MISSISSIPPI LEGISLATURE  
REGULAR SESSION 2002  

By: Representatives Ellis, Clark  
To: Ways and Means

HOUSE BILL NO. 1740

AN ACT TO AMEND SECTION 57-75-5, MISSISSIPPI CODE OF 1972, TO REVISE THE DEFINITION OF THE TERM "PROJECT" UNDER THE MISSISSIPPI MAJOR ECONOMIC IMPACT ACT TO INCLUDE ANY MAJOR CAPITAL PROJECT DESIGNED TO CONSTRUCT THE INITIAL MANUFACTURING FACTORY IN HOLMES COUNTY, MISSISSIPPI, AND TO CONSTRUCT THE CORPORATE HEADQUARTERS AND ADDITIONAL MANUFACTURING FACILITY IN THE GOLDEN TRIANGLE REGION OF THE STATE FOR ANY MISSISSIPPI CORPORATION THAT MANUFACTURES THIN FILM POLYMER LITHIUM-ION RECHARGEABLE BATTERIES AND HAS A TEN-YEAR STRATEGIC PLAN OF SUPPORTING 1,500 DIRECT PROJECT-RELATED JOBS FOR EACH GROUP OF POLYMER LITHIUM-ION RECHARGEABLE BATTERY CONTRACTS AMOUNTING TO $40,000,000.00; TO AMEND SECTION 57-75-15, MISSISSIPPI CODE OF 1972, TO INCREASE THE AMOUNT OF BONDS THAT MAY BE ISSUED FOR CERTAIN PROJECTS UNDER THE MISSISSIPPI MAJOR ECONOMIC IMPACT ACT FROM $20,370,000.00 TO $41,103,100.00, AND TO REVISE THE DATE BY WHICH BONDS FOR CERTAIN PROJECTS MUST BE ISSUED; AND FOR RELATED PURPOSES.

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

SECTION 1. Section 57-75-5, Mississippi Code of 1972, is amended as follows:

57-75-5. Words and phrases used in this chapter shall have meanings as follows, unless the context clearly indicates a different meaning:

(a) "Act" means the Mississippi Major Economic Impact Act as originally enacted or as hereafter amended.

(b) "Authority" means the Mississippi Major Economic Impact Authority created pursuant to the act.

(c) "Bonds" means general obligation bonds, interim notes and other evidences of debt of the State of Mississippi issued pursuant to this chapter.

(d) "Facility related to the project" means and includes any of the following, as the same may pertain to the project within the project area: (i) facilities to provide potable and industrial water supply systems, sewage and waste disposal systems and water, natural gas and electric transmission...
(e) "Person" means any natural person, corporation, association, partnership, receiver, trustee, guardian, executor, administrator, fiduciary, governmental unit, public agency, political subdivision, or any other group acting as a unit, and the plural as well as the singular.

(f) "Project" means:

(i) Any industrial, commercial, research and development, warehousing, distribution, transportation, processing, mining, United States government or tourism enterprise together with all real property required for construction, maintenance and operation of the enterprise with an initial capital investment of not less than Three Hundred Million Dollars ($300,000,000.00) from private or United States government sources together with all buildings, and other supporting land and facilities, structures or improvements of whatever kind required or useful for construction, maintenance and operation of the enterprise; or with an initial capital investment of not less than One Hundred Fifty Million Dollars ($150,000,000.00) from private or United States government sources together with all buildings and other supporting land and facilities, structures or improvements of whatever kind required or useful for construction, maintenance and operation of the enterprise and which creates at systems to the site of the project; (ii) airports, airfields and air terminals; (iii) rail lines; (iv) port facilities; (v) highways, streets and other roadways; (vi) public school buildings, classrooms and instructional facilities, training facilities and equipment, including any functionally related facilities; (vii) parks, outdoor recreation facilities and athletic facilities; (viii) auditoriums, pavilions, campgrounds, art centers, cultural centers, folklore centers and other public facilities; (ix) health care facilities, public or private; and (x) fire protection facilities, equipment and elevated water tanks.
least one thousand (1,000) net new full-time jobs; or which
creates at least one thousand (1,000) net new full-time jobs which
provides an average salary, excluding benefits which are not
subject to Mississippi income taxation, of at least one hundred
twenty-five percent (125%) of the most recently published average
annual wage of the state as determined by the Mississippi
Employment Security Commission. "Project" shall include any
addition to or expansion of an existing enterprise if such
addition or expansion has an initial capital investment of not
less than Three Hundred Million Dollars ($300,000,000.00) from
private or United States government sources, or has an initial
capital investment of not less than One Hundred Fifty Million
Dollars ($150,000,000.00) from private or United States government
sources together with all buildings and other supporting land and
facilities, structures or improvements of whatever kind required
or useful for construction, maintenance and operation of the
enterprise and which creates at least one thousand (1,000) net new
full-time jobs; or which creates at least one thousand (1,000) net
new full-time jobs which provides an average salary, excluding
benefits which are not subject to Mississippi income taxation, of
at least one hundred twenty-five percent (125%) of the most
recently published average annual wage of the state as determined
by the Mississippi Employment Security Commission. "Project"
shall also include any ancillary development or business resulting
from the enterprise, of which the authority is notified, within
three (3) years from the date that the enterprise entered into
commercial production, that the project area has been selected as
the site for the ancillary development or business.

(ii) Any major capital project designed to
improve, expand or otherwise enhance any active duty United States
Air Force or Navy training bases or naval stations, their support
areas or their military operations, upon designation by the
authority that any such base was or is at risk to be recommended
for closure or realignment pursuant to the Defense Base Closure and Realignment Act of 1990; or any major development project determined by the authority to be necessary to acquire base properties and to provide employment opportunities through construction of projects as defined in Section 57-3-5, which shall be located on or provide direct support service or access to such military installation property as such property exists on July 1, 1993, in the event of closure or reduction of military operations at the installation. From and after July 1, 1997, projects described in this subparagraph (ii) shall not be considered to be within the meaning of the term "project" for purposes of this section, unless such projects are commenced before July 1, 1997, and shall not be eligible for any funding provided under the Mississippi Major Economic Impact Act.

(iii) Any enterprise to be maintained, improved or constructed in Tishomingo County by or for a National Aeronautics and Space Administration facility in such county.

(iv) 1. Any major capital project with an initial capital investment from private sources of not less than Seven Hundred Fifty Million Dollars ($750,000,000.00) which will create at least three thousand (3,000) new direct jobs as defined in Section 26, Chapter 1, Laws of 2000, Second Extraordinary Session.

2. "Project" shall also include any ancillary development or business resulting from an enterprise operating a project as defined in item 1 of this paragraph (f)(iv), of which the authority is notified, within three (3) years from the date that the enterprise entered into commercial production, that the state has been selected as the site for the ancillary development or business.

(v) Any major capital project designed to construct the initial manufacturing factory to be located in the federal empowerment zone in Holmes County, Mississippi, and to construct the corporate headquarters and additional manufacturing
facility, to be located in the Golden Triangle Region of the state, for any Mississippi corporation that manufactures thin film polymer lithium-ion rechargeable batteries which project has a ten-year strategic plan of supporting one thousand five hundred (1,500) direct project-related jobs for each group of polymer lithium-ion rechargeable battery contracts amounting to Forty Million Dollars ($40,000,000.00).

(vi) Any real property owned or controlled by the National Aeronautics and Space Administration, the United States government, or any agency thereof, which is legally conveyed to the State of Mississippi or to the State of Mississippi for the benefit of the Mississippi Major Economic Impact Authority, its successors and assigns pursuant to Section 212 of Public Law 104-99, enacted January 26, 1996 (110 Stat. 26 at 38).

(vii) Any major capital project designed to manufacture, produce and transmit electrical power using natural gas as its primary raw material to be constructed and maintained in Panola County, Mississippi, with an initial capital investment of not less than Two Hundred Fifty Million Dollars ($250,000,000.00).

(g) "Project area" means the project site, together with any area or territory within the state lying within sixty-five (65) miles of any portion of the project site whether or not such area or territory be contiguous; provided, however, that for the project defined in paragraph (f)(iv) of this section the term "project area" means any area or territory within the state. The project area shall also include all territory within a county if any portion of such county lies within sixty-five (65) miles of any portion of the project site. "Project site" means the real property on which the principal facilities of the enterprise will operate.

(h) "Public agency" means:
(i) Any department, board, commission, institution or other agency or instrumentality of the state;
(ii) Any city, town, county, political subdivision, school district or other district created or existing under the laws of the state or any public agency of any such city, town, county, political subdivision or district or any other public entity created or existing under local and private legislation;
(iii) Any department, commission, agency or instrumentality of the United States of America; and
(iv) Any other state of the United States of America which may be cooperating with respect to location of the project within the state, or any agency thereof.

(i) "State" means State of Mississippi.
(j) "Fee-in-lieu" means a negotiated fee to be paid by the project in lieu of any franchise taxes imposed on the project by Chapter 13, Title 27, Mississippi Code of 1972. The fee-in-lieu shall not be less than Twenty-five Thousand Dollars ($25,000.00) annually. A fee-in-lieu shall not be negotiated for existing enterprises that fall within the definition of the term "project."

SECTION 2. Section 57-75-15, Mississippi Code of 1972, is amended as follows:

57-75-15. (1) Upon notification to the authority by the enterprise that the state has been finally selected as the site for the project, the State Bond Commission shall have the power and is hereby authorized and directed, upon receipt of a declaration from the authority as hereinafter provided, to borrow money and issue general obligation bonds of the state in one or more series for the purposes herein set out. Upon such notification, the authority may thereafter from time to time declare the necessity for the issuance of general obligation bonds as authorized by this section and forward such declaration to the...
State Bond Commission, provided that before such notification, the
authority may enter into agreements with the United States
government, private companies and others that will commit the
authority to direct the State Bond Commission to issue bonds for
eligible undertakings set out in subsection (4) of this section,
conditioned on the siting of the project in the state.

(2) Upon receipt of any such declaration from the authority,
the State Bond Commission shall verify that the state has been
selected as the site of the project and shall act as the issuing
agent for the series of bonds directed to be issued in such
declaration pursuant to authority granted in this section.

(3) (a) Bonds issued under the authority of this section
for projects as defined in Section 57-75-5(f)(i) shall not exceed
an aggregate principal amount in the sum of Seventy-two Million
Three Hundred Fifty Thousand Dollars ($72,350,000.00).

(b) Bonds issued under the authority of this section
for projects as defined in Section 57-75-5(f)(ii) shall not exceed
Fifty Million Dollars ($50,000,000.00), nor shall the bonds issued
for projects related to any single military installation exceed
Sixteen Million Six Hundred Sixty-seven Thousand Dollars
($16,667,000.00). If any proceeds of bonds issued for projects
related to the Meridian Naval Auxiliary Air Station ("NAAS") are
used for the development of a water and sewer service system by
the City of Meridian, Mississippi, to serve the NAAS and if the
City of Meridian annexes any of the territory served by the water
and sewer service system, the city shall repay the State of
Mississippi the amount of all bond proceeds expended on any
portion of the water and sewer service system project; and if
there are any monetary proceeds derived from the disposition of
any improvements located on real property in Kemper County
purchased pursuant to this act for projects related to the NAAS
and if there are any monetary proceeds derived from the
disposition of any timber located on real property in Kemper
County purchased pursuant to this act for projects related to the
NAAS, all of such proceeds (both from the disposition of
improvements and the disposition of timber) commencing July 1,
1996, through June 30, 2010, shall be paid to the Board of
Education of Kemper County, Mississippi, for expenditure by such
board of education to benefit the public schools of Kemper County.

No bonds shall be issued under this paragraph (b) until the State
Bond Commission by resolution adopts a finding that the issuance
of such bonds will improve, expand or otherwise enhance the
military installation, its support areas or military operations,
or will provide employment opportunities to replace those lost by
closure or reductions in operations at the military installation.

From and after July 1, 1997, bonds shall not be issued for any
projects, as defined in Section 57-75-5(f)(ii), which are not
commenced before July 1, 1997. The proceeds of any bonds issued
for projects commenced before July 1, 1997, shall be used for the
purposes for which the bonds were issued until completion of the
projects.

(c) Bonds issued under the authority of this section
for projects as defined in Section 57-75-5(f)(iii) shall not
exceed Ten Million Dollars ($10,000,000.00). No bonds shall be
issued under this paragraph after December 31, 1996.

(d) Bonds issued under the authority of this section
for projects defined in Section 57-75-5(f)(iv) shall not exceed
Two Hundred Ninety-five Million Dollars ($295,000,000.00). No
bonds shall be issued under this paragraph after June 30, 2003.

(e) Bonds issued under the authority of this section
for the project defined in Section 57-75-5(f)(v) shall not exceed
Forty-one Million One Hundred Three Thousand One Hundred Dollars
($41,103,100.00). Twenty Million Seven Hundred Thirty-three
Thousand One Hundred Dollars ($20,733,100.00) of such bonds shall
be designated for the Holmes County factory described in Section
57-75-5(f)(v), and Twenty Million Three Hundred Seventy Thousand
Dollars ($20,370,000.00) of such bonds shall be designated for the Golden Triangle Region facility described in Section 57-75-5(f)(v). No bonds shall be issued under this paragraph after June 30, 2006.

(f) Bonds issued under the authority of this section for projects defined in Section 57-75-5(f)(vii) shall not exceed Twenty-six Million Dollars ($26,000,000.00). No bonds shall be issued after June 30, 2001.

(4) The proceeds from the sale of the bonds issued under this section may be applied for the purposes of: (a) defraying all or any designated portion of the costs incurred with respect to acquisition, planning, design, construction, installation, rehabilitation, improvement, relocation and with respect to state-owned property, operation and maintenance of the project and any facility related to the project located within the project area, including costs of design and engineering, all costs incurred to provide land, easements and rights-of-way, relocation costs with respect to the project and with respect to any facility related to the project located within the project area, and costs associated with mitigation of environmental impacts and environmental impact studies; (b) defraying the cost of providing for the recruitment, screening, selection, training or retraining of employees, candidates for employment or replacement employees of the project and any related activity; (c) reimbursing the Mississippi Development Authority for expenses it incurred in regard to projects defined in Section 57-75-5(f)(iv) prior to November 6, 2000. The Mississippi Development Authority shall submit an itemized list of expenses it incurred in regard to such projects to the Chairmen of the Finance and Appropriations Committees of the Senate and the Chairmen of the Ways and Means and Appropriations Committees of the House of Representatives; (d) providing grants to enterprises operating projects defined in Section 57-75-5(f)(iv); (e) paying any warranty made by the
authority regarding site work for a project defined in Section 57-75-5(f)(iv)1; (f) defraying the cost of marketing and promotion of a project as defined in Section 57-75-5(f)(iv)1. The authority shall submit an itemized list of costs incurred for marketing and promotion of such project to the Chairmen of the Finance and Appropriations Committees of the Senate and the Chairmen of the Ways and Means and Appropriations Committees of the House of Representatives; (g) providing for the payment of interest on the bonds; (h) providing debt service reserves; and (i) paying underwriters' discount, original issue discount, accountants' fees, engineers' fees, attorneys' fees, rating agency fees and other fees and expenses in connection with the issuance of the bonds. Such bonds shall be issued from time to time and in such principal amounts as shall be designated by the authority, not to exceed in aggregate principal amounts the amount authorized in subsection (3) of this section. Proceeds from the sale of the bonds issued under this section may be invested, subject to federal limitations, pending their use, in such securities as may be specified in the resolution authorizing the issuance of the bonds or the trust indenture securing them, and the earning on such investment applied as provided in such resolution or trust indenture.

(5) The principal of and the interest on the bonds shall be payable in the manner hereinafter set forth. The bonds shall bear date or dates; be in such denomination or denominations; bear interest at such rate or rates; be payable at such place or places within or without the state; mature absolutely at such time or times; be redeemable before maturity at such time or times and upon such terms, with or without premium; bear such registration privileges; and be substantially in such form; all as shall be determined by resolution of the State Bond Commission except that such bonds shall mature or otherwise be retired in annual installments beginning not more than five (5) years from the date
thereof and extending not more than twenty-five (25) years from
the date thereof. The bonds shall be signed by the Chairman of
the State Bond Commission, or by his facsimile signature, and the
official seal of the State Bond Commission shall be imprinted on
or affixed thereto, attested by the manual or facsimile signature
of the Secretary of the State Bond Commission. Whenever any such
bonds have been signed by the officials herein designated to sign
the bonds, who were in office at the time of such signing but who
may have ceased to be such officers before the sale and delivery
of such bonds, or who may not have been in office on the date such
bonds may bear, the signatures of such officers upon such bonds
shall nevertheless be valid and sufficient for all purposes and
have the same effect as if the person so officially signing such
bonds had remained in office until the delivery of the same to the
purchaser, or had been in office on the date such bonds may bear.

(6) All bonds issued under the provisions of this section
shall be and are hereby declared to have all the qualities and
incidents of negotiable instruments under the provisions of the
Uniform Commercial Code and in exercising the powers granted by
this chapter, the State Bond Commission shall not be required to
and need not comply with the provisions of the Uniform Commercial
Code.

(7) The State Bond Commission shall sell the bonds on sealed
bids at public sale, and for such price as it may determine to be
for the best interest of the State of Mississippi, but no such
sale shall be made at a price less than par plus accrued interest
to date of delivery of the bonds to the purchaser. The bonds
shall bear interest at such rate or rates not exceeding the limits
set forth in Section 75-17-101 as shall be fixed by the State Bond
Commission. All interest accruing on such bonds so issued shall
be payable semiannually or annually; provided that the first
interest payment may be for any period of not more than one (1)
year.
Notice of the sale of any bonds shall be published at least
one time, the first of which shall be made not less than ten (10)
days prior to the date of sale, and shall be so published in one
or more newspapers having a general circulation in the City of
Jackson and in one or more other newspapers or financial journals
with a large national circulation, to be selected by the State
Bond Commission.

The State Bond Commission, when issuing any bonds under the
authority of this section, may provide that the bonds, at the
option of the state, may be called in for payment and redemption
at the call price named therein and accrued interest on such date
or dates named therein.

(8) State bonds issued under the provisions of this section
shall be the general obligations of the state and backed by the
full faith and credit of the state. The Legislature shall
appropriate annually an amount sufficient to pay the principal of
and the interest on such bonds as they become due. All bonds
shall contain recitals on their faces substantially covering the
foregoing provisions of this section.

(9) The State Treasurer is authorized to certify to the
Department of Finance and Administration the necessity for
warrants, and the Department of Finance and Administration is
authorized and directed to issue such warrants payable out of any
funds appropriated by the Legislature under this section for such
purpose, in such amounts as may be necessary to pay when due the
principal of and interest on all bonds issued under the provisions
of this section. The State Treasurer shall forward the necessary
amount to the designated place or places of payment of such bonds
in ample time to discharge such bonds, or the interest thereon, on
the due dates thereof.

(10) The bonds may be issued without any other proceedings
or the happening of any other conditions or things other than
those proceedings, conditions and things which are specified or
required by this chapter. Any resolution providing for the issuance of general obligation bonds under the provisions of this section shall become effective immediately upon its adoption by the State Bond Commission, and any such resolution may be adopted at any regular or special meeting of the State Bond Commission by a majority of its members.

(11) In anticipation of the issuance of bonds hereunder, the State Bond Commission is authorized to negotiate and enter into any purchase, loan, credit or other agreement with any bank, trust company or other lending institution or to issue and sell interim notes for the purpose of making any payments authorized under this section. All borrowings made under this provision shall be evidenced by notes of the state which shall be issued from time to time, for such amounts not exceeding the amount of bonds authorized herein, in such form and in such denomination and subject to such terms and conditions of sale and issuance, prepayment or redemption and maturity, rate or rates of interest not to exceed the maximum rate authorized herein for bonds, and time of payment of interest as the State Bond Commission shall agree to in such agreement. Such notes shall constitute general obligations of the state and shall be backed by the full faith and credit of the state. Such notes may also be issued for the purpose of refunding previously issued notes; except that no notes shall mature more than three (3) years following the date of issuance of the first note hereunder and provided further, that all outstanding notes shall be retired from the proceeds of the first issuance of bonds hereunder. The State Bond Commission is authorized to provide for the compensation of any purchaser of the notes by payment of a fixed fee or commission and for all other costs and expenses of issuance and service, including paying agent costs. Such costs and expenses may be paid from the proceeds of the notes.
(12) The bonds and interim notes authorized under the authority of this section may be validated in the First Judicial District of the Chancery Court of Hinds County, Mississippi, in the manner and with the force and effect provided now or hereafter by Chapter 13, Title 31, Mississippi Code of 1972, for the validation of county, municipal, school district and other bonds. The necessary papers for such validation proceedings shall be transmitted to the state bond attorney, and the required notice shall be published in a newspaper published in the City of Jackson, Mississippi.

(13) Any bonds or interim notes issued under the provisions of this chapter, a transaction relating to the sale or securing of such bonds or interim notes, their transfer and the income therefrom shall at all times be free from taxation by the state or any local unit or political subdivision or other instrumentality of the state, excepting inheritance and gift taxes.

(14) All bonds issued under this chapter shall be legal investments for trustees, other fiduciaries, savings banks, trust companies and insurance companies organized under the laws of the State of Mississippi; and such bonds shall be legal securities which may be deposited with and shall be received by all public officers and bodies of the state and all municipalities and other political subdivisions thereof for the purpose of securing the deposit of public funds.

(15) The Attorney General of the State of Mississippi shall represent the State Bond Commission in issuing, selling and validating bonds herein provided for, and the bond commission is hereby authorized and empowered to expend from the proceeds derived from the sale of the bonds authorized hereunder all necessary administrative, legal and other expenses incidental and related to the issuance of bonds authorized under this chapter.

(16) There is hereby created a special fund in the State Treasury to be known as the Mississippi Major Economic Impact
Authority Fund wherein shall be deposited the proceeds of the
bonds issued under this chapter and all monies received by the
authority to carry out the purposes of this chapter. Expenditures
authorized herein shall be paid by the State Treasurer upon
warrants drawn from the fund, and the Department of Finance and
Administration shall issue warrants upon requisitions signed by
the director of the authority.

(17) (a) There is hereby created the Mississippi Economic
Impact Authority Sinking Fund from which the principal of and
interest on such bonds shall be paid by appropriation. All monies
paid into the sinking fund not appropriated to pay accruing bonds
and interest shall be invested by the State Treasurer in such
securities as are provided by law for the investment of the
sinking funds of the state.

(b) In the event that all or any part of the bonds and
notes are purchased, they shall be canceled and returned to the
loan and transfer agent as canceled and paid bonds and notes and
thereafter all payments of interest thereon shall cease and the
canceled bonds, notes and coupons, together with any other
canceled bonds, notes and coupons, shall be destroyed as promptly
as possible after cancellation but not later than two (2) years
after cancellation. A certificate evidencing the destruction of
the canceled bonds, notes and coupons shall be provided by the
loan and transfer agent to the seller.

(c) The State Treasurer shall determine and report to
the Department of Finance and Administration and Legislative
Budget Office by September 1 of each year the amount of money
necessary for the payment of the principal of and interest on
outstanding obligations for the following fiscal year and the
times and amounts of the payments. It shall be the duty of the
Governor to include in every executive budget submitted to the
Legislature full information relating to the issuance of bonds and
notes under the provisions of this chapter and the status of the
sinking fund for the payment of the principal of and interest on
the bonds and notes.

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