

HB372 INTRODUCED



1 HB372
2 KLDEAU5-1
3 By Representatives Shedd, Ledbetter, Stadthagen, Lovvorn
4 RFD: Economic Development and Tourism
5 First Read: 21-Mar-24

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

SYNOPSIS:

This bill would create the Alabama Growth Alliance, a public corporation governed by a board of public and private leaders. The Alabama Growth Alliance would be formed to coordinate the development, tracking, as well as providing input and support for the creation and maintenance of the state's long-range economic development strategy, annual objectives, and key tactics to achieve the long-range strategies.

A BILL
TO BE ENTITLED
AN ACT

To add Article 24, commencing with Section 41-10-870, to Chapter 10, Title 41 of the Code of Alabama 1975; to create the Alabama Growth Alliance; to provide legislative findings; to provide for its incorporation; to provide for the creation of a board; to provide for the powers and duties of the corporation; to allow the corporation to enter into contracts; to provide for amendments to the governing documents of the corporation; and to provide for the dissolution of the corporation.

HB372 INTRODUCED

29 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

30 Section 1. This Act shall be known and may be cited as
31 the Alabama Growth Alliance Act.

32 Section 2. Article 24, commencing with Section
33 41-10-870, is added to Chapter 10, Title 41 of the Code of
34 Alabama 1975, to read as follows:

35 41-10-870. LEGISLATIVE FINDINGS

36 The Legislature finds and declares all of the
37 following:

38 (1) The State of Alabama has a great need to ensure the
39 long-term viability of the state's economic development
40 successes.

41 (2) Other states have had significant success in
42 economic development by involving the private sector in
43 long-term planning to help identify and fill strategic gaps in
44 states efforts that are not currently addressed by existing
45 agencies, ensuring a comprehensive approach to economic growth
46 and development.

47 (3) It is believed that by taking advantage of private
48 sector expertise and support that exists within many chambers
49 of commerce and other organizations, the state will be able to
50 develop initiatives more rapidly and efficiently.

51 (4) By leveraging the strengths of both the public and
52 private sectors, the state can foster a more collaborative and
53 efficient approach to economic development, leading to more
54 innovative and effective solutions.

55 (5) A public-private partnership can supplement
56 existing state efforts to focus on the development of

HB372 INTRODUCED

57 specific, high-growth industries where Alabama has competitive
58 advantages, ensuring the state becomes a national or global
59 leader in these sectors.

60 (6) By focusing on long-range planning, the
61 public-private partnership can ensure that Alabama's economic
62 development efforts are sustainable and forward-thinking, thus
63 providing stability and predictability for businesses and
64 investors.

65 (7) States with proactive economic development
66 strategies, such as public-private partnerships, can be more
67 successful in attracting investment. Creation of a similar
68 model will help give Alabama a competitive edge in the
69 national and global market, helping to attract significant
70 business investments.

71 (8) It is desirable and in the public interest to
72 establish a public corporation governed by a board of public
73 and private leaders to be a part of the state's economic
74 development strategies designed to sustain and enhance
75 Alabama's long-term success, growth, and viability of its
76 economic development policies.

77 41-10-871. DEFINITIONS

78 For the purposes of this article, the following terms
79 have the following meanings:

80 (1) BOARD. The governing board of the corporation.

81 (2) CORPORATION. The Alabama Growth Alliance created by
82 this article as a public corporation having a legal existence
83 separate and apart from the state and any county,
84 municipality, or political subdivision.

HB372 INTRODUCED

85 (3) ECONOMIC DEVELOPMENT ENTITY.

86 a. A nonprofit corporation that possesses all of the
87 following characteristics:

88 1. Is organized as a nonprofit corporation exempt from
89 federal income tax under Section 501(c) of the Internal
90 Revenue Code of 1986, as amended.

91 2. Has a record of, or can demonstrate that it is
92 capable of, serving the entire state on matters involving
93 economic development.

94 3. Has a record of, or can demonstrate that it is
95 capable of, developing, fostering, and implementing economic
96 development policies and strategies across Alabama.

97 4. Has received, or is eligible to receive, grant
98 funding from the state or from federal or private sources.

99 b. In determining whether a nonprofit corporation
100 qualifies as an economic development entity, the board may
101 attribute to the nonprofit corporation the experiences of its
102 officers, staff, and directors with other nonprofit
103 corporations.

104 41-10-872. INCORPORATION OF GROWTH ALLIANCE

105 (a) The Governor, the Speaker of the House of
106 Representatives, and the President Pro Tempore of the Senate
107 shall present to the Secretary of State an application, signed
108 by each of them, for the formation of the Alabama Growth
109 Alliance, as a public corporation, having a legal existence
110 separate and apart from the state and any county,
111 municipality, or political subdivision, which shall set forth
112 all of the following:

HB372 INTRODUCED

113 (1) The name, office, and office location of each of
114 the applicants.

115 (2) The date on which each applicant was sworn into
116 office for his or her current term of office.

117 (3) The name of the proposed public corporation, which
118 shall be the Alabama Growth Alliance.

119 (4) The location of the principal office of the
120 proposed corporation.

121 (5) Provisions requiring the board to support the
122 Department of Commerce in the development of a recommended
123 annual strategic economic development plan for the state and
124 standards of measure to be used in measuring the corporation's
125 achievements in executing the plan.

126 (6) Provisions requiring the board to review the
127 state's primary economic development incentives on a biennial
128 basis and reviewing the effectiveness of the incentives to
129 create jobs, attract new business, encourage existing business
130 expansions, and achieve other goals as may be determined by
131 the board.

132 (7) Any other matter relating to the corporation that
133 the applicants may choose to insert and that is not
134 inconsistent with this article or state law.

135 (b) The application shall be subscribed and sworn to by
136 each applicant before a notary public. The Secretary of State
137 shall examine the application, and, if he or she finds that
138 the application substantially complies with the requirements
139 of this section, the application shall be filed and recorded
140 in an appropriate book of records in the office of the

HB372 INTRODUCED

141 Secretary of State.

142 (c) When the application has been made, filed, and
143 recorded as provided in subsection (b), the applicants shall
144 constitute a public corporation under the name stated in the
145 application, and the Secretary of State shall make and issue
146 to the applicants a certificate of incorporation pursuant to
147 this article, under the Great Seal of the State, and shall
148 record the certificate with the application. There shall be no
149 fees paid to the Secretary of State for any filing made by the
150 corporation pursuant to this article.

151 (d) Notwithstanding any provision of law to the
152 contrary, any corporation incorporated pursuant to this
153 section shall not be deemed to be a part of the state for any
154 purpose but shall be treated as a public corporation separate
155 and apart from the state.

156 41-10-873. BOARD OF GROWTH ALLIANCE

157 (a) The corporation shall be under the management and
158 control of a board of directors, and all powers necessary or
159 appropriate for the management and control of the corporation
160 shall be vested solely in the board. The board shall be
161 comprised of both ex officio members and at-large members, all
162 of whom shall be voting members of the board and shall be
163 considered in determining whether a quorum is present.

164 (b) The board shall have eleven members as follows:

165 (1) Five ex officio members, consisting of the
166 Governor, who shall be the chair, the Secretary of Commerce,
167 who shall be the co-chair, the Speaker of the House of
168 Representatives, the President Pro Tempore of the Senate, and

HB372 INTRODUCED

169 the chair of Innovate Alabama. The service of each ex officio
170 member shall run concurrently with his or her tenure in office
171 or position. Each ex officio member may appoint a person to
172 serve in his or her place at any meeting of the board or may
173 designate a person to serve in his or her place at all
174 meetings of the board until the term of the ex officio member
175 should end. The appointee or designee shall be counted for
176 purposes of a quorum and voting. Each ex officio member may
177 withdraw the appointment or designation of his or her
178 appointee or designee at any time.

179 (2) The Governor shall appoint six at-large members,
180 who shall each be persons in the private sector with
181 experience relevant to the purposes and activities of the
182 corporation including, but not limited to, experience with any
183 of the following:

184 a. Participating on boards of, or being employed by,
185 nonprofit corporations which promote economic development
186 throughout the state.

187 b. Having other experience relevant to statewide,
188 long-term economic development strategies including, but not
189 limited to, any of the following:

190 1. Performing enhanced, coordinated research to
191 identify targeted growth sectors.

192 2. Identifying sites for economic development and
193 successfully marketing the sites for major business site
194 selection opportunities.

195 3. Developing assessments of key issues impacting the
196 growth of Alabama's existing business and industry, along with

HB372 INTRODUCED

197 strategies to address challenges and pursue opportunities.

198 (c) In making appointments of at-large members, the
199 Governor shall coordinate his or her appointments so that
200 diversity of gender, race, and geographical areas of the board
201 of directors is reflective of the makeup of the state.

202 (d) (1) The service of each at-large member shall begin
203 upon written acceptance of his or her appointment. Each member
204 shall serve a term of two years following such written
205 acceptance.

206 (2) Each at-large member shall continue to serve until
207 the member is reappointed, or a successor is appointed, to the
208 office.

209 (3) An at-large member may only serve a maximum of two
210 consecutive terms of office but may be reappointed after he or
211 she has spent at least two years without serving as an
212 at-large member.

213 (4) An at-large member may be removed by the Governor
214 for any reason, at which time the Governor shall appoint a
215 different person to serve.

216 (5) A person appointed to fill a vacancy shall serve
217 the remainder of the unexpired term and may be reappointed to
218 serve an additional term.

219 (e) No member shall receive compensation because of his
220 or her service as a member. Each member may be reimbursed for
221 actual and reasonable travel expenses incurred in the
222 performance of his or her duties as a member.

223 (f) A majority of the members shall constitute a quorum
224 for the transaction of business by the board, and decisions

HB372 INTRODUCED

225 shall be made on the basis of a majority of the quorum then
226 present and voting. No vacancy in the membership of the board
227 or the voluntary disqualification or abstention of any member
228 shall impair the right of a quorum to exercise all of the
229 powers and duties of the board. Members of the board may
230 participate in meetings of the board in person, by means of
231 telephone conference, video conference, or other similar
232 communications equipment, so that all individuals
233 participating in the meeting may hear each other at the same
234 time. Participation by any such means shall constitute
235 presence in person at a meeting for all purposes, including
236 for purposes of establishing a quorum. The board shall be
237 subject to Chapter 25A of Title 36; provided, that in addition
238 to the reasons set forth in Section 36-25A-7, the board may go
239 into executive session to discuss sensitive matters the
240 disclosure of which would undermine or jeopardize economic
241 development, trade, or the objectives of the corporation.

242 (g) Any action required by this article to be taken at
243 a meeting of the board of directors of the corporation or any
244 action which may be taken at a meeting of the board of
245 directors or of a committee of the board of directors may be
246 taken without a meeting if a consent in writing, setting forth
247 the action so taken, is signed, either electronically or by
248 hand, by all of the directors or all of the members of the
249 committee of directors, as the case may be.

250 (h) The board may appoint other officers to perform
251 duties not inconsistent with this article or applicable law,
252 as the board deems necessary or appropriate.

HB372 INTRODUCED

253 (i) In addition to regular meetings of the board, as
254 may be provided by law or by bylaws adopted by the board,
255 special meetings of the board may be called by the chair
256 acting alone or by any three other members acting in concert,
257 in each case upon notice to each member given in person, by
258 email, by registered letter, or by other means. Notice to each
259 member may be waived upon the unanimous written consent of all
260 members, either before or after the meeting with respect to
261 which the notice would otherwise be required.

262 (j) Minutes of all board meetings shall be kept and
263 maintained in the records of the corporation.

264 41-10-874. POWERS OF GROWTH ALLIANCE

265 (a) The board shall have all of the powers necessary to
266 carry out and effectuate the purposes of this article
267 including the following powers:

268 (1) Provide input and support on the development,
269 monitoring, and updating of the long-range economic
270 development vision and strategies of the state.

271 (2) Support the development and implementation of
272 objectives and key tactics to achieve the long-range economic
273 development vision and strategies of the state.

274 (3) Identify opportunities and make recommendations to
275 the Governor regarding the coordination of economic
276 development efforts between state agencies, private
277 organizations, and other economic development entities and
278 stakeholders.

279 (4) Provide input and support related to the
280 establishment of a communication plan to ensure key

HB372 INTRODUCED

281 stakeholders are periodically informed on economic development
282 progress and results.

283 (5) Provide input and support in regards to biennially
284 measuring the effectiveness of key economic development
285 incentives, which shall include, but not be limited to, the
286 Alabama Jobs Act, the Growing Alabama Act, the Innovating
287 Alabama Act, the Site Evaluation Economic Development
288 Strategy, and the Tax Incentive Reform Act of 1992.

289 (6) Provide input on and support to implement the
290 following economic development objectives:

291 a. Increasing private investment in Alabama.

292 b. Advancing international and domestic trade
293 opportunities.

294 c. Marketing the state as a pro-economic growth
295 location for new investment.

296 d. Revitalizing, retaining, and expanding Alabama's
297 manufacturing industries, and promoting emerging complementary
298 industries.

299 e. Assisting, promoting, and enhancing economic
300 opportunities in the state's rural communities.

301 f. Promoting opportunities for minority-owned
302 businesses.

303 g. Identifying economic growth opportunities in
304 emerging sectors.

305 (7) Adopt, alter, and repeal bylaws for the regulation
306 and conduct of the corporation's affairs and business, and for
307 the implementation of this article.

308 (8) Make and enter into contracts, leases, and

HB372 INTRODUCED

309 agreements, and take other actions as may in its judgment be
310 necessary or desirable to accomplish the purposes of the
311 corporation and to exercise any power necessary for the
312 accomplishment of the purposes of the corporation or
313 incidental to the powers expressly set forth in this article.

314 (9) Appoint, employ, and contract with employees,
315 agents, advisors, consultants, and service providers
316 including, but not limited to, attorneys, accountants,
317 financial experts, and other advisors, consultants, and agents
318 as may in its judgment be necessary or desirable to accomplish
319 any purpose of the corporation or incidental to the powers
320 expressly set forth in this article, and to fix the
321 compensation of those persons.

322 (10) Manage, invest, and expend funds at its disposal.

323 (11) Lend its credit to, or grant monies and things of
324 value in aid of or to, any individual, firm, corporation, or
325 other business entity, public or private, as may in its
326 judgment be necessary or desirable to accomplish any purpose
327 of the corporation or incidental to the powers expressly set
328 forth in this article.

329 (12) Take any action necessary to exercise its rights
330 or fulfill its obligations relevant to the corporation under
331 state law.

332 (13) In addition to the foregoing, the board shall have
333 all of the powers necessary to carry out and effectuate the
334 purposes of this article; provided that nothing in this
335 article shall be construed to authorize the board to exercise
336 any power conferred by law on any agency, department, office,

HB372 INTRODUCED

337 or other instrumentality of state government. The powers set
338 forth in this section shall be construed broadly, so that the
339 failure to state a power of the board shall not be considered
340 a limitation upon the board, so long as the board shall find
341 that the power is necessary to allow the board to fulfill the
342 purpose of the corporation, as provided by this article. In
343 the event that the board should determine to add one or more
344 powers to effectuate this article, they may do so by amending
345 their application of incorporation.

346 (b) The board may enter into agreements with one or
347 more economic development entities to exercise any powers of
348 the corporation, if the agreement does both of the following:

349 (1) Requires regular reporting to the corporation by
350 the economic development entity.

351 (2) Allows for the reasonable costs of the economic
352 development entity to be reimbursed or otherwise paid only if
353 directly related to the fulfillment of the agreement, as
354 determined by the corporation.

355 (c) The board may make, enter into, and execute
356 contracts, agreements, and other instruments with, accept aid
357 and grants from, and cooperate with, any other person or
358 entity including, but not limited to, all of the following:

359 (1) The United States of America, the state, or any
360 agency, instrumentality, or political subdivision of either.

361 (2) For profit or nonprofit private entities.

362 (3) Public bodies, departments, or authorities
363 including, but not limited to, the executive departments of
364 the state, to act on behalf of the board in carrying out

HB372 INTRODUCED

365 functions which the board determines are consistent with the
366 corporation's powers.

367 (d) The corporation shall be, and shall operate as, a
368 public corporation and shall have a legal existence separate
369 and apart from the state and any county, municipality, or
370 political subdivision.

371 41-10-875. GROWTH ALLIANCE CONTRACTS

372 The board may enter into contracts, leases, agreements,
373 investments, and may otherwise expend monies without
374 compliance with Article 5, commencing with Section 41-4-110,
375 of Chapter 4 of Title 41, and Chapter 2 of Title 39. Solely as
376 a result of entering into contracts, leases, agreements,
377 investments, or otherwise, no for-profit or nonprofit private
378 entity, nor the officers, employees, agents, or directors of
379 any of the foregoing, shall become subject to Chapter 25 or
380 Chapter 25A of Title 36; Article 5, commencing with Section
381 41-4-110, of Chapter 4 of Title 41; Chapter 2 of Title 39; or
382 Article 3, commencing with Section 36-12-40, of Chapter 12 of
383 Title 36.

384 41-10-876. AMENDMENTS

385 At any time, the board, by majority vote, may cause its
386 application for formation to be amended by having five of its
387 members file an amendment with the Secretary of State, which
388 shall be sworn to by each signatory thereto before a notary
389 public.

390 41-10-877. DISSOLUTION

391 At any time, the board, by at least three-quarters
392 vote, may dissolve the corporation by having at least

HB372 INTRODUCED

393 three-quarters of its members file with the Secretary of State
394 an application for dissolution, which shall be sworn to by
395 each signatory thereto by a notary public. Upon the filing of
396 the application for dissolution, the corporation shall cease
397 to exist. The Secretary of State shall file and record the
398 application for dissolution, and shall make and issue, under
399 the Great Seal of the State, a certificate that the
400 corporation is dissolved, and shall record the certificate
401 with the application for dissolution. Title to all property
402 held in the name of the corporation shall be vested in the
403 state upon dissolution of the corporation.

404 41-10-878. REPORT TO LEGISLATURE

405 Prior to each legislative session beginning in 2026,
406 the corporation shall submit an annual report to the
407 Legislature detailing the corporation's efforts to accomplish
408 the goals pursuant to this article.

409 Section 3. This act shall become effective October 1,
410 2024, following its passage and approval by the Governor, or
411 its otherwise becoming law.