

**SB194 ENGROSSED**



1 SB194

2 DG2P1NT-2

3 By Senator Melson

4 RFD: Agriculture, Conservation, and Forestry

5 First Read: 25-Feb-25



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A BILL  
TO BE ENTITLED  
AN ACT

Relating to agriculture authorities; to amend Section 11-20-73, as last amended by Act 2024-236, 2024 Regular Session, Code of Alabama 1975, to authorize authorities to terminate or move easements on authority property via eminent domain.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Section 11-20-73, as last amended by Act 2024-236, 2024 Regular Session, and Section 11-20-80, Code of Alabama 1975, is amended to read as follows:

"§11-20-73

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

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

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

(3) To institute and defend legal proceedings in any court of competent jurisdiction and proper venue; provided, however, that the board may not be sued in any trial court



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29 other than the courts of the county of incorporation;  
30 provided, further, that the officers, directors, agents, and  
31 employees of an agriculture authority may not be sued for  
32 their actions on behalf of the authority except for actions  
33 that are unreasonable or known by the person to be unlawful or  
34 are performed with reckless disregard for the lawfulness of  
35 such actions.

36 (4) To plan for construction and development of an  
37 agriculture center within the operational area of the  
38 agriculture authority on property owned by the authority.  
39 Construction and development may include, without limitation,  
40 any or all of the following:

41 a. Buildings to hold offices for use by the federal  
42 government, the state or any agency of the state, the county,  
43 or one or more municipalities within the county.

44 b. Buildings to house or accommodate public facilities  
45 of the federal government, the state or any agency of the  
46 state, the county, or one or more municipalities within the  
47 county.

48 c. Streets, boulevards, walkways, parkways, parks, or  
49 other places of recreation.

50 d. Monuments, statues, or other structures beautifying  
51 the agriculture center.

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

53 f. Arenas, convention halls, sports facilities,  
54 stadiums, hotels or other facilities for use as a transient  
55 guest housing facility, multifamily housing, dormitory  
56 housing, food courts or other food venue facilities, any



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57 facilities that provide for or support any public or private  
58 educational institution, and any other facilities related to  
59 or incidental to the foregoing.

60 g. Music halls, art museums, art exhibits, or other  
61 exhibits for the advancement of the humanities and cultural  
62 development.

63 h. Any other buildings, structures, facilities, and  
64 other improvements that the board of directors of the  
65 agriculture authority determines are appropriate, useful, or  
66 expedient to the authority's purposes from time to time. The  
67 determination of the authority board of directors shall be  
68 conclusive.

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

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

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

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

76 (9) To hire professionals and enter into contracts for  
77 their services in designing and supervising the construction  
78 of any building, agriculture center, auditorium, arena,  
79 convention hall, music hall, art museum, place of recreation,  
80 art exhibit, office building, or other structure that it  
81 desires to construct.

82 (10) To make and enter into contracts and to execute  
83 all instruments necessary or convenient to lease or purchase  
84 and own real or personal property to be used for the



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85 furtherance of the purposes for the accomplishment of which  
86 the authority is created.

87 (11) To plan for programs and exhibits in the  
88 agriculture center for the advancement of the agricultural,  
89 cultural, and workforce development interests of the citizens  
90 of the county and of the municipalities thereof.

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

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

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

98 (15) To enter into financing agreements with federal or  
99 state agencies that may require the authority to mortgage its  
100 property.

101 (16) To plan for programs and exhibits in the  
102 agriculture center for the advancement of agricultural and  
103 workforce development interests in the county.

104 (17) To enter into long-term contracts or agreements  
105 for sewer service with any Class 5 municipality within three  
106 miles of the authority or a utility board of the Class 5  
107 municipality.

108 (18) To accept lease payments, loan repayments, or  
109 other compensation to or for the authority or other public  
110 person.

111 (19) To invest in bank deposits, U.S. Treasury bills,  
112 projects, instruments, real, personal, or mixed property, or



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113 any other investments as the board of directors of the  
114 authority may from time to time determine to be appropriate  
115 and convenient to accomplish any purpose for which an  
116 agriculture authority is organized, including works of  
117 internal improvement, interests in private or corporate  
118 enterprises, loans of money or credit to individuals,  
119 associations, or corporations; and to lend the authority's  
120 credit, grant public money or things of value in aid of or to  
121 any individual, association, or corporation whatsoever, or  
122 become a stockholder in any such corporation, association, or  
123 company by issuing bonds or otherwise even though they may be  
124 in violation of Section 93 or Section 94 of the Constitution  
125 of Alabama of 2022, if done by the state, a county, city,  
126 town, or other subdivision of the state, notwithstanding the  
127 fact that any such investment or action may involve the  
128 expenditure or appropriation of funds received from a public  
129 person. In particular, but not by way of limitation, an  
130 authority may invest its funds, from whatever source, in the  
131 stock, bonds, debentures, notes, or other securities issued by  
132 any person locating a project in the authority's operational  
133 area and may enter into contracts or options, including  
134 contracts or options for the conveyance, sale, or lease of  
135 property, to the person and make direct grants of money,  
136 property, or services for the purpose of inducing the person  
137 to locate a project in the authority's operational area.

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

140 (21) To acquire real property for the purpose of



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141 establishing one or more agriculture centers; to improve  
142 agriculture center sites, whether owned by the authority or by  
143 any other person, including the improvement of the centers or  
144 sites by the construction of roads, curbing, gutters,  
145 drainage, sewerage, utilities, railroad spurs, docks, harbors,  
146 ports, grading, and the like; to construct, for its own  
147 account or the account of others, improvements thereon,  
148 including any project, for the purpose of conveying, leasing,  
149 or selling the same to any person, including the power to  
150 convey, lease, or sell the same for its own account or to  
151 construct the same as an inducement for any person to locate  
152 and operate a project in the agriculture center or operational  
153 area, even though the person may not have been identified at  
154 the time that the improvement may be constructed.

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

159 (23) To issue its bonds for the purpose of carrying out  
160 any of its powers and to apply proceeds from the sale of its  
161 bonds, whether heretofore or hereafter issued, not only for  
162 payment of interest thereon prior to and during the  
163 construction and equipment of any buildings, structures,  
164 facilities, or other improvements being financed thereby, but  
165 also for payment of interest thereon.

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



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169 the interest on any bonds so issued and any agreements made in  
170 connection therewith, whether then owned or thereafter  
171 acquired, and to pledge the revenues and receipts therefrom or  
172 from any thereof.

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

178 (26) To enter into contracts, agreements, leases, or  
179 other instruments, either independently or through another  
180 entity, to design, develop, construct, own, or operate any  
181 commercial facility, to acquire lands or other assets for the  
182 facility, to raise revenue from the operation of the facility,  
183 and to use any revenue from the operation of the facility to  
184 fund projects and operations in support of the authority's  
185 mission, including the payment of any expenses and debt of the  
186 authority. The power provided in this subdivision shall  
187 include the power to make advance payments to third parties  
188 for services.

189 (27)a. To terminate or relocate an easement on property  
190 owned by the authority using the same power of eminent domain  
191 as the state possesses, which shall be exercised in the same  
192 manner and under the same conditions as are provided by law  
193 for the exercise of the power of eminent domain by the state.

194 b. This subdivision shall not apply to any easement to  
195 which an electric utility has the right to enter upon.

196 (b) Contracts of an agriculture authority shall be





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

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

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

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

223 (1) To participate: As a shareholder in a corporation;  
224 as a joint venturer in a joint venture, whether the joint



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

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



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

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

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

270 (5) Without limiting the generality of subdivisions (1)  
271 through (4), to accomplish and facilitate the creation,  
272 establishment, acquisition, development, operation, or support  
273 of any subsidiary, affiliate, nonaffiliated corporation, or  
274 other lawful business organization by means of loans of funds,  
275 leases of real or personal property, gifts and grants of  
276 funds, or guarantees of indebtedness of the subsidiaries,  
277 affiliates, and non-affiliated corporations.

278 (6) In addition to any other authority to enter into  
279 contracts, to enter into contracts, agreements, or  
280 understandings with any other public and private parties



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281 including, but not limited to, the following:

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

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

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

305           "§11-20-81

306           (a) An agriculture authority, as a governmental entity,  
307 is exempt from the payment of all state, county, and municipal  
308 sales and use taxes. An agriculture authority and its



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309 contractors shall be granted a certificate of exemption from  
310 sales and use taxes by the Department of Revenue as provided  
311 in Sections 40-9-14.1 and 40-9-60, or other general law.

312 (b) (1) Any county or municipal sales and use tax  
313 proceeds that are collected by an agriculture authority; a  
314 joint venture of the authority, including a public/private  
315 venture of the authority; or a lessee of the authority or a  
316 joint venture of the authority, and remitted to a local taxing  
317 authority shall be rebated by that local taxing authority to  
318 the agriculture authority.

319 (2) For an agriculture authority established pursuant  
320 to this article, after May 1, 2022, the county commission, at  
321 the time of the formation of the authority, may opt-out of the  
322 requirement to rebate sales taxes collected by a private  
323 entity, joint venture partner, or public-private partnership.

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

326 (d) An agriculture authority is exempt from paying any  
327 other taxes levied by a county, municipality, or other  
328 political subdivision of the state, including, but not limited  
329 to, license and excise taxes imposed relating to the privilege  
330 of engaging in any activities that the authority may engage  
331 in.

332 (e) All state lodging taxes collected by an authority  
333 and remitted to the taxing authority shall be rebated by that  
334 taxing authority to the agriculture authority"

335 Section 2. This act shall become effective on October  
336 1, 2025.



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339 Senate

340 Read for the first time and referred .....25-Feb-25  
341 to the Senate committee on  
342 Agriculture, Conservation, and  
343 Forestry

344  
345 Read for the second time and placed .....27-Feb-25  
346 on the calendar:  
347 0 amendments

348  
349 Read for the third time and passed .....06-Mar-25  
350 as amended  
351 Yeas 28  
352 Nays 0  
353 Abstains 0

354  
355  
356 Patrick Harris,  
357 Secretary.  
358