

**SB275 ENROLLED**



1 SB275  
2 41MA3RR-3  
3 By Senators Melson, Sessions  
4 RFD: Agriculture, Conservation, and Forestry  
5 First Read: 02-Apr-24



## SB275 Enrolled

1 Enrolled, An Act,

2 To amend Section 11-20-70 and Section 11-20-73, last  
3 amended by Act 2023-232, 2023 Regular Session, Code of Alabama  
4 1975, relating to agriculture authorities organized by a  
5 county under Section 11-20-70 of the Code of Alabama 1975, to  
6 further specify the power of an authority to develop  
7 commercial facilities and to use the revenue generated to  
8 support the authority's mission.

9 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

10 Section 1. Section 11-20-70 and Section 11-20-73, last  
11 amended by Act 2023-232, 2023 Regular Session, Code of Alabama  
12 1975, are amended to read as follows:

13 "§11-20-70

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

23 (b) Any number of natural persons who are residents and  
24 qualified electors in the county may file an application in  
25 writing with the county commission for authority to  
26 incorporate and organize an agriculture authority. If the  
27 application is approved, the county commission shall adopt a  
28 resolution declaring it to be wise, expedient, and beneficial



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29 to the county that the agriculture authority be formed and  
30 that the persons filing the application are authorized to form  
31 the authority. An agriculture authority may not be formed  
32 under this article unless the application is approved by the  
33 county commission and the resolution required herein is  
34 adopted.

35 (c) Once the county commission has approved the  
36 application as provided in subsection (b), the persons seeking  
37 incorporation of an agriculture authority shall file articles  
38 of incorporation with the office of the judge of probate that  
39 do all of the following:

40 (1) Contain a statement that the incorporators propose  
41 to incorporate an agriculture authority pursuant to this  
42 article.

43 (2) ~~State~~State the authorized operational area of the  
44 proposed authority within the county.

45 (3) State that the county commission has approved the  
46 application for an agriculture authority and has adopted a  
47 resolution declaring that it is expedient that the proposed  
48 authority be formed by approving the written application.

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

51 (1) A designation of the authorized operational area of  
52 the authority which shall be considered an agriculture center,  
53 including the name of each municipality within the authorized  
54 operational area, which may not extend beyond the boundaries  
55 of the county in which the authority is incorporated.

56 (2) The names of the incorporators of the authority and



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57 a statement that each is qualified to incorporate the  
58 authority.

59 (3) The name of the authority, which must include the  
60 words "Agriculture Authority" or "Agriculture Center  
61 Authority" and be reasonably descriptive of the operational  
62 area of the authority.

63 (4) The period of the authority, which may be  
64 perpetual.

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

67 (6) A statement that the authority is organized  
68 pursuant to this article.

69 (7) If the exercise by the authority of any of its  
70 powers is to be in any way prohibited, limited, or  
71 conditioned, a statement of the terms of the prohibition,  
72 limitation, or condition.

73 (8) The number of directors, which may not exceed  
74 seven, and the duration of their respective terms of office,  
75 which may not exceed six years.

76 (9) The manner of appointing directors, which shall be  
77 a combination of appointment by the county commission and  
78 appointment by the legislative delegation for the authorized  
79 operational area of the authority; provided, however, a  
80 majority of the directors must be appointed by the legislative  
81 delegation.

82 (10) Any provision not inconsistent with this article  
83 relating to the dissolution of the authority.

84 (11) Any other matters relating to the authority that



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85 the incorporators may choose to insert and that are not  
86 inconsistent with this article or with state law.

87 (e) The articles shall be signed by each of the  
88 incorporators.

89 (f) Upon the filing for record of the articles with the  
90 office of the judge of probate, the authority shall come into  
91 existence and shall constitute a public corporation under the  
92 name set forth in its articles of incorporation. The  
93 acceptance of articles for recording by the judge of probate  
94 shall be conclusive evidence of the due, legal, and valid  
95 incorporation of the agriculture authority in all courts. The  
96 judge of probate shall record the articles in an appropriate  
97 book in his or her office. There shall be no filing fee or  
98 recording taxes due or payable on account of the filing for  
99 record of the articles.

100 (g) Notwithstanding any other provision of this  
101 article, the articles of incorporation or legal existence of  
102 an agriculture authority shall not be deemed invalid for the  
103 sole reason that the articles of incorporation of the  
104 authority fail to specify an authorized operational area, and  
105 every agriculture authority whose articles of incorporation  
106 fail to specify an authorized operational area, but are  
107 otherwise formed in accordance with this article, may do all  
108 things contemplated by this article as if the agriculture  
109 authority had designated as its authorized operational area  
110 the county of incorporation."

111 "§11-20-73

112 (a) An agriculture authority shall have the following



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113 powers, which it may exercise in the agriculture authority's  
114 authorized operational area:

115 (1) To have succession by its corporate name until  
116 dissolved as provided in this article.

117 (2) To adopt bylaws making provisions for its actions  
118 not inconsistent with this article.

119 (3) To institute and defend legal proceedings in any  
120 court of competent jurisdiction and proper venue; provided,  
121 however, that the board may not be sued in any trial court  
122 other than the courts of the county of incorporation;  
123 provided, further, that the officers, directors, agents, and  
124 employees of an agriculture authority may not be sued for  
125 their actions on behalf of the authority except for actions  
126 that are unreasonable or known by the person to be unlawful or  
127 are performed with reckless disregard for the lawfulness of  
128 such actions.

129 (4) To plan for construction and development of an  
130 agriculture center within the operational area of the  
131 agriculture authority on property owned by the authority.  
132 Construction and development may include, without limitation,  
133 any or all of the following:

134 a. Buildings to hold offices for use by the federal  
135 government, the state or any agency of the state, the county,  
136 or one or more municipalities within the county.

137 b. Buildings to house or accommodate public facilities  
138 of the federal government, the state or any agency of the  
139 state, the county, or one or more municipalities within the  
140 county.



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141 c. Streets, boulevards, walkways, parkways, parks, or  
142 other places of recreation.

143 d. Monuments, statues, or other structures beautifying  
144 the agriculture center.

145 e. Community houses, meeting houses, or auditoriums.

146 f. Arenas, convention halls, sports facilities,  
147 stadiums, hotels or other facilities for use as a transient  
148 guest housing facility, multifamily housing, dormitory  
149 housing, food courts or other food venue facilities, any  
150 facilities that provide for or support any public or private  
151 educational institution, and any other facilities related to  
152 or incidental to the foregoing.

153 g. Music halls, art museums, art exhibits, or other  
154 exhibits for the advancement of the humanities and cultural  
155 development.

156 h. Any other buildings, structures, facilities, and  
157 other improvements that the board of directors of the  
158 agriculture authority determines are appropriate, useful, or  
159 expedient to the authority's purposes from time to time. The  
160 determination of the authority board of directors shall be  
161 conclusive.

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

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

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

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



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169           (9) To hire professionals and enter into contracts for  
170 their services in designing and supervising the construction  
171 of any building, agriculture center, auditorium, arena,  
172 convention hall, music hall, art museum, place of recreation,  
173 art exhibit, office building, or other structure that it  
174 desires to construct.

175           (10) To make and enter into contracts and to execute  
176 all instruments necessary or convenient to lease or purchase  
177 and own real or personal property to be used for the  
178 furtherance of the purposes for the accomplishment of which  
179 the authority is created.

180           (11) To plan for programs and exhibits in the  
181 agriculture center for the advancement of the agricultural,  
182 cultural, and workforce development interests of the citizens  
183 of the county and of the municipalities thereof.

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

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

189           (14) To sell and lease its property to any person or  
190 governmental entity.

191           (15) To enter into financing agreements with federal or  
192 state agencies that may require the authority to mortgage its  
193 property.

194           (16) To plan for programs and exhibits in the  
195 agriculture center for the advancement of agricultural and  
196 workforce development interests in the county.





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197           (17) To enter into long-term contracts or agreements  
198 for sewer service with any Class 5 municipality within three  
199 miles of the authority or a utility board of the Class 5  
200 municipality.

201           (18) To accept lease payments, loan repayments, or  
202 other compensation to or for the authority or other public  
203 person.

204           (19) To invest in bank deposits, U.S. Treasury bills,  
205 projects, instruments, real, personal, or mixed property, or  
206 any other investments as the board of directors of the  
207 authority may from time to time determine to be appropriate  
208 and convenient to accomplish any purpose for which an  
209 agriculture authority is organized, including works of  
210 internal improvement, interests in private or corporate  
211 enterprises, loans of money or credit to individuals,  
212 associations, or corporations; and to lend the authority's  
213 credit, grant public money or things of value in aid of or to  
214 any individual, association, or corporation whatsoever, or  
215 become a stockholder in any such corporation, association, or  
216 company by issuing bonds or otherwise even though they may be  
217 in violation of Section 93 or Section 94 of the Constitution  
218 of Alabama of 2022, if done by the state, a county, city,  
219 town, or other subdivision of the state, notwithstanding the  
220 fact that any such investment or action may involve the  
221 expenditure or appropriation of funds received from a public  
222 person. In particular, but not by way of limitation, an  
223 authority may invest its funds, from whatever source, in the  
224 stock, bonds, debentures, notes, or other securities issued by



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225 any person locating a project in the authority's operational  
226 area and may enter into contracts or options, including  
227 contracts or options for the conveyance, sale, or lease of  
228 property, to any such person and make direct grants of money,  
229 property, or services for the purpose of inducing the person  
230 to locate a project in the authority's operational area.

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

233 (21) To acquire real property for the purpose of  
234 establishing one or more agriculture centers; to improve  
235 agriculture center sites, whether owned by the authority or by  
236 any other person, including the improvement of the centers or  
237 sites by the construction of roads, curbing, gutters,  
238 drainage, sewerage, utilities, railroad spurs, docks, harbors,  
239 ports, grading, and the like; to construct, for its own  
240 account or the account of others, improvements thereon,  
241 including any project, for the purpose of conveying, leasing,  
242 or selling the same to any person, including the power to  
243 convey, lease, or sell the same for its own account or to  
244 construct the same as an inducement for any person to locate  
245 and operate a project in the agriculture center or operational  
246 area, even though the person may not have been identified at  
247 the time that the improvement may be constructed.

248 (22) To sell, exchange, donate, and convey any or all  
249 of its properties whenever its board of directors finds the  
250 action to be in furtherance of the purposes for which the  
251 authority was organized.

252 (23) To issue its bonds for the purpose of carrying out



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253 any of its powers and to apply proceeds from the sale of its  
254 bonds, whether heretofore or hereafter issued, not only for  
255 payment of interest thereon prior to and during the  
256 construction and equipment of any buildings, structures,  
257 facilities, or other improvements being financed thereby, but  
258 also for payment of interest thereon.

259 (24) To mortgage and pledge any or all of its  
260 properties both real and personal or any part or parts  
261 thereof, as security for the payment of the principal of and  
262 the interest on any bonds so issued and any agreements made in  
263 connection therewith, whether then owned or thereafter  
264 acquired, and to pledge the revenues and receipts therefrom or  
265 from any thereof.

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

271 (26) To enter into contracts, agreements, leases, or  
272 other instruments, either independently or through another  
273 entity, to design, develop, construct, own, or operate any  
274 commercial facility, to acquire lands or other assets for the  
275 facility, to raise revenue from the operation of the facility,  
276 and to use any revenue from the operation of any facility to  
277 fund projects and operations in support of the authority's  
278 mission, including the payment of any expenses and debt of the  
279 authority. The power provided in this subdivision shall  
280 include the power to make advance payments to third parties



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281 for services.

282 (b) Contracts of an agriculture authority shall be  
283 executed in the name of the authority by the chair and  
284 attested by the secretary of the authority. The board may  
285 provide by resolution for a different form for the execution  
286 of a contract by an officer or agent other than the chair and  
287 secretary. A contract, irrespective of its form and of the  
288 persons executing the contract, shall not be binding unless  
289 the contract is authorized or ratified by the board.

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

295 (d) In exercising the powers enumerated in this  
296 section, all mortgages, contracts, judgments, investments,  
297 loans, debts, and other obligations of any sort of the  
298 authority due to any third party shall be recovered and  
299 enforced only against the authority unless the county  
300 commission approving the formation of the authority  
301 specifically agrees to accept the obligation by a separate  
302 affirmative vote of a majority of the members of the county  
303 commission.

304 (e) In addition to all other powers at any time  
305 conferred on it by this section or otherwise by law, an  
306 authority shall have the following powers together with all  
307 powers incidental thereto or necessary to the discharge  
308 thereof in corporate form:



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309 (1) To participate: As a shareholder in a corporation;  
310 as a joint venturer in a joint venture, whether the joint  
311 venture is to be memorialized contractually or through the  
312 formation of one or more separate business entities; as a  
313 general or limited partner in a limited partnership or a  
314 general partnership; as a member in a nonprofit corporation or  
315 limited liability company; or as a member of any other lawful  
316 form of business organization, that may be involved in the  
317 development or operational activities of any buildings,  
318 structures, facilities, and other improvements that the board  
319 of directors of the authority determines are appropriate,  
320 useful, or expedient to the authority's purposes. In  
321 connection with the foregoing, an authority may elect or  
322 appoint an individual or individuals to a governing body and  
323 enter into contracts or other agreements with other parties  
324 for the development, operation, design, marketing,  
325 maintenance, and use of any facilities upon the terms as the  
326 board of directors of the authority determines are  
327 appropriate, useful, or expedient to the authority's purposes.  
328 Any determination by the authority shall be conclusive.

329 (2) To make or arrange for loans, contributions to  
330 capital, and other debt and equity financing for the  
331 activities of any corporation of which the authority is a  
332 shareholder; any joint venture in which the authority is a  
333 joint venture; any limited partnership or general partnership  
334 of which the authority is a general or limited partnership;  
335 any nonprofit corporation in which the authority is a member  
336 of any other lawful form of business organization of which the



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337 authority is a member; and to guarantee loans, issue bonds, or  
338 incur other forms of indebtedness on behalf of the  
339 corporation, joint venture, partnership, nonprofit  
340 corporation, or other business entity, for such purposes. An  
341 authority may loan funds that include seller financing  
342 arrangements whereby the authority is a seller to other  
343 governmental entities or other business entities whether for  
344 profit or nonprofit and whether affiliated or non-affiliated  
345 with the authority, upon the terms as the authority shall  
346 determine appropriate, useful, or expedient for the  
347 authority's purposes and the determination by the authority  
348 shall be conclusive.

349 (3) To create, establish, acquire, operate, or support  
350 subsidiaries and affiliates, either for profit or nonprofit,  
351 to assist the authority in fulfilling its purposes.

352 (4) To create, establish, or support nonaffiliated for  
353 profit or nonprofit corporations or other lawful business  
354 organizations that operate and have as their purposes the  
355 furtherance of the authority's purposes.

356 (5) Without limiting the generality of the preceding  
357 subdivisions, to accomplish and facilitate the creation,  
358 establishment, acquisition, development, operation, or support  
359 of any subsidiary, affiliate, nonaffiliated corporation, or  
360 other lawful business organization by means of loans of funds,  
361 leases of real or personal property, gifts and grants of  
362 funds, or guarantees of indebtedness of the subsidiaries,  
363 affiliates, and non-affiliated corporations.

364 (6) In addition to any other authority to enter into



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365 contracts, to enter into contracts, agreements, or  
366 understandings with any other public and private parties  
367 including, but not limited to, the following:

368         a. Design-build, design-build-operate, design-build-  
369 own-operate, design-build-own-operate-maintain, design-build-  
370 finance-operate-maintain, or other similar arrangements or  
371 agreements pursuant to which the design, right-of-way  
372 acquisition, relocation of structures or utilities,  
373 construction, financing, ownership, management, maintenance,  
374 and operation, or any combination thereof of a project is  
375 accomplished by or on behalf of the authority.

376         b. Leases, licenses, franchises, concessions, or other  
377 agreements for the development, operation, management, or  
378 undertaking of all or any part of a project of or on behalf of  
379 the authority.

380         (7) Notwithstanding any provision of law to the  
381 contrary, proposals under this subsection may be evaluated and  
382 awarded by the authority based on qualifications of  
383 participants or best value, or both, as evaluated by  
384 procedures of the authority and taking into consideration the  
385 best interests of the authority. Evaluation criteria for a  
386 contract procured pursuant to the preceding sentence shall be  
387 set forth in the request for proposal for the contract. The  
388 contract may also be awarded through any existing procurement  
389 authority, proposals, or other means of procurement otherwise  
390 available to the authority."

391         Section 2. This act shall become effective on June 1,  
392 2024.



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President and Presiding Officer of the Senate

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Speaker of the House of Representatives

SB275  
Senate 09-Apr-24  
I hereby certify that the within Act originated in and passed  
the Senate, as amended.

Patrick Harris,  
Secretary.

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House of Representatives  
Passed: 25-Apr-24

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By: Senator Melson