

1 HB254  
2 197502-2  
3 By Representatives Wilcox, Ledbetter, Clouse, Greer, Gaston,  
4 Lee, Ingram, Daniels, McCutcheon, Pettus and Baker  
5 RFD: Ways and Means Education  
6 First Read: 20-MAR-19

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8 SYNOPSIS: Under existing law, the Alabama Toll Road,  
9 Bridge, and Tunnel Authority is exempt from paying  
10 state and local taxes and assessments for a toll  
11 road, bridge, or tunnel project acquired or used by  
12 the authority.

13 This bill would provide further for the  
14 exemptions from state and local taxation.

15  
16 A BILL  
17 TO BE ENTITLED  
18 AN ACT

19  
20 Relating to the Toll Road, Bridge and Tunnel  
21 Authority Act; to amend Sections 23-2-142 and 23-2-153, Code  
22 of Alabama 1975, to provide further for the exemptions from  
23 state and local taxation.

24 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

25 Section 1. Sections 23-2-142 and 23-2-153, Code of  
26 Alabama 1975, are amended to read as follows:

27 "§23-2-142.

1 "As used in this article, the following words and  
2 terms shall have the meanings, respectively, unless the  
3 context clearly indicates otherwise:

4 "(1) AUTHORITY. The Alabama Toll Road, Bridge, and  
5 Tunnel Authority created by this article, or any board, body,  
6 or commission succeeding to the principal functions thereof or  
7 to which the powers given by this article to the authority  
8 shall be given by law.

9 "(2) BONDS or TOLL ROAD, BRIDGE, OR TUNNEL REVENUE  
10 BONDS. Bonds of the authority authorized under the provisions  
11 of this article.

12 "(3) CONSUMABLE MATERIALS. Nondurable tangible  
13 personal property used to improve real property that, after  
14 being used once for its intended purpose, is completely used  
15 or destroyed so that it has no salvage value. The term  
16 includes, but is not limited to, non-reusable concrete forms,  
17 non-reusable drop cloths, and barricade tape.

18 "~~(3)~~ (4) COST. As applied to a toll road, bridge, or  
19 tunnel project, the cost shall include, but not be limited to,  
20 the following:

21 "a. The cost of construction, including bridges over  
22 or under existing highways and railroads.

23 "b. The cost of the acquisition of all land,  
24 rights-of-way, property, rights, easements, and interests  
25 acquired by or on behalf of the authority for construction.

26 "c. The cost of demolishing or removing any  
27 buildings or structures on land so acquired, including the

1 cost of acquiring any lands to which buildings or structures  
2 may be moved.

3 "d. The cost of diverting highways, interchange of  
4 highways, and access roads to private property, including the  
5 cost of land for easements therefor.

6 "e. The cost of all machinery and equipment.

7 "f. The cost of financing charges, including  
8 interest prior to and during construction and for one year  
9 after completion of construction.

10 "g. The cost of traffic estimates, feasibility  
11 studies, engineering studies, design and other related studies  
12 and analyses, and legal fees and expenses.

13 "h. Plans, specifications, surveys, and estimates of  
14 cost and of revenues.

15 "i. The cost of other expenses necessary or incident  
16 to determining the feasibility or practicability of  
17 constructing a project.

18 "j. The cost of administrative expense and other  
19 expense as may be necessary or incident to the construction of  
20 a project.

21 "k. The cost of the financing of construction.

22 "l. The cost of placing a project in operation.

23 "m. Any other cost or expenditure necessary or  
24 incidental to the construction of a project, the financing of  
25 a project, and the placing of a project in operation.

26 "n. Any obligation or expense which may be incurred  
27 by the State Department of Transportation for traffic surveys,

1 borings, preparation of plans and specifications, and other  
2 engineering services in connection with the planning or  
3 construction of a project shall be regarded as a part of the  
4 cost of such project and shall be reimbursed to the State  
5 Department of Transportation by the authority.

6 ~~"(4)(5)~~ DEPARTMENT. The State Department of  
7 Transportation.

8 "(6) EXPENDABLE MATERIALS. Consumable materials and  
9 nonconsumable materials.

10 "(7) NONCONSUMABLE MATERIALS. Tangible personal  
11 property that loses its distinct and separate identity when  
12 incorporated into real property. The term includes, but is not  
13 limited to, framing lumber, bricks, steel, re-bar, and  
14 concrete.

15 ~~"(5)(8)~~ PROJECT, TOLL ROAD, BRIDGE, AND TUNNEL  
16 PROJECT or TOLL ROAD, BRIDGE, OR TUNNEL PROJECT. Any type of  
17 toll road, bridge, causeway, tunnel, or other transportation  
18 facility established and constructed or to be constructed by  
19 or on behalf of the authority, in conjunction with the  
20 department, under this article, ~~and shall include, but shall.~~  
21 The term includes, but is not be limited to, all toll roads,  
22 bridges, causeways, tunnels, overpasses, underpasses,  
23 interchanges, entrance plazas, approaches, access roads, toll  
24 houses, electronic tolling facilities and equipment, service  
25 areas, service stations, service facilities, communication and  
26 video and other surveillance facilities, and administration,  
27 storage, and other buildings which the authority may deem

1 necessary for the operation of a project, ~~together with.~~ The  
2 term also includes, but is not limited to, all property,  
3 rights, easements, and interests which may be acquired by the  
4 authority for the construction, operation, and maintenance of  
5 a project, including a project that is leased to a user by the  
6 authority or the department.

7 "(9) USER. An individual, organization, or legal  
8 entity described in subdivision (12) of subsection (a) of  
9 Section 23-2-144.

10 "§23-2-153.

11 "(a) The exercise of the powers granted by this  
12 article ~~will~~ shall be in all respects for the benefit of the  
13 people of the state, for the increase of their commerce and  
14 prosperity, and for the improvement of their health and living  
15 conditions. Since the ownership, operation, and maintenance of  
16 toll road, bridge, or tunnel projects by the authority will  
17 constitute the performance of essential functions, the  
18 authority, department, and users shall not be required to pay  
19 any the taxes or assessments under this section upon any toll  
20 road, bridge, or tunnel project or any property acquired or  
21 used by the authority, department, or users under the  
22 ~~provisions of this article or upon the income therefrom. Any~~  
23 ~~toll road, bridge or tunnel project, any property acquired or~~  
24 ~~used by the authority under the provisions of this article and~~  
25 ~~the income therefrom and the bonds issued under the provisions~~  
26 ~~of this article, their transfer and the income therefrom~~

1 ~~(including any profit made on the sale thereof) shall be~~  
2 ~~exempt from taxation.~~

3 "(b) An income, excise, or license tax or assessment  
4 may not be levied upon or collected in the state with respect  
5 to any corporate activities of the authority or the department  
6 or any of their revenues, income, or profit. The exemptions  
7 provided in this section do not extend to the taxes or fees  
8 levied under Chapter 17 of Title 40 and Article 5, commencing  
9 with Section 8-17-80, of Chapter 17 of Title 8.

10 "(c) No ad valorem tax or assessment for any public  
11 improvement shall be levied upon or collected in the state  
12 with respect to any toll road, bridge, or tunnel project  
13 during any time that title to the toll road, bridge, or tunnel  
14 project is held by the authority or the department and any  
15 time that title to the toll road, bridge, or tunnel project is  
16 retained by the authority or the department pursuant to a  
17 lease with a user.

18 "(d) No privilege or license taxes or assessments  
19 payable with respect to the recording or filing for record of  
20 any mortgage, deed, or other instrument, including, but not  
21 limited to, the privilege taxes under Chapter 22 of Title 40,  
22 shall be levied, charged, or collected in connection with the  
23 recording or filing for record of any mortgage, deed, or other  
24 instrument evidencing a conveyance to or the creation of any  
25 property interest in the authority or the department, any  
26 agreement or instrument to which the authority or the  
27 department is a party, or any mortgage, deed, or other

1 instrument evidencing a conveyance from the authority or the  
2 department to another party or the creation by the authority  
3 or the department of any property interest in another party.

4 "(e) (1) The gross proceeds of the sale of  
5 nonconsumable materials and the gross receipts of services  
6 that are related to a toll road, bridge, or tunnel project,  
7 regardless of whether the sale is to the authority,  
8 department, or a user, or any contractor, subcontractor, or  
9 agent thereof, shall be exempt from the sales tax imposed by  
10 Article 1, commencing with Section 40-23-1, of Chapter 23 of  
11 Title 40, including the contractor's gross receipts tax levied  
12 under Section 40-23-50, and from any local sales tax now or  
13 hereafter levied on or with respect to the gross proceeds of  
14 any such sale by the state or a county, municipality, or other  
15 political subdivision or instrumentality thereof.

16 "(2) Nonconsumable materials related to a toll road,  
17 bridge, or tunnel project, regardless of whether the  
18 nonconsumable materials have been purchased by the authority,  
19 department, or a user, or any contractor, subcontractor, or  
20 agent thereof, are exempt from the use tax imposed by Article  
21 2, commencing with Section 40-23-60, of Chapter 23 of Title 40  
22 and from any local use tax now or hereafter levied on or with  
23 respect to any nonconsumable materials by the state or a  
24 county, municipality, or other political subdivision or  
25 instrumentality thereof.

26 "(f) (1) The gross proceeds of the sale of consumable  
27 materials and the gross receipts of services that are related



1 to a toll road, bridge, or tunnel project, regardless of  
2 whether the sale is to the authority, department, or a user,  
3 or any contractor, subcontractor, or agent thereof, are exempt  
4 from the sales tax imposed by Article 1, commencing with  
5 Section 40-23-1, of Chapter 23 of Title 40, including the  
6 contractor's gross receipts tax levied under Section 40-23-50,  
7 and from any local sales tax now or hereafter levied on or  
8 with respect to the gross proceeds of any such sale by the  
9 state or a county, municipality, or other political  
10 subdivision or instrumentality thereof.

11 "(2) Consumable materials related to a toll road,  
12 bridge, or tunnel project, regardless of whether the  
13 consumable materials have been purchased by the authority,  
14 department, or a user, or any contractor, subcontractor, or  
15 agent thereof, are exempt from the use tax imposed by Article  
16 2, commencing with Section 40-23-60, of Chapter 23 of Title 40  
17 and from any local use tax now or hereafter levied on or with  
18 respect to any consumable materials by the state or a county,  
19 municipality, or other political subdivision or  
20 instrumentality thereof.

21 "(g) The interest paid or accrued on all bonds,  
22 notes, or other obligations issued by the authority shall be  
23 free from taxation by the state or a county, municipality, or  
24 other political subdivision or instrumentality thereof.

25 "(h) (1) The Department of Revenue shall issue one or  
26 more certificates of exemption to the authority, the  
27 department, and each user, and any contractor, subcontractor,

1 or agent thereof, for each toll road, bridge, or tunnel  
2 project. To aid in the administration of this section, the  
3 Department of Revenue may issue separate certificates for  
4 nonconsumable materials and consumable materials.

5 "(2) The use of a certificate of exemption for the  
6 purchase of tangible personal property pursuant to this  
7 section may only include expendable materials related to a  
8 toll road, bridge, or tunnel project. Any user or a  
9 contractor, subcontractor, or agent thereof who purchases any  
10 tangible personal property pursuant to a certificate of  
11 exemption shall maintain an accurate cost accounting of the  
12 purchase and use of the property in the construction of the  
13 project. A user or a contractor, subcontractor, or agent  
14 thereof who has an exemption from sales and use tax for the  
15 purchase of tangible personal property to use on a toll road,  
16 bridge, or tunnel project shall file, in a manner as  
17 prescribed by the Department of Revenue, reports of all exempt  
18 purchases. The Department of Revenue may assess any user or a  
19 contractor, subcontractor, or agent thereof with state and  
20 local sales or use taxes on items purchased with a certificate  
21 of exemption that are not expendable materials related to a  
22 toll road, bridge, or tunnel project or that are not properly  
23 accounted for and reported as required.

24 "(3) It is the intent of the Legislature for this  
25 subsection to lower the administrative cost for the authority,  
26 department, and each user, and any contractor, subcontractor,  
27 or agent thereof, for toll road, bridge, or tunnel projects.

1                   "(i) Nothing in this section exempts any user or any  
2 contractor, subcontractor, or agent thereof from state income  
3 taxes.

4                   "(j) The Department of Revenue may adopt rules to  
5 implement, administer, and provide for accurate accounting and  
6 enforcement of this section."

7                   Section 2. This act shall become effective  
8 immediately following its passage and approval by the  
9 Governor, or its otherwise becoming law.