

By: Representative Cummings

To: Ways and Means

HOUSE BILL NO. 1128
(As Passed the House)

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37 property by quick-take eminent domain shall be repealed by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. Property leased, sold, transferred or
148 otherwise conveyed by the authority under this paragraph (o) shall
149 be used only for economic development purposes.

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



160 terminated. Any such contract shall be binding upon the parties
161 thereto according to its terms. Such contracts may include an
162 agreement to reimburse the enterprise, its successors and assigns
163 for any assistance provided by the enterprise in the acquisition
164 of real property for the project or any facility related to the
165 project.

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

247 This section shall stand repealed from and after July 1,
248 2004.

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

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



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

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

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

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

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



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

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

