

1 SB158
2 129402-3
3 By Senator Pittman
4 RFD: Small Business
5 First Read: 03-MAR-11

1 SB158

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4 ENROLLED, An Act,

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

13 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

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

23 (2) Homeowners and business owners would benefit
24 from the voluntary formation of neighborhood infrastructure

1 authorities to oversee and finance infrastructure projects
2 through an assessment basis.

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

5 a. Jobs would be created.

6 b. Property values would be stabilized and/or
7 increased.

8 c. Upgrade and additional work would be expedited.

9 d. Savings would be created for the city.

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

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

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

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

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

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

23 (4) MUNICIPALITY. The municipality within which
24 homeowners or business owners form an authority, and which

1 must give approval for the formation of an authority and
2 appoint a board of trustees to administer the authority.

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

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

20 Section 3. (a) A municipality of this state may
21 authorize the creation of a Local Neighborhood Infrastructure
22 Authority to manage, coordinate, and collect voluntary
23 assessments from homeowners and business owners to participate
24 in revitalization projects in their respective neighborhoods.
25 If at least 80 percent of the property tax assessable

1 homeowners and/or business owners sign a petition to allow the
2 formation of an authority, the petition shall be reviewed by
3 the municipality.

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

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

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

18 (3) The petition shall include a map or plat of the
19 proposed area in the authority, showing that, if the authority
20 is created, the land will be contiguous within the municipal
21 limits at the time the petition is presented.

22 (4) The petition shall designate no less than three
23 nor more than five individual property owners to initially act
24 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 member 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
5 owners in 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 a municipality,
12 only the individuals and business owners in the boundaries of
13 the authority may be voluntarily assessed on a fair and
14 equitable basis by the authority for an improvement project or
15 projects.

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

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

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

1 (3) To acquire, construct, install, and operate
2 projects and all property, rights, or interests incidental or
3 pertinent thereto; provided, however, that nothing in this act
4 shall authorize an authority to construct, own, or operate a
5 system for the generation, transmission, or distribution of
6 electric power, cable television, or Internet system, or
7 telecommunications utility or to be in the business of
8 providing electric energy, cable television, Internet, or
9 telecommunications services.

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

15 (5) To enter into contracts with one or more owners
16 of property within the authority relating to the acquisition,
17 construction, or installation of improvements. Without
18 limitation, contracts may require owners in the boundaries of
19 the authority to connect their properties with gas, water, or
20 sewer mains, utilities, or other services in the streets in
21 front of, at the rear of, or otherwise adjacent or near to
22 their properties prior to the paving or final paving of roads
23 on which their properties front. Any infrastructure projects
24 or improvements requiring installations, construction, or
25 service by, or contracts with, an electric utility shall be

1 subject to and in accordance with the applicable rules and
2 regulations of the Public Service Commission, including
3 without limitation the rules governing reimbursement to the
4 utility for the cost of installing electric facilities
5 underground.

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

10 (7) To purchase liability and other forms of
11 insurance.

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

14 (9) To enter into contracts and agreements with any
15 landowner, owner, or any other person concerning the
16 installation, construction, or acquisition of infrastructure
17 projects, assessment of the costs thereof, the waiver or
18 limitation of legal rights, or any other matters concerning
19 the authority or projects within the boundaries of the
20 authority.

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

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

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

9 Section 5. (a) Authorities, members of boards of
10 directors, officers, and agents of the authority shall have
11 the same immunity from liability as a municipality and its
12 officers unless their actions are unreasonable when compared
13 to that of a similarly situated individual, or the actions are
14 wanton, willful, or intentional. Subject to the previous
15 sentence, no civil action may be brought or maintained against
16 the authority or any director thereof for or on account of the
17 negligence of an authority or director or its or his or her
18 agents, servants, or employees in or about the construction,
19 acquisition, installation, maintenance, operation,
20 superintendence, or management of any facility or other
21 improvement owned, controlled, maintained, or managed by the
22 authority.

23 (b) No civil action may be maintained against a
24 municipality, its officers, servants, employees, or agents
25 relating to any facility built by an authority or to any other

1 project owned, controlled, maintained, or managed by an
2 authority unless the individuals' actions were unreasonable
3 when compared to that of a similarly situated individual, or
4 such acts were wanton, willful, or intentional.

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

14 (b) A vacancy on the board shall be filled in the
15 same manner as the vacating member was initially elected.

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

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

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

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

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

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

1 accept such dedicated facilities and projects before it agrees
2 to assume the legal obligation to maintain the facilities and
3 projects.

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

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

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

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President and Presiding Officer of the Senate

Speaker of the House of Representatives

SB158

Senate 31-MAR-11

I hereby certify that the within Act originated in and passed the Senate.

Patrick Harris
Secretary

House of Representatives
Amended and passed 09-JUN-11

Senate concurred in House amendment 09-JUN-11

By: Senator Pittman