

1 HB423  
2 183437-2  
3 By Representative Lee  
4 RFD: Transportation, Utilities and Infrastructure  
5 First Read: 16-MAR-17

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8 SYNOPSIS: This bill authorizes the Department of  
9 Transportation to pay uncontested claims up to  
10 \$5,000 per claim without approval of the State  
11 Board of Adjustment.

12  
13 A BILL  
14 TO BE ENTITLED  
15 AN ACT  
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17 To amend Section 23-1-40, Code of Alabama 1975, as  
18 last amended by Act 2016-257, 2016 Regular Session, to  
19 authorize the Department of Transportation to pay certain  
20 uncontested claims without approval of the State Board of  
21 Adjustment.

22 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

23 Section 1. Section 23-1-40, Code of Alabama 1975, as  
24 last amended by Act 2016-257, 2016 Regular Session, is amended  
25 to read as follows:

26 "§23-1-40.

1           "(a) It shall be the duty of the Department of  
2           Transportation to designate the roads to be constructed,  
3           repaired, and maintained and to construct, standardize,  
4           repair, and maintain roads and bridges of this state; and it  
5           shall have authority to make contracts or agreements to  
6           construct or pave the roadway only of the street or streets  
7           which will serve to connect the state highway constructed or  
8           repaired by the Department of Transportation within any  
9           municipality in the State of Alabama.

10           "(b) In such municipalities in which the Department  
11           of Transportation has not designated the street or streets  
12           which are a part of the state highways constructed or repaired  
13           by the Department of Transportation, it shall be the duty of  
14           the Department of Transportation to designate such street or  
15           streets. The Department of Transportation may also cooperate  
16           or contract with any municipality or county in the paving or  
17           improving of any street or streets, highway or highways, or  
18           walkway or walkways upon which a state educational or  
19           eleemosynary institution, or the property thereof, may front  
20           or abut; provided, that where the state educational or  
21           eleemosynary institution or the property thereof fronts or  
22           abuts on both sides of such street or streets, highway or  
23           highways, or walkway or walkways, the Department of  
24           Transportation is hereby authorized to and shall expend an  
25           amount of money sufficient to cover the entire cost thereof;  
26           provided further, that where such institution or the property  
27           thereof fronts or abuts on only one side of such street or

1 streets, highway or highways, or walkway or walkways, the  
2 department shall expend an amount of money sufficient to cover  
3 only one half of the cost thereof; provided, that in such  
4 case, with the special approval of the Governor, the  
5 department shall be authorized to expend a sum of money  
6 sufficient for the entire cost and, provided further, the  
7 department may also, with the special approval of the  
8 Governor, improve or pave any street or streets, driveway or  
9 driveways, including curb and gutter, and walkway or walkways  
10 on, by, or through the grounds upon which a state educational  
11 or eleemosynary institution is located and to pay the entire  
12 cost thereof.

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

16 "(d) The Department of Transportation shall collect  
17 information and prepare statistics relative to the mileage,  
18 character, and condition of the roads and bridges in all  
19 counties of the state.

20 "(e) The Department of Transportation shall  
21 investigate and determine the methods of road construction  
22 best adapted to the various sections of the state and shall  
23 establish standards for the maintenance of roads and bridges  
24 which have been constructed with state aid.

25 "(f) The Department of Transportation may, at all  
26 reasonable times, be consulted by county and municipal  
27 officials relative to any matter relating to the construction

1 of roads and bridges or culverts, and the department may also  
2 call on all county and municipal officials for any information  
3 or assistance it may require and it shall be their duty to  
4 supply the same.

5 "(g) The Department of Transportation shall  
6 determine the character and have the general supervision over  
7 the construction and maintenance of all the public roads,  
8 bridges, and culverts in the state where the funds of the  
9 state are used and shall have a general supervision over the  
10 expenditure of any funds apportioned to any county of the  
11 state for the construction and maintenance of all public  
12 roads, bridges, and culverts in each county.

13 "(h) (1) In addition to any other authority to enter  
14 into contracts for construction of a public road, bridge, or  
15 tunnel, and work incidental or related thereto, as may be  
16 provided by law, the Department of Transportation may enter  
17 into contracts, agreements, or understandings with any other  
18 public and private parties including, but not limited to, all  
19 of the following: Individuals, corporations, partnerships,  
20 joint ventures, limited liability companies, and other private  
21 parties; public or private partnerships, or both, or other  
22 similar joint ventures; the federal government; any  
23 department, agency, governmental or quasi-governmental body,  
24 public corporation, instrumentality, or subdivision of the  
25 United States, the State of Alabama, or any other state of the  
26 United States, or any agency, governmental or  
27 quasi-governmental body, instrumentality, or subdivision

1       thereof, for the construction of a public road, bridge, or  
2       tunnel, and work incidental or related thereto, under the  
3       jurisdiction of the department, or any part thereof,  
4       including, but not limited to, the following:

5               "a. Design-build, design-build-operate,  
6       design-build-own-operate, design-build-own-operate-maintain,  
7       design-build-finance-operate-maintain, or other similar  
8       arrangements or agreements pursuant to which the design,  
9       right-of-way acquisition, relocation of structures or  
10      utilities, construction, financing, ownership, management,  
11      maintenance, and operation, or any combination thereof, of a  
12      public road, bridge, or tunnel project is accomplished by the  
13      department or on behalf of the department by any of the  
14      aforementioned entities or methods.

15              "b. Leases, licenses, franchises, concessions, or  
16      other agreements for the development, operation, management,  
17      or undertaking of all or any part of a public road, bridge, or  
18      tunnel project.

19              "(2) The public road, bridge, or tunnel project may  
20      be awarded through any existing procurement authority,  
21      proposals, or other means of procurement used for public works  
22      projects delivered as provided in subdivision (1).

23              "(3) The department may enter into a contract for a  
24      public road, bridge, or tunnel project under this section when  
25      the estimated, projected, or budgeted construction cost is not  
26      less than one hundred million dollars (\$100,000,000). The  
27      department shall not group projects that are more than one

1 mile apart in order to meet the \$100 million construction cost  
2 requirement. This section shall not apply to asphalt pavement  
3 resurfacing projects.

4 "(4) The department shall develop procedures to  
5 implement this section, including, but not limited to,  
6 proposal content, selection criteria, prequalification,  
7 applicant interview, proposal evaluation, proposal  
8 negotiation, selection, and award, which will be outlined in  
9 each department request for proposal.

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

19 "(6) Proposals shall use the standard specifications  
20 of the department or other specifications the department  
21 determines necessary for the project.

22 "(i) (1) Notwithstanding any law to the contrary,  
23 the department may provide compensation for an uncontested  
24 claim not to exceed five thousand dollars (\$5,000) for injury  
25 to a person or property or to pay an unpaid vendor invoice  
26 without approval of the State Board of Adjustment where the  
27 department determines in justice and good morals the claim

1 should be paid. Any claim shall be subject to the same statute  
2 of limitations as provided in Section 41-9-65. The department  
3 shall develop procedures for the filing, review, and payment  
4 of uncontested claims. Any claim prior to payment shall be  
5 approved by the Director of Transportation or his or her  
6 designee. The department shall submit a request to pay an  
7 uncontested claim to the Comptroller who shall issue and  
8 forward payment to the department within 30 days of receipt.

9 "(2) Any contested claim filed pursuant to this  
10 subsection shall be forwarded by the department to the State  
11 Board of Adjustment.

12 "(3) The submission of a claim to the department  
13 under this section shall toll the statute of limitations set  
14 forth in Section 41-9-65."

15 Section 2. This act shall become effective 180 days  
16 following its passage and approval by the Governor, or its  
17 otherwise becoming law.