

**SB275 ENGROSSED**



1 SB275  
2 41MA3RR-2  
3 By Senators Melson, Sessions  
4 RFD: Agriculture, Conservation, and Forestry  
5 First Read: 02-Apr-24



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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 1975, are amended to read as follows:

"§11-20-70

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

(b) Any number of natural persons who are residents and



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29 qualified electors in the county may file an application in  
30 writing with the county commission for authority to  
31 incorporate and organize an agriculture authority. If the  
32 application is approved, the county commission shall adopt a  
33 resolution declaring it to be wise, expedient, and beneficial  
34 to the county that the agriculture authority be formed and  
35 that the persons filing the application are authorized to form  
36 the authority. An agriculture authority may not be formed  
37 under this article unless the application is approved by the  
38 county commission and the resolution required herein is  
39 adopted.

40 (c) Once the county commission has approved the  
41 application as provided in subsection (b), the persons seeking  
42 incorporation of an agriculture authority shall file articles  
43 of incorporation with the office of the judge of probate that  
44 do all of the following:

45 (1) Contain a statement that the incorporators propose  
46 to incorporate an agriculture authority pursuant to this  
47 article.

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

50 (3) State that the county commission has approved the  
51 application for an agriculture authority and has adopted a  
52 resolution declaring that it is expedient that the proposed  
53 authority be formed by approving the written application.

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

56 (1) A designation of the authorized operational area of



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57 the authority which shall be considered an agriculture center,  
58 including the name of each municipality within the authorized  
59 operational area, which may not extend beyond the boundaries  
60 of the county in which the authority is incorporated.

61 (2) The names of the incorporators of the authority and  
62 a statement that each is qualified to incorporate the  
63 authority.

64 (3) The name of the authority, which must include the  
65 words "Agriculture Authority" or "Agriculture Center  
66 Authority" and be reasonably descriptive of the operational  
67 area of the authority.

68 (4) The period of the authority, which may be  
69 perpetual.

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

72 (6) A statement that the authority is organized  
73 pursuant to this article.

74 (7) If the exercise by the authority of any of its  
75 powers is to be in any way prohibited, limited, or  
76 conditioned, a statement of the terms of the prohibition,  
77 limitation, or condition.

78 (8) The number of directors, which may not exceed  
79 seven, and the duration of their respective terms of office,  
80 which may not exceed six years.

81 (9) The manner of appointing directors, which shall be  
82 a combination of appointment by the county commission and  
83 appointment by the legislative delegation for the authorized  
84 operational area of the authority; provided, however, a



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85 majority of the directors must be appointed by the legislative  
86 delegation.

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

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

92 (e) The articles shall be signed by each of the  
93 incorporators.

94 (f) Upon the filing for record of the articles with the  
95 office of the judge of probate, the authority shall come into  
96 existence and shall constitute a public corporation under the  
97 name set forth in its articles of incorporation. The  
98 acceptance of articles for recording by the judge of probate  
99 shall be conclusive evidence of the due, legal, and valid  
100 incorporation of the agriculture authority in all courts. The  
101 judge of probate shall record the articles in an appropriate  
102 book in his or her office. There shall be no filing fee or  
103 recording taxes due or payable on account of the filing for  
104 record of the articles.

105 (g) Notwithstanding any other provision of this  
106 article, the articles of incorporation or legal existence of  
107 an agriculture authority shall not be deemed invalid for the  
108 sole reason that the articles of incorporation of the  
109 authority fail to specify an authorized operational area, and  
110 every agriculture authority whose articles of incorporation  
111 fail to specify an authorized operational area, but are  
112 otherwise formed in accordance with this article, may do all



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113 things contemplated by this article as if the agriculture  
114 authority had designated as its authorized operational area  
115 the county of incorporation."

116 "§11-20-73

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

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

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

124 (3) To institute and defend legal proceedings in any  
125 court of competent jurisdiction and proper venue; provided,  
126 however, that the board may not be sued in any trial court  
127 other than the courts of the county of incorporation;  
128 provided, further, that the officers, directors, agents, and  
129 employees of an agriculture authority may not be sued for  
130 their actions on behalf of the authority except for actions  
131 that are unreasonable or known by the person to be unlawful or  
132 are performed with reckless disregard for the lawfulness of  
133 such actions.

134 (4) To plan for construction and development of an  
135 agriculture center within the operational area of the  
136 agriculture authority on property owned by the authority.  
137 Construction and development may include, without limitation,  
138 any or all of the following:

139 a. Buildings to hold offices for use by the federal  
140 government, the state or any agency of the state, the county,



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141 or one or more municipalities within the county.

142           b. Buildings to house or accommodate public facilities  
143 of the federal government, the state or any agency of the  
144 state, the county, or one or more municipalities within the  
145 county.

146           c. Streets, boulevards, walkways, parkways, parks, or  
147 other places of recreation.

148           d. Monuments, statues, or other structures beautifying  
149 the agriculture center.

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

151           f. Arenas, convention halls, sports facilities,  
152 stadiums, hotels or other facilities for use as a transient  
153 guest housing facility, multifamily housing, dormitory  
154 housing, food courts or other food venue facilities, any  
155 facilities that provide for or support any public or private  
156 educational institution, and any other facilities related to  
157 or incidental to the foregoing.

158           g. Music halls, art museums, art exhibits, or other  
159 exhibits for the advancement of the humanities and cultural  
160 development.

161           h. Any other buildings, structures, facilities, and  
162 other improvements that the board of directors of the  
163 agriculture authority determines are appropriate, useful, or  
164 expedient to the authority's purposes from time to time. The  
165 determination of the authority board of directors shall be  
166 conclusive.

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



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

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

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

174 (9) To hire professionals and enter into contracts for  
175 their services in designing and supervising the construction  
176 of any building, agriculture center, auditorium, arena,  
177 convention hall, music hall, art museum, place of recreation,  
178 art exhibit, office building, or other structure that it  
179 desires to construct.

180 (10) To make and enter into contracts and to execute  
181 all instruments necessary or convenient to lease or purchase  
182 and own real or personal property to be used for the  
183 furtherance of the purposes for the accomplishment of which  
184 the authority is created.

185 (11) To plan for programs and exhibits in the  
186 agriculture center for the advancement of the agricultural,  
187 cultural, and workforce development interests of the citizens  
188 of the county and of the municipalities thereof.

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

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

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

196 (15) To enter into financing agreements with federal or





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197 state agencies that may require the authority to mortgage its  
198 property.

199 (16) To plan for programs and exhibits in the  
200 agriculture center for the advancement of agricultural and  
201 workforce development interests in the county.

202 (17) To enter into long-term contracts or agreements  
203 for sewer service with any Class 5 municipality within three  
204 miles of the authority or a utility board of the Class 5  
205 municipality.

206 (18) To accept lease payments, loan repayments, or  
207 other compensation to or for the authority or other public  
208 person.

209 (19) To invest in bank deposits, U.S. Treasury bills,  
210 projects, instruments, real, personal, or mixed property, or  
211 any other investments as the board of directors of the  
212 authority may from time to time determine to be appropriate  
213 and convenient to accomplish any purpose for which an  
214 agriculture authority is organized, including works of  
215 internal improvement, interests in private or corporate  
216 enterprises, loans of money or credit to individuals,  
217 associations, or corporations; and to lend the authority's  
218 credit, grant public money or things of value in aid of or to  
219 any individual, association, or corporation whatsoever, or  
220 become a stockholder in any such corporation, association, or  
221 company by issuing bonds or otherwise even though they may be  
222 in violation of Section 93 or Section 94 of the Constitution  
223 of Alabama of 2022, if done by the state, a county, city,  
224 town, or other subdivision of the state, notwithstanding the



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225 fact that any such investment or action may involve the  
226 expenditure or appropriation of funds received from a public  
227 person. In particular, but not by way of limitation, an  
228 authority may invest its funds, from whatever source, in the  
229 stock, bonds, debentures, notes, or other securities issued by  
230 any person locating a project in the authority's operational  
231 area and may enter into contracts or options, including  
232 contracts or options for the conveyance, sale, or lease of  
233 property, to any such person and make direct grants of money,  
234 property, or services for the purpose of inducing the person  
235 to locate a project in the authority's operational area.

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

238 (21) To acquire real property for the purpose of  
239 establishing one or more agriculture centers; to improve  
240 agriculture center sites, whether owned by the authority or by  
241 any other person, including the improvement of the centers or  
242 sites by the construction of roads, curbing, gutters,  
243 drainage, sewerage, utilities, railroad spurs, docks, harbors,  
244 ports, grading, and the like; to construct, for its own  
245 account or the account of others, improvements thereon,  
246 including any project, for the purpose of conveying, leasing,  
247 or selling the same to any person, including the power to  
248 convey, lease, or sell the same for its own account or to  
249 construct the same as an inducement for any person to locate  
250 and operate a project in the agriculture center or operational  
251 area, even though the person may not have been identified at  
252 the time that the improvement may be constructed.



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

257           (23) To issue its bonds for the purpose of carrying out  
258 any of its powers and to apply proceeds from the sale of its  
259 bonds, whether heretofore or hereafter issued, not only for  
260 payment of interest thereon prior to and during the  
261 construction and equipment of any buildings, structures,  
262 facilities, or other improvements being financed thereby, but  
263 also for payment of interest thereon.

264           (24) To mortgage and pledge any or all of its  
265 properties both real and personal or any part or parts  
266 thereof, as security for the payment of the principal of and  
267 the interest on any bonds so issued and any agreements made in  
268 connection therewith, whether then owned or thereafter  
269 acquired, and to pledge the revenues and receipts therefrom or  
270 from any thereof.

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

276           (26) To enter into contracts, agreements, leases, or  
277 other instruments, either independently or through another  
278 entity, to design, develop, construct, own, or operate any  
279 commercial facility, to acquire lands or other assets for the  
280 facility, to raise revenue from the operation of the facility,



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281 and to use any revenue from the operation of any facility to  
282 fund projects and operations in support of the authority's  
283 mission, including the payment of any expenses and debt of the  
284 authority. The power provided in this subdivision shall  
285 include the power to make advance payments to third parties  
286 for services.

287 (b) Contracts of an agriculture authority shall be  
288 executed in the name of the authority by the chair and  
289 attested by the secretary of the authority. The board may  
290 provide by resolution for a different form for the execution  
291 of a contract by an officer or agent other than the chair and  
292 secretary. A contract, irrespective of its form and of the  
293 persons executing the contract, shall not be binding unless  
294 the contract is authorized or ratified by the board.

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

300 (d) In exercising the powers enumerated in this  
301 section, all mortgages, contracts, judgments, investments,  
302 loans, debts, and other obligations of any sort of the  
303 authority due to any third party shall be recovered and  
304 enforced only against the authority unless the county  
305 commission approving the formation of the authority  
306 specifically agrees to accept the obligation by a separate  
307 affirmative vote of a majority of the members of the county  
308 commission.



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

314 (1) To participate: As a shareholder in a corporation;  
315 as a joint venturer in a joint venture, whether the joint  
316 venture is to be memorialized contractually or through the  
317 formation of one or more separate business entities; as a  
318 general or limited partner in a limited partnership or a  
319 general partnership; as a member in a nonprofit corporation or  
320 limited liability company; or as a member of any other lawful  
321 form of business organization, that may be involved in the  
322 development or operational activities of any buildings,  
323 structures, facilities, and other improvements that the board  
324 of directors of the authority determines are appropriate,  
325 useful, or expedient to the authority's purposes. In  
326 connection with the foregoing, an authority may elect or  
327 appoint an individual or individuals to a governing body and  
328 enter into contracts or other agreements with other parties  
329 for the development, operation, design, marketing,  
330 maintenance, and use of any facilities upon the terms as the  
331 board of directors of the authority determines are  
332 appropriate, useful, or expedient to the authority's purposes.  
333 Any determination by the authority shall be conclusive.

334 (2) To make or arrange for loans, contributions to  
335 capital, and other debt and equity financing for the  
336 activities of any corporation of which the authority is a



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337 shareholder; any joint venture in which the authority is a  
338 joint venture; any limited partnership or general partnership  
339 of which the authority is a general or limited partnership;  
340 any nonprofit corporation in which the authority is a member  
341 of any other lawful form of business organization of which the  
342 authority is a member; and to guarantee loans, issue bonds, or  
343 incur other forms of indebtedness on behalf of the  
344 corporation, joint venture, partnership, nonprofit  
345 corporation, or other business entity, for such purposes. An  
346 authority may loan funds that include seller financing  
347 arrangements whereby the authority is a seller to other  
348 governmental entities or other business entities whether for  
349 profit or nonprofit and whether affiliated or non-affiliated  
350 with the authority, upon the terms as the authority shall  
351 determine appropriate, useful, or expedient for the  
352 authority's purposes and the determination by the authority  
353 shall be conclusive.

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

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

361 (5) Without limiting the generality of the preceding  
362 subdivisions, to accomplish and facilitate the creation,  
363 establishment, acquisition, development, operation, or support  
364 of any subsidiary, affiliate, nonaffiliated corporation, or



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365 other lawful business organization by means of loans of funds,  
366 leases of real or personal property, gifts and grants of  
367 funds, or guarantees of indebtedness of the subsidiaries,  
368 affiliates, and non-affiliated corporations.

369 (6) In addition to any other authority to enter into  
370 contracts, to enter into contracts, agreements, or  
371 understandings with any other public and private parties  
372 including, but not limited to, the following:

373 a. Design-build, design-build-operate, design-build-  
374 own-operate, design-build-own-operate-maintain, design-build-  
375 finance-operate-maintain, or other similar arrangements or  
376 agreements pursuant to which the design, right-of-way  
377 acquisition, relocation of structures or utilities,  
378 construction, financing, ownership, management, maintenance,  
379 and operation, or any combination thereof of a project is  
380 accomplished by or on behalf of the authority.

381 b. Leases, licenses, franchises, concessions, or other  
382 agreements for the development, operation, management, or  
383 undertaking of all or any part of a project of or on behalf of  
384 the authority.

385 (7) Notwithstanding any provision of law to the  
386 contrary, proposals under this subsection may be evaluated and  
387 awarded by the authority based on qualifications of  
388 participants or best value, or both, as evaluated by  
389 procedures of the authority and taking into consideration the  
390 best interests of the authority. Evaluation criteria for a  
391 contract procured pursuant to the preceding sentence shall be  
392 set forth in the request for proposal for the contract. The



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393 contract may also be awarded through any existing procurement  
394 authority, proposals, or other means of procurement otherwise  
395 available to the authority."

396 Section 2. This act shall become effective on June 1,  
397 2024.



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399  
400 Senate

401 Read for the first time and referred .....02-Apr-24  
402 to the Senate committee on  
403 Agriculture, Conservation, and  
404 Forestry

405  
406 Read for the second time and placed .....04-Apr-24  
407 on the calendar:  
408 0 amendments

409  
410 Read for the third time and passed .....09-Apr-24  
411 as amended  
412 Yeas 34  
413 Nays 0  
414 Abstains 0

415  
416  
417 Patrick Harris,  
418 Secretary.  
419