

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

1 SB220

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4 ENROLLED, An Act,

5 Relating to public works contracts for roads and
6 bridges; to prohibit certain indemnification provisions in the
7 contracts requiring a party to indemnify another party for
8 damages caused by the conduct of the other party.

9 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

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

23 (1) PARTY. A private business or individual that is
24 a party to a road and bridge contract. The term does not

1 include the Department of Transportation, a county commission,
2 or any other governmental awarding authority.

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

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

20 Section 4. A road or bridge contract may contain a
21 provision requiring a party to the contract to indemnify, hold
22 harmless, or defend another party, but only to the extent that
23 liability, damages, losses, or costs are caused by the
24 negligence, wantonness, recklessness, or intentional conduct

1 of the indemnifying party or the indemnifying party's
2 officers, employees, or agents.

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

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

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

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

22 Section 9. This act does not affect contractual
23 obligations on any contracting party to the Department of
24 Transportation, a county commission, or any other awarding
25 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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President and Presiding Officer of the Senate

Speaker of the House of Representatives

SB220

Senate 11-MAR-21

I hereby certify that the within Act originated in and passed the Senate, as amended.

Patrick Harris,
Secretary.

House of Representatives
Passed: 13-APR-21

By: Senator Scofield