

1 SB158  
2 126508-1  
3 By Senator Pittman  
4 RFD: Small Business  
5 First Read: 03-MAR-11

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8 SYNOPSIS: This bill would provide for the Neighborhood  
9 Infrastructure Incentive Plan Act of 2011, to  
10 authorize the creation of Neighborhood  
11 Infrastructure Authorities to manage and coordinate  
12 financing through member assessments for  
13 neighborhood infrastructure projects. The bill  
14 would allow homeowners and businesses to  
15 voluntarily create revitalization authorities for  
16 revitalization projects in their respective  
17 neighborhoods. The bill would provide for an annual  
18 income tax credit over a period of 10 years for  
19 contributions made by members of an authority for  
20 the process of completing a neighborhood  
21 infrastructure project.

22  
23 A BILL

24 TO BE ENTITLED

25 AN ACT

To provide for the Neighborhood Infrastructure Incentive Plan Act of 2011; to allow homeowners and businesses to form neighborhood infrastructure authorities to manage and finance local projects; to provide for the organization of such authorities and to provide tax credits for assessments paid by individuals and business that participate in infrastructure authority projects.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. The Legislature makes the following statements and findings:

(1) Cities have hundreds of miles of roads and streets located in subdivisions that are in need of upgrades or additions. These upgrades or additions are behind schedule and at the current rate will take considerably more years to complete, if ever. These upgrades or additions include, but are not limited to, sanitary sewer, drainage, curb and gutter, sidewalk, underground power, and asphalt overlaying.

(2) Homeowners and businesses would benefit from the voluntary formation of neighborhood infrastructure authorities to oversee and finance infrastructure projects through an assessment basis.

(3) An effective neighborhood infrastructure program would have the following benefits:

- a. Jobs would be created.
- b. Home values would be stabilized and/or increased.
- c. Upgrade and additional work would be expedited.
- d. Savings would be created for the city.

e. Revenues would be created for city, state, and federal governments.

Section 2. (a) This act shall be known as and may be cited as "The Neighborhood Infrastructure Incentive Plan Act of 2011."

(b) For purposes of this act, the following terms shall have the following meanings:

(1) ASSESSMENTS. Voluntary assessments paid by property owners in an authority created pursuant to this act.

(2) AUTHORITY. A Local Neighborhood Infrastructure Authority formed by homeowners or businesses pursuant to this act, exercising the powers granted in this act.

(3) BOARD. The board of directors of an authority.

(4) MUNICIPALITY. The municipality within which homeowners or business owners form an authority, and which must give approval for the formation of an authority and appoint a board of trustees to administer the authority.

(5) INFRASTRUCTURE PROJECT or PROJECT. An infrastructure project that would allow homeowners and businesses located in an authority to make certain improvements, additions, and upgrades to streets and utilities in their local neighborhoods. Infrastructure projects shall include, but not be limited to, the following:

a. Resurfacing existing streets.

b. Sidewalks.

c. Sewer installation.

d. Fire protection (i.e., hydrants and mains).

- e. Domestic water service.
- f. Underground utilities.
- g. Concrete curb and gutter.
- h. Drainage improvements.
- i. Paving dirt roads.
- j. Engineering and consulting and associate costs for financing fees.

Section 3. (a) A municipality of this state may authorize the creation of a Local Neighborhood Infrastructure Authority to manage, coordinate, and collect assessments for homeowners and businesses to participate in revitalization projects in their respective neighborhoods. If at least 80 percent of the property tax assessable homeowners and/or business owners sign a petition to allow the formation of an authority, the petition shall be reviewed by the municipality.

(b) One or more owners of land wishing to form an authority in a municipality may petition the municipality to form an authority as follows:

(1) The owners shall prepare a written petition executed by 80 percent of the owners of property of all land proposed to be included within the authority.

(2) The petition shall include a description of the tract or tracts of land proposed to be included within the authority, which may include less than all of any individual tract of land. The description shall be sufficient if it refers to tax assessment tracts in accordance with the tax assessor's numbering or other reference system, by metes and

bounds, by subdivision lot, by reference to recorded deeds, or by other reasonable reference methods.

(3) The petition shall include a map or plat of the proposed area in the authority, showing that, if the authority is created, the land will be contiguous with land presently within the city or town limits of the municipality.

(4) The petition shall designate no less than three nor more than five individual property owners to initially act as agents in representing the owners before the municipality.

(c) Any land proposed to be included within an authority formed may not be within the municipal limits of any municipality other than the municipality to which the petition is being made.

(d) A petition shall contain a proposed form of articles of incorporation for the proposed authority, which shall include the following information:

(1) The name of the authority and a statement that the authority is organized pursuant to this act.

(2) The names and mailing addresses of the incorporators.

(3) The name of the municipality that is petitioned for the formation of an authority.

(4) The names and addresses of the members of the authority proposed to be the board of directors of the authority and their terms of office. The members of the board of directors shall be appointed by the municipality, if the petition is approved by the municipality. The members of the

1 board may include any of the property owners who act initially  
2 as agents representing the proposed authority or any other  
3 property owner of the authority.

4 (e) A petition shall contain a proposed name for the  
5 authority substantially in the form of "\_\_\_\_\_  
6 Infrastructure Authority District," which name shall be  
7 sufficient to distinguish the authority's district from other  
8 neighborhoods or areas of the municipality.

9 (f) Upon receipt of a petition, the municipality  
10 shall confirm that the persons executing the petition are the  
11 owners of the area proposed to be included within the  
12 authority's district.

13 (g) If the municipality considers the formation of  
14 an authority expedient, it may, by resolution, approve the  
15 formation of the authority, and appoint the persons named in  
16 the petition as the board of directors of the district.

17 (h) If an authority is formed in their municipal  
18 areas, individuals and businesses may be assessed by the  
19 authority for an improvement project or projects.

20 Section 4. Any authority formed pursuant to this act  
21 shall have the following powers, in addition to those stated  
22 elsewhere in this act:

23 (1) To enter into competitively bid contracts and  
24 agreements affecting the infrastructure projects of the  
25 district.

26 (2) To acquire, construct, install, and operate  
27 projects and all property, rights, or interests incidental or

1 pertinent thereto, provided, however, that nothing in this act  
2 shall authorize an authority to construct, own, or operate a  
3 system for the generation, transmission, or distribution of  
4 electric power, cable television, or Internet system, or  
5 telecommunications utility or to be in the business of  
6 providing electric energy, cable television, Internet, or  
7 telecommunications services.

8 (3) To have the management, control, and supervision  
9 of all the business and affairs of the district, and of the  
10 acquisition, construction, installation, and operation of  
11 projects therein.

12 (4) To enter into contracts with one or more owners  
13 of property within the authority relating to the acquisition,  
14 construction, or installation of improvements. Without  
15 limitation, contracts may require owners to connect their  
16 properties with gas, water, or sewer mains or other utilities  
17 in the streets in front of, at the rear of, or otherwise  
18 adjacent or near to their properties prior to the paving or  
19 final paving of roads on which their properties front.

20 (5) To contract on a competitively bid basis with  
21 any licensed contractor for the purpose of providing any  
22 materials or any work with respect to the acquisition,  
23 installation, or construction of infrastructure projects.

24 (6) To purchase liability and other forms of  
25 insurance.

26 (7) To adopt and amend bylaws not in conflict with  
27 this act or the laws of this state.

(8) To enter into contracts and agreements with any landowner, owner, or any other person concerning the installation, construction, or acquisition of infrastructure projects, assessment of the costs thereof, the waiver or limitation of legal rights, or any other matter concerning the authority or projects of the authority.

(9) To have and exercise all rights and powers necessary or incidental to or implied from the specific powers granted in this act. A specific power shall not be considered as a limitation upon any power that is necessary, useful, or appropriate to carry out the purposes and intent of this act.

(10) To take official action with respect to the reimbursement of costs associated with infrastructure projects.

(11) To enter into contracts and agreements and other instruments, and to take other actions as may be necessary or convenient to accomplish any purpose for which an authority is organized or to exercise any power expressly granted hereunder.

Section 5. (a) Authorities, members of boards of directors, officers, and agents of the authority shall have the same immunity from liability as a municipality and its officers. No civil action may be brought or maintained against the authority or any director thereof for or on account of the negligence of an authority or director or its or his or her agents, servants, or employees in or about the construction, acquisition, installation, maintenance, operation,

1 superintendence, or management of any facility or other  
2 improvement owned, controlled, maintained, or managed by the  
3 authority.

4 (b) No civil action may be maintained against a  
5 municipality, its officers, servants, employees, or agents  
6 relating to any facility built by an authority or to any other  
7 project owned, controlled, maintained, or managed by an  
8 authority.

9 Section 6. Initial members of the board shall serve  
10 terms of office of four years, unless the petition for  
11 incorporation provides a different term. Upon the expiration  
12 of the initial term of office of any member of the board, the  
13 person shall remain a member of the board until his or her  
14 successor has been duly elected at an election of a majority  
15 of the authority members. Successors' terms of office shall be  
16 four years.

17 Section 7. (a) Upon the making of the preliminary  
18 assessments, the authority shall prepare contracts and shall  
19 contract on a competitively bid basis for the acquisition,  
20 construction, or installation of all projects as specified in  
21 the petition.

22 (b) Because authority infrastructure projects are  
23 paid from assessments of members of the authority, no public  
24 funds may be utilized and projects shall be exempt from state  
25 bidding law.

26 (c) The authority may not contract for and commence  
27 the acquisition, construction, or installation of one or more

1 projects or a portion of one or more projects in advance of a  
2 preliminary or final assessment being collected.

3                   Section 8. Following the completion of the  
4 acquisition, construction, or installation of the projects, if  
5 there are excess funds from assessments, after fully funding  
6 all reserves and contingency funds, the excess funds shall be  
7 refunded in a manner determined to be equitable by the board,  
8 or as otherwise provided in the board's proceedings with  
9 respect to its bylaws.

10                  Section 9. Following completion of all projects of  
11 an authority and the dedication of the projects and related  
12 facilities, the municipality must formally accept the  
13 dedication of such facility and projects.

14                  Section 10. If at any time an authority has no  
15 assessments outstanding, and has paid all its indebtedness,  
16 and distributed any excess funds, the board may adopt a  
17 resolution recommending to the municipality that the authority  
18 be dissolved and liquidated. Upon delivery of a copy of the  
19 resolution to the municipality, if it considers it expedient,  
20 the municipality may adopt a resolution declaring the  
21 authority dissolved. Upon declaring the authority dissolved,  
22 the authority shall dedicate the facilities and revitalization  
23 projects to the municipality. The municipality must formally  
24 accept such dedicated facilities and projects before it agrees  
25 to assume the legal obligation to maintain the facilities and  
26 projects.

Section 11. Each homeowner and business assessed pursuant to this act, beginning in the 2012 tax year, shall be eligible for an income tax credit of 10 percent of the amount of assessment paid, not to exceed one thousand dollars (\$1,000) credit in any tax year, for a period not exceeding 10 successive tax years.

Section 12. This act shall automatically expire December 31, 2015, unless specifically extended by an act of the Legislature; however, all authorities in existence as of December 31, 2015, shall continue in existence until all existing projects of the authority are completed and the authority seeks dissolution.

Section 13. This act shall become effective immediately following its passage and approval by the Governor, or its otherwise becoming law.