

1 SB473
2 119356-13
3 By Senator Barron
4 RFD: Finance and Taxation General Fund
5 First Read: 25-FEB-10

1 SB473

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4 ENROLLED, An Act,

5 To amend Sections 14-2-1, 14-2-8, 14-2-12, 14-2-19
6 and 14-2-21 of the Code of Alabama, 1975, relating to the
7 Alabama Corrections Institution Finance Authority, to
8 authorize the Authority to issue additional bonds for the
9 purpose of acquiring a prison facility in Perry County and
10 providing additional bedspace in existing facilities; to
11 authorize the Department of Corrections to employ current
12 employees of the Perry County facility; and to prohibit the
13 use of SWAPtions.

14 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

18 "§14-2-1.

19 For the purposes of this chapter, the following
20 terms shall have the meanings respectively ascribed to them by
21 this section:

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

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

4 (3) DEPARTMENT. The Alabama Department of
5 Corrections created by Section 14-1-1.1 and its successors as
6 the state agency responsible for supervising and controlling
7 the operation of the correctional institutions of the state.

8 (4) STATE. The State of Alabama.

9 (5) BONDS. The bonds issued under the provisions of
10 this chapter.

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

13 a. Prisons;

14 b. Buildings and enclosures for housing, containing
15 or supervising prisoners; and

16 c. Any facilities necessary or useful in connection
17 with prisons, buildings or enclosures, including, without
18 limiting the generality of the foregoing, hospitals, offices,
19 correctional officers' quarters and residences, warehouses,
20 garages, storage facilities, abattoirs, cold storage plants,
21 canning plants, laundries and manufacturing plants for the
22 employment of prison labor.

23 (7) KILBY PROPERTY. Such term includes all of the
24 real property commonly referred to as Kilby prison property,
25 embracing not only the real property owned by the state on

1 which Kilby prison is located, but also all real property
2 owned by the state used in connection with Kilby prison and
3 adjacent thereto, all located in sections 2, 3, 10, 11, 21,
4 22, 26, 27, 28, 29, 30, 33, 34 and 35 in township 17, range 18
5 in Montgomery County, Alabama, together with all personal
6 property owned by the state and used in connection with Kilby
7 prison and the real property adjacent thereto.

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

11 "§14-2-8.

12 The authority shall have the following powers among
13 others specified in this chapter:

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

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

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

23 (4) To establish a fiscal year;

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

4 (6) To provide for the acquisition, construction,
5 reconstruction, alteration and improvement of facilities and
6 for the procurement of sites and equipment for such facilities
7 and for the lease thereof;

8 (7) To lease facilities to the state, the
9 department, and any other agency or instrumentality of the
10 state;

11 (8) To anticipate by the issuance of its bonds as
12 limited in this chapter the receipt of the rent and revenues
13 from such facilities; and from the net rent and sale proceeds
14 of the Kilby property;

15 (9) As security for the payment of the principal of
16 and interest on its bonds, to enter into any lawful covenant,
17 to grant mortgages upon and security interests in its
18 facilities and to pledge the rents and revenues from such
19 facilities; and from the net rent and sale proceeds of the
20 Kilby property;

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

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

1 "§14-2-12.

2 (a) For the purpose of providing funds for the
3 acquisition of sites, for the construction, reconstruction,
4 alteration and improvement of facilities, for the procurement
5 and installation of equipment therefor and for payment of
6 obligations incurred and the principal of and interest on any
7 temporary loans made for any of the said purposes, the
8 authority is hereby authorized, from time to time, to sell and
9 issue, in addition to all bonds heretofore authorized to be
10 issued by the authority, its bonds in such aggregate principal
11 amounts as may be determined by the corporation to be
12 necessary for the said purposes but not to exceed \$25,000,000,
13 plus an additional seven million five hundred thousand dollars
14 (\$7,500,000) pursuant to Act 97-950, in aggregate principal
15 amount.

16 (b) In addition to the authorization provided in
17 subsection (a), the authority is hereby authorized, from time
18 to time, to sell and issue its bonds in amounts determined by
19 the authority to be necessary for the acquisition,
20 construction, reconstruction, alteration and improvement of
21 the Perry County facility. Additional bonds may be issued to
22 provide for additional bedspace by improving properties
23 currently owned by the Department of Corrections or the
24 Authority. The proceeds of bonds issued under this sub-section
25 (b) shall be expended for facilities in Perry County. The

1 total additional bonds authorized by this section (b) shall
2 not exceed \$60 million.

3 (c) Any monetary transactions completed pursuant to
4 this act shall be fully disclosed to the public.

5 (d) Any bonds issued pursuant to this section shall
6 be sold by competitive bid if practical and economically
7 feasible as determined by the authority.

8 "§14-2-19.

9 (a) All proceeds derived from the sale of any bonds,
10 except refunding bonds, sold by the authority, remaining after
11 payment of the expenses of issuance thereof, shall be turned
12 over to the State Treasurer, shall be carried by him in a
13 special account to the credit of the authority and shall be
14 subject to be drawn on by the authority solely for the
15 purposes of:

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

18 (2) Acquiring, constructing, reconstructing,
19 altering and improving the Perry County facility including
20 providing up to one million dollars to the Perry County
21 Commission to compensate for the future loss of tax revenue.

22 (3) Constructing additional improvements on property
23 currently owned by the Department of Corrections or the
24 Authority in order to provide for additional bedspace.

1 (4) Paying all reasonable and necessary expenses
2 incidental thereto, including filing, recording, surveying,
3 legal and engineering fees and expenses;

4 (5) Paying the interest which will accrue on the
5 said bonds during the period required for the construction and
6 equipment of the said facilities and for a period not
7 exceeding six months after the completion thereof; and

8 (6) Paying the principal of and interest on all then
9 outstanding notes theretofore issued by the authority pursuant
10 to the provisions of Section 14-2-10.

11 The balance of the said proceeds thereafter
12 remaining, unless required for the construction of other
13 facilities by the authority as shall be determined by
14 resolution of its board of directors within six months after
15 completion of the facilities for which the bonds were issued,
16 shall be set aside as additional security for the bonds or
17 shall be used to pay, purchase or redeem bonds as may be
18 provided in the proceedings authorizing their issuance. The
19 reasonable and necessary expenses incident to the construction
20 of any facility shall, if deemed advisable by the authority,
21 include all or any part of the expense of providing temporary
22 facilities, during the construction of a new facility, for any
23 penal or correctional institution facility which is demolished
24 or rendered unserviceable as such.

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

9 "§14-2-21.

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

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

15 (2) The net rent or sale proceeds from the Kilby
16 property;

17 (3) Any bond proceeds remaining unexpended upon
18 completion of all facilities to be constructed with such bond
19 proceeds and the payment of the cost thereof;

20 (4) Any insurance proceeds which the authority may
21 receive by reason of its ownership of any of the facilities;
22 and

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

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

1 Section 2. Notwithstanding any other provision of
2 law, including without limitation Article 3 of Title 41, the
3 Alabama Corrections Institution Finance Authority shall not
4 enter into any swap agreement involving the bonds authorized
5 to be issued by this act. For purposes of the preceding
6 sentence, "swap agreement" shall have the same meaning as
7 provided in Section 41-1-41.

8 Section 3. Upon the acquisition of the Perry County
9 Facility by the Alabama Corrections Institution Finance
10 Authority, as provided in Chapter 2 of title 14, the
11 Department of Corrections shall employ all otherwise eligible
12 employees below the rank of captain, through provisional
13 appointments, persons who were employees of the Perry County
14 facility at the time of acquisition as the Department deems
15 necessary and appropriate. All subsequent appointments and
16 employment of persons shall be pursuant to the Merit System
17 Act of Alabama.

18 Section 4. This bill shall become effective
19 immediately following its passage and approval by the
20 Governor, or its otherwise becoming law.

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President and Presiding Officer of the Senate

Speaker of the House of Representatives

SB473

Senate 06-APR-10

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

McDowell Lee
Secretary

House of Representatives
Amended and passed 22-APR-10

Senate concurred in House amendment 22-APR-10

By: Senator Barron