

1 HB458
2 217889-5
3 By Representative Sorrells (Constitutional Amendment)
4 RFD: Urban and Rural Development
5 First Read: 08-MAR-22

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ENROLLED, 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~~

1 ~~authorizing any of the following,~~ a county or municipality
2 shall have full and continuing power to do any of the
3 following:

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

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

1 operating industrial, commercial, research, or service
2 facilities of any kind.

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

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

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

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

7 "~~(b)~~ (c) In carrying out the purpose of this
8 amendment, ~~neither the county nor any municipality located~~
9 ~~therein~~ a county or a municipality shall not be subject to
10 ~~Section 93 or 94 of this Constitution or be required to comply~~
11 ~~with Section 222 of this Constitution. Each public corporation~~
12 ~~heretofore~~ Section 93 or 94 of this Constitution, nor shall a
13 county or municipality be required to comply with the
14 provisions of Section 222 of this Constitution, unless issuing
15 general obligation bond instruments establishing a requirement
16 for repayment. Each public corporation created by the county
17 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

1 under its respective enabling legislation are validated,
2 notwithstanding any other provision of law or of this
3 Constitution. The powers granted by this amendment may be
4 exercised as an exclusive alternative to, or cumulative with,
5 and in no way restrictive of, powers otherwise granted by this
6 Constitution or any law to the county, or to any municipality,
7 or to any agency, board, or authority created pursuant to the
8 laws of this state.

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

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

22 "(2) At least seven days prior to the public
23 meeting, a notice is published in ~~the~~ a newspaper ~~having the~~
24 ~~largest circulation~~ in circulation in the county or
25 municipality, as the case may be, describing in reasonable

1 detail the action proposed to be taken, a description of the
2 public benefits sought to be achieved by the action, and
3 identifying each individual, firm, corporation, or other
4 business entity to whom, or for whose benefit, the county or
5 the municipality proposes to lend its credit or grant public
6 funds or thing of value.

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

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

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

1 Section 2. An election upon the proposed amendment
 2 shall be held in accordance with Sections 284 and 285 of the
 3 Constitution of Alabama of 1901, now appearing as Sections 284
 4 and 285 of the Official Recompilation of the Constitution of
 5 Alabama of 1901, as amended, and the election laws of this
 6 state.

7 Section 3. The appropriate election official shall
 8 assign a ballot number for the proposed constitutional
 9 amendment on the election ballot and shall set forth the
 10 following description of the substance or subject matter of
 11 the proposed constitutional amendment:

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

22 "Proposed by Act _____."

23 This description shall be followed by the following
 24 language:

25 "Yes () No ()."

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Speaker of the House of Representatives

President and Presiding Officer of the Senate

House of Representatives

I hereby certify that the within Act originated in
and was passed by the House 17-MAR-22, as amended.

Jeff Woodard
Clerk

Senate	06-APR-22	Amended and Passed
House	07-APR-22	Concurred in Senate Amendment