

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

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

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

A BILL
TO BE ENTITLED
AN ACT

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

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

"§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) CONCESSIONAIRE. A person, firm, corporation,
13 partnership, limited liability company, or other legal entity
14 described in Section 23-2-144(a)(12) which has been awarded a
15 contract to construct or operate, or both, a toll road or
16 bridge by the department or the authority.

17 "~~(3)~~ (4) COST. As applied to a toll road, bridge, or
18 tunnel project, the cost shall include, but not be limited to,
19 the following:

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

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

25 "c. The cost of demolishing or removing any
26 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 ~~"(5)~~ (6) PROJECT, TOLL ROAD, BRIDGE, AND TUNNEL
9 PROJECT or TOLL ROAD, BRIDGE, OR TUNNEL PROJECT. Any type of
10 toll road, bridge, causeway, tunnel, or other transportation
11 facility established and constructed or to be constructed by
12 or on behalf of the authority, in conjunction with the
13 department, under this article, ~~and shall include, but shall~~.
14 The term includes, but is not be limited to, all toll roads,
15 bridges, causeways, tunnels, overpasses, underpasses,
16 interchanges, entrance plazas, approaches, access roads, toll
17 houses, electronic tolling facilities and equipment, service
18 areas, service stations, service facilities, communication and
19 video and other surveillance facilities, and administration,
20 storage, and other buildings which the authority may deem
21 necessary for the operation of a project, together with. The
22 term also includes, but is not limited to, all property,
23 rights, easements, and interests which may be acquired by the
24 authority for the construction, operation, and maintenance of
25 a project, including a project that is leased to a
26 concessionaire by the authority or the department.

27 "§23-2-153.

1 "(a) The exercise of the powers granted by this
2 article ~~will~~ shall be in all respects for the benefit of the
3 people of the state, for the increase of their commerce and
4 prosperity, and for the improvement of their health and living
5 conditions. Since the ownership, operation, and maintenance of
6 toll road, bridge, or tunnel projects by the authority will
7 constitute the performance of essential functions, the
8 authority, department, and any concessionaire, or any
9 contractor, subcontractor, or agent thereof, shall not be
10 required to pay ~~any~~ the taxes or assessments as specifically
11 authorized in this section upon any toll road, bridge, or
12 tunnel project or any property acquired or used by the
13 authority, department, or any concessionaire under ~~the~~
14 ~~provisions of this article or upon the income therefrom. Any~~
15 ~~toll road, bridge or tunnel project, any property acquired or~~
16 ~~used by the authority under the provisions of this article and~~
17 ~~the income therefrom and the bonds issued under the provisions~~
18 ~~of this article, their transfer and the income therefrom~~
19 ~~(including any profit made on the sale thereof) shall be~~
20 ~~exempt from taxation.~~

21 "(b) An income, excise, or license tax or assessment
22 may not be levied upon or collected in the state with respect
23 to any corporate activities of the authority or the department
24 or any of their revenues, income, or profit. The exemptions
25 provided in this section do not extend to the taxes or fees
26 levied under Division 1 of Article 5 of Chapter 17 of Title 8;

1 Chapter 17 of Title 40; or the Rebuild Alabama Act (Act
2 2019-2, 2019 Regular Session).

3 "(c) No ad valorem tax or assessment for any public
4 improvement shall be levied upon or collected in the state
5 with respect to any toll road, bridge, or tunnel project
6 during any time that title to the toll road, bridge, or tunnel
7 project is held by the authority or the department and any
8 time that title to the toll road, bridge, or tunnel project is
9 retained by the authority or the department pursuant to a
10 lease with a concessionaire.

11 "(d) No privilege or license taxes or assessments
12 payable with respect to the recording or filing for record of
13 any mortgage, deed, or other instrument, including, but not
14 limited to, the privilege taxes under Chapter 22 of Title 40,
15 shall be levied, charged, or collected in connection with the
16 recording or filing for record of any mortgage, deed, or other
17 instrument evidencing a conveyance to or the creation of any
18 property interest in the authority or the department, any
19 agreement or instrument to which the authority or the
20 department is a party, or any mortgage, deed, or other
21 instrument evidencing a conveyance from the authority or the
22 department to another party or the creation by the authority
23 or the department of any property interest in another party.

24 "(e) Any tangible personal property which will
25 become a permanent part of a project constructed by the
26 authority, department, or any concessionaire, or any
27 contractor, subcontractor, or agent thereof, shall be exempt

1 from taxation and assessment, including sales or use taxes.
2 However, any concessionaire, or contractor, subcontractor, or
3 agent thereof, seeking an exemption of county or municipal
4 sales or use taxes for itself or its contractors,
5 subcontractors or agents, under the authority granted herein,
6 shall receive an exemption certificate approved by resolution
7 of the affected county or municipality.

8 "(f) The authority, department, or any
9 concessionaire, or any contractor, subcontractor, or agent
10 thereof, shall be exempt from any tax imposed by Section
11 40-23-50 for the gross proceeds of the sale of materials or
12 the gross receipts of services that are related to the
13 construction of any project under this section.

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

18 "(h) (1) The Department of Revenue shall issue a
19 certificate of exemption to the authority, the department, a
20 concessionaire, or any contractor, subcontractor, or agent
21 thereof, for each toll road, bridge, or tunnel project for the
22 purchase of building materials, construction materials and
23 supplies, and other tangible personal property that becomes
24 part of the project. Any use of the certificate issued under
25 the authority of this subsection and subsection (e) shall be
26 subject to the reporting and penalty provisions of Section
27 40-9-14.1. Any holder or user of such certificate shall

1 maintain an accurate accounting of the purchase and use of the
2 property and shall file, in a manner prescribed by the
3 Department of Revenue, reports of all such purchases.

4 "(2) It is the intent of the Legislature for this
5 subsection to lower the administrative cost for the authority,
6 department, and each concessionaire, and any contractor,
7 subcontractor, or agent thereof, for toll road, bridge, or
8 tunnel projects.

9 "(i) Nothing in this section exempts any
10 concessionaire, or any contractor, subcontractor, or agent
11 thereof, from state income taxes.

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

15 Section 2. This act shall become effective
16 immediately following its passage and approval by the
17 Governor, or its otherwise becoming law.