

1 SB158
2 128086-2
3 By Senator Pittman
4 RFD: Small Business
5 First Read: 03-MAR-11

1 SB158

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4 ENGROSSED

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7 A BILL
8 TO BE ENTITLED
9 AN ACT

10
11 To provide for the Neighborhood Infrastructure
12 Incentive Plan Act of 2011; to allow homeowners and business
13 owners to form neighborhood infrastructure authorities in
14 existing neighborhoods to manage and finance local projects;
15 to provide for the organization of such authorities and to
16 provide tax credits for assessments paid by individuals and
17 business that participate in infrastructure authority
18 projects.

19 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

22 (1) Cities have hundreds of miles of roads and
23 streets located in subdivisions that are in need of upgrades
24 or additions. These upgrades or additions are behind schedule
25 and at the current rate will take considerably more years to
26 complete, if ever. These upgrades or additions include, but

1 are not limited to, sanitary sewer, drainage, curb and gutter,
2 sidewalk, underground power, and asphalt overlaying.

3 (2) Homeowners and business owners would benefit
4 from the voluntary formation of neighborhood infrastructure
5 authorities to oversee and finance infrastructure projects
6 through an assessment basis.

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

- 9 a. Jobs would be created.
- 10 b. Home values would be stabilized and/or increased.
- 11 c. Upgrade and additional work would be expedited.
- 12 d. Savings would be created for the city.
- 13 e. Revenues would be created for city, state, and
14 federal governments.

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

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

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

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

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

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

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

- 11 a. Resurfacing existing streets.
- 12 b. Sidewalks.
- 13 c. Sewer installation.
- 14 d. Fire protection (i.e., hydrants and mains).
- 15 e. Domestic water service.
- 16 f. Underground utilities.
- 17 g. Concrete curb and gutter.
- 18 h. Drainage improvements.
- 19 i. Paving dirt roads.
- 20 j. Engineering and consulting and associate costs
21 for financing fees.

22 Section 3. (a) A municipality of this state may
23 authorize the creation of a Local Neighborhood Infrastructure
24 Authority to manage, coordinate, and collect voluntary
25 assessments from homeowners and business owners to participate
26 in revitalization projects in their respective neighborhoods.

1 If at least 80 percent of the property tax assessable
2 homeowners and/or business owners sign a petition to allow the
3 formation of an authority, the petition shall be reviewed by
4 the municipality.

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

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

11 (2) The petition shall include a description of the
12 tract or tracts of land proposed to be included within the
13 authority, which may include less than all of any individual
14 tract of land. The description shall be sufficient if it
15 refers to tax assessment tracts in accordance with the tax
16 assessor's numbering or other reference system, by metes and
17 bounds, by subdivision lot, by reference to recorded deeds, or
18 by other reasonable reference methods.

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

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

1 (c) Any land proposed to be included within an
2 authority formed may not be within the municipal limits of any
3 municipality other than the municipality to which the petition
4 is being made and all land must be within the corporate limits
5 of the municipality.

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

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

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

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

15 (4) The names and addresses of the members of the
16 authority proposed to be the board of directors of the
17 authority and their terms of office. The members of the board
18 of directors shall be appointed by the municipality, if the
19 petition is approved by the municipality. The members of the
20 board may include any of the property owners who act initially
21 as agents representing the proposed authority or any other
22 property owner of the authority.

23 (e) A petition shall contain a proposed name for the
24 authority substantially in the form of "_____
25 Infrastructure Authority District," which name shall be

1 sufficient to distinguish the authority's district from other
2 neighborhoods or areas of the municipality.

3 (f) Upon receipt of a petition, the municipality
4 shall confirm that the persons executing the petition are the
5 owners of the area proposed to be included within the
6 authority's district.

7 (g) If the municipality considers the formation of
8 an authority expedient, it may, by resolution, approve the
9 formation of the authority, and appoint the persons named in
10 the petition as the board of directors of the district.

11 (h) If an authority is formed in their municipal
12 areas, only the individuals and business owners in the
13 boundaries of the authority may be assessed by the authority
14 for an improvement project or projects.

15 Section 4. Any authority formed pursuant to this act
16 shall have the following powers, in addition to those stated
17 elsewhere in this act:

18 (1) To enter into competitively bid contracts and
19 agreements affecting the infrastructure projects of the
20 district.

21 (2) To hold public meetings with proper
22 advertisement and notice to affected and adjacent property
23 owners.

24 (3) To acquire, construct, install, and operate
25 projects and all property, rights, or interests incidental or
26 pertinent thereto; provided, however, that nothing in this act

1 shall authorize an authority to construct, own, or operate a
2 system for the generation, transmission, or distribution of
3 electric power, cable television, or Internet system, or
4 telecommunications utility or to be in the business of
5 providing electric energy, cable television, Internet, or
6 telecommunications services.

7 (4) To have the management, control, and supervision
8 of all the business and affairs of the district, and of the
9 acquisition, construction, installation, and operation of
10 projects therein until completed and formal dedication is
11 accepted by the city.

12 (5) 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 in the boundaries of
16 the authority to connect their properties with gas, water, or
17 sewer mains or other utilities in the streets in front of, at
18 the rear of, or otherwise adjacent or near to their properties
19 prior to the paving or final paving of roads on which their
20 properties front.

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

25 (7) To purchase liability and other forms of
26 insurance.

1 (8) To adopt and amend bylaws not in conflict with
2 this act or the laws of this state.

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

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

14 (11) To take official action with respect to the
15 reimbursement of costs associated with infrastructure
16 projects.

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

22 Section 5. (a) Authorities, members of boards of
23 directors, officers, and agents of the authority shall have
24 the same immunity from liability as a municipality and its
25 officers. No civil action may be brought or maintained against
26 the authority or any director thereof for or on account of the

1 negligence of an authority or director or its or his or her
2 agents, servants, or employees in or about the construction,
3 acquisition, installation, maintenance, operation,
4 superintendence, or management of any facility or other
5 improvement owned, controlled, maintained, or managed by the
6 authority.

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

12 Section 6. Initial members of the board shall serve
13 terms of office of four years, or until dissolution of the
14 authority, whichever is sooner. Upon the expiration of the
15 initial term of office of any member of the board, the person
16 shall remain a member of the board until his or her successor
17 has been duly elected at an election of a majority of the
18 authority members. Successors' terms of office shall be four
19 years or until dissolution of the authority, whichever is
20 sooner.

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

1 (b) Because authority infrastructure projects are
2 paid from assessments of members of the authority, no public
3 funds may be utilized and projects shall be exempt from state
4 bidding law, but projects should be competitively bid.

5 (c) The authority may not contract for and commence
6 the acquisition, construction, or installation of one or more
7 projects or a portion of one or more projects in advance of a
8 preliminary or final assessment being collected.

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

16 Section 9. Following completion of all projects of
17 an authority and the dedication of the projects and related
18 facilities, the municipality must formally accept the
19 dedication of such facility and projects.

20 Section 10. If at any time an authority has no
21 assessments outstanding, and has paid all its indebtedness,
22 and distributed any excess funds, the board may adopt a
23 resolution recommending to the municipality that the authority
24 be dissolved and liquidated. Upon delivery of a copy of the
25 resolution to the municipality, if it considers it expedient,
26 the municipality may adopt a resolution declaring the

1 authority dissolved. Upon declaring the authority dissolved,
2 the authority shall dedicate the facilities and revitalization
3 projects to the municipality. The municipality must formally
4 accept such dedicated facilities and projects before it agrees
5 to assume the legal obligation to maintain the facilities and
6 projects.

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

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

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

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3 Senate

4 Read for the first time and referred to the Senate
5 committee on Small Business..... 03-MAR-11
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7 Read for the second time and placed on the calen-
8 dar..... 24-MAR-11
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10 Read for the third time and passed as amended 31-MAR-11

11 Yeas 30
12 Nays 0
13 Abstaining 1

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16 Patrick Harris
17 Secretary
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