

1 SB345
2 184362-1
3 By Senator Melson
4 RFD: Agriculture, Conservation, and Forestry
5 First Read: 04-APR-17

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8 SYNOPSIS: This bill would authorize a county to
9 establish an agriculture authority to promote
10 agricultural businesses, operations, and
11 commodities, workforce development, and economic
12 development within the county.

13 This bill would provide procedures for
14 creating an agriculture authority.

15 This bill would provide for the composition,
16 membership, terms of office, and duties of the
17 board of directors of an agriculture authority.

18 This bill would authorize an agriculture
19 authority to take steps necessary for the planning
20 and development of an agriculture center.

21 This bill would authorize an agriculture
22 authority to acquire property by gift, grant,
23 lease, purchase, or by the exercise of eminent
24 domain, to make and enter into contracts, to accept
25 pledges of revenues or grants of money, and to
26 borrow money.

1 This bill would authorize a county in which
2 an agriculture authority is established and any
3 municipality in the county to expend funds for the
4 purposes of the authority.

5 This bill would authorize the sale of
6 alcoholic beverages for on-site consumption within
7 an agriculture center.

8 This bill would provide that an agriculture
9 authority is exempt from municipal planning and
10 zoning requirements.

11 This bill would also provide that an
12 agriculture authority as a governmental entity
13 shall be exempt from sales and use tax and ad
14 valorem tax.

15
16 A BILL
17 TO BE ENTITLED
18 AN ACT
19

20 Relating to agriculture authorities; to authorize a
21 county to establish an agriculture authority to promote
22 agricultural businesses, operations, and commodities,
23 workforce development, and economic development within the
24 county; to provide procedures for creating an agriculture
25 authority; to provide for the composition, membership, terms
26 of office, powers, and duties of the board of directors of an
27 agriculture authority; to authorize an agriculture authority

1 to take steps necessary for the planning and development of an
2 agriculture center; to authorize an agriculture authority to
3 acquire property by gift, grant, lease, purchase, or by the
4 exercise of eminent domain, to make and enter into contracts,
5 to accept pledges of revenues or grants of money, and to
6 borrow money; to authorize a county in which an agriculture
7 authority is established and any municipality in the county to
8 expend funds for the purposes of the authority; to authorize
9 the sale of alcoholic beverages for on-site consumption within
10 an agriculture center; to provide that an agriculture
11 authority is exempt from municipal planning and zoning
12 requirements; and to provide that an agriculture authority as
13 a governmental entity shall be exempt from sales and use tax
14 and ad valorem tax.

15 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

16 Section 1. (a) An agriculture authority may be
17 established in any county pursuant to this act to promote
18 agricultural businesses, operations, and commodities,
19 workforce development, and economic development within the
20 county.

21 (b) Any number of natural persons, not less than
22 three, who are residents of the county and are qualified
23 electors may incorporate and organize an agriculture authority
24 by filing a written application of incorporation with the
25 office of the judge of probate that does all of the following:

1 (1) Contains a statement that the incorporators
2 propose to incorporate an agriculture authority pursuant to
3 this act.

4 (2) States the authorized operational area of the
5 proposed authority.

6 (3) Requests that the county commission adopt a
7 resolution declaring that it is expedient that the proposed
8 authority be formed by approving the written application.

9 (c) The application shall be accompanied by articles
10 of incorporation that include all of the following:

11 (1) A designation of the authorized operational area
12 of the authority which shall be considered an agriculture
13 center, including the name of each municipality within the
14 authorized operational area.

15 (2) The names of the incorporators of the authority
16 and a statement that each is qualified to incorporate the
17 authority.

18 (3) The name of the authority, which must include
19 the words "Agriculture Authority" or "Agriculture Center
20 Authority" and be reasonably descriptive of the operational
21 area of the authority.

22 (4) The period of the authority, which may be
23 perpetual.

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

26 (6) A statement that the authority is organized
27 pursuant to this act.

1 (7) If the exercise by the authority of any of its
2 powers is to be in any way prohibited, limited, or
3 conditioned, a statement of the terms of the prohibition,
4 limitation, or condition.

5 (8) The number of directors, which may not exceed
6 seven, and the duration of their respective terms of office,
7 which may not exceed six years.

8 (9) The manner of appointing directors, which shall
9 be a combination of appointment by the county commission and
10 appointment by the legislative delegation for the authorized
11 operational area of the authority; provided, however, a
12 majority of the directors must be appointed by the legislative
13 delegation.

14 (10) Any provision not inconsistent with this act
15 relating to the dissolution of the authority.

16 (11) Any other matters relating to the authority
17 that the incorporators may choose to insert and that are not
18 inconsistent with this act or with state law.

19 (d) The articles shall be signed by each of the
20 incorporators.

21 (e) Upon the filing for record of the articles with
22 the office of the judge of probate, the authority shall come
23 into existence and shall constitute a public corporation under
24 the name set forth in its articles of incorporation. The
25 acceptance of articles for recording by the judge of probate
26 shall be conclusive evidence of the due, legal, and valid
27 incorporation of the agriculture authority in all courts. The

1 judge of probate shall record the articles in an appropriate
2 book in his or her office. There shall be no filing fee or
3 recording taxes due or payable on account of the filing for
4 record of the articles.

5 (f) Notwithstanding any other provision of this act,
6 the articles of incorporation or legal existence of an
7 agriculture authority shall not be deemed invalid for the sole
8 reason that the articles of incorporation of the authority
9 fail to specify an authorized operational area, and every
10 agriculture authority whose articles of incorporation fail to
11 specify an authorized operational area, but are otherwise
12 formed in accordance with this act, may do all things
13 contemplated by this act as if the agriculture authority had
14 designated as its authorized operational area the county of
15 incorporation.

16 Section 2. (a) The board of directors of an
17 agriculture authority shall be as specified in the articles
18 and in accordance with Section 1.

19 (b) Each agriculture authority shall have a chair,
20 vice chair, secretary, and treasurer to be elected by the
21 board of directors. The offices of secretary and treasurer
22 may, but need not, be held by the same person. A majority of
23 the directors shall constitute a quorum for the transaction of
24 business. The officers and directors shall serve for the terms
25 provided for in the articles. A director may not draw any
26 salary for any service rendered or for any duty performed as
27 director. The duties of the chair, vice chair, secretary, and

1 treasurer shall be those as are customarily performed by such
2 officers and as may be prescribed by the board of directors
3 from time to time.

4 (c) All directors shall serve until their successors
5 are duly appointed or until they cease to be qualified.

6 Vacancies on the board shall be filled as provided for in the
7 articles, but any individual appointed to fill a vacancy shall
8 serve only for the unexpired portion of the term. In the event
9 any uncertainty arises as to the terms of office of the
10 directors, the county commission or individual authorized to
11 appoint the directors may clarify the term by adoption of an
12 appropriate resolution or by execution of an appropriate
13 certificate, and the term of office shall be as so clarified.

14 (d) All proceedings of the board of directors of an
15 agriculture authority shall be reduced to writing by the
16 secretary of the authority and shall be signed by at least two
17 directors present at the proceedings. Copies of the
18 proceedings, when certified by the secretary under the seal of
19 the agriculture authority, shall be received in all courts as
20 prima facie evidence of the matters and things therein
21 certified.

22 (e) Directors of an agriculture authority must be
23 residents and qualified electors of a county within the
24 authorized operational area of the authority. If any director
25 ceases to be a resident of the county, he or she shall cease
26 to be a director, and the position shall remain vacant until a

1 successor is appointed in accordance with the articles and
2 this act.

3 (f) A director of an agriculture authority may not
4 have an interest, directly or indirectly, in any contract of
5 work, material, or services, or the profits therefrom, to be
6 furnished or performed for the authority under this act if the
7 director has, directly or indirectly, more than a 10 percent
8 interest in any business, firm, or corporation, or profits
9 thereof, furnishing or providing work, materials, or services.

10 Section 3. (a) The articles of an agriculture
11 authority may at any time be amended in the manner provided in
12 this section. The board of directors shall first adopt a
13 resolution proposing an amendment to the articles, setting
14 forth the full text of the amended language. An amendment may
15 be made for the sole purpose of altering, in accordance with
16 this act, the authorized operational area of the authority.

17 (b) After the adoption by the board of directors of
18 an agriculture authority of a resolution proposing an
19 amendment to the articles, the chair and the secretary shall
20 sign and file with the county commission of the appropriate
21 county a written application in the name and on behalf of the
22 authority, under its seal, requesting that the county
23 commission adopt a resolution approving the proposed
24 amendment, and accompanied by a copy of the resolution adopted
25 by the board of directors proposing the amendment to the
26 articles. As promptly as may be practicable after the filing
27 of the application, the county commission shall review the

1 application and shall adopt a resolution either denying the
2 application or approving and authorizing the proposed
3 amendment. The resolution need not be published or posted and
4 need not be offered for more than one reading.

5 (c) Following the adoption of a resolution approving
6 the proposed amendment by the county commission, the chair and
7 the secretary shall sign and file for record in the office of
8 the judge of probate a certificate in the name and on behalf
9 of the authority, under its seal, reciting the adoption of
10 resolutions by the board and by the county commission and
11 setting forth the proposed amendment. The judge of probate
12 shall record the certificate in an appropriate book in his or
13 her office. When the certificate has been so filed and
14 recorded, the amendment shall become effective, and the
15 articles shall be amended as provided in the amendment.

16 Section 4. (a) An agriculture authority shall have
17 the following powers, which it may exercise in the agriculture
18 authority's authorized operational area:

19 (1) To have succession by its corporate name until
20 dissolved as provided in this act.

21 (2) To adopt bylaws making provisions for its
22 actions not inconsistent with this act.

23 (3) To institute and defend legal proceedings in any
24 court of competent jurisdiction and proper venue; provided,
25 however, that the board may not be sued in any trial court
26 other than the courts of the county of incorporation;
27 provided, further, that the officers, directors, agents, and

1 employees of an agriculture authority may not be sued for
2 their actions in behalf of the authority except for actions
3 that are known by the person to be unlawful or are performed
4 with reckless disregard for the lawfulness of such actions.

5 (4) To plan for the construction and development of
6 an agriculture center comprised of the operational area of the
7 agriculture authority, including all or any of the following
8 to be situated in the agriculture center:

9 a. Buildings to hold offices for use by the federal
10 government, the state or any agency of the state, the county,
11 or one or more municipalities within the county.

12 b. Buildings to house or accommodate public
13 facilities of the federal government, the state or any agency
14 of the state, the county, or one or more municipalities within
15 the county.

16 c. Streets, boulevards, walkways, parkways, parks,
17 or other places of recreation.

18 d. Monuments, statues, or other structures
19 beautifying the agriculture center.

20 e. Community houses or meeting houses or
21 auditoriums.

22 f. Arenas, convention halls, or convention sites.

23 g. Music halls, art museums, art exhibits or other
24 exhibits for the advancement of the humanities and cultural
25 development.

1 (5) To acquire property and rights and interests in
2 property by gift, grant, lease, purchase, or by the exercise
3 of eminent domain.

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

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

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

10 (9) To hire professionals and enter into contracts
11 for their services in designing and supervising the
12 construction of any building, agriculture center, auditorium,
13 arena, convention hall, music hall, art museum, place of
14 recreation, art exhibit, office building, or other structure
15 that it desires to construct.

16 (10) To make and enter into contracts and to execute
17 all instruments necessary or convenient to lease or purchase
18 and own real or personal property to be used for the
19 furtherance of the purposes for the accomplishment of which
20 the authority is created.

21 (11) To plan for programs and exhibits in the
22 agriculture center for the advancement of the agricultural,
23 cultural, and workforce development interests of the citizens
24 of the county and of the municipalities thereof.

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

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

3 (14) To enter into mortgages or leases with any
4 person or governmental entity.

5 (15) To plan for programs and exhibits in the
6 agriculture center for the advancement of agricultural and
7 workforce development interests in the county.

8 (b) Contracts of an agriculture authority shall be
9 executed in the name of the authority by the chair and
10 attested by the secretary of the authority. The board may
11 provide by resolution for a different form for the execution
12 of a contract by an officer or agent other than the chair and
13 secretary. A contract, irrespective of its form and of the
14 persons executing the contract, shall not be binding unless
15 the contract is authorized or ratified by the board.

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

21 Section 5. (a) Subject to the conditions,
22 qualifications, and restrictions set forth in subsection (b),
23 an agriculture authority may borrow money from any person or
24 governmental entity. As security for any money borrowed,
25 together with interest thereon, and any obligations incurred
26 or assumed, an agriculture authority may mortgage, pledge, or
27 otherwise transfer and convey its real, personal, and mixed

1 property, or any part or parts thereof, whether then owned or
2 thereafter acquired, including any franchises then owed or
3 thereafter adopted and all or any part of any funds of the
4 authority. In a resolution authorizing the mortgage given to
5 secure the payment thereof, an agriculture authority, in
6 addition to its other powers, shall have the power to agree
7 with the several holders of the mortgage to make, enter, and
8 perform covenants and agreements as to all of the following:

9 (1) The conduct, management, and maintenance of the
10 properties held by the authority or of the activities,
11 operations, and enterprises then or thereafter conducted by
12 the authority.

13 (2) Insurance of the properties of the authority.

14 (3) Restrictions on the exercise of the powers of
15 the authority to dispose or to limit or regulate the use of
16 all or any part of the properties of the authority.

17 (4) The use and disposition of any moneys of the
18 authority, including taxes payable to the authority under any
19 act of the Legislature heretofore or hereafter adopted and
20 revenues derived or to be derived from the activities,
21 operations, and enterprises of all or any part of the
22 properties of the authority, including any part or parts
23 theretofore constructed or acquired and any parts, extensions,
24 replacements, or improvements thereafter constructed or
25 acquired.

26 (5) The setting aside of the taxes payable to the
27 authority under any act of the Legislature heretofore or

1 hereafter adopted or use of the revenues or the moneys of the
2 authority or reserves and sinking funds, and the source,
3 custody, security, regulation, application, and disposition
4 thereof.

5 (6) The assumption or payment or discharge of any
6 indebtedness, liens, or other claims relating to any part of
7 the properties of the authority or any obligations
8 constituting, or which may constitute, a lien on the
9 properties or any part thereof.

10 (7) Limitations or other evidences of indebtedness
11 or upon the incurrence of indebtedness of the authority.

12 (b) The power vested in an agriculture authority to
13 pledge taxes to be paid to the authority or to pledge revenue
14 of the authority shall not be construed as undertaking or
15 purporting to empower the authority to pledge any tax or any
16 revenue if the pledge is prohibited by the Constitution of
17 Alabama of 1901. It is expressly provided that the authority
18 shall have the power to pledge any tax paid to the authority
19 or revenue of the authority, the pledge of which is authorized
20 by the Constitution of Alabama of 1901.

21 Section 6. The board of directors of an authority
22 may appoint an advisory council consisting of up to 10 members
23 to advise the board. The advisory council members shall serve
24 two-year terms, and are not required to be residents of the
25 county of incorporation. Members may be appointed to
26 additional terms by the board to serve on the advisory
27 council.

1 Section 7. The county of incorporation and each
2 municipality in the county may lease, sell, donate, or
3 otherwise convey to an agriculture authority real or personal
4 property, including park properties, without authorization by
5 election of the qualified voters of the county or of the
6 municipality; and the county and each municipality thereof are
7 authorized, but not required, to appropriate public funds of
8 the county or of the municipality, as the case may be, to the
9 authority to be used by the authority for purposes enumerated
10 in this act. The county shall not lease, sell, donate, or
11 convey any property to the authority, or appropriate any money
12 to the authority, unless the county commission has determined
13 that the lease, sale, donation, conveyance, or appropriation
14 will benefit the people of the county or municipality to such
15 an extent as to fully warrant and justify the lease, sale,
16 donation, conveyance, or appropriation.

17 Section 8. This act shall not be construed to limit
18 the right, power, or authority of any municipality to operate
19 facilities similar to the facilities provided for by this act.
20 It is expressly provided that this act shall not in any way
21 affect any auditorium, art museum, or other facility presently
22 owned or hereafter acquired by any municipality, whether
23 situated in the agriculture center or elsewhere.

24 Section 9. (a) An agriculture authority may be
25 dissolved by the adoption by its board of directors of a
26 resolution recommending its dissolution and the approval of
27 such dissolution and the proposed articles of dissolution by

1 the appropriate county commission. The resolution need not be
2 published or posted and need not be offered for more than one
3 reading. Upon receiving necessary approval under this section,
4 the chair and secretary of the dissolved authority shall
5 execute articles of dissolution reciting that such resolutions
6 have been adopted and that the authority has been dissolved.
7 The articles of dissolution shall be filed with the judge of
8 probate, who shall record them in an appropriate book.

9 (b) Upon dissolution of an agriculture authority,
10 all rights, property interests, assets, and obligations of the
11 authority shall be transferred to the county.

12 Section 10. An agriculture authority may permit the
13 consumption of alcoholic beverages any day of the week,
14 purchased from licensees of the Alcoholic Beverage Control
15 Board, to be consumed by purchasers within the boundaries of
16 the agriculture center.

17 Section 11. An agriculture authority is exempt from
18 all municipal planning boards and municipal planning board
19 requirements and all municipal zoning ordinances.

20 Section 12. (a) An agriculture authority is exempt
21 from all state, county, and municipal sales and use taxes.

22 (b) An agriculture authority is exempt from paying
23 all state, county, and local ad valorem taxes.

24 Section 13. This act shall become effective on the
25 first day of the third month following its passage and
26 approval by the Governor, or its otherwise becoming law.