section 32-2-79 and a new Code Section 32-2-80
 328 to read as follows:

329 "32-2-78.

330 As used in this Code section and Code Sections 32-2-79 and 32-2-80, the term:

331 (1) 'Participating local governing authority' includes the governing authority of any
 332 county or municipality whose geographical jurisdiction includes the project.

333 (2) 'Project' means a project which the department deems appropriate for letting pursuant
 334 to the procedures of Code Section 32-2-79 and Code Section 32-2-80.

335 32-2-79.

336 (a) The staff of the department shall jointly identify and report to the board by July 31 of
 337 each odd-numbered year those projects on the state-wide transportation improvement
 338 program or otherwise identified that afford the greatest gains in congestion mitigation or
 339 promotion of economic development.

340 (b) Any project identified pursuant to subsection (a) of this Code section that will not be
 341 initiated within two years of the reporting date or that does not have specific available and
 342 complete funding may be let and constructed utilizing the procedures of this Code section
 343 and Code Section 32-2-80. All personnel of the department shall cooperate in all respects
 344 in the letting, construction, maintenance, and operation of such projects, including without
 345 limitation providing such access and control of portions of the state highway system as may
 346 be requested or required from time to time for such purposes.

347 (c) Projects wholly or partly in a metropolitan planning area shall be included in a fiscally
348 constrained transportation improvement program.

349 32-2-80.

350 (a)(1) The department shall evaluate a project to determine, in the judgment of the
351 department, appropriate or desirable levels of state, local, and private participation in
352 financing such project. In making such determination, the department shall be authorized
353 and encouraged to seek the advice and input of the affected local governing authorities,
354 applicable metropolitan planning organizations, and the private financial and construction
355 sectors.

356 (1.1) No constitutional officer or member of the State Transportation Board shall serve
357 as an agent, lobbyist, or board member for any entity directly or indirectly under contract
358 with or negotiating a contract with the department under this Code section for one year
359 after leaving his or her position as a constitutional officer or member of the State
360 Transportation Board.

361 (2) For projects that are funded or financed in part or in whole by private sources, the
362 department shall be authorized to issue a written request for proposal indicating in
363 general terms the scope of the project, the proposed financial participations in the project,
364 and the factors that will be used in evaluating the proposal and containing or
365 incorporating by reference other applicable contractual terms and conditions, including
366 any unique capabilities or qualifications that will be required of the contractor. Public
367 notice of such request for proposal shall be made at least 90 days prior to the date set for
368 receipt of proposals by posting the legal notice on a single website that shall be procured
369 and maintained for such purposes by the Department of Administrative Services or in
370 substantially the same manner utilized by the department to solicit requests for proposals.

371 (3) Upon receipt of a proposal or proposals responsive to the request for proposals, the
372 department shall accept written public comment, solicited in the same manner as
373 provided for notice of proposals, for a period of 30 days beginning at least ten days after
374 the date set for receipt of proposals. In addition, the department shall hold at least one
375 public hearing on such proposals not later than the conclusion of the period for public
376 comment.

377 (4) The department shall engage in individual discussions with two or more respondents
378 deemed fully qualified, responsible, and suitable on the basis of initial responses and with
379 emphasis on professional competence and ability to meet the level of private financial
380 participation called for by the department. Repetitive informal interviews shall be
381 permissible. In the event that any local governing authority has agreed to consider
382 financial participation in the project, a representative of such local governing authority,

383 appointed by such local governing authority, may participate in such discussions and
384 interviews. At the discussion stage, the department may discuss estimates of total project
385 costs, including, but not limited to, life cycle costing and nonbinding estimates of price
386 for services. Proprietary information from competing respondents shall not be disclosed
387 to the public or to competitors. At the conclusion of such discussions, on the basis of
388 evaluation factors published in the request for proposal and all information developed in
389 the selection process, the department, with the input of any participating local governing
390 authority, shall select in the order of preference two or more respondents whose
391 qualifications and proposed services are deemed most meritorious. Negotiations shall
392 then be conducted with two or more respondents and with the participation of the
393 designated representative of any participating local governing authority. Upon approval
394 by the department, the commissioner shall select the respondent for project
395 implementation based upon contract terms that are the most satisfactory and
396 advantageous to the state and to the department based upon a thorough assessment of
397 value and the ability of the final project's characteristics to meet state strategic goals and
398 investment policies as provided for by paragraphs (1) through (10) of subsection (a) of
399 Code Section 32-2-41.1. Before making such selection, the commissioner shall consult
400 with any participating local governing authority or authorities. Notwithstanding the
401 foregoing, if the terms and conditions for multiple awards are included in the request for
402 proposal, the department may award contracts to more than one respondent. Should the
403 department determine in writing and in its sole discretion that only one respondent is fully
404 qualified, or that one respondent is clearly more highly qualified and suitable than the
405 others under consideration, a contract may be negotiated and awarded to that respondent.
406 (5) Nothing in this Code section shall require the department to continue negotiations or
407 discussions arising out of any request for proposal.
408 (6) The department shall be authorized to promulgate reasonable rules or regulations to
409 assist in its evaluation of the proposal and to implement the purposes of this Code section.
410 The department shall report the content of such rules or regulations to the Transportation
411 Committees of the Senate and House of Representatives for their approval by majority
412 vote prior to the promulgation thereof and shall make quarterly reports to the same
413 chairpersons of all of its activities undertaken pursuant to the provisions of this Code
414 section.
415 (b) Any contracts entered into pursuant to this Code section may authorize funding to
416 include tolls, fares, or other user fees and tax increments for use of the project that is the
417 subject of the proposal. Such funding may be distributed by contract among the
418 participants in the project as may be provided for by contract. The department may take
419 any action to obtain federal, state, or local assistance for a qualifying project that serves the

420 public purpose of this Code section and may enter into any contracts required to receive
 421 such assistance. The department may determine that it serves the public purpose of this
 422 Code section for all or any portion of the costs of a qualifying project to be paid, directly
 423 or indirectly, from the proceeds of a grant or loan made by the federal, state, or local
 424 government or any instrumentality thereof. The department may agree to make grants or
 425 loans to the operator from time to time from amounts received from the federal, state, or
 426 local government or any agency or instrumentality thereof.

427 (c) The commissioner shall be authorized to delegate such duties and responsibilities under
 428 this Code section as he or she deems appropriate from time to time; provided, however, that
 429 the final approval of contracts provided for in this Code section shall be by action of the
 430 State Transportation Board.

431 (d) The power of eminent domain shall not be delegated to any private entity with respect
 432 to any project commenced or proposed pursuant to this Code section.

433 (e) Any contract for a public-private partnership shall require the private partner or each
 434 of its prime contractors to provide performance and payment security. Notwithstanding
 435 any other provision of law, the penal sum or amount of such security may be less than the
 436 price of the contract involved, based upon the department's determination on a
 437 project-by-project basis of what sum may be required to adequately protect the department,
 438 the state, and the contracting and subcontracting parties."

439 **SECTION 11.**

440 Said title is further amended by revising paragraph (5) of Code Section 32-5-21, relating to
 441 priority of expenditures from the State Transportation Fund as follows:

442 ~~"(5) As directed from time to time by appropriations Acts; and Next, a sum equal to at~~
 443 ~~least 15 percent of the State Public Transportation Fund, said sum to be used as follows:~~

444 ~~(A) One-third to pay all or part of the costs of the planning, surveying, constructing,~~
 445 ~~improving, paving, and completing public roads not on the state highway system;~~

446 ~~(B) One-third to pay all or part of the costs of planning, surveying, constructing,~~
 447 ~~improving, and paving public roads on the state highway system; and~~

448 ~~(C) The remaining one-third to pay all or part of the costs of planning, surveying,~~
 449 ~~constructing, reconstructing, paving, and improving the public roads of Georgia~~
 450 ~~determined by the department to be most in need of such work; and"~~

451 **SECTION 12.**

452 Said title is further amended by adding at the end of Article 2 of Chapter 5 thereof, relating
 453 to the State Public Transportation Fund, a new Code Section 32-5-27, to read as follows:

454 "32-5-27.

455 (a) The Planning Division of the department and the director of planning shall develop an
456 allocation formula for:

457 (1) A state-wide transportation asset management program;

458 (2) A state-wide transportation asset improvement program; and

459 (3) A local maintenance and improvement grant program.

460 Funds from the State Public Transportation Fund shall be allocated by the department
461 pursuant to such formula as further defined in subsections (b) through (d) of this Code
462 section and as appropriated by the General Assembly. Every four years, concurrent with
463 the renewal of the state-wide strategic transportation plan, the division, and the director
464 shall update the data used in the allocation formula and shall review the distributional
465 components of the formula and at such time may amend the formula as necessary to
466 support implementation of the plans provided for in Code Section 32-2-22.

467 (b) Funds appropriated for the state-wide transportation asset management program shall
468 be allocated pursuant to the long-range state-wide strategic transportation plan and shall
469 be available for administration, maintenance, operations, and rehabilitation of
470 infrastructure.

471 (c)(1) Funds allocated for the state-wide transportation asset improvement program shall
472 be allocated for capital construction projects, which may include new capacity, expansion
473 of current infrastructure, safety improvements, or completion of, additions to, and capital
474 improvement of state strategic corridors and economic development highways, including
475 but not limited to those identified pursuant to Code Section 32-4-22. Recommendations
476 for appropriation to the state-wide transportation asset improvement program shall
477 include consideration of current and future regional population and regional employment.
478 Local funding matches may be required.

479 (2) A portion of this allocation shall be a specific itemized and prioritized project list and
480 such portion shall be not less than 10 percent nor more than 20 percent of the aggregate
481 allocation from the State Public Transportation Fund, subject to and consistent with the
482 provisions of the state-wide transportation improvement program, for such fiscal year.
483 In developing such project list the division and the director may accept project
484 recommendations from the Transportation Committees of the Senate and the House of
485 Representatives, the Governor, metropolitan planning organizations, and nonmetropolitan
486 areas. Such projects shall be prioritized in accordance with the state-wide strategic
487 transportation plan. The division and the director shall submit such prioritized capital
488 construction projects to the Governor for consideration in advance of the legislative
489 session each year. The Governor shall submit all or a portion of such capital construction
490 project requests as part of the Governor's budget recommendations to the General

491 Assembly. The General Assembly may appropriate funds to any project on the
 492 prioritized project list.

493 (3) In addition to the portion of the state-wide transportation asset improvement program
 494 subject to the 10 percent limitation in paragraph (2) of this subsection, additional funds
 495 from the State Public Transportation Fund may be allocated to the state-wide
 496 transportation asset improvement program that are not subject to specific project
 497 selection.

498 (d) Funds allocated for the local maintenance and improvement grant program shall
 499 replace funds formerly available under the local assistance road program and state-aid
 500 program and shall be allocated by the Local Grants Division of the department to local
 501 governing authorities as grants or otherwise according to a funding formula developed
 502 by the division and the director. Such formula shall include considerations of paved and
 503 unpaved lane miles and vehicle miles traveled and may include population, employment,
 504 and local funding matches available, as well as other factors as may be determined by the
 505 division and the director. Funds allocated each fiscal year for the local maintenance and
 506 improvement grant program shall be not less than 10 percent nor more than 20 percent
 507 of the money derived from motor fuel taxes received by the state in the immediately
 508 preceding fiscal year, less the amount of refunds, rebates, and collection costs authorized
 509 by law and shall be used only for the purposes available for the proceeds of such taxes.
 510 Grants of such funds shall include provisions requiring adherence to adequate roadway
 511 standards, accounting practices, and applicable transportation plans. Additional
 512 allocations to this program from other funding sources shall be allocated subject to the
 513 requirements for usage attached to such funds.

514 (e) Funds allocated or appropriated pursuant to the provisions of this Code section shall
 515 not be subject to redirection or reservation pursuant to Chapter 12 of Title 45 or to
 516 budgetary reduction except as provided by subparagraph (b) of Paragraph VI of Section IX
 517 of Article III of the Constitution.

518 (f) Information pertaining to all funds received and expended by, through, or from the
 519 department, including but not limited to project numbers, let dates, estimated costs, actual
 520 costs, estimated completion date, status, priority ranking, congressional, House, and Senate
 521 districts, vendor names, contract amounts, and other pertinent contract information, shall
 522 be published on the website of the department as data in structured format. As used in this
 523 subsection, 'structured format' means data that is presented in machine readable format."

524 **SECTION 13.**

525 Article 2 of Chapter 32 of Title 50 of the Official Code of Georgia Annotated, relating to the
 526 jurisdiction of the Georgia Regional Transportation Authority, is amended by revising

527 paragraph (29) of subsection (a) of Code Section 50-32-11, relating to powers of the
528 authority, as follows:

529 ~~"(29) To review and make recommendations to the Governor concerning all proposed~~
530 ~~regional land transportation plans and transportation improvement programs prepared by~~
531 ~~metropolitan planning organizations wholly or partly within the geographic area over~~
532 ~~which the authority has jurisdiction pursuant to this chapter, and to negotiate with such~~
533 ~~metropolitan planning organizations concerning changes or amendments to such plans~~
534 ~~which may be recommended by the authority or the Governor consistent with applicable~~
535 ~~federal law and regulation, and to adopt such regional plans as all or a portion of its own~~
536 ~~regional plans~~ Reserved;"

537 **SECTION 14.**

538 This Act shall become effective upon its approval by the Governor or upon its becoming law
539 without such approval.

540 **SECTION 15.**

541 All laws and parts of laws in conflict with this Act are repealed.