

SB252 INTRODUCED



1 SB252
2 YUAPNNN-1
3 By Senators Reed, Singleton, Barfoot, Butler, Weaver,
4 Livingston, Figures, Chesteen, Allen, Jones, Price, Elliott,
5 Williams, Melson, Carnley, Sessions, Roberts, Shelnut,tt,
6 Waggoner, Smitherman, Coleman-Madison, Kelley, Givhan,
7 Kitchens, Hovey, Coleman
8 RFD: Fiscal Responsibility and Economic Development
9 First Read: 21-Mar-24

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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.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

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

34 41-10-870. LEGISLATIVE FINDINGS

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

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

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

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

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

54 (5) A public-private partnership can supplement
55 existing state efforts to focus on the development of
56 specific, high-growth industries where Alabama has competitive

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57 advantages, ensuring the state becomes a national or global
58 leader in these sectors.

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

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

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

76 41-10-871. DEFINITIONS

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

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

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

84 (3) ECONOMIC DEVELOPMENT ENTITY.

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

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

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

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

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

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

103 41-10-872. INCORPORATION OF GROWTH ALLIANCE

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

112 (1) The name, office, and office location of each of

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113 the applicants.

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

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

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

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

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

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

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

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

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

155 41-10-873. BOARD OF GROWTH ALLIANCE

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

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

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

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

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

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

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

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

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

194 3. Developing assessments of key issues impacting the
195 growth of Alabama's existing business and industry, along with
196 strategies to address challenges and pursue opportunities.

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

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

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

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

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

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

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

222 (f) A majority of the members shall constitute a quorum
223 for the transaction of business by the board, and decisions
224 shall be made on the basis of a majority of the quorum then

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

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

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

252 (i) In addition to regular meetings of the board, as

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

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

263 41-10-874. POWERS OF GROWTH ALLIANCE

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

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

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

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

278 (4) Provide input and support related to the
279 establishment of a communication plan to ensure key
280 stakeholders are periodically informed on economic development

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281 progress and results.

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

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

290 a. Increasing private investment in Alabama.

291 b. Advancing international and domestic trade
292 opportunities.

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

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

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

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

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

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

307 (8) Make and enter into contracts, leases, and
308 agreements, and take other actions as may in its judgment be

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309 necessary or desirable to accomplish the purposes of the
310 corporation and to exercise any power necessary for the
311 accomplishment of the purposes of the corporation or
312 incidental to the powers expressly set forth in this article.

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

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

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

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

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

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

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

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

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

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

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

360 (2) For profit or nonprofit private entities.

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

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365 corporation's powers.

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

370 41-10-875. GROWTH ALLIANCE CONTRACTS

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

383 41-10-876. AMENDMENTS

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

389 41-10-877. DISSOLUTION

390 At any time, the board, by at least three-quarters
391 vote, may dissolve the corporation by having at least
392 three-quarters of its members file with the Secretary of State

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

403 41-10-878. REPORT TO LEGISLATURE

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

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