

By: Representatives McCoy, Morris, Smith
(39th)

To: Ways and Means

HOUSE BILL NO. 840

1 AN ACT TO AMEND SECTION 57-61-9, MISSISSIPPI CODE OF 1972, TO
2 REVISE THE MATCHING FUNDS REQUIREMENT UNDER THE MISSISSIPPI
3 BUSINESS INVESTMENT ACT; TO REQUIRE MATCHING FUNDS OF AT LEAST TWO
4 PRIVATE DOLLARS FOR EVERY DOLLAR OF STATE ASSISTANCE FOR COMPANIES
5 THAT THE MISSISSIPPI DEVELOPMENT AUTHORITY DETERMINES TO BE HIGH
6 TECHNOLOGY ENTERPRISES; AND FOR RELATED PURPOSES.

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

8 **SECTION 1.** Section 57-61-9, Mississippi Code of 1972, is
9 amended as follows:

10 57-61-9. (1) Any private company desiring assistance from a
11 municipality shall submit to the municipality a letter of intent
12 to locate, expand or build a facility entirely or partially within
13 the municipality or on land the municipality is authorized to own
14 or otherwise acquire. The letter of intent shall include:

15 (a) Except for strategic investments, a commitment that
16 the proposed project will create and maintain a minimum of ten
17 (10) net new full-time equivalent jobs, will create and maintain
18 at least a five percent (5%) increase in full-time equivalent jobs
19 in the case of expansion of an enterprise already located at the
20 site or at least a twenty-five percent (25%) increase in full-time
21 equivalent jobs pursuant to subsection (9) of Section 57-61-15 and
22 will create and maintain at least one (1) net new full-time
23 equivalent job for every Fifteen Thousand Dollars (\$15,000.00)
24 either loaned or granted for the project. The commitment required
25 by this paragraph (a) shall include any jobs created prior to the
26 effective date of this chapter resulting from contracts entered
27 into contingent upon assistance being made available under this
28 chapter. All jobs required to be maintained by this paragraph (a)



29 shall be maintained until such time as any loan made under this
30 chapter for the benefit of a private company is repaid.

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

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

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



62 company to pledge assets in an amount and a manner to be
63 determined by the Mississippi Development Authority and/or to
64 collateralize the loan in an amount and a manner to be determined
65 by the Mississippi Development Authority to ensure the performance
66 of the terms of the contract.

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

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

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

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

80 (d) Evidence that there will be a private match of at
81 least Three Dollars (\$3.00) for every One Dollar (\$1.00) of state
82 assistance, except in the case of ports * * * the private match
83 will be at least Two Dollars (\$2.00) for every One Dollar (\$1.00)
84 of state assistance, and in the case where the Mississippi
85 Development Authority determines that a private company is a high
86 technology enterprise the private match will be at least Two
87 Dollars (\$2.00) for every One Dollar (\$1.00) of state assistance.
88 The Mississippi Development Authority shall establish criteria for
89 its use in determining whether a private company is a high
90 technology enterprise.

91 (e) Demonstration that the private company is
92 financially sound and is likely to fulfill the commitments made in
93 its letter of intent.



94 (f) A proposed timetable for the provision of the
95 improvements.

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

98 (h) A demonstration that insufficient local capital
99 improvement funds at reasonable rates and terms are available
100 within the necessary time to provide the needed improvement on
101 public property. This includes local funds available through
102 issuance of bonds or other means, state funds available through
103 existing programs, and available federal program funds such as
104 community development block grant funds, urban development action
105 grant funds, and economic development administration funds.

106 (i) A demonstration that insufficient private funds are
107 available at reasonable rates and terms within the necessary time
108 to fund improvement on property owned by the private company.

109 (3) The Mississippi Development Authority shall consider
110 grant and loan applications based on the following criteria:

111 (a) The number of net new full-time equivalent jobs
112 that will be provided and the amount of additional state and local
113 tax revenue estimated by the University Research Center to be
114 directly generated by the private company's new investment, and
115 additionally, as to loan applications by state agencies, the
116 extent to which shipping through the port will be increased by the
117 proposed port development projects, the degree to which jobs will
118 be increased in the port area and the impact on port revenues.

119 (b) The ability to repay the principal and interest, in
120 the case of a loan, based on increased revenue estimates and any
121 revenue-producing provision of a contractual agreement.

122 (c) The increase in the employment base of the state.

123 The Mississippi Development Authority and the University
124 Research Center may use the resources and capabilities of the
125 planning and development districts in carrying out the provisions
126 of this chapter.



127 (4) No loan shall be made in excess of the amounts which can
128 be repaid with the increased revenues estimated by the University
129 Research Center, provided that this subsection (4) shall not apply
130 to loans in connection with a United States Navy home port.

131 (5) (a) Notwithstanding anything contained in this chapter,
132 an agency of the State of Mississippi operating a state-owned
133 port, and hereinabove identified as a "municipality" and
134 "governmental unit" for purposes of this chapter, may make
135 application for a loan or grant under the terms and provisions of
136 this chapter. In addition, a public agency operating a port
137 bordering on the Gulf of Mexico, which shall be considered to be a
138 "municipality" or a "governmental unit" for the purposes of this
139 chapter, may make application for a loan or grant under the terms
140 and provisions of this chapter from funds other than those funds
141 authorized for a state-owned port under paragraph (e)(iii) of
142 Section 57-61-11. The application shall be initiated by
143 submission of a letter of intent to engage in a project or
144 projects for the purpose of effecting enlargement and improvement
145 in all facilities used and useful in attracting international and
146 foreign commerce through the port. Projects eligible for
147 inclusion in the letter of intent may include, but not be
148 restricted to:

149 (i) Dredging and deepening the access channel and
150 harbor basin of the port;

151 (ii) Effecting the enlargement of the land area of
152 the port by reclamation;

153 (iii) Construction and installation of piling,
154 bulkheads, docks, wharves, warehouses and appurtenances; and

155 (iv) Acquisition of facilities and equipment for
156 handling bulk and containerized cargo.

157 (b) With respect to a state-owned port bordering on the
158 Gulf of Mexico, the letter of intent shall include the following



159 information and any other information required by the Mississippi
160 Development Authority:

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

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

166 (iii) Increased channel and basin depths necessary
167 to accommodate modern shipping.

168 (iv) Comparison of the percentage of the world's
169 cargo shipping that can now be accommodated with what could be
170 accommodated with project improvements.

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

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

175 (vii) Financial data of port activities, including
176 cost of project, degree of federal funding available and required
177 local participation.

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

189 (c) The Mississippi Development Authority shall
190 consider grant and loan applications based on the following:



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

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

195 (iii) Impact on port revenues.

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

198 (6) A municipality may apply to the Mississippi Development
199 Authority for a grant under the terms and provisions of this
200 chapter, and the Mississippi Development Authority may award
201 grants to a municipality subject to limitations contained in this
202 chapter. The application shall be initiated by submission of a
203 letter of intent to engage in a project or projects for the
204 purpose of providing improvements necessary to accommodate a
205 United States Navy home port.

206 (7) The Legislature hereby finds and determines that
207 financing facilities necessary to accommodate a Navy home port
208 serves a valid public purpose in that a Navy home port will
209 significantly contribute to the employment base of the state which
210 is in great need of assistance; provided, that in the event such
211 facilities are no longer required for use by the Navy as a home
212 port, such facilities shall revert as provided in Section 59-9-21.

213 (8) Notwithstanding any provision or requirement of this
214 chapter to the contrary, a municipality may make application for a
215 loan under this chapter, in an amount not to exceed Five Million
216 Dollars (\$5,000,000.00), for the purpose of acquiring and
217 developing land to be used as a technology/industrial park for
218 which there is a binding commitment by one or more private
219 companies to create and maintain not less than an aggregate of
220 three hundred (300) jobs meeting minimum criteria established by
221 the Mississippi Development Authority. Such a commitment by a
222 private company shall not disqualify the private company from
223 obtaining assistance under this section. The match requirements



224 of this section shall not apply to any loan made pursuant to this
225 subsection (8).

226 (9) (a) A municipality is authorized to negotiate a
227 contract for the acquisition, construction and erection of a
228 project or any portion of a project hereunder where a municipality
229 finds that, because of the particular nature of a project or any
230 portion thereof, it would be in the best public interest of the
231 municipality to negotiate.

232 (b) Contracts by a private company for the acquisition,
233 construction or erection of a project which receives assistance
234 under this chapter shall be effected in the manner prescribed by
235 law for public contracts, unless the Mississippi Development
236 Authority makes a written finding that, because of special
237 circumstances with respect to the projects or any portion thereof,
238 it would better serve the public interest or more effectively
239 achieve the purposes of this chapter to enter into such contracts
240 based on negotiation.

241 (10) A municipality is authorized upon such terms and
242 conditions as the municipality may deem advisable, provided such
243 terms and conditions shall not be in conflict with the provisions
244 of this chapter, to (a) acquire, whether by construction,
245 purchase, gift or lease, all of or any portion of a project
246 hereunder; (b) to lease or sell to others all of or any portion of
247 a project hereunder; and (c) to lend to the private company the
248 proceeds of the loan from the board to such municipality.

249 (11) All agreements between a municipality and a private
250 company related directly or indirectly to a project or a portion
251 of a project to be funded in whole or in part under this chapter
252 are subject to approval by the Mississippi Development Authority.

253 **SECTION 2.** This act shall take effect and be in force from
254 and after its passage.

