

1 SB320
2 167127-3
3 By Senators Singleton and Allen
4 RFD: Transportation and Energy
5 First Read: 31-MAR-15

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3
4 ENGROSSED

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7 A BILL
8 TO BE ENTITLED
9 AN ACT

10
11 To amend Sections 23-1-154, 23-1-155, 23-1-156,
12 23-1-157, and 23-1-158, Code of Alabama 1975, relating to
13 authorization to issue bonds without regard to principal
14 amount for public roadway improvements on terms established by
15 the authority and payable from appropriations received by the
16 authority and amounts paid to the authority from counties,
17 municipalities, public corporations and other governmental
18 entities pursuant to funding agreements with the authority,
19 and other revenues or funds of the authority; authority for
20 municipalities, counties, public corporations and other
21 governmental entities to enter funding agreements with the
22 authority; authorizes the authority to receive donations; and
23 changes in membership of the governing body and officers of
24 the Alabama Highway Authority.

25 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

1 Section 1. Sections 23-1-154, 23-1-155, 23-1-156,
2 23-1-157, and 23-1-158 of the Code of Alabama 1975, are
3 amended to read as follows:

4 "§23-1-154.

5 ~~"The applicants named in the application, and their~~
6 ~~respective successors in office, shall constitute the members~~
7 ~~of the corporation.~~ The ~~Director of Finance~~ Governor shall be
8 the president of the corporation, the ~~Executive Secretary to~~
9 ~~the Governor~~ Director of Finance shall be the vice-president
10 of the corporation, the Director of Transportation shall be
11 the secretary of the corporation, and the State Treasurer
12 shall be the treasurer of the corporation and shall act as
13 custodian of its funds. The ~~members of the corporation~~
14 Governor, the Director of Transportation, the Director of
15 Finance, the State Treasurer, and the Attorney General shall
16 constitute all the members of the board of directors of the
17 corporation, and any three members of the ~~said~~ board of
18 directors shall constitute a quorum for the transaction of
19 business. Should any of ~~said~~ the officials of the state die or
20 should his or her term of office as Governor, Director of
21 Finance, Director of Transportation, Attorney General, or
22 State Treasurer ~~or Executive Secretary to the Governor,~~ as the
23 case may be, expire, or should he or she resign therefrom, his
24 or her successor in office shall take his or her place as a
25 member, officer, and director of the corporation. No member,
26 officer, or director of the corporation shall draw any salary,
27 in addition to that now authorized by law, for any service he

1 or she may render or any duty he or she may perform in
2 connection with the corporation. All proceedings had and done
3 by the board of directors shall be reduced to writing by the
4 secretary of the corporation ~~and recorded in a substantially~~
5 ~~bound book~~. Copies of such proceedings, when certified by the
6 secretary of the corporation under the seal of the
7 corporation, shall be received in all courts as prima facie
8 evidence of the matters and things therein certified.

9 "§23-1-155.

10 "The corporation shall have all of the following
11 powers:

12 "(1) To have perpetual succession by its corporate
13 name unless sooner dissolved pursuant to Section 23-1-160~~7~~.

14 "(2) To maintain actions and have actions maintained
15 against it and to prosecute and defend in any court having
16 jurisdiction of the subject matter and of the parties~~7~~.

17 "(3) To have and to use a corporate seal and to
18 alter the same at pleasure~~7~~.

19 "(4) To construct, reconstruct~~l~~ and relocate, or to
20 cause to be constructed, reconstructed~~l~~ and relocated, public
21 roads~~l~~ and bridges, and approaches thereto, tunnels, and other
22 public roadway improvements, including work incidental or
23 related thereto, in the State of Alabama~~7~~.

24 "(5) To acquire by purchase, gift or condemnation or
25 any other lawful means and to convey, or cause to be conveyed,
26 ~~to the State of Alabama~~ any real, personal~~l~~ or mixed property
27 or materials necessary or convenient in connection with the

1 construction, reconstruction, or relocation of public roads,
2 ~~and~~ bridges and approaches thereto, tunnels and other public
3 roadway improvements in the State of Alabama ~~or the~~
4 ~~reconstruction or relocation of public roads and bridges in~~
5 ~~said state;.~~

6 "(6) To exercise the right of eminent domain as
7 freely and completely as, and in the same manner that, the
8 State of Alabama is empowered to exercise such right;.

9 "(7) To borrow money for its corporate purposes and,
10 in evidence of such borrowing, to sell and issue its bonds and
11 to refund any thereof by the issuance of refunding bonds (any
12 such bonds, including refunding bonds, being collectively
13 referred to in this article as "bonds");.

14 "~~(8) As security for payment of the principal of and~~
15 ~~the interest on its bonds, to pledge the proceeds of the~~
16 ~~appropriations and pledges provided for in this article; and~~
17 To receive and accept aid, grants, funds, gifts, donations,
18 contributions, and appropriations from any source, whether
19 governmental or nongovernmental, of either money, revenues,
20 appropriations, real or personal property, labor, or other
21 things of value, and to pledge such amounts as security for
22 payment of the principal of and the interest on bonds of the
23 corporation.

24 "(9) To appoint and employ such officers, attorneys
25 and agents as the business of the corporation may require.

26 "(10) To make and enter into contracts and
27 agreements necessary for, or incidental to, the performance of

1 its duties and the execution of its powers under this article,
2 including contracts and agreements for professional services
3 deemed necessary for such purposes by the corporation. In
4 addition to and in conjunction with other authority to enter
5 into contracts as may be provided by law, the corporation may
6 enter into contracts, agreements, or understandings with, but
7 not limited to, individuals, corporations, partnerships,
8 limited liability companies, or other private parties; public
9 or private partnerships, or both, or other similar joint
10 ventures; or the federal government, any department, agency,
11 governmental or quasi-governmental body, public corporation,
12 instrumentality, or subdivision of the United States, the
13 State of Alabama, or any other state of the United States, or
14 any agency, governmental or quasi-governmental body,
15 instrumentality, or subdivision thereof for the construction,
16 reconstruction, or relocation of any public road, bridge and
17 approaches thereto, tunnel, other public roadway improvements,
18 and work incidental or related thereto in the State of
19 Alabama.

20 "(11) To make and enter into any agreement or
21 agreements with any municipality, county, or public
22 corporation in the state described in subsection (k) of
23 Section 23-1-157.

24 "§23-1-156.

25 "All contracts of the corporation for the
26 construction, reconstruction and relocation of public roads,
27 and bridges and approaches thereto, tunnels, other public

1 roadway improvements, and work incidental or related thereto
2 and the acquisition of property necessary therefor, shall be
3 in writing, shall be subject to the rules and regulations and
4 shall be let under the supervision of the ~~State~~ Department of
5 Transportation and shall be subject to approval by the
6 Governor and by the State Department of Transportation. All
7 work provided for in any ~~such~~ contract shall be supervised by
8 the ~~State~~ Department of Transportation or as otherwise
9 provided through agreement with the Department of
10 Transportation. All persons engaged in the supervision or
11 performance of any such work of construction, reconstruction,
12 or relocation that may be done by the corporation without the
13 award of a contract therefor shall be employees of the ~~State~~
14 Department of Transportation or as otherwise provided through
15 agreement with the Department of Transportation. The
16 corporation shall make and enforce all reasonable rules and
17 regulations not inconsistent with the terms of this article or
18 the laws of the State of Alabama as may in its opinion be
19 proper and suitable for the protection of ~~said~~ roads, bridges,
20 and approaches thereto, tunnels, and other public roadway
21 improvements and appurtenances and for the safety of the
22 traveling public. Any property acquired by the corporation by
23 purchase, condemnation or otherwise shall be forthwith
24 conveyed to the State of Alabama. ~~All roads and bridges~~
25 ~~constructed by the corporation shall constitute part of the~~
26 ~~public highway system in the state~~ or as otherwise provided
27 through agreement with the department.

1 "§23-1-157.

2 "(a) The bonds of the corporation shall be signed by
3 its president or vice president and attested by its secretary,
4 ~~and all interest coupons applicable to such bonds shall be~~
5 ~~signed by the president;~~ provided, that a facsimile of the
6 signature of ~~one, but not of both, of said~~ the officers may be
7 imprinted or otherwise reproduced on any such bonds in lieu of
8 ~~their being manually signed and a facsimile of the president's~~
9 ~~signature may be imprinted or otherwise reproduced on any such~~
10 ~~interest coupons in lieu of their being manually signed~~ his or
11 her signing the same. The seal of the corporation shall be
12 affixed to such bonds; provided, that a facsimile of ~~said~~ the
13 seal may be imprinted or otherwise reproduced on any such
14 bonds in lieu of being manually affixed thereon.

15 "(b) Any bonds of the corporation may be executed
16 and delivered at any time and from time to time, shall be in
17 such form and denominations and of such tenor and maturities,
18 shall bear such rate or rates of interest payable and
19 evidenced in such manner, may contain provisions for
20 redemption prior to maturity and may contain other provisions
21 not inconsistent with this article, all as may be provided by
22 the resolution of the board of directors whereunder such bonds
23 are authorized to be issued; provided, that no bond of the
24 corporation shall have a specified maturity date later than ~~20~~
25 30 years after its date. ~~Any bond of the corporation having a~~
26 ~~specified maturity date more than five years after its date~~
27 ~~shall be made subject to redemption at the option of the~~

1 ~~corporation at the end of the fifth year after its date and on~~
2 ~~any interest payment date thereafter under such terms and~~
3 ~~conditions as may be provided in the resolution under which~~
4 ~~such bond is authorized to be issued.~~

5 "(c) Bonds of the corporation may be sold from time
6 to time as the board of directors may deem advantageous;
7 ~~provided, that the aggregate principal amount of bonds of the~~
8 ~~corporation which may be issued under this article shall be~~
9 ~~limited to \$50,000,000.00, but the said limitation shall not~~
10 ~~apply to refunding bonds which may be issued under this~~
11 ~~article and also shall not apply to bonds of the corporation~~
12 ~~which may be issued under any other act which may at any time~~
13 ~~be enacted; provided further, that no bonds shall be issued~~
14 ~~under this article by the corporation in any instance where~~
15 ~~the aggregate of the principal thereof and interest thereon~~
16 ~~maturing during any fiscal year of the State of Alabama, when~~
17 ~~added to the total principal and interest maturing during the~~
18 ~~same fiscal year with respect to all bonds of the corporation~~
19 ~~then outstanding, if any there be, including bonds issued~~
20 ~~under this article and any other bonds of the corporation,~~
21 ~~exceeds 50 percent of the sum of, in the case of bonds issued~~
22 ~~during either of the fiscal years ending September 30, 1955,~~
23 ~~and September 30, 1956, one ninth of the proceeds of the~~
24 ~~gasoline excise tax levied under Section 40-17-31, collected~~
25 ~~by the State of Alabama during the fiscal year ending~~
26 ~~September 30, 1954, or, in the case of bonds issued during any~~
27 ~~fiscal year ending subsequent to September 30, 1956, two~~

1 ~~twenty-firsts of the proceeds of the gasoline excise tax~~
2 ~~levied under Section 40-17-31, collected by the State of~~
3 ~~Alabama during the fiscal year next preceding the fiscal year~~
4 ~~during which such bonds shall be issued without limit as to~~
5 ~~principal amount.~~

6 ~~"(d) Bonds of the corporation must may be sold only~~
7 ~~at public or private sale, either on sealed bids or at public~~
8 ~~auction,. If at public sale, the bonds may be sold only to the~~
9 ~~bidder whose bid reflects the lowest net interest cost to the~~
10 ~~corporation for the bonds being sold, computed to their~~
11 ~~respective maturities, in such a manner and at such price or~~
12 ~~prices and at such time or times as may be determined by the~~
13 ~~board of directors to be most advantageous; provided, that if~~
14 ~~no bid acceptable to the corporation is received, it may~~
15 ~~reject all bids. Notice of each such sale shall be given by~~
16 ~~publication in either a financial journal or a financial~~
17 ~~newspaper published in the City of New York, New York, and~~
18 ~~also by publication in a newspaper published in the State of~~
19 ~~Alabama which is customarily published not less than six days~~
20 ~~during each calendar week, each of which notices must be~~
21 ~~published at least one time not less than 10 days prior to the~~
22 ~~date fixed for the sale. The board of directors may fix the~~
23 ~~terms and conditions under which each such sale may be held;~~
24 ~~provided, that none of the bonds may be sold for a price less~~
25 ~~than the face value thereof and provided, further, that such~~
26 ~~terms and conditions shall not conflict with any of the~~
27 ~~requirements of this article.~~

1 "~~(e)~~ (d) Subject to the provisions and limitations
2 contained in this article, the corporation may, from time to
3 time, sell and issue refunding bonds for the purpose of
4 refunding any matured or unmatured bonds of the corporation
5 issued under this article and then outstanding.

6 "~~(f)~~ (e) Approval by the Governor of Alabama of the
7 terms and conditions under which any bonds of the corporation
8 may be issued shall be requisite to their validity. ~~Such~~
9 ~~approval shall be entered on the minutes of the respective~~
10 ~~meetings of the board of directors at which the bonds are~~
11 ~~authorized and shall be signed by the Governor. Such approval~~
12 ~~by the Governor may be shown on any such bonds by his~~
13 ~~facsimile signature when authorization thereof is contained in~~
14 ~~the said approval signed by him.~~

15 "~~(g)~~ (f) The corporation may pay out of the proceeds
16 from the sale of its bonds all expenses, including fees of
17 fiscal agents and attorneys, the fees of financial advisors,
18 and other charges, which ~~said~~ the board of directors may deem
19 necessary and advantageous in connection with the issuance of
20 such bonds. Bonds issued by the corporation under this article
21 shall not be general obligations of the corporation, but shall
22 be payable solely out of the funds appropriated and pledged
23 therefor, out of funds received by the corporation under any
24 agreement or agreements with one or more municipalities,
25 counties, or public corporations in the state, or out of such
26 other funds or revenues as the corporation is permitted to use
27 for such purpose.

1 "~~(h)~~(g) As security for the payment of the principal
2 of and interest on any bonds issued by it under this article
3 the corporation is hereby authorized and empowered to pledge
4 for payment of ~~said the~~ principal and interest the funds that
5 are appropriated and pledged for payment of ~~said the~~ principal
6 and interest, and any amounts received by the corporation
7 under any agreement or agreements with one or more
8 municipalities, counties, or public corporations in the state.
9 All such pledges made by the corporation shall take precedence
10 in the order ~~of the adoption of~~ specified in the resolutions
11 containing such pledges. All contracts made and all bonds
12 issued by the corporation pursuant to the provisions of this
13 article shall be solely and exclusively obligations of the
14 corporation and shall not be an obligation or debt of the
15 State of Alabama. Bonds issued by the corporation under this
16 article shall be construed to be negotiable instruments
17 although payable solely from a specified source as provided in
18 this article.

19 "~~(i)~~(h) All bonds issued by the corporation and the
20 income therefrom shall be exempt from all taxation in the
21 State of Alabama. Any bonds issued by the corporation may be
22 used by the holder thereof as security for any funds belonging
23 to the state or to any instrumentality or agency of the state
24 in any instance where security for such deposits may be
25 required by law.

26 "~~(j)~~(i) Unless otherwise directed by the court
27 having jurisdiction thereof or by the document that is the

1 source of authority, a trustee, executor, administrator,
2 guardian or one acting in any other fiduciary capacity may, in
3 addition to any other investment powers conferred by law and
4 with the exercise of reasonable business prudence, invest
5 trust funds in bonds of the corporation.

6 ~~"(k)(j)~~ Neither a public hearing nor consent by the
7 state Department of Finance or any other department or agency
8 shall be a prerequisite to the issuance of bonds of the
9 corporation.

10 "(k) Each municipality, county, and public
11 corporation in the state may enter an agreement or agreements
12 with the corporation to provide security for payment of
13 principal of and interest on those bonds issued by the
14 corporation and described in the agreement or agreements as
15 the same shall respectively come due, and under which
16 agreement or agreements the municipality, county, or public
17 corporation may undertake the obligation to pay amounts to the
18 corporation sufficient to provide for payment of such
19 principal and interest, and agree to pledge for payment of
20 such amounts those sources of revenue or funds of the
21 municipality, county, or public corporation that may be
22 lawfully pledged thereby for such purpose.

23 "§23-1-158.

24 "(a) The proceeds of all bonds, other than refunding
25 bonds, issued by the corporation, remaining after paying the
26 expenses of their issuance, shall be turned in to the
27 Treasury, ~~shall be carried in the Public Road and Bridge~~

1 ~~Account~~ or shall be deposited into such account or accounts as
2 specified in the resolution of the board of directors
3 whereunder such bonds are authorized to be issued, and shall
4 be subject to be drawn on ~~by the corporation,~~ upon the
5 approval of the ~~State~~ Department of Transportation ~~and the~~
6 ~~Governor,~~ but solely for the purpose of constructing,
7 reconstructing, and relocating public roads, ~~and bridges and~~
8 approaches thereto, tunnels, other public roadway
9 improvements, or work incidental or related thereto, in the
10 State of Alabama, including the acquisition of property
11 necessary for such construction, reconstruction, and
12 relocation and incidental and related work; ~~provided, that if~~
13 ~~such.~~ If action ~~shall be~~ is necessary in order to comply with
14 any federal legislation relating to federal aid in
15 construction of roads, the corporation may authorize the ~~State~~
16 Department of Transportation to expend directly any portion of
17 such proceeds for constructing, reconstructing and relocating
18 such roads, ~~and bridges and approaches thereto, tunnels, other~~
19 public roadway improvements, or work incidental or related
20 thereto. The proceeds from the sale of any refunding bonds of
21 the corporation remaining after paying the expenses of their
22 issuance shall be used only for the purpose of refunding the
23 principal of outstanding bonds of the corporation and of
24 paying any premium that may be necessary to be paid in order
25 to redeem or retire the bonds to be refunded.

1 "(b) Proceeds from the sale of any bonds may be
2 invested in permitted investments pending their disposition.
3 As used in this subsection, permitted investments shall mean:

4 "(1) Any bonds or other obligations which as to
5 principal and interest constitute direct obligations of, or
6 are unconditionally guaranteed by, the United States of
7 America, including obligations of any federal agency to the
8 extent such obligations are unconditionally guaranteed by the
9 United States of America and any certificates or any other
10 evidences of an ownership interest in such obligations of, or
11 unconditionally guaranteed by, the United States of America or
12 in specified portions thereof (which may consist of the
13 principal thereof or the interest thereon).

14 "(2) Bonds, debentures, notes, or other evidences of
15 indebtedness issued by any of the following agencies: Bank for
16 Cooperatives; Federal Intermediate Credit Banks; Federal
17 Financing Bank; Federal Home Loan Banks; Federal Farm Credit
18 Bank; Export-Import Bank of the United States; Federal Land
19 Banks; or Farmers Home Administration or any other agency or
20 corporation which has been or may hereafter be created by or
21 pursuant to an act of the Congress of the United States as an
22 agency or instrumentality thereof.

23 "(3) Bonds, notes, pass through securities, or other
24 evidences of indebtedness of Government National Mortgage
25 Association and participation certificates of Federal Home
26 Loan Mortgage Corporation.

1 "(4) Full faith and credit obligations of any state,
2 provided that at the time of purchase such obligations are
3 rated at least "AA" by Standard and Poor's Ratings Group and
4 at least "Aa" by Moody's Investors Service.

5 "(5) Public housing bonds issued by public agencies
6 or municipalities and fully secured as to the payment of both
7 principal and interest by contracts with the United States of
8 America, or temporary notes, preliminary notes, or project
9 notes issued by public agencies or municipalities, in each
10 case fully secured as to the payment to both principal and
11 interest by a requisition or payment agreement with the United
12 States of America.

13 "(6) Time deposits evidenced by certificates of
14 deposit issued by banks or savings and loan associations which
15 are members of the Federal Deposit Insurance Corporation,
16 provided that, to the extent such time deposits are not
17 covered by federal deposit insurance, such time deposits
18 (including interest thereon) are fully secured by a pledge of
19 obligations described in subdivisions (1), (2), (3), and (5),
20 which at all times have a market value not less than the
21 amount of such bank time deposits required to be so secured
22 and which meet the greater of 100 percent collateralization or
23 the "AA" collateral levels established by Standard and Poor's
24 Ratings Group for structured financings.

25 "(7) Repurchase agreements for obligations of the
26 type specified in subdivisions (1), (2), (3), and (5),
27 provided such repurchase agreements are fully collateralized

1 and secured by such obligations which have a market value at
2 least equal to the purchase price of such repurchase
3 agreements which are held by a depository satisfactory to the
4 State Treasurer in such manner as may be required to provide a
5 perfected security interest in such obligations, and which
6 meet the greater of 100 percent collateralization or the "AA"
7 collateral levels established by Standard and Poor's Ratings
8 Group for structured financings.

9 "(8) Uncollateralized investment agreements with, or
10 certificates of deposit issued by, banks or bank holding
11 companies, the senior long-term securities of which are rated
12 at least "AA" by Standard and Poor's Ratings Group and at
13 least "Aa" by Moody's Investors Service."

14 Section 2. All laws or parts of laws which conflict
15 with this act are repealed.

16 Section 3. The provisions of this act are severable.
17 If any part of this act is declared invalid or
18 unconstitutional, that declaration shall not affect the part
19 which remains.

20 Section 4. This act shall become effective
21 immediately following its passage and approval by the
22 Governor, or its otherwise becoming law.

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Senate

Read for the first time and referred to the Senate
committee on Transportation and Energy..... 31-MAR-15

Read for the second time and placed on the calen-
dar with 1 substitute and..... 09-APR-15

Read for the third time and passed as amended 16-APR-15

Yeas 34
Nays 0

Patrick Harris
Secretary