

1 SB179  
2 115370-6  
3 By Senators Mitchell and Marsh  
4 RFD: Governmental Affairs  
5 First Read: 12-JAN-10

8 SYNOPSIS: Existing law assesses a construction craft  
9 industry fee to be paid by certain employers in the  
10 commercial and industrial construction industry in  
11 Alabama to fund a program providing for the  
12 recruitment of, and training opportunities for, new  
13 construction craft trade workers. Existing law  
14 provides for the proceeds of the fee to be paid to  
15 the 21st Century Authority Fund and disbursed by  
16 the 21st Century Authority to the Alabama  
17 Construction Recruitment Institute. Existing law  
18 also provides for the creation of the institute as  
19 a public corporation and for oversight of the  
20 institute by the 21st Century Authority.

21 This bill would create a new article in the  
22 Code of Alabama 1975, and would amend and renumber  
23 various sections of the code to separate the  
24 institute from the 21st Century Authority. This  
25 bill would remove the Construction Recruitment  
26 Institute from the oversight of the 21st Century  
27 Authority. This bill would provide further for the

1 duties and powers of the board of the institute.  
2 This bill would subject the institute to annual  
3 audit by the Department of Examiners of Public  
4 Accounts.

5 This bill would authorize the Employees'  
6 Retirement System and the State Employees'  
7 Insurance Board to provide certain retirement and  
8 health insurance benefits to employees of the  
9 institute. This bill would also clarify that  
10 employees of the institute are not state employees.

11 This bill would provide that the proceeds of  
12 the construction craft industry fee minus the  
13 administrative costs of the Department of Revenue  
14 in administering the fee would be paid directly to  
15 the Recruitment Training and Promotion Fund which  
16 would be continuously appropriated to the  
17 institute. This bill would provide that the portion  
18 of the fee previously paid into the 21st Century  
19 Fund would be transferred to the Recruitment  
20 Training and Promotion Fund. This bill would  
21 clarify which employers are subject to the fee and  
22 provide further for the effective date. The bill  
23 would further provide for the powers of the  
24 institute. This bill would provide express  
25 authority to the board of the institute to expend  
26 the moneys in the Recruitment Training and  
27 Promotion Fund for the purposes provided by law.

1  
2 A BILL  
3 TO BE ENTITLED  
4 AN ACT  
5

6 Relating to the 21st Century Authority; to provide  
7 further for the Alabama Construction Recruitment Institute and  
8 its powers and the Recruitment Training and Promotion Fund; to  
9 amend Sections 41-10-621, 41-10-622, 41-10-626, 41-10-629, and  
10 41-10-673, Code of Alabama 1975, as amended by Act 2009-563,  
11 2009 Regular Session (Acts 2009, p. 1762); to add Article 18  
12 (commencing with Section 41-10-720) to Chapter 10 of Title 41,  
13 Code of Alabama 1975; to amend and renumber Sections 1 to 6,  
14 inclusive, of Act 2009-561, 2009 Regular Session (Acts 2009,  
15 p. 1760), now appearing as Sections 41-10-700 to 41-10-705,  
16 inclusive, as Division 2 of Article 18 of Chapter 10, Title  
17 41, Code of Alabama 1975; to separate the institute from the  
18 authority; to authorize certain employees of the institute to  
19 receive certain retirement and health insurance benefits upon  
20 petition; to provide that employees of the institute are not  
21 state employees; to provide for deposit of certain  
22 construction craft industry fees into the Recruitment and  
23 Promotion Fund in the State Treasury and appropriate the fund  
24 to the institute; to provide for the transfer to the  
25 Recruitment Training and Promotion Fund of certain fees  
26 previously collected and paid to the 21st Century Authority  
27 Fund; to clarify which employers are subject to the fee; to

1 provide further for the powers of the institute; to authorize  
2 the board of the institute to expend the moneys in the  
3 Recruitment Training and Promotion Fund; to subject the  
4 institute to annual audit by the Department of Examiners of  
5 Public Accounts; and to provide further for the construction  
6 craft industry fee.

7 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

8 Section 1. Sections 41-10-621, 41-10-622, 41-10-626,  
9 41-10-629, and 41-10-673, Code of Alabama 1975, as amended by  
10 Act 2009-563, 2009 Regular Session (Acts 2009, p. 1762), are  
11 amended to read as follows:

12 "§41-10-621.

13 "(a) The Legislature finds and declares the  
14 following:

15 "(1) The State of Alabama has a great need from time  
16 to time to have access to financing for economic development  
17 and industrial recruitment that does not involve improvements  
18 to revenue-producing facilities.

19 "(2) It is desirable and in the public interest to  
20 establish a state-level authority with the power to issue  
21 bonds for such general purposes.

22 "(3) The Alabama Supreme Court has held, in effect,  
23 that only when the debt of a public corporation is payable out  
24 of a new revenue source will such debt not be considered a  
25 debt of the state in contravention of Section 213 of the  
26 Constitution of Alabama of 1901; the State of Alabama expects  
27 to receive in the near future new revenues from the settlement

1 of certain litigation between the state and the tobacco  
2 industry and construction industry fees dedicated for the  
3 recruitment of, and the promotion of training programs and  
4 opportunities for, new construction craft workers.

5 ~~"(4) The Legislature also recognizes that, at any~~  
6 ~~given time, the level of activity in our construction industry~~  
7 ~~is a primary yardstick for measuring the overall economic~~  
8 ~~health of this country and this state, and that the success~~  
9 ~~and stability of the building, manufacturing, and commercial~~  
10 ~~businesses are dependant upon a sufficient supply of skilled~~  
11 ~~artisans and craft persons that can produce quality products~~  
12 ~~that inspire public confidence. The State of Alabama and the~~  
13 ~~nation has a great need for a program that provides for the~~  
14 ~~recruitment of, and training programs and opportunities for,~~  
15 ~~new construction craft trade workers. It is desirable and in~~  
16 ~~the public interest to establish a state-level authority to~~  
17 ~~create and implement such a program.~~

18 ~~"(5) The Legislature further anticipates the passage~~  
19 ~~of a federal economic stimulus package providing substantial~~  
20 ~~funding for significant new highway, road, bridge, and public~~  
21 ~~infrastructure projects, and the Legislature recognizes that~~  
22 ~~these projects will place additional demands for skilled~~  
23 ~~artisans and craft persons which the existing construction~~  
24 ~~workforce may not support.~~

25 ~~"(6)(4)~~ By the passage of this division, it is the  
26 intention of the Legislature to:

1           "a. Provide for the creation of a special fund known  
2 as the Alabama 21st Century Fund into which tobacco revenues  
3 ~~and construction industry fees dedicated for the recruitment~~  
4 ~~of and the promotion of training programs and opportunities~~  
5 ~~for new craft workers~~ will be deposited.

6           "b. Authorize the incorporation of the Alabama 21st  
7 Century Authority, which will have the power to issue bonds in  
8 limited amounts as provided in this division and for the  
9 purpose of promoting economic development and industrial  
10 recruitment, subject to legislative approval by separate act,  
11 which bonds may be payable out of specified monies held in the  
12 Alabama 21st Century Fund and other monies and property  
13 available to the authority, ~~except for construction industry~~  
14 ~~fees dedicated for the recruitment of and the promotion of~~  
15 ~~training programs and opportunities for new construction craft~~  
16 ~~workers.~~

17           "c. Appropriate annually for the payment of such  
18 bonds a portion of the revenues held in the Alabama 21st  
19 Century Fund.

20           ~~"d. Authorize the establishment and incorporation of~~  
21 ~~the Alabama Construction Recruitment Institute by the Alabama~~  
22 ~~21st Century Authority for the purpose of creating and~~  
23 ~~implementing a program providing for the recruitment of and~~  
24 ~~the promotion of training programs and opportunities for new~~  
25 ~~construction craft trade workers.~~

26           "(b) The Legislature further finds and declares that  
27 it is desirable and in the public interest that tobacco

1 revenues in an amount of up to \$60,000,000 in the fiscal year  
2 ending September 30, 2000, up to \$65,000,000 in the fiscal  
3 year ending September 30, 2001, and up to \$70,000,000 in the  
4 fiscal year ending September 30, 2002, and in each fiscal year  
5 thereafter be transferred to the Children First Trust Fund to  
6 be appropriated by the Legislature, upon the recommendation of  
7 the Governor, for programs authorized by the Children First  
8 Act, Section 41-15B-1.

9 "(c) The Legislature further finds and declares that  
10 it is desirable and in the public interest that tobacco  
11 revenues remaining each fiscal year after the distributions in  
12 subsection (a) (4)c. and subsection (b) be distributed to the  
13 Alabama Senior Services Trust Fund and the State General Fund  
14 for Medicaid purposes.

15 ~~"(d) The Legislature further finds and declares that~~  
16 ~~it is desirable and in the public interest that construction~~  
17 ~~industry fees dedicated for the recruitment of and the~~  
18 ~~promotion of training programs and opportunities for new~~  
19 ~~construction craft workers shall be annually appropriated to~~  
20 ~~the 21st Century Authority and dedicated for expenses incurred~~  
21 ~~or to be incurred by the Alabama Construction Recruitment~~  
22 ~~Institute.~~

23 "§41-10-622.

24 "When used in this division, the following terms  
25 shall have the following meanings, unless the context clearly  
26 indicates otherwise:



1           "(1) APPROPRIATED FUNDS. The tobacco revenues  
2 deposited in the special fund to the extent such revenues are  
3 appropriated to the authority pursuant to Section 41-10-630.

4           "(2) AUTHORITY. The Alabama 21st Century Authority  
5 authorized to be established pursuant to Section 41-10-623.

6           "(3) BONDS. Those bonds, including refunding bonds,  
7 issued pursuant to this division.

8           "~~(4) CONSTRUCTION INDUSTRY FEES. Revenues received~~  
9 ~~by the state in the form of federal, state, local, or private~~  
10 ~~sector grants for the purpose of providing for the recruitment~~  
11 ~~of, and the promotion of training programs and opportunities~~  
12 ~~for, new construction industry craft workers and fees enacted~~  
13 ~~for such purpose after January 1, 2009, specifically, but not~~  
14 ~~limited to, fees imposed under Division 4 of this article. No~~  
15 ~~fee shall be collected from any licensed home builder, as~~  
16 ~~defined in Title 34, Chapter 14A; from any subcontractor~~  
17 ~~working on a residential construction site, including~~  
18 ~~renovations to any residential structure; or from any person~~  
19 ~~or entity specifically exempt under the provisions of Title~~  
20 ~~34, Chapter 14A.~~

21           "~~(5)~~ (4) GOVERNMENT SECURITIES. Any bonds or other  
22 obligations which as the principal and interest constitute  
23 direct obligations of, or are unconditionally guaranteed by,  
24 the United States of America, including obligations of any  
25 federal agency to the extent such obligations are  
26 unconditionally guaranteed by the United States of America and  
27 any certificates or any other evidences of an ownership

1 interest in such obligations of, or unconditionally guaranteed  
2 by, the United States of America or in specified portions  
3 thereof, which may consist of the principal thereof or the  
4 interest thereon.

5 ~~"(6) INSTITUTE. The Alabama Construction Recruitment~~  
6 ~~Institute authorized to be established pursuant to Section~~  
7 ~~41-10-640.~~

8 ~~"(7) MEMBERS. Appointees of the Governor, Lieutenant~~  
9 ~~Governor, and Speaker of the House of Representatives, as~~  
10 ~~provided in Section 41-10-641, who shall serve as the~~  
11 ~~governing board of the institute.~~

12 ~~"(8) (5) PERMITTED INVESTMENTS. (i) Government~~  
13 ~~Securities; (ii) bonds, debentures, notes, or other evidences~~  
14 ~~of indebtedness issued by any of the following agencies: Bank~~  
15 ~~for Cooperatives; federal intermediate credit banks; Federal~~  
16 ~~Financing Bank; federal home loan banks; Federal Farm Credit~~  
17 ~~Bank; Export-Import Bank of the United States; federal land~~  
18 ~~banks; or Farmers Home Administration or any other agency or~~  
19 ~~corporation which has been or may hereafter be created by or~~  
20 ~~pursuant to an act of the Congress of the United States as an~~  
21 ~~agency or instrumentality thereof; (iii) bonds, notes, pass~~  
22 ~~through securities or other evidences of indebtedness of the~~  
23 ~~Government National Mortgage Association and participation~~  
24 ~~certificates of the Federal Home Loan Mortgage Corporation;~~  
25 ~~(iv) full faith and credit obligations of any state, provided~~  
26 ~~that at the time of purchase such obligations are rated at~~  
27 ~~least "AA" by Standard & Poor's Ratings Group and at least~~

1 "Aa" by Moody's Investors Service; (v) public housing bonds  
2 issued by public agencies or municipalities and fully secured  
3 as to the payment of both principal and interest by contracts  
4 with the United States of America, or temporary notes,  
5 preliminary notes, or project notes issued by public agencies  
6 or municipalities, in each case fully secured as to the  
7 payment of both principal and interest by contracts with the  
8 United States of America, or temporary notes, preliminary  
9 notes or project notes issued by public agencies or  
10 municipalities, in each case fully secured as to the payment  
11 of both principal and interest by a requisition or payment  
12 agreement with the United States of America; (vi) time  
13 deposits evidenced by certificates of deposit issued by banks  
14 or savings and loan associations which are members of the  
15 Federal Deposit Insurance Corporation, provided that, to the  
16 extent such time deposits are not covered by federal deposit  
17 insurance, such time deposits (including interest thereon) are  
18 fully secured by a pledge of obligations described in items  
19 (i), (ii), (iii), and (v) above, which at all times have a  
20 market value not less than the amount of such bank time  
21 deposits required to be so secured and which meet the greater  
22 of 100 percent collateralization or the "AA" collateral levels  
23 established by Standard & Poor's Ratings Group for structured  
24 financings; (vii) repurchase agreements for obligations of the  
25 type specified in items (i), (ii), (iii), and (v) above,  
26 provided such repurchase agreements are fully collateralized  
27 and secured by such obligations which have a market value at

1 least equal to the purchase price of such repurchase  
2 agreements which are held by a depository satisfactory to the  
3 State Treasurer in such manner as may be required to provide a  
4 perfected security interest in such obligations, and which  
5 meet the greater of 100 percent collateralization or the "AA"  
6 collateral levels established by Standard & Poor's Ratings  
7 Group for structured financings; and (viii) uncollateralized  
8 investment agreements with, or certificates of deposit issued  
9 by, banks or bank holding companies, the senior long-term  
10 securities of which are rated at least "AA" by Standard &  
11 Poor's Ratings Group and at least "Aa" by Moody's Investors  
12 Service.

13 ~~"(9) RECRUITMENT AND TRAINING PROMOTION FUND. The~~  
14 ~~fund established pursuant to Section 41-10-629(b).~~

15 ~~"(10)(6)~~ REFUNDING BONDS. Those refunding bonds  
16 issued pursuant to this division.

17 ~~"(11)(7)~~ SPECIAL FUND. The Alabama 21st Century Fund  
18 established pursuant to Section 41-10-629.

19 ~~"(12)(8)~~ STATE. The State of Alabama.

20 ~~"(13)(9)~~ TOBACCO REVENUES. Revenues received by the  
21 state pursuant to any federal tobacco-related settlement, any  
22 tobacco-related appropriations made by the United States  
23 Congress to the State of Alabama, or any revenues received by  
24 the state from litigation against any tobacco-related  
25 industry.

26 "§41-10-626.

1           "(a) General. The authority is authorized from time  
2 to time to sell and issue its bonds in limited amounts and for  
3 the purpose of promoting economic development and industrial  
4 recruitment as specified by the Legislature from time to time  
5 by separate act, provided that refunding bonds may be issued  
6 by the authority pursuant to Section 41-10-627 without first  
7 obtaining separate authorization from the Legislature.

8           "(b) Sources of payment. Bonds issued by the  
9 authority shall be solely and exclusively an obligation of the  
10 authority and shall not create an obligation or debt of the  
11 state. Such bonds shall not be general obligations of the  
12 authority but shall be payable solely from one or more of the  
13 following sources:

14           "(1) Appropriated funds.

15           "(2) The income or proceeds realized by the  
16 authority under any mortgage or security granted to the  
17 authority.

18           "(3) Amounts derived from any letter of credit,  
19 insurance policy, or other form of credit enhancement  
20 applicable to the bonds.

21           "(4) Any reserve or other fund established for such  
22 purpose by the authority.

23           "(5) Any earnings on the proceeds of bonds invested  
24 by the authority pending their disbursement.

25           "(6) Any other revenues that may hereafter be  
26 available to the authority, ~~except construction industry fees.~~

1           "All pledges of appropriated funds made by the  
2 authority shall be on a parity unless otherwise provided by  
3 the Legislature, it being the intention hereof that all bonds  
4 of the authority secured by a pledge of appropriated funds  
5 shall be equally and ratably so secured without regard to time  
6 of issuance. Bonds issued by the authority shall be construed  
7 to be negotiable instruments, although payable solely from a  
8 specified source, as provided herein.

9           "(c) Security for the bonds. The principal of and  
10 interest on any bonds issued by the authority shall be secured  
11 by a pledge of the appropriated funds or other monies, ~~except~~  
12 ~~construction industry fees~~, and property available to the  
13 authority and may be secured by a trust indenture evidencing  
14 such pledge or by a foreclosable mortgage and deed of trust  
15 conveying as security for such bonds all, or any part, of the  
16 authority's property. The resolution under which the bonds are  
17 authorized to be issued or any such trust indenture or  
18 mortgage may contain any agreements and provisions respecting  
19 the rights, duties, and remedies of the parties to any such  
20 instrument and the parties for the benefit for whom such  
21 instrument is made and the rights and remedies available in  
22 the event of default as the authority shall deem advisable and  
23 which are not in conflict with the provisions of this  
24 division.

25           "(d) General provisions respecting form, sale, and  
26 execution of the bonds. All bonds issued by the authority  
27 shall be signed by its president and attested by its secretary

1 and the seal of the authority shall be affixed. A facsimile of  
2 the signature of one or both of the officers may be printed or  
3 otherwise reproduced on any such bonds in lieu of being  
4 manually subscribed thereon and a facsimile of the seal of the  
5 authority may be printed or otherwise reproduced on any of the  
6 bonds in lieu of being manually affixed thereto. Any bonds of  
7 the authority may be executed and delivered by it at any time  
8 and from time to time, and shall be in the form and  
9 denominations and of such tenor and maturities, shall bear  
10 such rate or rates of interest, shall be payable at such times  
11 and evidenced in such manner, may be made subject to  
12 redemption at the option of the authority at such times and  
13 after such notice and on such conditions and at such  
14 redemption price or prices, and may contain such other  
15 provisions not inconsistent herewith, all as may be provided  
16 by the resolution of the directors of the authority under  
17 which the bonds are authorized to be issued. Bonds of the  
18 authority may be sold at a public or private sale from time to  
19 time as the directors may consider advantageous. Such bonds  
20 may be issued in the form of current interest bonds or capital  
21 appreciation bonds and may be issued as serial bonds or term  
22 bonds, all as may be directed by the authority.

23 "(e) Other matters. Any bonds of the authority may  
24 be used by the holder as security for any funds belonging to  
25 the state, or to any political subdivision, instrumentality,  
26 or agency of the state, in any instance where security for the  
27 deposits may be required by law. Unless otherwise directed by

1 the court having jurisdiction, or the document that is the  
2 source of authority, a trustee, executor, administrator,  
3 guardian, or one acting in any other fiduciary capacity may,  
4 in addition to any other investment powers conferred by law  
5 and with the exercise of reasonable business prudence, invest  
6 trust funds and bonds of the authority. Neither a public  
7 hearing nor consent of the Department of Finance or any other  
8 department or agency shall be a prerequisite to the issuance  
9 of bonds by the authority. Bonds of the authority shall be  
10 legal investments for funds of the Teachers' Retirement System  
11 of Alabama, the Employees' Retirement System of Alabama, and  
12 the State Insurance Fund.

13 "§41-10-629.

14 "~~(a)~~ For the benefit of the State of Alabama and the  
15 citizens thereof, there is hereby created a special fund named  
16 the "Alabama 21st Century Fund" which shall be funded with  
17 tobacco revenues and administered in accordance with this di-  
18 vision. The following amounts shall be retained in the special  
19 fund in the following fiscal years and shall be used to pay  
20 principal, interest, and premium, if any, due on bonds issued  
21 by the authority.

"Fiscal Year	Amount to be Retained
2000	\$7,000,000
2001	9,000,000
2002	11,000,000



1	2003-2017	13,000,000
2	2018 and thereafter	16,000,000

3 "Pending the use of revenues in the special fund for  
4 the payment of debt service on the bonds, such revenues shall  
5 be invested by the State Treasurer in permitted investments  
6 until such revenues are needed for such purposes. Earnings on  
7 such permitted investments shall remain a part of the special  
8 fund.

9 ~~"(b) For the benefit of the State of Alabama and the~~  
10 ~~country, and the citizens thereof, there is hereby created a~~  
11 ~~special fund named the Alabama 21st Century Recruitment and~~  
12 ~~Training Promotion Fund which shall be funded with~~  
13 ~~construction industry fees and administered in accordance with~~  
14 ~~this division. Revenue received by the fund shall be invested~~  
15 ~~by the State Treasurer in permitted investments until the~~  
16 ~~revenue is needed by the institute for the purposes~~  
17 ~~established by this division. Earnings on any permitted~~  
18 ~~investments shall remain a part of the fund.~~

19 "§41-10-673.

20 "The authority shall have, in addition to all powers  
21 heretofore granted to the authority pursuant to the Enabling  
22 Act, the following powers ~~and duties~~:

23 "(1) To sell and issue the bonds authorized herein  
24 for the purposes specified herein.

1           "(2) To pledge the pledged revenues as security for  
2 the payment of the bonds.

3           "(3) To acquire any real or personal property and to  
4 convey the same to the companies or to any local governmental  
5 entity with or without consideration.

6           "(4) To lease any real or personal property to the  
7 companies or to any local governmental entity for use in any  
8 part of the projects.

9           "(5) To mortgage any part of the projects as  
10 security for the bonds.

11           "(6) To make, enter into, and execute contracts,  
12 agreements, or other instruments necessary to acquire or  
13 construct capital improvements to any part of the projects.

14           "(7) To incur ancillary costs, projects costs, and  
15 training costs and to pay for the same out of proceeds of the  
16 bonds, subject to the provisions of Section 41-10-677.

17           "(8) To cooperate with and provide financial  
18 assistance to local governmental entities in order to  
19 effectuate the reconstruction and improvement of the flood  
20 levees identified in subsection (a) of Section 41-10-674.

21           "(9) To reimburse any company for the payment of  
22 training costs incurred by such company pursuant to an  
23 agreement with the authority.

24           ~~"(10) To incorporate the Alabama Construction~~  
25 ~~Recruitment Institute pursuant to Section 41-10-640.~~

26           ~~"(11) To implement a program through the institute~~  
27 ~~providing for the recruitment of, and the promotion of~~

1 ~~training programs and opportunities for, new construction~~  
2 ~~craft trade workers for the benefit of businesses and~~  
3 ~~industries.~~

4 ~~"(12) The authority shall dedicate all construction~~  
5 ~~industry fee proceeds to the institute through its secretary.~~

6 ~~"(13) To approve all financial transactions of the~~  
7 ~~institute through its secretary or other officer as authorized~~  
8 ~~by the authority."~~

9 Section 2. Article 18 (commencing with Section  
10 41-10-720) is added to Chapter 10 of Title 41, Code of Alabama  
11 1975, to read as follows:

12 Article 18. ALABAMA CONSTRUCTION RECRUITMENT  
13 INSTITUTE.

14 Division 1. Authority Generally.

15 §41-10-720.

16 The Legislature makes the following findings:

17 (1) At any given time, the level of activity in our  
18 construction industry is a primary yardstick for measuring the  
19 overall economic health of this country and this state, and  
20 that the success and stability of the building, manufacturing,  
21 and commercial businesses are dependent upon a sufficient  
22 supply of skilled artisans and craft persons who can produce  
23 quality products that inspire public confidence. The State of  
24 Alabama and the nation has a great need for a program that  
25 provides for the recruitment of, and training programs and  
26 opportunities for, new construction craft trade workers. It is  
27 desirable and in the public interest to establish a public

1 authority at the state level to create and implement such a  
2 program.

3 (2) The passage of a federal economic stimulus  
4 package provides substantial funding for significant new  
5 highway, road, bridge, and public infrastructure projects, and  
6 the Legislature recognizes that these projects will place  
7 additional demands for skilled artisans and craft persons  
8 which the existing construction workforce may not support.

9 (3) It is desirable and in the public interest that  
10 construction craft industry fees dedicated for the recruitment  
11 of and the promotion of training programs and opportunities  
12 for new construction craft workers shall be annually  
13 appropriated to the Recruitment and Training Promotion Fund  
14 and dedicated for expenses incurred or to be incurred by the  
15 Alabama Construction Recruitment Institute.

16 (4) By passage of this act, it is the intention of  
17 the Legislature to do all of the following:

18 a. Establish the Alabama Construction Recruitment  
19 Institute as an independent public authority that is separate  
20 and distinct from the Alabama 21st Century Authority.

21 b. Provide for the continuation of the special fund  
22 known as the Recruitment and Training Promotion Fund created  
23 pursuant to Act 2009-563 and provide for the deposit of  
24 certain construction craft industry fees into the Recruitment  
25 and Training Promotion Fund.

1           c. Provide that Alabama 21st Century Authority shall  
2 have no duties or powers related to the Recruitment and  
3 Training Promotion Fund.

4           d. Provide that the Alabama 21st Century Authority  
5 shall provide limited assistance to the institute for the  
6 purpose of enabling the institute to commence operations.

7           §41-10-721.

8           For purposes of this article, the following terms  
9 have the following meanings:

10           (1) CONSTRUCTION CRAFT INDUSTRY FEES. Revenues  
11 received by the state in the form of federal, state, local, or  
12 private sector grants for the purpose of providing for the  
13 recruitment of, and the promotion of training programs and  
14 opportunities for, new construction industry craft workers and  
15 fees enacted for such purpose after January 1, 2009,  
16 specifically, but not limited to, fees imposed under Division  
17 2 of this article. Except as provided in Section 41-10-732, no  
18 fee shall be collected from any licensed home builder, as  
19 defined in Chapter 14A of Title 34; from any subcontractor  
20 working on a residential construction site, including  
21 renovations to any residential structure; or from any person  
22 or entity specifically exempt under Chapter 14A of Title 34,  
23 except for subdivision (3) of Section 34-14A-6.

24           (2) INSTITUTE. The Alabama Construction Recruitment  
25 Institute, a public corporation authorized to be established  
26 pursuant to Section 41-10-723.

1                   (3) RECRUITMENT AND TRAINING PROMOTION FUND. The  
2 fund established pursuant to Act 2009-563 and continued  
3 pursuant to Section 41-10-722.

4                   §41-10-722.

5                   The Recruitment and Training Promotion Fund, created  
6 pursuant to Act 2009-563 for the benefit of the State of  
7 Alabama and the citizens thereof, shall continue to exist as a  
8 special fund in the State Treasury and shall be funded with  
9 construction craft industry fees administered in accordance  
10 with this article. The revenue received by the fund shall be  
11 invested by the State Treasurer in permitted investments until  
12 the institute uses money for the purposes established by this  
13 article. Earnings on permitted investments shall remain part  
14 of the fund.

15                  Section 3. Section 2 of Act 2009-563, 2009 Regular  
16 Session (Acts 2009, p. 1762), now appearing as Sections  
17 41-10-640, 41-10-641, 41-10-642, and 41-10-643, Code of  
18 Alabama 1975, is amended and renumbered as part of Division 1  
19 of Article 18 of Chapter 10 of Title 41, Code of Alabama 1975,  
20 to read as follows:

21                  "~~§41-10-640.~~ §41-10-723.

22                  "(a) The Alabama Construction Recruitment Institute  
23 shall be incorporated as a public corporation ~~and~~  
24 ~~instrumentality of the state~~ with the powers herein provided.

25                  "(b) The Governor, the state Commissioner of  
26 Revenue, and the Director of Finance, ~~on behalf of the~~  
27 ~~authority,~~ shall present to the Secretary of State of Alabama

1 an application signed by them which shall set forth all of the  
2 following:

3 "(1) The name, official designation, and official  
4 residence of each of the applicants and the initial appointed  
5 members of the board, ~~together with a certified copy of the~~  
6 ~~commission evidencing each applicant and member's right to~~  
7 ~~office.~~

8 "(2) The date on which each applicant and member of  
9 the board took office or was appointed, respectively, by his  
10 or her respective appointing authority and the term of office  
11 of each member's respective appointing authority.

12 "(3) The location of the principal office of the  
13 proposed corporation, which shall be in the City of  
14 Montgomery.

15 "(4) Any other matter relating to the institute  
16 which the applicants may choose to insert and which is not  
17 inconsistent with this division or the laws of the state.

18 "~~(b)~~ (c) The application shall be subscribed and  
19 sworn to by each of the applicants and members before an  
20 officer authorized by the laws of the state to take  
21 acknowledgments to deeds. The Secretary of State shall examine  
22 the application and, if he or she finds that it substantially  
23 complies with the requirements of this section, it shall be  
24 filed and recorded in an appropriate book of records in the  
25 office of the Secretary of State.

26 "~~(c)~~ (d) When the application has been made, filed,  
27 and recorded as provided in subsection ~~(b)~~ (c), the applicants

1 shall constitute a corporation under the name stated in the  
2 application, and the Secretary of State shall make and issue  
3 to the applicants a certificate of incorporation pursuant to  
4 this division under the Great Seal of the State and shall  
5 record the certificate with the application. There shall be no  
6 fees paid to the Secretary of State for any work done in  
7 connection with the incorporation or dissolution of the  
8 institute.

9 ~~"§41-10-641. §41-10-724.~~

10 "(a) All powers of the institute shall be exercised  
11 by or under the authority of, and the business and affairs of  
12 the institute shall be managed and governed, under the  
13 direction of, a board of directors, constituted as provided  
14 for in this section.

15 "(b) The board of directors shall consist of three  
16 voting members selected as follows:

17 "(1) One member to be appointed by the Governor from  
18 a list of three names provided by the Alabama local users  
19 group of the Construction Users Roundtable.

20 "(2) One member to be appointed by the Lieutenant  
21 Governor from a list of three names provided by the Board of  
22 Directors of the Alabama American Federation of Labor and  
23 Congress of Industrial Organizations.

24 "(3) One member to be appointed by the Speaker of  
25 the House from a list of nine names submitted as follows:  
26 Three from the Associated General Contractors, one from the  
27 Alabama Chapter of Associated Builders and Contractors, one



1 from the Mid-Gulf Chapter of Associated Builders and  
2 Contractors, one from the North Alabama Chapter of Associated  
3 Builders and Contractors, and three from the American  
4 Subcontractors Association.

5 "(c) All initial members of the board shall be  
6 appointed as provided in subsection (b) within 30 days of May  
7 18, 2009. Members of the board of directors shall be selected  
8 for four-year terms expiring on June 30 four years thereafter  
9 and shall serve until a successor is appointed by the  
10 Governor, Speaker of the House, or Lieutenant Governor, as  
11 appropriate, pursuant to the same selection method described  
12 in subsection (b). Any vacancy on the board of directors shall  
13 be filled in the same manner within 45 days of the vacancy by  
14 appointment by the Governor, Speaker of the House, or  
15 Lieutenant Governor, as appropriate. Each director shall  
16 reside within the State of Alabama. Directors may be  
17 reappointed for successive terms. No director shall draw any  
18 salary for any service he or she may render or for any duty he  
19 or she may perform in connection with the institute, but shall  
20 be entitled to the reimbursement of reasonable expenses  
21 incurred that are directly related to the duties in serving as  
22 a member of the board. No director shall continue to serve as  
23 a member of the board after ceasing to be an active member of  
24 the respective recommending organization from whose list the  
25 appointment was initially made as provided in subsection (b).

26 "(d) A director may or shall be removed from the  
27 board of directors as follows:

1           "(1) If, for any reason, other than an illness which  
2 shall be documented in writing to the ~~authority~~ institute by a  
3 physician, a director is absent for more than 25 percent of  
4 scheduled board meetings during the fiscal year of the  
5 institute, the director may be removed by a unanimous vote of  
6 the other two directors.

7           "(2) A director may be removed, with or without  
8 cause, by vote of the respective recommending organization  
9 from whose list the appointment was initially made.

10           "(3) If a director is found guilty by a court of  
11 competent jurisdiction of willful or wanton misconduct, fraud,  
12 gross negligence, or knowing violation of a criminal law, the  
13 director shall be automatically removed and shall cease to  
14 serve as a member of the board.

15           "(e) The first organizational meeting of the board  
16 shall be held within 30 days following the appointment of all  
17 of the directors. At the organizational meeting, the board  
18 shall elect officers of the board from among its members.  
19 Officers of the board shall serve for the terms and shall have  
20 the powers and duties as the board by rule may prescribe.

21           "(f) The presence of all members of the board of  
22 directors shall constitute a quorum for the transaction of  
23 business. Action of the board may only occur with (1)  
24 unanimous approval of all three members of the board, or (2)  
25 the approval of two members of the board upon the abstention  
26 of the third member. Any vacancy on the board of directors or

1 the disqualification of any director thereof shall impair the  
2 right of the board of directors to act.

3 "(g) All resolutions adopted by the board of  
4 directors shall constitute actions of the institute, ~~however,~~  
5 ~~the secretary of the authority, or such other officer~~  
6 ~~designated by the authority, shall review and approve any~~  
7 ~~financial expenditures, and any legal documents associated~~  
8 ~~therewith, authorized or approved by the board.~~ All  
9 proceedings of the board shall be reduced to writing by the  
10 secretary and shall be recorded in a substantially bound book  
11 and filed in the office of the ~~Director of Finance~~ institute.  
12 Copies of such proceedings, when certified by the secretary of  
13 the ~~authority~~ institute under the seal of the ~~authority~~  
14 institute, shall be received in all courts as prima facie  
15 evidence of the matters and things therein certified. The  
16 board of directors of the institute shall meet at such times  
17 upon such notice as it shall determine or upon call of the  
18 chair.

19 "(h) The institute is a public entity and as such  
20 shall have the authority through its board to disburse funds  
21 appropriated to the fund for the purposes stated in this  
22 article.

23 "~~§41-10-642.~~ §41-10-725.

24 "The institute, ~~in addition to all powers granted to~~  
25 ~~the authority pursuant to Sections 41-10-625 and 41-10-673,~~  
26 ~~except for the power to issue bonds,~~ shall have the following  
27 powers:

1           "(1) To design, implement, and amend a program or  
2 programs to provide for the recruitment of, and the promotion  
3 of training programs and opportunities for, new craft trade  
4 workers for the construction industry and the users of the  
5 construction industry.

6           "(2) To educate the public about career  
7 opportunities as craft trade workers in the construction  
8 industry.

9           "(3) To acquire, receive, and take title to, by  
10 purchase, gift, lease, license, devise, or otherwise, to hold,  
11 keep, improve, maintain, equip, furnish, develop and to  
12 transfer, convey, donate, sell, lease, license, grant options  
13 to, assign, or otherwise dispose of property of every kind and  
14 character, real, personal, mixed, tangible and intangible, and  
15 any and every interest therein, to any person or entity.

16           "(4) To accept gifts, grants, bequests, or devises  
17 of money and tangible and intangible property.

18           "(5) To make and alter bylaws, not inconsistent with  
19 the provisions of this division or laws of the State of  
20 Alabama, for the administration and regulation of the affairs  
21 of the institute.

22           "(6) To make, enter into, and execute contracts,  
23 agreements, leases, licenses, or other legal arrangements and  
24 to take such steps and actions as may be necessary or  
25 convenient in the furtherance of any purpose or the exercise  
26 of any power provided or granted to it by this section.

1           "(7) To engage in media advertising, marketing,  
2       website creation, website design, website maintenance,  
3       database creation, database design, database maintenance, data  
4       and information collection, and data and information  
5       dissemination and distribution, including the dissemination or  
6       distribution of data and information on potential construction  
7       workforce recruits, to the construction industry, users of the  
8       construction industry, and educational institutions, or other  
9       entities, as deemed necessary or appropriate by the institute  
10      in its sole discretion.

11           "(8) To conduct surveys, studies, metrics, and other  
12      analyses of the construction industry and its potential  
13      workforce, and to disseminate or distribute the surveys,  
14      studies, metrics, and other analyses of the construction  
15      industry and its potential workforce to the construction  
16      industry, users of the construction industry, and educational  
17      institutions, or other entities, as deemed necessary or  
18      appropriate by the institute in its sole discretion.

19           "(9) To incur ancillary costs, project costs,  
20      advertising costs, and recruitment costs and to pay these  
21      costs out of proceeds of the Recruitment and Training  
22      Promotion Fund.

23           "(10) To make application directly or indirectly to  
24      any federal, state, county, or municipal government or agency  
25      or to any other source, public or private, for grants or other  
26      similar financial assistance in furtherance of the ~~authority's~~  
27      institute's purpose and to accept and use the same upon the

1 terms and conditions as are prescribed by the federal, state,  
2 county, or municipal government or agency or other source.

3 "(11) To employ and provide for the compensation of  
4 an executive director and staff and support personnel  
5 according to policies and procedures adopted by the institute.  
6 The executive director and the employees of the institute  
7 shall not be considered state employees; however, the director  
8 and employees may petition the Employees' Retirement System  
9 and the State Employees' Insurance Board for inclusion in  
10 these systems subject to terms and conditions of similarly  
11 situated persons who may petition for benefits from these  
12 entities.

13 "(12) To hire accountants, attorneys, engineers,  
14 consultants, and other professionals as the board shall deem  
15 necessary for the conduct of the business of the institute.

16 ~~"(13) To provide grants to craft training programs~~  
17 ~~and to provide scholarships for craft training programs~~  
18 ~~including, but not limited to, apprenticeship programs. To~~  
19 provide grants to educational, governmental, non-profit,  
20 community-based, workforce development, economic development,  
21 and other organizations and associations engaged in the  
22 education, recruitment, training, placement, and professional  
23 development of persons engaged in activities leading to the  
24 furtherance of careers in commercial and industrial  
25 construction in accordance with the purposes of the institute.

26 "(14) To cooperate or partner, or both, with  
27 regional and national organizations promoting construction

1 workforce development, including the sharing of non-monetary  
2 marketing and educational resources and databases, in  
3 furtherance of the purposes of the institute.

4 "(15) To do all things necessary or convenient to  
5 carry out the powers and purposes conferred by this section.

6 "(16) To exercise any and all powers permissible  
7 under state law not in conflict with the purposes of the  
8 institute.

9 "~~§41-10-643.~~§41-10-726.

10 "The records of the institute shall be subject to  
11 the public records laws of this state, as amended, with the  
12 exception of any personal information collected or received by  
13 the institute from any individual. The books and the  
14 expenditures of the institute shall be audited annually by the  
15 Department of Examiners of Public Accounts."

16 Section 4. Sections 1 to 6, inclusive, of Act  
17 2009-561, 2009 Regular Session (Acts 2009, p. 1760), now  
18 appearing as Division 4 (commencing with Section 41-10-700) of  
19 Article 17 of Chapter 10 of Title 41 of the Code of Alabama  
20 1975, are amended and renumbered as Division 2, consisting of  
21 Sections §41-10-727 to 41-10-732, inclusive, Article 18,  
22 Chapter 10, Title 41, Code of Alabama 1975, to read as  
23 follows:

24 "Division 2. Construction Craft Industry Fee.

25 "~~§41-10-700.~~§41-10-727.

26 "As used in this division, the following words shall  
27 have the following meanings:

1           "(1) DEPARTMENT. The Department of Revenue.

2           "(2) EMPLOYEE. An employee, as defined in the  
3           Internal Revenue Code, as amended from time to time; however,  
4           except that any individual providing services to an employer  
5           on an hourly, part-time, full-time, salaried, or contractual  
6           basis shall ~~also~~ be considered ~~as such~~ an employee for  
7           purposes of this division.

8           "(3) EMPLOYER. An employer, as defined in the  
9           Internal Revenue Code, as amended from time to time, which  
10          that is either a general contractor, ~~contractor,~~ or  
11          subcontractor ~~who~~ that primarily holds itself out for hire to  
12          the general public as a general contractor, ~~contractor,~~ or  
13          subcontractor and who receives more than five percent of its  
14          ~~primary business~~ annual gross revenue from business described  
15          under in either North American Industry Classification System  
16          (NAICS) Code 236, 237, or 238 of the United States Department  
17          of Commerce in effect as of January 1, 2009. This definition  
18          does not apply to or include residential home building and  
19          licensed residential home builders contracting for home  
20          building as defined in Chapter 14A of Title 34, or those  
21          specifically exempted under Chapter 14A of Title 34, except  
22          for subdivision (3) of Section 34-14A-6.

23          "(4) FEE. The tax levied by this division.

24          "(5) GENERAL CONTRACTOR. Any individual, person,  
25          corporation, limited liability entity, trust, association, or  
26          any other business enterprise other than home building  
27          projects by licensed residential home builders as defined in



1 Chapter 14A of Title 34, or those specifically exempted under  
2 Chapter 14A of Title 34, except for subdivision (3) of Section  
3 34-14A-6, that for a price, commission, fee, or payment  
4 undertakes to construct or superintend or engage in the  
5 construction, alteration, maintenance, repair, rehabilitation,  
6 remediation, reclamation, ~~or~~ demolition of any building,  
7 highway, sewer, structure, site work, grading, or paving of  
8 any project, or any improvement, in the State of Alabama where  
9 ~~the cost of the undertaking is or is expected to be fifty~~  
10 ~~thousand dollars (\$50,000) or more shall be deemed and held to~~  
11 ~~have engaged in the business of general contracting in the~~  
12 ~~State of Alabama.~~

13 "(6) SKILLED LABOR. Includes all labor or services  
14 performed by ~~payroll workers~~ employees directly engaged in  
15 construction operations at the location of any construction ~~or~~  
16 ~~maintenance site,~~ alteration, maintenance, repair,  
17 rehabilitation, remediation, reclamation, demolition, highway,  
18 sewer, structure, grading, paving, or improvement project in  
19 Alabama. The term does not include labor or services performed  
20 by supervisory employees above the working foreman level.

21 "(7) SUBCONTRACTOR. Any individual, person,  
22 corporation, limited liability entity, trust, association, or  
23 any other business enterprise performing work under contract  
24 to a general contractor, but not licensed residential home  
25 builders building homes as defined in Chapter 14A of Title 34,  
26 or those specifically exempted under Chapter 14A of Title 34, except for subdivision (3) of Section 34-14A-6.

1           "(8) WAGES. The gross earnings paid by an employer  
2 to an employee covered by this division, including all forms  
3 of compensation such as salaries, hourly payments,  
4 commissions, remuneration, dismissal pay, bonuses, and  
5 vacation and sick leave pay, prior to deductions for items  
6 such as Social Security contributions, withholding taxes,  
7 group health insurance, union dues, and savings bonds.

8           "~~\$41-10-701.~~\$41-10-728.

9           "(a) In addition to all other taxes now imposed by  
10 law, there is hereby levied and imposed a fee on the wages, as  
11 defined in this division, paid by the employer to ~~certain~~  
12 employees for engaged in skilled labor in the performance of a  
13 construction contract or job in the State of Alabama, which  
14 fee shall be assessed, collected, and paid quarterly at the  
15 rate and as specified in subsection (b) and for each year as  
16 hereinafter provided.

17           "(b) Each employer subject to this division shall  
18 remit to the department a fee for the purpose of funding a  
19 program providing for the recruitment of, and training  
20 opportunities for, new construction craft trade labor in an  
21 amount equal to nine one-hundredths of one percent of the  
22 Alabama wages paid ~~quarterly each calendar year~~ during the  
23 preceding quarter to all employees of the employer ~~for the~~  
24 ~~performance of~~ engaged in skilled labor under a construction  
25 contract or on a job located in this state for the first five  
26 quarters following May 18, 2009.

1           "(c) Following the first five quarters following May  
2       18, 2009, the receipts of the fee, less cost of collection for  
3       the second through fifth quarters, shall be tabulated and the  
4       fee rate shall be adjusted in order for the aggregate net  
5       collections for the subsequent four quarters to amount to one  
6       million seven hundred fifty thousand dollars (\$1,750,000), and  
7       the revised fee rate shall be the fee rate utilized for each  
8       ~~collection~~ quarterly period thereafter.

9           "(d) The fee levied by this division shall be  
10       remitted in a manner and on forms prescribed by the  
11       department.

12           "~~\$41-10-702.~~\$41-10-729.

13           "It shall be the duty of the department to  
14       administer this division. The department may adopt, amend, or  
15       rescind rules and employ persons, make expenditures, require  
16       reports, make investigations, and take any other action as may  
17       be necessary or suitable to that end. The same penalties,  
18       interest, lien, and criminal provisions of Chapters 1, 2A, and  
19       18 of Title 40, shall apply to taxpayers failing to accurately  
20       compute and remit the fee owed as established by this division  
21       to the department ~~in~~ within the time set forth by this  
22       division and as further prescribed by the department.

23           "~~\$41-10-703.~~\$41-10-730.

24           "In the event an employer fails to pay to the  
25       department any amount required to be paid under this division,  
26       that amount may be assessed against the employer in the same  
27       manner, including interest and penalties, as is prescribed for

1 the assessment of income tax under the provisions of Chapter  
2 2A of Title 40. The employer may appeal from any preliminary  
3 or final assessment in the same manner and subject to the same  
4 procedures prescribed for income tax appeals by Chapter 2A of  
5 Title 40. When no appeal ~~is taken~~ from a final assessment is  
6 timely filed by the employer, execution may be issued upon the  
7 final assessment in the same manner as is provided by law for  
8 the issuance of an execution by the department.

9 ~~"§41-10-704. §41-10-731.~~

10 "(a) Any fees required by this division shall be  
11 remitted to the department and, after the cost appropriation  
12 in subsection (c), shall be deposited to the credit of the  
13 ~~state 21st Century Authority and then to the credit of the~~  
14 Recruitment and Training Promotion Fund in the State Treasury  
15 which is hereby created for the purpose of funding a  
16 recruitment and training promotion program to be administered  
17 by the Alabama Construction Recruitment Institute.

18 "(b) ~~Fees collected pursuant to this division are~~  
19 ~~appropriated to the Alabama 21st Century Authority to the~~  
20 ~~credit of the~~ The Recruitment and Training Promotion Fund ~~for~~  
21 ~~each fiscal year, or part thereof, following May 18, 2009, and~~  
22 ~~the proceeds from the fees~~ is continuously appropriated to the  
23 Alabama Construction Recruitment Institute for the purposes of  
24 this article and shall be expended, in whole or in part, ~~as~~  
25 ~~deemed appropriate~~ by vote of the Board of Directors of the  
26 Alabama Construction Recruitment Institute ~~and approved by the~~

1 ~~secretary or other designee of the Alabama 21st Century~~  
2 ~~Authority.~~

3 "(c) In addition to all other appropriations  
4 heretofore or hereinafter made, there is hereby appropriated  
5 to the department for the fiscal year ending September 30,  
6 2009, such amount as is reasonably required to offset its  
7 administrative and collection costs as a first charge against  
8 the revenues from the fee levied by this division. For all  
9 subsequent fiscal years, there shall be appropriated to the  
10 department as a first charge against the revenues from the fee  
11 levied by this division an amount that will offset its actual  
12 costs in the administration and regulation of this fee.

13 ~~"§41-10-705. §41-10-732.~~

14 "Nothing in this division, including the fees  
15 collected pursuant to this division, shall apply to ~~anyone~~ any  
16 person or entity licensed by the Alabama Home Builders  
17 Licensure Board or any subcontractor working on any  
18 residential project falling under the jurisdiction of the  
19 Alabama Home Builders Licensure Board. Further, nothing in  
20 this division shall apply to ~~anyone~~ any person or entity that  
21 is granted an exemption from the licensing requirements under  
22 Chapter 14A of Title 34, ~~and~~ except for subdivision (3) of  
23 Section 34-14A-6, or their subcontractors working on any  
24 residential project in Alabama. Notwithstanding ~~this provision~~  
25 any provision of this division, ~~anyone~~ any person or entity  
26 licensed by the Alabama Home Builders Licensure Board or  
27 subcontractors ~~working~~ that work on any commercial or

1 industrial project shall be subject to the fee levied by this  
2 division."

3 Section 5. The Employees' Retirement System may  
4 elect to provide retirement benefits and the State Employees'  
5 Insurance Board may elect to provide health insurance benefits  
6 to the employees of the Construction Recruitment Institute  
7 upon petition of the employees and subject to terms and  
8 conditions for similarly situated employees of other public  
9 entities.

10 Section 6. (a) All the construction craft industry  
11 fees collected prior to the effective date of this act and  
12 deposited to the credit of the Alabama 21st Century Fund shall  
13 be transferred to the Recruitment and Training Promotion Fund.

14 (b) After the transfer under subsection (a), the  
15 Alabama 21st Century Authority shall have no further powers or  
16 duties related to the Recruitment and Training Promotion Fund.

17 Section 7. Division 2 of Article 18, Title 41, shall  
18 expire at the end of the first calendar year quarter ending  
19 five years after the effective date of this act.

20 Section 8. This act shall become effective  
21 immediately following its passage and approval by the  
22 Governor, or its otherwise becoming law.