

1 SB142
2 136060-2
3 By Senators Orr, Sanford, Holtzclaw, McGill and Scofield
4 RFD: Governmental Affairs
5 First Read: 06-FEB-13

1 SB142

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4 ENROLLED, An Act,

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

12 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

15 "§11-101A-8.

16 (a) In addition to all other powers granted
17 elsewhere in this chapter, and subject to the express
18 provisions of its certificate of incorporation, an authority
19 shall have the following powers, together with all powers
20 incidental thereto or necessary to the discharge thereof in
21 corporate form:

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

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

5 (3) To adopt, alter, amend, and repeal bylaws,
6 regulations, and rules for the regulation and conduct of its
7 affairs and business.

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

10 (5) To acquire, whether by purchase, construction,
11 exchange, gift, lease, or otherwise and to improve, maintain,
12 equip, and furnish one or more projects, including all real
13 and personal properties which the board deems necessary in
14 connection therewith, regardless of whether any projects are
15 then in existence, at such place or places, within and without
16 the boundaries of its authorizing subdivisions, as it
17 considers necessary or advisable.

18 (6) To lease or otherwise make available its
19 projects or other of its properties or assets, with or without
20 charge, to the United States or to one or more of its
21 authorizing subdivisions, for sublease to the United States,
22 on such terms as the board deems appropriate, to charge and
23 collect rent or other fees or charges therefor, if any, and to
24 terminate any lease or other agreement upon the failure of the

1 lessee or other party to comply with any of its obligations
2 thereunder.

3 (7) To receive, acquire, take, and hold, whether by
4 purchase, gift, transfer, foreclosure, lease, devise, option,
5 or otherwise, real and personal property of every description,
6 or any interest therein, and to manage, improve, and dispose
7 of the same by any form of legal conveyance or transfer.

8 Notwithstanding the foregoing, the authority shall not,
9 without the prior approval of the governing body of each
10 authorizing subdivision, dispose of all or substantially all
11 its assets. The foregoing provision shall not be construed to
12 require the prior approval of any governing body for the
13 mortgage or pledge of all or substantially all its assets or
14 for the foreclosure of any mortgage or sale or for any sale or
15 other disposition thereunder.

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

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

1 (10) To pledge for payment of any of its securities
2 its revenues from any source, including, without limitation,
3 any amounts payable to the authority by an authorizing
4 subdivision in accordance with an agreement entered into
5 pursuant to Section 11-101A-10, and to mortgage or pledge any
6 or all of its projects or other assets or properties or any
7 part or parts thereof, whether then owned or thereafter
8 acquired, as security for the payment of the principal of and
9 the interest and premium, if any, on any securities so issued
10 and any agreements made in connection therewith.

11 (11) To enter into agreements with any person, firm,
12 or corporation for the management by the person, firm, or
13 corporation on behalf of the authority of any of its projects
14 or other properties or for the more efficient or economical
15 performance of clerical, accounting, administrative, and other
16 functions relating to its projects or other properties.

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

20 (13) To provide for any insurance the business of
21 the authority requires.

22 (14) To receive and accept from any source aid or
23 contributions in the form of money, property, labor, or other
24 things of value, to be held, used, and applied to carry out

1 the purposes of this chapter, subject to any lawful condition
2 upon which any aid or contributions may be given or made.

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

17 (16) To give assurances, contractual or otherwise,
18 and to make commitments and agreements necessary or desirable
19 to preclude the exercise of any rights of recovery with
20 respect to, or the forfeiture of title to, any of its projects
21 or other property or any project or other property proposed to
22 be acquired by it.

23 (17) To assume any obligations of any entity that
24 conveys and transfers to the authority any project or other
25 property, or interest therein, provided that those obligations

1 appertain to the project, property, or interest so conveyed
2 and transferred to the authority.

3 (18) To appoint, employ, contract with, and provide
4 for the compensation of, such employees and agents, including,
5 but not limited to, architects, attorneys, consultants,
6 engineers, accountants, financial experts, fiscal agents, and
7 other advisers, consultants, and agents as the business of the
8 authority may require.

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

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

18 (21) To make any expenditure of any moneys under its
19 control that would, if the authority were generally subject to
20 state corporate income taxation, be considered an ordinary and
21 necessary expense of the authority within the meaning of
22 Section 40-18-35, and applicable regulations promulgated
23 thereunder.

24 (22) To enter into such contracts, agreements,
25 leases, and other instruments, and to take such other actions,

1 as may be necessary or convenient to accomplish any purpose
2 for which the authority was organized or to exercise any power
3 expressly granted hereunder.

4 (23) To expend funds in support of federal
5 facilities located in Alabama including support for the
6 promotion of such facilities and support for the growth of
7 such facilities and the activities performed at those
8 facilities.

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

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

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President and Presiding Officer of the Senate

Speaker of the House of Representatives

SB142
Senate 19-FEB-13
I hereby certify that the within Act originated in and passed
the Senate.

Patrick Harris
Secretary

House of Representatives
Passed: 04-APR-13

By: Senator Orr