

1 SB179  
2 119118-2  
3 By Senators Mitchell and Marsh  
4 RFD: Governmental Affairs  
5 First Read: 12-JAN-10

1 SB179

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3  
4 ENROLLED, An Act,

5 Relating to the 21st Century Authority; to provide  
6 further for the Alabama Construction Recruitment Institute and  
7 its powers and the Recruitment Training and Promotion Fund; to  
8 amend Sections 41-10-621, 41-10-622, 41-10-626, 41-10-629, and  
9 41-10-673, Code of Alabama 1975, as amended by Act 2009-563,  
10 2009 Regular Session (Acts 2009, p. 1762); to add Article 18  
11 (commencing with Section 41-10-720) to Chapter 10 of Title 41,  
12 Code of Alabama 1975; to amend and renumber Sections 1 to 6,  
13 inclusive, of Act 2009-561, 2009 Regular Session (Acts 2009,  
14 p. 1760), now appearing as Sections 41-10-700 to 41-10-705,  
15 inclusive, as Division 2 of Article 18 of Chapter 10, Title  
16 41, Code of Alabama 1975; to separate the institute from the  
17 authority; to authorize certain employees of the institute to  
18 receive certain retirement and health insurance benefits upon  
19 petition; to provide that employees of the institute are not  
20 state employees; to provide for deposit of certain  
21 construction craft industry fees into the Recruitment and  
22 Promotion Fund in the State Treasury and appropriate the fund  
23 to the institute; to provide for the transfer to the  
24 Recruitment Training and Promotion Fund of certain fees  
25 previously collected and paid to the 21st Century Authority

1 Fund; to clarify which employers are subject to the fee; to  
2 provide further for the powers of the institute; to authorize  
3 the board of the institute to expend the moneys in the  
4 Recruitment Training and Promotion Fund; to subject the  
5 institute to annual audit by the Department of Examiners of  
6 Public Accounts; and to provide further for the construction  
7 craft industry fee.

8 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

9 Section 1. Sections 41-10-621, 41-10-622, 41-10-626,  
10 41-10-629, and 41-10-673, Code of Alabama 1975, as amended by  
11 Act 2009-563, 2009 Regular Session (Acts 2009, p. 1762), are  
12 amended to read as follows:

13 "§41-10-621.

14 "(a) The Legislature finds and declares the  
15 following:

16 "(1) The State of Alabama has a great need from time  
17 to time to have access to financing for economic development  
18 and industrial recruitment that does not involve improvements  
19 to revenue-producing facilities.

20 "(2) It is desirable and in the public interest to  
21 establish a state-level authority with the power to issue  
22 bonds for such general purposes.

23 "(3) The Alabama Supreme Court has held, in effect,  
24 that only when the debt of a public corporation is payable out  
25 of a new revenue source will such debt not be considered a

1 debt of the state in contravention of Section 213 of the  
2 Constitution of Alabama of 1901; the State of Alabama expects  
3 to receive in the near future new revenues from the settlement  
4 of certain litigation between the state and the tobacco  
5 industry.

6 "(4) By the passage of this division, it is the  
7 intention of the Legislature to:

8 "a. Provide for the creation of a special fund known  
9 as the Alabama 21st Century Fund into which tobacco revenues  
10 will be deposited.

11 "b. Authorize the incorporation of the Alabama 21st  
12 Century Authority, which will have the power to issue bonds in  
13 limited amounts as provided in this division and for the  
14 purpose of promoting economic development and industrial  
15 recruitment, subject to legislative approval by separate act,  
16 which bonds may be payable out of specified monies held in the  
17 Alabama 21st Century Fund and other monies and property  
18 available to the authority.

19 "c. Appropriate annually for the payment of such  
20 bonds a portion of the revenues held in the Alabama 21st  
21 Century Fund.

22 "(b) The Legislature further finds and declares that  
23 it is desirable and in the public interest that tobacco  
24 revenues in an amount of up to \$60,000,000 in the fiscal year  
25 ending September 30, 2000, up to \$65,000,000 in the fiscal

1 year ending September 30, 2001, and up to \$70,000,000 in the  
2 fiscal year ending September 30, 2002, and in each fiscal year  
3 thereafter be transferred to the Children First Trust Fund to  
4 be appropriated by the Legislature, upon the recommendation of  
5 the Governor, for programs authorized by the Children First  
6 Act, Section 41-15B-1.

7 "(c) The Legislature further finds and declares that  
8 it is desirable and in the public interest that tobacco  
9 revenues remaining each fiscal year after the distributions in  
10 subsection (a) (4)c. and subsection (b) be distributed to the  
11 Alabama Senior Services Trust Fund and the State General Fund  
12 for Medicaid purposes.

13 "§41-10-622.

14 "When used in this division, the following terms  
15 shall have the following meanings, unless the context clearly  
16 indicates otherwise:

17 "(1) APPROPRIATED FUNDS. The tobacco revenues  
18 deposited in the special fund to the extent such revenues are  
19 appropriated to the authority pursuant to Section 41-10-630.

20 "(2) AUTHORITY. The Alabama 21st Century Authority  
21 authorized to be established pursuant to Section 41-10-623.

22 "(3) BONDS. Those bonds, including refunding bonds,  
23 issued pursuant to this division.

24 "(4) GOVERNMENT SECURITIES. Any bonds or other  
25 obligations which as the principal and interest constitute

1 direct obligations of, or are unconditionally guaranteed by,  
2 the United States of America, including obligations of any  
3 federal agency to the extent such obligations are  
4 unconditionally guaranteed by the United States of America and  
5 any certificates or any other evidences of an ownership  
6 interest in such obligations of, or unconditionally guaranteed  
7 by, the United States of America or in specified portions  
8 thereof, which may consist of the principal thereof or the  
9 interest thereon.

10 "(5) PERMITTED INVESTMENTS. (i) Government  
11 Securities; (ii) bonds, debentures, notes, or other evidences  
12 of indebtedness issued by any of the following agencies: Bank  
13 for Cooperatives; federal intermediate credit banks; Federal  
14 Financing Bank; federal home loan banks; Federal Farm Credit  
15 Bank; Export-Import Bank of the United States; federal land  
16 banks; or Farmers Home Administration or any other agency or  
17 corporation which has been or may hereafter be created by or  
18 pursuant to an act of the Congress of the United States as an  
19 agency or instrumentality thereof; (iii) bonds, notes, pass  
20 through securities or other evidences of indebtedness of the  
21 Government National Mortgage Association and participation  
22 certificates of the Federal Home Loan Mortgage Corporation;  
23 (iv) full faith and credit obligations of any state, provided  
24 that at the time of purchase such obligations are rated at  
25 least "AA" by Standard & Poor's Ratings Group and at least

1 "Aa" by Moody's Investors Service; (v) public housing bonds  
2 issued by public agencies or municipalities and fully secured  
3 as to the payment of both principal and interest by contracts  
4 with the United States of America, or temporary notes,  
5 preliminary notes, or project notes issued by public agencies  
6 or municipalities, in each case fully secured as to the  
7 payment of both principal and interest by contracts with the  
8 United States of America, or temporary notes, preliminary  
9 notes or project notes issued by public agencies or  
10 municipalities, in each case fully secured as to the payment  
11 of both principal and interest by a requisition or payment  
12 agreement with the United States of America; (vi) time  
13 deposits evidenced by certificates of deposit issued by banks  
14 or savings and loan associations which are members of the  
15 Federal Deposit Insurance Corporation, provided that, to the  
16 extent such time deposits are not covered by federal deposit  
17 insurance, such time deposits (including interest thereon) are  
18 fully secured by a pledge of obligations described in items  
19 (i), (ii), (iii), and (v) above, which at all times have a  
20 market value not less than the amount of such bank time  
21 deposits required to be so secured and which meet the greater  
22 of 100 percent collateralization or the "AA" collateral levels  
23 established by Standard & Poor's Ratings Group for structured  
24 financings; (vii) repurchase agreements for obligations of the  
25 type specified in items (i), (ii), (iii), and (v) above,

1 provided such repurchase agreements are fully collateralized  
2 and secured by such obligations which have a market value at  
3 least equal to the purchase price of such repurchase  
4 agreements which are held by a depository satisfactory to the  
5 State Treasurer in such manner as may be required to provide a  
6 perfected security interest in such obligations, and which  
7 meet the greater of 100 percent collateralization or the "AA"  
8 collateral levels established by Standard & Poor's Ratings  
9 Group for structured financings; and (viii) uncollateralized  
10 investment agreements with, or certificates of deposit issued  
11 by, banks or bank holding companies, the senior long-term  
12 securities of which are rated at least "AA" by Standard &  
13 Poor's Ratings Group and at least "Aa" by Moody's Investors  
14 Service.

15 "(6) REFUNDING BONDS. Those refunding bonds issued  
16 pursuant to this division.

17 "(7) SPECIAL FUND. The Alabama 21st Century Fund  
18 established pursuant to Section 41-10-629.

19 "(8) STATE. The State of Alabama.

20 "(9) TOBACCO REVENUES. Revenues received by the  
21 state pursuant to any federal tobacco-related settlement, any  
22 tobacco-related appropriations made by the United States  
23 Congress to the State of Alabama, or any revenues received by  
24 the state from litigation against any tobacco-related  
25 industry.



1           "§41-10-626.

2           "(a) General. The authority is authorized from time  
3 to time to sell and issue its bonds in limited amounts and for  
4 the purpose of promoting economic development and industrial  
5 recruitment as specified by the Legislature from time to time  
6 by separate act, provided that refunding bonds may be issued  
7 by the authority pursuant to Section 41-10-627 without first  
8 obtaining separate authorization from the Legislature.

9           "(b) Sources of payment. Bonds issued by the  
10 authority shall be solely and exclusively an obligation of the  
11 authority and shall not create an obligation or debt of the  
12 state. Such bonds shall not be general obligations of the  
13 authority but shall be payable solely from one or more of the  
14 following sources:

15           "(1) Appropriated funds.

16           "(2) The income or proceeds realized by the  
17 authority under any mortgage or security granted to the  
18 authority.

19           "(3) Amounts derived from any letter of credit,  
20 insurance policy, or other form of credit enhancement  
21 applicable to the bonds.

22           "(4) Any reserve or other fund established for such  
23 purpose by the authority.

24           "(5) Any earnings on the proceeds of bonds invested  
25 by the authority pending their disbursement.

1           "(6) Any other revenues that may hereafter be  
2 available to the authority.

3           "All pledges of appropriated funds made by the  
4 authority shall be on a parity unless otherwise provided by  
5 the Legislature, it being the intention hereof that all bonds  
6 of the authority secured by a pledge of appropriated funds  
7 shall be equally and ratably so secured without regard to time  
8 of issuance. Bonds issued by the authority shall be construed  
9 to be negotiable instruments, although payable solely from a  
10 specified source, as provided herein.

11           "(c) Security for the bonds. The principal of and  
12 interest on any bonds issued by the authority shall be secured  
13 by a pledge of the appropriated funds or other monies and  
14 property available to the authority and may be secured by a  
15 trust indenture evidencing such pledge or by a foreclosable  
16 mortgage and deed of trust conveying as security for such  
17 bonds all, or any part, of the authority's property. The  
18 resolution under which the bonds are authorized to be issued  
19 or any such trust indenture or mortgage may contain any  
20 agreements and provisions respecting the rights, duties, and  
21 remedies of the parties to any such instrument and the parties  
22 for the benefit for whom such instrument is made and the  
23 rights and remedies available in the event of default as the  
24 authority shall deem advisable and which are not in conflict  
25 with the provisions of this division.

1           "(d) General provisions respecting form, sale, and  
2 execution of the bonds. All bonds issued by the authority  
3 shall be signed by its president and attested by its secretary  
4 and the seal of the authority shall be affixed. A facsimile of  
5 the signature of one or both of the officers may be printed or  
6 otherwise reproduced on any such bonds in lieu of being  
7 manually subscribed thereon and a facsimile of the seal of the  
8 authority may be printed or otherwise reproduced on any of the  
9 bonds in lieu of being manually affixed thereto. Any bonds of  
10 the authority may be executed and delivered by it at any time  
11 and from time to time, and shall be in the form and  
12 denominations and of such tenor and maturities, shall bear  
13 such rate or rates of interest, shall be payable at such times  
14 and evidenced in such manner, may be made subject to  
15 redemption at the option of the authority at such times and  
16 after such notice and on such conditions and at such  
17 redemption price or prices, and may contain such other  
18 provisions not inconsistent herewith, all as may be provided  
19 by the resolution of the directors of the authority under  
20 which the bonds are authorized to be issued. Bonds of the  
21 authority may be sold at a public or private sale from time to  
22 time as the directors may consider advantageous. Such bonds  
23 may be issued in the form of current interest bonds or capital  
24 appreciation bonds and may be issued as serial bonds or term  
25 bonds, all as may be directed by the authority.

1           "(e) Other matters. Any bonds of the authority may  
2 be used by the holder as security for any funds belonging to  
3 the state, or to any political subdivision, instrumentality,  
4 or agency of the state, in any instance where security for the  
5 deposits may be required by law. Unless otherwise directed by  
6 the court having jurisdiction, or the document that is the  
7 source of authority, a trustee, executor, administrator,  
8 guardian, or one acting in any other fiduciary capacity may,  
9 in addition to any other investment powers conferred by law  
10 and with the exercise of reasonable business prudence, invest  
11 trust funds and bonds of the authority. Neither a public  
12 hearing nor consent of the Department of Finance or any other  
13 department or agency shall be a prerequisite to the issuance  
14 of bonds by the authority. Bonds of the authority shall be  
15 legal investments for funds of the Teachers' Retirement System  
16 of Alabama, the Employees' Retirement System of Alabama, and  
17 the State Insurance Fund.

18           "§41-10-629.

19           "For the benefit of the State of Alabama and the  
20 citizens thereof, there is hereby created a special fund named  
21 the "Alabama 21st Century Fund" which shall be funded with  
22 tobacco revenues and administered in accordance with this di-  
23 vision. The following amounts shall be retained in the special  
24 fund in the following fiscal years and shall be used to pay

1 principal, interest, and premium, if any, due on bonds issued  
 2 by the authority.

3	"Fiscal Year	Amount to be Retained
4	2000	\$7,000,000
5	2001	9,000,000
6	2002	11,000,000
7	2003-2017	13,000,000
8	2018 and thereafter	16,000,000

9 "Pending the use of revenues in the special fund for  
 10 the payment of debt service on the bonds, such revenues shall  
 11 be invested by the State Treasurer in permitted investments  
 12 until such revenues are needed for such purposes. Earnings on  
 13 such permitted investments shall remain a part of the special  
 14 fund.

15 "§41-10-673.

16 "The authority shall have, in addition to all powers  
 17 heretofore granted to the authority pursuant to the Enabling  
 18 Act, the following powers:

19 "(1) To sell and issue the bonds authorized herein  
 20 for the purposes specified herein.

21 "(2) To pledge the pledged revenues as security for  
 22 the payment of the bonds.

1           "(3) To acquire any real or personal property and to  
2 convey the same to the companies or to any local governmental  
3 entity with or without consideration.

4           "(4) To lease any real or personal property to the  
5 companies or to any local governmental entity for use in any  
6 part of the projects.

7           "(5) To mortgage any part of the projects as  
8 security for the bonds.

9           "(6) To make, enter into, and execute contracts,  
10 agreements, or other instruments necessary to acquire or  
11 construct capital improvements to any part of the projects.

12           "(7) To incur ancillary costs, projects costs, and  
13 training costs and to pay for the same out of proceeds of the  
14 bonds, subject to the provisions of Section 41-10-677.

15           "(8) To cooperate with and provide financial  
16 assistance to local governmental entities in order to  
17 effectuate the reconstruction and improvement of the flood  
18 levees identified in subsection (a) of Section 41-10-674.

19           "(9) To reimburse any company for the payment of  
20 training costs incurred by such company pursuant to an  
21 agreement with the authority.

22           Section 2. Article 18 (commencing with Section  
23 41-10-720) is added to Chapter 10 of Title 41, Code of Alabama  
24 1975, to read as follows:

1 Article 18. ALABAMA CONSTRUCTION RECRUITMENT  
2 INSTITUTE.

3 Division 1. Authority Generally.

4 §41-10-720.

5 The Legislature makes the following findings:

6 (1) At any given time, the level of activity in our  
7 construction industry is a primary yardstick for measuring the  
8 overall economic health of this country and this state, and  
9 that the success and stability of the building, manufacturing,  
10 and commercial businesses are dependent upon a sufficient  
11 supply of skilled artisans and craft persons who can produce  
12 quality products that inspire public confidence. The State of  
13 Alabama and the nation has a great need for a program that  
14 provides for the recruitment of, and training programs and  
15 opportunities for, new construction craft trade workers. It is  
16 desirable and in the public interest to establish a public  
17 authority at the state level to create and implement such a  
18 program.

19 (2) The passage of a federal economic stimulus  
20 package provides substantial funding for significant new  
21 highway, road, bridge, and public infrastructure projects, and  
22 the Legislature recognizes that these projects will place  
23 additional demands for skilled artisans and craft persons  
24 which the existing construction workforce may not support.

1           (3) It is desirable and in the public interest that  
2 construction craft industry fees dedicated for the recruitment  
3 of and the promotion of training programs and opportunities  
4 for new construction craft workers shall be annually  
5 appropriated to the Recruitment and Training Promotion Fund  
6 and dedicated for expenses incurred or to be incurred by the  
7 Alabama Construction Recruitment Institute.

8           (4) By passage of this act, it is the intention of  
9 the Legislature to do all of the following:

10           a. Establish the Alabama Construction Recruitment  
11 Institute as an independent public authority that is separate  
12 and distinct from the Alabama 21st Century Authority.

13           b. Provide for the continuation of the special fund  
14 known as the Recruitment and Training Promotion Fund created  
15 pursuant to Act 2009-563 and provide for the deposit of  
16 certain construction craft industry fees into the Recruitment  
17 and Training Promotion Fund.

18           c. Provide that Alabama 21st Century Authority shall  
19 have no duties or powers related to the Recruitment and  
20 Training Promotion Fund.

21           d. Provide that the Alabama 21st Century Authority  
22 shall provide limited assistance to the institute for the  
23 purpose of enabling the institute to commence operations.

24           §41-10-721.



1           For purposes of this article, the following terms  
2 have the following meanings:

3           (1) CONSTRUCTION CRAFT INDUSTRY FEES. Revenues  
4 received by the state in the form of federal, state, local, or  
5 private sector grants for the purpose of providing for the  
6 recruitment of, and the promotion of training programs and  
7 opportunities for, new construction industry craft workers and  
8 fees enacted for such purpose after January 1, 2009,  
9 specifically, but not limited to, fees imposed under Division  
10 2 of this article. Except as provided in Section 41-10-732, no  
11 fee shall be collected from any licensed home builder, as  
12 defined in Chapter 14A of Title 34; from any subcontractor  
13 working on a residential construction site, including  
14 renovations to any residential structure; or from any person  
15 or entity specifically exempt under Chapter 14A of Title 34,  
16 except for subdivision (3) of Section 34-14A-6.

17           (2) INSTITUTE. The Alabama Construction Recruitment  
18 Institute, a public corporation authorized to be established  
19 pursuant to Section 41-10-723.

20           (3) RECRUITMENT AND TRAINING PROMOTION FUND. The  
21 fund established pursuant to Act 2009-563 and continued  
22 pursuant to Section 41-10-722.

23           §41-10-722.

24           The Recruitment and Training Promotion Fund, created  
25 pursuant to Act 2009-563 for the benefit of the State of

1 Alabama and the citizens thereof, shall continue to exist as a  
2 special fund in the State Treasury and shall be funded with  
3 construction craft industry fees administered in accordance  
4 with this article. The revenue received by the fund shall be  
5 invested by the State Treasurer in permitted investments until  
6 the institute uses money for the purposes established by this  
7 article. Earnings on permitted investments shall remain part  
8 of the fund.

9 Section 3. Section 2 of Act 2009-563, 2009 Regular  
10 Session (Acts 2009, p. 1762), now appearing as Sections  
11 41-10-640, 41-10-641, 41-10-642, and 41-10-643, Code of  
12 Alabama 1975, is amended and renumbered as part of Division 1  
13 of Article 18 of Chapter 10 of Title 41, Code of Alabama 1975,  
14 to read as follows:

15 "§41-10-723.

16 "(a) The Alabama Construction Recruitment Institute  
17 shall be incorporated as a public corporation with the powers  
18 herein provided.

19 "(b) The Governor, the state Commissioner of  
20 Revenue, and the Director of Finance shall present to the  
21 Secretary of State of Alabama an application signed by them  
22 which shall set forth all of the following:

23 "(1) The name, official designation, and official  
24 residence of each of the applicants and the initial appointed  
25 members of the board.

1           "(2) The date on which each applicant and member of  
2 the board took office or was appointed, respectively, by his  
3 or her respective appointing authority and the term of office  
4 of each member's respective appointing authority.

5           "(3) The location of the principal office of the  
6 proposed corporation, which shall be in the City of  
7 Montgomery.

8           "(4) Any other matter relating to the institute  
9 which the applicants may choose to insert and which is not  
10 inconsistent with this division or the laws of the state.

11           "(c) The application shall be subscribed and sworn  
12 to by each of the applicants and members before an officer  
13 authorized by the laws of the state to take acknowledgments to  
14 deeds. The Secretary of State shall examine the application  
15 and, if he or she finds that it substantially complies with  
16 the requirements of this section, it shall be filed and  
17 recorded in an appropriate book of records in the office of  
18 the Secretary of State.

19           "(d) When the application has been made, filed, and  
20 recorded as provided in subsection (c), the applicants shall  
21 constitute a corporation under the name stated in the  
22 application, and the Secretary of State shall make and issue  
23 to the applicants a certificate of incorporation pursuant to  
24 this division under the Great Seal of the State and shall  
25 record the certificate with the application. There shall be no

1 fees paid to the Secretary of State for any work done in  
2 connection with the incorporation or dissolution of the  
3 institute.

4 "§41-10-724.

5 "(a) All powers of the institute shall be exercised  
6 by or under the authority of, and the business and affairs of  
7 the institute shall be managed and governed, under the  
8 direction of, a board of directors, constituted as provided  
9 for in this section.

10 "(b) The board of directors shall consist of three  
11 voting members selected as follows:

12 "(1) One member to be appointed by the Governor from  
13 a list of three names provided by the Alabama local users  
14 group of the Construction Users Roundtable.

15 "(2) One member to be appointed by the Lieutenant  
16 Governor from a list of three names provided by the Board of  
17 Directors of the Alabama American Federation of Labor and  
18 Congress of Industrial Organizations.

19 "(3) One member to be appointed by the Speaker of  
20 the House from a list of nine names submitted as follows:  
21 Three from the Associated General Contractors, one from the  
22 Alabama Chapter of Associated Builders and Contractors, one  
23 from the Mid-Gulf Chapter of Associated Builders and  
24 Contractors, one from the North Alabama Chapter of Associated

1 Builders and Contractors, and three from the American  
2 Subcontractors Association.

3 "(4) The membership of the Board of Directors and  
4 employees and contractors of the Board shall be inclusive and  
5 reflect the racial, gender, geographic, urban/rural and  
6 economic diversity of the State. The Board shall annually  
7 report to the Legislature by the second legislative day of  
8 each regular session the extent to which the Board has  
9 complied with the diversity provisions provided for in this  
10 act.

11 "(c) All initial members of the board shall be  
12 appointed as provided in subsection (b) within 30 days of May  
13 18, 2009. Members of the board of directors shall be selected  
14 for four-year terms expiring on June 30 four years thereafter  
15 and shall serve until a successor is appointed by the  
16 Governor, Speaker of the House, or Lieutenant Governor, as  
17 appropriate, pursuant to the same selection method described  
18 in subsection (b). Any vacancy on the board of directors shall  
19 be filled in the same manner within 45 days of the vacancy by  
20 appointment by the Governor, Speaker of the House, or  
21 Lieutenant Governor, as appropriate. Each director shall  
22 reside within the State of Alabama. Directors may be  
23 reappointed for successive terms. No director shall draw any  
24 salary for any service he or she may render or for any duty he  
25 or she may perform in connection with the institute, but shall

1 be entitled to the reimbursement of reasonable expenses  
2 incurred that are directly related to the duties in serving as  
3 a member of the board. No director shall continue to serve as  
4 a member of the board after ceasing to be an active member of  
5 the respective recommending organization from whose list the  
6 appointment was initially made as provided in subsection (b).

7 "(d) A director may or shall be removed from the  
8 board of directors as follows:

9 "(1) If, for any reason, other than an illness which  
10 shall be documented in writing to the institute by a  
11 physician, a director is absent for more than 25 percent of  
12 scheduled board meetings during the fiscal year of the  
13 institute, the director may be removed by a unanimous vote of  
14 the other two directors.

15 "(2) A director may be removed, with or without  
16 cause, by vote of the respective recommending organization  
17 from whose list the appointment was initially made.

18 "(3) If a director is found guilty by a court of  
19 competent jurisdiction of willful or wanton misconduct, fraud,  
20 gross negligence, or knowing violation of a criminal law, the  
21 director shall be automatically removed and shall cease to  
22 serve as a member of the board.

23 "(e) The first organizational meeting of the board  
24 shall be held within 30 days following the appointment of all  
25 of the directors. At the organizational meeting, the board

1 shall elect officers of the board from among its members.  
2 Officers of the board shall serve for the terms and shall have  
3 the powers and duties as the board by rule may prescribe.

4 "(f) The presence of all members of the board of  
5 directors shall constitute a quorum for the transaction of  
6 business. Action of the board may only occur with (1)  
7 unanimous approval of all three members of the board, or (2)  
8 the approval of two members of the board upon the abstention  
9 of the third member. Any vacancy on the board of directors or  
10 the disqualification of any director thereof shall impair the  
11 right of the board of directors to act.

12 "(g) All resolutions adopted by the board of  
13 directors shall constitute actions of the institute. All  
14 proceedings of the board shall be reduced to writing by the  
15 secretary and shall be recorded in a substantially bound book  
16 and filed in the office of the institute. Copies of such  
17 proceedings, when certified by the secretary of the institute  
18 under the seal of the institute, shall be received in all  
19 courts as prima facie evidence of the matters and things  
20 therein certified. The board of directors of the institute  
21 shall meet at such times upon such notice as it shall  
22 determine or upon call of the chair.

23 "(h) The institute shall have the authority through  
24 its board to disburse funds appropriated to the fund for the  
25 purposes stated in this article.

1           "§41-10-725.

2           "The institute shall have the following powers:

3           "(1) To design, implement, and amend a program or  
4 programs to provide for the recruitment of, and the promotion  
5 of training programs and opportunities for, new craft trade  
6 workers for the construction industry and the users of the  
7 construction industry.

8           "(2) To educate the public about career  
9 opportunities as craft trade workers in the construction  
10 industry.

11           "(3) To acquire, receive, and take title to, by  
12 purchase, gift, lease, license, devise, or otherwise, to hold,  
13 keep, improve, maintain, equip, furnish, develop and to  
14 transfer, convey, donate, sell, lease, license, grant options  
15 to, assign, or otherwise dispose of property of every kind and  
16 character, real, personal, mixed, tangible and intangible, and  
17 any and every interest therein, to any person or entity.

18           "(4) To accept gifts, grants, bequests, or devises  
19 of money and tangible and intangible property.

20           "(5) To make and alter bylaws, not inconsistent with  
21 the provisions of this division or laws of the State of  
22 Alabama, for the administration and regulation of the affairs  
23 of the institute.

24           "(6) To make, enter into, and execute contracts,  
25 agreements, leases, licenses, or other legal arrangements and



1 to take such steps and actions as may be necessary or  
2 convenient in the furtherance of any purpose or the exercise  
3 of any power provided or granted to it by this section.

4 "(7) To engage in media advertising, marketing,  
5 website creation, website design, website maintenance,  
6 database creation, database design, database maintenance, data  
7 and information collection, and data and information  
8 dissemination and distribution, including the dissemination or  
9 distribution of data and information on potential construction  
10 workforce recruits, to the construction industry, users of the  
11 construction industry, and educational institutions, or other  
12 entities, as deemed necessary or appropriate by the institute  
13 in its sole discretion.

14 "(8) To conduct surveys, studies, metrics, and other  
15 analyses of the construction industry and its potential  
16 workforce, and to disseminate or distribute the surveys,  
17 studies, metrics, and other analyses of the construction  
18 industry and its potential workforce to the construction  
19 industry, users of the construction industry, and educational  
20 institutions, or other entities, as deemed necessary or  
21 appropriate by the institute in its sole discretion.

22 "(9) To incur ancillary costs, project costs,  
23 advertising costs, and recruitment costs and to pay these  
24 costs out of proceeds of the Recruitment and Training  
25 Promotion Fund.

1           "(10) To make application directly or indirectly to  
2 any federal, state, county, or municipal government or agency  
3 or to any other source, public or private, for grants or other  
4 similar financial assistance in furtherance of the institute's  
5 purpose and to accept and use the same upon the terms and  
6 conditions as are prescribed by the federal, state, county, or  
7 municipal government or agency or other source.

8           "(11) To employ and provide for the compensation of  
9 an executive director and staff and support personnel  
10 according to policies and procedures adopted by the institute.  
11 The executive director and the employees of the institute  
12 shall not be considered state employees; however, the director  
13 and employees may petition the Employees' Retirement System  
14 and the State Employees' Insurance Board for inclusion in  
15 these systems subject to terms and conditions of similarly  
16 situated persons who may petition for benefits from these  
17 entities.

18           "(12) To hire accountants, attorneys, engineers,  
19 consultants, and other professionals as the board shall deem  
20 necessary for the conduct of the business of the institute.

21           "(13) To provide grants to educational,  
22 governmental, non-profit, community-based, workforce  
23 development, economic development, and other organizations and  
24 associations engaged in the education, recruitment, training,  
25 placement, and professional development of persons engaged in

1 activities leading to the furtherance of careers in commercial  
2 and industrial construction in accordance with the purposes of  
3 the institute.

4 "(14) To cooperate or partner, or both, with  
5 regional and national organizations promoting construction  
6 workforce development, including the sharing of non-monetary  
7 marketing and educational resources and databases, in  
8 furtherance of the purposes of the institute.

9 "(15) To do all things necessary or convenient to  
10 carry out the powers and purposes conferred by this section.

11 "(16) To exercise any and all powers permissible  
12 under state law not in conflict with the purposes of the  
13 institute.

14 "§41-10-726.

15 "The records of the institute shall be subject to  
16 the public records laws of this state, as amended, with the  
17 exception of any personal information collected or received by  
18 the institute from any individual. The books and the  
19 expenditures of the institute shall be audited annually by the  
20 Department of Examiners of Public Accounts."

21 Section 4. Sections 1 to 6, inclusive, of Act  
22 2009-561, 2009 Regular Session (Acts 2009, p. 1760), now  
23 appearing as Division 4 (commencing with Section 41-10-700) of  
24 Article 17 of Chapter 10 of Title 41 of the Code of Alabama  
25 1975, are amended and renumbered as Division 2, consisting of

1 Sections §41-10-727 to 41-10-732, inclusive, Article 18,  
2 Chapter 10, Title 41, Code of Alabama 1975, to read as  
3 follows:

4 "Division 2. Construction Craft Industry Fee.

5 "§41-10-727.

6 "As used in this division, the following words shall  
7 have the following meanings:

8 "(1) DEPARTMENT. The Department of Revenue.

9 "(2) EMPLOYEE. An employee, as defined in the  
10 Internal Revenue Code, as amended from time to time; except  
11 that any individual providing services to an employer on an  
12 hourly, part-time, full-time, salaried, or contractual basis  
13 shall be considered an employee for purposes of this division.

14 "(3) EMPLOYER. An employer, as defined in the  
15 Internal Revenue Code, as amended from time to time, that is  
16 either a general contractor or subcontractor that primarily  
17 holds itself out for hire to the general public as a general  
18 contractor or subcontractor and who receives more than five  
19 percent of its annual gross revenue from business described in  
20 either North American Industry Classification System (NAICS)  
21 Code 236, 237, or 238 of the United States Department of  
22 Commerce in effect as of January 1, 2009. This definition does  
23 not apply to or include residential home building and licensed  
24 residential home builders contracting for home building as  
25 defined in Chapter 14A of Title 34, or those specifically

1 exempted under Chapter 14A of Title 34, except for subdivision  
2 (3) of Section 34-14A-6.

3 "(4) FEE. The tax levied by this division.

4 "(5) GENERAL CONTRACTOR. Any individual, person,  
5 corporation, limited liability entity, trust, association, or  
6 any other business enterprise other than home building  
7 projects by licensed residential home builders as defined in  
8 Chapter 14A of Title 34, or those specifically exempted under  
9 Chapter 14A of Title 34, except for subdivision (3) of Section  
10 34-14A-6, that for a price, commission, fee, or payment  
11 undertakes to construct or superintend or engage in the  
12 construction, alteration, maintenance, repair, rehabilitation,  
13 remediation, reclamation, demolition of any building, highway,  
14 sewer, structure, site work, grading, or paving of any  
15 project, or any improvement, in the State of Alabama.

16 "(6) SKILLED LABOR. Includes all labor or services  
17 performed by employees directly engaged in construction  
18 operations at the location of any construction , alteration,  
19 maintenance, repair, rehabilitation, remediation, reclamation,  
20 demolition, highway, sewer, structure, grading, paving, or  
21 improvement project in Alabama. The term does not include  
22 labor or services performed by supervisory employees above the  
23 working foreman level.

24 "(7) SUBCONTRACTOR. Any individual, person,  
25 corporation, limited liability entity, trust, association, or

1 any other business enterprise performing work under contract  
2 to a general contractor, but not licensed residential home  
3 builders building homes as defined in Chapter 14A of Title 34,  
4 or those specifically exempted under Chapter 14A of Title 34,  
5 except for subdivision (3) of Section 34-14A-6.

6 "(8) WAGES. The gross earnings paid by an employer  
7 to an employee covered by this division, including all forms  
8 of compensation such as salaries, hourly payments,  
9 commissions, remuneration, dismissal pay, bonuses, and  
10 vacation and sick leave pay, prior to deductions for items  
11 such as Social Security contributions, withholding taxes,  
12 group health insurance, union dues, and savings bonds.

13 "§41-10-728.

14 "(a) In addition to all other taxes now imposed by  
15 law, there is hereby levied and imposed a fee on the wages, as  
16 defined in this division, paid by the employer to employees  
17 engaged in skilled labor in the performance of a construction  
18 contract or job in the State of Alabama, which fee shall be  
19 assessed, collected, and paid quarterly at the rate and as  
20 specified in subsection (b) and for each year as hereinafter  
21 provided.

22 "(b) Each employer subject to this division shall  
23 remit to the department a fee for the purpose of funding a  
24 program providing for the recruitment of, and training  
25 opportunities for, new construction craft trade labor in an

1 amount equal to nine one-hundredths of one percent of the  
2 Alabama wages paid during the preceding quarter to all  
3 employees of the employer engaged in skilled labor under a  
4 construction contract or on a job located in this state for  
5 the first five quarters following May 18, 2009.

6 "(c) Following the first five quarters following May  
7 18, 2009, the receipts of the fee, less cost of collection for  
8 the second through fifth quarters, shall be tabulated and the  
9 fee rate shall be adjusted in order for the aggregate net  
10 collections for the subsequent four quarters to amount to one  
11 million seven hundred fifty thousand dollars (\$1,750,000), and  
12 the revised fee rate shall be the fee rate utilized for each  
13 quarterly period thereafter.

14 "(d) The fee levied by this division shall be  
15 remitted in a manner and on forms prescribed by the  
16 department.

17 "§41-10-729.

18 "It shall be the duty of the department to  
19 administer this division. The department may adopt, amend, or  
20 rescind rules and employ persons, make expenditures, require  
21 reports, make investigations, and take any other action as may  
22 be necessary or suitable to that end. The same penalties,  
23 interest, lien, and criminal provisions of Chapters 1, 2A, and  
24 18 of Title 40, shall apply to taxpayers failing to accurately  
25 compute and remit the fee owed as established by this division

1 to the department within the time set forth by this division  
2 and as further prescribed by the department.

3 "§41-10-730.

4 "In the event an employer fails to pay to the  
5 department any amount required to be paid under this division,  
6 that amount may be assessed against the employer in the same  
7 manner, including interest and penalties, as is prescribed for  
8 the assessment of income tax under the provisions of Chapter  
9 2A of Title 40. The employer may appeal from any preliminary  
10 or final assessment in the same manner and subject to the same  
11 procedures prescribed for income tax appeals by Chapter 2A of  
12 Title 40. When no appeal from a final assessment is timely  
13 filed by the employer, execution may be issued upon the final  
14 assessment in the same manner as is provided by law for the  
15 issuance of an execution by the department.

16 "§41-10-731.

17 "(a) Any fees required by this division shall be  
18 remitted to the department and, after the cost appropriation  
19 in subsection (c), shall be deposited to the credit of the  
20 Recruitment and Training Promotion Fund in the State Treasury  
21 which is hereby created for the purpose of funding a  
22 recruitment and training promotion program to be administered  
23 by the Alabama Construction Recruitment Institute.

24 "(b) The proceeds from fees collected and deposited  
25 into the Recruitment and Training Promotion Fund is



1       appropriated to the Alabama Construction Recruitment Institute  
2       for the purposes of this article. Such funds shall be  
3       appropriated, budgeted and allotted in accordance with  
4       Sections 41-4-80 to 41-4-96, inclusive and 41-19-1 to  
5       41-19-12, inclusive and only in amounts stipulated in general  
6       appropriations bills and other appropriations bills to be  
7       expended, in whole or in part, by vote of the Board of  
8       Directors of the Alabama Construction Recruitment Institute.

9               "(c) In addition to all other appropriations  
10       heretofore or hereinafter made, there is hereby appropriated  
11       to the department for the fiscal year ending September 30,  
12       2009, such amount as is reasonably required to offset its  
13       administrative and collection costs as a first charge against  
14       the revenues from the fee levied by this division. For all  
15       subsequent fiscal years, there shall be appropriated to the  
16       department as a first charge against the revenues from the fee  
17       levied by this division an amount that will offset its actual  
18       costs in the administration and regulation of this fee.

19               "§41-10-732.

20               "Nothing in this division, including the fees  
21       collected pursuant to this division, shall apply to any person  
22       or entity licensed by the Alabama Home Builders Licensure  
23       Board or any subcontractor working on any residential project  
24       falling under the jurisdiction of the Alabama Home Builders  
25       Licensure Board. Further, nothing in this division shall apply

1 to any person or entity that is granted an exemption from the  
2 licensing requirements under Chapter 14A of Title 34, except  
3 for subdivision (3) of Section 34-14A-6, or their  
4 subcontractors working on any residential project in Alabama.  
5 Notwithstanding any provision of this division, any person or  
6 entity licensed by the Alabama Home Builders Licensure Board  
7 or subcontractors that work on any commercial or industrial  
8 project shall be subject to the fee levied by this division."

9 Section 5. The Employees' Retirement System may  
10 elect to provide retirement benefits and the State Employees'  
11 Insurance Board may elect to provide health insurance benefits  
12 to the employees of the Construction Recruitment Institute  
13 upon petition of the employees and subject to terms and  
14 conditions for similarly situated employees of other public  
15 entities.

16 Section 6. (a) All the construction craft industry  
17 fees collected prior to the effective date of this act and  
18 deposited to the credit of the Alabama 21st Century Fund shall  
19 be transferred to the Recruitment and Training Promotion Fund.

20 (b) After the transfer under subsection (a), the  
21 Alabama 21st Century Authority shall have no further powers or  
22 duties related to the Recruitment and Training Promotion Fund.

23 Section 7. Division 2 of Article 18, Title 41, shall  
24 expire in accordance with the repeal date in Act 2009-561.

1                   Section 8. This act shall become effective  
2 immediately following its passage and approval by the  
3 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

SB179

Senate 16-FEB-10

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

McDowell Lee  
Secretary

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House of Representatives  
Amended and passed 04-MAR-10

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Senate concurred in House amendment 09-MAR-10

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By: Senator Mitchell