

## MEMORANDUM



**DATE:** March 11, 2019  
**TO:** House Appropriations Subcommittee on Transportation  
**FROM:** William E. Hamilton  
**RE:** State Transportation Commission/Michigan Department of Transportation

This paper describes the authority of the State Transportation Commission with respect to the Michigan Department of Transportation and the Department Director.

### ***Constitutional Authority***

The State Transportation Commission is established in Article V, Section 28 of the 1963 Michigan Constitution. That section directs that the State Transportation Commission “*shall establish policy for the state transportation department transportation programs and facilities, and such other public works of the state as provided by law.*” The section also provides for a Director of the State Transportation Department who “*shall be appointed as provided by law and shall be the principal executive officer of the state transportation department and shall be responsible for executing the policy of the state transportation commission.*”<sup>1</sup>

### ***Statutory Authority***

Public Act 286 of 1964 (MCL 247.801 et. seq.) provides for the organization, powers, and duties of the State Transportation Commission and State Transportation Department, and for the appointment, powers, and duties of the State Transportation Director.

The act states that the powers and duties of the State Transportation Commission shall include the establishment of “transportation policies for the guidance and direction of the director” and the “the awarding of all contracts for construction, improvement, and maintenance of highways and transportation facilities under its jurisdiction, as provided by law.”

Section 7 of Public Act 286 grants to the State Transportation Commission authority to buy, hold, and sell real or personal property.<sup>2</sup>

Attorney General Opinion No 5547 issued August 16, 1979 indicated that the power granted to the State Transportation Commission by Public Act 484 of 1978, which amended Public Act 286,

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<sup>1</sup> The current language of Article 5, Section 28 reflects a 1978 amendment (Proposal M) to Article V, Section 28 of the 1963 Constitution. This amendment changed the name of the Commission from the State Highway Commission to the State Transportation Commission and the name of the department from the State Highway Department to the Department of Transportation. The amendment also limited the authority of the Commission to establishing policy. Prior the adoption of Proposal M the Commission had constitutional authority to “administer the state highway department.”

<sup>2</sup> The specific language in Section 7 states that the powers and duties of the Commission *shall* include “the awarding of all contracts for construction, improvement, and maintenance of highways and transportation facilities under its jurisdiction, as provided by law.” The section further states that the Commission *may* “acquire, own, and hold real and personal property in the name of the state or the Commission and sell, lease, or otherwise dispose of, or encumber, the same in furtherance of, its duties and the purposes of this act.” [Emphasis added].