

**\*\*\*Adopted\*\*\***

**AMENDMENT No. 1 PROPOSED TO**

**House Bill NO. 838**

**By Senator(s) Committee**

6        **Amend by striking all after the enacting clause and inserting**  
7 **in lieu thereof the following:**

8

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

29chapter. All jobs required to be maintained by this paragraph (a)  
30shall be maintained until such time as any loan made under this  
31chapter for the benefit of a private company is repaid.

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

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

39 (d) If required by the department, a notarized  
40statement of willingness to grant a lien on the facility for which  
41the improvement is being provided, in an amount and a manner to be  
42determined by the department, which lien may be foreclosed in the  
43event that the private company fails to operate in the facility  
44according to the terms of the agreement and/or to collateralize  
45the loan made for the benefit of the private company for which the  
46improvement is being provided in an amount and manner to be  
47determined by the department. In the event the contractual  
48agreement is to be entered into with a department or subsidiary of  
49the United States government, the department shall determine that  
50the governmental unit will operate the proposed project for a  
51sufficient number of years to retire the loan based on increased  
52revenue estimates by the University Research Center and any  
53agreement entered into shall reflect that the interest paid on any  
54loan for such purpose shall be included in Mississippi's  
55contributory value in the project. In the event the private  
56company requesting the assistance is a subsidiary of another  
57corporation, if required by the department, any contractual  
58agreement entered into shall also require the parent company to  
59unconditionally warrant the performance of the subsidiary in  
60carrying out the terms of the agreement or it shall require the  
61subsidiary and/or the parent company to pledge assets in an amount  
62and a manner to be determined by the department and/or to  
63collateralize the loan in an amount and a manner to be determined

64by the department to ensure the performance of the terms of the  
65contract.

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

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

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

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

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

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

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

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

91 (h) A demonstration that insufficient local capital  
92improvement funds at reasonable rates and terms are available  
93within the necessary time to provide the needed improvement on  
94public property. This includes local funds available through  
95issuance of bonds or other means, state funds available through  
96existing programs, and available federal program funds such as  
97community development block grant funds, urban development action  
98grant 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

134Section 57-61-11. The application shall be initiated by  
135submission of a letter of intent to engage in a project or  
136projects for the purpose of effecting enlargement and improvement  
137in all facilities used and useful in attracting international and  
138foreign commerce through the port. Projects eligible for  
139inclusion in the letter of intent may include but not be  
140restricted to:

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

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

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

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

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

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

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

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

159 (iv) Comparison of the percentage of the world's  
160cargo shipping that can now be accommodated with what could be  
161accommodated with project improvements.

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

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

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

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

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

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

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

186 (iii) Impact on port revenues.

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

189 (6) A municipality may apply to the department for a grant  
190under the terms and provisions of this chapter, and the department  
191may award grants to a municipality subject to limitations  
192contained in this chapter. The application shall be initiated by  
193submission of a letter of intent to engage in a project or  
194projects for the purpose of providing improvements necessary to  
195accommodate a United States Navy home port.

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

239are subject to approval by the department.

240 SECTION 2. This act shall take effect and be in force from  
241and after its passage.

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

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