

**SB205 ENGROSSED**



1 5V1S66-2  
2 By Senators Orr, Allen  
3 RFD: Transportation and Energy  
4 First Read: 12-Apr-23  
5  
6 2023 Regular Session



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A BILL  
TO BE ENTITLED  
AN ACT

Relating to the Alabama Transportation Infrastructure Bank; to amend Sections 23-7-2 and 23-7-15, Code of Alabama 1975, to include additional entities, including tax increment districts, Alabama improvement districts, and cooperative improvement districts, as government units that may receive loans or financial assistance from the bank; to reduce the minimum project cost to be eligible for assistance from the bank; and to further provide for the bank's annual reporting requirements.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Sections 23-7-2 and 23-7-15, Code of Alabama 1975, is amended to read as follows:

"§23-7-2

For the purposes of this chapter, the following words shall have the following meanings:

(1) BANK. The Alabama Transportation Infrastructure Bank.

(2) BOARD. The board of directors of the bank.

(3) BONDS. Includes bonds, notes, or other evidence of indebtedness except as otherwise provided in this chapter.



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29 (4) DEPARTMENT or DEPARTMENT OF TRANSPORTATION. The  
30 Alabama Department of Transportation.

31 (5) ELIGIBLE COST. As applied to a qualified project to  
32 be financed from the federal highway account, the costs that  
33 are permitted under applicable federal laws, requirements,  
34 procedures, and guidelines in regard to establishing,  
35 operating, and providing assistance from the bank. As applied  
36 to a qualified project to be financed from the state highway  
37 account, these costs include the costs of preliminary  
38 engineering, traffic, and revenue studies; environmental  
39 studies; right-of-way acquisition; legal and financial  
40 services associated with the development of the qualified  
41 project; construction; construction management; facilities;  
42 and other costs necessary for the qualified project.

43 (6) ELIGIBLE PROJECT. Highways, roads, bridges, and  
44 mass transit capital projects which provide public benefits by  
45 either enhancing mobility and safety, promoting economic  
46 development, or increasing the quality of life and general  
47 welfare of the public.

48 (7) FINANCING AGREEMENT. Any agreement entered into  
49 between the bank and a qualified borrower pertaining to a loan  
50 or other financial assistance. This agreement may contain, in  
51 addition to financial terms, provisions relating to the  
52 regulation and supervision of a qualified project, or other  
53 provisions as the board may determine. The term includes,  
54 without limitation, a loan agreement, trust indenture,  
55 security agreement, reimbursement agreement, guarantee  
56 agreement, bond or note, ordinance or resolution, or similar



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57 instrument.

58 (8) GOVERNMENT UNIT. A municipal corporation, county,  
59 or another public body, instrumentality, or agency of the  
60 state including combinations of two or more of these entities  
61 acting jointly to finance, construct, own, or operate a  
62 qualified project, and any other state or local authority,  
63 public corporation, ~~tax increment district established~~  
64 ~~pursuant to Chapter 99 of Title 11, Alabama improvement~~  
65 ~~district established pursuant to Chapter 99A of Title 11,~~  
66 ~~cooperative improvement district established pursuant to~~  
67 ~~Chapter 99B of Title 11,~~ board, commission, agency,  
68 department, or other political subdivision created by the  
69 Legislature or pursuant to the Constitution of Alabama of  
70 ~~1901~~2022, and laws of this state which may finance, construct,  
71 own, or operate a qualified project.

72 (9) LOAN. An obligation subject to repayment which is  
73 provided by the bank to a qualified borrower for all or a part  
74 of the eligible cost of a qualified project. A loan may be  
75 disbursed in anticipation of reimbursement for or direct  
76 payment of eligible costs of a qualified project or to  
77 refinance temporary financing used to pay eligible costs of a  
78 qualified project.

79 (10) LOAN OBLIGATION. A bond, note, or other evidence  
80 of an obligation issued by a qualified borrower.

81 (11) OTHER FINANCIAL ASSISTANCE. Includes, but is not  
82 limited to, grants, contributions, credit enhancement, capital  
83 or debt reserves for bonds or debt instrument financing,  
84 interest rate subsidies, provision of letters of credit and



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85 credit instruments, provision of bond or other debt financing  
86 instrument security, and other lawful forms of financing and  
87 methods of leveraging funds that are approved by the board,  
88 and in the case of federal funds, as allowed by federal law.

89 (12) PERMITTED INVESTMENTS. Include any of the  
90 following:

91 a. Certificates of deposit, savings accounts, deposit  
92 accounts, or money market deposits that are any of the  
93 following:

94 1. Secured as provided in Chapter 14A of Title 41.

95 2. Fully insured by the FDIC.

96 3. Made with a bank whose unsecured, long-term  
97 obligations are rated by at least one nationally recognized  
98 securities rating agency in one of the three highest rating  
99 categories assigned by that rating agency.

100 b. Direct obligations of, or obligations the full and  
101 timely payment of which is guaranteed by, the United States of  
102 America, including unit investment trusts and mutual funds  
103 that invest solely in such obligations.

104 c. Bonds, debentures, notes, pass through securities,  
105 or other obligations issued or guaranteed by any federal  
106 agency or corporation which has been or may hereafter be  
107 created by or pursuant to an act of the Congress of the United  
108 States of America as an agency or instrumentality thereof if  
109 such obligations are either of the following:

110 1. Backed by the full faith and credit of the United  
111 States of America.

112 2. Rated by at least one nationally recognized



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113 securities rating agency in one of the three highest rating  
114 categories assigned by the rating agency.

115 d. Commercial paper which is rated not less than "P-1"  
116 by Moody's Investor Service or "A-1+" by Standard & Poor's at  
117 the time of purchase.

118 e. Money market funds rated by at least one nationally  
119 recognized securities rating agency in one of the three  
120 highest rating categories assigned by that rating agency.

121 f. Bonds, warrants, notes, or other obligations issued  
122 by any state, county, or municipality that are rated by at  
123 least one nationally recognized securities rating agency in  
124 one of the three highest rating categories assigned by that  
125 rating agency.

126 g. Investment agreements, including, without  
127 limitation, guaranteed investment contracts, repurchase  
128 agreements, and forward purchase agreements, provided that all  
129 of the following are satisfied:

130 1. Any securities purchased or held pursuant to such  
131 agreement are otherwise permitted investments.

132 2. The counterparty's long-term debt obligations are  
133 rated by at least one nationally recognized securities rating  
134 agency in one of the three highest rating categories assigned  
135 by that rating agency.

136 3. The securities, if purchased, are owned by the bank  
137 or a trustee for any of the bank's obligations and are held by  
138 the bank, the trustee, or a third-party custodian acceptable  
139 to the bank or, if held as collateral, are held by the bank,  
140 the trustee, or a third-party custodian acceptable to the bank



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141 with a perfected first security interest in such collateral.

142 h. Investment or cash management agreements with a  
143 commercial bank whose senior long-term debt obligations are,  
144 at the time of the acquisition of any such investment or cash  
145 management agreement for the account of the bank, rated by at  
146 least one nationally recognized securities rating agency in  
147 one of the three highest rating categories assigned by that  
148 rating agency, or with a commercial bank that is owned or  
149 controlled by a bank holding company whose senior long-term  
150 debt obligations are, at the time of the acquisition of any  
151 such investment or cash management agreement for the account  
152 of the bank, rated by at least one nationally recognized  
153 securities rating agency in one of the three highest rating  
154 categories assigned by that rating agency.

155 (13) PROJECT REVENUES. All rates, rents, fees,  
156 assessments, charges, and other receipts derived or to be  
157 derived by a qualified borrower from a qualified project or  
158 made available from a special source, and, as provided in the  
159 applicable financing agreement, derived from any system of  
160 which the qualified project is a part of, from any other  
161 revenue producing facility under the ownership or control of  
162 the qualified borrower including, without limitation, proceeds  
163 of grants, gifts, appropriations, and loans, including the  
164 proceeds of loans made by the bank, investment earnings,  
165 reserves for capital and current expenses, proceeds of  
166 insurance or condemnation and proceeds from the sale or other  
167 disposition of property and from any other special source as  
168 may be provided by the qualified borrower.



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169 (14) QUALIFIED BORROWER. Any government unit which is  
170 authorized to finance, construct, operate, or own a qualified  
171 project or the applicable portion thereof in the case of a  
172 qualified project consisting of a pool of eligible projects  
173 for more than one government unit.

174 (15) QUALIFIED PROJECT. Includes either of the  
175 following:

176 a. An eligible project or combination of eligible  
177 projects of a government unit, the aggregate total cost of  
178 which exceeds ~~five million dollars (\$5,000,000)~~ one million  
179 dollars (\$1,000,000), which has been selected by the bank to  
180 receive a loan or other financial assistance from the bank to  
181 defray an eligible cost.

182 b. A pool of eligible projects of government units, the  
183 aggregate total cost of which exceeds ~~five million dollars~~  
184 ~~(\$5,000,000)~~ one million dollars (\$1,000,000), which  
185 government units have been selected by the bank to receive a  
186 loan funded from the proceeds of bonds issued by the bank for  
187 the pool of eligible projects to defray an eligible cost.

188 (16) REVENUES. When used with respect to the bank, any  
189 receipts, fees, income, or other payments received or to be  
190 received by the bank including, without limitation, receipts  
191 and other payments deposited in the bank and investment  
192 earnings on its funds and accounts."

193 "§23-7-15

194 Following the close of each state fiscal year, the bank  
195 shall submit an annual report of its activities for the  
196 preceding year to the Governor and to the Legislature. The





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197 [report may be incorporated into the annual report required](#)  
198 [pursuant to Section 23-1-35 or may be prepared as a separate](#)  
199 [document.](#) The bank also shall submit an annual report to the  
200 appropriate federal agency in accordance with requirements of  
201 any federal program. An independent certified public  
202 accountant or the Department of Examiners of Public Accounts  
203 shall perform an audit of the books and accounts of the bank  
204 at least once in each state fiscal year."

205           Section 2. This act shall become effective on the first  
206 day of the third month following its passage and approval by  
207 the Governor, or its otherwise becoming law.

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209  
210 Senate

211 Read for the first time and referred .....12-Apr-23  
212 to the Senate committee on  
213 Transportation and Energy  
214  
215 Read for the second time and placed .....13-Apr-23  
216 on the calendar:  
217 0 amendments  
218  
219 Read for the third time and passed .....02-May-23  
220 as amended  
221 Yeas 32  
222 Nays 0  
223 Abstains 0  
224  
225

Patrick Harris,  
Secretary.

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