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To: Ways and Means

HOUSE BILL NO. 838
(As Passed the House)

1 AN ACT TO AMEND SECTION 57-61-9, MISSISSIPPI CODE OF 1972, TO
2 REVISE THE PROJECTS FOR WHICH A COUNTY OR MUNICIPALITY MAY REQUEST
3 ASSISTANCE UNDER THE MISSISSIPPI BUSINESS INVESTMENT ACT; TO AMEND
4 SECTION 57-61-25, MISSISSIPPI CODE OF 1972, TO INCREASE THE AMOUNT
5 OF BONDS THAT MAY BE ISSUED UNDER THE MISSISSIPPI BUSINESS
6 INVESTMENT ACT; AND FOR RELATED PURPOSES.

7
8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

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

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

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

30 shall be maintained until such time as any loan made under this
31 chapter for the benefit of a private company is repaid.

32 (b) A statement that the specific improvements are
33 necessary for the efficient and cost-effective operation of the
34 private company, together with supporting financial and
35 engineering documentation.

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

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

62 and a manner to be determined by the department and/or to
63 collateralize the loan in an amount and a manner to be determined
64 by the department to ensure the performance of the terms of the
65 contract.

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

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

72 (b) A statement showing the sources of funding for the
73 entire project, including the private company's or governmental
74 unit's investment in the project and any public and other private
75 sources of funding.

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

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

84 (e) Demonstration that the private company is
85 financially sound and is likely to fulfill the commitments made in
86 its letter of intent.

87 (f) A proposed timetable for the provision of the
88 improvements.

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

91 (h) A demonstration that insufficient local capital
92 improvement funds at reasonable rates and terms are available
93 within the necessary time to provide the needed improvement on
94 public property. This includes local funds available through

95 issuance of bonds or other means, state funds available through
96 existing programs, and available federal program funds such as
97 community development block grant funds, urban development action
98 grant funds, and economic development administration funds.

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

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

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

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

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

116 The department and the University Research Center may use the
117 resources and capabilities of the planning and development
118 districts in carrying out the provisions of this chapter.

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

123 (5) (a) Notwithstanding anything contained in this chapter,
124 an agency of the State of Mississippi operating a state-owned
125 port, and hereinabove identified as a "municipality" and
126 "governmental unit" for purposes of this chapter, may make
127 application for a loan or grant under the terms and provisions of

128 this chapter. In addition, a public agency operating a port
129 bordering on the Gulf of Mexico, which shall be considered to be a
130 "municipality" or a "governmental unit" for the purposes of this
131 chapter, may make application for a loan or grant under the terms
132 and provisions of this chapter from funds other than those funds
133 authorized for a state-owned port under paragraph (e)(iii) of
134 Section 57-61-11. The application shall be initiated by
135 submission of a letter of intent to engage in a project or
136 projects for the purpose of effecting enlargement and improvement
137 in all facilities used and useful in attracting international and
138 foreign commerce through the port. Projects eligible for
139 inclusion in the letter of intent may include but not be
140 restricted to:

141 (i) Dredging and deepening the access channel and
142 harbor basin of the port;

143 (ii) Effecting the enlargement of the land area of
144 the port by reclamation;

145 (iii) Construction and installation of piling,
146 bulkheads, docks, wharves, warehouses and appurtenances; and

147 (iv) Acquisition of facilities and equipment for
148 handling bulk and containerized cargo.

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

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

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

157 (iii) Increased channel and basin depths necessary
158 to accommodate modern shipping.

159 (iv) Comparison of the percentage of the world's
160 cargo shipping that can now be accommodated with what could be

161 accommodated with project improvements.

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

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

166 (vii) Financial data of port activities, including
167 cost of project, degree of federal funding available and required
168 local participation.

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

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

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

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

186 (iii) Impact on port revenues.

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

189 (6) A municipality may apply to the department for a grant
190 under the terms and provisions of this chapter, and the department
191 may award grants to a municipality subject to limitations
192 contained in this chapter. The application shall be initiated by
193 submission of a letter of intent to engage in a project or

194 projects for the purpose of providing improvements necessary to
195 accommodate a United States Navy home port.

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

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

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

220 (b) Contracts by a private company for the acquisition,
221 construction or erection of a project which receives assistance
222 under this chapter shall be effected in the manner prescribed by
223 law for public contracts, unless the department makes a written
224 finding that, because of special circumstances with respect to the
225 projects or any portion thereof, it would better serve the public
226 interest or more effectively achieve the purposes of this chapter

227 to enter into such contracts based on negotiation.

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

236 (11) All agreements between a municipality and a private
237 company related directly or indirectly to a project or a portion
238 of a project to be funded in whole or in part under this chapter
239 are subject to approval by the department.

240 SECTION 2. Section 57-61-25, Mississippi Code of 1972, is
241 amended as follows:

242 57-61-25. (1) (a) The seller is authorized to borrow, on
243 the credit of the state upon receipt of a resolution from the
244 department requesting the same, money not exceeding the aggregate
245 sum of Two Hundred Fifty-four Million Seven Hundred Fifty Thousand
246 Dollars (\$254,750,000.00), not including money borrowed to refund
247 outstanding bonds, notes or replacement notes, as may be necessary
248 to carry out the purposes of this chapter. The aggregate amount
249 of bonds issued prior to June 30, 1987, shall not exceed Fifty
250 Million Dollars (\$50,000,000.00); provided, however, this Fifty
251 Million Dollar (\$50,000,000.00) limitation shall not be construed
252 to limit the aggregate amount of grants which may be awarded prior
253 to June 30, 1987, to less than the full amount authorized under
254 Section 57-61-15(1), Mississippi Code of 1972. The rate of
255 interest on any such bonds or notes which are not subject to
256 taxation shall not exceed the rates set forth in Section
257 75-17-101, Mississippi Code of 1972, for general obligation bonds.

258 (b) In addition to the authority granted in paragraph
259 (a) of this subsection (1), the seller is authorized to borrow, on

260 the credit of the state upon receipt of a resolution from the
261 department requesting same, money not exceeding the aggregate sum
262 of Five Million Dollars (\$5,000,000.00), in order to provide
263 funding for the purposes authorized in Section 57-61-9(8).

264 (2) As evidence of indebtedness authorized in this chapter,
265 general or limited obligation bonds of the state shall be issued
266 from time to time, to provide monies necessary to carry out the
267 purposes of this chapter for such total amounts, in such form, in
268 such denominations payable in such currencies (either domestic or
269 foreign or both) and subject to such terms and conditions of
270 issue, redemption and maturity, rate of interest and time of
271 payment of interest as the seller directs, except that such bonds
272 shall mature or otherwise be retired in annual installments
273 beginning not more than five (5) years from date thereof and
274 extending not more than thirty (30) years from date thereof.

275 (3) All bonds and notes issued under authority of this
276 chapter shall be signed by the chairman of the seller, or by his
277 facsimile signature, and the official seal of the seller shall be
278 affixed thereto, attested by the secretary of the seller.

279 (4) All bonds and notes issued under authority of this
280 chapter may be general or limited obligations of the state, and
281 the full faith and credit of the State of Mississippi as to
282 general obligation bonds, or the revenues derived from projects
283 assisted as to limited obligation bonds, are hereby pledged for
284 the payment of the principal of and interest on such bonds and
285 notes.

286 (5) Such bonds and notes and the income therefrom shall be
287 exempt from all taxation in the State of Mississippi.

288 (6) The bonds may be issued as coupon bonds or registered as
289 to both principal and interest, as the seller may determine. If
290 interest coupons are attached, they shall contain the facsimile
291 signature of the chairman and secretary of the seller.

292 (7) The seller is authorized to provide, by resolution, for

293 the issuance of refunding bonds for the purpose of refunding any
294 debt issued under the provision of this chapter and then
295 outstanding, either by voluntary exchange with the holders of the
296 outstanding debt or to provide funds to redeem and the costs of
297 issuance and retirement of the debt, at maturity or at any call
298 date. The issuance of the refunding bonds, the maturities and
299 other details thereof, the rights of the holders thereof and the
300 duties of the issuing officials in respect to the same shall be
301 governed by the provisions of this section, insofar as they may be
302 applicable.

303 (8) As to bonds issued hereunder and designated as taxable
304 bonds by the seller, any immunity of the state to taxation by the
305 United States government of interest on bonds or notes issued by
306 the state is hereby waived.

307 SECTION 3. This act shall take effect and be in force from
308 and after its passage.