

1 SB220
2 210882-3
3 By Senators Scofield, Allen, Livingston and Givhan
4 RFD: Transportation and Energy
5 First Read: 10-FEB-21

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4 ENGROSSED

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7 A BILL
8 TO BE ENTITLED
9 AN ACT

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11 Relating to public works contracts for roads and
12 bridges; to prohibit certain indemnification provisions in the
13 contracts requiring a party to indemnify another party for
14 damages caused by the conduct of the other party.

15 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

16 Section 1. The Legislature finds that it is in the
17 best interests of this state and its residents to ensure that
18 any private business or individual entering into a road or
19 bridge contract is financially responsible under the tort
20 liability system for damages that the private party may cause
21 while performing under the contract. It is the intent of this
22 act to promote competition and safety relating to road or
23 bridge contracts by requiring a party to be responsible for
24 any and all damages, losses, or injuries, including, but not
25 limited to, attorney's fees and other litigation costs, caused
26 by the party.

1 Section 2. As used in this act, the following words
2 have the following meanings:

3 (1) PARTY. A private business or individual that is
4 a party to a road and bridge contract. The term does not
5 include the Department of Transportation, a county commission,
6 or any other governmental awarding authority.

7 (2) ROAD OR BRIDGE CONTRACT. A contract or a
8 subcontract for the planning, construction, repair,
9 reconstruction, replacement, rehabilitation, or improvement of
10 any road or bridge and financed in whole or in part by state,
11 county, municipal, or federal funds. This definition does not
12 include any contract for the installation, construction,
13 repair, replacement, relocation, or maintenance of facilities
14 or equipment of a utility or located on utility infrastructure
15 in public road or bridge rights-of-way.

16 Section 3. A road or bridge contract may not require
17 a party to the contract to indemnify, hold harmless, or defend
18 another party for liability, damages, losses, or costs caused
19 by the negligence, wantonness, recklessness, or intentional
20 misconduct of the party to be indemnified or its officers,
21 employees, or agents. Any such requirement contained in a
22 contract entered into after the effective date of this act
23 containing such a requirement is void and unenforceable.

24 Section 4. A road or bridge contract may contain a
25 provision requiring a party to the contract to indemnify, hold
26 harmless, or defend another party, but only to the extent that
27 liability, damages, losses, or costs are caused by the

1 negligence, wantonness, recklessness, or intentional conduct
2 of the indemnifying party or the indemnifying party's
3 officers, employees, or agents.

4 Section 5. A road or bridge contract may not require
5 a party to the contract to provide insurance coverage to
6 another party as an additional insured for claims that arise
7 out of or are caused by the second party's own negligent,
8 reckless, wanton, or intentional conduct or that of its
9 officers, employees, or agents. Any additional insured
10 coverage required under a road or bridge contract may not be
11 broader than the scope of indemnity provided for in Section 3
12 or Section 4.

13 Section 6. This act does not apply to indemnity of a
14 surety by a principal on a construction contract bond or to
15 indemnity of an insurer's obligations to its insureds.

16 Section 7. This act only applies to indemnity
17 contracts between private parties to public works projects for
18 roads or bridges and has no effect on third-party tort claims.

19 Section 8. Any provision of law to the contrary
20 notwithstanding, this act shall not be interpreted or
21 construed to affect joint and several liability or workers'
22 compensation laws.

23 Section 9. This act does not affect contractual
24 obligations on any contracting party to the Department of
25 Transportation, a county commission, or any other awarding
26 entity.

1 Section 10. This act shall become effective
2 immediately following its passage and approval by the
3 Governor, or its otherwise becoming law.

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Senate

Read for the first time and referred to the Senate
committee on Transportation and Energy..... 10-FEB-21

Read for the second time and placed on the calen-
dar with 1 substitute and 1 amendment..... 25-FEB-21

Read for the third time and passed as amended 11-MAR-21

Yeas 29
Nays 0

Patrick Harris,
Secretary.