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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 11-20-70 and 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 11-20-70 and Section 11-20-73, last amended by Act 2023-232, 2023 Regular Session, Code of Alabama



29 1975, are amended to read as follows:

30 "§11-20-70

31 (a) An agriculture authority may be established in any
32 county to construct and operate facilities to promote
33 agricultural businesses, operations, and commodities,
34 workforce development, and economic development within the
35 county, and to otherwise raise revenue to be used for the
36 purposes of the authority, as further provided in this
37 article. The operational area of an agriculture authority may
38 not extend beyond the boundaries of the county in which an
39 agriculture authority is incorporated.

40 (b) Any number of natural persons who are residents and
41 qualified electors in the county may file an application in
42 writing with the county commission for authority to
43 incorporate and organize an agriculture authority. If the
44 application is approved, the county commission shall adopt a
45 resolution declaring it to be wise, expedient, and beneficial
46 to the county that the agriculture authority be formed and
47 that the persons filing the application are authorized to form
48 the authority. An agriculture authority may not be formed
49 under this article unless the application is approved by the
50 county commission and the resolution required herein is
51 adopted.

52 (c) Once the county commission has approved the
53 application as provided in subsection (b), the persons seeking
54 incorporation of an agriculture authority shall file articles
55 of incorporation with the office of the judge of probate that
56 do all of the following:



57 (1) Contain a statement that the incorporators propose
58 to incorporate an agriculture authority pursuant to this
59 article.

60 (2) ~~States~~State the authorized operational area of the
61 proposed authority within the county.

62 (3) State that the county commission has approved the
63 application for an agriculture authority and has adopted a
64 resolution declaring that it is expedient that the proposed
65 authority be formed by approving the written application.

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

68 (1) A designation of the authorized operational area of
69 the authority which shall be considered an agriculture center,
70 including the name of each municipality within the authorized
71 operational area, which may not extend beyond the boundaries
72 of the county in which the authority is incorporated.

73 (2) The names of the incorporators of the authority and
74 a statement that each is qualified to incorporate the
75 authority.

76 (3) The name of the authority, which must include the
77 words "Agriculture Authority" or "Agriculture Center
78 Authority" and be reasonably descriptive of the operational
79 area of the authority.

80 (4) The period of the authority, which may be
81 perpetual.

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

84 (6) A statement that the authority is organized



85 pursuant to this article.

86 (7) If the exercise by the authority of any of its
87 powers is to be in any way prohibited, limited, or
88 conditioned, a statement of the terms of the prohibition,
89 limitation, or condition.

90 (8) The number of directors, which may not exceed
91 seven, and the duration of their respective terms of office,
92 which may not exceed six years.

93 (9) The manner of appointing directors, which shall be
94 a combination of appointment by the county commission and
95 appointment by the legislative delegation for the authorized
96 operational area of the authority; provided, however, a
97 majority of the directors must be appointed by the legislative
98 delegation.

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

101 (11) Any other matters relating to the authority that
102 the incorporators may choose to insert and that are not
103 inconsistent with this article or with state law.

104 (e) The articles shall be signed by each of the
105 incorporators.

106 (f) Upon the filing for record of the articles with the
107 office of the judge of probate, the authority shall come into
108 existence and shall constitute a public corporation under the
109 name set forth in its articles of incorporation. The
110 acceptance of articles for recording by the judge of probate
111 shall be conclusive evidence of the due, legal, and valid
112 incorporation of the agriculture authority in all courts. The



113 judge of probate shall record the articles in an appropriate
114 book in his or her office. There shall be no filing fee or
115 recording taxes due or payable on account of the filing for
116 record of the articles.

117 (g) Notwithstanding any other provision of this
118 article, the articles of incorporation or legal existence of
119 an agriculture authority shall not be deemed invalid for the
120 sole reason that the articles of incorporation of the
121 authority fail to specify an authorized operational area, and
122 every agriculture authority whose articles of incorporation
123 fail to specify an authorized operational area, but are
124 otherwise formed in accordance with this article, may do all
125 things contemplated by this article as if the agriculture
126 authority had designated as its authorized operational area
127 the county of incorporation."

128 "§11-20-73

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

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

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

136 (3) To institute and defend legal proceedings in any
137 court of competent jurisdiction and proper venue; provided,
138 however, that the board may not be sued in any trial court
139 other than the courts of the county of incorporation;
140 provided, further, that the officers, directors, agents, and



141 employees of an agriculture authority may not be sued for
142 their actions on behalf of the authority except for actions
143 that are unreasonable or known by the person to be unlawful or
144 are performed with reckless disregard for the lawfulness of
145 such actions.

146 (4) To plan for construction and development of an
147 agriculture center within the operational area of the
148 agriculture authority on property owned by the authority.
149 Construction and development may include, without limitation,
150 any or all of the following:

151 a. Buildings to hold offices for use by the federal
152 government, the state or any agency of the state, the county,
153 or one or more municipalities within the county.

154 b. Buildings to house or accommodate public facilities
155 of the federal government, the state or any agency of the
156 state, the county, or one or more municipalities within the
157 county.

158 c. Streets, boulevards, walkways, parkways, parks, or
159 other places of recreation.

160 d. Monuments, statues, or other structures beautifying
161 the agriculture center.

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

163 f. Arenas, convention halls, sports facilities,
164 stadiums, hotels or other facilities for use as a transient
165 guest housing facility, multifamily housing, dormitory
166 housing, food courts or other food venue facilities, any
167 facilities that provide for or support any public or private
168 educational institution, and any other facilities related to



169 or incidental to the foregoing.

170 g. Music halls, art museums, art exhibits, or other
171 exhibits for the advancement of the humanities and cultural
172 development.

173 h. Any other buildings, structures, facilities, and
174 other improvements that the board of directors of the
175 agriculture authority determines are appropriate, useful, or
176 expedient to the authority's purposes from time to time. The
177 determination of the authority board of directors shall be
178 conclusive.

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

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

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

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

186 (9) To hire professionals and enter into contracts for
187 their services in designing and supervising the construction
188 of any building, agriculture center, auditorium, arena,
189 convention hall, music hall, art museum, place of recreation,
190 art exhibit, office building, or other structure that it
191 desires to construct.

192 (10) To make and enter into contracts and to execute
193 all instruments necessary or convenient to lease or purchase
194 and own real or personal property to be used for the
195 furtherance of the purposes for the accomplishment of which
196 the authority is created.



197 (11) To plan for programs and exhibits in the
198 agriculture center for the advancement of the agricultural,
199 cultural, and workforce development interests of the citizens
200 of the county and of the municipalities thereof.

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

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

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

208 (15) To enter into financing agreements with federal or
209 state agencies that may require the authority to mortgage its
210 property.

211 (16) To plan for programs and exhibits in the
212 agriculture center for the advancement of agricultural and
213 workforce development interests in the county.

214 (17) To enter into long-term contracts or agreements
215 for sewer service with any Class 5 municipality within three
216 miles of the authority or a utility board of the Class 5
217 municipality.

218 (18) To accept lease payments, loan repayments, or
219 other compensation to or for the authority or other public
220 person.

221 (19) To invest in bank deposits, U.S. Treasury bills,
222 projects, instruments, real, personal, or mixed property, or
223 any other investments as the board of directors of the
224 authority may from time to time determine to be appropriate



225 and convenient to accomplish any purpose for which an
226 agriculture authority is organized, including works of
227 internal improvement, interests in private or corporate
228 enterprises, loans of money or credit to individuals,
229 associations, or corporations; and to lend the authority's
230 credit, grant public money or things of value in aid of or to
231 any individual, association, or corporation whatsoever, or
232 become a stockholder in any such corporation, association, or
233 company by issuing bonds or otherwise even though they may be
234 in violation of Section 93 or Section 94 of the Constitution
235 of Alabama of 2022, if done by the state, a county, city,
236 town, or other subdivision of the state, notwithstanding the
237 fact that any such investment or action may involve the
238 expenditure or appropriation of funds received from a public
239 person. In particular, but not by way of limitation, an
240 authority may invest its funds, from whatever source, in the
241 stock, bonds, debentures, notes, or other securities issued by
242 any person locating a project in the authority's operational
243 area and may enter into contracts or options, including
244 contracts or options for the conveyance, sale, or lease of
245 property, to any such person and make direct grants of money,
246 property, or services for the purpose of inducing the person
247 to locate a project in the authority's operational area.

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

250 (21) To acquire real property for the purpose of
251 establishing one or more agriculture centers; to improve
252 agriculture center sites, whether owned by the authority or by



253 any other person, including the improvement of the centers or
254 sites by the construction of roads, curbing, gutters,
255 drainage, sewerage, utilities, railroad spurs, docks, harbors,
256 ports, grading, and the like; to construct, for its own
257 account or the account of others, improvements thereon,
258 including any project, for the purpose of conveying, leasing,
259 or selling the same to any person, including the power to
260 convey, lease, or sell the same for its own account or to
261 construct the same as an inducement for any person to locate
262 and operate a project in the agriculture center or operational
263 area, even though the person may not have been identified at
264 the time that the improvement may be constructed.

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

269 (23) To issue its bonds for the purpose of carrying out
270 any of its powers and to apply proceeds from the sale of its
271 bonds, whether heretofore or hereafter issued, not only for
272 payment of interest thereon prior to and during the
273 construction and equipment of any buildings, structures,
274 facilities, or other improvements being financed thereby, but
275 also for payment of interest thereon.

276 (24) To mortgage and pledge any or all of its
277 properties both real and personal or any part or parts
278 thereof, as security for the payment of the principal of and
279 the interest on any bonds so issued and any agreements made in
280 connection therewith, whether then owned or thereafter



281 acquired, and to pledge the revenues and receipts therefrom or
282 from any thereof.

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

288 (26) To enter into contracts, agreements, leases, or
289 other instruments, either independently or through another
290 entity, to design, develop, construct, own, or operate any
291 commercial facility, to acquire lands or other assets for the
292 facility, to raise revenue from the operation of the facility,
293 and to use any revenue from the operation of any facility to
294 fund projects and operations in support of the authority's
295 mission, including the payment of any expenses and debt of the
296 authority. The power provided in this subdivision shall
297 include the power to make advance payments to third parties
298 for services.

299 (b) Contracts of an agriculture authority shall be
300 executed in the name of the authority by the chair and
301 attested by the secretary of the authority. The board may
302 provide by resolution for a different form for the execution
303 of a contract by an officer or agent other than the chair and
304 secretary. A contract, irrespective of its form and of the
305 persons executing the contract, shall not be binding unless
306 the contract is authorized or ratified by the board.

307 (c) An agriculture authority may deposit its funds not
308 needed to meet expenses or obligations in any bank or building



309 and loan association, provided the deposit is fully insured by
310 a federal corporation or agency of the federal government
311 insuring deposits in financial institutions.

312 (d) In exercising the powers enumerated in this
313 section, all mortgages, contracts, judgments, investments,
314 loans, debts, and other obligations of any sort of the
315 authority due to any third party shall be recovered and
316 enforced only against the authority unless the county
317 commission approving the formation of the authority
318 specifically agrees to accept the obligation by a separate
319 affirmative vote of a majority of the members of the county
320 commission.

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

326 (1) To participate: As a shareholder in a corporation;
327 as a joint venturer in a joint venture, whether the joint
328 venture is to be memorialized contractually or through the
329 formation of one or more separate business entities; as a
330 general or limited partner in a limited partnership or a
331 general partnership; as a member in a nonprofit corporation or
332 limited liability company; or as a member of any other lawful
333 form of business organization, that may be involved in the
334 development or operational activities of any buildings,
335 structures, facilities, and other improvements that the board
336 of directors of the authority determines are appropriate,



337 useful, or expedient to the authority's purposes. In
338 connection with the foregoing, an authority may elect or
339 appoint an individual or individuals to a governing body and
340 enter into contracts or other agreements with other parties
341 for the development, operation, design, marketing,
342 maintenance, and use of any facilities upon the terms as the
343 board of directors of the authority determines are
344 appropriate, useful, or expedient to the authority's purposes.
345 Any determination by the authority shall be conclusive.

346 (2) To make or arrange for loans, contributions to
347 capital, and other debt and equity financing for the
348 activities of any corporation of which the authority is a
349 shareholder; any joint venture in which the authority is a
350 joint venture; any limited partnership or general partnership
351 of which the authority is a general or limited partnership;
352 any nonprofit corporation in which the authority is a member
353 of any other lawful form of business organization of which the
354 authority is a member; and to guarantee loans, issue bonds, or
355 incur other forms of indebtedness on behalf of the
356 corporation, joint venture, partnership, nonprofit
357 corporation, or other business entity, for such purposes. An
358 authority may loan funds that include seller financing
359 arrangements whereby the authority is a seller to other
360 governmental entities or other business entities whether for
361 profit or nonprofit and whether affiliated or non-affiliated
362 with the authority, upon the terms as the authority shall
363 determine appropriate, useful, or expedient for the
364 authority's purposes and the determination by the authority



365 shall be conclusive.

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

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

373 (5) Without limiting the generality of the preceding
374 subdivisions, to accomplish and facilitate the creation,
375 establishment, acquisition, development, operation, or support
376 of any subsidiary, affiliate, nonaffiliated corporation, or
377 other lawful business organization by means of loans of funds,
378 leases of real or personal property, gifts and grants of
379 funds, or guarantees of indebtedness of the subsidiaries,
380 affiliates, and non-affiliated corporations.

381 (6) In addition to any other authority to enter into
382 contracts, to enter into contracts, agreements, or
383 understandings with any other public and private parties
384 including, but not limited to, the following:

385 a. Design-build, design-build-operate, design-build-
386 own-operate, design-build-own-operate-maintain, design-build-
387 finance-operate-maintain, or other similar arrangements or
388 agreements pursuant to which the design, right-of-way
389 acquisition, relocation of structures or utilities,
390 construction, financing, ownership, management, maintenance,
391 and operation, or any combination thereof of a project is
392 accomplished by or on behalf of the authority.



393 b. Leases, licenses, franchises, concessions, or other
394 agreements for the development, operation, management, or
395 undertaking of all or any part of a project of or on behalf of
396 the authority.

397 (7) Notwithstanding any provision of law to the
398 contrary, proposals under this subsection may be evaluated and
399 awarded by the authority based on qualifications of
400 participants or best value, or both, as evaluated by
401 procedures of the authority and taking into consideration the
402 best interests of the authority. Evaluation criteria for a
403 contract procured pursuant to the preceding sentence shall be
404 set forth in the request for proposal for the contract. The
405 contract may also be awarded through any existing procurement
406 authority, proposals, or other means of procurement otherwise
407 available to the authority."

408 Section 2. This act shall become effective on June 1,
409 2024.