

1 SB296  
2 217889-1  
3 By Senator Livingston (Constitutional Amendment)  
4 RFD: Fiscal Responsibility and Economic 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

1 Amendment 772 unless the action or agreement is  
2 subject to pending judicial proceedings on the date  
3 of ratification of this amendment.  
4

5 A BILL  
6 TO BE ENTITLED  
7 AN ACT  
8

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

20 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

27 PROPOSED AMENDMENT

1 "Amendment 772

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

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

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

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

6 "~~(b)~~ (c) In carrying out the purpose of this  
7 amendment, ~~neither the county nor any municipality located~~  
8 ~~therein~~ a county or a municipality shall not be subject to  
9 Section 93 or 94 of this Constitution or be required to comply  
10 with Section 222 of this Constitution. Each public corporation  
11 ~~heretofore~~ created by the county or by any municipality  
12 located therein on or before the adoption of this amendment,  
13 including specifically any industrial development board  
14 incorporated under Article 4 of Chapter 54 of Title 11 of the  
15 Code of Alabama 1975, and any industrial development authority  
16 incorporated or reincorporated under Chapter 92A of Title 11  
17 of the Code of Alabama 1975, and the Shoals Economic  
18 Development Authority enacted under Act No. 95-512, 1995  
19 Regular Session, are validated and the powers granted to the  
20 board or authority under its respective enabling legislation  
21 are validated, notwithstanding any other provision of law or  
22 of this Constitution. The powers granted by this amendment may  
23 be exercised as an exclusive alternative to, or cumulative  
24 with, and in no way restrictive of, powers otherwise granted  
25 by this Constitution or any law to the county, or to any  
26 municipality, or to any agency, board, or authority created  
27 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:



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

11                   "Proposed by Act \_\_\_\_\_."

12                   This description shall be followed by the following  
13 language:

14                   "Yes ( ) No ( )."