

1 SB473
2 118964-2
3 By Senator Barron
4 RFD: Finance and Taxation General Fund
5 First Read: 25-FEB-10

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8 SYNOPSIS: Under existing law, the Alabama Corrections
9 Institution Finance Authority is authorized to
10 issue up to \$25,000,000 in bonds for the purpose of
11 constructing prison facilities.

12 This bill would authorize the Authority to
13 issue additional bonds for the purpose of acquiring
14 a prison facility in Perry County and providing
15 additional bedspace in existing facilities; would
16 authorize the Authority to pledge for payment of
17 the bonds certain oil and gas revenues of the
18 Department of Corrections; and would authorize the
19 Department of Corrections to employ current
20 employees of the Perry County facility.

21
22 A BILL
23 TO BE ENTITLED
24 AN ACT

25
26 To amend Sections 14-2-1, 14-2-8, 14-2-12, 14-2-19
27 and 14-2-21 of the Code of Alabama, 1975, relating to the

1 Alabama Corrections Institution Finance Authority, to
2 authorize the Authority to issue additional bonds for the
3 purpose of acquiring a prison facility in Perry County and
4 providing additional bedspace in existing facilities; to
5 authorize the Authority to pledge for payment of the bonds
6 certain oil and gas revenues of the Department of Corrections;
7 and to authorize the Department of Corrections to employ
8 current employees of the Perry County facility.

9 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

13 "§14-2-1.

14 For the purposes of this chapter, the following
15 terms shall have the meanings respectively ascribed to them by
16 this section:

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

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

22 (3) DEPARTMENT. The Alabama Department of
23 Corrections created by Section 14-1-1.1 and its successors as
24 the state agency responsible for supervising and controlling
25 the operation of the correctional institutions of the state.

26 (4) STATE. The State of Alabama.

1 (5) BONDS. The bonds issued under the provisions of
2 this chapter.

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

5 a. Prisons;

6 b. Buildings and enclosures for housing, containing
7 or supervising prisoners; and

8 c. Any facilities necessary or useful in connection
9 with prisons, buildings or enclosures, including, without
10 limiting the generality of the foregoing, hospitals, offices,
11 correctional officers' quarters and residences, warehouses,
12 garages, storage facilities, abattoirs, cold storage plants,
13 canning plants, laundries and manufacturing plants for the
14 employment of prison labor.

15 (7) KILBY PROPERTY. Such term includes all of the
16 real property commonly referred to as Kilby prison property,
17 embracing not only the real property owned by the state on
18 which Kilby prison is located, but also all real property
19 owned by the state used in connection with Kilby prison and
20 adjacent thereto, all located in sections 2, 3, 10, 11, 21,
21 22, 26, 27, 28, 29, 30, 33, 34 and 35 in township 17, range 18
22 in Montgomery County, Alabama, together with all personal
23 property owned by the state and used in connection with Kilby
24 prison and the real property adjacent thereto.

25 (8) OIL AND GAS REVENUES. Lease, rent, royalty or
26 other payments received by the Department of Corrections from
27 the production of oil or gas on lands owned by the department.

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

4 "§14-2-8.

5 The authority shall have the following powers among
6 others specified in this chapter:

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

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

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

16 (4) To establish a fiscal year;

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

20 (6) To provide for the acquisition, construction,
21 reconstruction, alteration and improvement of facilities and
22 for the procurement of sites and equipment for such facilities
23 and for the lease thereof;

24 (7) To lease facilities to the state, the
25 department, and any other agency or instrumentality of the
26 state;

1 (8) To anticipate by the issuance of its bonds as
2 limited in this chapter the receipt of the rent and revenues
3 from such facilities; ~~and~~ from the net rent and sale proceeds
4 of the Kilby property; and from oil and gas revenues;

5 (9) As security for the payment of the principal of
6 and interest on its bonds, to enter into any lawful covenant,
7 to grant mortgages upon and security interests in its
8 facilities and to pledge the rents and revenues from such
9 facilities; ~~and~~ from the net rent and sale proceeds of the
10 Kilby property; and from oil and gas revenues;

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

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

16 "§14-2-12.

17 (a) For the purpose of providing funds for the
18 acquisition of sites, for the construction, reconstruction,
19 alteration and improvement of facilities, for the procurement
20 and installation of equipment therefor and for payment of
21 obligations incurred and the principal of and interest on any
22 temporary loans made for any of the said purposes, the
23 authority is hereby authorized, from time to time, to sell and
24 issue, in addition to all bonds heretofore authorized to be
25 issued by the authority, its bonds in such aggregate principal
26 amounts as may be determined by the corporation to be
27 necessary for the said purposes but not to exceed \$25,000,000,

1 plus an additional seven million five hundred thousand dollars
2 (\$7,500,000) pursuant to Act 97-950, in aggregate principal
3 amount.

4 (b) In addition to the authorization provided in
5 subsection (a), the authority is hereby authorized, from time
6 to time, to sell and issue its bonds in amounts determined by
7 the authority to be necessary for the acquisition,
8 construction, reconstruction, alteration and improvement of
9 the Perry County facility. The amount shall be determined
10 after the acquisition of an MAI (Member of the Appraisal
11 Institute) appraisal of the facility by a firm which has
12 experience in appraising correctional properties or
13 facilities. Additional bonds may be issued to provide for
14 additional bedspace by improving properties currently owned by
15 the Department of Corrections. The total additional bonds
16 authorized by this section (b) shall not exceed \$60 million.

17 (c) Any bonds issued pursuant to this section, as
18 amended by Act 97-950, shall be sold by competitive bid using
19 a financial institution whose principal office is located in
20 Alabama as the financing agent.

21 "§14-2-19.

22 (a) All proceeds derived from the sale of any bonds,
23 except refunding bonds, sold by the authority, remaining after
24 payment of the expenses of issuance thereof, shall be turned
25 over to the State Treasurer, shall be carried by him in a
26 special account to the credit of the authority and shall be

1 subject to be drawn on by the authority solely for the
2 purposes of:

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

5 (2) Acquiring, constructing, reconstructing,
6 altering and improving the Perry County facility;

7 (3) Constructing additional improvements on property
8 currently owned by the Department of Corrections in order to
9 provide for additional bedspace.

10 ~~(2)~~ (4) Paying all reasonable and necessary expenses
11 incidental thereto, including filing, recording, surveying,
12 legal and engineering fees and expenses;

13 ~~(3)~~ (5) Paying the interest which will accrue on the
14 said bonds during the period required for the construction and
15 equipment of the said facilities and for a period not
16 exceeding six months after the completion thereof; and

17 ~~(4)~~ (6) Paying the principal of and interest on all
18 then outstanding notes theretofore issued by the authority
19 pursuant to the provisions of Section 14-2-10.

20 The balance of the said proceeds thereafter
21 remaining, unless required for the construction of other
22 facilities by the authority as shall be determined by
23 resolution of its board of directors within six months after
24 completion of the facilities for which the bonds were issued,
25 shall be set aside as additional security for the bonds or
26 shall be used to pay, purchase or redeem bonds as may be
27 provided in the proceedings authorizing their issuance. The

1 reasonable and necessary expenses incident to the construction
2 of any facility shall, if deemed advisable by the authority,
3 include all or any part of the expense of providing temporary
4 facilities, during the construction of a new facility, for any
5 penal or correctional institution facility which is demolished
6 or rendered unserviceable as such.

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

15 "§14-2-21.

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

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

21 (2) Oil and gas revenues;

22 ~~(2)~~ (3) The net rent or sale proceeds from the Kilby
23 property;

24 ~~(3)~~ (4) Any bond proceeds remaining unexpended upon
25 completion of all facilities to be constructed with such bond
26 proceeds and the payment of the cost thereof;

1 ~~(4)~~ (5) Any insurance proceeds which the authority
2 may receive by reason of its ownership of any of the
3 facilities; and

4 ~~(5)~~ (6) Any mortgage upon or security interest in
5 one or more facilities of the authority, granted in connection
6 with the issuance of such bonds.

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

1 provisions the authority shall not have the power to obligate
2 itself except with respect to its facilities, the Kilby
3 property and the application of the receipts which it is
4 authorized in this chapter to pledge.

5 Section 2. (a) Upon the acquisition of the Perry
6 County facility by the Alabama Corrections Institution Finance
7 Authority, as provided in Chapter 2 of Title 14, the
8 Department of Corrections shall be authorized to employ
9 persons who were employees of the Perry County facility at the
10 time of acquisition as the Department deems necessary and
11 appropriate.

12 (b) The employees shall be placed in the classified
13 service of the state and shall be in probationary status for
14 one year following their initial employment by the Department.
15 Employees in the correctional officer positions shall have one
16 year following their initial employment to become certified by
17 the Peace Officers Standards and Training Commission.

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