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SANFORD SUBSTITUTE FOR SB302

SYNOPSIS: Under existing law, counties and municipalities are authorized to form an authority to acquire real and personal property for lease to the United States.

This bill would allow the creation of such an authority for the purpose of acquiring real and personal property for lease to the State of Alabama as a prison facility.

The bill would also authorize the Department of Corrections to enter into a lease of a regional prison facility with up to three of the authorities.

Under existing law, the Alabama Corrections Institution Finance Authority is authorized to issue bonds for prison construction purposes.

This bill would allow the authority to issue additional bonds in the amount of $100 million for the purpose of financing the renovation of existing prison facilities if an agreement to lease at least

two facilities from the local authorities is in place.

The bill would pledge a portion of the taxes on the leasing or renting of tangible personal property to secure the bonds.

A BILL

TO BE ENTITLED

AN ACT

Relating to the finance and construction of prisons; to amend the heading of Chapter 101A (commencing with Section 11-101A-1) of Title 11 and Sections 11-101A-1, 11-101A-2, 11-101A-4, and 11-101A-8 of and to add Section 11-101A-8.1 to the Code of Alabama 1975; to authorize counties and municipalities to create authorities to construct prisons; to authorize the Department of Corrections to enter into a lease of up to three prisons from authorities; to amend Sections 14-2-1, 14-2-6, 14-2-12, 14-2-13.1, 14-2-14, 14-2-16, 14-2-19, 14-2-21, 14-2-28, and 14-2-34, Code of Alabama 1975, to allow the Alabama Corrections Institution Finance Authority to issue up to $100 million in bonds for the purpose of the renovation of existing prison facilities upon the lease of at least two regional prison facilities from local authorities; to revise the membership of the authority; to require reporting to the Joint Legislative Prison Committee; to further provide for actions to be taken upon payment of all bonds issued by the

authority; to amend Section 29-2-20, Code of Alabama 1975, to revise the membership of the Joint Legislative Prison Committee; to amend Section 40-12-227, Code of Alabama 1975, relating to allocate the taxes on the leasing or renting of tangible personal property, as a second priority security for the authority's bonds; and to define certain terms.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. This act shall be known and may be cited as the Corrections Construction and Renovation Public Safety Act.

Section 2. The heading of Chapter 101A (commencing with Section 11-101A-1, of Title 11) of the Code of Alabama 1975, is amended to read as follows:

"CHAPTER 101A.

"ACQUISITION OF REAL AND PERSONAL PROPERTY FOR LEASE TO THE UNITED STATES OR TO THE STATE OF ALABAMA FOR A PRISON."

Section 3. Sections 11-101A-1, 11-101A-2, 11-101A-4, and 11-101A-8 of the Code of Alabama 1975, are amended to read as follows:

"§11-101A-1.

"It is the intent of the Legislature to authorize the several counties and municipalities in the state effectively to form public corporations whose corporate purpose shall be to provide buildings, facilities, and other property for lease to and use by the United States of America, its departments, agencies, and instrumentalities, or for buildings, facilities, and other property for lease to and use

by the State of Alabama acting through the Department of Corrections as a prison facility, to invest those public corporations with all powers that may be necessary to enable them to accomplish that purpose, and to authorize each county and municipality forming each public corporation to provide financial support and to take other action as may be necessary to enable the public corporation to carry out the purposes of this chapter. This chapter shall be liberally construed in conformity with this intent.

"§11-101A-2.

"As used in this chapter, the following terms shall have the following meanings, respectively, unless the context clearly indicates otherwise:

"(1) APPLICANT. A natural person who files a written application with the governing body of a county or municipality, or two or more thereof, in accordance with Section 11-101A-3.

"(2) AUTHORITY. A public corporation organized pursuant to this chapter.

"(3) AUTHORIZING RESOLUTION. A resolution adopted by the governing body of an authorizing subdivision in accordance with Section 11-101A-3, that authorizes the incorporation of an authority under this chapter.

"(4) AUTHORIZING SUBDIVISION. Each county and municipality with the governing body of which an application for the incorporation of an authority under this chapter is filed.

"(5) BOARD. The board of directors of an authority.

"(6) BONDS. Any bonds authorized to be issued by an authority hereunder, including refunding bonds.

"(7) CODE. The Code of Alabama 1975.

"(8) COUNTY. Any county in the state.

"(9) DEPARTMENT. The Alabama Department of Corrections and its successors as the state agency responsible for supervising and controlling the operation of the correctional institutions of the state.

"~~(9)~~ (10) DIRECTOR. A member of the board of an authority.

"(11) DIVISION. The Division of Construction Management of the Department of Finance.

"~~(10)~~ (12) FEDERAL SECURITIES. Direct obligations of the United States of America for the payment of which the full faith and credit of the United States of America is pledged, or obligations issued by a person controlled or supervised by and acting as an instrumentality of the United States of America, the payment of the principal of, premium, if any, and interest on which is fully and unconditionally guaranteed as a full faith and credit obligation by the United States of America.

"~~(11)~~ (13) FISCAL YEAR. A fiscal year of an authorizing subdivision.

"~~(12)~~ (14) GOVERNING BODY. With respect to a county, its county commission or other like governing body, and with

respect to a municipality, its city or town council, board of commissioners, or other like governing body.

"~~(13)~~ (15) INCORPORATORS. The persons forming a public corporation organized pursuant to this chapter.

"~~(14)~~ (16) INDENTURE. A mortgage, mortgage indenture, mortgage and trust indenture, or trust indenture executed by an authority as security for any of its securities.

"~~(15)~~ (17) LEGISLATURE. The Legislature of the state.

"~~(16)~~ (18) MUNICIPALITY. An incorporated city or town of the state.

"~~(17)~~ (19) PRINCIPAL OFFICE. The place at which the certificate of incorporation and amendments thereto, the bylaws, and the minutes of the proceedings of the board of an authority are kept.

"~~(18)~~ (20) PROJECT. Any land and any buildings or other improvements thereon and all real and personal properties deemed necessary in connection therewith, whether or not now in existence, which shall be suitable for use by the United States or use as a prison facility by the state, acting through the department.

"(21) PROJECT MANAGEMENT TEAM. Includes, but is not limited to, in-house staff, design professionals, consulting firms, and other experts to develop and manage prison facility construction projects.

"(22) REGIONAL PRISON FACILITY. A prison facility designed to house at least 3,500 inmates with a construction

project cost of at least one hundred million dollars ($100,000,000) procured by the bond issue.

"~~(19)~~ (23) SECURITIES. Bonds, notes, warrants, certificates of indebtedness, or other evidences of indebtedness, including, without limiting the generality of the foregoing, notes issued in anticipation of the sale of any of the foregoing.

"~~(20)~~ (24) STATE. The State of Alabama.

"~~(21)~~ (25) UNITED STATES. The United States of America or any of its departments, agencies, or instrumentalities.

"§11-101A-4.

"(a) Within 60 days following the adoption of the authorizing resolution, or, if there is more than one, the last adopted thereof, the applicants shall proceed to incorporate an authority by filing for record, in the office of the judge of probate of the county in which the principal office of the authority is to be located, a certificate of incorporation complying in form and substance with this action, being in the form and executed in the manner herein provided and being in the form approved by the governing body of each authorizing subdivision.

"(b) In addition to any other provisions required by this chapter to be included therein, the certificate of incorporation of an authority shall state:

"(1) The names of the incorporators, together with the address of the residence of each thereof, and that each of

them is a duly qualified elector of the authorizing subdivision, or, if there is more than one, at least one thereof.

"(2) The name of the authority, which shall be "The _____ Federal Building Authority," or "The Prison Building Authority of _____," as appropriate, with the insertion of the name of one or more of the authorizing subdivisions, unless the Secretary of State determines that the name is identical to the name of any other corporation organized under the laws of the state or so nearly similar thereto as to lead to confusion and uncertainty, in which case the incorporators may insert additional identifying words to eliminate the duplication or similarity or adopt some other similar name that is available.

"(3) The period for the duration of the authority. If the duration is to be perpetual, subject to Section 11-101A-24, that fact shall be stated.

"(4) The name of each authorizing subdivision together with the date on which the governing body thereof adopted an authorizing resolution.

"(5) The location of the principal office of the authority, which shall be within the boundaries of the authorizing subdivision, or, if there is more than one, at least one thereon.

"(6) That the authority is organized pursuant to this chapter.

"(7) If the exercise by the authority of its powers is to be in any way prohibited, limited, or conditioned, a statement of that prohibition, limitation, or condition.

"(8) The number of directors, which shall be an odd number not less than three, the duration of their respective terms of office, which shall not be in excess of six years, and, subject to Section 11-101A-6, the manner of their election or appointment.

"(9) Any provisions, not inconsistent with Section 11-101A-24, relating to the vesting of title to its assets and properties upon its dissolution.

"(10) Any other matters relating to the authority that the incorporators may choose to insert and that are not inconsistent with this chapter or with the laws of the state.

"(c) The certificate of incorporation shall be signed and acknowledged by each of the incorporators before an officer authorized by the laws of the state to take acknowledgments to deeds. When the certificate of incorporation is filed for record, there shall be attached to it a certified copy of each authorizing resolution and a certificate by the Secretary of State that the name proposed for the authority is not identical to that of any other corporation organized under the laws of the state or so nearly similar thereto as to lead to confusion and uncertainty. Upon the filing for record of the certificate of incorporation and the documents required by the preceding sentence to be attached thereto, the authority shall come into existence and

shall constitute a public corporation under the name set forth in its certificate of incorporation. The judge of probate shall record the certificate of incorporation in an appropriate book in his or her office and send a notice to the Secretary of State that the certificate of incorporation of the authority has been filed for record.

"§11-101A-8.

"(a) In addition to all other powers granted elsewhere in this chapter, and subject to the express provisions of its certificate of incorporation, an authority shall have the following powers, together with all powers incidental thereto or necessary to the discharge thereof in corporate form:

"(1) To have succession by its corporate name for the duration of time, which may be in perpetuity, specified in its certificate of incorporation, or until dissolved as provided in Section 11-101A-24.

"(2) To sue and be sued in its own name in civil suits and actions, and to defend suits and actions against it, subject, however, to Chapter 93 of this title, which chapter is hereby made applicable to the authority.

"(3) To adopt, alter, amend, and repeal bylaws, regulations, and rules for the regulation and conduct of its affairs and business.

"(4) To adopt and make use of a corporate seal and to alter the same at pleasure.

"(5) To acquire, whether by purchase, construction, exchange, gift, lease, or otherwise and to improve, maintain, equip, and furnish one or more projects, including all real and personal properties which the board deems necessary in connection therewith, regardless of whether any projects are then in existence, at such place or places, within and without the boundaries of its authorizing subdivisions, as it considers necessary or advisable.

"(6) To lease or otherwise make available its projects or other of its properties or assets, with or without charge, to the United States or to one or more of its authorizing subdivisions, for sublease to the United States, or to the state, acting through the department, as a regional prison facility, on such terms as the board deems appropriate, to charge and collect rent or other fees or charges therefor, if any, and to terminate any lease or other agreement upon the failure of the lessee or other party to comply with any of its obligations thereunder.

"(7) To receive, acquire, take, and hold, whether by purchase, gift, transfer, foreclosure, lease, devise, option, or otherwise, real and personal property of every description, or any interest therein, and to manage, improve, and dispose of the same by any form of legal conveyance or transfer. Notwithstanding the foregoing, the authority shall not, without the prior approval of the governing body of each authorizing subdivision, dispose of all or substantially all its assets. The foregoing provision shall not be construed to

require the prior approval of any governing body for the mortgage or pledge of all or substantially all its assets or for the foreclosure of any mortgage or sale or for any sale or other disposition thereunder.

"(8) To mortgage, pledge, or otherwise convey its property and its revenues from any source, including, without limitation, any amounts payable to the authority by the state pursuant to a year-to-year lease of a regional prison facility or by an authorizing subdivision in accordance with an agreement entered into pursuant to Section 11-101A-10.

"(9) To borrow money in order to provide funds for any lawful corporate function, use, or purpose and, in evidence of such borrowing, to sell and issue interest-bearing securities in the manner provided and subject to the limitations set forth in this chapter.

"(10) To pledge for payment of any of its securities its revenues from any source, including, without limitation, any amounts payable to the authority by the state pursuant to a year-to-year lease of a regional prison facility or by an authorizing subdivision in accordance with an agreement entered into pursuant to Section 11-101A-10, and to mortgage or pledge any or all of its projects or other assets or properties or any part or parts thereof, whether then owned or thereafter acquired, as security for the payment of the principal of and the interest and premium, if any, on any securities so issued and any agreements made in connection therewith.

"(11) To enter into agreements with any person, firm, or corporation for the management by the person, firm, or corporation on behalf of the authority of any of its projects or other properties or for the more efficient or economical performance of clerical, accounting, administrative, and other functions relating to its projects or other properties.

"(12) To make all needful or appropriate rules and regulations for the conduct of any properties owned or operated by it and to alter those rules and regulations.

"(13) To provide for any insurance the business of the authority requires.

"(14) To receive and accept from any source aid or contributions in the form of money, property, labor, or other things of value, to be held, used, and applied to carry out the purposes of this chapter, subject to any lawful condition upon which any aid or contributions may be given or made.

"(15) To enter into contracts with, to accept aid, loans, and grants from, to cooperate with, and to do any and all things not specifically prohibited by this chapter or the Constitution of Alabama of 1901, that may be necessary to avail itself of the aid and cooperation of the United States of America, the state, any county or municipality, or any agency, instrumentality, or political subdivision of any of the foregoing in furtherance of the purposes of this chapter; to give such assurances, contractual or otherwise, to or for the benefit of any of the foregoing as may be required in

connection with, or as conditions precedent to the receipt of, any such aid, loan, or grant; and to take other action not in violation of law necessary to qualify the authority to receive funds appropriated by any of the foregoing.

"(16) To give assurances, contractual or otherwise, and to make commitments and agreements necessary or desirable to preclude the exercise of any rights of recovery with respect to, or the forfeiture of title to, any of its projects or other property or any project or other property proposed to be acquired by it.

"(17) To assume any obligations of any entity that conveys and transfers to the authority any project or other property, or interest therein, provided that those obligations appertain to the project, property, or interest so conveyed and transferred to the authority.

"(18) To appoint, employ, contract with, and provide for the compensation of, such employees and agents, including, but not limited to, architects, attorneys, consultants, engineers, accountants, financial experts, fiscal agents, and other advisers, consultants, and agents as the business of the authority may require.

"(19) To invest, in any trust fund established under and subject to the general laws of the state for investment or self-insurance purposes with investment authority as may be authorized by law for such trusts, any funds of the authority available therefor.

"(20) To the extent permitted by its contracts with the holders of its securities, to purchase securities out of any of its funds or moneys available therefor and to hold, cancel, or resell those securities.

"(21) To make any expenditure of any moneys under its control that would, if the authority were generally subject to state corporate income taxation, be considered an ordinary and necessary expense of the authority within the meaning of Section 40-18-35, and applicable regulations promulgated thereunder.

"(22) To enter into such contracts, agreements, leases, and other instruments, and to take such other actions, as may be necessary or convenient to accomplish any purpose for which the authority was organized or to exercise any power expressly granted hereunder.

"(23) To expend funds in support of federal facilities located in Alabama including support for the promotion of such facilities and support for the growth of such facilities and the activities performed at those facilities.

"(b) The Legislature declares that no expenditure permitted by subdivision (21) of subsection (a) to be made by or on behalf of an authority shall be considered to be a lending of credit or a granting of public money or thing of value to or in aid of any individual, association, or corporation within the meaning of any constitutional or statutory provision. Nothing herein contained shall be

construed as prohibiting or rendering unlawful any otherwise lawful expenditure made by or on behalf of an authority, solely because that expenditure is not expressly permitted by the terms of subdivision (21) of subsection (a)."

Section 4. Section 11-101A-8.1 is added to the Code of Alabama 1975, to read as follows:

§11-101A-8.1.

(a) Any regional prison facility constructed by an authority shall be constructed on land leased from the state or donated by the county or municipality creating the authority. The Governor may enter into a lease of state property with an authority. Upon the final payment of any indebtedness incurred by the authority for the construction of the regional prison facility, the lease shall terminate and title to the regional prison facility shall be vested in the state. To enter a lease under this section, an authority, or county or municipality contemplating the creation of an authority must send a letter of intent to enter a lease to the department within 90 days of the effective date of the act adding this section. If a letter of intent is from a county or municipality that has not created an authority for purposes of constructing a regional prison facility under this section, the county or municipality shall adopt an authorizing resolution within 60 days of sending the letter of intent. An authority may not enter into the lease later than the date established by rule of the department after the plans and

specifications for the regional prison facility are approved by the department and the division.

(b) The construction shall be done according to plans and specifications of architects or engineers, or both, selected by the department. Such plans and specifications shall be developed in cooperation with any authority or authorities that have filed a letter of intent and shall be approved by the department and by the division. The department shall adopt rules under the Administrative Procedure Act providing for the selection of a project management team and site selection for any regional prison facility constructed under this chapter. All work in the construction of any regional prison facility, or any part thereof, which is determined by the division to be suitable and proper for construction by prison labor under force account shall be performed by prison labor under the supervision and directions as shall be ordered by the department. All construction of any regional prison facility or any part thereof which the division shall determine not to be suitable and proper for construction by prison labor shall be done under the supervision and direction of the division following award for each part of the work to the lowest responsible bidder after advertising for, receipt, and public opening of sealed bids. Deductive alternate bids may be used in order to reduce the base bid to an amount within the funds available for the project. Additive alternate bids may be used in order to obtain prices for the addition of items not included in the

base bid. The alternate bids shall be listed in the bid documents in the order of priority in which they shall cumulatively deduct from or add to the base bid for determining the lowest responsible and responsive bidder. After the lowest responsible and responsive bidder has been determined, any alternates may be accepted or rejected provided that the combination of accepted alternates results in the same lowest bidder. If no bid is deemed acceptable by the division and the authority, all bids may be rejected, in which event bids may again from time to time be invited and acted on as provided in this section. All contracts shall be lump sum contracts. The entire work on a regional prison facility may be divided into one or more contracts. All contracts for the entire work on a regional prison facility shall be awarded at the same time, but notice to proceed may be withheld until prior work under another contract has progressed to a point where the joint or following work can best be coordinated for the earliest completion of the entire project in a sound and workmanlike manner. Each contract shall be executed by an authority upon the determination of the division as to the lowest bidder. Payments made by an authority under the construction contracts shall be upon the contractor's written sworn request only if endorsed as approved by the division or in any lesser amount the division shall endorse as having been then earned on the contract. After the contracts for a regional prison facility have been awarded, the construction cost estimate shall be revised and

all extras on the contracts shall be awarded within the funds available. An authority shall pay to the division as a part of the cost of constructing the regional prison facility the sums for the services of its employees as may be mutually agreed between the department and the division.

(c)(1) Each authority is hereby authorized to enter into a lease or leases of any regional prison facility constructed by the authority under this chapter with the department.

(2) The department may enter into a lease of a regional prison facility with up to three separate authorities.

(3) A lease shall be on the following terms:

a. no lease shall be for a term longer than the then current fiscal year of the state;

b. any lease may contain a grant to the department of successive options of renewing the lease on the terms specified therein for any subsequent fiscal year or years of the state; and

c. liability for the payment of the rent under the lease shall never be for a term longer than the then current fiscal year of the state.

(4) Payment of rent by the department for any fiscal year shall be due in accordance with the provisions of any lease by an authority of any regional prison facility and upon being so paid, shall entitle the department to quick possession of the regional prison facility leased for the

remainder of the fiscal year. The rent for each fiscal year during the lease agreement is in effect shall be due in accordance with the provisions of the lease and the rent for the fiscal year shall be payable, and any such covenant on the part of the department shall be performed, solely out of the current revenues of the state for the fiscal year. Rent may not exceed thirteen million five hundred thousand dollars ($13,500,000) per year per regional prison facility, or the cost of the principal and interest on the bonds for the construction of each regional prison facility, whichever is less. The rent payable and the covenants to be performed by the department under the provisions of the lease shall never create a debt of the state within the meaning of the Constitution of Alabama of 1901, as amended.

(5) In the event that there shall be any default in the payment of any rent required to be paid or in the performance of any covenant required to be performed by the department under the provisions of the lease while the lease is in effect, an authority and any pledgee of the lease, by any appropriate proceedings instituted within the time permitted by law, may enforce and compel the payment of the rent and the performance of the covenants in accordance with the terms of the lease. No free use shall be made of any regional prison facility of an authority so long as the principal of or interest on any bonds, including refunding bonds, issued by the authority remains unpaid.

(6) If a regional prison facility of an authority becomes vacant or is not used by the department, the department may not rent, purchase, acquire, construct, or lease any facility for penal or correctional use or renew any lease of a facility for penal or correctional use which may be used for any purpose for which any regional prison facility of the authority may be used, so long as the regional prison facility of the authority remains vacant or unused.

(d) If at any time a regional prison facility constructed by an authority is or about to be vacant or unused as a result of there being no lease for the regional prison facility in effect for the current fiscal year, the authority may lease the regional prison facility to any other agency, board, or department of the state, any municipal corporation, public corporation, county, or other public body in the state, or any agency of the federal government other than the original lessee of the regional prison facility. Any such lease shall not be for the purpose of lending public credit but shall be solely to avoid default on the authority's bonds and to insure the prompt payment of the principal thereof and interest thereon when due.

Section 5. The Alabama Corrections Institution Finance Authority shall report to the Joint Legislative Prison Committee on any plans for the demolition or disposal of any existing prison facilities pursuant to this act. In addition, the Department of Corrections shall report to the Joint Legislative Prison Committee and the Chairmen of the House

Ways and Means General Fund Committee and the Senate Finance and Taxation General Fund Committee on the operational savings directly realized as a result of the consolidation of prisons pursuant to this act. This operational savings report shall be made annually beginning on the date on which the first bond or lease payment is due, and continuing until all bonds authorized by this act have matured, been redeemed, or are otherwise no longer outstanding.

Section 6. Sections 14-2-1, 14-2-6, 14-2-12, 14-2-13.1, 14-2-14, 14-2-16, 14-12-19, 14-2-21, 14-2-28, and 14-2-34, Code of Alabama 1975, are amended to read as follows:

"§14-2-1.

"For the purposes of this chapter, the following terms shall have the meanings respectively ascribed to them by this section:

"(1) AUTHORITY. The public corporation organized pursuant to the provisions of this chapter.

"(2) COMMISSION. The Building Commission created by Section 41-9-140 and its successors as the state agency for awarding construction contracts and supervising construction.

"(3) DEPARTMENT. The Alabama Department of Corrections created by Section 14-1-1.1 and its successors as the state agency responsible for supervising and controlling the operation of the correctional institutions of the state.

"(4) STATE. The State of Alabama.

"(5) BONDS. The bonds issued under the provisions of this chapter.

"(6) FACILITIES. Such term includes any one or more of the following:

"a. Prisons;

"b. Buildings and enclosures for housing, containing or supervising prisoners; and

"c. Any facilities necessary or useful in connection with prisons, buildings or enclosures, including, without limiting the generality of the foregoing, hospitals, offices, correctional officers' quarters and residences, warehouses, garages, storage facilities, abattoirs, cold storage plants, canning plants, laundries and manufacturing plants for the employment of prison labor.

"(7) KILBY PROPERTY. Such term includes all of the real property commonly referred to as Kilby prison property, embracing not only the real property owned by the state on which Kilby prison is located, but also all real property owned by the state used in connection with Kilby prison and adjacent thereto, all located in sections 2, 3, 10, 11, 21, 22, 26, 27, 28, 29, 30, 33, 34, and 35 in township 17, range 18 in Montgomery County, Alabama, together with all personal property owned by the state and used in connection with Kilby prison and the real property adjacent thereto.

"~~(8) PERRY COUNTY FACILITY. The Perry County Correctional Center, including all real property, buildings and improvements located at the facility in Perry County.~~

"(8) REGIONAL PRISON FACILITY. A prison facility designed to house at least 3,500 inmates with a construction

project cost of at least $100 million procured by the bond issue or a prison facility meeting those requirements constructed by an authority under Chapter 101A of Title 11.

"§14-2-6.

"The applicants named in the application and their respective successors in office shall constitute the members of the authority. The Governor shall be the president of the authority, the Commissioner of Corrections shall be the vice-president of the authority and the Director of Finance shall be the secretary of the authority. In addition, one member of the House of Representatives appointed by the Speaker of the House and one member of the Senate appointed by the President Pro Tempore of the Senate shall be members of the authority. The State Treasurer shall be the treasurer and custodian of the funds of the authority, but shall not be a member of the authority. The members of the authority shall constitute all the members of the board of directors of the authority, which shall be the governing body of the authority. A majority of the members of the ~~said~~ board of directors shall constitute a quorum for the transaction of business. Should any person holding any state office named in this section cease to hold such office by reason of death, resignation, expiration of his or her term of office or for any other reason, then his successor in office shall take his place as a member, officer or director, as the case may be, of the authority. No member, officer or director of the authority shall draw any salary in addition to that now authorized by

law for any service he may render or for any duty he may perform in connection with the authority. No member, officer, director or employee of the authority shall be personally liable for any debt, obligation or liability of the authority.

"§14-2-12.

"(a) For the purpose of providing funds for the acquisition of sites, for the construction, reconstruction, alteration and improvement of facilities, for the procurement and installation of equipment therefor and for payment of obligations incurred and the principal of and interest on any temporary loans made for any of the ~~said~~ purposes, the authority is hereby authorized, from time to time, to sell and issue, in addition to all bonds heretofore authorized to be issued by the authority, its bonds in such aggregate principal amounts as may be determined by the corporation to be necessary for the ~~said~~ purposes but not to exceed $25,000,000, plus an additional seven million five hundred thousand dollars ($7,500,000) pursuant to Act 97-950, in aggregate principal amount.

"(b) In addition to the authorization provided in subsection (a), the authority is hereby authorized, from time to time, to sell and issue its bonds in amounts determined by the authority to be necessary for the acquisition, construction, reconstruction, alteration, and improvement of facilities. Additional bonds may be issued to provide for additional bedspace by improving properties currently owned by the Department of Corrections or the authority. The total

additional bonds authorized by this subsection shall not exceed $60 million.

"(c)(1) In addition to any other authorization provided in this chapter, the authority is hereby authorized, from time to time, to sell and issue bonds in amounts determined by the authority to be necessary for the alteration, demolition, and improvement of facilities owned and operated by the Department of Corrections or the Alabama Corrections Institution Finance Authority, and for the procurement and installation of equipment therefor. The total additional bonds authorized by this subsection shall not exceed one hundred million dollars ($100,000,000). The authority may not issue the bonds authorized by this subsection until the department has an agreement in place to lease at least two facilities from an authority under Chapter 101A of Title 11. Bonds authorized by this subsection shall be sold as provided in Section 14-2-16.

"(2) The bonding authority provided herein must file a report, in concise, simple language to each legislator between the first and the twelfth legislative day of each legislative session which shall reflect the date of the issuance of the bonds, total amount of the bonds, maturity date, schedule of payments, including interest and principal, amount of attorney fees, architect fees and bond attorney fees, discount points and all other costs incurred in the issuance of and sale of the bonds herein authorized, and to

what person, firm, corporation, company, or other entity to which any such fees or money is to be or has been paid.

"~~(c)~~(d) Any monetary transactions completed pursuant to Act 2010-729 shall be fully disclosed to the public.

"~~(d)~~(e) Any bonds issued pursuant to this section shall be sold by competitive bid if practical and economically feasible as determined by the authority.

"~~(e)~~(f) The authority is strongly encouraged to utilize businesses and companies in all aspects of the bond and construction portions of this chapter that reflect the racial and ethnic diversity of the state.

"§14-2-13.1.

"It is hereby further provided that no refunding bonds as provided for by Section 14-2-13 shall be issued unless the present value of all debt service on the refunding bonds (computed with a discount rate equal to the true interest rate of the refunding bonds and taking into account all underwriting discount and other issuance expenses) shall not be greater than ~~95%~~ 98 percent of the present value of all debt service on the bonds to be refunded (computed using the same discount rate and taking into account the underwriting discount and other issuance expenses originally applicable to such bonds) determined as if such bonds to be refunded were paid and retired in accordance with the schedule of maturities (considering mandatory redemption as a scheduled maturity) provided at the time of their issuance. Provided further that the average maturity of the refunding bonds, as measured from

the date of issuance of such refunding bonds, shall not exceed by more than three years the average maturity of the bonds to be refunded, as also measured from such date of issuance, with the average maturity of any principal amount of bonds to be determined by multiplying the principal of each maturity by the number of years (including any fractional part of a year) intervening between such date of issuance and each such maturity, taking the sum of all such products, and then dividing such sum by the aggregate principal amount of bonds for which the average maturity is to be determined.

"§14-2-14.

"Any bonds of the authority may be executed and delivered by it at any time and from time to time, shall be in such form and denominations and of such tenor and maturities, shall bear such rate or rates of interest payable and evidenced in such manner, may contain provisions for redemption prior to maturity and may contain other provisions not inconsistent with this section, all as may be provided by the resolution of the board of directors whereunder such bonds are authorized to be issued; provided, that no bond of the authority shall have a specified maturity date later than ~~20~~ 30 years after its date. In the event that the authority shall make more than one pledge of the same revenues, such pledges shall, unless otherwise provided in the resolution or resolutions authorizing the earlier issued bonds, take precedence in the order of the adoption of the resolutions in which the pledges are made; provided, that each pledge for the

benefit of refunding bonds shall have the same priority as the pledge for the benefit of the bonds refunded thereby.

"§14-2-16.

"Bonds of the authority may be sold at such price or prices and at such time or times as the board of directors of the authority may consider advantageous, either at public sale or private sale. Bonds of the authority sold by competitive bid must be sold, whether on sealed bids or at public auction, to the bidder whose bid reflects the lowest effective borrowing cost to the authority for the bonds being sold; provided, that if no bid acceptable to the authority is received, it may reject all bids. Notice of each such sale by competitive bids shall be given by publication in either a financial journal or a financial newspaper published in the City of New York, New York, and also by publication in a newspaper published in the State of Alabama, each of which notices must be published at least one time not less than 10 days before the date for the sale. The board of directors may fix the terms and conditions under which such sale may be held; provided, that such terms and conditions shall not conflict with any of the requirements of this chapter. The authority may pay out of the proceeds of the sale of its bonds all expenses, including capitalized interest during a period not to exceed ~~one year~~ three years from the date of issuance of such bonds, publication and printing charges, attorneys' fees and other expenses which said board of directors may deem necessary and advantageous in connection with the

authorization, advertisement, sale, execution and issuance of such bonds. Neither a public hearing nor consent of the State Department of Finance or any other department or agency of the state shall be a prerequisite to the issuance or sale of bonds by the authority.

"§14-2-19.

"(a) All proceeds derived from the sale of any bonds, except refunding bonds, sold by the authority, remaining after payment of the expenses of issuance thereof, shall be turned over to the State Treasurer, shall be carried in a special account to the credit of the authority, and shall be subject to be drawn on by the authority solely for the purposes of:

"(1) Acquiring land for and constructing, reconstructing and equipping thereon one or more facilities;

"(2) Constructing additional improvements on property currently owned by the Department of Corrections or the authority in order to provide for additional bedspace;

"(3) Paying all reasonable and necessary expenses incidental thereto, including filing, recording, surveying, legal and engineering fees and expenses;

"(4) Paying the interest which will accrue on the ~~said~~ bonds during the period required for the construction and ~~equipment~~ equipping of the ~~said~~ facilities and for a period not exceeding six months after the completion thereof; ~~and~~

"(5) Paying the principal of and interest on all then outstanding notes theretofore issued by the authority pursuant to the provisions of Section 14-2-10~~.~~; and

"(6) Paying for costs of alteration, remodeling, and renovation of facilities of the department, as determined by the department.

"The balance of the ~~said~~ proceeds thereafter remaining, unless required for the construction of other facilities by the authority as shall be determined by resolution of its board of directors within six months after completion of the facilities for which the bonds were issued, shall be set aside as additional security for the bonds or shall be used to pay, purchase or redeem bonds as may be provided in the proceedings authorizing their issuance. The reasonable and necessary expenses incident to the construction of any facility shall, if deemed advisable by the authority, include all or any part of the expense of providing temporary facilities, during the construction of a new facility, for any penal or correctional institution facility which is demolished or ~~rendered~~ unserviceable as such.

"(b) All proceeds from the sale of refunding bonds issued by the authority that remain after paying the expenses of their issuance may be used only for the purpose of refunding the principal of and any unpaid and accrued interest on the outstanding bonds of the authority for the refunding of which the refunding bonds are authorized to be issued,

together with any premium that may be necessary to be paid in order to redeem or retire such outstanding bonds.

"§14-2-21.

"(a) The principal of, premium, if any, and interest on the bonds of the authority shall be secured, first, by any or all of the following, as the authority may determine:

"(1) The rent and revenue for the use of one or more facilities of the authority;

"(2) The net rent or sale proceeds from the Kilby property;

"(3) Any bond proceeds remaining unexpended upon completion of all facilities to be constructed with such bond proceeds and the payment of the cost thereof;

"(4) Any insurance proceeds which the authority may receive by reason of its ownership of any of the facilities; ~~and~~

"(5) Any mortgage upon or security interest in one or more facilities of the authority, granted in connection with the issuance of such bonds~~.~~; and

"(6) Operational savings realized from the consolidation of prison facilities as a result of this amendatory act.

"(b) To such extent and to such extent only as the revenues described in subsection (a) may not be sufficient to pay at their respective maturities the principal of and interest on the bonds of the authority, there is irrevocably pledged and appropriated, as a second priority security, so

much of the portion of the net proceeds of the tax on the leasing or renting of tangible personal property under Section 40-12-227, as may be necessary, when added to the amounts described in subsection (a), for the purpose of providing funds to enable the authority to pay at their respective maturities and due dates the principal of and interest on the bonds that may be issued by it under this article at any time. The revenues pledged by this subsection shall be limited to the payment of debt service on the bonds authorized by this amendatory act, including debt service on any refunding bonds issued to refund the bonds authorized by this amendatory act.

"(c) The authority shall have authority to transfer and assign any lease of any of the facilities and any lease or mortgage of the Kilby property as security for the payment of such principal, premium, if any, and interest. The bonds may be issued under, and secured by, a resolution which may, but need not, provide for an indenture of trust covering one or more facilities of the authority. Such resolution or such indenture of trust may contain any provision or agreement customarily contained in instruments securing evidences of indebtedness, including, without limiting the generality of the foregoing, provisions respecting the collection and application of any receipts pledged to the payment of bonds, the terms to be incorporated in lease agreements respecting the facilities, the maintenance and insurance thereof, the creation and maintenance of reserve and other special funds from such receipts and the rights and remedies available in

the event of default to the holders of the bonds or to the trustee for the holders of the bonds or under any indenture of trust, all as the authority may deem advisable and as shall not be in conflict with the provisions of this chapter; provided, however, that in making such agreements or provisions the authority shall not have the power to obligate itself except with respect to its facilities, the Kilby property and the application of the receipts which it is authorized in this chapter to pledge.

"(d) For each fiscal year in which the department, under a lease agreement with the authority, is required to pay rent to the authority in an amount at least equal to the annual debt service on bonds issued pursuant to the act adding this amendatory language, the department, from the amount appropriated to it in each annual general fund appropriations act, shall pay the rent payments as a first priority expenditure, and all other expenditures of the department for each fiscal year shall be adjusted accordingly.

"§14-2-28.

"All facilities constructed by the authority shall be constructed according to plans and specifications of architects or engineers, or both, selected by the department. Such plans and specifications shall be approved by the department and by the commission. All work in the construction of facilities, or any part thereof, which is determined by the commission to be suitable and proper for construction by prison labor under force account shall be performed by such

prison labor under such supervision and directions as shall be ordered by the department. All construction of facilities or any part thereof which the commission shall determine not to be suitable and proper for construction by prison labor shall be done under the supervision and direction of the commission following award for each part of the work to the lowest responsible bidder after advertising for, receipt and public opening of sealed bids. ~~Each such invitation for bids and the bidding documents applicable thereto shall be so arranged that any alternates shall constitute cumulative deductions from the base bid rather than additions thereto. In determining the lowest bidder if funds are insufficient to construct the facility on the lowest base bid, then the commission may proceed to consider the bids upon the basis of the base bids of all bidders minus the respective reductions stated for the first alternate. If the lowest bid so determined is not then within the funds available, the commission shall proceed to consider the base bid minus the first and second alternates together to determine the lowest bid and in like manner throughout all alternates, if need be, so that in no event shall there be any discretion as to which alternate or alternates will be used in determining the lowest responsible bidder.~~ Deductive alternate bids may be used in order to reduce the base bid to an amount within the funds available for the project. Additive alternate bids may be used in order to obtain prices for the addition of items not included in the base bid. The alternate bids shall be listed in the bid

documents in the order of priority in which they shall cumulatively deduct from or add to the base bid for determining the lowest responsible and responsive bidder. After the lowest responsible and responsive bidder has been determined, any alternates may be accepted or rejected provided that the combination of accepted alternates results in the same lowest bidder. If no bid deemed acceptable by the commission and the authority is received, all bids may be rejected, in which event bids may again from time to time be invited and acted on as provided in this section. All such contracts shall be lump sum contracts. The entire work on a regional prison facility may be divided into one or more contracts. All contracts for the entire work on a facility shall be awarded at the same time, but notice to proceed may be withheld until prior work under another contract has progressed to a point where the joint or following work can best be coordinated for the earliest completion of the entire project in a sound and workmanlike manner. Each contract shall be executed by the authority upon the determination of the commission as to the lowest bidder. Payments made by the authority under the construction contracts shall be upon the contractor's written sworn request only if endorsed as approved by the commission or in any lesser amount the commission shall endorse as having been then earned on said contract. After the contracts for a facility have been awarded, such construction cost estimate shall be revised and all extras on the contracts shall be awarded within the funds

available. The authority shall pay to the commission as a part of the cost of constructing the facility such sums for the services of its employees as may be mutually agreed between the department and the commission.

"§14-2-34.

"When all bonds and securities issued by the authority and all obligations assumed by it under the provisions of this chapter shall have been paid in full, the then president of the authority shall thereupon execute and deliver in the name of, and in behalf of, the authority an appropriate deed or deeds, to which the seal of the authority shall be affixed and attested by the secretary of the authority, conveying all facilities and other assets then owned by the authority to the state, except that no such conveyance shall be required if the president of the authority determines that the issuance of additional bonds to finance improvements to existing facilities is contemplated. The then officers and directors of the authority may, in their discretion, at such time file with the Secretary of State a written statement, subscribed and sworn to by each of them, reciting the payment in full of all bonds theretofore issued by the authority and the execution and delivery of such deed or deeds, which statement shall be filed by the Secretary of State and recorded with the certificate of incorporation of the authority, and thereupon the authority shall stand dissolved."

Section 7. (a) Separate and apart from the power granted to the authority in regard to the Kilby property in Section 14-2-26 and 14-2-27, and in addition to those powers, the authority shall have the power to sell, convey and lease all or any part of any real and personal property now or hereafter owned by it, together with the improvements thereon and ancillary thereto, that is not being used by the department as a facility, and the sale of which will not impair the outstanding obligations of the authority, and as an aid to the sale or lease, to cause to be prepared by competent real estate experts a land use map and plan. The authority may lease or sell lands and property owned by it without going through the Lands Division or in any other way complying with the provisions of Title 9, Chapter 15, Article 3, Code of Alabama, 1975. The authority must have duly adopted written policies and procedures governing the sale or lease of the property which invoke open competition and produce the best price, to include obtaining an appraisal, advertising the sale or lease and conducting the sale by public auction or publicly sought sealed bid. No such sale or lease shall be made except at public offering, on sealed bids or at auction, and upon such published notice as the authority shall determine to be necessary or desirable in order to attract the greatest interest from prospective bidders.

(b) The award of any property offered for sale or lease shall be made to the highest responsible bidder unless all bids shall be rejected as inadequate and other public

offering shall be made upon notice republished as prescribed above. Any sale shall be for all cash. Each deed or lease to effectuate any sale or lease shall be signed in the name of the authority by its president, to which the seal of the authority shall be affixed and attested by its secretary.

(c) The proceeds of each sale or lease of any such property shall be used first to pay the reasonable and necessary expenses of the sale or lease, and the balance remaining shall be paid to the State Treasurer and held by him in a special account and disbursed on order of the authority for any one or more of the following purposes:

(1) To acquire land for, and to construct, reconstruct, renovate, repair, maintain and equip one or more facilities; or

(2) To pay for such services, goods, repairs, renovations, construction, demolition, or other activities in or about facilities as may be deemed necessary by the board of the authority in the exercise of its sole discretion, to further the purposes of the authority or the department, including developing of a master plan for the use of the real or personal property that is owned by or which may be acquired by the authority for its statutory purposes, the preparation for sale or lease, or the preservation of, facilities or excess unimproved property owned for the authority; or

(3) To pay the principal of, and interest on, its bonds at maturity or upon refunding or redemption.

(d) The department will maintain all facilities not being used for the purposes designated in Section 14-2-1(6), and designated for sale, lease, demolition or other disposition, so long as title thereto is held by the authority, to enable the authority to achieve the best possible price or other result upon the sale, lease or other disposition thereof.

(e) Upon request of the authority the department shall convey to the authority any real and personal property to which the department holds title and acquired with proceeds of the authority's bonds or income thereon.

Section 8. Upon the regional prison facilities built by local prison authorities becoming operational, the department shall consolidate all operations housing medium or higher custody level male inmates into not more than six independent facilities. This limitation shall not apply if the future male inmate population increases above one hundred twenty-five percent of design capacity.

Section 9. Prior to the closing of a prison or correctional facility, the Department of Corrections shall determine whether a governmental entity has undertaken or incurred any debt to serve the existing facility. Any existing obligation of the Department of Corrections to the governmental entity shall continue unless negotiated otherwise.

Section 10. The construction or lease of new prison facilities and the renovation of existing facilities as

provided for in this act, shall not commence until the Alabama Corrections Institution Finance Authority or the state, or a subdivision thereof, shall have leased or purchased, or a combination thereof, the existing prison facility in Perry County for a purchase price not exceeding twenty million dollars ($20,000,000). The requirement to purchase the prison facility in Perry County is not required to be satisfied if:

(1) The Commissioner of Corrections certifies in writing to the Legislative Council that he or she has negotiated in good faith, but has failed to reach an agreement with the owner of the facility for the purpose of the purchase of the prison facility located in Perry County; and

(2) By a recorded majority vote of the members of the Legislative Council following review of the certification under subdivision (1), the council determines that the facility need not be purchased as provided in this section.

Section 11. A person or entity submitting a proposal for a project under this act shall disclose both of the following:

(1) The names of all lobbyists, attorneys, or other professionals or professional firms hired or retained by the person or entity on or after January 1, 2014.

(2) The names of all current or past elected officials or family members as defined in Section 36-25-1(15), Code of Alabama 1975, associated in any manner with the person or entity submitting the proposal or associated in any manner

with a subcontractor of the person or entity on or after January 1, 2014.

Section 12. Sections 29-2-20 and 40-12-227, Code of Alabama 1975, are amended to read as follows:

"§29-2-20.

"(a) A permanent legislative committee which shall be composed of ~~eight~~ 12 members, two of whom shall be ex officio members and ~~six~~ 10 of whom shall be appointed members, ~~three~~ five each to be appointed by the President of the Senate and Speaker of the House, who shall both serve as the ex officio members, shall be formed to assist in realizing the recommendations of the Legislative Prison Task Force and examine all aspects of the operations of the Department of Corrections. The four additional members appointed on or after the effective date of the act adding this amendatory language shall include two members from the majority party and two members from the minority party. The ~~chairman~~ chair of the committee shall be selected by and from among the membership. The committee shall make diligent inquiry and a full examination of Alabama's present and long term prison needs and they shall file reports of their findings and recommendations to the ~~Alabama~~ Legislature not later than the fifteenth legislative day of each regular session that the committee continues to exist.

"(b) The committee shall study and address mental health issues for prisoners reentering the community after a term of imprisonment in order to streamline the sharing of

critical mental health information and in order to address barriers to accessing mental health treatment for such prisoners. The committee shall report such findings to the Legislature no later than April 20, 2016, and shall work in conjunction with the following in studying and addressing such issues:

"(1) Department of Corrections;

"(2) Board of Pardons and Paroles;

"(3) Department of Mental Health;

"(4) Administrative Office of Courts;

"(5) Office of Prosecution Services;

"(6) Office of the Attorney General;

"(7) Alabama State Law Enforcement Agency;

"(8) Association of County Commissions of Alabama;

"(9) Alabama Probate Judges Association;

"(10) Alabama Sheriffs' Association;

"(11) Alabama Criminal Defense Lawyers Association;

"(12) Alabama Circuit Judges' Association;

"(13) Department of Public Health;

"(14) Office of the Governor;

"(15) Alabama District Attorneys Association;

"(16) Alabama Drug Abuse Task Force; and

"(17) Any other advocacy groups as determined by the committee.

"(c) The committee shall study and address issues related to felony restitution collection in order to improve rates of collection for restitution obligations in felony

cases and establish best practices relating to a defendant's ability to pay obligations owed. The committee shall report such findings to the Legislature no later than April 20, 2016, and shall work in conjunction with the following in studying and addressing such issues:

"(1) Department of Corrections;

"(2) Board of Pardons and Paroles;

"(3) Administrative Office of Courts;

"(4) Office of Prosecution Services;

"(5) Office of the Attorney General;

"(6) Alabama State Law Enforcement Agency;

"(7) Alabama Criminal Defense Lawyers Association;

"(8) Alabama Circuit Judges' Association;

"(9) Association of County Commissions of Alabama;

"(10) Alabama Sheriffs' Association;

"(11) Alabama Crime Victims Compensation Commission;

"(12) The Alabama Circuit Clerk's Association;

"(13) Two crime victims' rights advocates designated by the Attorney General;

"(14) Two members from the Alabama District Attorneys Association, of ~~which~~ whom one shall be from a largely populated metropolitan judicial circuit and the other shall be from a small, rurally populated judicial circuit; and

"(15) Any other advocacy groups as determined by the committee.

"(d) The committee shall study and address capacity issues within the Department of Corrections to include, but

not limited to, the issue of design capacity and operational or functional capacity, as well as the construction of new prison facilities and the renovation of current correctional facilities as they relate to prison overcrowding and public safety. The committee shall report such findings to the Legislature no later than April 20, 2016, and shall work in conjunction with the following in studying and addressing such issues:

"(1) Department of Corrections;

"(2) Board of Pardons and Paroles;

"(3) Department of Mental Health;

"(4) Department of Public Health;

"(5) Administrative Office of Courts;

"(6) Office of Prosecution Services;

"(7) Office of the Attorney General;

"(8) Alabama State Law Enforcement Agency;

"(9) Alabama Drug Abuse Task Force;

"(10) Alabama Criminal Defense Lawyers Association;

"(11) Alabama Circuit Judges' Association;

"(12) Association of County Commissions of Alabama;

"(13) Two members from the Alabama Sheriffs' Association, of ~~which~~ whom one shall be from a largely populated metropolitan judicial circuit and the other shall be from a small, rurally populated judicial circuit; and

"(14) Two members from the Alabama District Attorneys Association, of ~~which~~ whom one shall be from a

largely populated metropolitan judicial circuit and the other shall be from a small, rurally populated judicial circuit.

"(e) The studies and collaborating partners provided for in this section shall reflect the racial, gender, geographic, urban/rural, and economic diversity of the state.

"§40-12-227.

"The total proceeds of the taxes or other funds deposited in the State Treasury pursuant to Section 40-12-226 remaining after payment of the expenses of administration and enforcement of this article shall be distributed ~~to the State General Fund.~~ as follows:

"(1) A sum equal to the amount necessary to pay the principal of and interest on bonds issued by the Alabama Corrections Institution Finance Authority as and to the extent provided in Section 14-2-21 shall be distributed to the authority.

"(2) The remainder shall be distributed to the State General Fund."

Section 13. (a) Beginning January 2, 2018, and every six months thereafter until the annual reports begin on the date on which the first bond issue payment is due, the Commissioner of the Department of Corrections shall prepare a report on the progress of prison construction activities in the state during the previous six-month period. The report shall include, but not be limited to, expenditures, savings, cost-analyses, and the number of agreements entered into, including construction, architectural, and legal agreements.

The report shall also contain the overtime costs of the department for the preceding six months.

(b) The Commissioner of the Department of Corrections shall report his or her findings to the Joint Legislative Prison Committee, the House Ways and Means General Fund Committee, the Senate Committee on Finance and Taxation General Fund, and any other appropriate House and Senate Standing Committee.

Section 14. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, that declaration shall not affect the part which remains.

Section 15. This act shall become effective immediately following its passage and approval by the Governor, or its otherwise becoming law.