

1 HB232
2 126184-2
3 By Representative Poole
4 RFD: County and Municipal Government
5 First Read: 10-MAR-11

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8 SYNOPSIS: Under existing law, counties and
9 municipalities may incorporate port authorities
10 which are authorized to issue bonds to finance port
11 facilities and projects related thereto.

12 This bill would authorize a port authority
13 to publish a notice in a newspaper published in
14 each county within its operational area for two
15 insertions and on the Internet website of any
16 newspaper having an Internet website when the
17 authority will issue bonds. Any challenge to the
18 issuance of the bonds would thereafter be required
19 to be filed within 20 days of the first publication
20 of this notice.

21
22 A BILL
23 TO BE ENTITLED
24 AN ACT
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26 To amend Section 11-94-10 of the Code of Alabama
27 1975, authorizing counties and municipalities to establish

1 port authorities; to authorize a port authority to publish
2 certain notices in newspapers and on the Internet website of
3 any newspaper having an Internet website related to the
4 issuance of bonds by the authority; and to thereafter limit
5 under certain conditions a civil action to contest the
6 validity of bonds issued by the authority.

7 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

8 Section 1. Section 11-94-10 of the Code of Alabama
9 1975, is amended to read as follows:

10 "§11-94-10.

11 "(a) All bonds and securities issued by an authority
12 shall be payable solely out of the revenues derived by the
13 authority from the leasing, sale or operation of any or all of
14 its projects as may be designated in the proceedings of its
15 board under which the same shall be authorized to be issued.
16 None of the bonds, securities or notes of an authority shall
17 ever constitute an obligation or debt of the state, of any
18 authorizing subdivision, or of any county or municipality of
19 the state or a charge against the credit or taxing powers of
20 any of them.

21 "(b) Bonds of any authority may be executed and
22 delivered by the authority at any time and from time to time,
23 may be in such form and denominations and of such tenor and
24 maturities, may be in registered or bearer form, either as to
25 principal or interest or both, may be payable at such time or
26 times not exceeding forty years from their date, may be made
27 subject to redemption, may be payable at such place or places

1 whether within or without the State of Alabama, may bear
2 interest at such rate or rates (including variable rates),
3 payable at such time or times and at such place or places and
4 evidenced in such manner, and may contain such other
5 provisions not inconsistent with this chapter, all as shall be
6 provided in the proceedings of its board whereunder the bonds
7 shall be authorized to be issued. Any bond having a stated
8 maturity more than 10 years after its date shall state that it
9 is subject to redemption at the option of the authority at the
10 expiration of ten years from its date and on any interest
11 payment date thereafter at such price or prices and after such
12 notice or notices and on such terms and in such manner as may
13 be provided in the proceedings wherein such bond is authorized
14 to be issued.

15 "(c) Any bonds of an authority may be sold at public
16 or private sale in such manner and from time to time as may be
17 determined by its board to be most advantageous and the
18 authority may pay all expenses, premiums, fees and commissions
19 that its board may deem necessary or advantageous in
20 connection with the issuance thereof.

21 "(d) The issuance by an authority of one or more
22 series of bonds for one or more purposes shall not preclude it
23 from issuing other bonds in connection with the same project
24 or other projects, but the proceedings whereunder any
25 subsequent bonds may be issued shall recognize and protect any
26 prior assignment, lien or indenture for any prior issue of
27 bonds unless in the proceedings authorizing such prior issue

1 the right was reserved to issue subsequent bonds on a parity
2 with such prior issue.

3 "(e) All bonds shall contain a recital that they are
4 issued pursuant to the provisions of this chapter, which
5 recitals shall be conclusive that they have been duly
6 authorized pursuant to the provisions of this chapter.

7 "(f) All bonds issued hereunder and any interest
8 coupons applicable thereto are hereby made and shall be
9 construed to be negotiable instruments.

10 "(g) Upon the adoption by the board of directors of
11 any resolution for the issuance of bonds, an authority, in its
12 discretion, may cause to be published once a week for two
13 consecutive weeks, in a newspaper or newspapers of general
14 circulation published in each county within its authorized
15 operational area, and on the Internet website of the newspaper
16 if the newspaper has an Internet website, a notice in
17 substantially the following form (the blanks being properly
18 filled in) at the end which shall be printed the name and
19 title of either the chair or secretary of the authority:

20 "_____ , a public corporation organized under the
21 laws of the State of Alabama, on the _____ day of _____,
22 authorized the issuance of not more than \$_____ principal
23 amount of [revenue, general obligation, or other appropriate
24 designation] bonds of the authority for purposes authorized in
25 the act of the Legislature of Alabama under which the
26 authority was organized. Any action or proceeding questioning
27 the validity of the bonds, any pledge or mortgage to secure

1 the same, any lease or sale of any project to be financed by
2 the bonds, or the proceedings authorizing the same must be
3 commenced within 20 days after first publication of this
4 notice."

5 "Any action or proceeding in any court to set aside
6 or question the proceedings for the issuance of the bonds
7 referred to in this notice or to contest the validity of such
8 bonds or the validity of any pledge or mortgage made therefor
9 or any lease or sale of any project to be financed by the
10 bonds must be commenced within 20 days after the first
11 publication of the notice. After the expiration of the period,
12 no cause of action, counterclaim, setoff, or defense
13 questioning or attacking the validity of the proceeding or of
14 the bonds or the pledge or mortgage or the lease or sale of
15 the project to be financed by bonds shall be asserted, nor
16 shall the validity of the proceedings or of the bonds or the
17 pledge or mortgage or the lease or sale of the project to be
18 financed by the bonds be open to question in any court on any
19 ground whatsoever except in an action or proceeding commenced
20 within that period."

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