

Senate Bill 200

By: Senators Williams of the 19th, Mullis of the 53rd, Rogers of the 21st, Douglas of the 17th, Hill of the 32nd and others

AS PASSED

**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."

SECTION 2.

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

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

SECTION 3.

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

"32-2-21.

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

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

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

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

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

SECTION 4.

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

"32-2-22.

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

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

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

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

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

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

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

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

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

(b) The director and the division shall:

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

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

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

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

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

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

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

SECTION 5.

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

"32-2-41.

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

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

(2) Approval of authority lease agreements;

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

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

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

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

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

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

(A) To investigate Department of Transportation related crimes committed anywhere in the state;

(B) To arrest any person violating the criminal laws of this state;

(C) To serve and execute warrants after notifying the law enforcement agency of the local jurisdiction of the intent to serve such warrant or warrants;

(D) To enforce in general the criminal laws of this state;

(E) To issue citations for civil damage to any person found to be violating the laws, rules, and regulations pertaining to vegetation management; and

(F) To carry firearms while performing their duties but only if such investigators have been certified by the Georgia Peace Officer Standards and Training Council as having successfully completed the course of training required by Chapter 8 of Title 35, the 'Georgia Peace Officer Standards and Training Act.'

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

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

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

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

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

SECTION 6.

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

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

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

(2) Reduction in traffic congestion;

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

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

- (5) Coordination of transportation investment with development patterns in major metropolitan areas;
- (6) Market driven travel demand management;
- (7) Optimized capital asset management;
- (8) Reduction in accidents resulting in injury and loss of life;
- (9) Border-to-border and interregional connectivity; and
- (10) Support for local connectivity to the state-wide transportation network.

The investment policies provided for in paragraphs (1) through (10) of this subsection shall also guide the development of the allocation formula provided for under Code Section 32-5-27 and shall expire on April 15, 2012, and every four years thereafter unless amended or renewed. The final version of the State-wide Strategic Transportation Plan shall be completed by ~~June 30, 2009~~ April 10, 2010, and shall be delivered to the Governor, the Lieutenant Governor, the Speaker of the House of Representatives, and the chairpersons of the Senate Transportation Committee and the House Committee on Transportation. A report detailing the progress of projects and programs in on or before that date. An updated version of the State-wide Strategic Transportation Plan shall be prepared and delivered annually semiannually thereafter, and a revised version shall be prepared and delivered at least biennially thereafter."

SECTION 7.

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

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

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

SECTION 8.

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

"32-2-42.

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

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

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

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

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

SECTION 9.

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

"32-2-43.

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

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

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

SECTION 10.

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

"32-2-78.

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

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

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

32-2-79.

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

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

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

32-2-80.

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

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

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

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

(4) The department shall engage in individual discussions with two or more respondents deemed fully qualified, responsible, and suitable on the basis of initial responses and with emphasis on professional competence and ability to meet the level of private financial participation called for by the department. Repetitive informal interviews shall be permissible. In the event that any local governing authority has agreed to consider financial participation in the project, a representative of such local governing authority, appointed by such local governing authority, may participate in such discussions and interviews. At the discussion stage, the department may discuss estimates of total project costs, including, but not limited to, life cycle costing and nonbinding estimates of price

for services. Proprietary information from competing respondents shall not be disclosed to the public or to competitors. At the conclusion of such discussions, on the basis of evaluation factors published in the request for proposal and all information developed in the selection process, the department, with the input of any participating local governing authority, shall select in the order of preference two or more respondents whose qualifications and proposed services are deemed most meritorious. Negotiations shall then be conducted with two or more respondents and with the participation of the designated representative of any participating local governing authority. Upon approval by the department, the commissioner shall select the respondent for project implementation based upon contract terms that are the most satisfactory and advantageous to the state and to the department based upon a thorough assessment of value and the ability of the final project's characteristics to meet state strategic goals and investment policies as provided for by paragraphs (1) through (10) of subsection (a) of Code Section 32-2-41.1. Before making such selection, the commissioner shall consult with any participating local governing authority or authorities. Notwithstanding the foregoing, if the terms and conditions for multiple awards are included in the request for proposal, the department may award contracts to more than one respondent. Should the department determine in writing and in its sole discretion that only one respondent is fully qualified, or that one respondent is clearly more highly qualified and suitable than the others under consideration, a contract may be negotiated and awarded to that respondent.

(5) Nothing in this Code section shall require the department to continue negotiations or discussions arising out of any request for proposal.

(6) The department shall be authorized to promulgate reasonable rules or regulations to assist in its evaluation of the proposal and to implement the purposes of this Code section. The department shall report the content of such rules or regulations to the Transportation Committees of the Senate and House of Representatives for their approval by majority vote prior to the promulgation thereof and shall make quarterly reports to the same chairpersons of all of its activities undertaken pursuant to the provisions of this Code section.

(b) Any contracts entered into pursuant to this Code section may authorize funding to include tolls, fares, or other user fees and tax increments for use of the project that is the subject of the proposal. Such funding may be distributed by contract among the participants in the project as may be provided for by contract. The department may take any action to obtain federal, state, or local assistance for a qualifying project that serves the public purpose of this Code section and may enter into any contracts required to receive such assistance. The department may determine that it serves the public purpose of this Code section for all or any portion of the costs of a qualifying project to be paid, directly

or indirectly, from the proceeds of a grant or loan made by the federal, state, or local government or any instrumentality thereof. The department may agree to make grants or loans to the operator from time to time from amounts received from the federal, state, or local government or any agency or instrumentality thereof.

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

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

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

SECTION 11.

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

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

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

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

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

SECTION 12.

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

"32-5-27.

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

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

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

(3) A local maintenance and improvement grant program.

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

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

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

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

(3) In addition to the portion of the state-wide transportation asset improvement program 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.