

**SB275 INTRODUCED**



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



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SYNOPSIS:

Under existing law, a county may establish an authority pursuant to Title 11, Code of Alabama 1975, for the purposes of promoting agricultural businesses, operations, and commodities, workforce development, and economic development within the county.

This bill would specify that an authority in addition to any other legal authority may develop commercial facilities and use the revenue from the operation of the facilities to support the authority's mission.

A BILL  
TO BE ENTITLED  
AN ACT

To amend Section 11-20-73, last amended by Act 2023-232, 2023 Regular Session, Code of Alabama 1975, relating to agriculture authorities organized by a county under Section 11-20-70 of the Code of Alabama 1975, to further specify the power of an authority to develop commercial facilities and to use the revenue generated to support the authority's mission.  
BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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



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29           "§11-20-73

30           (a) An agriculture authority shall have the following  
31 powers, which it may exercise in the agriculture authority's  
32 authorized operational area:

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

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

37           (3) To institute and defend legal proceedings in any  
38 court of competent jurisdiction and proper venue; provided,  
39 however, that the board may not be sued in any trial court  
40 other than the courts of the county of incorporation;  
41 provided, further, that the officers, directors, agents, and  
42 employees of an agriculture authority may not be sued for  
43 their actions on behalf of the authority except for actions  
44 that are unreasonable or known by the person to be unlawful or  
45 are performed with reckless disregard for the lawfulness of  
46 such actions.

47           (4) To plan for construction and development of an  
48 agriculture center within the operational area of the  
49 agriculture authority on property owned by the authority.  
50 Construction and development may include, without limitation,  
51 any or all of the following:

52           a. Buildings to hold offices for use by the federal  
53 government, the state or any agency of the state, the county,  
54 or one or more municipalities within the county.

55           b. Buildings to house or accommodate public facilities  
56 of the federal government, the state or any agency of the



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57 state, the county, or one or more municipalities within the  
58 county.

59 c. Streets, boulevards, walkways, parkways, parks, or  
60 other places of recreation.

61 d. Monuments, statues, or other structures beautifying  
62 the agriculture center.

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

64 f. Arenas, convention halls, sports facilities,  
65 stadiums, hotels or other facilities for use as a transient  
66 guest housing facility, multifamily housing, dormitory  
67 housing, food courts or other food venue facilities, any  
68 facilities that provide for or support any public or private  
69 educational institution, and any other facilities related to  
70 or incidental to the foregoing.

71 g. Music halls, art museums, art exhibits, or other  
72 exhibits for the advancement of the humanities and cultural  
73 development.

74 h. Any other buildings, structures, facilities, and  
75 other improvements that the board of directors of the  
76 agriculture authority determines are appropriate, useful, or  
77 expedient to the authority's purposes from time to time. The  
78 determination of the authority board of directors shall be  
79 conclusive.

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

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

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



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

87           (9) To hire professionals and enter into contracts for  
88 their services in designing and supervising the construction  
89 of any building, agriculture center, auditorium, arena,  
90 convention hall, music hall, art museum, place of recreation,  
91 art exhibit, office building, or other structure that it  
92 desires to construct.

93           (10) To make and enter into contracts and to execute  
94 all instruments necessary or convenient to lease or purchase  
95 and own real or personal property to be used for the  
96 furtherance of the purposes for the accomplishment of which  
97 the authority is created.

98           (11) To plan for programs and exhibits in the  
99 agriculture center for the advancement of the agricultural,  
100 cultural, and workforce development interests of the citizens  
101 of the county and of the municipalities thereof.

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

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

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

109           (15) To enter into financing agreements with federal or  
110 state agencies that may require the authority to mortgage its  
111 property.

112           (16) To plan for programs and exhibits in the



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113 agriculture center for the advancement of agricultural and  
114 workforce development interests in the county.

115 (17) To enter into long-term contracts or agreements  
116 for sewer service with any Class 5 municipality within three  
117 miles of the authority or a utility board of the Class 5  
118 municipality.

119 (18) To accept lease payments, loan repayments, or  
120 other compensation to or for the authority or other public  
121 person.

122 (19) To invest in bank deposits, U.S. Treasury bills,  
123 projects, instruments, real, personal, or mixed property, or  
124 any other investments as the board of directors of the  
125 authority may from time to time determine to be appropriate  
126 and convenient to accomplish any purpose for which an  
127 agriculture authority is organized, including works of  
128 internal improvement, interests in private or corporate  
129 enterprises, loans of money or credit to individuals,  
130 associations, or corporations; and to lend the authority's  
131 credit, grant public money or things of value in aid of or to  
132 any individual, association, or corporation whatsoever, or  
133 become a stockholder in any such corporation, association, or  
134 company by issuing bonds or otherwise even though they may be  
135 in violation of Section 93 or Section 94 of the Constitution  
136 of Alabama of 2022, if done by the state, a county, city,  
137 town, or other subdivision of the state, notwithstanding the  
138 fact that any such investment or action may involve the  
139 expenditure or appropriation of funds received from a public  
140 person. In particular, but not by way of limitation, an





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169 authority was organized.

170 (23) To issue its bonds for the purpose of carrying out  
171 any of its powers and to apply proceeds from the sale of its  
172 bonds, whether heretofore or hereafter issued, not only for  
173 payment of interest thereon prior to and during the  
174 construction and equipment of any buildings, structures,  
175 facilities, or other improvements being financed thereby, but  
176 also for payment of interest thereon.

177 (24) To mortgage and pledge any or all of its  
178 properties both real and personal or any part or parts  
179 thereof, as security for the payment of the principal of and  
180 the interest on any bonds so issued and any agreements made in  
181 connection therewith, whether then owned or thereafter  
182 acquired, and to pledge the revenues and receipts therefrom or  
183 from any thereof.

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

189 (26) To enter into contracts, agreements, leases, or  
190 other instruments, either independently or through another  
191 entity, to design, develop, construct, own, or operate any  
192 commercial facility and to use any revenue from the operation  
193 of the facility to fund projects and operations in support of  
194 the authority's mission, including the payment of any debt of  
195 the authority. The power provided in this subdivision shall  
196 include the power to make advance payments to third parties





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197 for services related to the development of the facility.

198 (b) Contracts of an agriculture authority shall be  
199 executed in the name of the authority by the chair and  
200 attested by the secretary of the authority. The board may  
201 provide by resolution for a different form for the execution  
202 of a contract by an officer or agent other than the chair and  
203 secretary. A contract, irrespective of its form and of the  
204 persons executing the contract, shall not be binding unless  
205 the contract is authorized or ratified by the board.

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

211 (d) In exercising the powers enumerated in this  
212 section, all mortgages, contracts, judgments, investments,  
213 loans, debts, and other obligations of any sort of the  
214 authority due to any third party shall be recovered and  
215 enforced only against the authority unless the county  
216 commission approving the formation of the authority  
217 specifically agrees to accept the obligation by a separate  
218 affirmative vote of a majority of the members of the county  
219 commission.

220 (e) In addition to all other powers at any time  
221 conferred on it by this section or otherwise by law, an  
222 authority shall have the following powers together with all  
223 powers incidental thereto or necessary to the discharge  
224 thereof in corporate form:



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225           (1) To participate: As a shareholder in a corporation;  
226 as a joint venturer in a joint venture, whether the joint  
227 venture is to be memorialized contractually or through the  
228 formation of one or more separate business entities; as a  
229 general or limited partner in a limited partnership or a  
230 general partnership; as a member in a nonprofit corporation or  
231 limited liability company; or as a member of any other lawful  
232 form of business organization, that may be involved in the  
233 development or operational activities of any buildings,  
234 structures, facilities, and other improvements that the board  
235 of directors of the authority determines are appropriate,  
236 useful, or expedient to the authority's purposes. In  
237 connection with the foregoing, an authority may elect or  
238 appoint an individual or individuals to a governing body and  
239 enter into contracts or other agreements with other parties  
240 for the development, operation, design, marketing,  
241 maintenance, and use of any facilities upon the terms as the  
242 board of directors of the authority determines are  
243 appropriate, useful, or expedient to the authority's purposes.  
244 Any determination by the authority shall be conclusive.

245           (2) To make or arrange for loans, contributions to  
246 capital, and other debt and equity financing for the  
247 activities of any corporation of which the authority is a  
248 shareholder; any joint venture in which the authority is a  
249 joint venture; any limited partnership or general partnership  
250 of which the authority is a general or limited partnership;  
251 any nonprofit corporation in which the authority is a member  
252 of any other lawful form of business organization of which the



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253 authority is a member; and to guarantee loans, issue bonds, or  
254 incur other forms of indebtedness on behalf of the  
255 corporation, joint venture, partnership, nonprofit  
256 corporation, or other business entity, for such purposes. An  
257 authority may loan funds that include seller financing  
258 arrangements whereby the authority is a seller to other  
259 governmental entities or other business entities whether for  
260 profit or nonprofit and whether affiliated or non-affiliated  
261 with the authority, upon the terms as the authority shall  
262 determine appropriate, useful, or expedient for the  
263 authority's purposes and the determination by the authority  
264 shall be conclusive.

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

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

272 (5) Without limiting the generality of the preceding  
273 subdivisions, to accomplish and facilitate the creation,  
274 establishment, acquisition, development, operation, or support  
275 of any subsidiary, affiliate, nonaffiliated corporation, or  
276 other lawful business organization by means of loans of funds,  
277 leases of real or personal property, gifts and grants of  
278 funds, or guarantees of indebtedness of the subsidiaries,  
279 affiliates, and non-affiliated corporations.

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



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281 contracts, to enter into contracts, agreements, or  
282 understandings with any other public and private parties  
283 including, but not limited to, the following:

284 a. Design-build, design-build-operate, design-build-  
285 own-operate, design-build-own-operate-maintain, design-build-  
286 finance-operate-maintain, or other similar arrangements or  
287 agreements pursuant to which the design, right-of-way  
288 acquisition, relocation of structures or utilities,  
289 construction, financing, ownership, management, maintenance,  
290 and operation, or any combination thereof of a project is  
291 accomplished by or on behalf of the authority.

292 b. Leases, licenses, franchises, concessions, or other  
293 agreements for the development, operation, management, or  
294 undertaking of all or any part of a project of or on behalf of  
295 the authority.

296 (7) Notwithstanding any provision of law to the  
297 contrary, proposals under this subsection may be evaluated and  
298 awarded by the authority based on qualifications of  
299 participants or best value, or both, as evaluated by  
300 procedures of the authority and taking into consideration the  
301 best interests of the authority. Evaluation criteria for a  
302 contract procured pursuant to the preceding sentence shall be  
303 set forth in the request for proposal for the contract. The  
304 contract may also be awarded through any existing procurement  
305 authority, proposals, or other means of procurement otherwise  
306 available to the authority."

307 Section 2. This act shall become effective on June 1,  
308 2024.