

1 SB296
2 217889-4
3 By Senator Livingston (Constitutional Amendment)
4 RFD: Fiscal Responsibility and Economic Development
5 First Read: 08-MAR-22

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4 ENGROSSED

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7 A BILL
8 TO BE ENTITLED
9 AN ACT

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11 Proposing an amendment to Amendment 772 to the
12 Constitution of Alabama of 1901, now appearing as Section
13 94.01 of the Official Recompilation of the Constitution of
14 Alabama of 1901, as amended, relating to economic development
15 projects of counties and municipalities; to revise
16 requirements for incurring indebtedness for economic
17 development purposes; to revise the requirement for
18 publication of notices for economic and industrial purposes;
19 and to ratify actions taken and agreements made under
20 Amendment 772 made prior to the ratification of this
21 amendment.

22 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

23 Section 1. The following amendment to the
24 Constitution of Alabama of 1901, as amended, is proposed and
25 shall become valid as a part thereof when approved by a
26 majority of the qualified electors voting thereon and in

1 accordance with Sections 284, 285, and 287 of the Constitution
2 of Alabama of 1901, as amended:

3 PROPOSED AMENDMENT

4 "Amendment 772

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

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

21 "(2) Lease, sell, grant, exchange, or otherwise
22 convey, on terms approved by the governing body of the county
23 or the municipality, as applicable, all or any part of any
24 real property, buildings, plants, factories, facilities,
25 machinery, and equipment of any kind or industrial park
26 project to any individual, firm, corporation, or other
27 business entity, public or private, including any industrial

1 development board or other public corporation or authority
2 ~~heretofore or hereafter~~ created by the county or the
3 municipality before or after adoption of this amendment, for
4 the purpose of constructing, developing, equipping, and
5 operating industrial, commercial, research, or service
6 facilities of any kind.

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

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

25 "(b) The recital in any bonds, warrants, notes, or
26 other obligations or evidences of indebtedness that they were
27 issued pursuant to this amendment or that they were issued to

1 provide funds to be used in furtherance of any power or
2 authority herein authorized shall be conclusive, and no
3 purchaser or holder thereof need inquire further. The bonds,
4 warrants, notes, or other obligations or evidences of
5 indebtedness issued hereunder ~~shall not be considered~~ do not
6 constitute an indebtedness of the county or any municipality
7 for the purpose of determining the borrowing capacity of the
8 county or municipality under this Constitution.

9 " ~~(b)~~ (c) In carrying out the purpose of this
10 amendment, ~~neither the county nor any municipality located~~
11 ~~therein~~ a county or a municipality shall not be subject to
12 Section 93 or 94 of this Constitution, nor shall a county or
13 municipality be required to comply with the provisions of
14 Section 222 of this Constitution unless issuing general
15 obligation bond instruments establishing a requirement for
16 repayment. Each public corporation ~~heretofore~~ created by the
17 county or by any municipality located therein on or before the
18 adoption of this amendment, including specifically any
19 industrial development board incorporated under Article 4 of
20 Chapter 54 of Title 11 of the Code of Alabama 1975, and any
21 industrial development authority incorporated or
22 reincorporated under Chapter 92A of Title 11 of the Code of
23 Alabama 1975, and the Shoals Economic Development Authority
24 enacted under Act No. 95-512, 1995 Regular Session, are
25 validated and the powers granted to the board or authority
26 under its respective enabling legislation are validated,
27 notwithstanding any other provision of law or of this

1 Constitution. The powers granted by this amendment may be
2 exercised as an exclusive alternative to, or cumulative with,
3 and in no way restrictive of, powers otherwise granted by this
4 Constitution or any law to the county, or to any municipality,
5 or to any agency, board, or authority created pursuant to the
6 laws of this state.

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

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

20 "(2) At least seven days prior to the public
21 meeting, a notice is published in ~~the~~ a newspaper ~~having the~~
22 ~~largest circulation~~ in circulation in the county or
23 municipality, as the case may be, describing in reasonable
24 detail the action proposed to be taken, a description of the
25 public benefits sought to be achieved by the action, and
26 identifying each individual, firm, corporation, or other
27 business entity to whom, or for whose benefit, the county or

1 the municipality proposes to lend its credit or grant public
2 funds or thing of value.

3 "(e) For purposes of the foregoing, any sale, lease,
4 or other disposition of property for a price equal to ~~the~~ its
5 fair market value thereof shall not constitute the lending of
6 credit or a grant of public funds or thing of value in aid of
7 a private entity.

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

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

21 Section 2. An election upon the proposed amendment
22 shall be held in accordance with Sections 284 and 285 of the
23 Constitution of Alabama of 1901, now appearing as Sections 284
24 and 285 of the Official ReCompilation of the Constitution of
25 Alabama of 1901, as amended, and the election laws of this
26 state.

1 Section 3. The appropriate election official shall
2 assign a ballot number for the proposed constitutional
3 amendment on the election ballot and shall set forth the
4 following description of the substance or subject matter of
5 the proposed constitutional amendment:

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

16 "Proposed by Act _____."

17 This description shall be followed by the following
18 language:

19 "Yes () No ()."

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Senate

Read for the first time and referred to the Senate
committee on Fiscal Responsibility and Economic
Development..... 08-MAR-22

Read for the second time and placed on the
calendar..... 09-MAR-22

Read for the third time and passed as amended 29-MAR-22

Yeas 33
Nays 0

Patrick Harris,
Secretary.