

1 SB289
2 157177-2
3 By Senator Dial
4 RFD: Commerce, Transportation, and Utilities
5 First Read: 28-JAN-14

1 SB289

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4 ENROLLED, An Act,

5 To provide further for the membership of the Alabama
6 Federal Aid Highway Finance Authority; to eliminate
7 unnecessary references to interest coupons on bonds issued by
8 the authority; to provide for the pledge of certain state
9 gasoline tax revenues to secure bonds issued by the authority;
10 to provide that pledges by the authority to secure bonds
11 issued by it may include some but not all funds appropriated
12 and pledged by law, and may be on parity with pledges to
13 secure other obligations of the authority, or in order of
14 priority, within the discretion of the authority; to provide
15 that the pledges of certain state gasoline tax revenues to
16 secure bonds issued by the authority shall be on parity with
17 pledges of such tax revenues to secure obligations issued by
18 the Alabama Highway Finance Corporation; to provide further
19 for investment of proceeds of bonds issued by the authority
20 and of pledged revenues held in the sinking fund created to
21 secure such bonds; and to define certain terms.

22 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

23 Section 1. Sections 23-1-181, 23-1-301, 23-1-305,
24 23-1-309, 23-1-311, 23-1-313, 23-1-314 and 23-1-315 of the
25 Code of Alabama 1975, are amended to read as follows:

1 "§23-1-181.

2 "(a) Where used in this section the following words
3 and terms shall be given the following respective meanings:

4 "(1) BONDS. Such term, without qualifying words or
5 phrases, means bonds of the corporation issued under this
6 article.

7 "(2) CODE. The Code of Alabama, 1975.

8 "(3) CORPORATION. Alabama Highway Finance
9 Corporation, a public corporation and instrumentality of the
10 State of Alabama that was organized and is existing under this
11 article.

12 "(4) Gasoline tax appropriation statute. Division 2
13 of Article 2 of Chapter 17 of Title 40.

14 "(5) Highway gasoline tax.

15 "a. The excise tax levied in Section 40-17-31, as
16 amended, exclusive of those portions of the tax in respect of
17 aviation fuel and marine gasoline, as those terms are used in
18 the section; and

19 "b. The excise tax levied by Article 3 of Chapter 17
20 of Title 40, exclusive of that portion of the tax in respect
21 of diesel fuel.

22 "(6) NET GASOLINE TAX PROCEEDS. The entire proceeds
23 from the highway gasoline tax less the cost of collection and
24 less any refunds of the proceeds pursuant to the provisions of
25 Article 3 of Chapter 17 of Title 40, or pursuant to the

1 provisions of either of Divisions 3 and 4 of Article 2 of
2 Chapter 17.

3 "(7) STATE'S SHARE OF THE NET GASOLINE TAX PROCEEDS.
4 The 45 percentum of the net gasoline tax proceeds allocated
5 and appropriated for state highway purposes in Section
6 40-17-72.

7 "(b) For the purpose of providing funds to enable
8 the corporation to pay at their respective maturities the
9 principal of and interest on any bonds that may be issued by
10 it under the provisions of this article and to accomplish the
11 purposes and objects of its creation, there hereby is
12 irrevocably pledged to the purpose and appropriated so much as
13 may be necessary for the purpose of the following, subject,
14 however, to the provisions, hereinafter set forth in this
15 subsection, as to the rank of the pledges herein made:

16 "(1) So much as may be necessary for such purpose of
17 those portions of the motor vehicle license taxes and
18 registration fees that are provided to be distributed to the
19 state pursuant to the provisions of Division 1 of Article 5 of
20 Chapter 12 of Title 40 as amended, remaining after the costs
21 of collection thereof.

22 "(2) To such extent and to such extent only as the
23 revenues appropriated under subdivision (1) of this subsection
24 may not be sufficient to pay at their respective maturities
25 the principal of and interest on the bonds, so much as may be

1 necessary for such purpose, when added to the amounts
2 appropriated in subdivision (1) of this subsection, of the
3 state's share of the net gasoline tax proceeds.

4 "(3) To such extent and to such extent only as the
5 revenues appropriated under subdivisions (1) and (2) of this
6 subsection may not be sufficient to pay at their respective
7 maturities the principal of and interest on the bonds, so much
8 as may be necessary for such purpose, when added to the
9 amounts appropriated in subdivisions (1) and (2) of this
10 subsection, of the entire proceeds of the following excise
11 taxes remaining after payment of the costs of collection
12 thereof:

13 "a. the excise tax levied by Article 1 of Chapter 17
14 of Title 40 on distributors and storers of motor fuel, as
15 therein defined; and

16 "b. the excise tax levied by Article 3 of Chapter 17
17 of Title 40, exclusive of that portion of the tax in respect
18 of gasoline.

19 "The term "costs of collection," as used in this
20 subdivision, shall mean that portion of the excise taxes
21 referred to in this subdivision that may be appropriated by
22 the Legislature to the Department of Revenue for its operating
23 expenses.

24 "(4) To such extent and to such extent only as the
25 revenues appropriated under subdivisions (1), (2) and (3) of

1 this subsection may not be sufficient to pay at their
2 respective maturities the principal of and interest on the
3 bonds, so much as may be necessary for such purpose, when
4 added to the amounts appropriated in subdivisions (1), (2) and
5 (3), of all that portion of the receipts from the inspection
6 fee on certain petroleum products imposed by Division 1 of
7 Article 5 of Chapter 17 of Title 8 that is required by the
8 division to be deposited to the credit of the Public Road and
9 Bridge Fund.

10 "(5) To such extent and to such extent only as the
11 revenues appropriated under subdivisions (1), (2), (3) and (4)
12 of this subsection may not be sufficient to pay at their
13 respective maturities the principal of and interest on the
14 bonds, so much as may be necessary for such purpose, when
15 added to the amounts appropriated in subdivisions (1), (2),
16 (3) and (4), of the receipts from the fee in respect of
17 identification markers on motor vehicles that is provided for
18 in Section 40-17-150.

19 "(c) All moneys hereby appropriated and pledged
20 shall constitute a sinking fund for the purpose of paying the
21 principal of and interest on the bonds. All pledges made by
22 the corporation shall take precedence among themselves in the
23 order of the adoption of the resolutions making such pledges,
24 except as may be otherwise provided in such resolutions;
25 provided, however, that the appropriation and pledge of the

1 state's share of the net gasoline tax proceeds shall be on
2 parity with the pledge contained in Section 23-1-314 to secure
3 obligations issued by the Alabama Federal Aid Highway Finance
4 Authority."

5 "§23-1-301.

6 "When used in this article, the following words and
7 phrases shall have the following respective meanings unless
8 the context clearly indicates otherwise:

9 "(1) AUTHORITY. The Alabama Federal Aid Highway
10 Finance Authority, a public corporation and instrumentality of
11 the state authorized to be organized under the provisions of
12 this article.

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

15 "(3) BONDS. The bonds, including refunding bonds
16 issued to refund outstanding obligations, that in this article
17 are authorized to be sold and issued by the authority.

18 "(4) CORPORATION. The authority.

19 "(5) HIGHWAY GASOLINE TAX. The excise tax levied
20 under subdivision (1) of subsection (a) of Section 40-17-325,
21 with the exception of those portions of the tax levied on
22 aviation fuel and marine gasoline.

23 "(5)6 LEGISLATURE. The Legislature of Alabama.

24 "(7) NET GASOLINE TAX PROCEEDS. The entire proceeds
25 from the highway gasoline tax less the cost of collection and

1 less any refunds of the proceeds pursuant to the provisions of
2 Article 12 of Chapter 17 of Title 40.

3 "~~68~~) NOTE. The authority's promise to pay solely
4 from the funds provided by this article which has a specified
5 maturity date not later than three years after its date, which
6 recites on its face that it is issued in anticipation of the
7 sale by the authority of bonds and which is payable to the
8 order of a named payee.

9 "~~79~~) OBLIGATIONS. Any bonds, temporary bonds or
10 notes authorized by this article to be issued by the
11 authority.

12 "~~810~~) STATE. The State of Alabama.

13 "11) STATE'S SHARE OF NET GASOLINE TAX PROCEEDS.
14 The portion of the net gasoline tax proceeds allocated and
15 appropriated for state highway purposes in Section 40-17-359,
16 less such amounts as are allocated by such statute to other
17 specific uses.

18 "~~912~~) TEMPORARY BOND. Any bond issued under this
19 article which has a specified maturity date not later than
20 three years after its date and which recites on its face that
21 it is issued in anticipation of the sale by the authority of
22 bonds.

23 "~~1013~~) COST. As applied to any highway construction
24 project, all costs of construction or acquisition of any part
25 of any such highway construction project, including, but

1 without limitation to, the costs of supervising, inspecting
2 and constructing any such highway construction project and all
3 costs and expenses incidental thereto, the costs of locating,
4 surveying and mapping, resurfacing, restoration and
5 rehabilitation, acquisition of rights-of-way, relocation
6 assistance, elimination of hazards of railway-grade crossings,
7 acquisition of replacement housing sites, acquisition,
8 rehabilitation, relocation, and construction of replacement
9 housing and improvements which directly facilitate and control
10 traffic flow, including grade separation of intersections,
11 widening of lanes, channelization of traffic, traffic-control
12 systems and passenger loading and unloading areas, and any
13 other cost of any federal aid projects which is to be repaid
14 or reimbursed to the state by the United States of America
15 pursuant to the written agreement provided for in Section
16 23-1-313.

17 "~~(1114)~~ FEDERAL AID PROJECT. Any road, street,
18 parkway, right of way, bridge, railroad crossing, terminal,
19 drainage structure, sign, guardrail, structure, interstate,
20 surface, resurface, shoulder, roadside, or any other work
21 eligible for federal aid funding assistance under Title 23,
22 Chapter 1, of the United States Code and applicable
23 regulations.

24 "~~(1215)~~ FEDERAL SHARE. That portion of the cost of
25 any federal aid projects which is to be repaid or reimbursed

1 to the state by the United States of America pursuant to the
2 written agreement provided for in Section 23-1-313."

3 "§23-1-305.

4 "(a) The members of the corporation shall be the
5 Governor, the Director of Finance, the Director of
6 Transportation, the Attorney General and the State Treasurer
7 ~~applicants named in the application~~ and their respective
8 successors in office ~~shall constitute the members of the~~
9 ~~corporation.~~

10 "(b) The Governor shall be the president of the
11 corporation, the Director of Finance shall be the
12 vice-president of the corporation, the Director of
13 Transportation shall be the secretary of the corporation, and
14 the State Treasurer shall be the treasurer of the corporation
15 and shall act as custodian of its funds.

16 "(c) The members of the corporation shall constitute
17 all the members of the board of directors of the corporation,
18 and any three members of said board of directors shall
19 constitute a quorum for the transaction of business.

20 "(d) Should any of said officials of the state die
21 or should his term of office as Director of Finance, Director
22 of Transportation , Attorney General, State Treasurer, or
23 Governor, as the case may be, expire or should he resign
24 therefrom, his successor in office shall take his place as a
25 member, officer, and director of the corporation.

1 "(e) No member, officer, or director of the
2 corporation shall draw any salary in addition to that now
3 authorized by law for any service he may render or any duty he
4 may perform in connection with the corporation.

5 "(f) All proceedings had and done by the board of
6 directors shall be reduced to writing by the secretary of the
7 corporation and recorded in a substantially bound book. Copies
8 of such proceedings, when certified by the secretary of the
9 corporation under the seal of the corporation, shall be
10 received in all courts as prima facie evidence of the matters
11 and things therein certified."

12 "§23-1-309.

13 "The obligations authorized by this article shall be
14 signed by the president or vice-president of the authority, as
15 the board of directors shall designate, and attested by its
16 secretary or an assistant secretary, as the board of directors
17 shall designate; provided, that a facsimile of the signature
18 of one but not of both of the said officers may be printed or
19 otherwise reproduced on any of the obligations authorized by
20 this article in lieu of their being manually signed. ~~All~~
21 ~~interest coupons applicable to the bonds or temporary bonds~~
22 ~~shall be signed by the president or vice-president of the~~
23 ~~authority, as the board of directors shall designate;~~
24 ~~provided, that a facsimile of the signature of such officer~~
25 ~~may be printed or otherwise reproduced on any of the interest~~

1 ~~coupons in lieu of their being manually signed.~~ The seal of
2 the authority shall be impressed on the bonds and temporary
3 bonds authorized by this article; provided, that a facsimile
4 of the said seal may be printed or otherwise reproduced in
5 lieu of being manually impressed thereon."

6 "§23-1-311.

7 "(a) The obligations authorized by this article
8 shall not be general obligations of the authority, but shall
9 be payable solely out of the funds appropriated and pledged in
10 or permitted to be pledged pursuant to Sections 23-1-314 and
11 23-1-315.

12 "(b) As security for the payment of the principal of
13 and interest on the obligations issued by it under this
14 article, the authority is hereby authorized and empowered to
15 pledge for payment of the said principal and interest the
16 funds that are appropriated and pledged in or permitted to be
17 pledged pursuant to Sections 23-1-314 and 23-1-315 for payment
18 of said principal and interest, and to pledge all of such
19 funds or only certain of such funds for payment of said
20 principal and interest, all within the discretion of the
21 authority.

22 "(c) Any notes or temporary bonds issued under this
23 article shall also be payable from the proceeds of any bonds
24 in the anticipation of which such notes or temporary bonds are
25 issued.

1 "(d) All contracts made and all obligations issued
2 by the authority pursuant to the provisions of this article
3 shall be solely and exclusively the obligation of the
4 authority and shall not be an obligation or debt of the state.

5 "(e) Any obligation issued under this article,
6 except bonds or temporary bonds registered as to principal or
7 as to both principal and interest, and any interest coupons
8 applicable thereto, shall be construed to be negotiable
9 instruments although payable solely from a specified source as
10 provided in this article."

11 "§23-1-313.

12 "The authority shall pay out of the proceeds from
13 the sale of the obligations authorized by this article all
14 expenses that the board of directors may deem necessary and
15 advantageous in connection with the sale and issuance thereof.
16 The proceeds from the issue of any obligations authorized by
17 this article, (i) except the proceeds of bonds which were
18 issued to pay principal and interest of temporary bonds or
19 notes and in anticipation of which such temporary bonds or
20 notes shall have been issued, and (ii) except the proceeds of
21 refunding bonds issued to refund any outstanding obligation,
22 remaining after paying the expenses of their sale and
23 issuance, shall be deposited in the State Treasury, shall be
24 credited to the Road and Bridge Fund and shall be subject to
25 be withdrawn by the authority, upon the approval of the State

1 Department of Transportation and the Governor, but only for
2 the purpose of paying the federal share of the cost of federal
3 aid projects ~~on Federal Aid Projects~~ or work incidental or
4 related to any such construction within the state (including
5 the acquisition of property necessary for such construction
6 and related work) to be repaid to the state by the federal
7 government, and such proceeds shall be used for no other
8 purpose. The proceeds from the sale of the obligations shall
9 not be expended for any highway construction project until
10 such time as the United States Secretary of Transportation or
11 his designated representative shall have approved the design
12 and location of the project, shall have formally stated in
13 writing that such project will be eligible for federal aid
14 matching funds when such funds become available and shall have
15 entered into a written agreement providing for the repayment
16 of such funds. Provided, however, in cases where the Federal
17 Highway Administration has delegated the authority to the
18 State Department of Transportation to approve the design,
19 location, and programming of federal funds for certain federal
20 aid projects or classes of projects, then the approval by the
21 State Department of Transportation shall be sufficient.
22 Proceeds of bonds issued to provide funds for payment of the
23 principal of and interest on temporary bonds or notes issued
24 in anticipation of the sale and issuance of such bonds shall
25 be used solely for the purpose of paying the expenses of the

1 sale and issuance of such bonds and the payment of the
2 principal of and interest on such temporary bonds or notes.
3 Proceeds of refunding bonds issued for the purpose of
4 refunding any outstanding obligations of the authority
5 remaining after payment of the expenses of their issuance
6 shall be used solely for payment of the principal of and
7 interest on such outstanding obligations of the authority and
8 for paying any premium that may be necessary to be paid in
9 order to redeem and retire the obligations to be refunded."

10 "§23-1-314.

11 "(a) For the purpose of providing funds to enable
12 the authority to pay at their respective maturities and due
13 dates the principal of and interest on the obligations that
14 may be issued by it under this article at any time after March
15 1, 2014, there hereby is irrevocably pledged and appropriated
16 so much as shall be necessary for the purpose of the state's
17 share of net gasoline tax proceeds.

18 (b) In addition, for the purpose of providing funds
19 to enable the authority to pay at their respective maturities
20 and due dates the principal of and interest on the obligations
21 that may be issued by it under this article, there hereby is
22 irrevocably pledged and appropriated each year all federal aid
23 funds for federal aid projects to be received by the State
24 Department of Transportation from the United States government
25 to the extent that such funds may be required to pay the

1 principal of and interest on such obligations, ~~and the State~~
2 ~~Department of Transportation is hereby authorized and directed~~
3 ~~to set aside the first moneys so received in each such fiscal~~
4 ~~year and deposit the same in the sinking fund provided for in~~
5 ~~subsection (b) of this section until there shall have been~~
6 ~~accumulated therein an amount at least sufficient to pay the~~
7 ~~principal of and interest on the obligations issued by the~~
8 ~~authority hereunder which mature, are subject to mandatory~~
9 ~~redemption or otherwise become due during the 12-month period~~
10 ~~of such federal fiscal year.~~ All federal aid funds for federal
11 aid projects received by the State Department of
12 Transportation from the United States government during each
13 such federal fiscal year shall be held in trust by the state
14 and applied to the extent required to the payment of the
15 principal of and interest on the obligations authorized to be
16 issued under this article.

17 " (b~~c~~) All moneys hereby appropriated and pledged
18 shall be paid into the State Treasury and shall constitute a
19 sinking fund which shall be held in trust to be used to pay
20 the principal of and interest on the obligations; provided,
21 however, that the pledge of the state's share of net gasoline
22 tax proceeds shall be on parity with the pledge contained in
23 23-1-181 to secure obligations issued by the Alabama Highway
24 Finance Corporation. As security for the payment of the
25 principal of and interest on the obligations issued under this

1 article, the authority is authorized to pledge the proceeds of
2 the appropriation and pledge provided for in this section. All
3 pledges made by the authority shall take precedence among
4 themselves in the order of the adoption of the resolutions
5 making such pledges, except as may be otherwise provided in
6 such resolutions. The State Department of Transportation is
7 hereby authorized and directed to set aside the first moneys
8 received out of the revenues pledged hereunder in each fiscal
9 year and deposit the same in the sinking fund provided for in
10 this subsection (c) until there shall have been accumulated
11 therein an amount at least sufficient to pay the principal of
12 and interest on the obligations issued by the authority
13 hereunder which mature, are subject to mandatory redemption or
14 otherwise become due during such fiscal year."

15 "§23-1-315.

16 "Any funds held as the proceeds of obligations
17 issued by the authority under this article and any funds held
18 by the State Treasurer in the sinking fund provided for the
19 payment of such obligations shall be invested in obligations
20 of the United States of America or in certificates of deposit
21 secured by a deposit of obligations of the United States of
22 America to the full amount of such certificates of deposit,
23 and in investment agreements, repurchase agreements, or other
24 investment arrangements fully collateralized by any of the
25 foregoing, and the interest to be earned on such investment of

1 funds may be pledged by the authority to the payment of the
2 principal of and interest on the obligations issued by the
3 authority under this article."

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

8 Section 3. This act shall become effective
9 immediately following its passage and approval by the
10 Governor, or its otherwise becoming law.

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President and Presiding Officer of the Senate

Speaker of the House of Representatives

SB289

Senate 20-FEB-14

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

Patrick Harris
Secretary

House of Representatives
Passed: 26-FEB-14

By: Senator Dial