

By: Representative Cummings

To: Ways and Means

HOUSE BILL NO. 1128

1 AN ACT TO AMEND SECTION 57-75-11, MISSISSIPPI CODE OF 1972,
 2 TO AUTHORIZE THE MISSISSIPPI MAJOR ECONOMIC IMPACT AUTHORITY TO
 3 CONVEY CERTAIN PROPERTY ACQUIRED BY THE AUTHORITY UNDER THE
 4 MISSISSIPPI MAJOR ECONOMIC IMPACT ACT TO CERTAIN LOCAL
 5 GOVERNMENTS; TO AMEND SECTION 57-75-31, MISSISSIPPI CODE OF 1972,
 6 WHICH CREATES THE YELLOW CREEK PROJECT AREA FUND, TO PROVIDE FOR
 7 THE REPEAL OF SUCH SECTION FROM AND AFTER JULY 1, 2004; TO AMEND
 8 SECTION 29-9-9, MISSISSIPPI CODE OF 1972, TO CONFORM TO THE
 9 PROVISIONS OF THIS ACT; AND FOR RELATED PURPOSES.

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

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

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

17 (a) To maintain an office at a place or places within
 18 the state.

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

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

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



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37 property by quick-take eminent domain shall be repealed by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

39 (ii) Notwithstanding any other provision of this
40 paragraph (e), from and after November 6, 2000, to exercise the
41 right of immediate possession pursuant to the provisions of
42 Sections 11-27-81 through 11-27-89 for the purpose of acquiring
43 land, property and/or rights-of-way in the county in which a
44 project as defined in Section 57-75-5(f)(iv)1 is located, that are
45 necessary for such project or any facility related to the project.

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

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

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



62 (i) From and after the date of notification to the
63 authority by the enterprise that the state has been finally
64 selected as the site of the project, to acquire by condemnation
65 and to own, maintain, use, operate and convey or otherwise dispose
66 of any and all property of any kind, real, personal or mixed, or
67 any interest or estate therein, within the project area, necessary
68 for the project or any facility related to the project, with the
69 concurrence of the affected public agency, and the exercise of the
70 powers granted by this act, according to the procedures provided
71 by Chapter 27, Title 11, Mississippi Code of 1972, except as
72 modified by this act.

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

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

93 (iii) In acquiring lands by condemnation,
94 including the exercise of immediate possession, for a project, as



95 defined in Section 57-75-5(f)(iv)1, the authority may acquire
96 minerals or royalties in minerals.

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

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

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

117 (m) To construct, extend, improve, maintain, and
118 reconstruct, to cause to be constructed, extended, improved,
119 maintained, and reconstructed, and to use and operate any and all
120 components of the project or any facility related to the project,
121 with the concurrence of the affected public agency, within the
122 project area, necessary to the project and to the exercise of such
123 powers, rights, and privileges granted the authority.

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



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

135 (ii) To lease, sell, transfer or convey on any
136 terms agreed upon by the authority any or all real and personal
137 property, improvements, leases, funds and contractual obligations
138 of a project as defined in Section 57-75-5(f)(vi) and conveyed to
139 the State of Mississippi by a Quitclaim Deed from the United
140 States of America dated February 23, 1996, filed of record at
141 pages 511 to 524, Deed Book Number B179, Chancery Clerk's Office,
142 Tishomingo County, Mississippi, to any governmental authority
143 located within the geographic boundaries of the county wherein
144 such project exists upon agreement of such governmental authority
145 to undertake and assume from the State of Mississippi all
146 obligations and responsibilities in connection with ownership and
147 operation of the project.

148 (p) To enter into contracts with any person or public
149 agency, including, but not limited to, contracts authorized by
150 Section 57-75-17, in furtherance of any of the purposes authorized
151 by this act upon such consideration as the authority and such
152 person or public agency may agree. Any such contract may extend
153 over any period of time, notwithstanding any rule of law to the
154 contrary, may be upon such terms as the parties thereto shall
155 agree, and may provide that it shall continue in effect until
156 bonds specified therein, refunding bonds issued in lieu of such
157 bonds, and all other obligations specified therein are paid or
158 terminated. Any such contract shall be binding upon the parties
159 thereto according to its terms. Such contracts may include an



160 agreement to reimburse the enterprise, its successors and assigns
161 for any assistance provided by the enterprise in the acquisition
162 of real property for the project or any facility related to the
163 project.

164 (q) To establish and maintain reasonable rates and
165 charges for the use of any facility within the project area owned
166 or operated by the authority, and from time to time to adjust such
167 rates and to impose penalties for failure to pay such rates and
168 charges when due.

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

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

187 (t) To develop plans for technology transfer activities
188 to ensure private sector conduits for exchange of information,
189 technology and expertise related to the project to generate
190 opportunities for commercial development within the state.



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

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

198 (w) To consult with the Office of Minority Business
199 Enterprise Development and other public agencies for the purpose
200 of developing plans for technical assistance and loan programs to
201 maximize the economic impact related to the project for minority
202 business enterprises within the State of Mississippi.

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

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

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

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

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

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

217 (bb) To enter into contractual agreements to warrant
218 any site work for a project defined in Section 57-75-5(f)(iv)1;
219 provided, however, that the aggregate amount of such warranties
220 shall not exceed Fifteen Million Dollars (\$15,000,000.00).

221 (cc) To provide grant funds to an enterprise operating
222 a project defined in Section 57-75-5(f)(iv)1 in an amount not to
223 exceed Thirty-nine Million Dollars (\$39,000,000.00).



224 (dd) (i) To own surface water transmission lines
225 constructed with the proceeds of bonds issued pursuant to this act
226 that may be utilized to provide water to any project defined in
227 Section 57-75-5(f)(iv) and other consumers; and

228 (ii) To lease such surface water transmission
229 lines to a public agency or public utility to provide water to the
230 project and other consumers.

231 **SECTION 2.** Section 57-75-31, Mississippi Code of 1972, is
232 amended as follows:

233 57-75-31. There is created in the State Treasury a special
234 fund, separate and apart from any other fund, to be designated the
235 "Yellow Creek Project Area Fund," into which shall be deposited
236 any funds authorized to be deposited by the Mississippi Major
237 Economic Impact Authority pursuant to Section 57-75-11. Money
238 deposited into the fund shall not lapse at the end of any fiscal
239 year and any interest earned on any investment of money in the
240 fund shall remain in the fund. Money in the fund shall be
241 appropriated by the Legislature upon recommendation of the
242 Mississippi Major Economic Impact Authority to fund costs
243 associated with the operation and management of the project
244 described in Section 57-75-5(f)(vi).

245 This section shall stand repealed from and after July 1,
246 2004.

247 **SECTION 3.** Section 29-9-9, Mississippi Code of 1972, is
248 amended as follows:

249 29-9-9. (1) Whenever any vehicle, equipment, office
250 furniture, office fixture or any other personal property which has
251 been acquired or is owned by any institution, department or agency
252 of the State of Mississippi becomes obsolete or is no longer
253 needed or required for the use of such institution, department or
254 agency, the same may be: (a) sold for cash, transferred, traded
255 or exchanged for other property, furniture, equipment, fixture or
256 vehicle needed by said institution, department or agency after



257 having first obtained the written approval of the Governor's
258 Office of General Services and the State Auditor or approval by
259 the Legislative Budget Office if utilized under the jurisdiction
260 of the Legislature; or (b) donated to any institution, department
261 or agency of the State of Mississippi, or any political
262 subdivision or local governing authority of the state. The
263 singular shall include the plural. Transfers, trades, exchanges
264 or donations made pursuant to this subsection may be made to any
265 political subdivision or local governing authority of the State of
266 Mississippi.

267 (2) The proceeds of all cash sales made, as authorized in
268 this section, shall be paid over into the support and maintenance
269 or contingent fund of the institution, department or agency as it
270 deems best.

271 (3) The head of each state institution, department or agency
272 shall be responsible and liable personally and on his official
273 bond, in the amount of the value shown on the state inventory, for
274 the disposal of any property contrary to the provisions of this
275 section.

276 (4) The Office of General Services, on the approval of the
277 Public Procurement Review Board, is hereby authorized and
278 empowered to make reasonable rules and regulations and to require
279 such information as may be necessary to carry out the purpose and
280 provisions of this section.

281 (5) Any violation of the provisions hereof by any elected
282 head of any institution, department, commission or agency of the
283 State of Mississippi, or any appointee or employee of any
284 institution, department, agency or commission coming under the
285 provisions of this section, shall constitute a misdemeanor and,
286 upon conviction therefor, shall be punished by a fine of not
287 exceeding One Thousand Dollars (\$1,000.00) in addition to personal
288 and official liability, as hereinabove provided.



289 (6) The disposal of any unneeded personal property at the
290 project described in Section 57-75-5(f)(vi), may be made in
291 accordance with the provisions of the Mississippi Major Economic
292 Impact Act by the Mississippi Major Economic Impact
293 Authority, * * * under such rules and regulations as may be
294 adopted by such authority.

295 **SECTION 4.** This act shall take effect and be in force from
296 and after July 1, 2003.

