HB458
217889-5
By Representative Sorrells (Constitutional Amendment)
RFD: Urban and Rural Development
First Read: 08-MAR-22
ENROLLED, An Act,

    Proposing an amendment to Amendment 772 to the Constitution of Alabama of 1901, now appearing as Section 94.01 of the Official Recompilation of the Constitution of Alabama of 1901, as amended, relating to economic development projects of counties and municipalities; to revise requirements for incurring indebtedness for economic development purposes; to revise the requirement for publication of notices for economic and industrial purposes; and to ratify actions taken and agreements made under Amendment 772 made prior to the ratification of this amendment.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

    Section 1. The following amendment to the Constitution of Alabama of 1901, as amended, is proposed and shall become valid as a part thereof when approved by a majority of the qualified electors voting thereon and in accordance with Sections 284, 285, and 287 of the Constitution of Alabama of 1901, as amended:

    PROPOSED AMENDMENT

"Amendment 772

"(a) The governing body of any county, and the governing body of any municipality located therein, for which a local constitutional amendment has not been adopted
authorizing any of the following, a county or municipality shall have full and continuing power to do any of the following:

"(1) Use public funds to purchase, lease, or otherwise acquire real property, buildings, plants, factories, facilities, machinery, and equipment of any kind, or to utilize the properties heretofore purchased or otherwise acquired on or before adoption of this amendment, and to improve and develop the properties for use as sites for industry of any kind or as industrial park projects, including, but not limited to, grading and the construction of roads, drainage, sewers, sewage and waste disposal systems, parking areas, and utilities to serve the sites or projects.

"(2) Lease, sell, grant, exchange, or otherwise convey, on terms approved by the governing body of the county or the municipality, as applicable, all or any part of any real property, buildings, plants, factories, facilities, machinery, and equipment of any kind or industrial park project to any individual, firm, corporation, or other business entity, public or private, including any industrial development board or other public corporation or authority heretofore or hereafter created by the county or the municipality before or after adoption of this amendment, for the purpose of constructing, developing, equipping, and
operating industrial, commercial, research, or service facilities of any kind.

"(3) Lend its credit to or grant public funds and things of value in aid of or to any individual, firm, corporation, or other business entity, public or private, for the purpose of promoting the economic and industrial development of the county or the municipality.

"(4) Become indebted and issue bonds, warrants which may be payable from funds to be realized in future years, notes, or other obligations, or evidences of indebtedness to an aggregate outstanding principal amount not exceeding an amount equal to 50 percent of the assessed value of taxable property therein as determined for state taxation, in order to secure funds for the purchase, construction, lease, or acquisition of any of the property described in subdivision (1) or to be used in furtherance of any of the other powers or authorities granted in this amendment. The obligations or evidences of indebtedness may be issued upon the full faith and credit of the county or any municipality or may be limited as to the source of their payment.

"(b) The recital in any bonds, warrants, notes, or other obligations, or evidences of indebtedness that they were issued pursuant to this amendment or that they were issued to provide funds to be used in furtherance of any power or authority herein authorized shall be conclusive, and no
purchaser or holder thereof need inquire further. The bonds, warrants, notes, or other obligations or evidences of indebtedness issued hereunder shall not be considered do not constitute an indebtedness of the county or any municipality for the purpose of determining the borrowing capacity of the county or municipality under this Constitution.

"(b)(c) In carrying out the purpose of this amendment, neither the county nor any municipality located therein a county or a municipality shall not be subject to Section 93 or 94 of this Constitution or be required to comply with Section 222 of this Constitution. Each public corporation heretofore Section 93 or 94 of this Constitution, nor shall a county or municipality be required to comply with the provisions of Section 222 of this Constitution unless issuing general obligation bond instruments establishing a requirement for repayment. Each public corporation created by the county or by any municipality located therein on or before the adoption of this amendment, including specifically any industrial development board incorporated under Article 4 of Chapter 54 of Title 11 of the Code of Alabama 1975, and any industrial development authority incorporated or reincorporated under Chapter 92A of Title 11 of the Code of Alabama 1975, and the Shoals Economic Development Authority enacted under Act No. 95-512, 1995 Regular Session, are validated and the powers granted to the board or authority
under its respective enabling legislation are validated, notwithstanding any other provision of law or of this Constitution. The powers granted by this amendment may be exercised as an exclusive alternative to, or cumulative with, and in no way restrictive of, powers otherwise granted by this Constitution or any law to the county, or to any municipality, or to any agency, board, or authority created pursuant to the laws of this state.

"(d) Neither the county nor any municipality located therein shall lend its credit to or grant any public funds or thing of value to or in aid of any private entity under the authority of this amendment unless prior to doing so, both of the following are satisfied:

"(1) The action proposed to be taken by the county or municipality is approved at a public meeting of the governing body of the county or municipality, as the case may be, by a resolution containing a determination by the governing body that the expenditure of public funds for the purpose specified will serve a valid and sufficient public purpose, notwithstanding any incidental benefit accruing to any private entity or entities.

"(2) At least seven days prior to the public meeting, a notice is published in the newspaper having the largest circulation in the county or municipality, as the case may be, describing in reasonable
detail the action proposed to be taken, a description of the public benefits sought to be achieved by the action, and identifying each individual, firm, corporation, or other business entity to whom, or for whose benefit, the county or the municipality proposes to lend its credit or grant public funds or thing of value.

"(e) For purposes of the foregoing, any sale, lease, or other disposition of property for a price equal to the its fair market value thereof shall not constitute the lending of credit or a grant of public funds or thing of value in aid of a private entity.

"(f) Nothing in this amendment shall authorize the county commission to own or operate a cable television system.

"(d)(g) Any action taken, or agreement made, under Amendment 772 by any county or municipality prior to the date this amendment is ratified and confirmed in all respects as of that date, except to the extent that its validity is being challenged in appropriate judicial proceedings in any court of competent jurisdiction on the date this amendment is ratified. This amendment These amendatory provisions shall have prospective application only. Any local constitutional amendments previously adopted and any local law enacted pursuant to such amendment shall remain in full force and effect."
Section 2. An election upon the proposed amendment shall be held in accordance with Sections 284 and 285 of the Constitution of Alabama of 1901, now appearing as Sections 284 and 285 of the Official Recompilation of the Constitution of Alabama of 1901, as amended, and the election laws of this state.

Section 3. The appropriate election official shall assign a ballot number for the proposed constitutional amendment on the election ballot and shall set forth the following description of the substance or subject matter of the proposed constitutional amendment:

"Proposing an amendment to revise Amendment 772 to the Constitution of Alabama of 1901, as amended, to specify that all counties and municipalities may exercise the authority and powers granted by Amendment 772 to provide for economic and industrial development; to permit notice for Amendment 772 projects to be published in any newspaper in circulation in the county or municipality; and to ratify all actions and agreements of any county or municipality done under Amendment 772 unless subject to pending judicial proceedings on the date of adoption of this amendment.

"Proposed by Act ________." This description shall be followed by the following language:

"Yes ( ) No ( )."
Speaker of the House of Representatives

President and Presiding Officer of the Senate

House of Representatives
I hereby certify that the within Act originated in and was passed by the House 17-MAR-22, as amended.

Jeff Woodard
Clerk

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<th>Amended and Passed</th>
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<tbody>
<tr>
<td>Senate</td>
<td>06-APR-22</td>
<td>Concurred in Senate Amendment</td>
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<tr>
<td>House</td>
<td>07-APR-22</td>
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