

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

To: Ways and Means

HOUSE BILL NO. 1603

1 AN ACT TO AUTHORIZE THE ISSUANCE OF \$48,000,000.00 IN STATE
2 GENERAL OBLIGATION BONDS TO PROVIDE FUNDS FOR CAPITAL IMPROVEMENTS
3 AT THE STATE-OWNED SHIPYARD LOCATED IN JACKSON COUNTY,
4 MISSISSIPPI; TO PROVIDE THAT THE ISSUANCE OF SUCH BONDS SHALL BE
5 CONDITIONED ON THE LESSEE INCURRING A CERTAIN AMOUNT OF DEBT FOR
6 IMPROVEMENTS, CAPITAL INVESTMENTS OR CAPITAL UPGRADES TO SHIPYARDS
7 IN MISSISSIPPI OWNED OR LEASED BY SUCH LESSEE; AND FOR RELATED
8 PURPOSES.

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

10 **SECTION 1.** As used in this act, the following words shall
11 have the meanings ascribed herein unless the context clearly
12 requires otherwise:

13 (a) "Accreted value" of any bond means, as of any date
14 of computation, an amount equal to the sum of (i) the stated
15 initial value of such bond, plus (ii) the interest accrued thereon
16 from the issue date to the date of computation at the rate,
17 compounded semiannually, that is necessary to produce the
18 approximate yield to maturity shown for bonds of the same
19 maturity.

20 (b) "Commission" means the State Bond Commission.

21 (c) "State shipyard" means the shipyard property owned
22 by the state and located in Jackson County, Mississippi.

23 (d) "State" means the State of Mississippi.

24 (e) "Authority" means the Mississippi Development
25 Authority.

26 **SECTION 2.** The authority may use the proceeds from general
27 obligation bonds issued under this act for the purpose of such
28 capital improvements at the state shipyard as it considers
29 necessary to modernize the facility and keep it competitive with
30 other shipyards.



31 **SECTION 3.** (1) (a) A special fund, to be designated as the
32 "2003 State Shipyard Improvement Fund," is created within the
33 State Treasury. The fund shall be maintained by the State
34 Treasurer as a separate and special fund, separate and apart from
35 the General Fund of the state. Unexpended amounts remaining in
36 the fund at the end of a fiscal year shall not lapse into the
37 State General Fund, and any interest earned or investment earnings
38 on amounts in the fund shall be deposited into such fund.

39 (b) Monies deposited into the fund shall be disbursed,
40 in the discretion of the authority, to pay the costs incurred by
41 the authority in making capital improvements to the state
42 shipyard.

43 (c) Monies in the special fund may be used to reimburse
44 reasonable, actual and necessary costs incurred by the authority
45 in providing assistance related to a project for which funding is
46 provided under this act. The authority shall maintain an
47 accounting of actual costs incurred for each project for which
48 reimbursements are sought. Reimbursements under this paragraph
49 (c) shall not exceed Three Hundred Thousand Dollars (\$300,000.00)
50 in the aggregate. Reimbursements under this paragraph (c) shall
51 satisfy any applicable federal tax law requirements.

52 (d) Monies in the special fund may be used to reimburse
53 reasonable, actual and necessary costs incurred by the Department
54 of Audit in providing services related to a project for which
55 funding is provided under this act. The Department of Audit shall
56 maintain an accounting of actual costs incurred for each project
57 for which reimbursements are sought. The Department of Audit may
58 escalate its budget and expend such funds in accordance with rules
59 and regulations of the Department of Finance and Administration in
60 a manner consistent with the escalation of federal funds.
61 Reimbursements under this paragraph (d) shall not exceed One
62 Hundred Thousand Dollars (\$100,000.00) in the aggregate.



Reimbursements under this paragraph (d) shall satisfy any applicable federal tax law requirements.

(2) Amounts deposited into such special fund shall be disbursed to pay the costs of the project described in subsection (1) of this section. If any monies in the special fund are not used within four (4) years after the date the proceeds of the bonds authorized under this act are deposited into such fund, then the authority shall provide an accounting of such unused monies to the commission. Promptly after the commission has certified, by resolution duly adopted, that the project described in subsection (1) of this section shall have been completed, abandoned, or cannot be completed in a timely fashion, any amounts remaining in such special fund shall be applied to pay debt service on the bonds issued under this act, in accordance with the proceedings authorizing the issuance of such bonds and as directed by the commission. Before monies in the special fund may be used for the projects described in subsection (1) of this section, the authority shall require that the lessee of the shipyard enter into binding commitments regarding at least the following: (a) that such lessee shall create a certain minimum number of jobs over a certain period of time as determined by the authority (which jobs must be held by persons eligible for employment in the United States under applicable state and federal law) and (b) that if such lessee fails to satisfy any such commitments, the lessee must repay an amount equal to all or a portion of the funds provided by the state under this act as determined by the authority.

SECTION 4. (1) The commission, at one time, or from time to time, may declare by resolution the necessity for issuance of general obligation bonds of the State of Mississippi to provide funds for all costs incurred or to be incurred for the purposes described in Section 3 of this act. No bonds shall be issued under this act until the authority is provided proof that the lessee of the shipyard has incurred debt or has otherwise



irrevocably dedicated funds or a combination of debt and funds in the amount of not less than Forty-eight Million Dollars (\$48,000,000.00) to be used by the lessee for capital improvements, capital investments or capital upgrades at shipyards in Mississippi owned or leased by the lessee. Upon the adoption of a resolution by the authority, declaring that the lessee has incurred the required amount of debt and/or irrevocable dedication of funds and declaring the necessity for the issuance of any part or all of the general obligation bonds authorized by this section, the authority shall deliver a certified copy of its resolution or resolutions to the commission. Upon receipt of such resolution, the commission, in its discretion, may act as the issuing agent, prescribe the form of the bonds, advertise for and accept bids, issue and sell the bonds so authorized to be sold and do any and all other things necessary and advisable in connection with the issuance and sale of such bonds. The total amount of bonds issued under this act shall not exceed Forty-eight Million Dollars (\$48,000,000.00). No bonds shall be issued under this act after July 1, 2006.

(2) Any investment earnings on amounts deposited into the special fund created in Section 3 of this act shall be used to pay debt service on bonds issued under this act, in accordance with the proceedings authorizing issuance of such bonds.

SECTION 5. The principal of and interest on the bonds authorized under this act shall be payable in the manner provided in this section. Such bonds shall bear such date or dates, be in such denomination or denominations, bear interest at such rate or rates (not to exceed the limits set forth in Section 75-17-101, Mississippi Code of 1972), be payable at such place or places within or without the State of Mississippi, shall mature absolutely at such time or times not to exceed twenty (20) years from date of issue, be redeemable before maturity at such time or times and upon such terms, with or without premium, shall bear



such registration privileges, and shall be substantially in such form, all as shall be determined by resolution of the commission.

SECTION 6. The bonds authorized by this act shall be signed by the chairman of the commission, or by his facsimile signature, and the official seal of the commission shall be affixed thereto, attested by the secretary of the commission. The interest coupons, if any, to be attached to such bonds may be executed by the facsimile signatures of such officers. Whenever any such bonds shall have been signed by the officials 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 and coupons 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 their delivery to the purchaser, or had been in office on the date such bonds may bear. However, notwithstanding anything herein to the contrary, such bonds may be issued as provided in the Registered Bond Act of the State of Mississippi.

SECTION 7. All bonds and interest coupons issued under the provisions of this act 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 act, the commission shall not be required to and need not comply with the provisions of the Uniform Commercial Code.

SECTION 8. The commission shall act as the issuing agent for the bonds authorized under this act, prescribe the form of the bonds, advertise for and accept bids, issue and sell the bonds so authorized to be sold, pay all fees and costs incurred in such issuance and sale, and do any and all other things necessary and advisable in connection with the issuance and sale of such bonds. The commission is authorized and empowered to pay the costs that



are incident to the sale, issuance and delivery of the bonds authorized under this act from the proceeds derived from the sale of such bonds. The commission shall sell such 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 the date of delivery of the bonds to the purchaser. All interest accruing on such bonds so issued shall be payable semiannually or annually; however, the first interest payment may be for any period of not more than one (1) year.

Notice of the sale of any such bonds shall be published at least one (1) time, not less than ten (10) days before the date of sale, and shall be so published in one or more newspapers published or having a general circulation in the City of Jackson, Mississippi, and in one or more other newspapers or financial journals with a national circulation, to be selected by the commission.

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

SECTION 9. The bonds issued under the provisions of this act are general obligations of the State of Mississippi, and for the payment thereof the full faith and credit of the State of Mississippi is irrevocably pledged. If the funds appropriated by the Legislature for such purposes are insufficient to pay the principal of and the interest on such bonds as they become due, then the deficiency shall be paid by the State Treasurer from any funds in the State Treasury not otherwise appropriated. All such bonds shall contain recitals on their faces substantially covering the provisions of this section.



194 **SECTION 10.** Upon the issuance and sale of bonds under the
195 provisions of this act, the commission shall transfer the proceeds
196 of any such sale or sales to the special fund created in Section 3
197 of this act. The proceeds of such bonds shall be disbursed solely
198 upon the order of the authority under such restrictions, if any,
199 as may be contained in the resolution providing for the issuance
200 of the bonds.

201 **SECTION 11.** The bonds authorized under this act may be
202 issued without any other proceedings or the happening of any other
203 conditions or things other than those proceedings, conditions and
204 things which are specified or required by this act. Any
205 resolution providing for the issuance of bonds under the
206 provisions of this act shall become effective immediately upon its
207 adoption by the commission, and any such resolution may be adopted
208 at any regular or special meeting of the commission by a majority
209 of its members.

210 **SECTION 12.** The bonds authorized under the authority of this
211 act may be validated in the Chancery Court of the First Judicial
212 District of Hinds County, Mississippi, in the manner and with the
213 force and effect provided by Chapter 13, Title 31, Mississippi
214 Code of 1972, for the validation of county, municipal, school
215 district and other bonds. The notice to taxpayers required by
216 such statutes shall be published in a newspaper published or
217 having a general circulation in the City of Jackson, Mississippi.

218 **SECTION 13.** Any holder of bonds issued under the provisions
219 of this act or of any of the interest coupons pertaining thereto
220 may, either at law or in equity, by suit, action, mandamus or
221 other proceeding, protect and enforce any and all rights granted
222 under this act, or under such resolution, and may enforce and
223 compel performance of all duties required by this act to be
224 performed, in order to provide for the payment of bonds and
225 interest thereon.



226 **SECTION 14.** All bonds issued under the provisions of this
227 act shall be legal investments for trustees and other fiduciaries,
228 and for savings banks, trust companies and insurance companies
229 organized under the laws of the State of Mississippi, and such
230 bonds shall be legal securities which may be deposited with and
231 shall be received by all public officers and bodies of this state
232 and all municipalities and political subdivisions for the purpose
233 of securing the deposit of public funds.

234 **SECTION 15.** Bonds issued under the provisions of this act
235 and income therefrom shall be exempt from all taxation in the
236 State of Mississippi.

237 **SECTION 16.** The proceeds of the bonds issued under this act
238 shall be used solely for the purposes provided in this act,
239 including the costs incident to the issuance and sale of such
240 bonds.

241 **SECTION 17.** The State Treasurer is authorized, without
242 further process of law, to certify to the Department of Finance
243 and Administration the necessity for warrants, and the Department
244 of Finance and Administration is authorized and directed to issue
245 such warrants, in such amounts as may be necessary to pay when due
246 the principal of, premium, if any, and interest on, or the
247 accreted value of, all bonds issued under this act; and the State
248 Treasurer shall forward the necessary amount to the designated
249 place or places of payment of such bonds in ample time to
250 discharge such bonds, or the interest thereon, on the due dates
251 thereof.

252 **SECTION 18.** All improvements made to the state shipyard with
253 the proceeds of bonds issued pursuant to this act shall, as
254 state-owned property, be exempt from ad valorem taxation, except
255 ad valorem taxation for school district purposes.

256 **SECTION 19.** This act shall be deemed to be full and complete
257 authority for the exercise of the powers herein granted, but this



258 act shall not be deemed to repeal or to be in derogation of any
259 existing law of this state.

260 **SECTION 20.** This act shall take effect and be in force from
261 and after its passage.

