

1 SB317
2 214524-6
3 By Senator Melson
4 RFD: Governmental Affairs
5 First Read: 17-MAR-22

1 SB317

2
3
4 ENROLLED, An Act,

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

22 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

23 Section 1. Sections 11-20-73, 11-20-80, and
24 11-20-81, Code of Alabama 1975, are amended to read as
25 follows:

1 "§11-20-73.

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

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

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

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

19 "(4) To plan for construction and development of an
20 agriculture center within the operational area of the
21 agriculture authority on property owned by the authority.
22 Construction and development may include, without limitation,
23 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.

1 "(6) To accept or receive gifts, bequests, and
2 devises.

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

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

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

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

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

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

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

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

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

8 "(16) To plan for programs and exhibits in the
9 agriculture center for the advancement of agricultural and
10 workforce development interests in the county.

11 "(17) To enter into long-term contracts or
12 agreements for sewer service with any Class 5 municipality
13 within three miles of the authority or a utility board of the
14 Class 5 municipality.

15 "(18) To accept lease payments, loan repayments, or
16 other compensation to or for the authority or other public
17 person.

18 "(19) To invest in bank deposits, U.S. Treasury
19 bills, projects, instruments, real, personal, or mixed
20 property, or any other investments as the board of directors
21 of the authority may from time to time determine to be
22 appropriate and convenient to accomplish any purpose for which
23 an agriculture authority is organized, including works of
24 internal improvement, interests in private or corporate
25 enterprises, loans of money or credit to individuals,

1 associations, or corporations; to lend the authority's credit,
2 grant public money or things of value in aid of or to any
3 individual, association, or corporation whatsoever, or become
4 a stockholder in any such corporation, association, or company
5 by issuing bonds or otherwise even though they might be in
6 violation of Section 93 or Section 94 of the Constitution of
7 Alabama of 1901 if done by the state, a county, city, town, or
8 other subdivision of the state, notwithstanding the fact that
9 any such investment or action may involve the expenditure or
10 appropriation of funds received from a public person. In
11 particular, but not by way of limitation, an authority may
12 invest its funds, from whatever source, in the stock, bonds,
13 debentures, notes, or other securities issued by any person
14 locating a project in the authority's operational area and may
15 enter into contracts or options, including contracts or
16 options for the conveyance, sale, or lease of property, to any
17 such person and make direct grants of money, property, or
18 services for the purpose of inducing the person to locate a
19 project in the authority's operational area.

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

22 "(21) To acquire real property for the purpose of
23 establishing one or more agriculture centers; to improve
24 agriculture center sites, whether owned by the authority or by
25 any other person, including the improvement of the centers or

1 sites by the construction of roads, curbing, gutters,
2 drainage, sewerage, utilities, railroad spurs, docks, harbors,
3 ports, grading, and the like; to construct, for its own
4 account or the account of others, improvements thereon,
5 including any project, for the purpose of conveying, leasing,
6 or selling the same to any person, including the power to
7 convey, lease, or sell the same for its own account or to
8 construct the same as an inducement for any person to locate
9 and operate a project in the agriculture center or operational
10 area, even though the person may not have been identified at
11 the time that the improvement may be constructed.

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

16 "(23) To issue its bonds for the purpose of carrying
17 out any of its powers and to apply proceeds from the sale of
18 its bonds, whether heretofore or hereafter issued, not only
19 for payment of interest thereon prior to and during the
20 construction and equipment of any buildings, structures,
21 facilities, or other improvements being financed thereby, but
22 also for payment of interest thereon.

23 "(24) To mortgage and pledge any or all of its
24 properties both real and personal or any part or parts
25 thereof, as security for the payment of the principal of and

1 the interest on any bonds so issued and any agreements made in
2 connection therewith, whether then owned or thereafter
3 acquired, and to pledge the revenues and receipts therefrom or
4 from any thereof.

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

10 "(b) Contracts of an agriculture authority shall be
11 executed in the name of the authority by the chair and
12 attested by the secretary of the authority. The board may
13 provide by resolution for a different form for the execution
14 of a contract by an officer or agent other than the chair and
15 secretary. A contract, irrespective of its form and of the
16 persons executing the contract, shall not be binding unless
17 the contract is authorized or ratified by the board.

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

23 "(d) In exercising the powers enumerated in this
24 section, all mortgages, contracts, judgments, investments,
25 loans, debts, and other obligations of any sort of the

1 authority due to any third party shall be recovered and
2 enforced only against the authority unless the county
3 commission approving the formation of the authority
4 specifically agrees to accept the obligation by a separate
5 affirmative vote of a majority of the members of the county
6 commission.

7 "§11-20-80.

8 "An agriculture authority and all property in which
9 it may have any ownership, leasehold, or other interest,
10 direct or indirect, is exempt from all municipal planning
11 boards and municipal planning board requirements and all
12 municipal zoning ordinances and laws. This exemption shall not
13 apply to property owned by a private entity or private
14 entities in which an agriculture authority has no ownership,
15 leasehold, or other interest, direct or indirect.

16 "§11-20-81.

17 "(a) An agriculture authority, as a governmental
18 entity, is exempt from the payment of all state, county, and
19 municipal sales and use taxes as a governmental entity. An
20 agriculture authority and its contractors shall be granted a
21 certificate of exemption from sales and use taxes by the
22 Department of Revenue as provided in Sections 40-9-14.1 and
23 40-9-60, or other general law.

24 "(b) Any county or municipal sales and use tax
25 proceeds that are collected by an agriculture authority; a

1 joint venture of the authority, including a public/private
2 venture of the authority; or a lessee of the authority or a
3 joint venture of the authority, and remitted to a local taxing
4 authority shall be rebated by that local taxing authority to
5 the agriculture authority. For an agriculture authority
6 established pursuant to this article, after May 1, 2022, the
7 county commission, at the time of the formation of the
8 authority, may opt-out of the requirement to rebate sales
9 taxes collected by a private entity, joint venture partner, or
10 public-private partnership.

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

13 "(d) An agriculture authority is exempt from paying
14 any other taxes levied by a county, municipality, or other
15 political subdivision of the state, including, but not limited
16 to, license and excise taxes imposed relating to the privilege
17 of engaging in any activities that the authority may engage
18 in."

19 Section 2. This act shall become effective
20 immediately following its passage and approval by the
21 Governor, or its otherwise becoming law.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

President and Presiding Officer of the Senate

Speaker of the House of Representatives

SB317

Senate 30-MAR-22

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

Patrick Harris,
Secretary.

House of Representatives
Amended and passed 07-APR-22

Senate concurred in House amendment 07-APR-22

By: Senator Melson