

By: Representative Williams

To: Ways and Means

HOUSE BILL NO. 1646

1 AN ACT TO AMEND SECTION 57-1-251, MISSISSIPPI CODE OF 1972,
2 TO REVISE THE MEANING OF THE TERMS "FACILITY RELATED TO THE
3 PROJECT" AND "PROJECT" FOR PURPOSES OF MAJOR ENERGY PROJECTS THAT
4 MAY RECEIVE ASSISTANCE UNDER THE MAJOR ENERGY PROJECT DEVELOPMENT
5 FUND; TO AMEND SECTION 57-1-255, MISSISSIPPI CODE OF 1972, TO
6 INCREASE THE AMOUNT OF BONDS THAT MAY BE ISSUED TO PROVIDE FUNDS
7 FOR THE MAJOR ENERGY PROJECT DEVELOPMENT FUND; TO EXTEND THE
8 AUTHORITY TO ISSUE SUCH BONDS; TO AMEND SECTION 57-1-257,
9 MISSISSIPPI CODE OF 1972, TO DELETE UNNECESSARY REFERENCES TO THE
10 MISSISSIPPI DEPARTMENT OF ECONOMIC AND COMMUNITY DEVELOPMENT; AND
11 FOR RELATED PURPOSES.

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

13 SECTION 1. Section 57-1-251, Mississippi Code of 1972, is
14 amended as follows:

15 57-1-251. Words and phrases used in Sections 57-1-251
16 through 57-1-261 shall have meanings as follows, unless the
17 context clearly indicates a different meaning:

18 (a) "Bonds" means general obligation bonds, interim
19 notes and other evidences of debt of the State of Mississippi
20 issued pursuant to Sections 57-1-251 through 57-1-261.

21 (b) "Department" means the Department of Economic and
22 Community Development.

23 (c) "Facility related to the project" means and
24 includes any of the following, as the same may pertain to the
25 project: (i) facilities to provide potable and industrial water
26 supply systems and sewage and waste disposal systems to the site
27 of the project; (ii) airports, airfields and air terminals; (iii)
28 rail lines; (iv) port and marine terminal facilities; (v)
29 pipelines; (vi) storage facilities; (vii) highways, streets and
30 other roadways, including curbing, guttering and storm water

31 sewers; (viii) public school buildings, classrooms and
32 instructional facilities, day care centers, including any
33 functionally related facilities; (ix) parks, outdoor recreation
34 facilities and athletic facilities; (x) auditoriums, pavilions,
35 campgrounds, art centers, cultural centers, folklore centers and
36 other public facilities; (xi) health care facilities, public or
37 private; (xii) buildings and appurtenances used in support of the
38 project; (xiii) security systems, fire suppression and prevention
39 systems, utility distribution systems; * * * (xiv) on-site
40 utilities, including, but not limited to, electricity, natural
41 gas, telephone and other telecommunications facilities; and (xv)
42 other on-site facilities to provide services of utility to any
43 public entity or private entity, or both, involved in the
44 development of the project.

45 (d) "Person" means any natural person, corporation,
46 association, partnership, receiver, trustee, guardian, executor,
47 administrator, fiduciary, governmental unit, public agency,
48 political subdivision, or any other group acting as a unit,
49 including a limited liability company and a limited liability
50 partnership, and the plural as well as the singular.

51 (e) "Project" means the Strategic Petroleum Reserve,
52 proposed to be constructed by the Department of Energy, any
53 successor agency thereto, or a private entity engaged in the
54 business of purchasing, storing, and offering for sale or resale,
55 petroleum products or natural gas, together with all real property
56 required for construction, maintenance and operation of the
57 Strategic Petroleum Reserve and all building, tunneling and other
58 supporting land facilities required or useful for construction,
59 maintenance and operation of the Strategic Petroleum Reserve or
60 any project specifically designed to produce, manufacture, mine,
61 or temporarily store a source of energy, either as primary energy
62 or as a secondary energy for distribution or sale, or both, * * *
63 when such production, manufacturing, mining and temporary storage
64 activities are limited to the indigenous natural resources of the
65 state, including oil, natural gas, lignite and other coal
66 resources, and bioenergy resources; or any project specifically
67 designed to utilize salt domes, depleted underground reservoirs

68 and aquifers suited for the temporary storage of hydrocarbons to
69 be used as primary energy sources.

70 (f) "Public agency" means and includes:

71 (i) Any department, board, commission, institution
72 or other agency or instrumentality of the state;

73 (ii) Any city, town, county, political
74 subdivision, school district, economic development district or
75 other district created or existing under the laws of the state or
76 any public agency of any such city, town, county, political
77 subdivision or district;

78 (iii) Any department, commission, agency or
79 instrumentality of the United States of America; and

80 (iv) Any other state of the United States of
81 America which may be cooperating with respect to location of the
82 project within the state, or any agency thereof.

83 (g) "State" means State of Mississippi.

84 SECTION 2. Section 57-1-255, Mississippi Code of 1972, is
85 amended as follows:

86 57-1-255. (1) Upon notification to the department by the
87 enterprise that the state has been finally selected as the site
88 for the project, the State Bond Commission shall have the power
89 and is hereby authorized and directed, upon receipt of a
90 declaration from the department as hereinafter provided, to borrow
91 money and issue general obligation bonds of the state in one or
92 more series for the purposes herein set out. Upon such
93 notification, the department may thereafter from time to time
94 declare the necessity for the issuance of general obligation bonds
95 as authorized by this section and forward such declaration to the
96 State Bond Commission, provided that prior to said notification,
97 the department may enter into agreements with the United States
98 government, private companies and others that will commit the
99 department to direct the State Bond Commission to issue bonds for
100 eligible undertakings set out in subsection (4) of this section,

101 conditioned on the siting of the project in the state.

102 (2) Upon receipt of any such declaration from the
103 department, the State Bond Commission, upon verifying that the
104 state has been selected as the site of the project, shall act as
105 the issuing agent for the series of bonds directed to be issued in
106 such declaration pursuant to authority granted in this section.

107 (3) Bonds issued under the authority of this section shall
108 not exceed an aggregate principal amount in the sum of Forty
109 Million Dollars (\$40,000,000.00). No bonds shall be issued under
110 the authority of this section after June 30, 2001.

111 (4) The proceeds from the sale of the bonds issued pursuant
112 to this section may be applied for the purposes of: (a) defraying
113 all or any designated portion of the costs incurred with respect
114 to acquisition, planning, design, construction, installation,
115 rehabilitation, improvement and relocation of the project and any
116 facility related to the project, including costs of design and
117 engineering, all costs incurred to provide land, easements and
118 rights-of-way, relocation costs with respect to the project and
119 with respect to any facility related to the project located within
120 the project area, and costs associated with mitigation of
121 environmental impacts; (b) providing for the payment of interest
122 on the bonds; (c) providing debt service reserves; and (d) paying
123 underwriters discount, original issue discount, accountants' fees,
124 engineers' fees, attorneys' fees, rating agency fees and other
125 fees and expenses in connection with the issuance of the bonds.
126 Such bonds shall be issued from time to time and in such principal
127 amounts as shall be designated by the department not to exceed in
128 aggregate principal amount the amount authorized in subsection (3)
129 of this section. Proceeds from the sale of the bonds issued
130 pursuant to this section may be invested, subject to federal
131 limitations, pending their use, in such securities as may be
132 specified in the resolution authorizing the issuance of the bonds
133 or the trust indenture securing them, and the earning on such

134 investment applied as provided in such resolution or trust
135 indenture.

136 (5) The principal of and the interest on the bonds shall be
137 payable in the manner hereinafter set forth. The bonds shall bear
138 date or dates, be in such denomination or denominations, bear
139 interest at such rate or rates, be payable at such place or places
140 within or without the state, shall mature absolutely at such time
141 or times, be redeemable prior to maturity at such time or times
142 and upon such terms, with or without premium, shall bear such
143 registration privileges, and shall be substantially in such form,
144 all as shall be determined by resolution of the State Bond
145 Commission. Provided, however, that such bonds shall mature or
146 otherwise be retired in annual installments beginning not more
147 than five (5) years from date thereof and extending not more than
148 twenty-five (25) years from date thereof. The bonds shall be
149 signed by the Chairman of the State Bond Commission, or by his
150 facsimile signature, and the official seal of the State Bond
151 Commission shall be imprinted on or affixed thereto, attested by
152 the manual or facsimile signature of the Secretary of the State
153 Bond Commission. Whenever any such bonds shall have been signed
154 by the officials herein designated to sign the bonds, who were in
155 office at the time of such signing but who may have ceased to be
156 such officers prior to the sale and delivery of such bonds, or who
157 may not have been in office on the date such bonds may bear, the
158 signatures of such officers upon such bonds shall nevertheless be
159 valid and sufficient for all purposes and have the same effect as
160 if the person so officially signing such bonds had remained in
161 office until the delivery of the same to the purchaser, or had
162 been in office on the date such bonds may bear.

163 (6) All bonds issued under the provisions of this section
164 shall be and are hereby declared to have all the qualities and
165 incidents of negotiable instruments under the provisions of the
166 Uniform Commercial Code and in exercising the powers granted by

167 Sections 57-1-251 through 57-1-261, the State Bond Commission
168 shall not be required to and need not comply with the provisions
169 of the Uniform Commercial Code.

170 (7) The State Bond Commission shall sell the bonds on sealed
171 bids at public sale, and for such price as it may determine to be
172 for the best interest of the State of Mississippi, but no such
173 sale shall be made at a price less than par plus accrued interest
174 to date of delivery of the bonds to the purchaser. The bonds
175 shall bear interest at such rate or rates not exceeding the limits
176 set forth in Section 75-17-101, as shall be fixed by the State
177 Bond Commission. All interest accruing on such bonds so issued
178 shall be payable semiannually or annually; provided that the first
179 interest payment may be for any period of not more than one (1)
180 year.

181 Notice of the sale of any bond shall be published at least
182 one (1) time, the first of which shall be made not less than ten
183 (10) days prior to the date of sale, and shall be so published in
184 one or more newspapers having a general circulation in the City of
185 Jackson and in one or more other newspapers or financial journals
186 with a large national circulation, to be selected by the State
187 Bond Commission.

188 The State Bond Commission, when issuing any bonds under the
189 authority of this section, may provide that the bonds, at the
190 option of the state, may be called in for payment and redemption
191 at the call price named therein and accrued interest on such date
192 or dates named therein.

193 (8) State bonds issued under the provisions of this section
194 shall be the general obligations of the state and backed by the
195 full faith and credit of the state, and if the funds appropriated
196 by the Legislature shall be insufficient to pay the principal of
197 and the interest on such bonds as they become due, then the
198 deficiency shall be paid by the State Treasurer from any funds in
199 the State Treasury not otherwise appropriated. All bonds shall

200 contain recitals on their faces substantially covering the
201 foregoing provisions of this section.

202 (9) The State Treasurer is hereby authorized, without
203 further process of law, to certify to the Department of Finance
204 and Administration the necessity for warrants, and the Department
205 of Finance and Administration is hereby authorized and directed to
206 issue such warrants payable out of any funds authorized by this
207 section for such purpose, in such amounts as may be necessary to
208 pay when due the principal of and interest on all bonds issued
209 under the provisions of this section; and the State Treasurer
210 shall forward the necessary amount to the designated place or
211 places of payment of such bonds in ample time to discharge such
212 bonds, or the interest thereon, on the due dates thereof.

213 (10) The bonds may be issued without any other proceedings
214 or the happening of any other conditions or things other than
215 those proceedings, conditions and things which are specified or
216 required by Sections 57-1-251 through 57-1-261. Any resolution
217 providing for the issuance of general obligation bonds under the
218 provisions of this section shall become effective immediately upon
219 its adoption by the State Bond Commission, and any such resolution
220 may be adopted at any regular or special meeting of the State Bond
221 Commission by a majority of its members.

222 (11) In anticipation of the issuance of bonds hereunder, the
223 State Bond Commission is hereby authorized to negotiate and enter
224 into any purchase, loan, credit or other agreement with any bank,
225 trust company or other lending institution or to issue and sell
226 interim notes for the purpose of making any payments authorized
227 under this section. All borrowings made under this provision
228 shall be evidenced by notes of the state which shall be issued
229 from time to time, for such amounts not exceeding the amount of
230 bonds authorized herein, in such form and in such denomination and
231 subject to such terms and conditions of sale and issuance,
232 prepayment or redemption and maturity, rate or rates of interest

233 not to exceed the maximum rate authorized herein for bonds, and
234 time of payment of interest as the State Bond Commission shall
235 agree to in such agreement. Such notes shall constitute general
236 obligations of the state and shall be backed by the full faith and
237 credit of the state. Such notes may also be issued for the
238 purpose of refunding previously issued notes; provided that no
239 notes shall mature more than three (3) years following the date of
240 issuance of the first note hereunder and provided further, that
241 all outstanding notes shall be retired from the proceeds of the
242 first issuance of bonds hereunder. The State Bond Commission is
243 authorized to provide for the compensation of any purchaser of the
244 notes by payment of a fixed fee or commission and for all other
245 costs and expenses of issuance and service, including paying agent
246 costs. Such costs and expenses may be paid from the proceeds of
247 the notes.

248 (12) The bonds and interim notes authorized under the
249 authority of this section may be validated in the First Judicial
250 District of the Chancery Court of Hinds County, Mississippi, in
251 the manner and with the force and effect provided now or hereafter
252 by Chapter 13, Title 31, Mississippi Code of 1972, for the
253 validation of county, municipal, school district and other bonds.
254 The necessary papers for such validation proceedings shall be
255 transmitted to the State Bond Attorney, and the required notice
256 shall be published in a newspaper published in the City of
257 Jackson, Mississippi.

258 (13) Any bonds or interim notes issued under the provisions
259 of Sections 57-1-251 through 57-1-261, a transaction relating to
260 the sale or securing of such bonds or interim notes, their
261 transfer and the income therefrom shall at all times be free from
262 taxation by the state or any local unit or political subdivision
263 or other instrumentality of the state, excepting inheritance and
264 gift taxes.

265 (14) All bonds issued pursuant to Sections 57-1-251 through

266 57-1-261 shall be legal investments for trustees, other
267 fiduciaries, savings banks, trust companies and insurance
268 companies organized under the laws of the State of Mississippi;
269 and such bonds shall be legal securities which may be deposited
270 with and shall be received by all public officers and bodies of
271 the state and all municipalities and other political subdivisions
272 thereof for the purpose of securing the deposit of public funds.

273 (15) There is hereby created a special fund in the State
274 Treasury to be known as the "Major Energy Project Development
275 Fund" wherein shall be deposited the proceeds of the bonds issued
276 under Sections 57-1-251 through 57-1-261 and all monies received
277 by the department to carry out the purposes of such sections.
278 Expenditures authorized herein shall be paid by the State
279 Treasurer upon warrants drawn from the fund, and the Department of
280 Finance and Administration shall issue warrants upon requisitions
281 signed by the director of the department.

282 (16) (a) There is hereby created the "Major Energy Project
283 Development Sinking Fund" from which the principal of and interest
284 on such bonds shall be paid by appropriation. All monies paid
285 into the sinking fund not appropriated to pay accruing bonds and
286 interest shall be invested by the State Treasurer in such
287 securities as are provided by law for the investment of the
288 sinking funds of the state.

289 (b) In the event that all or any part of the bonds and
290 notes are purchased, they shall be canceled and returned to the
291 loan and transfer agent as canceled and paid bonds and notes and
292 thereafter all payments of interest thereon shall cease and the
293 canceled bonds, notes and coupons, together with any other
294 canceled bonds, notes and coupons, shall be destroyed as promptly
295 as possible after cancellation but not later than two (2) years
296 after cancellation. A certificate evidencing the destruction of
297 the canceled bonds, notes and coupons shall be provided by the
298 loan and transfer agent to the seller.

299 (c) The State Treasurer shall determine and report to
300 the Department of Finance and Administration and Legislative
301 Budget Office by September 1 of each year the amount of money
302 necessary for the payment of the principal of and interest on
303 outstanding obligations for the following fiscal year and the
304 times and amounts of the payments. It shall be the duty of the
305 Governor to include in every executive budget submitted to the
306 Legislature full information relating to the issuance of bonds and
307 notes under the provisions of Sections 57-1-251 through 57-1-261
308 and the status of the sinking fund for the payment of the
309 principal of and interest on the bonds and notes.

310 SECTION 3. Section 57-1-257, Mississippi Code of 1972, is
311 amended as follows:

312 57-1-257. For the purpose of aiding in the planning, design,
313 undertaking and carrying out of the project or any facility
314 related to the project, any public agency is authorized and
315 empowered upon such terms, with or without consideration, as it
316 may determine: (a) to enter into agreements, which may extend
317 over any period, * * * respecting action to be taken by such
318 public agency with respect to the acquisition, planning,
319 construction, improvement, operation, maintenance or funding of
320 the project or any * * * facility related to the project, and
321 which agreements may include (i) the appropriation or payment of
322 funds to the department or to a trustee in amounts which shall be
323 sufficient to enable the department to defray any designated
324 portion or percentage of the expenses of administering, planning,
325 designing, constructing, acquiring, improving, operating, and
326 maintaining the project or any facility related to the project,
327 (ii) the appropriation or payment of funds to the department or to
328 a trustee to pay interest and principal (whether at maturity or
329 upon sinking fund redemption) on bonds of the department issued
330 pursuant to Sections 57-1-251 through 57-1-261 and to fund
331 reserves for debt service, for operation and maintenance and for

332 renewals and replacements, and to fulfill requirements of any
333 covenant with respect to debt service contained in any resolution,
334 trust indenture or other security agreement relating to the bonds
335 of the department issued pursuant to Sections 57-1-251 through
336 57-1-261 and (iii) the furnishing of other assistance in
337 connection with the project or facility related to the project;
338 (b) to dedicate, sell, donate, convey or lease any property or
339 interest in property * * * or grant easements, licenses or other
340 rights or privileges therein * * *; (c) to incur the expense of
341 any facility related to the project or public improvements made or
342 to be made by such public agency in exercising the powers granted
343 in this section; (d) to lend, grant or contribute funds to the
344 project or any facility related to the project; (e) to cause
345 public buildings and public facilities, including parks,
346 playgrounds, recreational areas, community meeting facilities,
347 water, sewer or drainage facilities, or any other works which it
348 is otherwise empowered to undertake, to be furnished to or with
349 respect to the project or any such facility; (f) to furnish,
350 dedicate, close, vacate, pave, install, upgrade or improve
351 highways, streets, roads, sidewalks, airports, railroads, or
352 ports; (g) to plan or replan, zone or rezone any parcel of land
353 within the public agency or make exceptions from land use,
354 building and zoning regulations; and (h) to cause administrative
355 and other services to be furnished * * *, including services
356 pertaining to the acquisition of real property and the furnishing
357 of relocation assistance. Any contract entered into by a public
358 agency * * * pursuant to any of the powers granted by Sections
359 57-1-251 through 57-1-261 shall be binding upon said public agency
360 according to its terms, and such public agency shall have the
361 power to enter into such contracts as in the discretion of the
362 governing authorities thereof would be to the best interest of the
363 people of such public agency. Such contracts may include within
364 the discretion of such governing authorities of public agencies

365 defined under Section 57-1-251(f)(ii) a pledge of the full faith
366 and credit of such public agency for the performance thereof. If
367 at any time title to or possession of the project or any such
368 facility is held by any public body or governmental agency other
369 than the department, including any agency or instrumentality of
370 the United States of America, the agreements referred to in this
371 section shall inure to the benefit of and may be enforced by such
372 public body or governmental agency.

373 Notwithstanding any provisions of Sections 57-1-251 through
374 57-1-261 to the contrary, any contract entered into between the
375 department and any public agency for the appropriation or payment
376 of funds to the department under item (a)(ii) of this section
377 shall contain a provision therein requiring monthly payments by
378 the public agency to pay its indebtedness and, if the public
379 agency is not a county or municipality, such contract shall
380 include as an additional party to the contract the county or
381 municipality (referred to in this paragraph as "levying
382 authority") that levies and collects taxes for the contracting
383 public agency. If the public agency fails to pay its indebtedness
384 for any month, the department shall certify to the State Tax
385 Commission, or other appropriate agency, the amount of the
386 delinquency, and the State Tax Commission shall deduct such amount
387 from the public agency's or levying authority's, as the case may
388 be, next allocation of sales taxes, petroleum taxes, highway
389 privilege taxes, severance taxes, Tennessee Valley Authority
390 payments in lieu of taxes and homestead exemption reimbursements
391 in that order of priority. The State Tax Commission, or other
392 appropriate agency, shall pay the sums so deducted to the
393 department to be applied to the discharge of the contractual
394 obligation.

395 SECTION 4. This act shall take effect and be in force from
396 and after July 1, 1999.