

1 HB458

2 217889-1

3 By Representative Sorrells (Constitutional Amendment)

4 RFD: Urban and Rural Development

5 First Read: 08-MAR-22

8 SYNOPSIS: Under existing law, among other things,
9 Amendment 772 to the Constitution of Alabama of
10 1901, now appearing as Section 94.01 of the
11 Official Recompilation of the Constitution of
12 Alabama of 1901, as amended, authorizes counties
13 and municipalities to use public funds to acquire
14 real estate for economic and industrial
15 development; and Section 222 of the Constitution of
16 Alabama of 1901, as amended, prohibits counties and
17 municipalities from issuing bonds without a vote of
18 the people.

19 This bill would propose an amendment to
20 Amendment 772 to the Constitution of Alabama of
21 1901, as amended, to specify that counties and
22 municipalities are exempt from the prohibition
23 against issuing bonds under Amendment 772 without a
24 vote of the people; revise requirements for
25 publication of notice for economic and industrial
26 development projects; and ratify all actions and
27 agreements of any county or municipality done under

Amendment 772 unless the action or agreement is subject to pending judicial proceedings on the date of ratification of this amendment.

A BILL

TO BE ENTITLED

AN ACT

Proposing an amendment to Amendment 772 to the Constitution of Alabama of 1901, now appearing as Section 94.01 of the Official Recompilation of the Constitution of Alabama of 1901, as amended, relating to economic development projects of counties and municipalities; to revise requirements for incurring indebtedness for economic development purposes; to revise the requirement for publication of notices for economic and industrial purposes; and to ratify actions taken and agreements made under Amendment 772 made prior to the ratification of this amendment.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. The following amendment to the Constitution of Alabama of 1901, as amended, is proposed and shall become valid as a part thereof when approved by a majority of the qualified electors voting thereon and in accordance with Sections 284, 285, and 287 of the Constitution of Alabama of 1901, as amended:

PROPOSED AMENDMENT

"Amendment 772

"(a) The governing body of any county, and the
governing body of any municipality located therein, for which
a local constitutional amendment has not been adopted
authorizing any of the following, a county or municipality
shall have full and continuing power to do any of the
following:

"(1) Use public funds to purchase, lease, or otherwise acquire real property, buildings, plants, factories, facilities, machinery, and equipment of any kind, or to utilize ~~the~~ properties ~~heretofore~~ purchased or otherwise acquired on or before adoption of this amendment, and to improve and develop the properties for use as sites for industry of any kind or as industrial park projects, including, but not limited to, grading and the construction of roads, drainage, sewers, sewage and waste disposal systems, parking areas, and utilities to serve the sites or projects.

"(2) Lease, sell, grant, exchange, or otherwise convey, on terms approved by the governing body of the county or the municipality, as applicable, all or any part of any real property, buildings, plants, factories, facilities, machinery, and equipment of any kind or industrial park project to any individual, firm, corporation, or other business entity, public or private, including any industrial development board or other public corporation or authority ~~heretofore or hereafter~~ created by the county or the municipality before or after adoption of this amendment, for

1 the purpose of constructing, developing, equipping, and
2 operating industrial, commercial, research, or service
3 facilities of any kind.

4 "(3) Lend its credit to, or grant public funds and
5 things of value in aid of, or to, any individual, firm,
6 corporation, or other business entity, public or private, for
7 the purpose of promoting the economic and industrial
8 development of the county or the municipality.

9 "(4) Become indebted and issue bonds, warrants ~~which~~
10 ~~may be payable from funds to be realized in future years,~~
11 notes, or other obligations, or evidences of indebtedness to a
12 an aggregate outstanding principal amount not exceeding an
13 amount equal to 50 percent of the assessed value of taxable
14 property therein as determined for state taxation, in order to
15 secure funds for the purchase, construction, lease, or
16 acquisition of any of the property described in subdivision
17 (1), or to be used in furtherance of any of the other powers
18 or authorities granted in this amendment. The obligations or
19 evidences of indebtedness may be issued upon the full faith
20 and credit of the county or any municipality or may be limited
21 as to the source of their payment.

22 "(b) The recital in any bonds, warrants, notes, or
23 other obligations, or evidences of indebtedness that they were
24 issued pursuant to this amendment, or that they were issued to
25 provide funds to be used in furtherance of any power or
26 authority herein authorized shall be conclusive, and no
27 purchaser or holder thereof need inquire further. The bonds,

warrants, notes, or other obligations or evidences of indebtedness issued hereunder ~~shall not be considered~~ do not constitute an indebtedness of the county or any municipality for the purpose of determining the borrowing capacity of the county or municipality under this Constitution.

"~~(b)~~(c) In carrying out the purpose of this amendment, ~~neither the county nor any municipality located therein~~ a county or a municipality shall not be subject to Section 93 or 94 of this Constitution or be required to comply with Section 222 of this Constitution. Each public corporation ~~heretofore~~ created by the county or by any municipality located therein on or before the adoption of this amendment, including specifically any industrial development board incorporated under Article 4 of Chapter 54 of Title 11 of the Code of Alabama 1975, and any industrial development authority incorporated or reincorporated under Chapter 92A of Title 11 of the Code of Alabama 1975, and the Shoals Economic Development Authority enacted under Act No. 95-512, 1995 Regular Session, are validated and the powers granted to the board or authority under its respective enabling legislation are validated, notwithstanding any other provision of law or of this Constitution. The powers granted by this amendment may be exercised as an exclusive alternative to, or cumulative with, and in no way restrictive of, powers otherwise granted by this Constitution or any law to the county, or to any municipality, or to any agency, board, or authority created pursuant to the laws of this state.

1 "(c)(d) Neither the county nor any municipality
2 located therein shall lend its credit to, or grant any public
3 funds or thing of value to, or in aid of, any private entity
4 under the authority of this amendment unless prior ~~thereto to~~
5 doing so, both of the following are satisfied:

6 "(1) The action proposed to be taken by the county
7 or municipality is approved at a public meeting of the
8 governing body of the county or municipality, as the case may
9 be, by a resolution containing a determination by the
10 governing body that the expenditure of public funds for the
11 purpose specified will serve a valid and sufficient public
12 purpose, notwithstanding any incidental benefit accruing to
13 any private entity or entities.

14 "(2) At least seven days prior to the public
15 meeting, a notice is published in ~~the a~~ newspaper ~~having the~~
16 ~~largest circulation in circulation~~ in the county or
17 municipality, as the case may be, describing in reasonable
18 detail the action proposed to be taken, a description of the
19 public benefits sought to be achieved by the action, and
20 identifying each individual, firm, corporation, or other
21 business entity to whom, or for whose benefit, the county or
22 the municipality proposes to lend its credit or grant public
23 funds or thing of value.

24 "(e) For purposes of the foregoing, any sale, lease,
25 or other disposition of property for a price equal to ~~the its~~
26 fair market value thereof shall not constitute the lending of

1 credit or a grant of public funds or thing of value in aid of
2 a private entity.

3 "(f) Nothing in this amendment shall authorize the
4 county commission to own or operate a cable television system.

5 "~~(d)~~(g) Any action taken, or agreement made, under
6 Amendment 772 by any county or municipality prior to the date
7 this amendment is ratified and confirmed in all respects as of
8 that date, except to the extent that its validity is being
9 challenged in appropriate judicial proceedings in any court of
10 competent jurisdiction on the date this amendment is ratified.
11 ~~This amendment~~ These amendatory provisions shall have
12 prospective application only. Any local constitutional
13 amendments previously adopted and any local law enacted
14 pursuant to such amendment shall remain in full force and
15 effect."

16 Section 2. An election upon the proposed amendment
17 shall be held in accordance with Sections 284 and 285 of the
18 Constitution of Alabama of 1901, now appearing as Sections 284
19 and 285 of the Official Recompilation of the Constitution of
20 Alabama of 1901, as amended, and the election laws of this
21 state.

22 Section 3. The appropriate election official shall
23 assign a ballot number for the proposed constitutional
24 amendment on the election ballot and shall set forth the
25 following description of the substance or subject matter of
26 the proposed constitutional amendment:

"Proposing an amendment to revise Amendment 772 to the Constitution of Alabama of 1901, as amended, to specify that all counties and municipalities may exercise the authority and powers granted by Amendment 772 to provide for economic and industrial development; to permit notice for Amendment 772 projects to be published in any newspaper in circulation in the county or municipality; and to ratify all actions and agreements of any county or municipality done under Amendment 772 unless subject to pending judicial proceedings on the date of adoption of this amendment.

"Proposed by Act _____."

This description shall be followed by the following language:

"Yes () No () ."