

1 SB6
2 215190-1
3 By Senator Beasley
4 RFD: Finance and Taxation General Fund
5 First Read: 28-SEP-21

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

11 This bill would allow the authority to issue
12 additional bonds in an amount not to exceed \$785
13 million, as necessary, to implement a prison
14 modernization plan in a phased approach that would
15 construct new prison facilities for Department of
16 Corrections through the construction of a new
17 specialized men's prison facility on state-owned
18 land in Elmore County that would provide enhanced
19 medical, mental, and other health care services and
20 other services as determined by the department; the
21 construction of a new prison facility for male
22 inmates on state-owned land in Escambia County; the
23 construction of a new women's prison facility on
24 state-owned land in Elmore County; and the
25 renovation and improvement of existing state-owned
26 prison facilities in Jefferson County, Limestone
27 County, Barbour County, and Bullock County.

1
2 A BILL
3 TO BE ENTITLED
4 AN ACT

5
6 Relating to the finance and construction and
7 renovation of prisons; to amend Sections 14-2-1, 14-2-6,
8 14-2-12, 14-2-13.1, 14-2-14, 14-2-16, 14-2-19, 14-2-21, and
9 14-2-28, Code of Alabama 1975, to allow the Alabama
10 Corrections Institution Finance Authority to issue bonds in an
11 amount not to exceed \$785 million for the purpose of
12 implementing a prison modernization plan in a phased approach
13 that would replace existing bed space in Department of
14 Corrections facilities through the construction of a new
15 specialized men's prison facility on state-owned land in
16 Elmore County providing specialized services to inmates; the
17 construction of a new prison facility for male inmates on
18 state-owned land in Escambia County; the construction of a new
19 women's prison facility on state-owned land in Elmore County;
20 the renovation and improvement of existing state-owned prison
21 facilities in certain counties; to define certain terms; to
22 revise the membership of the authority; to require reporting
23 to the Joint Legislative Prison Oversight Committee; to
24 further provide for actions to be taken upon payment of all
25 bonds issued by the authority; and to create the Alabama
26 Corrections Capital Improvement Fund and the Corrections
27 Facilities Maintenance Fund.

1 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

2 Section 1. Sections 14-2-1, 14-2-6, 14-2-12,
3 14-2-13.1, 14-2-14, 14-2-16, 14-2-19, 14-2-21, and 14-2-28,
4 Code of Alabama 1975, are amended to read as follows:

5 "§14-2-1.

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

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

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

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

18 "(4) ELMORE COUNTY SPECIALIZED MEN'S PRISON. A
19 prison facility, including all real property, buildings, and
20 improvements designed to house not more than 3,000 male
21 inmates, to be located on land owned by the state or the
22 authority as of December 1, 2020, in Elmore County. The prison
23 shall include designated space for mental health services and
24 health services and may include other designated space for
25 other services.

26 "(5) ESCAMBIA MEN'S PRISON. A prison facility,
27 including all real property, buildings, and improvements,

1 designed to house not more than 3,000 male inmates, to be
2 located on land owned by the state or the authority as of
3 December 1, 2020, in Escambia County.

4 ~~"(4)(6)~~ STATE. The State of Alabama.

5 ~~"(5)(7)~~ BONDS. The bonds issued under the provisions
6 of this chapter.

7 ~~"(6)(8)~~ FACILITIES. Such term includes any one or
8 more of the following:

9 "a. Prisons;

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

12 "c. Any facilities necessary or useful in connection
13 with prisons, buildings, or enclosures, including, without
14 limiting the generality of the foregoing, hospitals, offices,
15 correctional officers' quarters and residences, warehouses,
16 garages, storage facilities, abattoirs, cold storage plants,
17 canning plants, laundries, and manufacturing plants ~~for the~~
18 ~~employment of prison labor,~~ educational and other programming
19 facilities, medical, mental and other health care facilities,
20 and substance abuse and addiction treatment facilities.

21 ~~"(7)(9)~~ KILBY PROPERTY. Such term includes all of
22 the real property commonly referred to as Kilby prison
23 property, embracing not only the real property owned by the
24 state on which Kilby prison is located, but also all real
25 property owned by the state used in connection with Kilby
26 prison and adjacent thereto, all located in sections 2, 3, 10,
27 11, 21, 22, 26, 27, 28, 29, 30, 33, 34, and 35 in township 17,

1 range 18 in Montgomery County, Alabama, together with all
2 personal property owned by the state and used in connection
3 with Kilby prison and the real property adjacent thereto.

4 "~~(8)~~(10) PERRY COUNTY FACILITY. The Perry County
5 Correctional Center, including all real property, buildings,
6 and improvements located at the facility in Perry County.

7 "(11) WOMEN'S PRISON FACILITY. A prison facility
8 designed to house not more than 750 female inmates to be
9 located on land owned by the state or the authority in Elmore
10 County.

11 "§14-2-6.

12 "(a) The applicants named in the application and
13 their respective successors in office shall constitute the
14 members of the authority. The membership of the authority
15 shall be as follows: the Governor shall be the president of
16 the authority, the Commissioner of Corrections shall be the
17 vice-president vice president of the authority, and the
18 Director of Finance shall be the secretary of the authority.
19 In addition to these three members, the chair of the House
20 Ways and Means General Fund Committee, the chair of the Senate
21 Finance and Taxation General Fund Committee, a member jointly
22 appointed by the House Minority Leader and the Senate Minority
23 Leader, and the Director of the Bureau of Pardons and Paroles
24 shall be members of the authority. The governing documents of
25 the authority shall be amended to reflect this membership.

26 "(b) The State Treasurer shall be the treasurer and
27 custodian of the funds of the authority, but shall not be a

1 member of the authority. ~~The members of the authority shall~~
2 ~~constitute all the members of the board of directors of the~~
3 ~~authority, which shall be the governing body of the authority.~~

4 "(c) A majority of the members of the ~~said board of~~
5 ~~directors~~ authority shall constitute a quorum for the
6 transaction of business.

7 "(d) Should any person holding any state office
8 named in this section cease to hold such office by reason of
9 death, resignation, expiration of his or her term of office or
10 for any other reason, then his or her successor in office
11 shall take his or her place as a member, or officer ~~or~~
12 ~~director~~, as the case may be, of the authority.

13 "(e) No member, or officer ~~or director~~ of the
14 authority shall draw any salary in addition to that now
15 authorized by law for any service he or she may render or for
16 any duty he or she may perform in connection with the
17 authority.

18 "(f) No member, officer, ~~director~~ or employee of the
19 authority shall be personally liable for any debt, obligation,
20 or liability of the authority.

21 "(g) The authority may delegate any of its
22 administrative or reporting duties and obligations under this
23 chapter to the Department of Corrections or any other state
24 agency, department, or other state entity.

25 "§14-2-12.

26 "(a) For the purpose of providing funds for the
27 acquisition of sites, for the construction, reconstruction,

1 alteration and improvement of facilities, for the procurement
2 and installation of equipment therefor, and for payment of
3 obligations incurred and the principal of and interest on any
4 temporary loans made for any of the ~~said~~ purposes, the
5 authority is hereby authorized, from time to time, to sell and
6 issue, in addition to all bonds heretofore authorized to be
7 issued by the authority, its bonds in such aggregate principal
8 amounts as may be determined by the corporation to be
9 necessary for the ~~said~~ purposes, but not to exceed
10 \$25,000,000, plus an additional seven million five hundred
11 thousand dollars (\$7,500,000) pursuant to Act 97-950, in
12 aggregate principal amount.

13 "(b) In addition to the authorization provided in
14 subsection (a), the authority is hereby authorized, from time
15 to time, to sell and issue its bonds in amounts determined by
16 the authority to be necessary for the acquisition,
17 construction, reconstruction, alteration, and improvement of
18 facilities. Additional bonds may be issued to provide for
19 additional bedspace by improving properties currently owned by
20 the Department of Corrections or the authority. The total
21 additional bonds authorized by this subsection shall not
22 exceed \$60 million.

23 "(c) In addition to any other authorization provided
24 in this chapter, the authority is hereby authorized, from time
25 to time, to sell and issue bonds in multiple series and in
26 amounts determined by the authority to be necessary to
27 construct new facilities and to renovate existing facilities

1 for the Department of Corrections through the implementation
2 of the phased plan set forth in the act amending this section.
3 The total additional bonds authorized by the act amending this
4 section may not exceed \$785 million. Additional bonds
5 authorized under this subsection shall be issued by the
6 authority as necessary for the purposes specified as follows:

7 "(1) PHASE 1: Immediately upon the effective date of
8 the act adding this amendatory language, the authority shall
9 be authorized to issue bonds as necessary, and subject to the
10 limitation in this subsection, to fund the Phase 1 project for
11 the construction of the Elmore County specialized men's prison
12 facility. The request for proposals to any qualified
13 contractor shall specify design criteria for the construction
14 of the facility, which design criteria shall be approved by
15 the authority. Notwithstanding the foregoing, if the prison is
16 designed and constructed to replace the Hamilton Aged and
17 Infirm Center, the replacement space may be in a separate
18 space and the existing center may be closed. This designated
19 space may house not more than 250 male additional inmates,
20 notwithstanding subdivision (4) of Section 14-2-1. Within six
21 months from the completion and full operation of the Elmore
22 County specialized men's prison, the Staton and Elmore prisons
23 shall be closed. At a time to be determined by the Department
24 of Corrections, and following the closure of the above
25 prisons, the next major Department of Corrections facility to
26 be closed shall be the St. Clair Correctional Facility.

1 "(2) PHASE 2: Upon the completion and full operation
2 of Phase 1 project, or anytime thereafter, as certified by the
3 Commissioner of Corrections, and upon certification by the
4 Director of Finance, the chair of the House Ways and Means
5 General Fund Committee, and the chair of the Senate Finance
6 and Taxation General Fund Committee that the General Fund can
7 support additional lease payments from the department to the
8 authority or that the funding otherwise exists to complete any
9 of the Phase II projects and it is in the best interest of the
10 state to do so, the authority shall be authorized to issue
11 bonds as necessary, and subject to the limitation in this
12 subsection, to fund the construction of the following:

13 "a. The construction of the Escambia County men's
14 prison facility project.

15 "b. The construction of a women's prison facility.
16 Within one year of completion of this women's facility, the
17 Julia Tutwiler Prison shall be closed.

18 "(3) PHASE 3: The renovation and improvement of the
19 men's prison facilities in Jefferson, Limestone, Barbour, and
20 Bullock Counties.

21 "(4) PHASE 4: Prior to substantial completion of 75
22 percent of the renovation and improvement of Phase 2 projects,
23 in the aggregate, as certified by the Commissioner of
24 Corrections, the Department of Corrections, in consultation
25 with the Joint Legislative Prison Oversight Committee, shall
26 perform an evaluation of men's prison facilities based on a
27 current facilities assessment and inmate population trends to

1 determine if additional facility beds need to be replaced. A
2 copy of the evaluation shall be provided to the Legislature.

3 "(5) PHASE 5. Notwithstanding any other provisions
4 of this subsection, additional bonds shall be issued and the
5 proceeds from the bonds in the amount of twenty million
6 dollars (\$20,000,000) shall be transferred to the Corrections
7 Facilities Maintenance Fund to be used for the maintenance,
8 renovation, and improvement of any existing prisons in order
9 to maintain the operational functions of the prisons.

10 "(6) Notwithstanding any other provision of law,
11 until the construction and renovation program provided by this
12 amendatory act is determined by the authority to be complete,
13 no existing prison on the effective date of this amendatory
14 act, except a prison authorized to be closed pursuant to Phase
15 1 or 2, shall be closed if the annual monthly average inmate
16 population of any other existing prison for the prior fiscal
17 year is 15 percent more than the designed bed capacity of that
18 other existing prison. If a governmental entity has an
19 existing debt obligation, including subsequent debt
20 consolidations and refinancing bond issues, undertaken or
21 incurred to better provide water, sanitary sewer, or other
22 utility service, to include wastewater treatment plant
23 improvements, to a correctional facility, upon notification by
24 the department of its intention to close the correctional
25 facility, the governmental entity shall continue to bill the
26 department in the same manner and frequency, and the
27 department shall continue to pay to the governmental entity,

1 at a minimum for services rendered an amount equaling the
2 governmental entity's debt service until the governmental
3 entity's existing debt has been satisfied and retired. The
4 department may, at its option, pay a lump sum settlement to
5 the government entity to satisfy the debt obligation of the
6 governmental entity.

7 "(d) If bond proceeds exceed the amount authorized
8 in subsection (c) due to receipt of original issue premium in
9 connection with the sale of bonds or due to any other reason,
10 the bond proceeds in excess of those amounts shall be
11 allocated by the authority for the expense of issuance,
12 including capitalized interest, or as determined necessary for
13 the purposes provided in subsection (c).

14 "(e) Within 30 days of the completion of any bond
15 sale pursuant to this subsection, the authority shall provide
16 a report, in concise, simple language to the Legislature which
17 reflects the date of the issuance of the bonds pursuant to
18 this subsection, total amount of the bonds, maturity date,
19 schedule of payments, including interest and principal, amount
20 of attorney fees, architect fees and bond attorney fees,
21 underwriting fees, and all other costs incurred in the
22 issuance of and sale of the bonds herein authorized, and to
23 what person, firm, corporation, company, or other entity to
24 which any such fees or money is to be or has been paid.

25 ~~(c)~~(f) Any monetary transactions by the authority
26 completed pursuant to Act 2010-729 and the act adding this
27 amendatory language shall be fully disclosed to the public.

1 "~~(d)~~(g) Any bonds issued pursuant to this section
2 shall be sold by ~~competitive bid if practical and economically~~
3 ~~feasible as determined by the authority~~ pursuant to the terms
4 of Section 14-2-16.

5 "~~(e)~~(h) (1) The authority is strongly encouraged to
6 utilize businesses and companies in all aspects of the bond
7 and construction portions of this chapter that reflect the
8 racial and ethnic diversity of the state.

9 "(2) It is the intent of the Legislature that the
10 authority encourage participation by minority businesses in
11 the construction of prison facilities as provided by the act
12 adding this amendatory language. Accordingly, the authority
13 shall adopt a plan that achieves to the greatest extent
14 possible a level of participation by minority businesses. The
15 authority may administer training programs and other
16 educational activities to enable eligible minority businesses
17 to compete for participation on an equal basis. The authority
18 shall monitor the results of minority business participation
19 and shall report the results of minority business
20 participation to the Governor and the Legislature at least on
21 a quarterly basis. For the purposes of this subdivision,
22 "minority" means the prevailing ethnic minority in the state.

23 "§14-2-13.1.

24 "It is hereby further provided that no refunding
25 bonds as provided for by Section 14-2-13 shall be issued
26 unless the present value of all debt service on the refunding
27 bonds (computed with a discount rate equal to the ~~true~~

1 ~~interest rate~~ bond yield of the refunding bonds and taking
2 into account all underwriting discount and other issuance
3 expenses) shall not be greater than ~~95%~~ 98 percent of the
4 present value of all debt service on the bonds to be refunded
5 (computed using the same discount rate and taking into account
6 the underwriting discount and other issuance expenses
7 originally applicable to such bonds) determined as if such
8 bonds to be refunded were paid and retired in accordance with
9 the schedule of maturities (considering mandatory redemption
10 as a scheduled maturity) provided at the time of their
11 issuance. Provided further that the average maturity of the
12 refunding bonds, as measured from the date of issuance of such
13 refunding bonds, shall not exceed by more than three years the
14 average maturity of the bonds to be refunded, as also measured
15 from such date of issuance, with the average maturity of any
16 principal amount of bonds to be determined by multiplying the
17 principal of each maturity by the number of years (including
18 any fractional part of a year) intervening between such date
19 of issuance and each such maturity, taking the sum of all such
20 products, and then dividing such sum by the aggregate
21 principal amount of bonds for which the average maturity is to
22 be determined.

23 "§14-2-14.

24 "Any bonds of the authority may be executed and
25 delivered by it at any time and from time to time, shall be in
26 such form and denominations and of such tenor and maturities,
27 shall bear such rate or rates of interest payable and

1 evidenced in such manner, may contain provisions for
2 redemption prior to maturity and may contain other provisions
3 not inconsistent with this section, all as may be provided by
4 the resolution of the ~~board of directors~~ authority whereunder
5 such bonds are authorized to be issued; provided, that no bond
6 of the authority shall have a specified maturity date later
7 than ~~20~~ 30 years after its date. ~~In the event that the~~
8 ~~authority shall make more than one pledge of the same~~
9 ~~revenues, such pledges shall, unless otherwise provided in the~~
10 ~~resolution or resolutions authorizing the earlier issued~~
11 ~~bonds, take precedence in the order of the adoption of the~~
12 ~~resolutions in which the pledges are made; provided, that each~~
13 ~~pledge for the benefit of refunding bonds shall have the same~~
14 ~~priority as the pledge for the benefit of the bonds refunded~~
15 ~~thereby.~~

16 "§14-2-16.

17 "Bonds of the authority may be sold at such price or
18 prices and at such time or times as the ~~board of directors of~~
19 ~~the~~ authority may consider advantageous, ~~either~~ at public
20 sale, ~~or~~ private sale, or via negotiation. Bonds of the
21 authority sold by competitive bid must be sold, whether on
22 sealed bids or at public auction, to the bidder whose bid
23 reflects the lowest ~~effective borrowing~~ true interest cost to
24 the authority for the bonds being sold; provided, that if no
25 bid acceptable to the authority is received, it may reject all
26 bids. ~~Notice of each such sale by competitive bids shall be~~
27 ~~given by publication in either a financial journal or a~~

1 ~~financial newspaper published in the City of New York, New~~
2 ~~York, and also by publication in a newspaper published in the~~
3 ~~State of Alabama, each of which notices must be published at~~
4 ~~least one time~~ Commercially reasonable notice of the bond sale
5 shall be given not less than 10 days before the date for the
6 sale. The ~~board of directors~~ authority may fix the terms and
7 conditions under which such sale may be held; provided, that
8 such terms and conditions shall not conflict with any of the
9 requirements of this chapter. The authority may pay out of the
10 proceeds of the sale of its bonds all expenses, including
11 capitalized interest during a period not to exceed ~~one year~~
12 three years from the date of issuance of such bonds,
13 publication and printing charges, attorneys' fees and other
14 expenses which ~~said the authority board of directors~~ may deem
15 necessary and advantageous in connection with the
16 authorization, advertisement, sale, execution, and issuance of
17 such bonds. ~~Neither~~ Except as otherwise provided in Section
18 14-2-12, neither a public hearing nor consent of the State
19 Department of Finance or any other department or agency of the
20 state shall be a prerequisite to the issuance or sale of bonds
21 by the authority.

22 "§14-2-19.

23 "(a) All proceeds derived from the sale of any
24 bonds, except refunding bonds, sold by the authority,
25 remaining after payment of the expenses of issuance thereof,
26 shall be turned over to the State Treasurer, shall be carried
27 in a special account to the credit of the authority, and shall

1 be subject to be drawn on by the authority solely for the
2 purposes of:

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

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

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

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

16 "(5) Paying the principal of and interest on all
17 then outstanding notes theretofore issued by the authority
18 pursuant to the provisions of Section 14-2-107;

19 "(6) Paying for cost of constructing the Elmore
20 County specialized men's prison facility and the Escambia
21 men's prison facility.

22 "(7) Paying for the cost of maintenance, renovation,
23 and improvement of any existing state-owned prison facilities,
24 including facilities in Jefferson, Limestone, Bullock, and
25 Barbour counties.

26 "(8) Paying for the cost of the construction of a
27 women's prison facility and the demolition of Tutwiler Prison.

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

15 "(b) All proceeds from the sale of refunding bonds
16 issued by the authority that remain after paying the expenses
17 of their issuance may be used only for the purpose of
18 refunding the principal of and any unpaid and accrued interest
19 on the outstanding bonds of the authority for the refunding of
20 which the refunding bonds are authorized to be issued,
21 together with any premium that may be necessary to be paid in
22 order to redeem or retire such outstanding bonds.

23 "§14-2-21.

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

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

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

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

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

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

14 "(b) The authority shall have authority to transfer
15 and assign any lease agreement of any of the facilities and
16 any lease or mortgage of the Kilby property as security for
17 the payment of such principal, premium, if any, and interest.
18 The bonds may be issued under, and secured by, a resolution
19 which may, but need not, provide for an indenture of trust
20 covering one or more facilities of the authority. Such
21 resolution or such indenture of trust may contain any
22 provision or agreement customarily contained in instruments
23 securing evidences of indebtedness, including, without
24 limiting the generality of the foregoing, provisions
25 respecting the collection and application of any lease
26 agreement revenues, or other receipts pledged to the payment
27 of bonds, the terms to be incorporated in lease agreements

1 respecting the facilities, the maintenance and insurance
2 thereof, the creation and maintenance of reserve and other
3 special funds from such receipts, and the rights and remedies
4 available in the event of default to the holders of the bonds
5 or to the trustee for the holders of the bonds or under any
6 indenture of trust, all as the authority may deem advisable
7 and as shall not be in conflict with the provisions of this
8 chapter; provided, however, that in making such agreements or
9 provisions the authority shall not have the power to obligate
10 itself except with respect to its facilities, the Kilby
11 property, and the application of the lease agreement revenues
12 and other receipts which it is authorized in this chapter to
13 pledge.

14 "(c) The Corrections Facilities Maintenance Fund is
15 created within the State Treasury, to be administered by the
16 Department of Corrections. The Legislature shall make
17 appropriations to this fund to be used exclusively for
18 maintenance, renovation, and improvement of the existing
19 prison facilities. Any bond proceeds or other funds
20 transferred or appropriated to the fund may be expended by the
21 department for the purposes of the fund. No money in the fund
22 shall revert to the State Treasury, but shall be carried
23 forward for the purposes of the fund.

24 (d) The Department of Corrections - Corrections
25 Capital Improvement Fund is created within the State Treasury,
26 to be administered by the Department of Corrections. The
27 Legislature shall make appropriations to this entity to be

1 used exclusively for the construction, renovation, and
2 improvement of the prison facilities as enumerated in Section
3 14-2-12(c).

4 "§14-2-28.

5 ~~"All facilities constructed by the authority shall~~
6 ~~be constructed according to plans and specifications of~~
7 ~~architects or engineers, or both, selected by the department.~~
8 ~~Such plans and specifications shall be approved by the~~
9 ~~department and by the commission. All work in the construction~~
10 ~~of facilities, or any part thereof, which is determined by the~~
11 ~~commission to be suitable and proper for construction by~~
12 ~~prison labor under force account shall be performed by such~~
13 ~~prison labor under such supervision and directions as shall be~~
14 ~~ordered by the department. All construction of facilities or~~
15 ~~any part thereof which the commission shall determine not to~~
16 ~~be suitable and proper for construction by prison labor shall~~
17 ~~be done under the supervision and direction of the commission~~
18 ~~following award for each part of the work to the lowest~~
19 ~~responsible bidder after advertising for, receipt and public~~
20 ~~opening of sealed bids. Each such invitation for bids and the~~
21 ~~bidding documents applicable thereto shall be so arranged that~~
22 ~~any alternates shall constitute cumulative deductions from the~~
23 ~~base bid rather than additions thereto. In determining the~~
24 ~~lowest bidder if funds are insufficient to construct the~~
25 ~~facility on the lowest base bid, then the commission may~~
26 ~~proceed to consider the bids upon the basis of the base bids~~
27 ~~of all bidders minus the respective reductions stated for the~~

1 ~~first alternate. If the lowest bid so determined is not then~~
2 ~~within the funds available, the commission shall proceed to~~
3 ~~consider the base bid minus the first and second alternates~~
4 ~~together to determine the lowest bid and in like manner~~
5 ~~throughout all alternates, if need be, so that in no event~~
6 ~~shall there be any discretion as to which alternate or~~
7 ~~alternates will be used in determining the lowest responsible~~
8 ~~bidder. If no bid deemed acceptable by the commission and the~~
9 ~~authority is received, all bids may be rejected, in which~~
10 ~~event bids may again from time to time be invited and acted on~~
11 ~~as provided in this section.~~

12 "(a) Notwithstanding any other provision of law, the
13 contract for the design and construction of the Elmore County
14 specialized men's prison may be awarded to either of the
15 following:

16 "(1) Any person that was part of a team qualified by
17 the department for any proposed facility pursuant to the
18 Request for Qualifications issued by the Department of
19 Corrections June 27, 2019, provided that the previously
20 qualified person may petition the department to add or
21 substitute team members as needed.

22 "(2) In the event the authority determines it is not
23 in the best interest of this state to enter into a contract
24 for the design and construction of one or both of the Elmore
25 County specialized men's prison, the authority may enter into
26 contracts with any other public and private parties for the

1 design and construction of the facilities, including a
2 design-build contract, in accordance with the following:

3 "a. The authority shall develop procedures to
4 implement this section, including, but not limited to,
5 proposal content, selection criteria, prequalification,
6 applicant interview, proposal evaluation, proposal
7 negotiation, selection, and award, which will be outlined in
8 each authority request for proposal.

9 "b. Notwithstanding any provision of law to the
10 contrary, proposals under this section shall be awarded by the
11 authority based on qualifications of participants and best
12 value as evaluated by procedures of the authority and taking
13 into consideration the best interest of this state.

14 "c. Proposals shall use the standard specifications
15 of the department or other specifications the authority and
16 the department determine necessary for the facility.

17 "d. The authority may award a contract through any
18 other procurement authority, proposals, or other means of
19 procurement otherwise available for public works projects in
20 this state.

21 "(b) Any contract for the design and construction of
22 the Elmore County specialized men's prison shall establish a
23 guaranteed maximum price for the project.

24 "(c) As a condition of entering into a contract for
25 the design and construction of the Elmore County specialized
26 men's prison facility, any person entering into the contract
27 shall agree to full transparency and shall share all pricing

1 information with the authority. The authority, at its sole
2 discretion, shall have the right to require verification of
3 competitive pricing for any portion of the proposed scope of
4 the design and construction agreements.

5 "(d) (1) Notwithstanding any other provision of law,
6 and except as provided in subdivision (2), all other
7 construction contemplated by the act amending this section
8 shall be subject to the bid requirements for public works in
9 Title 39, Code of Alabama 1975.

10 "(2) When two or more bids are received for
11 contracts referenced in subdivision (1), and all bids exceed
12 available funding for the contract as provided in Section
13 14-2-12, Code of Alabama 1975, the authority may negotiate for
14 the work with the lowest responsible and responsive bidder
15 provided that the authority certifies a shortage of funding,
16 that time is of the essence, and that the negotiated changes
17 are in the public interest and do not materially alter the
18 scope and nature of the project.

19 "(e) All such contracts shall be lump sum contracts.
20 The entire work on a prison facility may be divided into one
21 or more contracts. All contracts for the entire work on a
22 facility ~~shall~~ need not be awarded at the same time, ~~but~~
23 ~~notice to proceed may be withheld until~~ so that prior work
24 under another contract ~~has progressed~~ can progress to a point
25 where the joint or following work can best be coordinated for
26 the earliest completion of the entire project in a sound and
27 workmanlike manner. Each contract shall be executed by the

1 authority ~~upon the determination of the commission as to the~~
2 ~~lowest bidder~~. Payments made by the authority under the
3 construction contracts shall be upon the contractor's written
4 sworn request only if endorsed as approved by the commission
5 or in any lesser amount the commission shall endorse as having
6 been then earned on ~~said~~ the contract. After the contracts for
7 a facility have been awarded, ~~such~~ the construction cost
8 estimate shall be revised and all extras on the contracts
9 shall be awarded within the funds available. The authority
10 shall pay to the commission as a part of the cost of
11 constructing the facility such sums for the services of its
12 employees as may be mutually agreed between the department and
13 the commission.

14 Section 2. The state, through any of its departments
15 or agencies or a subdivision thereof, shall lease or purchase
16 upon commercially reasonable terms, or a combination thereof,
17 the existing prison facility in Perry County to be utilized by
18 the department or any other state department or agency using
19 funds appropriated for that purpose from the State General
20 Fund.

21 Section 3. A person or entity submitting a proposal
22 for any project under this act shall disclose both of the
23 following:

24 (1) The names of all lobbyists, attorneys, or other
25 professionals or professional firms hired or retained by the
26 person or entity on or after December 6, 2019.

1 (2) The names of all current or past elected
2 officials or family members as defined in Section 36-25-1(15),
3 Code of Alabama 1975, associated in any manner with the person
4 or entity submitting the proposal or associated in any manner
5 with a subcontractor of the person or entity on or after
6 December 6, 2019.

7 Section 4. Nothing in this act shall be construed to
8 limit the department from continuing to use third party or
9 private facilities for any program or housing of inmates that
10 are not under medium, maximum, or close security supervision.

11 Section 5. (a) Prior to the closure of any facility
12 as the result of the provisions of this act, there shall be
13 established a commission to study the economic impact of the
14 closure of the facility, any possible repurposing of the
15 facility, and any outstanding obligations of the facility to a
16 local governmental entity or utility board. The commission
17 shall report its findings to the Governor, the President Pro
18 Tempore of the Senate, the Speaker of the House of
19 Representatives, the Senate Minority Leader, and the House
20 Minority Leader.

21 (b) The Alabama Prison Repurposing Commission,
22 created by Executive Order No. 722, September 22, 2020, is
23 deemed to satisfy the requirements of subsection (a) for as
24 long as the commission exists.

25 Section 6. The provisions of this act are severable.
26 If any part of this act is declared invalid or

1 unconstitutional, that declaration shall not affect the part
2 which remains.

3 Section 7. This act shall become effective
4 immediately following its passage and approval by the
5 Governor, or its otherwise becoming law.