

SB327 INTRODUCED



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



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SYNOPSIS:

Under existing law, Chapter 99B of Title 11, Code of Alabama 1975, provides that a county, municipality, or other public corporation may incorporate a Capital Improvement Cooperative District to finance a project that the county, municipality, or other public corporation would otherwise be authorized to own, construct, or finance. A project includes any capital improvement, building, or similar facility that the county, municipality, or other public corporation is authorized to own, construct, or finance. The district is authorized to issue revenue bonds for any corporate use payable from the revenue of any project or projects of the district.

This bill would authorize the articles of incorporation of the district to be amended to add new areas in which the district proposes to acquire a project or projects.

The bill would also authorize the use of funds of the district to pay the construction costs of the new projects and would provide that the rentals, rates, fees, and other charges fixed by the district would be required to be approved by the governing body of the county, municipality, or other public corporation if required by the certificate of incorporation.



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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 provided in this section.

(b) (1) The board shall first adopt a resolution



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57 proposing an amendment to the certificate of incorporation
58 which shall be set forth in full in the ~~said~~ resolution and
59 which amendment may include, without limitation:

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

61 b. The addition to the project or projects of the
62 district of a new project or projects and the proposed
63 location thereof.

64 c. A change in the general description of the area or
65 areas in which the district proposes to acquire each project
66 or projects, including, but not limited to, the addition of
67 new or additional areas or property.

68 ~~e-d.~~ Any matters which might have been included in the
69 original certificate of incorporation, or any change in any
70 such matters.

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

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

77 b. Provisions for any change in the total number of
78 directors that the board deems appropriate; and any provision
79 to give the directors proportional voting power based upon the
80 percentage of indebtedness and operating expenses of the
81 district for which the entities electing the directors will be
82 guarantors, or any other measure for establishing proportional
83 voting power of directors; provided, however, that the total
84 number of directors shall be at least equal to the number of



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85 directors immediately before the amendment, plus the number
86 added pursuant to paragraph a. ~~of this subdivision (2)~~.

87 c. Any provision that the board deems appropriate for
88 apportioning of the properties of the district upon its
89 dissolution among its members.

90 (c) After the adoption by the board of a resolution
91 proposing an amendment to the certificate of incorporation of
92 the district, the chairman of the board or other chief
93 executive officer of the district and the secretary of the
94 district shall sign and file a written application in the name
95 of and on behalf of the district, under its seal, with the
96 governing body of each member and each additional county,
97 municipality, or public corporation proposed to be added as a
98 member of the district. ~~Such~~The application shall request each
99 governing body with which the application is filed to adopt a
100 resolution approving the proposed amendment and shall be
101 accompanied by a certified copy of the ~~said~~ resolution adopted
102 by the board proposing the ~~said~~ amendment to the certificate
103 of incorporation, together with ~~such~~ any documents in support
104 of the application as the ~~said~~ chairman or other chief
105 executive officer may consider appropriate.

106 (d) As promptly as may be practicable after the filing
107 of the ~~said~~ application with any governing body pursuant to
108 ~~the provisions of~~ subsection (c), that governing body shall
109 review the ~~said~~ application and shall adopt a resolution
110 either denying the ~~said~~ application or authorizing the
111 proposed amendment.

112 (e) Following the adoption of ~~such~~ a resolution by that



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113 governing body that was the last to adopt such a resolution,
114 but if ~~and only if~~ the governing body of each other county,
115 public corporation, and municipality with whom ~~such~~ the
116 application was filed has theretofore adopted ~~such~~ a
117 resolution, the chairman of the board or other chief executive
118 officer of the district and the secretary of the district
119 shall sign and file for record in the office of the judge of
120 probate of the county where the certificate of incorporation
121 of the district was filed a certificate in the name of and in
122 behalf of the district, under its seal, reciting the adoption
123 of ~~said~~ the respective resolutions by the board and by each of
124 the ~~said~~ governing bodies and setting forth the ~~said~~ proposed
125 amendment. If the proposed amendment provides for a change in
126 the name of the district, there shall be filed, together with
127 the certificate required by the immediately preceding
128 sentence, a certificate of the Secretary of State showing that
129 the proposed new name of the district is not identical to that
130 of any other corporation then in existence and organized under
131 the laws of this state or so nearly similar to that of any
132 other ~~such~~ corporation so as to lead to confusion and
133 uncertainty. Upon the filing for record of each ~~such~~
134 certificate, the ~~said~~ amendment to the certificate of
135 incorporation shall become effective. If the proposed
136 amendment effects a change in the name of the district, the
137 judge of probate shall promptly send a notice to the Secretary
138 of State, ^r advising him or her of ~~such~~ the change."

139 "§11-99B-7

140 Each district shall have the following powers, together



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141 with all powers incidental~~thereto~~ or necessary to the
142 discharge thereof in corporate form:

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

147 (2) To sue and to be sued in its own name in civil
148 actions, and to defend civil actions against it; provided,
149 that the district shall be deemed to be a "governmental
150 entity" as defined in Chapter 93 of this title~~r~~ for the
151 purposes of limiting the damages for which the district and
152 its members may be liable.

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

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

157 (5) To acquire, receive, and take~~r~~ by purchase, gift,
158 lease, devise, or otherwise, and to hold property of every
159 description, whether located in one or more counties or
160 municipalities.

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

166 (7) To plan, establish, develop, acquire, purchase,
167 lease, construct, reconstruct, enlarge, improve, maintain,
168 equip, and operate a project or projects or any part or



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169 combination of any thereof, whether located in one or more
170 counties or municipalities, and to acquire franchises and
171 easements deemed necessary or desirable in connection
172 therewith.

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

178 (9) To assume obligations secured by a lien on or
179 payable out of or secured by a pledge of the revenues from any
180 project or any part of any thereof that may be acquired by the
181 district, any obligation so assumed to be payable by the
182 district solely out of the revenues derived from the operation
183 of any project or any thereof of the district.

184 (10) To pledge for payment of any bonds issued or
185 obligations assumed by the district any revenues from which
186 those bonds or obligations are made payable as provided in
187 this chapter.

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

190 (12) To exercise the power of eminent domain in the
191 manner provided in and subject to the provisions of Title 18;
192 provided, that this subdivision shall not be deemed to
193 authorize the district to acquire, without the consent of the
194 owner or owners thereof, any property or interests therein at
195 the time dedicated to public use.

196 (13) To appoint, employ, contract with, and provide for



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197 the compensation of such officers, employees, and agents,
198 including, but without limitation to, engineers, attorneys,
199 accountants, architects, management consultants, and fiscal
200 advisers as the business of the district may require.

201 (14) To make and enforce reasonable rules and
202 regulations governing the use of any project owned or
203 controlled by the district.

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

206 (16) To invest any funds of the district that the board
207 may determine are not presently needed in the operation of its
208 properties in any investment which may be made by any of its
209 members.

210 (17) To cooperate with the United States of America,
211 any agency or instrumentality thereof, the state, any county,
212 municipality, or other political subdivision of the state, and
213 any public corporation and to make such contracts with them ~~or~~
214 ~~any of them~~, as the board may deem advisable to accomplish the
215 purpose for which the district was established.

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

219 (19) To sell and convey, with or without valuable
220 consideration, any of its projects or any portion thereof to
221 any one or more counties, municipalities, or public
222 corporations which have the corporate power to operate the
223 project or portions thereof so conveyed and the property and
224 income of which are not subject to taxation; provided, that



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225 any ~~such~~ sale and conveyance may be made only with the consent
226 of each member of the district, any ~~such~~ consent to be
227 evidenced by a resolution adopted by the governing body of
228 each ~~such~~ member and only if any ~~such~~ conveyance would not
229 constitute a breach of any then outstanding trust indenture or
230 other agreement to which the district is a party.

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

235 (21) To fix and revise from time to time reasonable
236 rentals, ~~licences~~ licenses, rates, fees, and other charges for
237 the use of any project or portion thereof, owned or operated
238 by the district, from the users of the project or projects, or
239 from the businesses or property owners within the district,
240 which shall be approved by each governing body that is a
241 member of the district to the extent required by its
242 certificate of incorporation, and to collect all charges made
243 by it.

244 (22) To require any user of any of its projects or any
245 part thereof to make a reasonable deposit with the district in
246 advance to ~~insure~~ ensure the payment of rentals, licences,
247 rates, fees, or charges, or costs of repair to any damage to
248 the project and to be subject to the application to the
249 payment thereof if and when delinquent."

250 "§11-99B-9

251 As security for payment of the principal of and the
252 interest on bonds issued or obligations assumed by it, the



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253 district may enter into a contract or contracts binding itself
254 for the proper application of the proceeds of bonds and other
255 funds, for the continued operation and maintenance of any
256 project owned by it or any part or parts thereof, for the
257 imposition and collection of reasonable rates,
258 ~~licences~~licenses, rentals, fees, and charges for and the
259 ~~promulgation~~ adoption of reasonable regulations respecting any
260 such project, for the disposition and application of its gross
261 revenues or any part thereof, and for any other act or series
262 of acts not inconsistent with the provisions of this chapter
263 for the protection of the bonds and other obligations being
264 secured and the assurance that the revenues from ~~such~~ the
265 project will be sufficient to operate ~~such~~ the project,
266 maintain the same in good repair and in good operating
267 condition, pay the principal of and the interest on any bonds
268 payable from ~~such~~ the revenues and maintain ~~such~~ reserves as
269 may be deemed appropriate for the protection of the bonds, the
270 efficient operation of ~~such~~ the project, and the making of
271 replacements thereof and capital improvements thereto.

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

276 "§11-99B-11

277 Rates, fees, charges, rentals, and licenses for
278 services rendered by the district or facilities provided by
279 the district from any of its projects shall be so fixed and,
280 from time to time, revised as at all times to provide funds at



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281 least sufficient, taking into account other sources for the
282 payment thereof, to:

283 (1) Pay the cost of constructing, operating,
284 maintaining, repairing, replacing, extending, and improving
285 the project or projects of the district and to pay the cost of
286 any new or additional projects.

287 (2) Pay the principal of and the interest on all bonds
288 issued and obligations assumed by the district that are
289 payable out of the revenues derived from operation of the
290 project or projects of the district as the ~~said~~ principal and
291 interest become due and payable.

292 (3) Create and maintain ~~such~~ reserves for the foregoing
293 purposes ~~or any of them~~ as may be provided in any trust
294 indenture executed by the district under this chapter or in
295 any resolutions of the board authorizing the issuance of
296 bonds, the assumption of any obligation, or the acquisition of
297 any ~~such~~ project.

298 (4) Make ~~such~~ annual payments, if any, to the United
299 States of America or any agency or instrumentality thereof,
300 the state, municipalities, counties, departments, authorities,
301 agencies, and political subdivisions of the state, and any
302 public corporations organized under the laws of the state as
303 the district may have contracted to make."

304 Section 2. This act shall become effective on October
305 1, 2024.