

SB327 ENGROSSED



1 SB327
2 6GE4131-2
3 By Senator Elliott
4 RFD: County and Municipal Government
5 First Read: 16-Apr-24



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A BILL
TO BE ENTITLED
AN ACT

Relating to Capital Improvement Cooperative Districts incorporated under Chapter 99B of Title 11, Code of Alabama 1975; to amend Sections 11-99B-5, 11-99B-7, 11-99B-9, and 11-99B-11 of the Code of Alabama 1975, to authorize the articles of incorporation to be amended to add new areas to the district and new projects authorized to be financed; and to authorize the imposition of rates, fees, and other charges from users of the projects or from business owners or property owners in the district which would be required to be approved by the governing body forming the district if required by the certificate of incorporation; and to provide for the use of any funds of the district to pay for the construction costs of the new projects.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Sections 11-99B-5, 11-99B-7, 11-99B-9, and 11-99B-11 of the Code of Alabama 1975, are amended to read as follows:

"§11-99B-5

(a) The certificate of incorporation of any district may at any time ~~and from time to time~~ be amended in the manner



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29 provided in this section.

30 (b) (1) The board shall first adopt a resolution
31 proposing an amendment to the certificate of incorporation
32 which shall be set forth in full in the ~~said~~ resolution and
33 which amendment may include, without limitation:

34 a. A change in the name of the district.

35 b. The addition to the project or projects of the
36 district of a new project or projects and the proposed
37 location thereof.

38 c. A change in the general description of the area or
39 areas in which the district proposes to acquire each project
40 or projects, including, but not limited to, the addition of
41 new or additional areas or property with the consent of the
42 owner or owners of the new or additional property.

43 ~~e.~~d. Any matters which might have been included in the
44 original certificate of incorporation, or any change in any
45 such matters.

46 (2) If any proposed amendment would add any new county,
47 municipality, or public corporation as a member of a district,
48 ~~such~~the proposed amendment shall include, in addition:

49 a. Provisions for election of at least one director by
50 the governing body of each ~~such~~the new county, municipality,
51 or public corporation.

52 b. Provisions for any change in the total number of
53 directors that the board deems appropriate; and any provision
54 to give the directors proportional voting power based upon the
55 percentage of indebtedness and operating expenses of the
56 district for which the entities electing the directors will be



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57 guarantors, or any other measure for establishing proportional
58 voting power of directors; provided, however, that the total
59 number of directors shall be at least equal to the number of
60 directors immediately before the amendment, plus the number
61 added pursuant to paragraph a. ~~of this subdivision (2).~~

62 c. Any provision that the board deems appropriate for
63 apportioning of the properties of the district upon its
64 dissolution among its members.

65 (c) After the adoption by the board of a resolution
66 proposing an amendment to the certificate of incorporation of
67 the district, the chairman of the board or other chief
68 executive officer of the district and the secretary of the
69 district shall sign and file a written application in the name
70 of and on behalf of the district, under its seal, with the
71 governing body of each member and each additional county,
72 municipality, or public corporation proposed to be added as a
73 member of the district. ~~Such~~The application shall request each
74 governing body with which the application is filed to adopt a
75 resolution approving the proposed amendment and shall be
76 accompanied by a certified copy of the ~~said~~ resolution adopted
77 by the board proposing the ~~said~~ amendment to the certificate
78 of incorporation, together with ~~such~~ any documents in support
79 of the application as the ~~said~~ chairman or other chief
80 executive officer may consider appropriate.

81 (d) As promptly as may be practicable after the filing
82 of the ~~said~~ application with any governing body pursuant to
83 ~~the provisions of~~ subsection (c), that governing body shall
84 review the ~~said~~ application and shall adopt a resolution

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85 either denying the ~~said~~ application or authorizing the
86 proposed amendment.

87 (e) Following the adoption of ~~such~~ a resolution by that
88 governing body that was the last to adopt such a resolution,
89 but if ~~and only if~~ the governing body of each other county,
90 public corporation, and municipality with whom ~~such~~ the
91 application was filed has theretofore adopted ~~such~~ a
92 resolution, the chairman of the board or other chief executive
93 officer of the district and the secretary of the district
94 shall sign and file for record in the office of the judge of
95 probate of the county where the certificate of incorporation
96 of the district was filed a certificate in the name of and in
97 behalf of the district, under its seal, reciting the adoption
98 of ~~said~~ the respective resolutions by the board and by each of
99 the ~~said~~ governing bodies and setting forth the ~~said~~ proposed
100 amendment. If the proposed amendment provides for a change in
101 the name of the district, there shall be filed, together with
102 the certificate required by the immediately preceding
103 sentence, a certificate of the Secretary of State showing that
104 the proposed new name of the district is not identical to that
105 of any other corporation then in existence and organized under
106 the laws of this state or so nearly similar to that of any
107 other ~~such~~ corporation so as to lead to confusion and
108 uncertainty. Upon the filing for record of each ~~such~~
109 certificate, the ~~said~~ amendment to the certificate of
110 incorporation shall become effective. If the proposed
111 amendment effects a change in the name of the district, the
112 judge of probate shall promptly send a notice to the Secretary



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113 of State, advising him or her of ~~such~~ the change."

114 "§11-99B-7

115 Each district shall have the following powers, together
116 with all powers incidental ~~thereto~~ or necessary to the
117 discharge thereof in corporate form:

118 (1) To have succession by its corporate name for the
119 duration of time, which may be in perpetuity, subject to the
120 provisions of Section 11-99B-15, specified in its certificate
121 of incorporation.

122 (2) To sue and to be sued in its own name in civil
123 actions, and to defend civil actions against it; provided,
124 that the district shall be deemed to be a "governmental
125 entity" as defined in Chapter 93 of this title, for the
126 purposes of limiting the damages for which the district and
127 its members may be liable.

128 (3) To adopt and make use of a corporate seal and to
129 alter the same at pleasure.

130 (4) To adopt and alter bylaws for the regulation and
131 conduct of its affairs and business.

132 (5) To acquire, receive, and take, by purchase, gift,
133 lease, devise, or otherwise, and to hold property of every
134 description, whether located in one or more counties or
135 municipalities.

136 (6) To make, enter into, and execute ~~such~~ licences,
137 contracts, agreements, leases, and other instruments and to
138 take ~~such~~ other actions as may be necessary or convenient to
139 accomplish any purpose for which the district was organized or
140 to exercise any power expressly granted under this section.



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141 (7) To plan, establish, develop, acquire, purchase,
142 lease, construct, reconstruct, enlarge, improve, maintain,
143 equip, and operate a project or projects or any part or
144 combination of any thereof, whether located in one or more
145 counties or municipalities, and to acquire franchises and
146 easements deemed necessary or desirable in connection
147 therewith.

148 (8) To sell and issue bonds of the district in order to
149 provide funds for any corporate function, use, or purpose, any
150 ~~such~~ bonds to be payable solely out of the revenues derived
151 from any project or projects of the district, or pursuant to
152 any guarantees by any of its members.

153 (9) To assume obligations secured by a lien on or
154 payable out of or secured by a pledge of the revenues from any
155 project or any part of any thereof that may be acquired by the
156 district, any obligation so assumed to be payable by the
157 district solely out of the revenues derived from the operation
158 of any project or any thereof of the district.

159 (10) To pledge for payment of any bonds issued or
160 obligations assumed by the district any revenues from which
161 those bonds or obligations are made payable as provided in
162 this chapter.

163 (11) To execute and deliver trust indentures in
164 accordance with the provisions of this chapter.

165 (12) To exercise the power of eminent domain in the
166 manner provided in and subject to the provisions of Title 18;
167 provided, that this subdivision shall not be deemed to
168 authorize the district to acquire, without the consent of the



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169 owner or owners thereof, any property or interests therein at
170 the time dedicated to public use.

171 (13) To appoint, employ, contract with, and provide for
172 the compensation of such officers, employees, and agents,
173 including, but without limitation to, engineers, attorneys,
174 accountants, architects, management consultants, and fiscal
175 advisers as the business of the district may require.

176 (14) To make and enforce reasonable rules and
177 regulations governing the use of any project owned or
178 controlled by the district.

179 (15) To provide for ~~such~~ insurance as the board may
180 deem advisable.

181 (16) To invest any funds of the district that the board
182 may determine are not presently needed in the operation of its
183 properties in any investment which may be made by any of its
184 members.

185 (17) To cooperate with the United States of America,
186 any agency or instrumentality thereof, the state, any county,
187 municipality, or other political subdivision of the state, and
188 any public corporation and to make such contracts with them ~~or~~
189 ~~any of them,~~ as the board may deem advisable to accomplish the
190 purpose for which the district was established.

191 (18) To sell and convey any of its properties that may
192 have become obsolete or worn out or that may no longer be
193 needed or useful as a part of any project of the district.

194 (19) To sell and convey, with or without valuable
195 consideration, any of its projects or any portion thereof to
196 any one or more counties, municipalities, or public



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197 corporations which have the corporate power to operate the
198 project or portions thereof so conveyed and the property and
199 income of which are not subject to taxation; provided, that
200 any~~such~~ sale and conveyance may be made only with the consent
201 of each member of the district, any~~such~~ consent to be
202 evidenced by a resolution adopted by the governing body of
203 each~~such~~ member and only if any~~such~~ conveyance would not
204 constitute a breach of any then outstanding trust indenture or
205 other agreement to which the district is a party.

206 (20) To enter into a management agreement or agreements
207 with any person for the management by the district of any
208 project or any part thereof upon~~such~~ the terms and conditions
209 as may be mutually agreeable.

210 (21) To fix and revise from time to time reasonable
211 rentals, ~~licences~~ licenses, rates, fees, and other charges for
212 the use of any project or portion thereof, owned or operated
213 by the district, from the users of the project or projects, or
214 from the businesses or property owners within the district,
215 which shall be approved by each governing body that is a
216 member of the district to the extent required by its
217 certificate of incorporation, and to collect all charges made
218 by it.

219 (22) To require any user of any of its projects or any
220 part thereof to make a reasonable deposit with the district in
221 advance to~~insure~~ ensure the payment of rentals, licences,
222 rates, fees, or charges, or costs of repair to any damage to
223 the project and to be subject to the application to the
224 payment thereof if and when delinquent."



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225 "§11-99B-9

226 As security for payment of the principal of and the
227 interest on bonds issued or obligations assumed by it, the
228 district may enter into a contract or contracts binding itself
229 for the proper application of the proceeds of bonds and other
230 funds, for the continued operation and maintenance of any
231 project owned by it or any part or parts thereof, for the
232 imposition and collection of reasonable rates,
233 ~~licences~~licenses, rentals, fees, and charges for and the
234 ~~promulgation~~adoption of reasonable regulations respecting any
235 such project, for the disposition and application of its gross
236 revenues or any part thereof, and for any other act or series
237 of acts not inconsistent with the provisions of this chapter
238 for the protection of the bonds and other obligations being
239 secured and the assurance that the revenues from ~~such~~the
240 project will be sufficient to operate ~~such~~the project,
241 maintain the same in good repair and in good operating
242 condition, pay the principal of and the interest on any bonds
243 payable from ~~such~~the revenues and maintain ~~such~~ reserves as
244 may be deemed appropriate for the protection of the bonds, the
245 efficient operation of ~~such~~the project, and the making of
246 replacements thereof and capital improvements thereto.

247 Any contract pursuant to the provisions of this section
248 may be set forth in any resolution of the board authorizing
249 the issuance of bonds or the assumption of obligations or in
250 any trust indenture made by the district under this chapter."

251 "§11-99B-11

252 Rates, fees, charges, rentals, and licenses for



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253 services rendered by the district or facilities provided by
254 the district from any of its projects shall be so fixed and,
255 from time to time, revised as at all times to provide funds at
256 least sufficient, taking into account other sources for the
257 payment thereof, to:

258 (1) Pay the cost of constructing, operating,
259 maintaining, repairing, replacing, extending, and improving
260 the project or projects of the district and to pay the cost of
261 any new or additional projects.

262 (2) Pay the principal of and the interest on all bonds
263 issued and obligations assumed by the district that are
264 payable out of the revenues derived from operation of the
265 project or projects of the district as the ~~said~~ principal and
266 interest become due and payable.

267 (3) Create and maintain ~~such~~ reserves for the foregoing
268 purposes ~~or any of them~~ as may be provided in any trust
269 indenture executed by the district under this chapter or in
270 any resolutions of the board authorizing the issuance of
271 bonds, the assumption of any obligation, or the acquisition of
272 any ~~such~~ project.

273 (4) Make ~~such~~ annual payments, if any, to the United
274 States of America or any agency or instrumentality thereof,
275 the state, municipalities, counties, departments, authorities,
276 agencies, and political subdivisions of the state, and any
277 public corporations organized under the laws of the state as
278 the district may have contracted to make."

279 Section 2. This act shall become effective on October
280 1, 2024.

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281
282
283 Senate

284 Read for the first time and referred16-Apr-24
285 to the Senate committee on County
286 and Municipal Government
287
288 Read for the second time and placed23-Apr-24
289 on the calendar:
290 1 amendment
291
292 Read for the third time and passed25-Apr-24
293 as amended
294 Yeas 32
295 Nays 0
296 Abstains 0
297
298

299 Patrick Harris,
300 Secretary.
301