

By: Minor

To: Economic Dev, Tourism  
and Parks; Finance

SENATE BILL NO. 3047  
(As Sent to Governor)

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 its passage.