

1 SB154
2 200127-3
3 By Senators Elliott, Sessions, Chesteen, Allen and Marsh
4 RFD: Transportation and Energy
5 First Read: 20-MAR-19

1 SB154

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4 ENGROSSED

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7 A BILL
8 TO BE ENTITLED
9 AN ACT

10
11 Relating to the Toll Road, Bridge and Tunnel
12 Authority Act; to amend Sections 23-2-142 and 23-2-153, Code
13 of Alabama 1975, to provide further for the exemptions from
14 state and local taxation.

15 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

18 "§23-2-142.

19 "As used in this article, the following words and
20 terms shall have the meanings, respectively, unless the
21 context clearly indicates otherwise:

22 "(1) AUTHORITY. The Alabama Toll Road, Bridge, and
23 Tunnel Authority created by this article, or any board, body,
24 or commission succeeding to the principal functions thereof or
25 to which the powers given by this article to the authority
26 shall be given by law.

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

4 "(3) CONCESSIONAIRE. A person, firm, corporation,
5 partnership, limited liability company, or other legal entity
6 described in Section 23-2-144(a) (12) which has been awarded a
7 contract to construct or operate, or both, a toll road or
8 bridge by the department or the authority.

9 "~~(3)~~ (4) COST. As applied to a toll road, bridge, or
10 tunnel project, the cost shall include, but not be limited to,
11 the following:

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

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

17 "c. The cost of demolishing or removing any
18 buildings or structures on land so acquired, including the
19 cost of acquiring any lands to which buildings or structures
20 may be moved.

21 "d. The cost of diverting highways, interchange of
22 highways, and access roads to private property, including the
23 cost of land for easements therefor.

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

25 "f. The cost of financing charges, including
26 interest prior to and during construction and for one year
27 after completion of construction.

1 "g. The cost of traffic estimates, feasibility
2 studies, engineering studies, design and other related studies
3 and analyses, and legal fees and expenses.

4 "h. Plans, specifications, surveys, and estimates of
5 cost and of revenues.

6 "i. The cost of other expenses necessary or incident
7 to determining the feasibility or practicability of
8 constructing a project.

9 "j. The cost of administrative expense and other
10 expense as may be necessary or incident to the construction of
11 a project.

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

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

14 "m. Any other cost or expenditure necessary or
15 incidental to the construction of a project, the financing of
16 a project, and the placing of a project in operation.

17 "n. Any obligation or expense which may be incurred
18 by the State Department of Transportation for traffic surveys,
19 borings, preparation of plans and specifications, and other
20 engineering services in connection with the planning or
21 construction of a project shall be regarded as a part of the
22 cost of such project and shall be reimbursed to the State
23 Department of Transportation by the authority.

24 "~~(4)~~ (5) DEPARTMENT. The State Department of
25 Transportation.

26 "~~(5)~~ (6) PROJECT, TOLL ROAD, BRIDGE, AND TUNNEL
27 PROJECT or TOLL ROAD, BRIDGE, OR TUNNEL PROJECT. Any type of

1 toll road, bridge, causeway, tunnel, or other transportation
2 facility established and constructed or to be constructed by
3 or on behalf of the authority, in conjunction with the
4 department, under this article, ~~and shall include, but shall.~~
5 The term includes, but is not be limited to, all toll roads,
6 bridges, causeways, tunnels, overpasses, underpasses,
7 interchanges, entrance plazas, approaches, access roads, toll
8 houses, electronic tolling facilities and equipment, service
9 areas, service stations, service facilities, communication and
10 video and other surveillance facilities, and administration,
11 storage, and other buildings which the authority may deem
12 necessary for the operation of a project, ~~together with.~~ The
13 term also includes, but is not limited to, all property,
14 rights, easements, and interests which may be acquired by the
15 authority for the construction, operation, and maintenance of
16 a project, including a project that is leased to a
17 concessionaire by the authority or the department.

18 "§23-2-153.

19 "(a) The exercise of the powers granted by this
20 article ~~will~~ shall be in all respects for the benefit of the
21 people of the state, for the increase of their commerce and
22 prosperity, and for the improvement of their health and living
23 conditions. Since the ownership, operation, and maintenance of
24 toll road, bridge, or tunnel projects by the authority will
25 constitute the performance of essential functions, the
26 authority, department, and any concessionaire, or any
27 contractor, subcontractor, or agent thereof, shall not be

1 required to pay ~~any~~ the taxes or assessments as specifically
2 authorized in this section upon any toll road, bridge, or
3 tunnel project or any property acquired or used by the
4 authority, department, or any concessionaire under ~~the~~
5 ~~provisions of this article or upon the income therefrom. Any~~
6 ~~toll road, bridge or tunnel project, any property acquired or~~
7 ~~used by the authority under the provisions of this article and~~
8 ~~the income therefrom and the bonds issued under the provisions~~
9 ~~of this article, their transfer and the income therefrom~~
10 ~~(including any profit made on the sale thereof) shall be~~
11 ~~exempt from taxation.~~

12 "(b) An income, excise, or license tax or assessment
13 may not be levied upon or collected in the state with respect
14 to any corporate activities of the authority or the department
15 or any of their revenues, income, or profit. The exemptions
16 provided in this section do not extend to the taxes or fees
17 levied under Division 1 of Article 5 of Chapter 17 of Title 8;
18 Chapter 17 of Title 40; or the Rebuild Alabama Act (Act
19 2019-2, 2019 Regular Session).

20 "(c) No ad valorem tax or assessment for any public
21 improvement shall be levied upon or collected in the state
22 with respect to any toll road, bridge, or tunnel project
23 during any time that title to the toll road, bridge, or tunnel
24 project is held by the authority or the department and any
25 time that title to the toll road, bridge, or tunnel project is
26 retained by the authority or the department pursuant to a
27 lease with a concessionaire.

1 "(d) No privilege or license taxes or assessments
2 payable with respect to the recording or filing for record of
3 any mortgage, deed, or other instrument, including, but not
4 limited to, the privilege taxes under Chapter 22 of Title 40,
5 shall be levied, charged, or collected in connection with the
6 recording or filing for record of any mortgage, deed, or other
7 instrument evidencing a conveyance to or the creation of any
8 property interest in the authority or the department, any
9 agreement or instrument to which the authority or the
10 department is a party, or any mortgage, deed, or other
11 instrument evidencing a conveyance from the authority or the
12 department to another party or the creation by the authority
13 or the department of any property interest in another party.

14 "(e) Any tangible personal property which will
15 become a permanent part of a project constructed by the
16 authority, department, or any concessionaire, or any
17 contractor, subcontractor, or agent thereof, shall be exempt
18 from taxation and assessment, including sales or use taxes.
19 However, any concessionaire, or contractor, subcontractor, or
20 agent thereof, seeking an exemption of county or municipal
21 sales or use taxes for itself or its contractors,
22 subcontractors or agents, under the authority granted herein,
23 shall receive an exemption certificate approved by resolution
24 of the affected county or municipality.

25 "(f) The authority, department, or any
26 concessionaire, or any contractor, subcontractor, or agent
27 thereof, shall be exempt from any tax imposed by Section

1 40-23-50 for the gross proceeds of the sale of materials or
2 the gross receipts of services that are related to the
3 construction of any project under this section.

4 (g) The interest paid or accrued on all bonds,
5 notes, or other obligations issued by the authority shall be
6 free from taxation by the state or a county, municipality, or
7 other political subdivision or instrumentality thereof.

8 "(h) (1) The Department of Revenue shall issue a
9 certificate of exemption to the authority, the department, a
10 concessionaire, or any contractor, subcontractor, or agent
11 thereof, for each toll road, bridge, or tunnel project for the
12 purchase of building materials, construction materials and
13 supplies, and other tangible personal property that becomes
14 part of the project. Any use of the certificate issued under
15 the authority of this subsection and subsection (e) shall be
16 subject to the reporting and penalty provisions of Section
17 40-9-14.1. Any holder or user of such certificate shall
18 maintain an accurate accounting of the purchase and use of the
19 property and shall file, in a manner prescribed by the
20 Department of Revenue, reports of all such purchases.

21 "(2) It is the intent of the Legislature for this
22 subsection to lower the administrative cost for the authority,
23 department, and each concessionaire, and any contractor,
24 subcontractor, or agent thereof, for toll road, bridge, or
25 tunnel projects.

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

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Senate

Read for the first time and referred to the Senate
committee on Transportation and Energy..... 20-MAR-19

Read for the second time and placed on the calen-
dar with 1 substitute and..... 02-MAY-19

Read for the third time and passed as amended 23-MAY-19

Yeas 30
Nays 0

Patrick Harris,
Secretary.