

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

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4 ENGROSSED

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7 A BILL
8 TO BE ENTITLED
9 AN ACT

10
11 Relating to agriculture authorities; to authorize a
12 county to establish an agriculture authority to promote
13 agricultural businesses, operations, and commodities,
14 workforce development, and economic development within the
15 county; to provide procedures for creating an agriculture
16 authority; to provide for the composition, membership, terms
17 of office, powers, and duties of the board of directors of an
18 agriculture authority; to authorize an agriculture authority
19 to take steps necessary for the planning and development of an
20 agriculture center; to authorize an agriculture authority to
21 acquire property by gift, grant, lease, purchase, or to make
22 and enter into contracts, to accept pledges of revenues or
23 grants of money, and to borrow money; to authorize a county in
24 which an agriculture authority is established and any
25 municipality in the county to expend funds for the purposes of
26 the authority; to authorize the sale of alcoholic beverages
27 for on-site consumption within an agriculture center; to

1 provide that an agriculture authority is exempt from municipal
2 planning and zoning requirements; and to provide that an
3 agriculture authority as a governmental entity shall be exempt
4 from sales and use tax and ad valorem tax.

5 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

6 Section 1. (a) An agriculture authority may be
7 established in any county pursuant to this act to promote
8 agricultural businesses, operations, and commodities,
9 workforce development, and economic development within the
10 county.

11 The operational area of an agriculture authority may
12 not extend beyond the boundaries of the county in which an
13 agriculture authority is incorporated.

14 (b) Any number of natural persons who are residents
15 and qualified electors in the county may file an application
16 in writing with the county commission for authority to
17 incorporate and organize an agriculture authority. If the
18 application is approved, the county commission shall adopt a
19 resolution declaring it to be wise, expedient, and beneficial
20 to the county that the agriculture authority be formed and
21 that the persons filing the application are authorized to form
22 the authority. An agriculture authority may not be formed
23 under this act unless the application is approved by the
24 county commission and the resolution required herein is
25 adopted.

26 (c) Once the county commission has approved the
27 application as provided in subsection (b), the persons seeking

1 incorporation of an agriculture authority shall file articles
2 of incorporation with the office of the judge of probate that
3 do all of the following:

4 (1) Contains a statement that the incorporators
5 propose to incorporate an agriculture authority pursuant to
6 this act.

7 (2) States the authorized operational area of the
8 proposed authority within the county.

9 (3) States that the county commission has approved
10 the application for an agriculture authority and has adopted a
11 resolution declaring that it is expedient that the proposed
12 authority be formed by approving the written application.

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

15 (1) A designation of the authorized operational area
16 of the authority which shall be considered an agriculture
17 center, including the name of each municipality within the
18 authorized operational area, which may not extend beyond the
19 boundaries of the county in which the authority is
20 incorporated.

21 (2) The names of the incorporators of the authority
22 and a statement that each is qualified to incorporate the
23 authority.

24 (3) The name of the authority, which must include
25 the words "Agriculture Authority" or "Agriculture Center
26 Authority" and be reasonably descriptive of the operational
27 area of the authority.

1 (4) The period of the authority, which may be
2 perpetual.

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

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

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

11 (8) The number of directors, which may not exceed
12 seven, and the duration of their respective terms of office,
13 which may not exceed six years.

14 (9) The manner of appointing directors, which shall
15 be a combination of appointment by the county commission and
16 appointment by the legislative delegation for the authorized
17 operational area of the authority; provided, however, a
18 majority of the directors must be appointed by the legislative
19 delegation.

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

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

25 (d) The articles shall be signed by each of the
26 incorporators.

1 (e) Upon the filing for record of the articles with
2 the office of the judge of probate, the authority shall come
3 into existence and shall constitute a public corporation under
4 the name set forth in its articles of incorporation. The
5 acceptance of articles for recording by the judge of probate
6 shall be conclusive evidence of the due, legal, and valid
7 incorporation of the agriculture authority in all courts. The
8 judge of probate shall record the articles in an appropriate
9 book in his or her office. There shall be no filing fee or
10 recording taxes due or payable on account of the filing for
11 record of the articles.

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

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

26 (b) Each agriculture authority shall have a chair,
27 vice chair, secretary, and treasurer to be elected by the

1 board of directors. The offices of secretary and treasurer
2 may, but need not, be held by the same person. A majority of
3 the directors shall constitute a quorum for the transaction of
4 business. The officers and directors shall serve for the terms
5 provided for in the articles. A director may not draw any
6 salary for any service rendered or for any duty performed as
7 director. The duties of the chair, vice chair, secretary, and
8 treasurer shall be those as are customarily performed by such
9 officers and as may be prescribed by the board of directors
10 from time to time.

11 (c) All directors shall serve until their successors
12 are duly appointed or until they cease to be qualified.
13 Vacancies on the board shall be filled as provided for in the
14 articles, but any individual appointed to fill a vacancy shall
15 serve only for the unexpired portion of the term. In the event
16 any uncertainty arises as to the terms of office of the
17 directors, the county commission or individual authorized to
18 appoint the directors may clarify the term by adoption of an
19 appropriate resolution or by execution of an appropriate
20 certificate, and the term of office shall be as so clarified.

21 (d) All proceedings of the board of directors of an
22 agriculture authority shall be reduced to writing by the
23 secretary of the authority and shall be signed by at least two
24 directors present at the proceedings. Copies of the
25 proceedings, when certified by the secretary under the seal of
26 the agriculture authority, shall be received in all courts as

1 prima facie evidence of the matters and things therein
2 certified.

3 (e) Directors of an agriculture authority must be
4 residents and qualified electors of the county within the
5 authorized operational area of the authority. If any director
6 ceases to be a resident of the county, he or she shall cease
7 to be a director, and the position shall remain vacant until a
8 successor is appointed in accordance with the articles and
9 this act.

10 (f) A director of an agriculture authority may not
11 have an interest, directly or indirectly, in any contract of
12 work, material, or services, or the profits therefrom, to be
13 furnished or performed for the authority under this act if the
14 director has, directly or indirectly, more than a 10 percent
15 interest in any business, firm, or corporation, or profits
16 thereof, furnishing or providing work, materials, or services.

17 Section 3. (a) The articles of an agriculture
18 authority may at any time be amended in the manner provided in
19 this section. The board of directors shall first adopt a
20 resolution proposing an amendment to the articles, setting
21 forth the full text of the amended language. An amendment may
22 be made for the sole purpose of altering, in accordance with
23 this act, the authorized operational area of the authority,
24 provided the articles may not be amended to extend the
25 operational area of the authority beyond the boundaries of the
26 county in which the authority is incorporated.

1 (b) After the adoption by the board of directors of
2 an agriculture authority of a resolution proposing an
3 amendment to the articles, the chair and the secretary shall
4 sign and file with the county commission of the appropriate
5 county a written application in the name and on behalf of the
6 authority, under its seal, requesting that the county
7 commission adopt a resolution approving the proposed
8 amendment, and accompanied by a copy of the resolution adopted
9 by the board of directors proposing the amendment to the
10 articles. As promptly as may be practicable after the filing
11 of the application, the county commission shall review the
12 application and shall adopt a resolution either denying the
13 application or approving and authorizing the proposed
14 amendment. A proposed amendment shall not take effect unless
15 approved by the county commission. The resolution need not be
16 published or posted and need not be offered for more than one
17 reading.

18 (c) Following the adoption of a resolution approving
19 the proposed amendment by the county commission, the chair and
20 the secretary shall sign and file for record in the office of
21 the judge of probate a certificate in the name and on behalf
22 of the authority, under its seal, reciting the adoption of
23 resolutions by the board and by the county commission and
24 setting forth the proposed amendment. The judge of probate
25 shall record the certificate in an appropriate book in his or
26 her office. When the certificate has been so filed and

1 recorded, the amendment shall become effective, and the
2 articles shall be amended as provided in the amendment.

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

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

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

10 (3) To institute and defend legal proceedings in any
11 court of competent jurisdiction and proper venue; provided,
12 however, that the board may not be sued in any trial court
13 other than the courts of the county of incorporation;
14 provided, further, that the officers, directors, agents, and
15 employees of an agriculture authority may not be sued for
16 their actions in behalf of the authority except for actions
17 that are unreasonable or known by the person to be unlawful or
18 are performed with reckless disregard for the lawfulness of
19 such actions.

20 (4) To plan for construction and development of an
21 agriculture center within the operational area of the
22 agriculture authority on property owned by the authority.
23 Construction and development may include any or all of the
24 following:

25 a. Buildings to hold offices for use by the federal
26 government, the state or any agency of the state, the county,
27 or one or more municipalities within the county.

1 b. Buildings to house or accommodate public
2 facilities of the federal government, the state or any agency
3 of the state, the county, or one or more municipalities within
4 the county.

5 c. Streets, boulevards, walkways, parkways, parks,
6 or other places of recreation.

7 d. Monuments, statues, or other structures
8 beautifying the agriculture center.

9 e. Community houses or meeting houses or
10 auditoriums.

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

12 g. Music halls, art museums, art exhibits or other
13 exhibits for the advancement of the humanities and cultural
14 development.

15 (5) To acquire property and rights and interests in
16 property by gift, grant, lease or purchase.

17 (6) To accept or receive gifts, bequests, and
18 devises.

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

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

23 (9) To hire professionals and enter into contracts
24 for their services in designing and supervising the
25 construction of any building, agriculture center, auditorium,
26 arena, convention hall, music hall, art museum, place of

1 recreation, art exhibit, office building, or other structure
2 that it desires to construct.

3 (10) To make and enter into contracts and to execute
4 all instruments necessary or convenient to lease or purchase
5 and own real or personal property to be used for the
6 furtherance of the purposes for the accomplishment of which
7 the authority is created.

8 (11) To plan for programs and exhibits in the
9 agriculture center for the advancement of the agricultural,
10 cultural, and workforce development interests of the citizens
11 of the county and of the municipalities thereof.

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

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

17 (14) To enter into financing agreements with federal
18 or state agencies that may require the authority to mortgage
19 its property.

20 (15) To plan for programs and exhibits in the
21 agriculture center for the advancement of agricultural and
22 workforce development interests in the county.

23 (b) Contracts of an agriculture authority shall be
24 executed in the name of the authority by the chair and
25 attested by the secretary of the authority. The board may
26 provide by resolution for a different form for the execution
27 of a contract by an officer or agent other than the chair and

1 secretary. A contract, irrespective of its form and of the
2 persons executing the contract, shall not be binding unless
3 the contract is authorized or ratified by the board.

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

9 Section 5. (a) Subject to the conditions,
10 qualifications, and restrictions set forth in subsection (b),
11 an agriculture authority may borrow money from any person or
12 governmental entity. As security for any money borrowed,
13 together with interest thereon, and any obligations incurred
14 or assumed, an agriculture authority may mortgage, pledge, or
15 otherwise transfer and convey its real, personal, and mixed
16 property, or any part or parts thereof, whether then owned or
17 thereafter acquired, including any franchises then owed or
18 thereafter adopted and all or any part of any funds of the
19 authority. In a resolution authorizing the mortgage given to
20 secure the payment thereof, an agriculture authority, in
21 addition to its other powers, shall have the power to agree
22 with the several holders of the mortgage to make, enter, and
23 perform covenants and agreements as to all of the following:

24 (1) The conduct, management, and maintenance of the
25 properties held by the authority or of the activities,
26 operations, and enterprises then or thereafter conducted by
27 the authority.

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

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

5 (4) The use and disposition of any moneys of the
6 authority, including taxes payable to the authority under any
7 act of the Legislature heretofore or hereafter adopted and
8 revenues derived or to be derived from the activities,
9 operations, and enterprises of all or any part of the
10 properties of the authority, including any part or parts
11 theretofore constructed or acquired and any parts, extensions,
12 replacements, or improvements thereafter constructed or
13 acquired.

14 (5) The setting aside of the taxes payable to the
15 authority under any act of the Legislature heretofore or
16 hereafter adopted or use of the revenues or the moneys of the
17 authority or reserves and sinking funds, and the source,
18 custody, security, regulation, application, and disposition
19 thereof.

20 (6) The assumption or payment or discharge of any
21 indebtedness, liens, or other claims relating to any part of
22 the properties of the authority or any obligations
23 constituting, or which may constitute, a lien on the
24 properties or any part thereof.

25 (7) Limitations or other evidences of indebtedness
26 or upon the incurrence of indebtedness of the authority.

1 (b) The power vested in an agriculture authority to
2 pledge taxes to be paid to the authority or to pledge revenue
3 of the authority shall not be construed as undertaking or
4 purporting to empower the authority to pledge any tax or any
5 revenue if the pledge is prohibited by the Constitution of
6 Alabama of 1901. It is expressly provided that the authority
7 shall have the power to pledge any tax paid to the authority
8 or revenue of the authority, the pledge of which is authorized
9 by the Constitution of Alabama of 1901.

10 (c) The powers and authority set forth in this
11 section shall only be exercised if necessary in order for the
12 authority to receive federal funding or grants for any
13 projects or activities of the authority.

14 Section 6. The board of directors of an authority
15 may appoint an advisory council consisting of up to 10 members
16 to advise the board. The advisory council members shall serve
17 two-year terms, and are not required to be residents of the
18 county of incorporation. Members may be appointed to
19 additional terms by the board to serve on the advisory
20 council.

21 Section 7. The county of incorporation and each
22 municipality in the county may lease, sell, donate, or
23 otherwise convey to an agriculture authority real or personal
24 property, including park properties, without authorization by
25 election of the qualified voters of the county or of the
26 municipality; and the county and each municipality thereof are
27 authorized, but not required, to appropriate public funds of

1 the county or of the municipality, as the case may be, to the
2 authority to be used by the authority for purposes enumerated
3 in this act. The county shall not lease, sell, donate, or
4 convey any property to the authority, or appropriate any money
5 to the authority, unless the county commission has determined
6 that the lease, sale, donation, conveyance, or appropriation
7 will benefit the people of the county or municipality to such
8 an extent as to fully warrant and justify the lease, sale,
9 donation, conveyance, or appropriation.

10 Section 8. This act shall not be construed to limit
11 the right, power, or authority of any municipality to operate
12 facilities similar to the facilities provided for by this act.
13 It is expressly provided that this act shall not in any way
14 affect any auditorium, art museum, or other facility presently
15 owned or hereafter acquired by any municipality, whether
16 situated in the agriculture center or elsewhere.

17 Section 9. (a) An agriculture authority may be
18 dissolved by the adoption by its board of directors of a
19 resolution recommending its dissolution and the approval of
20 such dissolution and the proposed articles of dissolution by
21 the appropriate county commission. The resolution need not be
22 published or posted and need not be offered for more than one
23 reading. Upon receiving necessary approval under this section,
24 the chair and secretary of the dissolved authority shall
25 execute articles of dissolution reciting that such resolutions
26 have been adopted and that the authority has been dissolved.

1 The articles of dissolution shall be filed with the judge of
2 probate, who shall record them in an appropriate book.

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

6 Section 10. An agriculture authority may permit the
7 consumption of alcoholic beverages any day of the week,
8 purchased from licensees of the Alcoholic Beverage Control
9 Board, to be consumed by purchasers within the boundaries of
10 the agriculture center.

11 Section 11. An agriculture authority is exempt from
12 all municipal planning boards and municipal planning board
13 requirements and all municipal zoning ordinances.

14 Section 12. (a) An agriculture authority is exempt
15 from all state, county, and municipal sales and use taxes for
16 any necessary construction materials purchased for any of the
17 purposes set forth in subdivision (4) of subsection (a) of
18 Section 4, but is responsible for all other state, county, and
19 municipal sales and use taxes.

20 (b) An agriculture authority is exempt from paying
21 all state, county, and local ad valorem taxes if approved by
22 resolution of the county commission in the county of
23 incorporation of the agriculture authority.

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.

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Senate

Read for the first time and referred to the Senate committee on Agriculture, Conservation, and For- estry.....	04-APR-17
Read for the second time and placed on the calen- dar 2 amendments.....	06-APR-17
Read for the third time and passed as amended	11-APR-17

Yeas 32
Nays 0

Patrick Harris,
Secretary.