

1 HB100
2 147139-1
3 By Representative Greer
4 RFD: Transportation, Utilities and Infrastructure
5 First Read: 05-FEB-13
6 PFD: 02/01/2013

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8 SYNOPSIS: Under existing law, the Department of
9 Transportation has no authority to enter into road
10 construction projects and financial agreements with
11 public companies, partnerships, or ventures.

12 This bill would authorize the Department of
13 Transportation to enter into various types of
14 construction agreements and financing agreements
15 with other public and private entities for
16 constructing a public improvement.

17 This bill would require the department to
18 develop a process for evaluating and selecting
19 public improvement projects under these provisions.
20

21 A BILL
22 TO BE ENTITLED
23 AN ACT
24

25 To amend Section 23-1-40, Code of Alabama 1975; to
26 authorize the Department of Transportation to enter into
27 various types of construction agreements and financing

1 agreements for constructing a public improvement; and to
2 require the department to develop an evaluation process and
3 procedures for selecting public improvement projects under
4 these provisions.

5 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

6 Section 1. Section 23-1-40 of the Code of Alabama
7 1975, is amended to read as follows:

8 "§23-1-40.

9 "(a) It shall be the duty of the State Department of
10 Transportation to designate the roads to be constructed,
11 repaired, and maintained and to construct, standardize,
12 repair, and maintain roads and bridges of this state; and it
13 shall have authority to make contracts or agreements to
14 construct or pave the roadway only of the street or streets
15 which will serve to connect the state highway constructed or
16 repaired by the State Department of Transportation within any
17 municipality in the State of Alabama.

18 "(b) In such municipalities in which the State
19 Department of Transportation has not designated the street or
20 streets which are a part of the state highways constructed or
21 repaired by the State Department of Transportation, it shall
22 be the duty of the State Department of Transportation to
23 designate such street or streets. The State Department of
24 Transportation may also cooperate or contract with any
25 municipality or county in the paving or improving of any
26 street or streets, highway or highways, or walkway or walkways
27 upon which a state educational or eleemosynary institution, or

1 the property thereof, may front or abut; provided, that where
2 ~~said the~~ state educational or eleemosynary institution or the
3 property thereof fronts or abuts on both sides of such street
4 or streets, highway or highways, or walkway or walkways, the
5 State Department of Transportation is hereby authorized to and
6 shall expend an amount of money sufficient to cover the entire
7 cost thereof; provided further, that where such institution or
8 the property thereof fronts or abuts on only one side of such
9 street or streets, highway or highways or walkway or walkways,
10 the said department shall expend an amount of money sufficient
11 to cover only one half of the cost thereof; provided, that in
12 such case, with the special approval of the Governor, ~~said the~~
13 department shall be authorized to expend a sum of money
14 sufficient for the entire cost and, provided further, the ~~said~~
15 department may also, with the special approval of the
16 Governor, improve or pave any street or streets, driveway or
17 driveways, including curb and gutter, and walkway or walkways
18 on, by or through the grounds upon which a state educational
19 or eleemosynary institution is located and to pay the entire
20 cost thereof.

21 "(c) The State Department of Transportation shall
22 cause to be made and kept in its office a general highway map
23 of the state which shall show all state roads.

24 "(d) The State Department of Transportation shall
25 collect information and prepare statistics relative to the
26 mileage, character, and condition of the roads and bridges in
27 all counties of the state.

1 "(e) The State Department of Transportation shall
2 investigate and determine the methods of road construction
3 best adapted to the various sections of the state and shall
4 establish standards for the maintenance of roads and bridges
5 which have been constructed with state aid.

6 "(f) The State Department of Transportation ~~may~~, at
7 all reasonable times, may be consulted by county and municipal
8 officials relative to any matter relating to the construction
9 of roads and bridges or culverts, and the department may also
10 call on all county and municipal officials for any information
11 or assistance it may require and it shall be their duty to
12 supply the same.

13 "(g) The State Department of Transportation shall
14 determine the character and have the general supervision over
15 the construction and maintenance of all the public roads,
16 bridges, and culverts in the state where the funds of the
17 state are used and shall have a general supervision over the
18 expenditure of any funds apportioned to any county of the
19 state for the construction and maintenance of all public
20 roads, bridges, and culverts in each county.

21 "(h) (1) In addition to any other authority to enter
22 into contracts for a public improvement as may be provided by
23 law, the State Department of Transportation may enter into
24 contracts, agreements, or understandings with any other public
25 and private parties including, but not limited to, all of the
26 following: Individuals, corporations, partnerships, joint
27 ventures, limited liability companies, and other private

1 parties; public or private partnerships, or both, or other
2 similar joint ventures; the federal government; any
3 department, agency, governmental or quasi-governmental body,
4 public corporation, instrumentality, or subdivision of the
5 United States, the State of Alabama, or any other state of the
6 United States, or any agency, governmental or
7 quasi-governmental body, instrumentality, or subdivision
8 thereof, for the purpose of developing a public improvement
9 project, or any part thereof, including, but not limited to,
10 the following:

11 "a. Design-build, design-build-operate,
12 design-build-own-operate, design-build-own-operate-maintain,
13 design-build-finance-operate-maintain, construction management
14 at-risk, construction manager general contractor or other
15 similar arrangements or agreements pursuant to which the
16 design, right-of-way acquisition, relocation of structures or
17 utilities, construction, financing, ownership, management, and
18 operation, or combination thereof, of a public improvement
19 project are accomplished by any of the aforementioned entities
20 by or on behalf of the department.

21 "b. Leases, licenses, franchises, concessions, or
22 other agreements for the development, operation, management,
23 or undertaking of all or any part of a public improvement
24 project.

25 "(2) The public improvement project may be awarded
26 through any existing procurement authority, request for
27 proposals, solicited or unsolicited proposals, or other means

1 of procurement used for public improvement projects delivered
2 as provided in subdivision (1).

3 "(3) The department may enter into a contract for a
4 public improvement under this section when the estimated,
5 projected, or budgeted construction cost is not less than
6 twenty-five million dollars (\$25,000,000).

7 "(4) The department shall develop procedures to
8 implement this section, including, but not limited to,
9 proposal content, prequalification, applicant interview,
10 proposal evaluation, selection, and award.

11 "(5) Notwithstanding any provision of law to the
12 contrary, proposals under this section with respect to public
13 improvement projects that the department determines can be
14 more efficiently accomplished by any of the means enumerated
15 in subdivision (1), may be evaluated and awarded by the
16 department based on qualifications of participants or best
17 value, or both, as evaluated by procedures of the department
18 and taking into consideration the best interest of the State
19 of Alabama."

20 Section 2. This act shall become effective
21 immediately following its passage and approval by the
22 Governor, or its otherwise becoming law.