

1 SB234
2 136060-1
3 By Senators Orr, Holtzclaw, Scofield and Sanford
4 RFD: Governmental Affairs
5 First Read: 07-FEB-12

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8 SYNOPSIS: This bill amends Section 11-101A-8, Code of
9 Alabama 1975, relating to the powers of county and
10 municipal corporations whose corporate purpose is
11 to provide buildings, facilities, and other
12 property for lease and use by the United States of
13 America; to expand the powers of those corporations
14 to include expending funds in support of federal
15 facilities located in the state.

16
17 A BILL
18 TO BE ENTITLED
19 AN ACT
20

21 To amend Section 11-101A-8, Code of Alabama 1975,
22 relating to the powers of county and municipal corporations
23 whose corporate purpose is to provide buildings, facilities,
24 and other property for lease and use by the United States of
25 America; to expand the powers of those corporations to include
26 expending funds in support of federal facilities located in
27 the state.

1 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

2 Section 1. Section 11-101A-8, Code of Alabama 1975,
3 is amended to read as follows:

4 "§11-101A-8.

5 (a) In addition to all other powers granted
6 elsewhere in this chapter, and subject to the express
7 provisions of its certificate of incorporation, an authority
8 shall have the following powers, together with all powers
9 incidental thereto or necessary to the discharge thereof in
10 corporate form:

11 (1) To have succession by its corporate name for the
12 duration of time, which may be in perpetuity, specified in its
13 certificate of incorporation, or until dissolved as provided
14 in Section 11-101A-24.

15 (2) To sue and be sued in its own name in civil
16 suits and actions, and to defend suits and actions against it,
17 subject, however, to Chapter 93 of this title, which chapter
18 is hereby made applicable to the authority.

19 (3) To adopt, alter, amend, and repeal bylaws,
20 regulations, and rules for the regulation and conduct of its
21 affairs and business.

22 (4) To adopt and make use of a corporate seal and to
23 alter the same at pleasure.

24 (5) To acquire, whether by purchase, construction,
25 exchange, gift, lease, or otherwise and to improve, maintain,
26 equip, and furnish one or more projects, including all real
27 and personal properties which the board deems necessary in

1 connection therewith, regardless of whether any projects are
2 then in existence, at such place or places, within and without
3 the boundaries of its authorizing subdivisions, as it
4 considers necessary or advisable.

5 (6) To lease or otherwise make available its
6 projects or other of its properties or assets, with or without
7 charge, to the United States or to one or more of its
8 authorizing subdivisions, for sublease to the United States,
9 on such terms as the board deems appropriate, to charge and
10 collect rent or other fees or charges therefor, if any, and to
11 terminate any lease or other agreement upon the failure of the
12 lessee or other party to comply with any of its obligations
13 thereunder.

14 (7) To receive, acquire, take, and hold, whether by
15 purchase, gift, transfer, foreclosure, lease, devise, option,
16 or otherwise, real and personal property of every description,
17 or any interest therein, and to manage, improve, and dispose
18 of the same by any form of legal conveyance or transfer.
19 Notwithstanding the foregoing, the authority shall not,
20 without the prior approval of the governing body of each
21 authorizing subdivision, dispose of all or substantially all
22 its assets. The foregoing provision shall not be construed to
23 require the prior approval of any governing body for the
24 mortgage or pledge of all or substantially all its assets or
25 for the foreclosure of any mortgage or sale or for any sale or
26 other disposition thereunder.

1 (8) To mortgage, pledge, or otherwise convey its
2 property and its revenues from any source, including, without
3 limitation, any amounts payable to the authority by an
4 authorizing subdivision in accordance with an agreement
5 entered into pursuant to Section 11-101A-10.

6 (9) To borrow money in order to provide funds for
7 any lawful corporate function, use, or purpose and, in
8 evidence of such borrowing, to sell and issue interest-bearing
9 securities in the manner provided and subject to the
10 limitations set forth in this chapter.

11 (10) To pledge for payment of any of its securities
12 its revenues from any source, including, without limitation,
13 any amounts payable to the authority by an authorizing
14 subdivision in accordance with an agreement entered into
15 pursuant to Section 11-101A-10, and to mortgage or pledge any
16 or all of its projects or other assets or properties or any
17 part or parts thereof, whether then owned or thereafter
18 acquired, as security for the payment of the principal of and
19 the interest and premium, if any, on any securities so issued
20 and any agreements made in connection therewith.

21 (11) To enter into agreements with any person, firm,
22 or corporation for the management by the person, firm, or
23 corporation on behalf of the authority of any of its projects
24 or other properties or for the more efficient or economical
25 performance of clerical, accounting, administrative, and other
26 functions relating to its projects or other properties.

1 (12) To make all needful or appropriate rules and
2 regulations for the conduct of any properties owned or
3 operated by it and to alter those rules and regulations.

4 (13) To provide for any insurance the business of
5 the authority requires.

6 (14) To receive and accept from any source aid or
7 contributions in the form of money, property, labor, or other
8 things of value, to be held, used, and applied to carry out
9 the purposes of this chapter, subject to any lawful condition
10 upon which any aid or contributions may be given or made.

11 (15) To enter into contracts with, to accept aid,
12 loans, and grants from, to cooperate with, and to do any and
13 all things not specifically prohibited by this chapter or the
14 Constitution of Alabama of 1901, that may be necessary to
15 avail itself of the aid and cooperation of the United States
16 of America, the state, any county or municipality, or any
17 agency, instrumentality, or political subdivision of any of
18 the foregoing in furtherance of the purposes of this chapter;
19 to give such assurances, contractual or otherwise, to or for
20 the benefit of any of the foregoing as may be required in
21 connection with, or as conditions precedent to the receipt of,
22 any such aid, loan, or grant; and to take other action not in
23 violation of law necessary to qualify the authority to receive
24 funds appropriated by any of the foregoing.

25 (16) To give assurances, contractual or otherwise,
26 and to make commitments and agreements necessary or desirable
27 to preclude the exercise of any rights of recovery with

1 respect to, or the forfeiture of title to, any of its projects
2 or other property or any project or other property proposed to
3 be acquired by it.

4 (17) To assume any obligations of any entity that
5 conveys and transfers to the authority any project or other
6 property, or interest therein, provided that those obligations
7 appertain to the project, property, or interest so conveyed
8 and transferred to the authority.

9 (18) To appoint, employ, contract with, and provide
10 for the compensation of, such employees and agents, including,
11 but not limited to, architects, attorneys, consultants,
12 engineers, accountants, financial experts, fiscal agents, and
13 other advisers, consultants, and agents as the business of the
14 authority may require.

15 (19) To invest, in any trust fund established under
16 and subject to the general laws of the state for investment or
17 self-insurance purposes with investment authority as may be
18 authorized by law for such trusts, any funds of the authority
19 available therefor.

20 (20) To the extent permitted by its contracts with
21 the holders of its securities, to purchase securities out of
22 any of its funds or moneys available therefor and to hold,
23 cancel, or resell those securities.

24 (21) To make any expenditure of any moneys under its
25 control that would, if the authority were generally subject to
26 state corporate income taxation, be considered an ordinary and
27 necessary expense of the authority within the meaning of

1 Section 40-18-35, and applicable regulations promulgated
2 thereunder.

3 (22) To enter into such contracts, agreements,
4 leases, and other instruments, and to take such other actions,
5 as may be necessary or convenient to accomplish any purpose
6 for which the authority was organized or to exercise any power
7 expressly granted hereunder.

8 (23) To expend funds in support of federal
9 facilities located in Alabama including support for the
10 promotion of such facilities and support for the growth of
11 such facilities and the activities performed at those
12 facilities.

13 (b) The Legislature declares that no expenditure
14 permitted by subdivision (21) of subsection (a) to be made by
15 or on behalf of an authority shall be considered to be a
16 lending of credit or a granting of public money or thing of
17 value to or in aid of any individual, association, or
18 corporation within the meaning of any constitutional or
19 statutory provision. Nothing herein contained shall be
20 construed as prohibiting or rendering unlawful any otherwise
21 lawful expenditure made by or on behalf of an authority,
22 solely because that expenditure is not expressly permitted by
23 the terms of subdivision (21) of subsection (a).

24 Section 2. This act shall be come effective on the
25 first day of the third month following its passage and
26 approval by the Governor, or its otherwise becoming law.