

1 SB473  
2 119356-12  
3 By Senator Barron  
4 RFD: Finance and Taxation General Fund  
5 First Read: 25-FEB-10

1 SB473

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3  
4 ENGROSSED

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6  
7 A BILL  
8 TO BE ENTITLED  
9 AN ACT

10  
11 To amend Sections 14-2-1, 14-2-8, 14-2-12, 14-2-19  
12 and 14-2-21 of the Code of Alabama, 1975, relating to the  
13 Alabama Corrections Institution Finance Authority, to  
14 authorize the Authority to issue additional bonds for the  
15 purpose of acquiring a prison facility in Perry County and  
16 providing additional bedspace in existing facilities; and to  
17 authorize the Department of Corrections to employ current  
18 employees of the Perry County facility.

19 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

20 Section 1. Sections 14-2-1, 14-2-8, 14-2-12, 14-2-19  
21 and 14-2-21, Code of Alabama, 1975, are amended to read as  
22 follows:

23 "§14-2-1.

24 For the purposes of this chapter, the following  
25 terms shall have the meanings respectively ascribed to them by  
26 this section:

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

3           (2) COMMISSION. The Building Commission created by  
4 Section 41-9-140 and its successors as the state agency for  
5 awarding construction contracts and supervising construction.

6           (3) DEPARTMENT. The Alabama Department of  
7 Corrections created by Section 14-1-1.1 and its successors as  
8 the state agency responsible for supervising and controlling  
9 the operation of the correctional institutions of the state.

10          (4) STATE. The State of Alabama.

11          (5) BONDS. The bonds issued under the provisions of  
12 this chapter.

13          (6) FACILITIES. Such term includes any one or more  
14 of the following:

15           a. Prisons;

16           b. Buildings and enclosures for housing, containing  
17 or supervising prisoners; and

18           c. Any facilities necessary or useful in connection  
19 with prisons, buildings or enclosures, including, without  
20 limiting the generality of the foregoing, hospitals, offices,  
21 correctional officers' quarters and residences, warehouses,  
22 garages, storage facilities, abattoirs, cold storage plants,  
23 canning plants, laundries and manufacturing plants for the  
24 employment of prison labor.

25          (7) KILBY PROPERTY. Such term includes all of the  
26 real property commonly referred to as Kilby prison property,  
27 embracing not only the real property owned by the state on

1       which Kilby prison is located, but also all real property  
2       owned by the state used in connection with Kilby prison and  
3       adjacent thereto, all located in sections 2, 3, 10, 11, 21,  
4       22, 26, 27, 28, 29, 30, 33, 34 and 35 in township 17, range 18  
5       in Montgomery County, Alabama, together with all personal  
6       property owned by the state and used in connection with Kilby  
7       prison and the real property adjacent thereto.

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

11              "§14-2-8.

12              The authority shall have the following powers among  
13      others specified in this chapter:

14              (1) To have succession in its corporate name until  
15      the principal of and interest on all bonds issued by it shall  
16      have been fully paid and until it shall have been dissolved as  
17      provided in this chapter;

18              (2) To maintain actions and have actions maintained  
19      against it and to prosecute and defend in any court having  
20      jurisdiction of the subject matter and of the parties thereof;

21              (3) To have and to use a corporate seal and to alter  
22      such seal at pleasure;

23              (4) To establish a fiscal year;

24              (5) To acquire and hold title to real and personal  
25      property and to sell, convey, mortgage or lease the same as  
26      provided in this chapter;

1           (6) To provide for the acquisition, construction,  
2 reconstruction, alteration and improvement of facilities and  
3 for the procurement of sites and equipment for such facilities  
4 and for the lease thereof;

5           (7) To lease facilities to the state, the  
6 department, and any other agency or instrumentality of the  
7 state;

8           (8) To anticipate by the issuance of its bonds as  
9 limited in this chapter the receipt of the rent and revenues  
10 from such facilities; and from the net rent and sale proceeds  
11 of the Kilby property;

12           (9) As security for the payment of the principal of  
13 and interest on its bonds, to enter into any lawful covenant,  
14 to grant mortgages upon and security interests in its  
15 facilities and to pledge the rents and revenues from such  
16 facilities; and from the net rent and sale proceeds of the  
17 Kilby property;

18           (10) To invest as provided in this chapter the  
19 proceeds from the sale of its bonds pending need therefor; and

20           (11) To appoint and employ such attorneys, agents  
21 and employees as the business of the authority may require,  
22 subject to the merit system where applicable.

23           "§14-2-12.

24           (a) For the purpose of providing funds for the  
25 acquisition of sites, for the construction, reconstruction,  
26 alteration and improvement of facilities, for the procurement  
27 and installation of equipment therefor and for payment of

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

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

21 ~~Any bonds issued pursuant to this section, as~~  
22 ~~amended by Act 97-950, shall be sold by competitive bid using~~  
23 ~~a financial institution whose principal office is located in~~  
24 ~~Alabama as the financing agent.~~

25 "§14-2-19.

26 (a) All proceeds derived from the sale of any bonds,  
27 except refunding bonds, sold by the authority, remaining after

1 payment of the expenses of issuance thereof, shall be turned  
2 over to the State Treasurer, shall be carried by him in a  
3 special account to the credit of the authority and shall be  
4 subject to be drawn on by the authority solely for the  
5 purposes of:

6 (1) Acquiring land for and constructing,  
7 reconstructing and equipping thereon one or more facilities;

8 (2) Acquiring, constructing, reconstructing,  
9 altering and improving the Perry County facility including  
10 providing up to one million dollars to the Perry County  
11 Commission to compensate for the future loss of tax revenue.

12 (3) Constructing additional improvements on property  
13 currently owned by the Department of Corrections or the  
14 Authority in order to provide for additional bedspace.

15 ~~(2)~~ (4) Paying all reasonable and necessary expenses  
16 incidental thereto, including filing, recording, surveying,  
17 legal and engineering fees and expenses;

18 ~~(3)~~ (5) Paying the interest which will accrue on the  
19 said bonds during the period required for the construction and  
20 equipment of the said facilities and for a period not  
21 exceeding six months after the completion thereof; and

22 ~~(4)~~ (6) Paying the principal of and interest on all  
23 then outstanding notes theretofore issued by the authority  
24 pursuant to the provisions of Section 14-2-10.

25 The balance of the said proceeds thereafter  
26 remaining, unless required for the construction of other  
27 facilities by the authority as shall be determined by

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

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

20 "§14-2-21.

21 The principal of, premium, if any, and interest on  
22 the bonds of the authority shall be secured by any or all of  
23 the following, as the authority may determine:

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

26 (2) The net rent or sale proceeds from the Kilby  
27 property;



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

4           (4) Any insurance proceeds which the authority may  
5 receive by reason of its ownership of any of the facilities;  
6 and

7           (5) Any mortgage upon or security interest in one or  
8 more facilities of the authority, granted in connection with  
9 the issuance of such bonds.

10           The authority shall have authority to transfer and  
11 assign any lease of any of the facilities and any lease or  
12 mortgage of the Kilby property as security for the payment of  
13 such principal, premium, if any, and interest. The bonds may  
14 be issued under, and secured by, a resolution which may, but  
15 need not, provide for an indenture of trust covering one or  
16 more facilities of the authority. Such resolution or such  
17 indenture of trust may contain any provision or agreement  
18 customarily contained in instruments securing evidences of  
19 indebtedness, including, without limiting the generality of  
20 the foregoing, provisions respecting the collection and  
21 application of any receipts pledged to the payment of bonds,  
22 the terms to be incorporated in lease agreements respecting  
23 the facilities, the maintenance and insurance thereof, the  
24 creation and maintenance of reserve and other special funds  
25 from such receipts and the rights and remedies available in  
26 the event of default to the holders of the bonds or to the  
27 trustee for the holders of the bonds or under any indenture of

1 trust, all as the authority may deem advisable and as shall  
2 not be in conflict with the provisions of this chapter;  
3 provided, however, that in making such agreements or  
4 provisions the authority shall not have the power to obligate  
5 itself except with respect to its facilities, the Kilby  
6 property and the application of the receipts which it is  
7 authorized in this chapter to pledge.

8           Section 2. Upon the acquisition of the Perry County  
9 Facility by the Alabama Corrections Institution Finance  
10 Authority, as provided in Chapter 2 of title 14, the  
11 Department of Corrections shall employ all otherwise eligible  
12 employees below the rank of captain, through provisional  
13 appointments, persons who were employees of the Perry County  
14 facility at the time of acquisition as the Department deems  
15 necessary and appropriate. All subsequent appointments and  
16 employment of persons shall be pursuant to the Merit System  
17 Act of Alabama.

18           Section 3. This bill shall become effective  
19 immediately following its passage and approval by the  
20 Governor, or its otherwise becoming law.

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2  
3 Senate  
  
4 Read for the first time and referred to the Senate  
5 committee on Finance and Taxation General Fund .. 25-FEB-10  
6  
7 Read for the second time and placed on the calen-  
8 dar with 1 substitute and ..... 11-MAR-10  
9  
10 Read for the third time and passed as amended ... 06-APR-10

11 Yeas 28  
12 Nays 0

13  
14  
15 McDowell Lee  
16 Secretary  
17