

- 1 SB194
- 2 DG2P1NT-1
- 3 By Senator Melson
- 4 RFD: Agriculture, Conservation, and Forestry
- 5 First Read: 25-Feb-25



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4	SYNOPSIS:
5	Under existing law, an agriculture authority is
6	vested with certain powers, including powers relating
7	to real property.
8	This bill would authorize an agriculture
9	authority to terminate or move easements on authority
10	owned property using the power of eminent domain in the
11	same manner as the state.
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14	A BILL
15	TO BE ENTITLED
16	AN ACT
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18	Relating to agriculture authorities; to amend Section
19	11-20-73, as last amended by Act 2024-236, 2024 Regular
20	Session, Code of Alabama 1975, to authorize authorities to
21	terminate or move easements on authority property via eminent
22	domain.
23	BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:
24	Section 1. Section 11-20-73, as last amended by Act
25	2024-236, 2024 Regular Session, Code of Alabama 1975, is
26	amended to read as follows:
27	" §11-20-73
28	(a) An agriculture authority shall have the following



- powers, which it may exercise in the agriculture authority's authorized operational area:
- 31 (1) To have succession by its corporate name until dissolved as provided in this article.
- 33 (2) To adopt bylaws making provisions for its actions 34 not inconsistent with this article.
- 35 (3) To institute and defend legal proceedings in any 36 court of competent jurisdiction and proper venue; provided, 37 however, that the board may not be sued in any trial court other than the courts of the county of incorporation; 38 39 provided, further, that the officers, directors, agents, and employees of an agriculture authority may not be sued for 40 41 their actions on behalf of the authority except for actions 42 that are unreasonable or known by the person to be unlawful or 43 are performed with reckless disregard for the lawfulness of such actions. 44
 - (4) To plan for construction and development of an agriculture center within the operational area of the agriculture authority on property owned by the authority.

 Construction and development may include, without limitation, any or all of the following:

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- a. Buildings to hold offices for use by the federal government, the state or any agency of the state, the county, or one or more municipalities within the county.
- 53 b. Buildings to house or accommodate public facilities 54 of the federal government, the state or any agency of the 55 state, the county, or one or more municipalities within the 56 county.



- 57 c. Streets, boulevards, walkways, parkways, parks, or 58 other places of recreation.
- d. Monuments, statues, or other structures beautifying the agriculture center.
- e. Community houses, meeting houses, or auditoriums.
- f. Arenas, convention halls, sports facilities,

 stadiums, hotels or other facilities for use as a transient

 guest housing facility, multifamily housing, dormitory

 housing, food courts or other food venue facilities, any

 facilities that provide for or support any public or private

 educational institution, and any other facilities related to
- g. Music halls, art museums, art exhibits, or other
 exhibits for the advancement of the humanities and cultural
 development.

or incidental to the foregoing.

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- h. Any other buildings, structures, facilities, and
 other improvements that the board of directors of the
 agriculture authority determines are appropriate, useful, or
 expedient to the authority's purposes from time to time. The
 determination of the authority board of directors shall be
 conclusive.
- 78 (5) To acquire property and rights and interests in 79 property by gift, grant, lease, or purchase.
 - (6) To accept or receive gifts, bequests, and devises.
- 81 (7) To have and use a corporate seal and alter the seal 82 at its pleasure.
- 83 (8) To appoint officers, agents, employees, and 84 attorneys and to fix their compensation.



- (9) To hire professionals and enter into contracts for their services in designing and supervising the construction of any building, agriculture center, auditorium, arena, convention hall, music hall, art museum, place of recreation, art exhibit, office building, or other structure that it desires to construct.
- 91 (10) To make and enter into contracts and to execute 92 all instruments necessary or convenient to lease or purchase 93 and own real or personal property to be used for the 94 furtherance of the purposes for the accomplishment of which 95 the authority is created.

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- (11) To plan for programs and exhibits in the agriculture center for the advancement of the agricultural, cultural, and workforce development interests of the citizens of the county and of the municipalities thereof.
- 100 (12) To purchase or lease real property and rights or
 101 easements therein necessary or convenient for its purposes and
 102 to use the same so long as its existence shall continue.
- 103 (13) To accept pledges of revenues or grants of money 104 from any person or governmental entity.
- 105 (14) To sell and lease its property to any person or 106 governmental entity.
- 107 (15) To enter into financing agreements with federal or
 108 state agencies that may require the authority to mortgage its
 109 property.
- 110 (16) To plan for programs and exhibits in the
 111 agriculture center for the advancement of agricultural and
 112 workforce development interests in the county.

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- 113 (17) To enter into long-term contracts or agreements
 114 for sewer service with any Class 5 municipality within three
 115 miles of the authority or a utility board of the Class 5
 116 municipality.
- 117 (18) To accept lease payments, loan repayments, or
 118 other compensation to or for the authority or other public
 119 person.
- 120 (19) To invest in bank deposits, U.S. Treasury bills, 121 projects, instruments, real, personal, or mixed property, or any other investments as the board of directors of the 122 123 authority may from time to time determine to be appropriate and convenient to accomplish any purpose for which an 124 125 agriculture authority is organized, including works of 126 internal improvement, interests in private or corporate 127 enterprises, loans of money or credit to individuals, 128 associations, or corporations; and to lend the authority's 129 credit, grant public money or things of value in aid of or to 130 any individual, association, or corporation whatsoever, or 131 become a stockholder in any such corporation, association, or 132 company by issuing bonds or otherwise even though they may be 133 in violation of Section 93 or Section 94 of the Constitution 134 of Alabama of 2022, if done by the state, a county, city, 135 town, or other subdivision of the state, notwithstanding the 136 fact that any such investment or action may involve the 137 expenditure or appropriation of funds received from a public person. In particular, but not by way of limitation, an 138 authority may invest its funds, from whatever source, in the 139 140 stock, bonds, debentures, notes, or other securities issued by



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

- 147 (20) To enter into deeds, mortgages, leases, loan 148 agreements, or other agreements with any person.
- 149 (21) To acquire real property for the purpose of 150 establishing one or more agriculture centers; to improve 151 agriculture center sites, whether owned by the authority or by 152 any other person, including the improvement of the centers or 153 sites by the construction of roads, curbing, gutters, 154 drainage, sewerage, utilities, railroad spurs, docks, harbors, 155 ports, grading, and the like; to construct, for its own 156 account or the account of others, improvements thereon, 157 including any project, for the purpose of conveying, leasing, 158 or selling the same to any person, including the power to 159 convey, lease, or sell the same for its own account or to 160 construct the same as an inducement for any person to locate 161 and operate a project in the agriculture center or operational 162 area, even though the person may not have been identified at 163 the time that the improvement may be constructed.
 - (22) To sell, exchange, donate, and convey any or all of its properties whenever its board of directors finds the action to be in furtherance of the purposes for which the authority was organized.

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

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- any of its powers and to apply proceeds from the sale of its
- 170 bonds, whether heretofore or hereafter issued, not only for
- 171 payment of interest thereon prior to and during the
- 172 construction and equipment of any buildings, structures,
- facilities, or other improvements being financed thereby, but
- 174 also for payment of interest thereon.
- 175 (24) To mortgage and pledge any or all of its
- 176 properties both real and personal or any part or parts
- 177 thereof, as security for the payment of the principal of and
- the interest on any bonds so issued and any agreements made in
- 179 connection therewith, whether then owned or thereafter
- 180 acquired, and to pledge the revenues and receipts therefrom or
- 181 from any thereof.
- 182 (25) To enter into contracts, agreements, options,
- leases, loan agreements, deeds, and other instruments, and to
- 184 take other actions as may be necessary or convenient to
- accomplish any purpose for which an authority is organized or
- 186 to exercise any power expressly granted hereunder.
- 187 (26) To enter into contracts, agreements, leases, or
- 188 other instruments, either independently or through another
- 189 entity, to design, develop, construct, own, or operate any
- 190 commercial facility, to acquire lands or other assets for the
- 191 facility, to raise revenue from the operation of the facility,
- 192 and to use any revenue from the operation of the facility to
- 193 fund projects and operations in support of the authority's
- 194 mission, including the payment of any expenses and debt of the
- 195 authority. The power provided in this subdivision shall
- include the power to make advance payments to third parties



197 for services.

- owned by the authority using the same power of eminent domain as the state possesses, which shall be exercised in the same manner and under the same conditions as are provided by law for the exercise of the power of eminent domain by the state.
- (b) Contracts of an agriculture authority shall be executed in the name of the authority by the chair and attested by the secretary of the authority. The board may provide by resolution for a different form for the execution of a contract by an officer or agent other than the chair and secretary. A contract, irrespective of its form and of the persons executing the contract, shall not be binding unless the contract is authorized or ratified by the board.
- (c) An agriculture authority may deposit its funds not needed to meet expenses or obligations in any bank or building and loan association, provided the deposit is fully insured by a federal corporation or agency of the federal government insuring deposits in financial institutions.
- (d) In exercising the powers enumerated in this section, all mortgages, contracts, judgments, investments, loans, debts, and other obligations of any sort of the authority due to any third party shall be recovered and enforced only against the authority unless the county commission approving the formation of the authority specifically agrees to accept the obligation by a separate affirmative vote of a majority of the members of the county commission.

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

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- 230 (1) To participate: As a shareholder in a corporation; 231 as a joint venturer in a joint venture, whether the joint 232 venture is to be memorialized contractually or through the 233 formation of one or more separate business entities; as a 234 general or limited partner in a limited partnership or a 235 general partnership; as a member in a nonprofit corporation or limited liability company; or as a member of any other lawful 236 237 form of business organization that may be involved in the 238 development or operational activities of any buildings, 239 structures, facilities, and other improvements that the board 240 of directors of the authority determines are appropriate, 241 useful, or expedient to the authority's purposes. In 242 connection with the foregoing, an authority may elect or 243 appoint an individual or individuals to a governing body and 244 enter into contracts or other agreements with other parties 245 for the development, operation, design, marketing, 246 maintenance, and use of any facilities upon the terms as the 247 board of directors of the authority determines are 248 appropriate, useful, or expedient to the authority's purposes. 249 Any determination by the authority shall be conclusive.
 - (2) To make or arrange for loans, contributions to capital, and other debt and equity financing for the activities of any corporation of which the authority is a



- 253 shareholder; any joint venture in which the authority is a 254 joint venture; any limited partnership or general partnership 255 of which the authority is a general or limited partnership; 256 any nonprofit corporation in which the authority is a member 257 of any other lawful form of business organization of which the 258 authority is a member; and to quarantee loans, issue bonds, or 259 incur other forms of indebtedness on behalf of the 260 corporation, joint venture, partnership, nonprofit 261 corporation, or other business entity, for such purposes. An 262 authority may loan funds that include seller financing 263 arrangements whereby the authority is a seller to other governmental entities or other business entities whether for 264 265 profit or nonprofit and whether affiliated or non-affiliated 266 with the authority, upon the terms as the authority shall 267 determine appropriate, useful, or expedient for the 268 authority's purposes and the determination by the authority 269 shall be conclusive.
- 270 (3) To create, establish, acquire, operate, or support 271 subsidiaries and affiliates, either for profit or nonprofit, 272 to assist the authority in fulfilling its purposes.
- 273 (4) To create, establish, or support nonaffiliated for 274 profit or nonprofit corporations or other lawful business 275 organizations that operate and have as their purposes the 276 furtherance of the authority's purposes.
- 277 (5) Without limiting the generality of subdivisions (1)
 278 through (4), to accomplish and facilitate the creation,
 279 establishment, acquisition, development, operation, or support
 280 of any subsidiary, affiliate, nonaffiliated corporation, or

- other lawful business organization by means of loans of funds,
- leases of real or personal property, gifts and grants of
- 283 funds, or guarantees of indebtedness of the subsidiaries,
- affiliates, and non-affiliated corporations.
- 285 (6) In addition to any other authority to enter into
- 286 contracts, to enter into contracts, agreements, or
- 287 understandings with any other public and private parties
- 288 including, but not limited to, the following:
- a. Design-build, design-build-operate,
- 290 design-build-own-operate, design-build-own-operate-maintain,
- design-build-finance-operate-maintain, or other similar
- 292 arrangements or agreements pursuant to which the design,
- 293 right-of-way acquisition, relocation of structures or
- 294 utilities, construction, financing, ownership, management,
- 295 maintenance, and operation, or any combination thereof of a
- 296 project is accomplished by or on behalf of the authority.
- b. Leases, licenses, franchises, concessions, or other
- 298 agreements for the development, operation, management, or
- 299 undertaking of all or any part of a project of or on behalf of
- 300 the authority.
- 301 (7) Notwithstanding any provision of law to the
- 302 contrary, proposals under this subsection may be evaluated and
- 303 awarded by the authority based on qualifications of
- 304 participants or best value, or both, as evaluated by
- 305 procedures of the authority and taking into consideration the
- 306 best interests of the authority. Evaluation criteria for a
- 307 contract procured pursuant to the preceding sentence shall be
- 308 set forth in the request for proposal for the contract. The



309	contract may also be awarded through any existing procurement
310	authority, proposals, or other means of procurement otherwise
311	available to the authority."
312	Section 2. This act shall become effective on October
313	1, 2025.