

SB205 INTRODUCED



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

Under existing law, the Alabama Transportation Infrastructure Bank is a public corporation that exists to select and assist in financing major qualified projects by providing loans and other financial assistance to government units for constructing and improving highway and transportation facilities necessary for public purposes.

This bill would 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.

Under existing law, the minimum project cost to be eligible for assistance from the bank is \$5,000,000.

This bill would reduce the minimum project cost to be eligible for assistance from the bank to \$1,000,000.

This bill would also further provide for the bank's annual reporting requirements.

A BILL
TO BE ENTITLED
AN ACT



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29
30 Relating to the Alabama Transportation Infrastructure
31 Bank; to amend Sections 23-7-2 and 23-7-15, Code of Alabama
32 1975, to include additional entities, including tax increment
33 districts, Alabama improvement districts, and cooperative
34 improvement districts, as government units that may receive
35 loans or financial assistance from the bank; to reduce the
36 minimum project cost to be eligible for assistance from the
37 bank; and to further provide for the bank's annual reporting
38 requirements.

39 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

40 Section 1. Sections 23-7-2 and 23-7-15, Code of Alabama
41 1975, is amended to read as follows:

42 "§23-7-2

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

45 (1) BANK. The Alabama Transportation Infrastructure
46 Bank.

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

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

50 (4) DEPARTMENT or DEPARTMENT OF TRANSPORTATION. The
51 Alabama Department of Transportation.

52 (5) ELIGIBLE COST. As applied to a qualified project to
53 be financed from the federal highway account, the costs that
54 are permitted under applicable federal laws, requirements,
55 procedures, and guidelines in regard to establishing,
56 operating, and providing assistance from the bank. As applied



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57 to a qualified project to be financed from the state highway
58 account, these costs include the costs of preliminary
59 engineering, traffic, and revenue studies; environmental
60 studies; right-of-way acquisition; legal and financial
61 services associated with the development of the qualified
62 project; construction; construction management; facilities;
63 and other costs necessary for the qualified project.

64 (6) ELIGIBLE PROJECT. Highways, roads, bridges, and
65 mass transit capital projects which provide public benefits by
66 either enhancing mobility and safety, promoting economic
67 development, or increasing the quality of life and general
68 welfare of the public.

69 (7) FINANCING AGREEMENT. Any agreement entered into
70 between the bank and a qualified borrower pertaining to a loan
71 or other financial assistance. This agreement may contain, in
72 addition to financial terms, provisions relating to the
73 regulation and supervision of a qualified project, or other
74 provisions as the board may determine. The term includes,
75 without limitation, a loan agreement, trust indenture,
76 security agreement, reimbursement agreement, guarantee
77 agreement, bond or note, ordinance or resolution, or similar
78 instrument.

79 (8) GOVERNMENT UNIT. A municipal corporation, county,
80 or another public body, instrumentality, or agency of the
81 state including combinations of two or more of these entities
82 acting jointly to finance, construct, own, or operate a
83 qualified project, and any other state or local authority,
84 public corporation, [tax increment district established](#)



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85 pursuant to Chapter 99 of Title 11, Alabama improvement
86 district established pursuant to Chapter 99A of Title 11,
87 cooperative improvement district established pursuant to
88 Chapter 99B of Title 11, board, commission, agency,
89 department, or other political subdivision created by the
90 Legislature or pursuant to the Constitution of Alabama of
91 ~~1901~~2022, and laws of this state which may finance, construct,
92 own, or operate a qualified project.

93 (9) LOAN. An obligation subject to repayment which is
94 provided by the bank to a qualified borrower for all or a part
95 of the eligible cost of a qualified project. A loan may be
96 disbursed in anticipation of reimbursement for or direct
97 payment of eligible costs of a qualified project or to
98 refinance temporary financing used to pay eligible costs of a
99 qualified project.

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

102 (11) OTHER FINANCIAL ASSISTANCE. Includes, but is not
103 limited to, grants, contributions, credit enhancement, capital
104 or debt reserves for bonds or debt instrument financing,
105 interest rate subsidies, provision of letters of credit and
106 credit instruments, provision of bond or other debt financing
107 instrument security, and other lawful forms of financing and
108 methods of leveraging funds that are approved by the board,
109 and in the case of federal funds, as allowed by federal law.

110 (12) PERMITTED INVESTMENTS. Include any of the
111 following:

112 a. Certificates of deposit, savings accounts, deposit



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113 accounts, or money market deposits that are any of the
114 following:

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

116 2. Fully insured by the FDIC.

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

121 b. Direct obligations of, or obligations the full and
122 timely payment of which is guaranteed by, the United States of
123 America, including unit investment trusts and mutual funds
124 that invest solely in such obligations.

125 c. Bonds, debentures, notes, pass through securities,
126 or other obligations issued or guaranteed by any federal
127 agency or corporation which has been or may hereafter be
128 created by or pursuant to an act of the Congress of the United
129 States of America as an agency or instrumentality thereof if
130 such obligations are either of the following:

131 1. Backed by the full faith and credit of the United
132 States of America.

133 2. Rated by at least one nationally recognized
134 securities rating agency in one of the three highest rating
135 categories assigned by the rating agency.

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

139 e. Money market funds rated by at least one nationally
140 recognized securities rating agency in one of the three



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141 highest rating categories assigned by that rating agency.

142 f. Bonds, warrants, notes, or other obligations issued
143 by any state, county, or municipality that are rated by at
144 least one nationally recognized securities rating agency in
145 one of the three highest rating categories assigned by that
146 rating agency.

147 g. Investment agreements, including, without
148 limitation, guaranteed investment contracts, repurchase
149 agreements, and forward purchase agreements, provided that all
150 of the following are satisfied:

151 1. Any securities purchased or held pursuant to such
152 agreement are otherwise permitted investments.

153 2. The counterparty's long-term debt obligations are
154 rated by at least one nationally recognized securities rating
155 agency in one of the three highest rating categories assigned
156 by that rating agency.

157 3. The securities, if purchased, are owned by the bank
158 or a trustee for any of the bank's obligations and are held by
159 the bank, the trustee, or a third-party custodian acceptable
160 to the bank or, if held as collateral, are held by the bank,
161 the trustee, or a third-party custodian acceptable to the bank
162 with a perfected first security interest in such collateral.

163 h. Investment or cash management agreements with a
164 commercial bank whose senior long-term debt obligations are,
165 at the time of the acquisition of any such investment or cash
166 management agreement for the account of the bank, rated by at
167 least one nationally recognized securities rating agency in
168 one of the three highest rating categories assigned by that



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169 rating agency, or with a commercial bank that is owned or
170 controlled by a bank holding company whose senior long-term
171 debt obligations are, at the time of the acquisition of any
172 such investment or cash management agreement for the account
173 of the bank, rated by at least one nationally recognized
174 securities rating agency in one of the three highest rating
175 categories assigned by that rating agency.

176 (13) PROJECT REVENUES. All rates, rents, fees,
177 assessments, charges, and other receipts derived or to be
178 derived by a qualified borrower from a qualified project or
179 made available from a special source, and, as provided in the
180 applicable financing agreement, derived from any system of
181 which the qualified project is a part of, from any other
182 revenue producing facility under the ownership or control of
183 the qualified borrower including, without limitation, proceeds
184 of grants, gifts, appropriations, and loans, including the
185 proceeds of loans made by the bank, investment earnings,
186 reserves for capital and current expenses, proceeds of
187 insurance or condemnation and proceeds from the sale or other
188 disposition of property and from any other special source as
189 may be provided by the qualified borrower.

190 (14) QUALIFIED BORROWER. Any government unit which is
191 authorized to finance, construct, operate, or own a qualified
192 project or the applicable portion thereof in the case of a
193 qualified project consisting of a pool of eligible projects
194 for more than one government unit.

195 (15) QUALIFIED PROJECT. Includes either of the
196 following:



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197 a. An eligible project or combination of eligible
198 projects of a government unit, the aggregate total cost of
199 which exceeds ~~five million dollars (\$5,000,000)~~ one million
200 dollars (\$1,000,000), which has been selected by the bank to
201 receive a loan or other financial assistance from the bank to
202 defray an eligible cost.

203 b. A pool of eligible projects of government units, the
204 aggregate total cost of which exceeds ~~five million dollars~~
205 ~~(\$5,000,000)~~ one million dollars (\$1,000,000), which
206 government units have been selected by the bank to receive a
207 loan funded from the proceeds of bonds issued by the bank for
208 the pool of eligible projects to defray an eligible cost.

209 (16) REVENUES. When used with respect to the bank, any
210 receipts, fees, income, or other payments received or to be
211 received by the bank including, without limitation, receipts
212 and other payments deposited in the bank and investment
213 earnings on its funds and accounts."

214 "§23-7-15

215 Following the close of each state fiscal year, the bank
216 shall submit an annual report of its activities for the
217 preceding year to the Governor and to the Legislature. The
218 report may be incorporated into the annual report required
219 pursuant to Section 23-1-35 or may be prepared as a separate
220 document. The bank also shall submit an annual report to the
221 appropriate federal agency in accordance with requirements of
222 any federal program. An independent certified public
223 accountant or the Department of Examiners of Public Accounts
224 shall perform an audit of the books and accounts of the bank



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225 at least once in each state fiscal year."

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