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3 HOUSE AGRICULTURE & FORESTRY COMMITTEE SUBSTITUTE FOR SB345,  
4 AS ENGROSSED

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9 SYNOPSIS: This bill would authorize a county to  
10 establish an agriculture authority to construct and  
11 operate facilities to promote agricultural  
12 businesses, operations, and commodities, workforce  
13 development, and economic development within the  
14 county.

15 This bill would provide procedures for  
16 creating an agriculture authority.

17 This bill would provide for the composition,  
18 membership, terms of office, and duties of the  
19 board of directors of an agriculture authority.

20 This bill would authorize an agriculture  
21 authority to take steps necessary for the planning  
22 and development of an agriculture center.

23 This bill would authorize an agriculture  
24 authority to acquire property by gift, grant,  
25 lease, or purchase, to make and enter into  
26 contracts, to accept pledges of revenues or grants  
27 of money, and to borrow money.

1                   This bill would authorize a county in which  
2                   an agriculture authority is established and any  
3                   municipality in the county to expend funds for the  
4                   purposes of the authority.

5                   This bill would authorize the sale of  
6                   alcoholic beverages for on-site consumption within  
7                   an agriculture center.

8                   This bill would provide that an agriculture  
9                   authority is exempt from municipal planning and  
10                  zoning requirements.

11                  This bill would also provide that an  
12                  agriculture authority as a governmental entity  
13                  shall be exempt from sales and use tax and ad  
14                  valorem tax.

15  
16                                   A BILL  
17                                   TO BE ENTITLED  
18                                   AN ACT

19  
20                  Relating to agriculture authorities; to authorize a  
21                  county to establish an agriculture authority to construct and  
22                  operate facilities to promote agricultural businesses,  
23                  operations, and commodities, workforce development, and  
24                  economic development within the county; to provide procedures  
25                  for creating an agriculture authority; to provide for the  
26                  composition, membership, terms of office, powers, and duties  
27                  of the board of directors of an agriculture authority; to

1 authorize an agriculture authority to take steps necessary for  
2 the planning and development of an agriculture center; to  
3 authorize an agriculture authority to acquire property by  
4 gift, grant, lease, or purchase, or to make and enter into  
5 contracts, to accept pledges of revenues or grants of money,  
6 and to borrow money; to authorize a county in which an  
7 agriculture authority is established and any municipality in  
8 the county to expend funds for the purposes of the authority;  
9 to authorize the sale of alcoholic beverages for on-site  
10 consumption within an agriculture center; to provide that an  
11 agriculture authority is exempt from municipal planning and  
12 zoning requirements; and to provide that an agriculture  
13 authority as a governmental entity shall be exempt from sales  
14 and use tax and ad valorem tax.

15 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

16 Section 1. (a) An agriculture authority may be  
17 established in any county to construct and operate facilities  
18 to promote agricultural businesses, operations, and  
19 commodities, workforce development, and economic development  
20 within the county as further provided in this act. The  
21 operational area of an agriculture authority may not extend  
22 beyond the boundaries of the county in which an agriculture  
23 authority is incorporated.

24 (b) Any number of natural persons who are residents  
25 and qualified electors in the county may file an application  
26 in writing with the county commission for authority to  
27 incorporate and organize an agriculture authority. If the

1 application is approved, the county commission shall adopt a  
2 resolution declaring it to be wise, expedient, and beneficial  
3 to the county that the agriculture authority be formed and  
4 that the persons filing the application are authorized to form  
5 the authority. An agriculture authority may not be formed  
6 under this act unless the application is approved by the  
7 county commission and the resolution required herein is  
8 adopted.

9 (c) Once the county commission has approved the  
10 application as provided in subsection (b), the persons seeking  
11 incorporation of an agriculture authority shall file articles  
12 of incorporation with the office of the judge of probate that  
13 do all of the following:

14 (1) Contain a statement that the incorporators  
15 propose to incorporate an agriculture authority pursuant to  
16 this act.

17 (2) States the authorized operational area of the  
18 proposed authority within the county.

19 (3) State that the county commission has approved  
20 the application for an agriculture authority and has adopted a  
21 resolution declaring that it is expedient that the proposed  
22 authority be formed by approving the written application.

23 (d) The application shall be accompanied by articles  
24 of incorporation that include all of the following:

25 (1) A designation of the authorized operational area  
26 of the authority which shall be considered an agriculture  
27 center, including the name of each municipality within the

1 authorized operational area, which may not extend beyond the  
2 boundaries of the county in which the authority is  
3 incorporated.

4 (2) The names of the incorporators of the authority  
5 and a statement that each is qualified to incorporate the  
6 authority.

7 (3) The name of the authority, which must include  
8 the words "Agriculture Authority" or "Agriculture Center  
9 Authority" and be reasonably descriptive of the operational  
10 area of the authority.

11 (4) The period of the authority, which may be  
12 perpetual.

13 (5) The location of the principal office of the  
14 authority, which shall be within the boundaries of the county.

15 (6) A statement that the authority is organized  
16 pursuant to this act.

17 (7) If the exercise by the authority of any of its  
18 powers is to be in any way prohibited, limited, or  
19 conditioned, a statement of the terms of the prohibition,  
20 limitation, or condition.

21 (8) The number of directors, which may not exceed  
22 seven, and the duration of their respective terms of office,  
23 which may not exceed six years.

24 (9) The manner of appointing directors, which shall  
25 be a combination of appointment by the county commission and  
26 appointment by the legislative delegation for the authorized  
27 operational area of the authority; provided, however, a

1 majority of the directors must be appointed by the legislative  
2 delegation.

3 (10) Any provision not inconsistent with this act  
4 relating to the dissolution of the authority.

5 (11) Any other matters relating to the authority  
6 that the incorporators may choose to insert and that are not  
7 inconsistent with this act or with state law.

8 (e) The articles shall be signed by each of the  
9 incorporators.

10 (f) Upon the filing for record of the articles with  
11 the office of the judge of probate, the authority shall come  
12 into existence and shall constitute a public corporation under  
13 the name set forth in its articles of incorporation. The  
14 acceptance of articles for recording by the judge of probate  
15 shall be conclusive evidence of the due, legal, and valid  
16 incorporation of the agriculture authority in all courts. The  
17 judge of probate shall record the articles in an appropriate  
18 book in his or her office. There shall be no filing fee or  
19 recording taxes due or payable on account of the filing for  
20 record of the articles.

21 (g) Notwithstanding any other provision of this act,  
22 the articles of incorporation or legal existence of an  
23 agriculture authority shall not be deemed invalid for the sole  
24 reason that the articles of incorporation of the authority  
25 fail to specify an authorized operational area, and every  
26 agriculture authority whose articles of incorporation fail to  
27 specify an authorized operational area, but are otherwise

1 formed in accordance with this act, may do all things  
2 contemplated by this act as if the agriculture authority had  
3 designated as its authorized operational area the county of  
4 incorporation.

5 Section 2. (a) The board of directors of an  
6 agriculture authority shall be as specified in the articles  
7 and in accordance with Section 1.

8 (b) Each agriculture authority shall have a chair,  
9 vice chair, secretary, and treasurer to be elected by the  
10 board of directors. The offices of secretary and treasurer  
11 may, but need not, be held by the same person. A majority of  
12 the directors shall constitute a quorum for the transaction of  
13 business. The officers and directors shall serve for the terms  
14 provided for in the articles. A director may not draw any  
15 salary for any service rendered or for any duty performed as  
16 director. The duties of the chair, vice chair, secretary, and  
17 treasurer shall be those as are customarily performed by such  
18 officers and as may be prescribed by the board of directors  
19 from time to time.

20 (c) All directors shall serve until their successors  
21 are duly appointed or until they cease to be qualified.  
22 Vacancies on the board shall be filled as provided for in the  
23 articles, but any individual appointed to fill a vacancy shall  
24 serve only for the unexpired portion of the term. In the event  
25 any uncertainty arises as to the terms of office of the  
26 directors, the county commission or individual authorized to  
27 appoint the directors may clarify the term by adoption of an

1 appropriate resolution or by execution of an appropriate  
2 certificate, and the term of office shall be as so clarified.

3 (d) All proceedings of the board of directors of an  
4 agriculture authority shall be reduced to writing by the  
5 secretary of the authority and shall be signed by at least two  
6 directors present at the proceedings. Copies of the  
7 proceedings, when certified by the secretary under the seal of  
8 the agriculture authority, shall be received in all courts as  
9 prima facie evidence of the matters and things therein  
10 certified.

11 (e) Directors of an agriculture authority must be  
12 residents and qualified electors of the county within the  
13 authorized operational area of the authority. If any director  
14 ceases to be a resident of the county, he or she shall cease  
15 to be a director, and the position shall remain vacant until a  
16 successor is appointed in accordance with the articles and  
17 this act.

18 (f) A director of an agriculture authority may not  
19 have an interest, directly or indirectly, in any contract of  
20 work, material, or services, or the profits therefrom, to be  
21 furnished or performed for the authority under this act if the  
22 director has, directly or indirectly, more than a 10 percent  
23 interest in any business, firm, or corporation, or profits  
24 thereof, furnishing or providing work, materials, or services.

25 Section 3. (a) The articles of an agriculture  
26 authority may at any time be amended in the manner provided in  
27 this section. The board of directors shall first adopt a

1 resolution proposing an amendment to the articles, setting  
2 forth the full text of the amended language. An amendment may  
3 be made for the sole purpose of altering, in accordance with  
4 this act, the authorized operational area of the authority,  
5 provided the articles may not be amended to extend the  
6 operational area of the authority beyond the boundaries of the  
7 county in which the authority is incorporated.

8 (b) After the adoption by the board of directors of  
9 an agriculture authority of a resolution proposing an  
10 amendment to the articles, the chair and the secretary shall  
11 sign and file with the county commission of the appropriate  
12 county a written application in the name and on behalf of the  
13 authority, under its seal, requesting that the county  
14 commission adopt a resolution approving the proposed  
15 amendment, and accompanied by a copy of the resolution adopted  
16 by the board of directors proposing the amendment to the  
17 articles. As promptly as may be practicable after the filing  
18 of the application, the county commission shall review the  
19 application and shall adopt a resolution either denying the  
20 application or approving and authorizing the proposed  
21 amendment. A proposed amendment shall not take effect unless  
22 approved by the county commission. The resolution need not be  
23 published or posted and need not be offered for more than one  
24 reading.

25 (c) Following the adoption of a resolution approving  
26 the proposed amendment by the county commission, the chair and  
27 the secretary shall sign and file for record in the office of

1 the judge of probate a certificate in the name and on behalf  
2 of the authority, under its seal, reciting the adoption of  
3 resolutions by the board and by the county commission and  
4 setting forth the proposed amendment. The judge of probate  
5 shall record the certificate in an appropriate book in his or  
6 her office. When the certificate has been so filed and  
7 recorded, the amendment shall become effective, and the  
8 articles shall be amended as provided in the amendment.

9 Section 4. (a) An agriculture authority shall have  
10 the following powers, which it may exercise in the agriculture  
11 authority's authorized operational area:

12 (1) To have succession by its corporate name until  
13 dissolved as provided in this act.

14 (2) To adopt bylaws making provisions for its  
15 actions not inconsistent with this act.

16 (3) To institute and defend legal proceedings in any  
17 court of competent jurisdiction and proper venue; provided,  
18 however, that the board may not be sued in any trial court  
19 other than the courts of the county of incorporation;  
20 provided, further, that the officers, directors, agents, and  
21 employees of an agriculture authority may not be sued for  
22 their actions in behalf of the authority except for actions  
23 that are unreasonable or known by the person to be unlawful or  
24 are performed with reckless disregard for the lawfulness of  
25 such actions.

26 (4) To plan for construction and development of an  
27 agriculture center within the operational area of the

1 agriculture authority on property owned by the authority.

2 Construction and development may include any or all of the  
3 following:

4 a. Buildings to hold offices for use by the federal  
5 government, the state or any agency of the state, the county,  
6 or one or more municipalities within the county.

7 b. Buildings to house or accommodate public  
8 facilities of the federal government, the state or any agency  
9 of the state, the county, or one or more municipalities within  
10 the county.

11 c. Streets, boulevards, walkways, parkways, parks,  
12 or other places of recreation.

13 d. Monuments, statues, or other structures  
14 beautifying the agriculture center.

15 e. Community houses or meeting houses or  
16 auditoriums.

17 f. Arenas, convention halls, or convention sites.

18 g. Music halls, art museums, art exhibits or other  
19 exhibits for the advancement of the humanities and cultural  
20 development.

21 (5) To acquire property and rights and interests in  
22 property by gift, grant, lease, or purchase.

23 (6) To accept or receive gifts, bequests, and  
24 devises.

25 (7) To have and use a corporate seal and alter the  
26 seal at its pleasure.

1           (8) To appoint officers, agents, employees, and  
2 attorneys and to fix their compensation.

3           (9) To hire professionals and enter into contracts  
4 for their services in designing and supervising the  
5 construction of any building, agriculture center, auditorium,  
6 arena, convention hall, music hall, art museum, place of  
7 recreation, art exhibit, office building, or other structure  
8 that it desires to construct.

9           (10) To make and enter into contracts and to execute  
10 all instruments necessary or convenient to lease or purchase  
11 and own real or personal property to be used for the  
12 furtherance of the purposes for the accomplishment of which  
13 the authority is created.

14           (11) To plan for programs and exhibits in the  
15 agriculture center for the advancement of the agricultural,  
16 cultural, and workforce development interests of the citizens  
17 of the county and of the municipalities thereof.

18           (12) To purchase or lease real property and rights  
19 or easements therein necessary or convenient for its purposes  
20 and to use the same so long as its existence shall continue.

21           (13) To accept pledges of revenues or grants of  
22 money from any person or governmental entity.

23           (14) To lease its property to any person or  
24 governmental entity.

25           (15) To enter into financing agreements with federal  
26 or state agencies that may require the authority to mortgage  
27 its property.

1           (16) To plan for programs and exhibits in the  
2 agriculture center for the advancement of agricultural and  
3 workforce development interests in the county.

4           (b) Contracts of an agriculture authority shall be  
5 executed in the name of the authority by the chair and  
6 attested by the secretary of the authority. The board may  
7 provide by resolution for a different form for the execution  
8 of a contract by an officer or agent other than the chair and  
9 secretary. A contract, irrespective of its form and of the  
10 persons executing the contract, shall not be binding unless  
11 the contract is authorized or ratified by the board.

12           (c) An agriculture authority may deposit its funds  
13 not needed to meet expenses or obligations in any bank or  
14 building and loan association, provided the deposit is fully  
15 insured by a federal corporation or agency of the federal  
16 government insuring deposits in financial institutions.

17           Section 5. (a) Subject to the conditions,  
18 qualifications, and restrictions set forth in subsection (b),  
19 an agriculture authority may borrow money from any person or  
20 governmental entity. As security for any money borrowed,  
21 together with interest thereon, and any obligations incurred  
22 or assumed, an agriculture authority may mortgage, pledge, or  
23 otherwise transfer and convey its real, personal, and mixed  
24 property, or any part or parts thereof, whether then owned or  
25 thereafter acquired, including any franchises then owed or  
26 thereafter adopted and all or any part of any funds of the  
27 authority. In a resolution authorizing the mortgage given to

1 secure the payment thereof, an agriculture authority, in  
2 addition to its other powers, shall have the power to agree  
3 with the several holders of the mortgage to make, enter, and  
4 perform covenants and agreements as to all of the following:

5 (1) The conduct, management, and maintenance of the  
6 properties held by the authority or of the activities,  
7 operations, and enterprises then or thereafter conducted by  
8 the authority.

9 (2) Insurance of the properties of the authority.

10 (3) Restrictions on the exercise of the powers of  
11 the authority to dispose or to limit or regulate the use of  
12 all or any part of the properties of the authority.

13 (4) The use and disposition of any moneys of the  
14 authority, including taxes payable to the authority under any  
15 act of the Legislature heretofore or hereafter adopted and  
16 revenues derived or to be derived from the activities,  
17 operations, and enterprises of all or any part of the  
18 properties of the authority, including any part or parts  
19 theretofore constructed or acquired and any parts, extensions,  
20 replacements, or improvements thereafter constructed or  
21 acquired.

22 (5) The setting aside of the taxes payable to the  
23 authority under any act of the Legislature heretofore or  
24 hereafter adopted or use of the revenues or the moneys of the  
25 authority or reserves and sinking funds, and the source,  
26 custody, security, regulation, application, and disposition  
27 thereof.

1           (6) The assumption or payment or discharge of any  
2 indebtedness, liens, or other claims relating to any part of  
3 the properties of the authority or any obligations  
4 constituting, or which may constitute, a lien on the  
5 properties or any part thereof.

6           (7) Limitations or other evidences of indebtedness  
7 or upon the incurrence of indebtedness of the authority.

8           (b) The power vested in an agriculture authority to  
9 pledge taxes to be paid to the authority or to pledge revenue  
10 of the authority shall not be construed as undertaking or  
11 purporting to empower the authority to pledge any tax or any  
12 revenue if the pledge is prohibited by the Constitution of  
13 Alabama of 1901. It is expressly provided that the authority  
14 shall have the power to pledge any tax paid to the authority  
15 or revenue of the authority, the pledge of which is authorized  
16 by the Constitution of Alabama of 1901.

17           (c) The powers and authority set forth in this  
18 section shall only be exercised if necessary in order for the  
19 authority to receive federal funding or grants for any  
20 projects or activities of the authority.

21           Section 6. The board of directors of an authority  
22 may appoint an advisory council consisting of up to 10 members  
23 to advise the board. The advisory council members shall serve  
24 two-year terms, and are not required to be residents of the  
25 county of incorporation. Members may be appointed to  
26 additional terms by the board to serve on the advisory  
27 council.

1           Section 7. The county of incorporation and each  
2 municipality in the county may lease, sell, donate, or  
3 otherwise convey to an agriculture authority real or personal  
4 property, including park properties, without authorization by  
5 election of the qualified voters of the county or of the  
6 municipality; and the county and each municipality thereof are  
7 authorized, but not required, to appropriate public funds of  
8 the county or of the municipality, as the case may be, to the  
9 authority to be used by the authority for purposes enumerated  
10 in this act. The county shall not lease, sell, donate, or  
11 convey any property to the authority, or appropriate any money  
12 to the authority, unless the county commission has determined  
13 that the lease, sale, donation, conveyance, or appropriation  
14 will benefit the people of the county or municipality to such  
15 an extent as to fully warrant and justify the lease, sale,  
16 donation, conveyance, or appropriation.

17           Section 8. This act shall not be construed to limit  
18 the right, power, or authority of any municipality to operate  
19 facilities similar to the facilities provided for by this act.  
20 It is expressly provided that this act shall not in any way  
21 affect any auditorium, art museum, or other facility presently  
22 owned or hereafter acquired by any municipality, whether  
23 situated in the agriculture center or elsewhere.

24           Section 9. (a) An agriculture authority may be  
25 dissolved by the adoption by its board of directors of a  
26 resolution recommending its dissolution and the approval of  
27 such dissolution and the proposed articles of dissolution by

1 the appropriate county commission. The resolution need not be  
2 published or posted and need not be offered for more than one  
3 reading. Upon receiving necessary approval under this section,  
4 the chair and secretary of the dissolved authority shall  
5 execute articles of dissolution reciting that such resolutions  
6 have been adopted and that the authority has been dissolved.  
7 The articles of dissolution shall be filed with the judge of  
8 probate, who shall record them in an appropriate book.

9 (b) Upon dissolution of an agriculture authority,  
10 all rights, property interests, assets, and obligations of the  
11 authority shall be transferred to the county.

12 Section 10. An agriculture authority may permit the  
13 consumption of alcoholic beverages any day of the week,  
14 purchased from licensees of the Alcoholic Beverage Control  
15 Board, to be consumed by purchasers within the boundaries of  
16 the agriculture center.

17 Section 11. An agriculture authority is exempt from  
18 all municipal planning boards and municipal planning board  
19 requirements and all municipal zoning ordinances.

20 Section 12. (a) An agriculture authority is exempt  
21 from all state, county, and municipal sales and use taxes for  
22 any necessary construction materials purchased for any of the  
23 purposes set forth in subdivision (4) of subsection (a) of  
24 Section 4, but is responsible for all other state, county, and  
25 municipal sales and use taxes.

26 (b) An agriculture authority is exempt from paying  
27 all state, county, and local ad valorem taxes.

1                   Section 13. This act shall become effective on the  
2 first day of the third month following its passage and  
3 approval by the Governor, or its otherwise becoming law.