

1 SB317
2 214524-5
3 By Senator Melson
4 RFD: Governmental Affairs
5 First Read: 17-MAR-22

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4 ENGROSSED

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7 A BILL
8 TO BE ENTITLED
9 AN ACT

10
11 Relating to agricultural authorities; to amend
12 Section 11-20-73, Code of Alabama 1975, to further provide for
13 the powers of the authority, including the power of the
14 authority to enter into agreements with private entities, the
15 power to sell its property to a person or governmental entity,
16 and the power to enter into long-term contracts or agreements
17 for sewer service with a neighboring municipality or a utility
18 board of the municipality; to amend Section 11-20-80, Code of
19 Alabama 1975, to exempt the authority from planning and zoning
20 requirements; and to amend Section 11-20-81, Code of Alabama
21 1975, to specify that the exemption of the authority from all
22 state, county, and municipal sales and use taxes is granted to
23 the authority as a governmental entity and that the authority
24 would be entitled to a certificate of exemption in order to
25 claim the sales and use tax exemptions on purchases and to
26 further provide for the authority to be exempt from local
27 taxes.

1 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

2 Section 1. Sections 11-20-73, 11-20-80, and
3 11-20-81, Code of Alabama 1975, are amended to read as
4 follows:

5 "§11-20-73.

6 "(a) An agriculture authority shall have the
7 following powers, which it may exercise in the agriculture
8 authority's authorized operational area:

9 "(1) To have succession by its corporate name until
10 dissolved as provided in this article.

11 "(2) To adopt bylaws making provisions for its
12 actions not inconsistent with this article.

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

23 "(4) To plan for construction and development of an
24 agriculture center within the operational area of the
25 agriculture authority on property owned by the authority.
26 Construction and development may include, without limitation,
27 any or all of the following:

1 "a. Buildings to hold offices for use by the federal
2 government, the state or any agency of the state, the county,
3 or one or more municipalities within the county.

4 "b. Buildings to house or accommodate public
5 facilities of the federal government, the state or any agency
6 of the state, the county, or one or more municipalities within
7 the county.

8 "c. Streets, boulevards, walkways, parkways, parks,
9 or other places of recreation.

10 "d. Monuments, statues, or other structures
11 beautifying the agriculture center.

12 "e. Community houses or meeting houses or
13 auditoriums.

14 "f. Arenas, convention halls, or convention sites.

15 "g. Music halls, art museums, art exhibits, or other
16 exhibits for the advancement of the humanities and cultural
17 development.

18 "h. Any other buildings, structures, facilities, and
19 other improvements that the board of directors of the
20 agriculture authority determines are appropriate or useful or
21 expedient to the authority's purposes from time to time. The
22 determination of the authority board of directors shall be
23 conclusive.

24 "(5) To acquire property and rights and interests in
25 property by gift, grant, lease, or purchase.

26 "(6) To accept or receive gifts, bequests, and
27 devises.

1 "(7) To have and use a corporate seal and alter the
2 seal at its pleasure.

3 "(8) To appoint officers, agents, employees, and
4 attorneys and to fix their compensation.

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

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

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

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

23 "(13) To accept pledges of revenues or grants of
24 money from any person or governmental entity.

25 "(14) To sell and lease its property to any person
26 or governmental entity.

1 "(15) To enter into financing agreements with
2 federal or state agencies that may require the authority to
3 mortgage its property.

4 "(16) To plan for programs and exhibits in the
5 agriculture center for the advancement of agricultural and
6 workforce development interests in the county.

7 "(17) To enter into long-term contracts or
8 agreements for sewer service with any Class 5 municipality
9 within three miles of the authority or a utility board of the
10 Class 5 municipality.

11 "(18) To accept lease payments, loan repayments, or
12 other compensation to or for the authority or other public
13 person.

14 "(19) To invest in bank deposits, U.S. Treasury
15 bills, projects, instruments, real, personal, or mixed
16 property, or any other investments as the board of directors
17 of the authority may from time to time determine to be
18 appropriate and convenient to accomplish any purpose for which
19 an agriculture authority is organized, including works of
20 internal improvement, interests in private or corporate
21 enterprises, loans of money or credit to individuals,
22 associations, or corporations; to lend the authority's credit,
23 grant public money or things of value in aid of or to any
24 individual, association, or corporation whatsoever, or become
25 a stockholder in any such corporation, association, or company
26 by issuing bonds or otherwise even though they might be in
27 violation of Section 93 or Section 94 of the Constitution of

1 Alabama of 1901 if done by the state, a county, city, town, or
2 other subdivision of the state, notwithstanding the fact that
3 any such investment or action may involve the expenditure or
4 appropriation of funds received from a public person. In
5 particular, but not by way of limitation, an authority may
6 invest its funds, from whatever source, in the stock, bonds,
7 debentures, notes, or other securities issued by any person
8 locating a project in the authority's operational area and may
9 enter into contracts or options, including contracts or
10 options for the conveyance, sale, or lease of property, to any
11 such person and make direct grants of money, property, or
12 services for the purpose of inducing the person to locate a
13 project in the authority's operational area.

14 "(20) To enter into deeds, mortgages, leases, loan
15 agreements, or other agreements with any person.

16 "(21) To acquire real property for the purpose of
17 establishing one or more agriculture centers; to improve
18 agriculture center sites, whether owned by the authority or by
19 any other person, including the improvement of the centers or
20 sites by the construction of roads, curbing, gutters,
21 drainage, sewerage, utilities, railroad spurs, docks, harbors,
22 ports, grading, and the like; to construct, for its own
23 account or the account of others, improvements thereon,
24 including any project, for the purpose of conveying, leasing,
25 or selling the same to any person, including the power to
26 convey, lease, or sell the same for its own account or to
27 construct the same as an inducement for any person to locate

1 and operate a project in the agriculture center or operational
2 area, even though the person may not have been identified at
3 the time that the improvement may be constructed.

4 "(22) To sell, exchange, donate, and convey any or
5 all of its properties whenever its board of directors finds
6 the action to be in furtherance of the purposes for which the
7 authority was organized.

8 "(23) To issue its bonds for the purpose of carrying
9 out any of its powers and to apply proceeds from the sale of
10 its bonds, whether heretofore or hereafter issued, not only
11 for payment of interest thereon prior to and during the
12 construction and equipment of any buildings, structures,
13 facilities, or other improvements being financed thereby, but
14 also for payment of interest thereon.

15 "(24) To mortgage and pledge any or all of its
16 properties both real and personal or any part or parts
17 thereof, as security for the payment of the principal of and
18 the interest on any bonds so issued and any agreements made in
19 connection therewith, whether then owned or thereafter
20 acquired, and to pledge the revenues and receipts therefrom or
21 from any thereof.

22 "(25) To enter into contracts, agreements, options,
23 leases, loan agreements, deeds, and other instruments, and to
24 take other actions as may be necessary or convenient to
25 accomplish any purpose for which an authority is organized or
26 to exercise any power expressly granted hereunder.

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

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

14 "(d) In exercising the powers enumerated in this
15 section, all mortgages, contracts, judgments, investments,
16 loans, debts, and other obligations of any sort of the
17 authority due to any third party shall be recovered and
18 enforced only against the authority unless the county
19 commission approving the formation of the authority
20 specifically agrees to accept the obligation by a separate
21 affirmative vote of a majority of the members of the county
22 commission.

23 "§11-20-80.

24 "An agriculture authority and all property in which
25 it may have any ownership, leasehold, or other interest,
26 direct or indirect, is exempt from all municipal planning

1 boards and municipal planning board requirements and all
2 municipal zoning ordinances and laws.

3 "§11-20-81.

4 "(a) An agriculture authority, as a governmental
5 entity, is exempt from the payment of all state, county, and
6 municipal sales and use taxes as a governmental entity. An
7 agriculture authority and its contractors shall be granted a
8 certificate of exemption from sales and use taxes by the
9 Department of Revenue as provided in Sections 40-9-14.1 and
10 40-9-60, or other general law.

11 "(b) Any county or municipal sales and use tax
12 proceeds that are collected by an agriculture authority; a
13 joint venture of the authority, including a public/private
14 venture of the authority and a private entity or entities; or
15 a lessee of the authority or a joint venture of the authority,
16 and remitted to a local taxing authority shall be rebated by
17 that local taxing authority to the agriculture authority. For
18 an agriculture authority established pursuant to this article,
19 after May 1, 2022, the county commission, at the time of the
20 formation of the authority, may opt-out of the requirement to
21 rebate sales taxes collected by a private entity, joint
22 venture partner, or public-private partnership.

23 "(c) An agriculture authority is exempt from paying
24 all state, county, and local ad valorem taxes.

25 "(d) An agriculture authority is exempt from paying
26 any other taxes levied by a county, municipality, or other
27 political subdivision of the state, including, but not limited

1 to, license and excise taxes imposed relating to the privilege
2 of engaging in any activities that the authority may engage
3 in."

4 Section 2. This act shall become effective
5 immediately following its passage and approval by the
6 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..... 17-MAR-22

Read for the second time and placed on the calen-
dar 1 amendment..... 29-MAR-22

Read for the third time and passed as amended 30-MAR-22

Yeas 26
Nays 1

Patrick Harris,
Secretary.