

1 HB310  
2 148962-1  
3 By Representatives Ball, Patterson, Johnson (W), Sanderford,  
4 Hall, McCutcheon and Williams (P)  
5 RFD: County and Municipal Government  
6 First Read: 19-FEB-13

2  
3  
4  
5  
6  
7  
8 SYNOPSIS: This bill would amend Section 11-101A-8,  
9 Code of Alabama 1975, relating to the powers of  
10 county and municipal corporations whose corporate  
11 purpose is to provide buildings, facilities, and  
12 other property for lease and use by the United  
13 States of America; to expand the powers of those  
14 corporations to include expending funds in support  
15 of federal 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  
12 the duration of time, which may be in perpetuity, specified in  
13 its certificate of incorporation, or until dissolved as  
14 provided 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  
23 to 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,  
22 firm, or corporation for the management by the person, firm,  
23 or corporation on behalf of the authority of any of its  
24 projects or other properties or for the more efficient or  
25 economical performance of clerical, accounting,  
26 administrative, and other functions relating to its projects  
27 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  
25 its control that would, if the authority were generally  
26 subject to state corporate income taxation, be considered an  
27 ordinary and necessary expense of the authority within the

1 meaning of Section 40-18-35, and applicable regulations  
2 promulgated 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 the facilities, the growth of the facilities, and  
11 activities at the facilities.

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

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