

By: Minor

To: Economic Dev, Tourism
and Parks; Finance

SENATE BILL NO. 3047
(As Passed the Senate)

1 AN ACT TO AMEND SECTION 57-10-511, MISSISSIPPI CODE OF 1972,
2 TO INCLUDE THE MISSISSIPPI DEPARTMENT OF ECONOMIC AND COMMUNITY
3 DEVELOPMENT IN THE ENTITIES TO WHOM PLANNING AND DEVELOPMENT
4 DISTRICTS AND QUALIFIED ENTITIES ARE REQUIRED TO SUBMIT SEMIANNUAL
5 REPORTS UNDER THE MISSISSIPPI SMALL BUSINESS ASSISTANCE ACT; TO
6 CHANGE THE DATES UPON WHICH SUCH REPORTS ARE REQUIRED TO BE
7 SUBMITTED; TO EXTEND THE REPEAL DATE ON THIS SECTION TO JULY 1,
8 2003; TO AMEND SECTION 57-10-513, MISSISSIPPI CODE OF 1972, TO
9 CLARIFY THE RESIDENCY REQUIREMENT FOR SMALL BUSINESSES RECEIVING
10 ASSISTANCE UNDER THE MISSISSIPPI SMALL BUSINESS ASSISTANCE ACT;
11 AND FOR RELATED PURPOSES.

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

13 SECTION 1. Section 57-10-511, Mississippi Code of 1972, is
14 amended as follows:

15 57-10-511. (1) DECD shall grant funds under this article to
16 a planning and development district or qualified entity in
17 accordance with the following terms and conditions:

18 (a) Grant funds received by a planning and development
19 district or qualified entity in accordance with this article shall
20 be used by the planning and development district or qualified
21 entity to establish a revolving assistance fund for the purpose of
22 providing assistance to small businesses in accordance with this
23 article. Except as otherwise allowed in this article, all
24 principal and interest payments by small businesses in repayment
25 of such assistance shall be eligible for and used by the planning
26 and development district or qualified entity for additional
27 assistance to small businesses in accordance with this article.

28 (b) Each planning and development district meeting the
29 criteria set forth in this article shall receive an initial grant
30 of not to exceed One Million Dollars (\$1,000,000.00) for the

31 purpose of establishing the program within its area in accordance
32 with this article. Each qualified entity meeting the criteria set
33 forth in this article shall be eligible to receive an initial
34 grant of Five Hundred Thousand Dollars (\$500,000.00) for the
35 purpose of establishing the program within the area it serves in
36 accordance with this article. The total amount of initial grants
37 to planning and development districts shall not exceed Ten Million
38 Dollars (\$10,000,000.00) and the total amount of initial grants
39 for qualified entities shall not exceed Two Million Dollars
40 (\$2,000,000.00). Each planning and development district or
41 qualified entity receiving an initial grant shall have twelve (12)
42 months in which to make binding commitments to provide assistance
43 to small businesses in the principal amount of the initial grant
44 in accordance with this article. Grant funds not committed to
45 provide assistance to small businesses at the end of twelve (12)
46 months after receipt thereof by the planning and development
47 district or qualified entity shall be returned to DECD for
48 placement in a pool to be redistributed by DECD to planning and
49 development districts or qualified entities which have binding
50 commitments to distribute as assistance all their initial grant
51 funds and have pending applications for additional assistance in
52 accordance with this article. Any planning and development
53 district or qualified entity returning any such grant funds to
54 DECD shall be required at the time such initial grant funds are
55 returned to deliver to the State Treasury, for deposit in the
56 General Fund, interest on the amount of such returned funds at the
57 same rate as any bonds or notes of the State of Mississippi issued
58 pursuant to this article to provide such grant funds.

59 (c) After all of the initial grant funds have been
60 provided as assistance to small businesses in accordance with this
61 article, DECD shall distribute additional grant funds to each
62 planning and development district or qualified entity qualified
63 under this article to receive and requesting such funds in
64 whatever amounts DECD deems appropriate and when needed by such
65 planning and development districts or qualified entities to
66 provide additional assistance to small businesses in accordance
67 with this article. The schedule for distributing such funds shall

68 be determined by DECD. Funds distributed to planning and
69 development districts and qualified entities pursuant to this
70 paragraph shall be in addition to funds distributed to planning
71 and development districts and qualified entities pursuant to
72 paragraph (b) of this section. The total amount of grants issued
73 pursuant to this paragraph shall not exceed Seventeen Million
74 Dollars (\$17,000,000.00) for planning and development districts or
75 qualified entities. Grant funds not committed to provide
76 assistance to small businesses at the end of twelve (12) months
77 after receipt thereof by the planning and development district or
78 qualified entity shall be returned to DECD for placement in a pool
79 to be redistributed by DECD to planning and development districts
80 or qualified entities which have binding commitments to distribute
81 as assistance all their initial grant funds and have pending
82 applications for additional assistance in accordance with this
83 article. Any planning and development district or qualified
84 entity returning any such grant funds to DECD shall be required at
85 the time such grant funds are returned to deliver to the State
86 Treasury, for deposit in the General Fund, interest on the amount
87 of such returned funds at the same rate as any bonds or notes of
88 the State of Mississippi issued pursuant to this article to
89 provide such grant funds.

90 (d) A planning and development district or qualified
91 entity participating in the program may utilize not more than
92 fifty percent (50%) of interest earned on assistance provided to
93 small businesses in accordance with this article for
94 administration and management of the program, unless specifically
95 authorized to utilize more by DECD; provided, however, any
96 interest earned on grant funds held by a planning and development
97 district or qualified entity prior to the utilization of such
98 grant funds to provide assistance to small business shall be
99 placed in the revolving assistance fund of the planning and
100 development district or qualified entity and shall not be expended

101 for administration or management costs. Planning and development
102 districts and qualified entities may retain fifty percent (50%) of
103 the interest earned on repayment funds that are being held on
104 deposit in anticipation of relending to aid in the administration
105 and management of the program. Each planning and development
106 district and qualified entity shall file annually with the
107 Secretary of the Senate and the Clerk of the House of
108 Representatives not later than the first day of each regular
109 legislative session a report which details any interest retained
110 or utilized by the planning and development district or qualified
111 entity pursuant to this paragraph (d).

112 (e) If a planning and development district or qualified
113 entity participating in the program experiences losses from
114 assistance provided pursuant to the program in excess of fifty
115 percent (50%) of the amount of grant funds received by the
116 planning and development district or qualified entity, the
117 planning and development district or qualified entity shall repay
118 the State of Mississippi the amount of such losses in excess of
119 fifty percent (50%) by delivering that amount to the State
120 Treasury for deposit in the General Fund.

121 (f) DECD shall assist each planning and development
122 district or qualified entity participating in the program in
123 connection with such planning and development district's or
124 qualified entity's compliance with this article.

125 (g) Each planning and development district or qualified
126 entity participating in the program shall submit the following
127 reports to the House Ways and Means Committee, the Senate Economic
128 Development, Tourism and Parks Committee and DECD:

129 (i) An annual audit of grant funds received in
130 connection with the program; and

131 (ii) A semiannual report on July 30 and January 30
132 of each year, describing all assistance provided to small
133 businesses pursuant to the program, such reports to include

134 without limitation the following: a description of each small
135 business receiving assistance; the project to be assisted and
136 purpose of assistance; a description of each loan and equity
137 investment, including the terms and conditions thereof and use of
138 the funds assistance by the small business; history of the
139 assistance pool, including principal amount loaned, interest
140 earned, interest expended for administration and management,
141 principal amount of equity investments, assistance funds
142 available, and losses; and a statement of jobs created or retained
143 as a result of the assistance program.

144 (h) If DECD determines that a district or entity has
145 provided assistance to small businesses in a manner inconsistent
146 with the provisions of this article, then the amount of such
147 assistance so provided shall be withheld by DECD from any
148 additional grant funds to which the district or entity becomes
149 entitled under this article. If DECD determines, after notifying
150 such district or entity twice in writing and providing such
151 district or entity a reasonable opportunity to comply, that a
152 planning and development district or qualified entity has
153 consistently failed to comply with this article in connection with
154 the program, DECD may declare such planning and development
155 district or qualified entity in default under the program and,
156 upon receipt of notice thereof from DECD, such planning and
157 development district or qualified entity shall immediately cease
158 providing assistance under the program, shall refund to DECD for
159 distribution to other planning and development districts or
160 qualified entities all funds held in its revolving assistance fund
161 and, if required by DECD, shall convey to DECD all administrative
162 and management control of assistance provided by it under the
163 program.

164 (2) This section shall stand repealed on July 1, 2003.

165 SECTION 2. Section 57-10-513, Mississippi Code of 1972, is
166 amended as follows:[WAN1]

167 57-10-513. The planning and development districts and
168 qualified entities are authorized, empowered and directed to
169 deposit all grant funds received pursuant to this article in a
170 revolving assistance fund and to provide assistance therefrom to
171 small businesses in accordance with this article and the following
172 criteria, terms and conditions:

173 (a) To be eligible for assistance under this article,
174 the small business and the project to be assisted must meet the
175 following criteria:

176 (i) Assistance must be in connection with an
177 identifiable project or business plan, and the principal amount of
178 all assistance may not exceed fifty percent (50%) of the total
179 cost of said project or business plan;

180 (ii) Assistance may be used in connection with the
181 purchase or lease of land, buildings, equipment and inventory, and
182 for working capital; provided, however, no more than one-third
183 (1/3) of the total assistance to a small business pursuant to this
184 article or Fifty Thousand Dollars (\$50,000.00), whichever is less,
185 may be used for working capital;

186 (iii) Assistance may not be provided for
187 speculative land or real estate investments;

188 (iv) Assistance may not be provided under the
189 program to finance or satisfy any existing debt;

190 (v) Assistance may not be provided to a small
191 business unless at least sixty percent (60%) of the small business
192 is owned, directly or indirectly, by individuals who have been
193 residents of the State of Mississippi for * * * two (2) years
194 immediately prior to the application for assistance; and

195 (vi) The project or business plan for which
196 assistance is provided must create or retain full-time jobs, and
197 the planning and development district or qualified entity must
198 receive a certificate to that effect from the small business
199 before any assistance is provided.

200 (b) The interest rate on loans shall not be less than
201 five percent (5%) per annum or more than four percent (4%) above
202 the federal discount rate, plus the servicing fees established in
203 this article.

204 (c) As security for any loan under the program, the
205 planning and development district or qualified entity shall take a
206 security interest in assets of the small business and require
207 personal guarantees of all persons and entities owning twenty
208 percent (20%) or more of the small business. Such security
209 interests may be subordinate to other security interests in such
210 assets.

211 (d) The maximum term of any loan under the program
212 shall not exceed the following: fifteen (15) years if used to
213 purchase or lease land or buildings, ten (10) years if used to
214 purchase or lease equipment, five (5) years if used to provide
215 working capital and three (3) years if used to purchase inventory.

216 (e) In the event of a default by a small business on a
217 loan under the program, the planning and development district or
218 qualified entity shall foreclose and enforce its security
219 interests and personal guarantees relating to such loan and take
220 all necessary and appropriate action to recover all principal and
221 interest owed, and all amounts so recovered shall be deposited in
222 the revolving assistance fund administered by said planning and
223 development district or qualified entity. Any small business
224 which defaults on a loan under the program shall not be eligible
225 for any other loan under the program.

226 (f) A planning and development district or qualified
227 entity may acquire, subscribe for, own, hold, sell, assign,
228 transfer, mortgage or pledge an equity investment in a small
229 business incorporated under the laws of the State of Mississippi,
230 provided such equity investment constitutes less than fifty
231 percent (50%) of the voting shares of the small business and does
232 not exceed Fifty Thousand Dollars (\$50,000.00), and while the

233 owner or holder thereof, the planning and development district or
234 qualified entity may exercise all the rights, powers and
235 privileges of ownership, including the right to vote thereon. Any
236 such equity investment in a small business may be redeemed by such
237 small business upon payment to the planning and development
238 district or qualified entity of the principal amount of such
239 equity investment, plus six percent (6%) interest, compounded
240 annually from the date of such equity investment, provided such
241 repayment is tendered within seven (7) years of the date of such
242 equity investment.

243 (g) A planning and development district or qualified
244 entity shall not utilize more than one-third (1/3) of all grant
245 funds received for equity investments in small businesses.

246 (h) No small business shall receive assistance under
247 the program in excess of One Hundred Thousand Dollars
248 (\$100,000.00).

249 (i) All assistance applications must be reviewed by,
250 and the terms and conditions of the assistance must be recommended
251 to the planning and development district or qualified entity, by a
252 small business assistance review board established by the planning
253 and development district or qualified entity, consisting of the
254 following members appointed by the planning and development
255 district or qualified entity:

256 (i) Two (2) individuals with current experience
257 in banking or finance;

258 (ii) Two (2) principal or majority owners of
259 private, for-profit commercial enterprises qualifying as small
260 businesses under this article;

261 (iii) One (1) senior officer of a private,
262 for-profit commercial enterprise not qualifying as a small
263 business under this article or the executive director of an
264 industrial or economic development foundation;

265 (iv) One (1) individual who is a minority and who

266 has current experience in banking or finance or who is the
267 principal or majority owner of a private, for-profit commercial
268 enterprise qualifying as a small business under this article; and
269 (v) One (1) individual who is female and who has
270 current experience in banking or finance or who is the principal
271 or majority owner of a private, for-profit commercial enterprise
272 qualifying as a small business under this article.

273 As used in this paragraph, "minority" shall mean individuals
274 who are Asian, Black, Hispanic or Native American as defined in
275 Section 31-7-13(s), Mississippi Code of 1972.

276 All members of such small business assistance review boards
277 shall be residents of the area served by the planning and
278 development district or qualified entity. Small business
279 assistance review boards shall meet at least quarterly and shall
280 meet anytime there are at least two (2) assistance applications
281 pending that require review.

282 (j) If the small business assistance review board
283 recommends that assistance be provided, the planning and
284 development district or qualified entity may either approve and
285 provide the assistance on the exact terms and conditions
286 recommended by the small business assistance review board or
287 determine not to provide such assistance. Under no circumstances
288 may the planning and development district or qualified entity
289 provide such assistance on any terms or conditions not approved
290 and recommended by the small business assistance review board. If
291 the planning and development district or qualified entity
292 determines not to provide the assistance that the small business
293 assistance review board has recommended to be provided, the board
294 of directors of such district or the governing body of such entity
295 shall place in its minutes an explanation of the reasons for such
296 refusal. If the small business assistance review board recommends
297 against providing the assistance, the board of directors of the
298 planning and development district or the governing body of the

299 qualified entity may not determine to provide such assistance
300 under any terms and conditions.

301 SECTION 3. This act shall take effect and be in force from
302 and after July 1, 2000.