

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

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

(2) Homeowners and business owners 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 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 business owners 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 business owners 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  
cing fees.

Section 3. (a) A municipality of this state may authorize the creation of a Local Neighborhood Infrastructure Authority to manage, coordinate, and collect voluntary assessments from homeowners and business owners to participate 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.

(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 and all land must be within the corporate limits of the municipality.

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

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

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

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

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

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

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

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

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

(3) To acquire, construct, install, and operate projects and all property, rights, or interests incidental or 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.

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

(9) 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 within the boundaries of the authority.

(10) 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.

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

(12) To enter into professional 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, superintendence, or management of any facility or other improvement owned, controlled, maintained, or managed by the authority.

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

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

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

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

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

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

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

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

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

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2  
3 Senate

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

14  
15  
16 Patrick Harris  
17 Secretary  
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