

By: Senator(s) Johnson (19th), White (29th), To: Finance
Ross

SENATE BILL NO. 2923

1 AN ACT TO AMEND SECTION 57-75-11, MISSISSIPPI CODE OF 1972,
2 TO PROVIDE THAT THE MISSISSIPPI MAJOR ECONOMIC IMPACT AUTHORITY
3 MAY NOT ACQUIRE BY CONDEMNATION REAL PROPERTY THAT IS NOT
4 NECESSARY FOR THE SITE OF CERTAIN PROJECTS OR ACQUIRE BY
5 CONDEMNATION LAND FOR THE PURPOSE OF ACQUIRING FILL DIRT FOR
6 CERTAIN PROJECTS; AND FOR RELATED PURPOSES.

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

8 SECTION 1. Section 57-75-11, Mississippi Code of 1972, is
9 amended as follows:

10 **[Through June 30, 2001, this section shall read as follows:]**

11 57-75-11. The authority, in addition to any and all powers
12 now or hereafter granted to it, is empowered and shall exercise
13 discretion and the use of these powers depending on the
14 circumstances of the project or projects:

15 (a) To maintain an office at a place or places within
16 the state.

17 (b) To employ or contract with architects, engineers,
18 attorneys, accountants, construction and financial experts and
19 such other advisors, consultants and agents as may be necessary in
20 its judgment and to fix and pay their compensation.

21 (c) To make such applications and enter into such
22 contracts for financial assistance as may be appropriate under
23 applicable federal or state law.

24 (d) To apply for, accept and utilize grants, gifts and
25 other funds or aid from any source for any purpose contemplated by
26 the act, and to comply, subject to the provisions of this act,
27 with the terms and conditions thereof.

28 (e) (i) To acquire by purchase, lease, gift, or in
29 other manner, including quick-take eminent domain, or obtain
30 options to acquire, and to own, maintain, use, operate and convey
31 any and all property of any kind, real, personal, or mixed, or any
32 interest or estate therein, within the project area, necessary for
33 the project or any facility related to the project. The
34 provisions of this paragraph that allow the acquisition of
35 property by quick-take eminent domain shall be repealed by
36 operation of law on July 1, 1994; and

37 (ii) Notwithstanding any other provision of this
38 paragraph (e), from and after the effective date of House Bill No.
39 1, 2000 Third Extraordinary Session, to exercise the right of
40 immediate possession pursuant to the provisions of Sections
41 11-27-81 through 11-27-89 for the purpose of acquiring land,
42 property and/or rights-of-way in the county in which a project as
43 defined in Section 57-75-5(f)(iv)1 is located, that are necessary
44 for such project or any facility related to the project.

45 (f) To acquire by purchase or lease any public lands
46 and public property, including sixteenth section lands and lieu
47 lands, within the project area, which are necessary for the
48 project. Sixteenth section lands or lieu lands acquired under
49 this act shall be deemed to be acquired for the purposes of
50 industrial development thereon and such acquisition will serve a
51 higher public interest in accordance with the purposes of this
52 act.

53 (g) If the authority identifies any land owned by the
54 state as being necessary, for the location or use of the project,
55 or any facility related to the project, to recommend to the
56 Legislature the conveyance of such land or any interest therein,
57 as the Legislature deems appropriate.

58 (h) To make or cause to be made such examinations and
59 surveys as may be necessary to the planning, design, construction
60 and operation of the project.

61 (i) From and after the date of notification to the
62 authority by the enterprise that the state has been finally
63 selected as the site of the project, to acquire by condemnation
64 and to own, maintain, use, operate and convey or otherwise dispose
65 of any and all property of any kind, real, personal or mixed, or
66 any interest or estate therein, within the project area, necessary
67 for the project or any facility related to the project, with the
68 concurrence of the affected public agency, and the exercise of the
69 powers granted by this act, according to the procedures provided
70 by Chapter 27, Title 11, Mississippi Code of 1972, except as
71 modified by this act; provided, however, that the authority may
72 not acquire by condemnation real property that is not necessary
73 for the site of the project or any facility related to the project
74 or that is not necessary for access to the project.

75 (i) Except as otherwise provided in subparagraph
76 (iii) of this paragraph (i), in acquiring lands by condemnation,
77 the authority shall not acquire minerals or royalties in minerals
78 unless a competent registered professional engineer shall have
79 certified that the acquisition of such minerals and royalties in
80 minerals is necessary for purposes of the project; provided that
81 limestone, clay, chalk, sand and gravel shall not be considered as
82 minerals for the purposes of subparagraphs (i) and (ii) of this
83 paragraph (i);

84 (ii) Unless minerals or royalties in minerals have
85 been acquired by condemnation or otherwise, no person or persons
86 owning the drilling rights or the right to share in production of
87 minerals shall be prevented from exploring, developing, or
88 producing oil or gas with necessary rights-of-way for ingress and
89 egress, pipelines and other means of transporting interests on any
90 land or interest therein of the authority held or used for the
91 purposes of this act; but any such activities shall be under such
92 reasonable regulation by the authority as will adequately protect

93 the project contemplated by this act as provided in paragraph (r)
94 of this section; and

95 (iii) In acquiring lands by condemnation,
96 including the exercise of immediate possession, for a project, as
97 defined in Section 57-75-5(f)(iv)1, the authority may acquire
98 minerals or royalties in minerals; provided, however, that the
99 authority may not acquire land by condemnation, including the
100 exercise of the right of immediate possession, for the purpose of
101 acquiring fill dirt for such project.

102 (j) To negotiate the necessary relocation or rerouting
103 of roads and highways, railroad, telephone and telegraph lines and
104 properties, electric power lines, pipelines and related
105 facilities, or to require the anchoring or other protection of any
106 of these, provided due compensation is paid to the owners thereof
107 or agreement is had with such owners regarding the payment of the
108 cost of such relocation, and to acquire by condemnation or
109 otherwise easements or rights-of-way for such relocation or
110 rerouting and to convey the same to the owners of the facilities
111 being relocated or rerouted in connection with the purposes of
112 this act.

113 (k) To negotiate the necessary relocation of graves and
114 cemeteries and to pay all reasonable costs thereof.

115 (l) To perform or have performed any and all acts and
116 make all payments necessary to comply with all applicable federal
117 laws, rules or regulations including, but not limited to, the
118 Uniform Relocation Assistance and Real Property Acquisition
119 Policies Act of 1970 (42 USCS 4601, 4602, 4621 to 4638, and 4651
120 to 4655) and relocation rules and regulations promulgated by any
121 agency or department of the federal government.

122 (m) To construct, extend, improve, maintain, and
123 reconstruct, to cause to be constructed, extended, improved,
124 maintained, and reconstructed, and to use and operate any and all
125 components of the project or any facility related to the project,

126 with the concurrence of the affected public agency, within the
127 project area, necessary to the project and to the exercise of such
128 powers, rights, and privileges granted the authority.

129 (n) To incur or defray any designated portion of the
130 cost of any component of the project or any facility related to
131 the project acquired or constructed by any public agency.

132 (o) To lease, sell or convey any or all property
133 acquired by the authority under the provisions of this act to the
134 enterprise, its successors or assigns, and in connection therewith
135 to pay the costs of title search, perfection of title, title
136 insurance and recording fees as may be required. The authority
137 may provide in the instrument conveying such property a provision
138 that such property shall revert to the authority if, as and when
139 the property is declared by the enterprise to be no longer needed.

140 (p) To enter into contracts with any person or public
141 agency including, but not limited to, contracts authorized by
142 Section 57-75-17, in furtherance of any of the purposes authorized
143 by this act upon such consideration as the authority and such
144 person or public agency may agree. Any such contract may extend
145 over any period of time, notwithstanding any rule of law to the
146 contrary, may be upon such terms as the parties thereto shall
147 agree, and may provide that it shall continue in effect until
148 bonds specified therein, refunding bonds issued in lieu of such
149 bonds, and all other obligations specified therein are paid or
150 terminated. Any such contract shall be binding upon the parties
151 thereto according to its terms. Such contracts may include an
152 agreement to reimburse the enterprise, its successors and assigns
153 for any assistance provided by the enterprise in the acquisition
154 of real property for the project or any facility related to the
155 project.

156 (q) To establish and maintain reasonable rates and
157 charges for the use of any facility within the project area owned
158 or operated by the authority, and, from time to time, to adjust

159 such rates and to impose penalties for failure to pay such rates
160 and charges when due.

161 (r) To adopt and enforce with the concurrence of the
162 affected public agency all necessary and reasonable rules and
163 regulations to carry out and effectuate the implementation of the
164 project and any land use plan or zoning classification adopted for
165 the project area, including, but not limited to, rules,
166 regulations, and restrictions concerning mining, construction,
167 excavation or any other activity the occurrence of which may
168 endanger the structure or operation of the project. Such rules
169 may be enforced within the project area and without the project
170 area as necessary to protect the structure and operation of the
171 project. The authority is authorized to plan or replan, zone or
172 rezone, and make exceptions to any regulations, whether local or
173 state, with the concurrence of the affected public agency which
174 are inconsistent with the design, planning, construction or
175 operation of the project and facilities related to the project.

176 (s) To plan, design, coordinate and implement measures
177 and programs to mitigate impacts on the natural environment caused
178 by the project or any facility related to the project.

179 (t) To develop plans for technology transfer activities
180 to ensure private sector conduits for exchange of information,
181 technology and expertise related to the project to generate
182 opportunities for commercial development within the state.

183 (u) To consult with the State Department of Education
184 and other public agencies for the purpose of improving public
185 schools and curricula within the project area.

186 (v) To consult with the State Board of Health and other
187 public agencies for the purpose of improving medical centers,
188 hospitals and public health centers in order to provide
189 appropriate health care facilities within the project area.

190 (w) To consult with the Office of Minority Business
191 Enterprise Development and other public agencies for the purpose

192 of developing plans for technical assistance and loan programs to
193 maximize the economic impact related to the project for minority
194 business enterprises within the State of Mississippi.

195 (x) To deposit into the "Yellow Creek Project Area
196 Fund" created pursuant to Section 57-75-31:

197 (i) Any funds or aid received as authorized in
198 this section for the project described in Section 57-75-5(f)(vi),
199 and

200 (ii) Any funds received from the sale or lease of
201 property from the project described in Section 57-75-5(f)(vi)
202 pursuant to the powers exercised under this section.

203 (y) To manage and develop the project described in
204 Section 57-75-5(f)(vi) subject to the provisions of Section
205 57-75-29.

206 (z) To promulgate rules and regulations necessary to
207 effectuate the purposes of this act.

208 (aa) To negotiate a fee-in-lieu with the owners of the
209 project.

210 (bb) To enter into contractual agreements to warrant
211 any site work for a project defined in Section 57-75-5(f)(iv)1;
212 provided, however, that the amount of any such warranty shall not
213 exceed Ten Million Dollars (\$10,000,000.00).

214 (cc) To provide grant funds to an enterprise operating
215 a project defined in Section 57-75-5(f)(iv)1 in an amount not to
216 exceed Seventeen Million Dollars (\$17,000,000.00).

217 **[From and after July 1, 2001, this section shall read as**
218 **follows:]**

219 57-75-11. The authority, in addition to any and all powers
220 now or hereafter granted to it, is empowered and shall exercise
221 discretion and the use of these powers depending on the
222 circumstances of the project or projects:

223 (a) To maintain an office at a place or places within
224 the state.

225 (b) To employ or contract with architects, engineers,
226 attorneys, accountants, construction and financial experts and
227 such other advisors, consultants and agents as may be necessary in
228 its judgment and to fix and pay their compensation.

229 (c) To make such applications and enter into such
230 contracts for financial assistance as may be appropriate under
231 applicable federal or state law.

232 (d) To apply for, accept and utilize grants, gifts and
233 other funds or aid from any source for any purpose contemplated by
234 the act, and to comply, subject to the provisions of this act,
235 with the terms and conditions thereof.

236 (e) (i) To acquire by purchase, lease, gift, or in
237 other manner, including quick-take eminent domain, or obtain
238 options to acquire, and to own, maintain, use, operate and convey
239 any and all property of any kind, real, personal, or mixed, or any
240 interest or estate therein, within the project area, necessary for
241 the project or any facility related to the project. The
242 provisions of this paragraph that allow the acquisition of
243 property by quick-take eminent domain shall be repealed by
244 operation of law on July 1, 1994; and

245 (ii) Notwithstanding any other provision of this
246 paragraph (e), from and after the effective date of House Bill No.
247 1, 2000 Third Extraordinary Session, to exercise the right of
248 immediate possession pursuant to the provisions of Sections
249 11-27-81 through 11-27-89 for the purpose of acquiring land,
250 property and/or rights-of-way in the county in which a project as
251 defined in Section 57-75-5(f)(iv)1 is located, that are necessary
252 for such project or any facility related to the project.

253 (f) To acquire by purchase or lease any public lands
254 and public property, including sixteenth section lands and lieu
255 lands, within the project area, which are necessary for the
256 project. Sixteenth section lands or lieu lands acquired under
257 this act shall be deemed to be acquired for the purposes of

258 industrial development thereon and such acquisition will serve a
259 higher public interest in accordance with the purposes of this
260 act.

261 (g) If the authority identifies any land owned by the
262 state as being necessary, for the location or use of the project,
263 or any facility related to the project, to recommend to the
264 Legislature the conveyance of such land or any interest therein,
265 as the Legislature deems appropriate.

266 (h) To make or cause to be made such examinations and
267 surveys as may be necessary to the planning, design, construction
268 and operation of the project.

269 (i) From and after the date of notification to the
270 authority by the enterprise that the state has been finally
271 selected as the site of the project, to acquire by condemnation
272 and to own, maintain, use, operate and convey or otherwise dispose
273 of any and all property of any kind, real, personal or mixed, or
274 any interest or estate therein, within the project area, necessary
275 for the project or any facility related to the project, with the
276 concurrence of the affected public agency, and the exercise of the
277 powers granted by this act, according to the procedures provided
278 by Chapter 27, Title 11, Mississippi Code of 1972, except as
279 modified by this act; provided, however, that the authority may
280 not acquire by condemnation real property that is not necessary
281 for the site of the project or any facility related to the project
282 or that is not necessary for access to the project.

283 (i) Except as otherwise provided in subparagraph
284 (iii) of this paragraph (i), in acquiring lands by condemnation,
285 the authority shall not acquire minerals or royalties in minerals
286 unless a competent registered professional engineer shall have
287 certified that the acquisition of such minerals and royalties in
288 minerals is necessary for purposes of the project; provided that
289 limestone, clay, chalk, sand and gravel shall not be considered as

290 minerals for the purposes of subparagraphs (i) and (ii) of this
291 paragraph (i);

292 (ii) Unless minerals or royalties in minerals have
293 been acquired by condemnation or otherwise, no person or persons
294 owning the drilling rights or the right to share in production of
295 minerals shall be prevented from exploring, developing, or
296 producing oil or gas with necessary rights-of-way for ingress and
297 egress, pipelines and other means of transporting interests on any
298 land or interest therein of the authority held or used for the
299 purposes of this act; but any such activities shall be under such
300 reasonable regulation by the authority as will adequately protect
301 the project contemplated by this act as provided in paragraph (r)
302 of this section; and

303 (iii) In acquiring lands by condemnation,
304 including the exercise of immediate possession, for a project, as
305 defined in Section 57-75-5(f)(iv)1, the authority may acquire
306 minerals or royalties in minerals; provided, however, that the
307 authority may not acquire land by condemnation, including the
308 exercise of the right of immediate possession, for the purpose of
309 acquiring fill dirt for such project.

310 (j) To negotiate the necessary relocation or rerouting
311 of roads and highways, railroad, telephone and telegraph lines and
312 properties, electric power lines, pipelines and related
313 facilities, or to require the anchoring or other protection of any
314 of these, provided due compensation is paid to the owners thereof
315 or agreement is had with such owners regarding the payment of the
316 cost of such relocation, and to acquire by condemnation or
317 otherwise easements or rights-of-way for such relocation or
318 rerouting and to convey the same to the owners of the facilities
319 being relocated or rerouted in connection with the purposes of
320 this act.

321 (k) To negotiate the necessary relocation of graves and
322 cemeteries and to pay all reasonable costs thereof.

323 (1) To perform or have performed any and all acts and
324 make all payments necessary to comply with all applicable federal
325 laws, rules or regulations including, but not limited to, the
326 Uniform Relocation Assistance and Real Property Acquisition
327 Policies Act of 1970 (42 USCS 4601, 4602, 4621 to 4638, and 4651
328 to 4655) and relocation rules and regulations promulgated by any
329 agency or department of the federal government.

330 (m) To construct, extend, improve, maintain, and
331 reconstruct, to cause to be constructed, extended, improved,
332 maintained, and reconstructed, and to use and operate any and all
333 components of the project or any facility related to the project,
334 with the concurrence of the affected public agency, within the
335 project area, necessary to the project and to the exercise of such
336 powers, rights, and privileges granted the authority.

337 (n) To incur or defray any designated portion of the
338 cost of any component of the project or any facility related to
339 the project acquired or constructed by any public agency.

340 (o) To lease, sell or convey any or all property
341 acquired by the authority under the provisions of this act to the
342 enterprise, its successors or assigns, and in connection therewith
343 to pay the costs of title search, perfection of title, title
344 insurance and recording fees as may be required. The authority
345 may provide in the instrument conveying such property a provision
346 that such property shall revert to the authority if, as and when
347 the property is declared by the enterprise to be no longer needed.

348 (p) To enter into contracts with any person or public
349 agency including, but not limited to, contracts authorized by
350 Section 57-75-17, in furtherance of any of the purposes authorized
351 by this act upon such consideration as the authority and such
352 person or public agency may agree. Any such contract may extend
353 over any period of time, notwithstanding any rule of law to the
354 contrary, may be upon such terms as the parties thereto shall
355 agree, and may provide that it shall continue in effect until

356 bonds specified therein, refunding bonds issued in lieu of such
357 bonds, and all other obligations specified therein are paid or
358 terminated. Any such contract shall be binding upon the parties
359 thereto according to its terms. Such contracts may include an
360 agreement to reimburse the enterprise, its successors and assigns
361 for any assistance provided by the enterprise in the acquisition
362 of real property for the project or any facility related to the
363 project.

364 (q) To establish and maintain reasonable rates and
365 charges for the use of any facility within the project area owned
366 or operated by the authority, and, from time to time, to adjust
367 such rates and to impose penalties for failure to pay such rates
368 and charges when due.

369 (r) To adopt and enforce with the concurrence of the
370 affected public agency all necessary and reasonable rules and
371 regulations to carry out and effectuate the implementation of the
372 project and any land use plan or zoning classification adopted for
373 the project area, including, but not limited to, rules,
374 regulations, and restrictions concerning mining, construction,
375 excavation or any other activity the occurrence of which may
376 endanger the structure or operation of the project. Such rules
377 may be enforced within the project area and without the project
378 area as necessary to protect the structure and operation of the
379 project. The authority is authorized to plan or replan, zone or
380 rezone, and make exceptions to any regulations, whether local or
381 state, with the concurrence of the affected public agency which
382 are inconsistent with the design, planning, construction or
383 operation of the project and facilities related to the project.

384 (s) To plan, design, coordinate and implement measures
385 and programs to mitigate impacts on the natural environment caused
386 by the project or any facility related to the project.

387 (t) To develop plans for technology transfer activities
388 to ensure private sector conduits for exchange of information,

389 technology and expertise related to the project to generate
390 opportunities for commercial development within the state.

391 (u) To consult with the State Department of Education
392 and other public agencies for the purpose of improving public
393 schools and curricula within the project area.

394 (v) To consult with the State Board of Health and other
395 public agencies for the purpose of improving medical centers,
396 hospitals and public health centers in order to provide
397 appropriate health care facilities within the project area.

398 (w) To consult with the Office of Minority Business
399 Enterprise Development and other public agencies for the purpose
400 of developing plans for technical assistance and loan programs to
401 maximize the economic impact related to the project for minority
402 business enterprises within the State of Mississippi.

403 (x) To deposit into the "Yellow Creek Project Area
404 Fund" created pursuant to Section 57-75-31:

405 (i) Any funds or aid received as authorized in
406 this section for the project described in Section 57-75-5(f)(vi),
407 and

408 (ii) Any funds received from the sale or lease of
409 property from the project described in Section 57-75-5(f)(vi)
410 pursuant to the powers exercised under this section.

411 (y) To manage and develop the project described in
412 Section 57-75-5(f)(vi).

413 (z) To promulgate rules and regulations necessary to
414 effectuate the purposes of this act.

415 (aa) To negotiate a fee-in-lieu with the owners of the
416 project.

417 (bb) To enter into contractual agreements to warrant
418 any site work for a project defined in Section 57-75-5(f)(iv)1;
419 provided, however, that the amount of any such warranty shall not
420 exceed Ten Million Dollars (\$10,000,000.00).

421 (cc) To provide grant funds to an enterprise operating
422 a project defined in Section 57-75-5(f)(iv)1 in an amount not to
423 exceed Seventeen Million Dollars (\$17,000,000.00).

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