

SB438

29620-4

By Senators Mitchell, Holley, Little (T), Butler, Figures, Barron, Denton, Little (Z), Smitherman, Enfinger, Langford, Preuitt, Roberts, Lindsey, Marsh, Dial, Lee, Lipscomb, Waggoner, Escott-Russell, Means, Myers, Dixon, McClain, Bedford, Steele, Armistead, French, Clay, and Smith

RFD: Business and Labor

First Read: 08-MAR-2000

Enrolled, An Act,

To provide for the Alabama Scenic Byways program; to provide for the appointment of a Designating Committee; to prescribe the duties of the committee; to provide for an Advisory Council for the program and the membership and duties of the council; and to prescribe criteria and procedures for nominating and selecting scenic byways; and to provide for adoption of procedures for the administration of designating and managing scenic byways.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. This act shall be known as “Alabama and Beautiful Act.”

Section 2. The Legislature finds that certain portions of the state highway system provide access to state locales that are notable for their scenic, natural, historic, recreational, cultural, and archaeological value and are therefore worthy of designations as scenic byways in order to provide special consideration of their unique features and special role in the highway system. The Legislature further finds that the public interest would be served by the formation of a coordinated scenic byways program to enhance recreational, cultural, and archaeological resources, encourage economic development through tourism, improve the transportation system, and educate residents and visitors on the history, culture, and natural beauty of this state. In order to implement this program, the Legislature has determined that a two-tiered structure would best serve the governance of the Alabama Scenic Byways program. The Legislature recognizes that the application of this act is meant to add value to the community, and that public involvement, specifically the rights and interests of private property owners, must be considered in implementing provisions of this act and in the designation of byways. Specifically, any such actions taken which affect private property are subject to statutes and regulations otherwise established in accordance with the United States Constitution and the Constitution of Alabama of 1901.

Section 3. The Alabama Scenic Byways program is hereby established through a two-tiered system consisting of a Designating Committee and an Advisory Council. Appointments to the committee and the council shall be made within 30 days and 45 days, respectively, of the effective date of this act. Organizational meetings of the committee and the council shall be held within 60 days of the effective date of this act. The Advisory Council and the Designating Committee may adopt such organizational and administrative rules and procedures deemed necessary to conduct business.

Section 4. (a) The Designating Committee shall consist of a state legislator to be appointed by the Governor, a state Senator appointed by the President Pro Tempore of the Senate, a member of the House of Representatives appointed by the Speaker of the House, and the heads, or their official designees, of the following seven departments:

- (1) The Alabama Department of Transportation.
- (2) The Alabama Bureau of Tourism and Travel.
- (3) The Alabama Historical Commission.
- (4) The Alabama Council on the Arts.
- (5) The Alabama Department of Economic and Community Affairs.
- (6) The Alabama Department of Conservation and Natural Resources.
- (7) The Alabama Forestry Commission.

(b) The Designating committee shall perform the following duties:

- (1) Designate as scenic byways from the highways recommended to it by the Advisory Council, as provided in Section 5(d).
- (2) Advise the Governor and the Legislature of each designation.

(3) Adopt procedures for the administration of designating and managing scenic byways.

(4) Remove the designation of a highway as a scenic byway where it deems appropriate.

Section 5. (a) The Advisory Council shall consist of a member of the Alabama House of Representatives appointed by the Speaker of the House, a member of the Alabama Senate appointed by the Lieutenant Governor, one member appointed by each member of the Designating Committee, three persons appointed from the state at-large by the Governor, and one representative appointed by the Governor from each of the following groups or organizations:

(1) Scenic Alabama.

(2) Alabama Environmental Council.

(3) The outdoor advertising industry.

(4) The Alabama Wildlife Federation.

(5) A business, industry, or trade association or professional organization having its principal programs extending generally throughout the state, and having a demonstrated concern for balancing economic growth with protection for the environment and increased recreational opportunities.

(6) Public utilities.

(7) Tourism associations.

(8) Real estate associations.

(9) Regional planning commissions.

(10) A statewide historic preservation organization.

(11) Forestry interests.

(12) Agricultural interest.

In making these appointments, the Governor shall ensure equitable geographic representation.

(b) Additionally, a member shall be appointed from each of the following departments or organizations:

(1) The United States Department of the Interior, designated by the Secretary of the Interior.

(2) The Alabama League of Municipalities, designated by the president of the league.

(3) The Alabama Association of County Commissions, designated by the president of the association.

(4) The Black Heritage Council designated by the chair of the council.

(5) The Alabama Association of Resource Conservation and Development Councils designated by the chair of the association.

(c) The Advisory Council shall report to the Governor and the Legislature on the progress of the implementation of this act within one year of the effective date of this act, and by January 1 of each year thereafter.

(d) The duties and responsibilities of the Advisory Council shall include the following:

(1) Providing, in the first report, a scenic byways program implementation plan identifying essential components for the Alabama Scenic Byways system, and recommending any actions by the Legislature which may be necessary to implement a cohesive and coordinated scenic byways program that would serve the goals of preserving and protecting scenic, historic, natural, recreational, cultural, and archaeological resources, enhancing recreation, promoting economic development through tourism and education in the history, culture, and natural beauty of Alabama. An initial inventory of potential scenic byways created for the Department of Transportation and the Bureau of Tourism

and Travel may be used in developing the implementation program and considered in the selection of byways.

- (2) Developing a process for nominations for scenic byway and nomination criteria.
- (3) Advising and consulting with municipalities regarding the process of recommending municipal roads for inclusion in the scenic byways program.
- (4) Encouraging towns and municipalities to designate scenic byways within their jurisdictions and to petition the Designating Committee for the inclusions of these byways into the Alabama Scenic Byways program. Such inclusion may enable the municipality to participate in any federal, state, or other funding that may be available.
- (5) Encouraging and assisting in fostering public awareness, understanding, and participation in the objectives and functions of the scenic byways program.
- (6) Providing municipalities with tools and ideas for the enhancement and protection of designated scenic byways.
- (7) Recommending operation and management standards for highways designated as scenic byways, including strategies for maintaining or improving the qualities for which a highway is designated as a scenic byway, and for protecting and enhancing the landscape and view corridors within the public rights-of-way surrounding such a highway, provided that such standards shall have no impact on the facilities or equipment used in the generation, transmission, or distribution of electric power telecommunications, commercial mobile radio services, broadband services or existing wireless facilities. However, all new wireless services structures unless used primarily for educational purposes shall be reviewed under the terms of this act and shall consider the communication needs of the community and shall not be in conflict with any local, state, and federal laws and regulations.
- (8) Recommending standards for scenic byway-related signs, including those which identify highways as scenic byways.
- (9) Recommending standards for maintaining highway safety on the scenic byway system.
- (10) Recommending measures to safely accommodate the largest variety of scenic byway users, including, but not limited to, persons traveling by automobile, recreation vehicle, motor coach, bicycle, horse, watercraft, or by foot.
- (11) Recommending design review procedures for location of highway facilities, landscaping, and travelers facilities on the scenic byway system.
- (12) Removing the designation of a highway as a scenic byway if the highway is determined to no longer meet the criteria under which it was designated or has not adequately adhered to its submitted corridor management plan.
- (13) Advising on such other matters as may be necessary or desirable or further the purposes of this program.
- (14) Evaluating and recommending to the Designating Committee and the Legislature amendments of the statutes and regulations relevant to the furtherance of a cohesive system of scenic byways.
- (15) Making recommendations with respect to state regulatory policy consistent with the Alabama Scenic Byways program.
- (16) Establishing procedures, standards, guidelines, and plans consistent with federal, state, and local authority and recommend designations accordingly. Until all rules, procedures, guidelines, and standards are established, the federal rules for establishing a corridor management plan shall be utilized.

- (17) Recommending for designations and removal of designations as scenic byways in Alabama based on criteria which include, but shall not be limited to, the following:
  - a. Significant possession of at least one of the following intrinsic qualities: Scenic, historic, natural, recreational, cultural, or archaeological.
  - b. Demonstration in scenic byway nominations of local, private, and public support.
  - c. Presence and implementation of a corridor management plan. A corridor management plan is a written document that specifies the actions, procedures, controls, operational practice, and administrative strategies necessary to maintain the scenic, historic, cultural, recreational, archaeological, and natural qualities of the scenic byway.
  - d. Conducting a public hearing in the area of the proposed designation before a scenic byway is so designated.
- (18) Outdoor advertising shall be addressed pursuant to the following criteria:
  - a. Corridor management plans for individual byways shall include provisions for the regulation of outdoor advertising to conform with applicable federal, state, and local laws, including, but not limited to, 23 U.S.C. Section 131(s).
  - b. Corridor management plans shall also include provisions for removal of dilapidated and nonfunctional signage within six months.
  - c. Removal of any antiquated and non-applicable signs on roads and highways throughout the state within six months.

Notwithstanding the foregoing, nothing in this bill shall impede or prohibit the Alabama Department of Transportation from constructing, repairing, or maintaining any highway, road, or bridge or any other matter which falls within the jurisdiction of the Alabama Department of Transportation.

Section 6. The Advisory Council shall evaluate initial applications. Local governments in conjunction with the Advisory Council shall perform a field survey of the byway and score its qualities, with special attention paid to the scenic quality of the roadway. The following criteria and procedures shall be used for nominating potential scenic byways:

- (1) Any road corridor shall have at least one of the following six intrinsic qualities to be nominated: Scenic, natural, cultural, historic, archaeological, and recreational.
- (2) Each nomination shall be made and supported by a sponsor, including, but not limited to, any of the following: An historic preservation group, an environmental group, another nongovernmental organizations, a local government, or an individual.
- (3) The sponsor or sponsors of a potential scenic byway shall complete an application form and submit it to the Advisory Council.
- (4) Special consideration or first priority shall be given the Alabama's 10 Environmental natural Wonders, Civil War, Native American and Civil Rights sites, and the Robert Trent Jones Trial, due to their particular importance to Alabama's scenic, historic, cultural, and recreational heritage. Special consideration or first priority shall also be given to the counties with the highest unemployment rates and the slowest rates of economic growth. These sites shall go through the normal nomination procedure.
- (5) Nominations shall be accepted on an ongoing basis, but shall be evaluated and passed on to the Designating Committee on a semi-annual basis, beginning one year from the effective date of this act.

Section 7. This act shall become effective on the first day of the third month following its passage and approval by the Governor, or its otherwise becoming law.

President and Presiding Officer of the Senate

Speaker of the House of Representatives

SB438

Senate 18-APR-2000

I hereby certify that the within Act originated in and passed the Senate.

McDowell Lee

Secretary

House of Representatives

Amended and passed 11-MAY-2000

Senate concurred in House amendment 11-MAY-2000

By: Senator Mitchell