

1 SB339
2 135911-3
3 By Senators Bussman, Whatley, Ward, Allen, Reed, Orr,
4 Scofield, Williams, Taylor, Holtzclaw, Pittman, Keahey, Marsh,
5 Waggoner, Sanford, McGill and Bedford
6 RFD: Agriculture, Conservation, and Forestry
7 First Read: 16-FEB-12

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4 ENGROSSED

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7 A BILL
8 TO BE ENTITLED
9 AN ACT

10
11 To make further provision for the financing and
12 construction of public roads and bridges in the state by the
13 issuance of bonds by the Alabama Highway Authority; to
14 authorize the authority to sell and issue from time to time
15 not exceeding, in the case of bonds other than refunding
16 bonds, six hundred fifty million dollars (\$650,000,000)
17 aggregate principal amount of bonds; to authorize the
18 authority, subject to certain findings and determinations, to
19 issue and sell refunding bonds to refund bonds issued by the
20 authority under this act; to provide for the details and the
21 method of execution of the bonds; to provide that the bonds
22 shall be sold at public sale and that the authority shall
23 determine the manner, terms, and conditions of the sale, and
24 to make other provisions respecting the sale and the permitted
25 uses, applications, and investments of proceeds from the sale
26 of the bonds including refunding bonds; to provide for the

1 establishment, from the proceeds, of certain funds and for the
2 use of the funds and any investment earnings thereon; to
3 create the Public Road and Bridge Construction Council to
4 review proposals and authorize funding for projects; to
5 allocate proceeds of bonds to pay construction costs for
6 projects authorized by the Council; to permit the authority
7 and the Department of Transportation to enter into agreements
8 respecting the disbursement of proceeds of bonds; to provide
9 that bonds issued under this act shall not create an
10 obligation or debt of the state but shall be limited
11 obligations payable solely out of the revenues of the
12 authority appropriated and pledged therefor; to provide that
13 the bonds may be used to secure deposits of funds of the state
14 and its instrumentalities and agencies and shall be lawful for
15 the investment of trust funds; to provide a mechanism for
16 defeasance of the bonds; to appropriate and pledge funds
17 identified in this act to the extent necessary to pay the
18 principal of, premium, if any, and interest on the bonds; to
19 authorize the authority to pledge for payment of the principal
20 of, premium, if any, and interest on the bonds the moneys
21 appropriated and pledged in this act for such purpose; to
22 preserve prior pledges and covenants by the state; to adopt
23 certain provisions of the act of the Legislature creating the
24 authority; to provide for a covenant of the Legislature not to
25 reduce below certain levels appropriated and pledged taxes
26 while any of the bonds are outstanding and unpaid; to

1 authorize the disbursement of moneys pledged for payment of
2 the bonds; to provide that if any portion of this act is held
3 invalid the holding shall not affect the validity of any other
4 portion hereof; and to specify the effective date of this act.

5 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

6 Section 1. Where used in this act the following
7 words and terms shall be given the following respective
8 meanings unless the context clearly indicates otherwise:

9 (1) AUTHORITY. The Alabama Highway Authority, a
10 public corporation and instrumentality of the state which was
11 organized and is existing under the provisions of the 1955
12 Act.

13 (2) BOARD OF DIRECTORS. The board of directors of
14 the authority.

15 (3) BONDS. The bonds authorized in Section 2 of this
16 act to be sold and issued by the authority, and includes all
17 refunding bonds issued hereunder.

18 (4) CODE. The Code of Alabama 1975.

19 (5) CONSTRUCTION COSTS. All costs associated with
20 the construction, improvement, and rehabilitation of roads and
21 bridges, including engineering and feasibility studies and the
22 acquisition of real property and interests therein, and all
23 other costs of the type normally incurred with the
24 construction, improvement, and rehabilitation of roads and
25 bridges in the state.

1 (6) CONSTRUCTION FUND. The Alabama Highway
2 Authority Road and Bridge Construction Fund provided for in
3 Section 7 of this act.

4 (7) COUNCIL. The Public Road and Bridge Construction
5 Council provided for in Section 8.

6 (8) DEPARTMENT. The Department of Transportation
7 created in Article 2 of Chapter 1 of Title 23 of the Code.

8 (9) GOVERNMENT SECURITIES. Any bonds or other
9 obligations which as to principal and interest constitute
10 direct obligations of, or are unconditionally guaranteed by,
11 the United States of America, including obligations of any
12 federal agency to the extent the obligations are
13 unconditionally guaranteed by the United States of America and
14 any certificates or any other evidences of an ownership
15 interest in the obligation of, or unconditionally guaranteed
16 by, the United States of America or in specified portions
17 thereof, which may consist of the principal thereof or the
18 interest thereon.

19 (10) MOTOR FUEL TAX. The \$.13 per gallon excise tax
20 on motor fuel levied in Chapter 17 of Title 40 of the Code, as
21 amended.

22 (11) NET MOTOR FUEL TAX PROCEEDS. The entire
23 proceeds from the \$.13 per gallon motor fuel tax, less the
24 cost of collection and less any refunds of the proceeds
25 pursuant to Chapter 17 of Title 40.

1 (12) PERMITTED INVESTMENTS. a. Government
2 securities; b. bonds, debentures, notes, or other evidences
3 of indebtedness issued by any of the following agencies: Bank
4 for Cooperatives; Federal Intermediate Credit Banks; Federal
5 Financing Bank; Federal Home Loan Banks; Federal Farm Credit
6 Bank; Export-Import Bank of the United States; Federal Land
7 Banks, or Farmers Home Administration or any other agency or
8 corporation which has been or may hereafter be created by or
9 pursuant to an act of the Congress of the United States as an
10 agency or instrumentality thereof; c. bonds, notes, pass
11 through securities, or other evidences of indebtedness of GNMA
12 and participation certificates of FHLMC; d. full faith and
13 credit obligations of any state, provided that at the time of
14 purchase the obligations are rated at least AA by Standard
15 & Poor's Ratings Services and at least Aa by Moody's
16 Investors Service, Inc., or comparable successor ratings; e.
17 public housing bonds issued by public agencies or
18 municipalities and fully secured as to the payment of both
19 principal and interest by contracts with the United States of
20 America, or temporary notes, preliminary notes, or project
21 notes issued by public agencies or municipalities, in each
22 case fully secured as to the payment of both principal and
23 interest by a requisition or payment agreement with the United
24 States of America; f. time deposits evidenced by certificates
25 of deposit issued by banks or savings associations whose
26 deposits are insured by the Federal Deposit Insurance

1 Corporation, provided that, to the extent the time deposits
2 exceed available federal deposit insurance, the time deposits
3 are fully secured by obligations described in paragraphs a.,
4 b., c., and e. above, which at all times have a market value,
5 exclusive of accrued interest, at least equal to the bank time
6 deposits so secured, including interest, and g. repurchase
7 agreements for obligations of the type specified in paragraphs
8 a., b., c., and e. above, provided the repurchase agreements
9 are fully collateralized and secured by the obligations which
10 have a market value, exclusive of accrued interest, at least
11 equal to the purchase price of the repurchase agreements and
12 which are held by a depository satisfactory to the State
13 Treasurer in the manner as may be required to provide a
14 perfected security interest in the obligation, and which meet
15 the greater of 100% collateralization or the AA collateral
16 levels established by Standard & Poor's Ratings Services
17 for structured financing.

18 (13) PLEDGED AMOUNTS. a. Pledged revenues; b.
19 proceeds of bonds; c. income derived from investment and
20 reinvestment of proceeds of the bonds; and d. proceeds from
21 any bond insurance policy, letter of credit, or other credit
22 enhancement arrangement.

23 (14) PLEDGED REVENUES. The entire \$.13 per gallon
24 net motor fuel tax proceeds.

25 (15) PROJECTS. The construction provided for in
26 Section 8.

1 (16) REFUNDING BONDS. Bonds issued by the authority
2 to refund bonds issued pursuant to the provisions hereof and
3 authorized by Section 3 to be sold and issued by the
4 authority.

5 (17) RURAL AREA. Any areas classified as such by the
6 United States Census Bureau, and includes any areas that may
7 be hereafter reclassified.

8 (18) STATE. The State of Alabama.

9 (19) STATE TREASURER. The State Treasurer of the
10 state.

11 (20) 1955 ACT. Act 43 enacted at the 1955 First
12 Special Session of the Legislature, as amended.

13 Section 2. The Alabama Highway Authority, a public
14 corporation heretofore incorporated pursuant to the 1955 Act,
15 may sell and issue its bonds in an aggregate principal amount
16 not exceeding six hundred fifty million dollars
17 (\$650,000,000); provided, that the limitation shall not apply
18 to refunding bonds. The powers conferred on the authority by
19 this act are in addition to all powers heretofore conferred on
20 the authority by the 1955 Act or any other act heretofore
21 adopted by the Legislature. The authority shall have
22 succession by its corporate name until all principal,
23 interest, and premium, if any, on all bonds issued hereunder
24 shall have been paid in full.

25 Section 3. (a) The bonds herein authorized may be
26 sold by the authority as soon as practical in a series, and if

1 sold in more than one series may all be authorized in one
2 initial resolution of the board of directors as parity bonds
3 with the pledges therefor made in the initial resolution
4 although some of the details applicable to each series may be
5 specified in the respective resolutions under which the
6 different series are issued. Each series of the bonds shall
7 be sold at public sale either on sealed bids or at a public
8 auction, on a basis determined by the authority to enable it
9 to effect the sale of the bonds being sold at the lowest
10 effective borrowing cost to the authority; provided, that if
11 no bid acceptable to the authority is received it may reject
12 all bids. Notice of each public sale shall be given by
13 publication in one or more newspapers published in the state
14 or by distribution of a summary notice of sale or both, in
15 such form and published in such manner and at such times as
16 the board of directors may determine. The board of directors
17 may fix the terms and conditions under which each such sale
18 may be held; provided, that all bonds must be issued within
19 one year following the effective date of this act.

20 (b) Any bonds issued by the authority may from time
21 to time be refunded by the issuance, sale, or exchange of
22 refunding bonds payable from the same or different sources for
23 the purpose of paying all or any part of the principal of the
24 bonds to be refunded, any redemption premium required to be
25 paid as a condition to the redemption prior to maturity of the
26 bonds that are to be so redeemed in connection with the

1 refunding, any accrued and unpaid interest on the bonds to be
2 refunded, any interest to accrue on each bond to be refunded
3 to the date on which it is to be paid, whether at maturity or
4 by redemption prior to maturity, and the expenses incurred in
5 connection with the refunding.

6 (c) Refunding bonds shall be issued only if the
7 authority determines that (1) the present value of all debt
8 service on the refunding bonds to be issued, computed by
9 applying a discount rate equal to the true interest rate or
10 cost of the refunding bonds and taking into account all
11 underwriting discount and other issuance expenses, is not
12 greater than 95 percent of the present value of all debt
13 service on the bonds to be refunded, computed by applying the
14 same discount rate and taking into account the underwriting
15 discount and other issuance expenses originally applicable to
16 such bonds, determined as if the bonds to be refunded were
17 paid and retired in accordance with the schedule of
18 maturities, considering mandatory redemption as scheduled
19 maturity, provided at the time of their issuance, and (2) the
20 average maturity of the refunding bonds, measured from the
21 date of issuance of the refunding bonds, does not exceed by
22 more than three years the average maturity of the bonds to be
23 refunded, measured from the date of issuance, with the average
24 maturity of the principal amount of the refunding bonds and
25 the bonds to be refunded to be determined by multiplying the
26 principal of each maturity by the number of years, including

1 any fractional part of a year, intervening between the date of
2 issuance and each maturity, taking the sum of all products and
3 dividing the sum by the aggregate principal amount of bonds
4 for which the average maturity is computed.

5 (d) The bonds of the authority may be executed and
6 delivered by it at anytime and from time to time, shall be in
7 such forms and denominations and of such tenor and maturities,
8 either serial or term or a combination thereof, shall bear
9 such rate or rates of interest payable and evidenced in such
10 manner, and may contain other provisions not inconsistent with
11 this act, all as may be provided in the resolution or
12 resolutions of the board of directors in which the bonds are
13 authorized to be issued; provided, that no bond shall have a
14 specified maturity date, including sinking fund redemptions,
15 later than 20 years after its date.

16 (e) The board of directors and the State Treasurer
17 may in connection with the issuance of bonds designate and
18 engage one or more paying agents with respect to the bonds and
19 may enter into contracts with banks and trust companies to act
20 as registrars, paying agents, escrow agents, transfer agents,
21 depositories for safekeeping, agents for the delivery and
22 payment of bonds, authenticating agents, or otherwise.

23 (f) The authority may, in any resolution or
24 resolutions under which any bonds are issued, retain an option
25 to redeem all or any thereof at the redemption price or prices
26 and after the notice or notices and on such terms and

1 conditions and at such time or times as may be set forth in
2 the resolution or resolutions and as may be briefly recited on
3 the bonds with respect to which the option of redemption is
4 retained.

5 (g) In addition to all other powers granted to the
6 authority in this act, the authority shall have the power to
7 do any and all things necessary, convenient, or desirable to
8 carry out its purposes and exercise the powers given and
9 granted in this act.

10 (h) Approval by the Governor of the terms and
11 conditions under which any of the bonds may be issued shall be
12 requisite to their validity, which approval signed by the
13 Governor shall be entered on the minutes of the respective
14 meetings of the board of directors at which the series of the
15 bonds proposed to be issued are authorized or sold.

16 (i) Neither a public hearing nor consent of the
17 State Department of Finance or any other department or agency
18 shall be prerequisite to the issuance of bonds by the
19 authority.

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

1 (k) Unless otherwise directed by the court having
2 jurisdiction thereof or by the document that is the source of
3 authority, a trustee, executor, administrator, guardian, or
4 one acting in any other fiduciary capacity may, in addition to
5 any other investment powers conferred by law and with the
6 exercise of reasonable business prudence, invest trust and
7 other fiduciary funds in bonds of the authority.

8 Section 4. All bonds of the authority shall be
9 signed by its president, and the seal of the authority shall
10 be affixed thereto and attested by its secretary. The
11 signatures of the president and secretary may be facsimile
12 signatures and a facsimile of the seal of the authority may be
13 imprinted on the bonds if the board of directors, in its
14 proceedings with respect to issuance of the bonds, provides
15 for manual authentication of the bonds by a trustee or paying
16 agent or by named individuals who are employees of the state
17 and who are assigned to the Department of Finance or office of
18 the State Treasurer. Delivery of bonds so executed shall be
19 valid notwithstanding any changes in officers or in the seal
20 of the authority after the signing and sealing of the bonds.

21 Section 5. (a) For the purpose of providing funds to
22 enable the authority to pay at their respective maturities,
23 sinking fund redemption dates, or due dates the principal of,
24 premium, if any, and interest on any bonds, including
25 refunding bonds, that may be issued by the authority under the
26 provisions of this act, there is hereby irrevocably pledged to

1 said purpose and appropriated, and the authority is authorized
2 to pledge the entire proceeds of the pledged revenue.
3 Provided, however, all amounts of the pledged revenue in
4 excess of the amounts required for this purpose shall be
5 allocated as provided in Chapter 17 of Title 40.

6 (b) All moneys hereby appropriated and pledged shall
7 constitute a sinking fund for the purpose of paying the
8 principal of, premium, if any, and the interest on the bonds.
9 As security for the payment of the principal of, premium, if
10 any, and interest on the bonds issued under this act, the
11 authority is authorized to pledge the pledged amounts.

12 (c) Each pledge of the pledged amounts made pursuant
13 to this act shall be valid and binding from the time the
14 pledge is made. The income or revenue from the pledged
15 amounts so pledged shall immediately be subject to the lien of
16 the pledge without any physical delivery thereof or further
17 act, and the lien of any pledge shall be valid and binding as
18 against all parties having claims of any kind in tort,
19 contract, or otherwise against the state or the authority,
20 irrespective of whether the parties have notice thereof.
21 Neither the resolution nor any other instrument by which a
22 pledge is created need be filed or recorded, except in the
23 records of the authority.

24 (d) The state hereby covenants and agrees with the
25 holders of any bonds issued pursuant to this act that while
26 the bonds are outstanding and unpaid, unless provisions shall

1 have been made for the payment thereof in accordance with
2 Section 10, (1) the state shall not appropriate or pledge any
3 portion of the pledged revenues for the benefit of any
4 obligations that may at any time be issued pursuant to any
5 statute superior to the pledge made herein for the benefit of
6 bonds herein authorized, and (2) the state will not
7 appropriate or pledge any portion of the pledged revenues for
8 the benefit of any obligations that may at any time be issued
9 pursuant to any statute other than this act on a parity with
10 the pledge made herein for the benefit of bonds herein
11 authorized. Nothing contained herein shall be construed so as
12 to limit the ability of the Legislature to appropriate or
13 pledge any portion of the pledged revenues for the benefit of
14 any obligations that may at any time be issued pursuant to any
15 statute subordinate to the pledge made herein for the benefit
16 of bonds.

17 (e) The authority is hereby authorized in any
18 resolution authorizing the issuance of bonds to establish a
19 debt service coverage test or tests which must be met as a
20 condition precedent to the issuance of any bonds secured by a
21 parity pledge of the pledged revenues.

22 Section 6. The bonds shall not be general
23 obligations of the authority but shall be payable solely out
24 of the funds of the authority appropriated and pledged
25 therefor in Section 5. As security for the payment of the
26 principal of, premium, if any, and interest on the bonds

1 issued by it under this act, the authority may pledge for
2 payment of the principal of, premium, if any, and interest on
3 the funds that are pledged in Section 5. All contracts made
4 and all bonds issued by the authority pursuant to this act
5 shall be solely and exclusively obligations of the authority
6 and shall not be an obligation or debt of the state.

7 Section 7. (a) The authority shall pay out of the
8 proceeds from the sale of any of the bonds all expenses that
9 the board of directors may deem necessary or advantageous in
10 connection with the sale and issuance of the bonds, including
11 without limitation, the expenses of selling and issuing the
12 bonds, fees, and disbursements of attorneys, accountants,
13 fiscal agents, financial advisors, and other consultants, fees
14 and disbursements of trustees, escrow agents, registrars,
15 paying agents, transfer agents, depositories for safekeeping,
16 authenticating agents, agents for the delivery and payment of
17 bonds, fees, and commissions of bond insurers and credit
18 enhancers, printing costs, and other customary bond issuance
19 expenses. The amount paid for these expenses shall be limited
20 to no more than two percent of the amount of bonds issued. The
21 proceeds of the bonds, other than refunding bonds, remaining
22 after paying the expenses of their sale and issuance and the
23 establishment of reserve accounts, if any, shall be deposited
24 in the State Treasury in a special fund called the Alabama
25 Highway Authority Road and Bridge Construction Fund, which

1 fund shall be kept separate and apart from all other amounts
2 on deposit in the Public Road and Bridge Fund.

3 (b) The proceeds of refunding bonds shall be
4 applied, together with any other moneys legally available
5 therefor, to the payment of any expenses of issuance
6 authorized by this act to be paid in connection with the
7 issuance of bonds issued hereunder and to the payment of the
8 principal of, premium, if any, and interest due and to become
9 due on any bonds to be refunded thereby in accordance with the
10 provision of a trust agreement or other document or documents
11 executed and delivered at the time of the issuance of the
12 refunding bonds.

13 (c) Amounts on deposit in the road and bridge
14 construction fund shall be used for the payment of
15 construction costs for the projects and uses provided for in
16 Section 8 or otherwise determined by the authority pursuant to
17 subsection (d).

18 (d) The authority may at any time following the
19 delivery of the bonds allocate and reallocate proceeds of
20 bonds permitted or required to be used for one or more
21 projects provided for in Section 8 to payment of construction
22 costs of any other road or bridge project provided for in
23 Section 8, upon a finding by the authority that it would be
24 advantageous to the state to expend the funds available or to
25 be available from the United States of America in payment of
26 costs of the projects in lieu of proceeds of bonds. Further,

1 in order to enable the authority to comply with the provisions
2 of the Internal Revenue Code of 1986, as amended, and to make
3 appropriate covenants with respect to the disposition and
4 expenditure of proceeds of bonds, the authority may, not
5 earlier than three years following the date of issuance and
6 delivery of any bonds, review the status of any projects with
7 respect to which any proceeds of bonds allocated to pay costs
8 of the projects remain unexpended. Any provisions of this act
9 to the contrary notwithstanding, the authority shall have the
10 right, at anytime and from time to time following the
11 expiration of the two years, to (1) allocate and reallocate
12 the unexpended proceeds to one or more projects provided for
13 in Section 8 which, in the judgment of the authority, shall
14 result in the most rapid expenditure of the unexpended
15 proceeds, (2) withdraw all or any portion of unexpended
16 proceeds from the road and bridge construction fund to be
17 deposited and held in an escrow fund and applied to the
18 redemption of bonds from which the unexpended proceeds were
19 derived, or (3) a combination of the foregoing.

20 (e) The road and bridge construction fund shall be
21 drawn on by order of the authority, but only for the purpose
22 of paying the expenses of issuing the bonds, paying debt
23 service on the bonds and paying construction costs, in
24 accordance with Section 8.

25 (f) Moneys on deposit in the bridge construction
26 fund and any reserve account shall be invested by the State

1 Treasurer at the direction of the authority in permitted
2 investments which mature at the time or times as the authority
3 shall direct. Interest income earned from the investment of
4 the proceeds of bonds deposited into the construction fund
5 shall be credited to the construction fund and applied for
6 payment of costs of projects and to make rebate payments to
7 the United State of America to the extent required by the
8 Internal Revenue Code of 1986, as amended. Interest income
9 from any reserve account established in connection with the
10 issuance of bonds shall be credited to the reserve account and
11 applied in accordance with the proceedings of the authority
12 pursuant to which the bonds are issued.

13 Section 8. (a) There is hereby created the Public
14 Road and Bridge Construction Council. The Council shall be
15 made up of the Director of the Department of Transportation,
16 and one member appointed by each of the following: the
17 Lieutenant Governor, Commissioner of Agriculture and
18 Industries, President Pro Tempore of the Senate, and Speaker
19 of the House of Representatives. The Lieutenant Governor and
20 legislative members of the Council shall be entitled to their
21 regular per diem unless they are already being paid, when
22 attending council meetings. The Council created by this
23 section shall review proposals and authorize funding from the
24 Road and Bridge Construction Fund on a project by project
25 basis. Counties applying for project funds shall make
26 application to the department and members of the Council. The

1 Council shall require a local match of five percent of the
2 total project cost paid by the county. Each county may not
3 receive more than five percent of bond proceeds pursuant to
4 this section. Upon the deposit of the monies into the Road and
5 Bridge Construction Fund, the Council shall meet at least
6 quarterly to consider project applications. The Council shall
7 review all proposals and authorize funding for all approved
8 projects within one year of program initiation. Three members
9 of the Council shall constitute a quorum and three members
10 must be present and vote affirmatively for the approval of any
11 project application. The Council shall hold its first meeting
12 within the first quarter following the deposit of the first
13 monies into the Road and Bridge Construction Fund. The Council
14 shall elect a chairperson at its first meeting. the
15 chairperson shall call subsequent meetings of the Council. If
16 the chairperson fails to call a meeting at least quarterly, a
17 meeting shall be held upon written request by at least three
18 members of the Council. Subject to the provisions of Section
19 7, amounts on deposit in the bridge construction fund are
20 allocated for the payment of construction costs as follows,
21 provided, that no funds allocated shall be expended for the
22 acquisition of machinery and equipment.

23 (b) Amounts allocated pursuant to subsection (a)
24 shall not be disbursed from the road and bridge construction
25 fund unless all of the following conditions are satisfied:

1 (1) One or more projects shall have been designated
2 by the county and a request for funding submitted in writing
3 to the department and the council. The request must contain
4 clearly defined rationale that includes priority given to
5 rural economic development and rural education. Factors
6 affecting the priority should include distances from primary,
7 secondary, or tertiary roads, schools, manufacturing
8 facilities, farming operations, the number of school age
9 children affected by time and mileage savings, the solution
10 proposed, and the condition of the road and bridge
11 infrastructure as determined by the Department of
12 Transportation guidelines.

13 (2) Plans and specifications for the project or
14 projects prepared by or under the supervision of the county
15 engineer or other licensed engineer registered in this state
16 designated by the county, shall have been submitted to the
17 department.

18 (3) The project or projects designated by the county
19 shall meet guidelines set by the Department of Transportation
20 and an agreement respecting the administration and
21 construction of the project or projects, in such form as shall
22 be prescribed by the department, shall have been entered into
23 between the department and the county undertaking such
24 projects.

25 (4) The construction of the project or projects
26 shall conform to the department standard specifications and

1 shall be carried out under the inspection and supervision of
2 the county engineer or other licensed civil engineer
3 registered in this state designated by the county.

4 (5) The project or projects approved for funding
5 shall be completed within one year of initial funding (within
6 two years after all bonds authorized by this act have been
7 issued).

8 (c) Amounts allocated pursuant to this section shall
9 be applied for payment of construction costs as the work
10 progresses, and the amounts shall be disbursed from the road
11 and bridge construction fund according to procedures
12 prescribed by the department and the authority. The
13 department shall, with respect to each series of bonds issued
14 hereunder, give notice to the counties of the availability of
15 amounts on deposit in the road and bridge construction fund.

16 (d) The authority and the department are hereby
17 authorized to enter into agreements setting forth the
18 procedures for the disbursement of amounts on deposit in the
19 construction fund in accordance with this section and Section
20 7.

21 (e) Up to twenty-five percent of funds allocated
22 under this section shall be expended on road projects in lieu
23 of bridges.

24 (f) The Council shall report to the Legislature and
25 the public on a quarterly basis regarding (1) the projects
26 approved for funding from this act; (2) the status of each

1 project approved; and (3) outcomes of completed projects. The
2 Council shall also be subject to an annual audit by the
3 Examiners of Public Accounts.

4 Section 9. It is the intention of the Legislature in
5 enacting this act to preserve inviolate all appropriations and
6 pledges heretofore made of any portion of the pledged revenues
7 for the benefit of the outstanding bonds.

8 Section 10. In addition to Section 8, the provisions
9 of Section 8 of the 1955 Act with respect to highway and
10 bridge construction, the letting and approval of contracts
11 therefor, the supervision of construction, the making of rules
12 and regulations for protection of public ways and of the
13 traveling public shall apply to the projects the construction
14 costs with respect to which are funded in whole or in part
15 with proceeds of the bonds.

16 Section 11. (a) The Legislature of the state agrees
17 that while any bonds are outstanding and unpaid, unless
18 provision shall have been made for the payment thereof in
19 accordance with the provisions of this section, it will not
20 repeal, amend, or modify any law pertaining to the pledged
21 revenues herein pledged to the payment of the bonds pursuant
22 to Section 5 hereof if the effect thereof would be to result
23 in a reduction in the amount of pledged revenues so
24 appropriated and pledged, unless, assuming the repeal,
25 amendment, or modification had been in effect throughout the
26 immediately preceding fiscal year of the state, the remaining

1 pledged revenues after giving effect to the repeal, amendment,
2 or modification would have equaled at least two and one-half
3 times the maximum principal and interest requirement which
4 will fall due in any subsequent period of 12 months on all
5 then outstanding bonds and any other bonds to which such taxes
6 and fees are pledged on a parity with the bonds.

7 (b) For purposes of this section and subsection (d)
8 of Section 5, bonds shall be deemed to be not outstanding if
9 there shall be filed with the State Treasurer and any paying
10 agent with respect to the bonds being refunded each of the
11 following: (1) a trust agreement making provision for the
12 retirement of the bonds by creating for that purpose an
13 irrevocable trust fund sufficient to provide for payment and
14 retirement of the bonds, including payment of the interest
15 that will mature thereon until and on the dates they are
16 retired, as such interest becomes due and payable, either by
17 redemption prior to their respective maturities, by payment at
18 their respective maturities, or by payment of part thereof at
19 their respective maturities and redemption of the remainder
20 prior to their respective maturities, which trust fund shall
21 consist of a. government securities which are not subject to
22 redemption prior to their respective maturities at the option
23 of the issuer and which, if the principal thereof and the
24 interest thereon are paid at their respective maturities, will
25 produce funds sufficient so to provide for payment and
26 retirement of such bonds, or b. both cash and securities

1 which together will produce funds sufficient for the purpose,
2 or c. cash sufficient for the purpose; (2) a certified copy
3 of a resolution calling for redemption those of the bonds
4 that, according to the trust agreement, are to be redeemed
5 prior to their respective maturities; (3) evidence that
6 required notice of the redemption has been given pursuant to
7 the proceedings under which the bonds to be refunded were
8 issued or that irrevocable powers for the giving of the
9 redemption notice have been conferred on any paying agent or
10 trustee with respect to the bonds.

11 Section 12. Out of the moneys pledged in Section 5
12 of this act, the State Treasurer is authorized and directed to
13 pay the principal of, premium, if any, and interest on the
14 bonds as provided in the resolution of the authority pursuant
15 to which the bonds are issued.

16 Section 13. The authority shall have the power to
17 make the payments to the United States of America required to
18 be made to cause the interest on bonds of the authority to be
19 and remain exempt from federal income taxation. The authority
20 shall have the power to make agreements respecting the
21 investment of funds and to create separate accounts within the
22 construction fund to the extent that the authority shall deem
23 necessary in order that the interest income on bonds of the
24 authority be and remain exempt from federal income taxation.

25 Section 14. All laws or parts of laws which conflict
26 with this act are repealed.

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

5 Section 16. This act shall become effective
6 immediately upon approval by the Governor or upon its
7 otherwise becoming law.

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Senate

Read for the first time and referred to the Senate
committee on Agriculture, Conservation, and For-
estry..... 16-FEB-12

Read for the second time and placed on the calen-
dar..... 28-FEB-12

Read for the third time and passed as amended 12-APR-12

Yeas 27
Nays 0

Patrick Harris
Secretary