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Economic and Industrial Development

What legal authority does my city have to promote economic and industrial development in our area? That question is often asked by municipal officials who are interested in attracting industries to their cities and towns. The first advice to municipal officials is to study the constitutional provisions and statutes relating to economic and industrial development. Officials should know what cities and towns can and cannot do to stimulate industrial and commercial growth. This article summarizes applicable law and outlines the assistance cities and towns can offer industrial prospects.

Federal Restrictions

Before reviewing state constitutional and statutory authority regarding industrial development, it is important to note that the Internal Revenue Code of 1986, as amended (the "Code"), imposes significant conditions to the issuance of tax-exempt bonds. Under the Code, municipally-issued bonds are classified as either governmental bonds or private activity bonds. Private activity bonds are subject to more stringent restrictions than are governmental bonds in order to qualify for tax-exempt treatment under the Code, and for this reason are often issued as taxable bonds. Generally, a private activity bond is one where more than 10 percent (5 percent in some instances) of the bond proceeds are used for any private business, and the payment of principal or interest on the bonds equaling more than 10 percent (5 percent in some instances) of the issue is secured by or derived from a nongovernmental person. A bond may also be a private activity bond if 5% of the proceeds of the bond (or $5,000,000, if lesser) is used to make or finance loans to nongovernmental entities.

Industrial development bonds, which are a form of private activity bonds, can qualify for tax-exempt treatment but only if they can be classified as "qualified" private activity bonds. Qualified private activity bonds consist of mortgage bonds of various types, certain small issue bonds (which are a frequent source of generally small facility industrial development financing), student loan bonds, redevelopment bonds, qualified 501(c)(3) bonds (generally for hospitals), and, importantly in the municipal context, exempt facility bonds. Facility bonds are bonds issued pursuant to IRC § 142, at least 95 percent of the proceeds of which are used to provide airports, docks and wharves, mass commuting facilities, water, sewage and solid waste facilities, facilities for local furnishing of electricity or gas, local district heating or cooling facilities, qualified hazardous waste facilities, qualified residential rental facilities, high-speed intercity rail facilities, environmental enhancements of hydro-electric generating facilities, qualified public educational facilities, qualified green building and sustainable design projects, qualified highway or surface freight transfer facilities, qualified broadband projects or qualified carbon dioxide capture facilities.

This is a complex area and League staff strongly advises that municipalities contemplating issuing industrial development bonds obtain additional assistance from an investment banking firm and from bond counsel.

The Cater Act

In 1949 the Alabama Legislature adopted what is popularly referred to as the Cater Act. The provisions of this Act are codified at Sections 11-54-80 through 11-54-101, Code of Alabama 1975. The Cater Act authorizes the creation, in each municipality, of a public corporation known as an industrial development board to promote trade and industry and to further the use of agricultural products and natural resources of the state by inducing new manufacturing projects in the state. Such corporations are authorized to lease and dispose of properties for this purpose. The term "project" is defined to include the following:

A. "Any land and any building or other improvement thereon and all real and personal properties deemed necessary in connection therewith, whether or not now in existence, which shall be suitable for use by any one of the following or by any combination of two or more thereof:
   1. Any industry for the manufacturing, processing or assembling of any agricultural, manufactured or mineral products;

2. Any commercial enterprise in storing, warehousing or distributing any products of agriculture, mining or industry, or providing hotel, motor inn services, specifically excluding public dormitories or student housing facilities for institutions of higher learning, including food or lodging services or both;
3. Any commercial enterprise providing linen rental services (including laundry and cleaning services related or incidental thereto) primarily to industries and commercial enterprises described in either of the proceeding subparagraphs 1 and 2 and to institutions such as hospitals, nursing homes or other health care facilities and educational and training institutions;
4. Any enterprise for the purpose of research in connection with any of the following:
   i. Any of the foregoing;
   ii. the development of new products or new processes; iii. the improvement of existing products or known processes.
   iii. the development of facilities for the exploration of outer space or promotion of the national defense.
5. Any utility for the production of electricity by water power. In connection with a project described in this paragraph, "project" does not include facilities designed for the sale or distribution to the public of electricity, gas, water or telephone or other services commonly classified as public utilities.
6. Any commercial enterprise engaged in banking, specifically including bank holding companies.

B. Any project may consist of or include any facility necessary or appropriate for use by any industry or enterprise of the character described in the first sentence of this subdivision, including, without limiting the generality of the foregoing:

1. Office facilities designed for use by any such industry or enterprise not only in connection with its operation in this state but also for use by it as national, regional or divisional offices in the management and supervision of its manufacturing, processing, assembling, storing, warehousing, distributing, selling or research operations, wherever located.
2. Facilities for or useful in the control, reduction, abatement or prevention of pollution of air or water or both.

C. This amendment (Acts 1983, Number 83-199) does not pertain to restaurants or food service operations which are not a part of hotels or motor inns mentioned above."

In addition, Sections 11-54-120 through 11-54-123, Code of Alabama 1975, as amended, give industrial development boards additional powers to sell and issue their bonds for and to acquire, construct, enlarge, improve, replace, equip, maintain, use, operate, lease and dispose of "ancillary facilities," which term is defined at Section 11-54-120(3), Code of Alabama 1975, as follows:

"(3) Ancillary facility: Any land and any building or other improvement thereon and all real and personal properties deemed necessary in connection therewith, including without limitation office facilities and any other necessary or appropriate facilities, whether or not now in existence, which shall be suitable for use by any of the following or by any combination of two or more thereof;

a. Any industrial development board;
b. Any local or regional chamber of commerce, board of trade or other similar association or organization, one of the purposes or objects of which is the promotion of industrial or commercial development or the improvement of trade, business, professional or economic conditions;
c. Any convention, visitors or other similar bureau or organization, one of the purposes or objects of which is the promotion of tourism or of conventions or meetings of business, civic or trade association groups; and
d. Any nonprofit educational foundation, one of the purposes or objects of which is the acquisition, development and sale of land for industrial development purposes and whose net earnings inure to the benefit of one or more institutions of higher education operated by the state of Alabama."

Formation of Corporation

The Cater Act Industrial Development Corporation is authorized to be formed in the following manner:

First, three or more natural persons who are qualified electors and taxpayers in the municipality file written application with the municipal governing body requesting permission to incorporate an industrial development board of the city or town

pursuant to the provisions of Section 11-54-80, et. seq., Code of Alabama 1975. It is customary for the application to set out the proposed name of the corporation as "The Industrial Development Board of the City [Town] of _____," and also to accompany the application with a copy of the proposed certificate of incorporation. Sections 11-54-82 and 11-54-83, Code of Alabama 1975. The attorney general has ruled that pursuant to Section 11-54-83, a municipal industrial development board has no authority to change the style of its name from anything other than the foregoing. AGO 2004-0014.

Next, the municipal governing body adopts a formal resolution approving the application and extending permission to incorporate. The petitioners then take the certificate of incorporation, which they subscribe and acknowledge and file with the probate judge of any county in which a portion of the municipality is located. When the probate judge approves and files this certificate in the corporation records of his office, the corporation is legally formed. Section 11-54-84, Code of Alabama 1975.

When the corporation is formed, the municipal governing body then appoints not less than seven individuals to serve on the corporation's board of directors. At least five of the board of directors shall be qualified electors and taxpayers of the municipality and at the discretion of the municipal governing body, all of the remaining members shall be qualified electors and taxpayers of the municipality, or up to two of the remaining members may be qualified electors and taxpayers in the area outside of the corporate limits of the municipality where a project may be located. As nearly as possible, they are divided into three groups for appointment to staggered terms of two, four and six years, respectively. Thereafter the terms of directors are for six years. The directors serve without compensation except that they may be reimbursed for actual expenses incurred. At the time of the election of directors, if a chamber of commerce or similar organization exists in the municipality, the directors shall be chosen from among the membership of such organization unless in the judgment of the governing body there are no such members both suitable and available. **No director shall be an officer or employee of the municipality.** Section 11-54-86, Code of Alabama 1975. Additionally, all meetings of the board for any purpose are open to the public. Section 11-54-87(c), Code of Alabama 1975.

Powers of Corporation

The powers of a Cater Act corporation are expressly provided in Section 11-54-87, Code of Alabama 1975. Cater Act corporations are authorized to acquire one or more "projects" by purchase, construction, exchange, gift or lease. They may also improve maintain and equip those projects. Industrial development boards are recognized as separate legal entities apart from the municipality. Projects are financed through the issuance of revenue bonds which may be payable not only from revenue of the project being financed but also from revenues of other projects and properties of the board. Bonds of the board may be made payable over a period of 40 years, and there is no restriction upon the length of time the project may be leased to an industry. The Act does not require the board to enter a lease agreement with the industrial lessee before the bond is issued. This practice is customary, however. Sections 11-54-87 and 11-54-89, Code of Alabama 1975.

After the project is completed and the lessee is settled, the board may later engage in another project calling for the extension of the original project without fear of constitutional restrictions. Amendment 108, Alabama Constitution of 1901. Lease agreements entered by the board with its lessee may contain options to renew and options to purchase for either a nominal or substantial consideration, also without fear of constitutional restriction. The board is given statutory authority to sell or donate any or all of its properties whenever its board of directors determines that such action will further the purposes of the corporation. Section 11-54-87, Code of Alabama 1975.

Since the Cater Act was originally adopted, corporations created under its authority have, by amendment, been authorized to construct projects, and they have been authorized to borrow funds for temporary use pending the issuance of their principal bond issues. Section 11-54-91, Code of Alabama 1975. Their jurisdictions have been extended to include areas located within 25 miles of the corporate limits of the municipality, with the provision that projects, other than projects consisting principally or solely of facilities for or useful in the control of air and/or water pollution, may not be constructed within the corporate limits of another municipality or in the police jurisdiction of another municipality without the consent of such municipality. If the project is in another county, the board must have the consent of the county governing body. Section 11-54-87, Code of Alabama 1975.

Exemptions

By statute, properties acquired by a Cater Act corporation are exempt from ad valorem taxes. Section 11-54-96, Code of Alabama 1975. The bonds of such corporations (together with the income therefrom) are exempt from property and income taxes of the state. Section 11-54-96, Code of Alabama 1975. As noted above, the interest income from bonds issued to finance such projects is exempt from federal income taxes, provided the bonds meet the test of the federal laws which limit the amounts of bonds that may be issued by a municipality.

All hotels and motor inns built under Section 11-54-80 are not exempt from ad valorem taxes. Section 11-54-96.1, Code of Alabama 1975.

Industrial development boards are also exempted from the laws of the state of Alabama governing usury or prescribing or limiting interest rates, including, without limitation, the provisions of Chapter 8 of Title 8. Section 11-54-97, Code of Alabama 1975.

The industrial development board and all contracts made by it shall be exempt from the provisions and requirements of Sections 41-16-50 through 41-16-63, which provide for competitive bids in connection with certain contracts. Section 11-54-98, Code of Alabama 1975.

Endowment Trust Funds

Certain industrial development boards are authorized to establish endowment trust funds for the promotion of industry, commerce and trade within their respective areas and to accept contributions to such funds. Section 11-54-125, et seq., Code of Alabama 1975.

Caution about the Cater Act

Caution should be used if the Cater Act lease contains an option to purchase at the termination of the lease. If the lease contains an option to purchase for a nominal consideration, the Internal Revenue Service might deem it a lease-sale agreement. In such cases, the deductibility of the lessee's rent and the tax-free character of the bond issue (together with the bond interest) might be jeopardized. In any event, approval of such an option to purchase in the lease should be obtained from the IRS before final closing.

The Wallace Act

In 1951 the Legislature adopted the Wallace Act which authorizes municipalities to promote industry and trade by the acquisition and financing of manufacturing and industrial projects for lease to industrial interests. The Act is codified at Sections 11-54-20 through 11-54-32, Code of Alabama 1975. The term "project" is defined to include the following:

> "Any land and any building or other improvement thereon and all real and personal properties deemed necessary in connection therewith, whether or not now in existence, which shall be suitable for use by the following or by any combination of two or more thereof:
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> a. Any industry for the manufacturing, processing or assembling of any agricultural or manufactured products;
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> b. Any commercial enterprise, in storing, warehousing, distributing or selling products of agriculture, mining or industry;
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> c. Any commercial enterprise providing linen rental services (including laundry and cleaning services related or incidental thereto) primarily to industries and commercial enterprises described in either of the preceding subparagraphs (a) and (b) and to institutions such as hospitals, nursing homes, other health care facilities and educational and training institutions.
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> d. Any enterprise for research in connection with any of the foregoing or for the purpose of developing new products or new processes or improving existing products or known processes or for the purpose of aiding in the development of facilities for the exploration of outer space or promoting the national defense; and
>
> e. Pollution control facilities, which shall be suitable for use by any industry or enterprise or by any combination of two or more thereof, but not facilities designed for the sale or distribution to the public of electricity, gas, water or telephone or other services commonly classified as public utilities." Section 11-54-20, Code of Alabama 1975.

In *Newberry v. Andalusia*, 57 So.2d 629 (Ala.1952), the Supreme Court not only upheld the constitutionality of the Wallace Act, but also held that the act provides authority for a municipality to equip and furnish such projects.

A municipality is not limited to projects within its corporate bounds. The Wallace Act authorizes a municipality to acquire projects no more than 15 miles of its corporate limits. Section 11-54-22, Code of Alabama 1975.

Instead of working through a separate corporate entity, such as the Cater Act corporation, the municipal governing body acts directly under the Wallace Act. Upon finding an industrial prospect, the governing body adopts a resolution stating its willingness to provide a project under the terms of the Act and then enters a contract with the prospect, the latter agreeing to lease the project. Prior to issuing revenue bonds to finance the project, the municipality is required to enter into a firm lease agreement with the industrial prospect, conditioned upon completion of the project and providing for payment to the municipality of such rentals as, based upon its determinations and findings, will be sufficient to pay the principal and interest

on the bonds, to maintain necessary reserves and to provide for maintenance and insurance (unless the lease requires the lessee to maintain and insure). Sections 11-54-21, 11-54-23, and 11-54-30, Code of Alabama 1975.

Wallace Act Bonds

Wallace Act bonds may be made payable over a period of 30 years and may be sold at public or private sale. They may be secured by pledge or rental revenues, mortgage of the project and pledge of the lease. A municipality is forbidden to contribute any part of the cost of acquiring a project. Costs of the project must be raised from the sale of bonds pursuant to the Act. The indebtedness created by such bond issues is not chargeable against the municipal debt limit and is not regarded as a debt chargeable against the taxing powers of the municipality. Sections 11-54-24 and 11-54-30, Code of Alabama 1975.

Projects constructed and financed under the Wallace Act, being the property of the municipality, are free from all ad valorem taxation. The bonds and interest therefrom are free from state property and income taxation. Section 11-54-31, Code of Alabama 1975. Also, interest from Wallace Act bonds is free from federal income taxation, provided it meets the limitations prescribed by Congress which limit the total amount of tax-free industrial revenue bonds. Furthermore, Wallace Act bonds are made legal investments for savings banks and insurance companies organized under Alabama law. Section 11-54-29, Code of Alabama 1975.

Wallace Act Limits

Several factors must be considered as limiting the use of the Wallace Act. A municipality may not give the lessee an option to purchase for a nominal consideration upon the termination of the lease, and doubt has been expressed as to whether a municipality may lease the project (including options for renewal) for a period of longer than 30 years.

Ready to Use Either

Neither the Cater nor Wallace acts were intended to favor outside or new industries over the expansion of industries existing in a municipality. Both acts may be used to expand established local industries, and both may be used to expand an industry which is leasing an existing Cater Act project. Generally, an industrial prospect will make the final decision as to which of these acts will be used to finance the project it is to lease. Therefore, every municipality which is seeking new industry should establish a Cater Act corporation to have it available should the prospect wish to proceed under its authority. As a matter of fact, records show the Cater Act is preferred in most industrial financing projects.

Constitutional Amendments

In November of 2004, Amendment 772, Alabama Constitution of 1901 was ratified and added to the Constitution as Section 94.01. This Amendment grants specific authority to counties and municipalities to lend credit to or grant public funds and things of value to any individual, firm, corporation, or other business entity, public or private, for the purpose of promoting the economic or industrial development of the county or municipality.

However, no such action should be taken unless prior thereto the governing body approves the action, at a public meeting, by resolution stating that the expenditure of public funds for the purpose specified will serve a valid and sufficient public purpose notwithstanding any incidental benefit accruing to any private entity or entities. Also, the governing body must give at least seven days notice of this meeting, to be published in the newspaper having the largest circulation in the county or municipality as the case may be, describing in reasonable detail the action proposed to be taken, a description of the public benefits sought to be achieved by the action, and identifying each individual, firm, corporation, or other business entity to whom or for whose benefit the county or the municipality proposes to lend its credit or grant public funds or thing of value. See Amendment 772(c) Alabama Constitution of 1901.

Prior to the ratification of Amendment 772 many special constitutional amendments were ratified. Since 1950, Alabama voters have ratified numerous amendments which confer special powers upon specific counties and municipalities to tax, issue bonds, construct industrial projects and enter into special industrial development activities. Many of these amendments require an election at the county or municipal level before exercising such powers. One exception is Amendment 84, which relates to municipalities located in Marion County, the first of the series adopted in 1950.

The other amendments are as follows:

Amendment 94, relating to municipalities in Fayette County; Amendment 95, relating to municipalities located in Blount County; Amendment 104, relating to the municipalities of Haleyville and Double Springs; Amendment 128, relating to Bullock County; Amendment 155, relating to the municipality of Uniontown; Amendment 166, relating to Chilton County (trade school and industrial development); Amendment 174, relating to Jackson County (trade school and industrial development); Amendment 183, relating to Autauga County and municipalities located therein; Amendment 186, relating to Franklin

County and municipalities located therein; Amendment 188, relating to Greene County and municipalities located therein; Amendment 189, relating to Lamar County and municipalities located therein; Amendment 190, relating to Lawrence County and municipalities located therein; Amendment 191, relating to Madison County and the city of Huntsville; Amendment 197, relating to St. Clair County and municipalities located therein; Amendment 217, relating to Clarke County; Amendment No. 220, relating to the City of Bayou La Batre; Amendment 221, relating to the city of York; Amendment 228, relating to industrial revenue bonds not included in debt limit; Amendment 244, relating to the town of Lester; Amendment 245, relating to Madison County and Huntsville; Amendment 246, providing that Marion County municipalities may issue refunding bonds for industrial development; Amendment 250, relating to Sumter County; Amendment 251, relating to the city of Livingston; Amendment 256, relating to the towns of Addison and Lynn; Amendment 259, relating to the city of Evergreen; Amendment 261, relating to the city of Bayou La Batre; Amendment 263, relating to municipalities in Geneva County; Amendment 277, relating to the town of Carbon Hill; Amendment 302, relating to municipalities in Pickens County; Amendment 303, relating to the cities of Hartselle and Decatur; Amendment 312, relating to the municipalities in Bibb County; Amendment 313, relating to the municipalities in Hale County; Amendment 376, relating to industrial parks in the city of Anniston; Amendment 415, relating to industrial sites and industrial park projects in Calhoun County and the municipalities therein; Amendment 429, relating to economic and industrial development in certain named counties and the municipalities therein; Amendment 468, relating to industrial development in Marengo County; Amendment 545, relating to the Industrial Development Board of Lawrence County; Amendment 596, relating to the promotion of economic and industrial development in Walker County; Amendment 642, relating to the promotion of economic and industrial development in Lee County; Amendment 646, relating to the promotion of economic and industrial development in Marengo County; Amendment 679, relating to the promotion of economic and industrial development in Chilton County; Amendment 713, relating to the promotion of economic and industrial development in Montgomery County; Amendment 719, relating to the promotion of economic and industrial development in Butler County; Amendment 723, relating to the promotion of economic and industrial development in Coffee County; Amendment 725, relating to the promotion of economic and industrial development in Covington County; Amendment 729, relating to the promotion of economic and industrial development in Henry County; Amendment 737, relating to the promotion of economic and industrial development in Russell County; Amendment 739, relating to the promotion of economic and industrial development in Tallapoosa County; Amendment 748, relating to economic development in Crenshaw County; Amendment 750, relating to economic development in Baldwin County; Amendment 752, relating to the promotion of commercial development in Hartselle, Morgan County; Amendment 757, relating to economic and industrial development in Barbour County; Amendment 759, relating to economic and industrial development in Baldwin, Bullock, Coffee, Coosa, Dallas, Etowah, Geneva, Houston, Jefferson, Lawrence, Macon, Marengo, Mobile, Morgan, Talladega, Madison, Shelby, and Tuscaloosa counties and of each municipality situated in said counties; and Amendment 761, relating to economic and industrial development in Etowah County.

While these amendments have been used in several instances, there is a natural reluctance toward the subsidization of industry with tax money and the general credit of the municipality or county. In most instances the Wallace and Cater acts provide ample assistance for the attraction of a desirable industry. This is evident by the wide use of the two acts.

Authority to Advertise and Promote

Sections 11-47-9 and 11-47-10, Code of Alabama 1975, give all municipalities the authority to enter into contracts or agreements with any persons, firms or corporations for the advertisement of the municipality or any function or undertaking of the municipality both inside and outside the corporate limits. In so doing, a recognized medium of advertising must be used. The costs of such advertising are made legal charges against available municipal funds.

Section 11-47-11, Code of Alabama, 1975 authorizes every municipality in Alabama to set aside, appropriate and use municipal funds or revenues for the purpose of developing, advertising and promoting agricultural, mineral, timber, water, labor and all other resources of every kind within its police jurisdiction and for purposes of locating and promoting agricultural, industrial, and manufacturing plants, factories and other industries within the municipality, or elsewhere inside the county, not more than 15 miles from the boundaries of the municipality.

Power to Sell or Lease

Sections 11-47-20 and 11-47-21, Code of Alabama 1975, provide authority for a municipality to sell or lease real estate belonging to it which is no longer needed for public or municipal purposes. While property sold under the authority of these sections must be sold for adequate consideration, in several instances, municipalities have sold such property to Cater Act corporations for individual development purposes.

The Attorney General has opined that Alabama cities and towns have the authority to appropriate funds to Cater Act corporations and to deed property to such corporations for nominal consideration. It is advised that each municipality get an opinion from the Attorney General whenever such a grant or appropriation is made.

A municipality may not put any of its money or property into a Wallace Act project. Wallace Act projects must be financed wholly through the funds derived from the sale of bonds to finance the project. Section 11-54-30, Code of Alabama 1975.

The transfer of land by a commercial development authority to a private person, firm, or corporation, originally acquired from the state and transferred to the authority through one or more transactions between governmental entities, is subject to the competitive bid requirements of the Land Sales Act, except if transferred for the purpose of promoting the economic and industrial development of the county or municipality or for the purpose of constructing, developing, equipping, and operating industrial, commercial, research, or service facilities of any kind under Section 94.01 of the Recompiled Constitution of Alabama, and in compliance with section 94.01(c) of the Constitution if transferred for less than fair market value. AGO 2009-0008 and AGO 2008-0009.

A city may transfer property to an Electrical Cooperative for less than adequate consideration if the city determines that the transfer serves a public purpose. AGO 2010-0102. The publication and resolution requirements found in Section 94.01 (Amendment 772) of the Alabama Constitution of 1901, may apply.

A municipality, for less than adequate consideration, may convey real property owned by the city to the industrial development board for the board's use for the promotion of industry within the city, if the city council complies with the conditions of section 94.01 (Amendment 772) of the Alabama Constitution, including a determination that a public purpose is served by the transfer. AGO 2011-0051. To determine whether a public purpose is served, the governing body must look to the statutes setting forth the powers of the governmental entity. If within such powers, there exists the authority to promote the action at issue, then the governing body need only decide whether the appropriation will help accomplish that purpose. AGO 2012-0002.

Growing Pains

One of the biggest problems confronting future industrial expansion is the procurement of proper industrial sites. Under the Wallace and Cater acts, Alabama municipalities and their industrial development corporations do not have the power to condemn industrial sites for their projects. In many municipalities this has already become one of the foremost obstacles to industrial expansion, and as the state becomes more industrialized it will become more acute. It should be noted that Cater Act corporations have the authority to purchase industrial sites for future development if they can arrange the financing of such acquisitions. Also, a municipality can control the use of property within its corporate limits and police jurisdiction by adopting comprehensive land use plans and zoning regulations. In this connection, close contact should be maintained between the municipality, the industrial development corporation and the municipal planning commission.

Industrial Parks

It is certainly best if municipalities can establish an industrial park which will be ready for prospects. Alabama municipalities have the authority to establish industrial parks, and industrial development boards created under the Cater Act have the authority to establish industrial parks. This authority was given to municipalities by League-sponsored legislation which is codified at Sections 11-54-1 through 11-54-3, Code of Alabama 1975. Sections 11-92-1 through 11-92-11, Code of Alabama 1975, provide another procedure for establishing industrial parks by a county or a municipality or both.

As noted, the Attorney General has ruled that a municipality may grant land to industrial development corporations and make appropriations to such industrial development corporations for this purpose. It is strongly recommended that each municipality obtain an opinion from the Attorney General before making any such grants or appropriations. There is a long list of Attorney General's opinions which uphold this position, however.

Commercial Development

There has always been a strong urge to use industrial revenue bonds to finance commercial development. It appears that these bonds, issued by a Cater Act industrial board or by a municipal governing body under the Wallace Act, can only be used in very limited circumstances for commercial development purposes.

All municipalities have the authority to establish a commercial development authority for such purposes pursuant to Sections 11-54-170 through 11-54-192, Code of Alabama 1975. Such authorities are given a more detailed overview in a separate article entitled "Commercial Development Authorities" in this publication.

Sections 11-54-140 through 11-54-153, Code of Alabama 1975, as amended, give municipalities the authority to establish hotel projects.

Pre-Issuance Procedure

To prevent unscrupulous promoters from taking advantage of the authorizing act by inducing issuers to issue industrial revenue bonds which, upon careful investigation, would reveal to be improvident, the Legislature passed a law which requires a notice of issuance of bonds. The law requires any issuer proposing to issue any industrial revenue bonds to, at least 20 days prior to the date of delivery of such industrial revenue bonds, deliver to the director of the Securities Commission a notification in writing of its intention to issue the industrial revenue bonds. Section 8-6-115, Code of Alabama 1975. Under certain circumstances, the director of the Securities Commission can issue a stop order requiring the issuer to not issue the bonds within a specified period of time. The complete procedure involved in pre-issuance validation of industrial revenue bonds is codified at Sections 8-6-110 through 8-6-122, Code of Alabama 1975, as amended.

Although a city or town cannot be held liable for bad bond issues, any bad issues can adversely affect future bond issues. For this reason, the League strongly recommends that municipalities and industrial development boards of this state work closely with the director of the Alabama Securities Commission.

Special Tax Exceptions

To encourage the building, expansion and operation of certain plants, industries and factories in the state, municipal and county governing bodies are authorized to abate several types of taxes, including state taxes, assessed for all county and municipal purposes (except for educational purposes) for a period of 20 years. Section 40-9B-4, Code of Alabama 1975. An owner of real property who leases it for industrial development use under the Tax Incentive Reform Act of 1992 is entitled to an abatement of non-educational ad valorem taxes, if approved by the abatement granting authority. AGO 98-201. Under the Tax Incentive Reform Act of 1992, Section 40-9B-1, et seq., Code of Alabama 1975, neither a municipality nor its industrial development board can enter into an agreement to abate non-educational county ad valorem taxes or county construction related transaction taxes if there is no corresponding municipal ad valorem tax or construction related transaction tax to be abated. A municipality or its industrial development board can abate all or part of the state's non-educational ad valorem taxes, the state's construction related transaction taxes, and the mortgage and recording taxes related to private use industrial property and security documents and other recordable documents associated therewith. AGO 2005-112. The list of types of industry included in this authority is too long to include in this article but is found in Section 40-9B-3, Code of Alabama 1975. Of note, there are specific rules that apply only to data processing centers that can be found in Sections 40-9B-3(12)2 and 49-9B-4(b)(2) and (c)(2), Code of Alabama 1975. Municipalities and public industrial development authorities are required to obtain written consent from the governing body of a county prior to granting an abatement of any county taxes. Sections 40-9B-5 and 40-9B-8, Code of Alabama 1975.

The governing body of a municipality may, in its discretion, grant an abatement to any taxpayer of all or a portion of the applicable business license tax otherwise due for up to three license years if the taxpayer substantially complies with the criteria for abatement of sales or use taxes under the Tax Incentive Reform Act of 1992, found at Section 40-9B-1, et seq., following a public hearing on same. Section 11-51-189, Code of Alabama.

Act 2025-84 creates a new requirement on abatements granted under section 40-9B-4 to unabate a portion of the abated amounts of the state's noneducational ad valorem tax. The provisions in Act 2025-84 apply prospectively to new abatements granted on or after June 1, 2026, and nothing in the Act impairs, restricts or alters an abatement granted prior to June 1, 2026. Section 40-9I-2, Code of Alabama 1975

Beginning on June 1, 2026, once an abatement is granted pursuant to Section 40-9B-4, the local tax collecting official must collect 1.0 mill of the state noneducational ad valorem taxes that otherwise could have been abated and remit the amount collected to the State comptroller for deposit into the Alabama Development Fund. Three-quarters of one percent of the state construction-related transaction taxes on private use industrial property shall be unabated. The Department of Revenue must collect the unabated rate on sales of private use industrial property that was previously subject to abatement and deposit these funds directly to the Alabama Development Fund. Section 40-9I-1, Code of Alabama 1975.

The Alabama Tourism Destination Attraction Incentive Act (Act 2012- 436) became effective on May 15, 2012, and amended Sections 40-9B-3, 40-18-190 and 40-18-193 Code of Alabama 1975. This Act defines and includes "tourism destination attraction" in the definition of "industrial research enterprise" and authorizes municipal governments to approve the abatement of specified ad valorem taxes or construction related taxes upon the adoption of a resolution by the municipal governing body.

Downtown Redevelopment Authorities

Sections 11-54A-1 through 11-54A-25, Code of Alabama 1975, authorize any municipality in Alabama to incorporate a downtown redevelopment authority to promote trade and commerce by inducing commercial enterprises to upgrade, improve,

modernize, and expand existing facilities and to locate new facilities in the central business district of the municipality. Section 11-54A-1 notes that such development promotes the general welfare of the municipality by creating a favorable climate to attract new industry and commerce.

Incorporation Procedures

To incorporate a downtown redevelopment authority, any number of natural persons (not less than three) who are duly qualified voters of the municipality, shall file a written application with the municipal governing body to adopt a resolution declaring it wise, expedient and necessary that the proposed authority be formed and authorizing the applicants to proceed with the incorporation. The governing body shall review the application and adopt a resolution either approving or denying the application. A copy of the application shall be made as part of the minutes of the meeting where final action is taken. Section 11-54A-4, Code of Alabama 1975.

Within 40 days of the adoption of the resolution, the applicants must file for record, with the probate judge of the county where the municipality is located, a certificate of incorporation containing the names of the persons forming the authority and other information required by Section 11-54A-5. The certificate of incorporation must be filed and acknowledged by the incorporators. The corporation comes into existence as a public corporation upon the filing for record of the certificate of incorporation and the other information requested. Section 11-54A-5, Code of Alabama 1975.

The incorporators of a redevelopment authority for a municipality located in more than one county may file the certificate of incorporation in only one of those counties. It should be noted that nothing would prohibit the recording of a copy of that filing in the other counties in which the city is located to place the residents of those counties on notice of the authority in the incorporating county. AGO 2010-0085.

Board of Directors and Officers of the Authority

Each downtown redevelopment authority shall be governed by a board of directors consisting of any number of directors (not less than three) who shall be elected by the municipal governing body. The initial board shall be divided into three groups. Group one shall serve for a term of two years. Group two shall serve for a term of four years. Group three shall serve for a term of six years. Thereinafter, each director will serve for six years. Directors shall be duly qualified voters of the municipality and shall be eligible for re-election. Vacancies shall be filled by the municipal governing body. Directors are eligible to receive reimbursement for expenses actually incurred by them in the performance of their duties. Section 11-54A-7, Code of Alabama 1975.

Officers of the authority shall consist of a chairman, vice chairman, secretary, treasurer and such other officers as the board deems desirable. The chairman and vice chairman shall be elected by the board from its membership. The other officers shall be elected by the board but do not have to be members of the board. The office of secretary and treasurer may be held by the same person. The chairman, vice chairman, secretary and treasurer shall also hold those positions on the board. Section 11-54A-8, Code of Alabama 1975.

Power of the Authority

Section 11-54A-9, Code of Alabama 1975, lists the powers of a downtown redevelopment authority. Subsection 5 gives the authority the power to acquire (whether by purchase, construction, exchange, gift, lease or otherwise), to refinance existing indebtedness on, and to improve, maintain, equip and furnish one or more "projects," including all real and personal properties which the board of the authority may deem necessary in connection therewith, regardless of whether or not the project was then in existence.

Section 11-54A-2, Code of Alabama 1975, defines "project" as the interests in land, buildings, structures, facilities or other improvements located or to be located within the downtown development area (the downtown central business district of the municipality, including areas used primarily for business and commercial purposes) and any fixtures, machinery, equipment, furniture or other property of any nature whatsoever used on, in, or in connection with any such land, interest in land, building, structure, facility or other improvement, all for the essential public purpose of the development of trade, commerce, industry and employment opportunities in the downtown development area. A project may be for any use, provided a majority of the members of the authority determine, by resolution, that the project and such use thereof would further the public purpose of the act. Section 11-54A-2, Code of Alabama 1975.

The authority has the power to sell, exchange, donate or convey and grant options to any lessee to acquire any of its projects and any or all of its properties. The authority may issue bonds and mortgages and pledge any or all of its projects as security for the payment of the principal of, and interest on, any such bonds and any agreements made in connection therewith. The authority has broad powers to finance, acquire and operate projects and to pay for the costs of such projects from bond

proceeds or other funds of the authority. All bonds issued by the authority shall be payable solely out of the revenues and the receipts derived from the leasing or sale by the board of its projects. Section 11-54A-9, Code of Alabama 1975.

A municipality may utilize its downtown redevelopment authority, organized pursuant to Section 11-54A-1 et seq. Code of Alabama 1975, to revitalize and rebuild commercial and or retail enterprise in its central business district. AGO 2006-0118.

Power to Extend Credit

The authority has the power to extend credit to make loans to any person, corporation, partnership or other entity for the costs of any project upon such terms and conditions as the authority shall determine to be reasonable in connection with such extension of credit or loans, including provision for the establishment and maintenance of reserve funds. A number of other powers are given to the authority in Section 11-54A-9, Code of Alabama 1975.

Exemptions from Taxation, Usury and Bid Laws

The authority, its property and income and other interests, are exempt (1) from all taxation in the state, (2) from the state usury laws, and (3) from the competitive bid law where no city, state, county or federal tax revenues are being used. Sections 11-54A-14, 11-54A-16 and 11-54A-17, Code of Alabama 1975. According to the Attorney General's office, whether a tax exemption under Section 11-54A-1, et seq., applies is a question of fact concerning whether the property is located in a defined downtown redevelopment area. AGO 1997-0179.

Loans, Grants by Counties, Municipalities

Any county, municipality or other political subdivision, public corporation, agency or instrumentality of this state may, upon such terms and with or without consideration as it may determine, lend or donate money or property to or perform services for the benefit of the authority. Section 11-54A-22, Code of Alabama 1975.

Enterprise Zones

Sections 41-23-20 through 41-23-32, Code of Alabama 1975, authorize the creation of enterprise zones for promoting growth in economically depressed areas. An enterprise zone is a geographical area where governmental restrictions and taxation are reduced in the hopes of stimulating private investment. Section 41-23-21, Code of Alabama 1975.

Enterprise zones are another marketing tool to help attract new businesses to Alabama. The law defines an enterprise zone as a "geographic area which is economically depressed, in need of expansion of business and industry and the creation of jobs and designated to be eligible for the benefits of this article." Both urban and rural areas can qualify to be designated as enterprise zones. Section 41-23-21, Code of Alabama 1975.

Section 41-23-40, Code of Alabama 1975, provides for exemptions for businesses that locate in depressed areas of the state.

The Alabama Department of Economic and Community Affairs (ADECA) administers the enterprise zone program. ADECA is responsible for establishing criteria for areas to qualify as enterprise zones. In developing the standards, ADECA is to consider five categories: unemployment, poverty rates, per capita income, migration from the area and number of residents receiving public assistance.

A company may not receive enterprise zone benefits if it closes or reduces employment in one location in order to expand into an enterprise zone in another location within Alabama. AGO 1994-0230.

Designating Areas as Enterprise Zones

The law states that either the state or a governmental entity may apply to have an area classified as an enterprise zone. The application must include a statement of the incentives the governmental entity is offering. In addition, the law lists a number of services and duties the governmental entity must perform before an area can be designated as an enterprise zone. State, county and municipal governments are expected to devise innovative programs and to actively pursue enterprise zone designation. Section 41-23-23, Code of Alabama 1975.

The maximum number of zones allowed by law is 27 and the maximum acreage in a zone is 10,000 acres. Section 41-23-22, Code of Alabama 1975.

Attorney General's Opinions

The Attorney General of Alabama has rendered a number of opinions relating to the authority of municipalities with regard to industrial and economic development. Special attention is called to the following:

- Cities may transfer, for sufficient consideration, real property to an industrial development board and such board may sell or develop such property as long as it is used for industrial development purposes. AGO 1979-0225 and AGO 1980-0464.

- An industrial development board is not authorized to sell property to the board chairman even when he or she is the highest bidder. AGO 1979-156.
- An industrial development board may not participate in the expansion of facilities to be located within the corporate limits of another municipality. AGO to Hon. Lyman Mason, January 28, 1970.
- Industrial development boards should require a bond as provided by law on its construction contracts. AGO to Mayor J. R. Brunson, December 4, 1969.
- A city may contribute funds to its industrial development board. The law does not prohibit a city officer from selling property to the board. AGO to Hon. H. E. Holladay, April 18, 1969. Note: Due to possible conflict with Section 94 of the Alabama Constitution, the League strongly urges all municipalities to obtain their own opinion on this subject.
- An industrial development board has authority to convey real property owned by it to an individual for nominal consideration. AGO to Hon. Doyle R. Young, September 14, 1971.
- A county may contribute to a municipal industrial development board. AGO to Hon. J. H. Faulkner, January 15, 1975.
- Neither a municipality nor its industrial development board is legally authorized to acquire private property by condemnation for the purpose of providing a plant site for leasing to an industry. AGO to Hon. John E. Adams, August 13, 1971.
- A municipal industrial board may make a loan from a commercial bank to construct a manufacturing facility. Interest paid on loans made by industrial development boards is exempt from state and local taxation. 132 Quarterly Report of the Attorney General 49.
- A municipality may sell or lease property acquired under the Wallace Act only for fair and adequate consideration. AGO to Marie Hay, April 27, 1977.
- A municipal industrial development board may make a loan by giving its promissory note therefor secured by a mortgage. AGO to Hon. Kenneth W. Gilchrist, December 27, 1981.
- A municipality may grant an industry an option to renew its lease under the Wallace Act at a nominal consideration after the bonds have been paid, but this does not give the municipality the authority to grant the industry an option to purchase for nominal consideration. AGO to Hon. Pleas Looney, May 5, 1957.
- A municipality may not invest surplus funds in revenue bonds issued under the Wallace Act. AGO to Hon. Grover Bice, June 5, 1975.
- Where a municipality has constructed projects under the Wallace Act it may not give a lessee an option to purchase prior to the expiration of the lease and prior to the amortization of the bond issue. Time or option to purchase must be conditioned on prepayment of all outstanding bonds against the project. AGO to Hon. Pleas Looney, August 5, 1957.
- A Cater Act industrial development board is entitled to an exemption from all sales taxes provided the property is purchased by the board or its agency, the purchases are made in the name of the board, the board's credit is obligated, and the purchases are paid for with board funds. AGO 1983-0199.
- The quorum of an industrial development board is 50 percent of the number of authorized directors plus one. AGO 1983-0397.
- A municipality may contribute funds to its industrial development board or make loans to the board which could be secured with a commercial promissory note and a real estate mortgage. However, the city cannot lend its credit to the board. AGO 1984-0045.
- All mortgages executed by an industrial development board are exempted from the filing tax. AGO 1984-0146.
- Industrial development boards incorporated pursuant to Act 77-762 may not hold executive sessions for any purpose. AGO to Hon. William C. Brewer, III, July 13, 1984.
- An industrial development board may not buy equipment in its name at a discount in order to pass the savings on to interested industries. AGO 1985-0155.
- The director of an industrial development board does not have to be a property owner or pay ad valorem taxes in the city. AGO 1985-0186.
- A municipal governing body has no authority to override a decision by the industrial development board as to the expenditure of municipal funds. AGO 1985-0391.

- A downtown redevelopment authority may define the "central business district" so as to include additional parts of the city. AGO 1985-0516.
- Municipalities are not authorized to purchase bonds of an industrial development authority. AGO 1986-0082.
- The exemption from taxation for industrial development boards in Section 11-54-95, Code of Alabama, exempts documents from the deed tax in Section 40-22-1 of the Code only where the industrial development board is a party to the deed. AGO 1987-0298.
- A municipal industrial development board may not sell property to a board member. Municipal industrial development boards may finance the sale of a building. AGO 1987-0311.
- A municipality may grant funds to a county industrial development board which is located less than 15 miles from the corporate limits of the municipality, and ADECA may reimburse the municipality for its contributions. AGO 1988-0022.
- A municipality may contribute property to the industrial development board for nominal consideration. AGO 1988-0440.
- It is a conflict of interest for an industrial development board member to do business with the industrial development board. AGO 19890-0198.
- An industrial development board must obtain adequate consideration when selling property contributed by a municipality. AGO 1989-0216; AGO 1990-0254.
- A utilities board may purchase property, convey it to the industrial development board and take a mortgage from the board. AGO 1990-0057.
- An industrial development board may not donate funds to a private committee to oppose moving a local school. AGO 1990-0198.
- Section 11-63-2, Code of Alabama 1975, authorizes municipalities to make appropriations to industrial development boards. AGO 1991-0108.
- An industrial development board may not grant exemptions from taxation, but industrial development property may be exempt. AGO 1991-0312.
- An industrial development board is empowered under Section 11-54-80, et seq, Code of Alabama 1975, to secure the services of an individual who will be paid for causing an industry to locate in a city. AGO 1992-0222.
- A city industrial development board may borrow funds from a bank to purchase and develop real restate for future projects. AGO 1993-0024.
- Industrial development boards have no authority to create a nonprofit corporation which will acquire a for-profit entity whose profits will be paid to the board. AGO 1992-0120.
- Funds raised by a group of volunteers for industrial development must be used for that purpose once they are deposited in an account under the control of the industrial development board. Funds which remain under the control of the volunteers may be spent for other purposes. AGO 1993-0081.
- A city or town may convey real property to its industrial development board for use as an industrial park. AGO 1993-0189.
- An industrial development board is not authorized to pledge TVA in-lieu-of-tax money to retire the debt on a project. AGO 1994-0175.
- The attorney general's office has held that a municipality may convey real property to its industrial development board. The property must be used by the board pursuant to Sections 11-54-80 through 11-54-101 of the Code of Alabama. AGO 1998-0191.
- A municipality may loan funds to its industrial development board. AGO 1999-0094.
- A municipality may appropriate money to its industrial development board to purchase land for an industrial park. AGO 2000-0042.
- A municipality may convey real property to its industrial development board for immediate resale at less than fair market value without violating Section 94 of the Alabama Constitution, 1901, if it determines that the conveyance furthers a public purpose. AGO 1999-0150.
- A municipality may use general fund money to buy land and then convey title of the land to the IDB. AGO 2000-0072.

- A municipal industrial development board may transfer property for purposes that do not qualify as projects under the statutes if the board determines that the sale furthers the purposes of the board and the board receives adequate consideration for the property. AGO 1999-0127.
- A municipality may guarantee repayment of bonds issued by the county industrial development board. AGO 1998-0180.
- An industrial development board may sell land that it owns to a member or superintendent of a utility board as long as the price received by the municipality is at least equal to the total amounts expended by the municipality with respect to the property sold or not less than reasonable market value of the property sold, as the value is established by the appraisals of at least two independent appraisers. AGO 2001-0038.
- An industrial abatement begins on the date the county, city or public authority issues bonds to finance the costs of private use property or, if no bonds are issued, the later date on which title to the property is acquired by or vested in the county, city or public authority, or the date on which the property is or will become owned, for federal income tax purposes, by a private user. While the property is owned and used by the industrial development board, the property is not subject to current use valuation for ad valorem purposes; therefore, the rollback that occurs when current use property is converted to other taxable use is not applicable. AGO 2002-0029.
- The use of city and/or county notes or warrants by an industrial development board to pay the cost of purchasing certain real property and performing the site preparation and improvements to property will not constitute the "issuance of bonds" as that phrase is used in the definition of "maximum exemption period" in Section 40-9B-3(8)a.1, Code of Alabama 1975. AGO 2002-0290.
- Pursuant to Section 11-54-83, a municipal industrial development board has no authority to change the style of its name from anything other than "The industrial development board of the _____ of _____. AGO 2004-0014.
- A city may collect contributions and donate those contributions to an industrial development board so long as the board uses the funds for purposes that are consistent with the statutory authority granted to the board. AGO 2004-0067.
- Under the Tax Incentive Reform Act of 1992, Section 40-9B-1, et seq. of the Code of Alabama 1975, neither a municipality nor its industrial development board can enter into an agreement to abate non-educational county ad valorem taxes or county construction related transaction taxes if there is no corresponding municipal ad valorem tax or construction related transaction tax to be abated. A municipality or its industrial development board can abate all or part of the state's noneducational ad valorem taxes, the state's construction related transaction taxes, and the mortgage and recording taxes related to private use industrial property and security documents and other recordable documents associated therewith. AGO 2005-0112.
- An industrial development authority must use its discretion in determining how much weight the classification of a proposed development as "industrial" has on the determination of whether a proposed facility is deemed a "project." The determination of an authority that a proposed development is a project is conclusive. Whether a specific proposed industrial development is, in fact, a "project" is a determination of fact that must be made by the industrial development authority. AGO 2007-0070.
- A municipality has no control over the expenditure of funds or the incurring of obligations by an industrial development board. Conversely, the board does not have the authority to invest its excess funds. The board must pay any net earnings to the city after payment of expenses, bonds, and other obligations. AGO 2008-0080.
- Section 94.01(a)(3) of the Recompiled Constitution of Alabama permits a city to provide public funds to a public or private company to attract economic development within the city if such action serves a public purpose and a public meeting where proper notice is given is held regarding the proposed action. Whether the proposed action by the city serves a public purpose is a determination that must be made by the city. The city may not provide public funds to a movie theater company in the form of a rebate of the gross receipts license movie ticket tax. If it determines a public purpose would be served, the City may make an annual appropriation to the company that is not tied directly to the tax. AGO 2007-0122.
- A municipality has no control over the expenditure of funds or the incurring of obligations by an industrial development board. Conversely, the Board does not have the authority to invest its excess funds. The Board must pay any net earnings to the city after payment of expenses, bonds, and other obligations. AGO 2008-0080.
- When a county abolishes an Industrial Park pursuant to Section 11-23-7 of the Code of Alabama 1975, the County Commission may sell the land remaining to a municipality for an amount less than the actual cost of the property and the improvements thereto. AGO 2009-0012.

- Under Section 94.01 of the Alabama Constitution, a town may borrow money and grant public funds to a private corporation or other private entity to aid the corporation with the expense of installing a center turn lane for the purpose of promoting economic development in the town, if the town determines a public purpose will be served. Local Constitutional Amendments may also authorize the expenditure of funds by the town. If public funds are transferred to a private entity, such funds are not subject to Alabama's laws regarding competitive bidding or public works bidding. AGO 2009-0086.
- A county commission may appropriate funds to a local university, which is a state institution of higher learning, to be utilized in support of its football program, if the commission determines that the appropriation serves to promote economic development within the county. AGO 2010-0010.
- Section 11-23-7 of the Code of Alabama sets forth the mechanism by which an industrial park created pursuant to this statutory authority may be abolished or portions of that property removed therefrom. Property located within an area designated as an industrial park maintains its status as an industrial park until such time that action is taken pursuant to section 11-23-7 of the Code. A county commission should monitor industrial parks to ensure such areas are being used for industrial purposes. A county commission has the authority to enforce restrictions and abolish an industrial park that is no longer used for industrial purposes. The county commission has no legal duty to inspect or require owners of industrial parks to maintain community standards. AGO 2010-0104.
- The subdivision regulations of a County apply to the industrial park in the county. The county may inspect facilities in the park to ensure they are being used for industrial purposes. Additional facilities that locate in the park are not required to pay for building permits. AGO 2012-0047.
- The fact that a municipality levies no ad valorem tax does not deprive that municipality and its industrial development board of their power, pursuant to Sections 40-9B-4 and 40-9B-5 of the Code of Alabama 1975, to grant abatements of county-levied non educational ad valorem taxes. AGO 2016-0017.
- Pursuant to Section 3 of the Local Acts for Geneva County of the Constitution of Alabama, the Geneva County Commission may abolish the Geneva County Industrial Park and sell the remaining acres to a city located in the county, provided that the one industry located in the park request abolishment, the property continues to be used for industrial purposes, and the county complies with paragraph 3 of Section 3. The county may not convey lots to the city for no monetary consideration. AGO 2016-0021.
- A city may guarantee the mortgage of a nonprofit organization to support the construction of soccer fields for the purpose of promoting economic development if the city council complies with the conditions of Section 94.01(c) of article IV or Section 3 of the Local Amendments for Baldwin County of the Recompiled Constitution of Alabama. AGO 2017-0006.
- An industrial development board is not authorized to provide financial assistance through loans or grants to a nonprofit corporation that will create an entrepreneurial collaborative business service center for shared work space because the business does not meet the definition of a project. AGO 2018-0026.
- The Commercial Development Authority (CDA) may take actions and expend funds related to the acquiring, owning, and/or leasing of projects to induce new commercial enterprises to locate in the city and to expand existing facilities. The CDA may make improvements to property acquired as projects. The CDA may sell or donate such property to businesses or structure leases with beneficial terms related to a project. The CDA may not award financial grants to businesses. The city may make improvements to its property unrelated to a project through the net earnings of the CDA remaining after the payment of all expenses. The CDA may provide financial assistance to its board members attending conferences, seminars, and workshops related to the promotion of commerce and trade. The CDA may hire employees. While it may not hire them to work for other agencies, it may enter into an employee-sharing agreement with another agency so long as each compensates the employee in proportion to the work performed for that agency. The CDA may share its conference room if used for business related to the purposes in section 11-54-170. AGO 2018-0051.
- The city may expend public funds and allow its employees, agents, or contractors to enter private property with the owner's consent to remove any unsightly and damaged trees if the city council determines that the work promotes economic and industrial development for the city and the council complies with the conditions of section 94.01(c) of the Recompiled Constitution of Alabama. AGO 2019-0040.