

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

1 SB320

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3  
4 ENROLLED, An Act,

5 To amend Sections 23-1-154, 23-1-155, 23-1-156,  
6 23-1-157, and 23-1-158, Code of Alabama 1975, relating to  
7 authorization to issue bonds without regard to principal  
8 amount for public roadway improvements on terms established by  
9 the authority and payable from appropriations received by the  
10 authority and amounts paid to the authority from counties,  
11 municipalities, public corporations and other governmental  
12 entities pursuant to funding agreements with the authority,  
13 and other revenues or funds of the authority; authority for  
14 municipalities, counties, public corporations and other  
15 governmental entities to enter funding agreements with the  
16 authority; authorizes the authority to receive donations; and  
17 changes in membership of the governing body and officers of  
18 the Alabama Highway Authority.

19 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

20 Section 1. Sections 23-1-154, 23-1-155, 23-1-156,  
21 23-1-157, and 23-1-158 of the Code of Alabama 1975, are  
22 amended to read as follows:

23 "§23-1-154.

24 ~~"The applicants named in the application, and their~~  
25 ~~respective successors in office, shall constitute the members~~

1 ~~of the corporation.~~ The ~~Director of Finance~~ Governor shall be  
2 the president of the corporation, the ~~Executive Secretary to~~  
3 ~~the Governor~~ Director of Finance shall be the vice-president  
4 of the corporation, the Director of Transportation shall be  
5 the secretary of the corporation, and the State Treasurer  
6 shall be the treasurer of the corporation and shall act as  
7 custodian of its funds. The ~~members of the corporation~~  
8 Governor, the Director of Transportation, the Director of  
9 Finance, the State Treasurer, and the Attorney General shall  
10 constitute all the members of the board of directors of the  
11 corporation, and any three members of the ~~said~~ board of  
12 directors shall constitute a quorum for the transaction of  
13 business. Should any of ~~said~~ the officials of the state die or  
14 should his or her term of office as Governor, Director of  
15 Finance, Director of Transportation, Attorney General, or  
16 State Treasurer ~~or Executive Secretary to the Governor,~~ as the  
17 case may be, expire, or should he or she resign therefrom, his  
18 or her successor in office shall take his or her place as a  
19 member, officer, and director of the corporation. No member,  
20 officer, or director of the corporation shall draw any salary,  
21 in addition to that now authorized by law, for any service he  
22 or she may render or any duty he or she may perform in  
23 connection with the corporation. All proceedings had and done  
24 by the board of directors shall be reduced to writing by the  
25 secretary of the corporation ~~and recorded in a substantially~~

1 ~~bound book~~. Copies of such proceedings, when certified by the  
2 secretary of the corporation under the seal of the  
3 corporation, shall be received in all courts as prima facie  
4 evidence of the matters and things therein certified.

5 "§23-1-155.

6 "The corporation shall have all of the following  
7 powers:

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

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

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

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

20 "(5) To acquire by purchase, gift or condemnation or  
21 any other lawful means and to convey, or cause to be conveyed,  
22 ~~to the State of Alabama~~ any real, personal~~7~~ or mixed property  
23 or materials necessary or convenient in connection with the  
24 construction, reconstruction, or relocation of public roads~~7~~,  
25 ~~and~~ bridges and approaches thereto, tunnels and other public

1 roadway improvements in the State of Alabama ~~or the~~  
2 ~~reconstruction or relocation of public roads and bridges in~~  
3 ~~said state;.~~

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

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

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

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

24 "(10) To make and enter into contracts and  
25 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.

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

1 purchase, condemnation or otherwise shall be forthwith  
2 conveyed to the State of Alabama. ~~All roads and bridges~~  
3 ~~constructed by the corporation shall constitute part of the~~  
4 ~~public highway system in the state~~ or as otherwise provided  
5 through agreement with the department.

6 "§23-1-157.

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

20 "(b) Any bonds of the corporation may be executed  
21 and delivered at any time and from time to time, shall be in  
22 such form and denominations and of such tenor and maturities,  
23 shall bear such rate or rates of interest payable and  
24 evidenced in such manner, may contain provisions for  
25 redemption prior to maturity and may contain other provisions

1 not inconsistent with this article, all as may be provided by  
2 the resolution of the board of directors whereunder such bonds  
3 are authorized to be issued; provided, that no bond of the  
4 corporation shall have a specified maturity date later than 20  
5 30 years after its date. ~~Any bond of the corporation having a~~  
6 ~~specified maturity date more than five years after its date~~  
7 ~~shall be made subject to redemption at the option of the~~  
8 ~~corporation at the end of the fifth year after its date and on~~  
9 ~~any interest payment date thereafter under such terms and~~  
10 ~~conditions as may be provided in the resolution under which~~  
11 ~~such bond is authorized to be issued.~~

12 " (c) Bonds of the corporation may be sold from time  
13 to time as the board of directors may deem advantageous;  
14 ~~provided, that the aggregate principal amount of bonds of the~~  
15 ~~corporation which may be issued under this article shall be~~  
16 ~~limited to \$50,000,000.00, but the said limitation shall not~~  
17 ~~apply to refunding bonds which may be issued under this~~  
18 ~~article and also shall not apply to bonds of the corporation~~  
19 ~~which may be issued under any other act which may at any time~~  
20 ~~be enacted; provided further, that no bonds shall be issued~~  
21 ~~under this article by the corporation in any instance where~~  
22 ~~the aggregate of the principal thereof and interest thereon~~  
23 ~~maturing during any fiscal year of the State of Alabama, when~~  
24 ~~added to the total principal and interest maturing during the~~  
25 ~~same fiscal year with respect to all bonds of the corporation~~

1 then outstanding, if any there be, including bonds issued  
2 under this article and any other bonds of the corporation,  
3 exceeds 50 percent of the sum of, in the case of bonds issued  
4 during either of the fiscal years ending September 30, 1955,  
5 and September 30, 1956, one ninth of the proceeds of the  
6 gasoline excise tax levied under Section 40-17-31, collected  
7 by the State of Alabama during the fiscal year ending  
8 September 30, 1954, or, in the case of bonds issued during any  
9 fiscal year ending subsequent to September 30, 1956, two  
10 twenty-firsts of the proceeds of the gasoline excise tax  
11 levied under Section 40-17-31, collected by the State of  
12 Alabama during the fiscal year next preceding the fiscal year  
13 during which such bonds shall be issued without limit as to  
14 principal amount.

15 "(d) Bonds of the corporation ~~must~~ may be sold ~~only~~  
16 at public or private sale, ~~either on sealed bids or at public~~  
17 auction,. If at public sale, the bonds may be sold only to the  
18 bidder whose bid reflects the lowest net interest cost to the  
19 corporation for the bonds being sold, computed to their  
20 respective maturities, in such a manner and at such price or  
21 prices and at such time or times as may be determined by the  
22 board of directors to be most advantageous; provided, that if  
23 no bid acceptable to the corporation is received, it may  
24 reject all bids. ~~Notice of each such sale shall be given by~~  
25 ~~publication in either a financial journal or a financial~~

1 newspaper published in the City of New York, New York, and  
2 also by publication in a newspaper published in the State of  
3 Alabama which is customarily published not less than six days  
4 during each calendar week, each of which notices must be  
5 published at least one time not less than 10 days prior to the  
6 date fixed for the sale. The board of directors may fix the  
7 terms and conditions under which each such sale may be held;  
8 provided, that none of the bonds may be sold for a price less  
9 than the face value thereof and provided, further, that such  
10 terms and conditions shall not conflict with any of the  
11 requirements of this article.

12 ~~"(e)~~ (d) Subject to the provisions and limitations  
13 contained in this article, the corporation may, from time to  
14 time, sell and issue refunding bonds for the purpose of  
15 refunding any matured or unmatured bonds of the corporation  
16 issued under this article and then outstanding.

17 ~~"(f)~~ (e) Approval by the Governor of Alabama of the  
18 terms and conditions under which any bonds of the corporation  
19 may be issued shall be requisite to their validity. ~~Such~~  
20 ~~approval shall be entered on the minutes of the respective~~  
21 ~~meetings of the board of directors at which the bonds are~~  
22 ~~authorized and shall be signed by the Governor. Such approval~~  
23 ~~by the Governor may be shown on any such bonds by his~~  
24 ~~facsimile signature when authorization thereof is contained in~~  
25 ~~the said approval signed by him.~~

1           "~~(g)~~ (f) The corporation may pay out of the proceeds  
2 from the sale of its bonds all expenses, including fees of  
3 fiscal agents and attorneys, the fees of financial advisors,  
4 and other charges, which ~~said the~~ board of directors may deem  
5 necessary and advantageous in connection with the issuance of  
6 such bonds. Bonds issued by the corporation under this article  
7 shall not be general obligations of the corporation, but shall  
8 be payable solely out of the funds appropriated and pledged  
9 therefor, out of funds received by the corporation under any  
10 agreement or agreements with one or more municipalities,  
11 counties, or public corporations in the state, or out of such  
12 other funds or revenues as the corporation is permitted to use  
13 for such purpose.

14           "~~(h)~~ (g) As security for the payment of the principal  
15 of and interest on any bonds issued by it under this article  
16 the corporation is hereby authorized and empowered to pledge  
17 for payment of ~~said the~~ principal and interest the funds that  
18 are appropriated and pledged for payment of ~~said the~~ principal  
19 and interest, and any amounts received by the corporation  
20 under any agreement or agreements with one or more  
21 municipalities, counties, or public corporations in the state.  
22 All such pledges made by the corporation shall take precedence  
23 in the order ~~of the adoption of~~ specified in the resolutions  
24 containing such pledges. All contracts made and all bonds  
25 issued by the corporation pursuant to the provisions of this

1 article shall be solely and exclusively obligations of the  
2 corporation and shall not be an obligation or debt of the  
3 State of Alabama. Bonds issued by the corporation under this  
4 article shall be construed to be negotiable instruments  
5 although payable solely from a specified source as provided in  
6 this article.

7 "~~(i)~~(h) All bonds issued by the corporation and the  
8 income therefrom shall be exempt from all taxation in the  
9 State of Alabama. Any bonds issued by the corporation may be  
10 used by the holder thereof as security for any funds belonging  
11 to the state or to any instrumentality or agency of the state  
12 in any instance where security for such deposits may be  
13 required by law.

14 "~~(j)~~(i) Unless otherwise directed by the court  
15 having jurisdiction thereof or by the document that is the  
16 source of authority, a trustee, executor, administrator,  
17 guardian or one acting in any other fiduciary capacity may, in  
18 addition to any other investment powers conferred by law and  
19 with the exercise of reasonable business prudence, invest  
20 trust funds in bonds of the corporation.

21 "~~(k)~~(j) Neither a public hearing nor consent by the  
22 state Department of Finance or any other department or agency  
23 shall be a prerequisite to the issuance of bonds of the  
24 corporation.

1           "(k) Each municipality, county, and public  
2           corporation in the state may enter an agreement or agreements  
3           with the corporation to provide security for payment of  
4           principal of and interest on those bonds issued by the  
5           corporation and described in the agreement or agreements as  
6           the same shall respectively come due, and under which  
7           agreement or agreements the municipality, county, or public  
8           corporation may undertake the obligation to pay amounts to the  
9           corporation sufficient to provide for payment of such  
10           principal and interest, and agree to pledge for payment of  
11           such amounts those sources of revenue or funds of the  
12           municipality, county, or public corporation that may be  
13           lawfully pledged thereby for such purpose.

14           "§23-1-158.

15           "(a) The proceeds of all bonds, other than refunding  
16           bonds, issued by the corporation, remaining after paying the  
17           expenses of their issuance, shall be turned in to the  
18           Treasury, shall be carried in the Public Road and Bridge  
19           Account or shall be deposited into such account or accounts as  
20           specified in the resolution of the board of directors  
21           whereunder such bonds are authorized to be issued, and shall  
22           be subject to be drawn on by the corporation, upon the  
23           approval of the State Department of Transportation and the  
24           Governor, but solely for the purpose of constructing,  
25           reconstructing, and relocating public roads, and bridges and

1 approaches thereto, tunnels, other public roadway  
2 improvements, or work incidental or related thereto, in the  
3 State of Alabama, including the acquisition of property  
4 necessary for such construction, reconstruction, and  
5 relocation and incidental and related work; ~~provided, that if~~  
6 ~~such.~~ If action ~~shall be~~ is necessary in order to comply with  
7 any federal legislation relating to federal aid in  
8 construction of roads, the corporation may authorize the ~~State~~  
9 Department of Transportation to expend directly any portion of  
10 such proceeds for constructing, reconstructing and relocating  
11 such roads, ~~and~~ bridges and approaches thereto, tunnels, other  
12 public roadway improvements, or work incidental or related  
13 thereto. The proceeds from the sale of any refunding bonds of  
14 the corporation remaining after paying the expenses of their  
15 issuance shall be used only for the purpose of refunding the  
16 principal of outstanding bonds of the corporation and of  
17 paying any premium that may be necessary to be paid in order  
18 to redeem or retire the bonds to be refunded.

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

22 "(1) Any bonds or other obligations which as to  
23 principal and interest constitute direct obligations of, or  
24 are unconditionally guaranteed by, the United States of  
25 America, including obligations of any federal agency to the

1 extent such obligations are unconditionally guaranteed by the  
2 United States of America and any certificates or any other  
3 evidences of an ownership interest in such obligations of, or  
4 unconditionally guaranteed by, the United States of America or  
5 in specified portions thereof (which may consist of the  
6 principal thereof or the interest thereon).

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

16 "(3) Bonds, notes, pass through securities, or other  
17 evidences of indebtedness of Government National Mortgage  
18 Association and participation certificates of Federal Home  
19 Loan Mortgage Corporation.

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

24 "(5) Public housing bonds issued by public agencies  
25 or municipalities and fully secured as to the payment of both

1 principal and interest by contracts with the United States of  
2 America, or temporary notes, preliminary notes, or project  
3 notes issued by public agencies or municipalities, in each  
4 case fully secured as to the payment to both principal and  
5 interest by a requisition or payment agreement with the United  
6 States of America.

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

19 "(7) Repurchase agreements for obligations of the  
20 type specified in subdivisions (1), (2), (3), and (5),  
21 provided such repurchase agreements are fully collateralized  
22 and secured by such obligations which have a market value at  
23 least equal to the purchase price of such repurchase  
24 agreements which are held by a depository satisfactory to the  
25 State Treasurer in such manner as may be required to provide a

1 perfected security interest in such obligations, and which  
2 meet the greater of 100 percent collateralization or the "AA"  
3 collateral levels established by Standard and Poor's Ratings  
4 Group for structured financings.

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

10 Section 2. All laws or parts of laws which conflict  
11 with this act are repealed.

12 Section 3. The provisions of this act are severable.  
13 If any part of this act is declared invalid or  
14 unconstitutional, that declaration shall not affect the part  
15 which remains.

16 Section 4. This act shall become effective  
17 immediately following its passage and approval by the  
18 Governor, or its otherwise becoming law.

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President and Presiding Officer of the Senate

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Speaker of the House of Representatives

SB320

Senate 16-APR-15

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

Patrick Harris  
Secretary

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House of Representatives  
Passed: 14-MAY-15

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By: Senator Singleton