

1 SB203
2 126184-5
3 By Senator Reed
4 RFD: Governmental Affairs
5 First Read: 10-MAR-11

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4 ENGROSSED

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7 A BILL
8 TO BE ENTITLED
9 AN ACT

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11 To amend Section 11-94-10 of the Code of Alabama
12 1975, authorizing counties and municipalities to establish
13 port authorities; to authorize a port authority to publish
14 certain notices in newspapers and on the Internet website of
15 any newspaper having an Internet website related to the
16 issuance of bonds by the authority; and to thereafter limit
17 under certain conditions a civil action to contest the
18 validity of bonds issued by the authority.

19 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

20 Section 1. Section 11-94-10 of the Code of Alabama
21 1975, is amended to read as follows:

22 "§11-94-10.

23 "(a) All bonds and securities issued by an authority
24 shall be payable solely out of the revenues derived by the
25 authority from the leasing, sale or operation of any or all of
26 its projects as may be designated in the proceedings of its
27 board under which the same shall be authorized to be issued.

1 None of the bonds, securities or notes of an authority shall
2 ever constitute an obligation or debt of the state, of any
3 authorizing subdivision, or of any county or municipality of
4 the state or a charge against the credit or taxing powers of
5 any of them.

6 "(b) Bonds of any authority may be executed and
7 delivered by the authority at any time and from time to time,
8 may be in such form and denominations and of such tenor and
9 maturities, may be in registered or bearer form, either as to
10 principal or interest or both, may be payable at such time or
11 times not exceeding forty years from their date, may be made
12 subject to redemption, may be payable at such place or places
13 whether within or without the State of Alabama, may bear
14 interest at such rate or rates (including variable rates),
15 payable at such time or times and at such place or places and
16 evidenced in such manner, and may contain such other
17 provisions not inconsistent with this chapter, all as shall be
18 provided in the proceedings of its board whereunder the bonds
19 shall be authorized to be issued. Any bond having a stated
20 maturity more than 10 years after its date shall state that it
21 is subject to redemption at the option of the authority at the
22 expiration of ten years from its date and on any interest
23 payment date thereafter at such price or prices and after such
24 notice or notices and on such terms and in such manner as may
25 be provided in the proceedings wherein such bond is authorized
26 to be issued.

1 "(c) Any bonds of an authority may be sold at public
2 or private sale in such manner and from time to time as may be
3 determined by its board to be most advantageous and the
4 authority may pay all expenses, premiums, fees and commissions
5 that its board may deem necessary or advantageous in
6 connection with the issuance thereof.

7 "(d) The issuance by an authority of one or more
8 series of bonds for one or more purposes shall not preclude it
9 from issuing other bonds in connection with the same project
10 or other projects, but the proceedings whereunder any
11 subsequent bonds may be issued shall recognize and protect any
12 prior assignment, lien or indenture for any prior issue of
13 bonds unless in the proceedings authorizing such prior issue
14 the right was reserved to issue subsequent bonds on a parity
15 with such prior issue.

16 "(e) All bonds shall contain a recital that they are
17 issued pursuant to the provisions of this chapter, which
18 recitals shall be conclusive that they have been duly
19 authorized pursuant to the provisions of this chapter.

20 "(f) All bonds issued hereunder and any interest
21 coupons applicable thereto are hereby made and shall be
22 construed to be negotiable instruments.

23 "(g) Upon the adoption by the board of directors of
24 any resolution for the issuance of bonds, an authority, in
25 its discretion, may shall cause to be published once a week
26 for two consecutive weeks, in a newspaper or newspapers of
27 general circulation published in each county within its

1 authorized operational area, and on the Internet website of
2 the newspaper if the newspaper has an Internet website, a
3 notice in substantially the following form (the blanks being
4 properly filled in) at the end which shall be printed the name
5 and title of either the chair or secretary of the authority:

6 "_____ , a public corporation organized under the
7 laws of the State of Alabama, on the _____ day of _____ ,
8 authorized the issuance of not more than \$_____ principal
9 amount of [revenue, general obligation, or other appropriate
10 designation] bonds of the authority for purposes authorized in
11 the act of the Legislature of Alabama under which the
12 authority was organized. Any action or proceeding questioning
13 the validity of the bonds, any pledge or mortgage to secure
14 the same, any lease or sale of any project to be financed by
15 the bonds, or the proceedings authorizing the same must be
16 commenced within 20 days after first publication of this
17 notice."

18 "Any action or proceeding in any court to set aside
19 or question the proceedings for the issuance of the bonds
20 referred to in this notice or to contest the validity of such
21 bonds or the validity of any pledge or mortgage made therefor
22 or any lease or sale of any project to be financed by the
23 bonds must be commenced within 20 days after the first
24 publication of the notice. After the expiration of the period,
25 no cause of action, counterclaim, setoff, or defense
26 questioning or attacking the validity of the proceeding or of
27 the bonds or the pledge or mortgage or the lease or sale of

1 the project to be financed by bonds shall be asserted, nor
2 shall the validity of the proceedings or of the bonds or the
3 pledge or mortgage or the lease or sale of the project to be
4 financed by the bonds be open to question in any court on any
5 ground whatsoever except in an action or proceeding commenced
6 within that period."

7 Section 2. This act shall become effective on the
8 first day of the third month following its passage and
9 approval by the Governor, or its otherwise becoming law.

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Senate

Read for the first time and referred to the Senate
committee on Governmental Affairs..... 10-MAR-11

Read for the second time and placed on the calen-
dar 1 amendment..... 31-MAR-11

Read for the third time and passed as amended 27-APR-11

Yeas 31
Nays 0

Patrick Harris
Secretary