

By: Representative Williams

To: Ways and Means

HOUSE BILL NO. 1010
(As Passed the House)

1 AN ACT TO AMEND SECTION 57-61-9, MISSISSIPPI CODE OF 1972, TO
2 REVISE THE TYPE OF PROJECTS ELIGIBLE FOR ASSISTANCE UNDER THE
3 MISSISSIPPI BUSINESS INVESTMENT ACT; AND FOR RELATED PURPOSES.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

5 SECTION 1. Section 57-61-9, Mississippi Code of 1972, is
6 amended as follows:

7 57-61-9. (1) Any private company desiring assistance from a
8 municipality shall submit to the municipality a letter of intent
9 to locate, expand or build a facility entirely or partially within
10 the municipality or on land the municipality is authorized to own
11 or otherwise acquire. The letter of intent shall include:

12 (a) Except for strategic investments, a commitment that
13 the proposed project will create and maintain a minimum of ten
14 (10) net new full-time equivalent jobs, will create and maintain
15 at least a five percent (5%) increase in full-time equivalent jobs
16 in the case of expansion of an enterprise already located at the
17 site or at least a twenty-five percent (25%) increase in full-time
18 equivalent jobs pursuant to subsection (9) of Section 57-61-15 and
19 will create and maintain at least one (1) net new full-time
20 equivalent job for every Fifteen Thousand Dollars (\$15,000.00)
21 either loaned or granted for the project. The commitment required
22 by this paragraph (a) shall include any jobs created prior to the
23 effective date of this chapter resulting from contracts entered
24 into contingent upon assistance being made available under this
25 chapter. All jobs required to be maintained by this paragraph (a)
26 shall be maintained until such time as any loan made under this

27 chapter for the benefit of a private company is repaid.

28 (b) A statement that the specific improvements are
29 necessary for the efficient and cost-effective operation of the
30 private company, together with supporting financial and
31 engineering documentation.

32 (c) Any commitment to pay rental on, or to make loan
33 repayments related to, the improvements to be made with funds
34 loaned to a municipality under this chapter.

35 (d) If required by the department, a notarized
36 statement of willingness to grant a lien on the facility for which
37 the improvement is being provided, in an amount and a manner to be
38 determined by the department, which lien may be foreclosed in the
39 event that the private company fails to operate in the facility
40 according to the terms of the agreement and/or to collateralize
41 the loan made for the benefit of the private company for which the
42 improvement is being provided in an amount and manner to be
43 determined by the department. In the event the contractual
44 agreement is to be entered into with a department or subsidiary of
45 the United States Government, the department shall determine that
46 the governmental unit will operate the proposed project for a
47 sufficient number of years to retire the loan based on increased
48 revenue estimates by the University Research Center and any
49 agreement entered into shall reflect that the interest paid on any
50 loan for such purpose shall be included in Mississippi's
51 contributory value in the project. In the event the private
52 company requesting the assistance is a subsidiary of another
53 corporation, if required by the department, any contractual
54 agreement entered into shall also require the parent company to
55 unconditionally warrant the performance of the subsidiary in
56 carrying out the terms of the agreement or it shall require the
57 subsidiary and/or the parent company to pledge assets in an amount
58 and a manner to be determined by the department and/or to
59 collateralize the loan in an amount and a manner to be determined
60 by the department to ensure the performance of the terms of the
61 contract.

62 (2) Upon receipt of the letter of intent from a private
63 company, the municipality may apply to the department for a loan

64 or grant. The application from the municipality shall include but
65 not be limited to:

66 (a) A statement of the purpose of the proposed loan or
67 grant, including a list of eligible items and the cost of each.

68 (b) A statement showing the sources of funding for the
69 entire project, including the private company's or governmental
70 unit's investment in the project and any public and other private
71 sources of funding.

72 (c) A certified copy of the signed letter of intent
73 from a private company or governmental unit, as specified in this
74 section.

75 (d) Evidence that there will be a private match of at
76 least Three Dollars (\$3.00) for every One Dollar (\$1.00) of state
77 assistance, except in the case of ports where the private match
78 will be at least Two Dollars (\$2.00) for every One Dollar (\$1.00)
79 of state assistance.

80 (e) Demonstration that the private company is
81 financially sound and is likely to fulfill the commitments made in
82 its letter of intent.

83 (f) A proposed timetable for the provision of the
84 improvements.

85 (g) Evidence that the project will be expeditiously
86 carried out and completed as planned.

87 (h) A demonstration that insufficient local capital
88 improvement funds at reasonable rates and terms are available
89 within the necessary time to provide the needed improvement on
90 public property. This includes local funds available through
91 issuance of bonds or other means, state funds available through
92 existing programs, and available federal program funds such as
93 community development block grant funds, urban development action
94 grant funds, and economic development administration funds.

95 (i) A demonstration that insufficient private funds are
96 available at reasonable rates and terms within the necessary time

97 to fund improvement on property owned by the private company.

98 (3) The department shall consider grant and loan
99 applications based on the following criteria:

100 (a) The number of net new full-time equivalent jobs
101 that will be provided and the amount of additional state and local
102 tax revenue estimated by the University Research Center to be
103 directly generated by the private company's new investment, and
104 additionally, as to loan applications by state agencies, the
105 extent to which shipping through the port will be increased by the
106 proposed port development projects, the degree to which jobs will
107 be increased in the port area and the impact on port revenues.

108 (b) The ability to repay the principal and interest, in
109 the case of a loan, based on increased revenue estimates and any
110 revenue-producing provision of a contractual agreement.

111 (c) The increase in the employment base of the state.

112 The department and the University Research Center may use the
113 resources and capabilities of the planning and development
114 districts in carrying out the provisions of this chapter.

115 (4) No loan shall be made in excess of the amounts which can
116 be repaid with the increased revenues estimated by the University
117 Research Center, provided that this subsection (4) shall not apply
118 to loans in connection with a United States Navy home port.

119 (5) (a) Notwithstanding anything contained in this chapter,
120 an agency of the State of Mississippi operating a state-owned
121 port, and hereinabove identified as a "municipality" and
122 "governmental unit" for purposes of this chapter, may make
123 application for a loan or grant under the terms and provisions of
124 this chapter. In addition, a public agency operating a port
125 bordering on the Gulf of Mexico, which shall be considered to be a
126 "municipality" or a "governmental unit" for the purposes of this
127 chapter, may make application for a loan or grant under the terms
128 and provisions of this chapter from funds other than those funds
129 authorized for a state-owned port under paragraph (e)(iii) of

130 Section 57-61-11. The application shall be initiated by
131 submission of a letter of intent to engage in a project or
132 projects for the purpose of effecting enlargement and improvement
133 in all facilities used and useful in attracting international and
134 foreign commerce through the port. Projects eligible for
135 inclusion in the letter of intent may include but not be
136 restricted to:

137 (i) Dredging and deepening the access channel and
138 harbor basin of the port;

139 (ii) Effecting the enlargement of the land area of
140 the port by reclamation;

141 (iii) Construction and installation of piling,
142 bulkheads, docks, wharves, warehouses and appurtenances; and

143 (iv) Acquisition of facilities and equipment for
144 handling bulk and containerized cargo.

145 (b) With respect to a state-owned port bordering on the
146 Gulf of Mexico, the letter of intent shall include the following
147 information and any other information required by the department:

148 (i) Present and future annual tonnages expected as
149 a result of the improvements.

150 (ii) Reasons why present facilities are inadequate
151 to enable the port to compete, including limitations imposed by
152 insufficient depth of channel and basin.

153 (iii) Increased channel and basin depths necessary
154 to accommodate modern shipping.

155 (iv) Comparison of the percentage of the world's
156 cargo shipping that can now be accommodated with what could be
157 accommodated with project improvements.

158 (v) Economic contribution to the region and state
159 resulting from increased shipping activity.

160 (vi) Statement of degree to which port revenues
161 are expected to be increased as a result of projects.

162 (vii) Financial data of port activities, including

163 cost of project, degree of federal funding available and required
164 local participation.

165 On or before January 1, 1989, a state-owned port described in
166 this paragraph (b) shall submit to the Senate Finance Committee
167 and the House Ways and Means Committee of the Mississippi
168 Legislature a comprehensive, written report updating for each
169 committee the information listed in items (i) through (vii) of
170 this paragraph (b) with particular emphasis on the economic
171 contribution to the region and state by shipping activity at the
172 port; on financial data with respect to the degree of federal
173 funding available and local participation in funding port
174 activities; and on progress made in dredging and completing other
175 improvements necessary to accommodate modern shipping.

176 (c) The department shall consider grant and loan
177 applications based on the following:

178 (i) The extent to which shipping through the port
179 will be increased by the proposed projects.

180 (ii) The degree to which jobs will be increased in
181 the port area.

182 (iii) Impact on port revenues.

183 (iv) The ability of the port to repay interest and
184 principal in the case of a loan.

185 (6) A municipality may apply to the department for a grant
186 under the terms and provisions of this chapter, and the department
187 may award grants to a municipality subject to limitations
188 contained in this chapter. The application shall be initiated by
189 submission of a letter of intent to engage in a project or
190 projects for the purpose of providing improvements necessary to
191 accommodate a United States Navy home port.

192 (7) The Legislature hereby finds and determines that
193 financing facilities necessary to accommodate a Navy home port
194 serves a valid public purpose in that a Navy home port will
195 significantly contribute to the employment base of the state which

196 is in great need of assistance; provided, that in the event such
197 facilities are no longer required for use by the Navy as a home
198 port, such facilities shall revert as provided in Section 59-9-21.

199 (8) (a) A municipality is authorized to negotiate a
200 contract for the acquisition, construction and erection of a
201 project or any portion of a project hereunder where a municipality
202 finds that, because of the particular nature of a project or any
203 portion thereof, it would be in the best public interest of the
204 municipality to negotiate.

205 (b) Contracts by a private company for the acquisition,
206 construction or erection of a project which receives assistance
207 under this chapter shall be effected in the manner prescribed by
208 law for public contracts, unless the department makes a written
209 finding that, because of special circumstances with respect to the
210 projects or any portion thereof, it would better serve the public
211 interest or more effectively achieve the purposes of this chapter
212 to enter into such contracts based on negotiation.

213 (9) A municipality is authorized upon such terms and
214 conditions as the municipality may deem advisable, provided such
215 terms and conditions shall not be in conflict with the provisions
216 of this chapter, to (a) acquire, whether by construction,
217 purchase, gift or lease, all of or any portion of a project
218 hereunder; (b) to lease or sell to others all of or any portion of
219 a project hereunder; and (c) to lend to the private company the
220 proceeds of the loan from the board to such municipality.

221 (10) All agreements between a municipality and a private
222 company related directly or indirectly to a project or a portion
223 of a project to be funded in whole or in part under this chapter
224 are subject to approval by the department.

225 SECTION 2. This act shall take effect and be in force from
226 and after July 1, 1999.