

By: Shows, Ellzey, Eaton, Stringer, Ward

To: Ways and Means

COMMITTEE SUBSTITUTE  
FOR  
HOUSE BILL NO. 838

1           Amend by striking all after the enacting clause and inserting  
2 in lieu thereof the following:  
3

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

6           57-61-9. (1) Any private company desiring assistance from a  
7 municipality shall submit to the municipality a letter of intent  
8 to locate, expand or build a facility entirely or partially within  
9 the municipality or on land the municipality is authorized to own  
10 or otherwise acquire. The letter of intent shall include:

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

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

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

34           (d) If required by the department, a notarized  
35 statement of willingness to grant a lien on the facility for which  
36 the improvement is being provided, in an amount and a manner to be  
37 determined by the department, which lien may be foreclosed in the  
38 event that the private company fails to operate in the facility  
39 according to the terms of the agreement and/or to collateralize  
40 the loan made for the benefit of the private company for which the  
41 improvement is being provided in an amount and manner to be  
42 determined by the department. In the event the contractual  
43 agreement is to be entered into with a department or subsidiary of  
44 the United States government, the department shall determine that  
45 the governmental unit will operate the proposed project for a  
46 sufficient number of years to retire the loan based on increased  
47 revenue estimates by the University Research Center and any  
48 agreement entered into shall reflect that the interest paid on any  
49 loan for such purpose shall be included in Mississippi's  
50 contributory value in the project. In the event the private

51 company requesting the assistance is a subsidiary of another  
52 corporation, if required by the department, any contractual  
53 agreement entered into shall also require the parent company to  
54 unconditionally warrant the performance of the subsidiary in  
55 carrying out the terms of the agreement or it shall require the  
56 subsidiary and/or the parent company to pledge assets in an amount  
57 and a manner to be determined by the department and/or to  
58 collateralize the loan in an amount and a manner to be determined  
59 by the department to ensure the performance of the terms of the  
60 contract.

61 (2) Upon receipt of the letter of intent from a private  
62 company, the municipality may apply to the department for a loan  
63 or grant. The application from the municipality shall include but  
64 not be limited to:

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

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

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

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

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

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

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

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

94 (i) A demonstration that insufficient private funds are  
95 available at reasonable rates and terms within the necessary time  
96 to fund improvement on property owned by the private company.

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

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

107 (b) The ability to repay the principal and interest, in

108the case of a loan, based on increased revenue estimates and any  
109revenue-producing provision of a contractual agreement.

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

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

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

118 (5) (a) Notwithstanding anything contained in this chapter,  
119an agency of the State of Mississippi operating a state-owned  
120port, and hereinabove identified as a "municipality" and  
121"governmental unit" for purposes of this chapter, may make  
122application for a loan or grant under the terms and provisions of  
123this chapter. In addition, a public agency operating a port  
124bordering on the Gulf of Mexico, which shall be considered to be a  
125"municipality" or a "governmental unit" for the purposes of this  
126chapter, may make application for a loan or grant under the terms  
127and provisions of this chapter from funds other than those funds  
128authorized for a state-owned port under paragraph (e)(iii) of  
129Section 57-61-11. The application shall be initiated by  
130submission of a letter of intent to engage in a project or  
131projects for the purpose of effecting enlargement and improvement  
132in all facilities used and useful in attracting international and  
133foreign commerce through the port. Projects eligible for  
134inclusion in the letter of intent may include but not be  
135restricted to:

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

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

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

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

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

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

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

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

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

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

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

161 (vii) Financial data of port activities, including  
162cost of project, degree of federal funding available and required  
163local participation.

164 On or before January 1, 1989, a state-owned port described in  
165this paragraph (b) shall submit to the Senate Finance Committee  
166and the House Ways and Means Committee of the Mississippi  
167Legislature a comprehensive, written report updating for each  
168committee the information listed in items (i) through (vii) of  
169this paragraph (b) with particular emphasis on the economic

170 contribution to the region and state by shipping activity at the  
171 port; on financial data with respect to the degree of federal  
172 funding available and local participation in funding port  
173 activities; and on progress made in dredging and completing other  
174 improvements necessary to accommodate modern shipping.

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

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

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

181 (iii) Impact on port revenues.

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

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

191 (7) The Legislature hereby finds and determines that  
192 financing facilities necessary to accommodate a Navy home port  
193 serves a valid public purpose in that a Navy home port will  
194 significantly contribute to the employment base of the state which  
195 is in great need of assistance; provided, that in the event such  
196 facilities are no longer required for use by the Navy as a home  
197 port, such facilities shall revert as provided in Section 59-9-21.

198 (8) Notwithstanding any provision or requirement of this  
199 chapter to the contrary, a municipality may make application for a  
200 loan under this chapter, in an amount not to exceed Five Million  
201 Dollars (\$5,000,000.00), for the purpose of acquiring and  
202 developing land to be used as a technology/industrial park for  
203 which there is a binding commitment by one or more private  
204 companies to create and maintain not less than an aggregate of  
205 three hundred (300) jobs meeting minimum criteria established by  
206 the department. Such a commitment by a private company shall not  
207 disqualify the private company from obtaining assistance under  
208 this section.

209 (9) (a) A municipality is authorized to negotiate a  
210 contract for the acquisition, construction and erection of a  
211 project or any portion of a project hereunder where a municipality  
212 finds that, because of the particular nature of a project or any  
213 portion thereof, it would be in the best public interest of the  
214 municipality to negotiate.

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

223 (10) A municipality is authorized upon such terms and  
224 conditions as the municipality may deem advisable, provided such  
225 terms and conditions shall not be in conflict with the provisions  
226 of this chapter, to (a) acquire, whether by construction,  
227 purchase, gift or lease, all of or any portion of a project  
228 hereunder; (b) to lease or sell to others all of or any portion of  
229 a project hereunder; and (c) to lend to the private company the  
230 proceeds of the loan from the board to such municipality.

231 (11) All agreements between a municipality and a private

232 company related directly or indirectly to a project or a portion  
233 of a project to be funded in whole or in part under this chapter  
234 are subject to approval by the department.

235 SECTION 2. This act shall take effect and be in force from  
236 and after its passage.

237 **Further, amend by striking the title in its entirety and**  
238 **inserting in lieu thereof the following:**

239  
240  
241 AN ACT TO AMEND SECTION 57-61-9, MISSISSIPPI CODE OF 1972, TO  
242 REVISE THE PROJECTS FOR WHICH A COUNTY OR MUNICIPALITY MAY REQUEST  
243 ASSISTANCE UNDER THE MISSISSIPPI BUSINESS INVESTMENT ACT; AND FOR  
244 RELATED PURPOSES.