

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

8 SYNOPSIS: Under existing law, a county may establish
9 an agriculture authority to construct and operate
10 facilities to promote agriculture businesses,
11 operations, commodities, workforce development, and
12 economic development in the county.

13 This bill would further provide for the
14 operation of the authorities. This bill would
15 specifically authorize an authority to sell
16 property in addition to leasing property of the
17 authority and would authorize the authority to
18 enter into long-term contracts for sewer services
19 with a neighboring municipality or a utility board
20 of the municipality.

21 This bill would also specify that the sales
22 and use tax exemption granted to the authority
23 would be granted to the authority as a governmental
24 entity and would further provide for the authority
25 to be exempt from local taxes.

27 A BILL

1 TO BE ENTITLED

2 AN ACT

3
4 Relating to agricultural authorities; to amend
5 Section 11-20-73, Code of Alabama 1975, to further provide for
6 the powers of the authority, including the power of the
7 authority to enter into agreements with private entities, the
8 power to sell its property to a person or governmental entity,
9 and the power to enter into long-term contracts or agreements
10 for sewer service with a neighboring municipality or a utility
11 board of the municipality; to amend Section 11-20-80, Code of
12 Alabama 1975, to exempt the authority from planning and zoning
13 requirements; and to amend Section 11-20-81, Code of Alabama
14 1975, to specify that the exemption of the authority from all
15 state, county, and municipal sales and use taxes is granted to
16 the authority as a governmental entity and that the authority
17 would be entitled to a certificate of exemption in order to
18 claim the sales and use tax exemptions on purchases and to
19 further provide for the authority to be exempt from local
20 taxes.

21 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

25 "§11-20-73.

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

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

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

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

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

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

26 "b. Buildings to house or accommodate public
27 facilities of the federal government, the state or any agency

1 of the state, the county, or one or more municipalities within
2 the county.

3 "c. Streets, boulevards, walkways, parkways, parks,
4 or other places of recreation.

5 "d. Monuments, statues, or other structures
6 beautifying the agriculture center.

7 "e. Community houses or meeting houses or
8 auditoriums.

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

10 "g. Music halls, art museums, art exhibits, or other
11 exhibits for the advancement of the humanities and cultural
12 development.

13 "h. Any other buildings, structures, facilities, and
14 other improvements that the board of directors of the
15 agriculture authority determines are appropriate or useful or
16 expedient to the authority's purposes from time to time. The
17 determination of the authority board of directors shall be
18 conclusive.

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

21 "(6) To accept or receive gifts, bequests, and
22 devises.

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

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

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

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

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

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

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

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

23 "(15) To enter into financing agreements with
24 federal or state agencies that may require the authority to
25 mortgage 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 "(17) To enter into long-term contracts or
5 agreements for sewer service with any Class 5 municipality
6 within three miles of the authority or a utility board of the
7 Class 5 municipality.

8 "(18) To accept lease payments, loan repayments, or
9 other compensation to or for the authority or other public
10 persons in lieu of sales, use, mortgage, lease, ad valorem, or
11 other taxes.

12 "(19) To invest in bank deposits, U.S. Treasury
13 bills, projects, instruments, real, personal, or mixed
14 property, or any other investments as the board of directors
15 of the authority may from time to time determine to be
16 appropriate and convenient to accomplish any purpose for which
17 an agriculture authority is organized, including works of
18 internal improvement, interests in private or corporate
19 enterprises, loans of money or credit to individuals,
20 associations, or corporations; to lend the authority's credit,
21 grant public money or things of value in aid of or to any
22 individual, association, or corporation whatsoever, or become
23 a stockholder in any such corporation, association, or company
24 by issuing bonds or otherwise even though they might be in
25 violation of Section 93 or Section 94 of the Constitution of
26 Alabama of 1901 if done by the state, a county, city, town, or
27 other subdivision of the state, notwithstanding the fact that

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

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

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

1 area, even though the person may not have been identified at
2 the time that the improvement may be constructed.

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

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

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

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

26 "(b) Contracts of an agriculture authority shall be
27 executed in the name of the authority by the chair and

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

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

12 "§11-20-80.

13 "An agriculture authority and all property in which
14 it may have any ownership, leasehold, or other interest,
15 direct or indirect, is exempt from all municipal and county
16 planning boards and municipal planning board requirements and
17 all municipal and county zoning ordinances and laws.

18 "§11-20-81.

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

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

1 joint venture of the authority, including a public/private
2 venture of the authority and a private entity or entities; or
3 a lessee of the authority or a joint venture of the authority,
4 and remitted to a local taxing authority shall be rebated by
5 that local taxing authority to the agriculture authority.

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

8 "(d) An agriculture authority or any joint venture
9 of which the authority is a member is exempt from paying any
10 other taxes levied by a county, municipality, or other
11 political subdivision of the state, including, but not limited
12 to, license and excise taxes imposed relating to the privilege
13 of engaging in any activities that the authority may engage
14 in."

15 Section 2. This act shall become effective
16 immediately following its passage and approval by the
17 Governor, or its otherwise becoming law.