

By: Representatives McCoy, Morris, Smith
(39th), Guice, Scott (80th)

To: Ways and Means

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



31 (2) The authority, in its discretion, may set aside for
32 minority businesses not more than twenty percent (20%) of its
33 contracts for making such capital improvements at the state
34 shipyard. For the purposes of this subsection (2), the term
35 "minority business" means a business which is owned by a majority
36 of persons who are United States citizens or permanent resident
37 aliens (as defined by the Immigration and Naturalization Service)
38 of the United States, and who are Asian, Black, Hispanic or Native
39 American, according to the following definitions:

40 (a) "Asian" means persons having origins in any of
41 the original people of the Far East, Southeast Asia, the Indian
42 subcontinent, or the Pacific Islands.

43 (b) "Black" means persons having origins in any
44 black racial group of Africa.

45 (c) "Hispanic" means persons of Spanish or
46 Portuguese culture with origins in Mexico, South or Central
47 America, or the Caribbean Islands, regardless of race.

48 (d) "Native American" means persons having origins
49 in any of the original people of North America, including American
50 Indians, Eskimos and Aleuts.

51 **SECTION 3.** (1) (a) A special fund, to be designated as the
52 "2003 State Shipyard Improvement Fund," is created within the
53 State Treasury. The fund shall be maintained by the State
54 Treasurer as a separate and special fund, separate and apart from
55 the General Fund of the state. Unexpended amounts remaining in
56 the fund at the end of a fiscal year shall not lapse into the
57 State General Fund, and any interest earned or investment earnings
58 on amounts in the fund shall be deposited into such fund.

59 (b) Monies deposited into the fund shall be disbursed,
60 in the discretion of the authority, to pay the costs incurred by
61 the authority in making capital improvements to the state
62 shipyard.



63 (c) Monies in the special fund may be used to reimburse
64 reasonable, actual and necessary costs incurred by the authority
65 in providing assistance related to a project for which funding is
66 provided under this act. The authority shall maintain an
67 accounting of actual costs incurred for each project for which
68 reimbursements are sought. Reimbursements under this paragraph
69 (c) shall not exceed Three Hundred Thousand Dollars (\$300,000.00)
70 in the aggregate. Reimbursements under this paragraph (c) shall
71 satisfy any applicable federal tax law requirements.

72 (d) Monies in the special fund may be used to reimburse
73 reasonable, actual and necessary costs incurred by the Department
74 of Audit in providing services related to a project for which
75 funding is provided under this act. The Department of Audit shall
76 maintain an accounting of actual costs incurred for each project
77 for which reimbursements are sought. The Department of Audit may
78 escalate its budget and expend such funds in accordance with rules
79 and regulations of the Department of Finance and Administration in
80 a manner consistent with the escalation of federal funds.
81 Reimbursements under this paragraph (d) shall not exceed One
82 Hundred Thousand Dollars (\$100,000.00) in the aggregate.
83 Reimbursements under this paragraph (d) shall satisfy any
84 applicable federal tax law requirements.

85 (2) Amounts deposited into such special fund shall be
86 disbursed to pay the costs of the project described in subsection
87 (1) of this section. If any monies in the special fund are not
88 used within four (4) years after the date the proceeds of the
89 bonds authorized under this act are deposited into such fund, then
90 the authority shall provide an accounting of such unused monies to
91 the commission. Promptly after the commission has certified, by
92 resolution duly adopted, that the project described in subsection
93 (1) of this section shall have been completed, abandoned, or
94 cannot be completed in a timely fashion, any amounts remaining in
95 such special fund shall be applied to pay debt service on the



96 bonds issued under this act, in accordance with the proceedings
97 authorizing the issuance of such bonds and as directed by the
98 commission. Before monies in the special fund may be used for the
99 projects described in subsection (1) of this section, the
100 authority shall require that the lessee of the shipyard enter into
101 binding commitments regarding at least the following: (a) that
102 such lessee shall create a certain minimum number of jobs over a
103 certain period of time as determined by the authority (which jobs
104 must be held by persons eligible for employment in the United
105 States under applicable state and federal law) and (b) that if
106 such lessee fails to satisfy any such commitments, the lessee must
107 repay an amount equal to all or a portion of the funds provided by
108 the state under this act as determined by the authority.

109 **SECTION 4.** (1) The commission, at one time, or from time to
110 time, may declare by resolution the necessity for issuance of
111 general obligation bonds of the State of Mississippi to provide
112 funds for all costs incurred or to be incurred for the purposes
113 described in Section 3 of this act. No bonds shall be issued
114 under this act until the authority is provided proof that the
115 lessee of the shipyard has incurred debt or has otherwise
116 irrevocably dedicated funds or a combination of debt and funds in
117 the amount of not less than Forty-eight Million Dollars
118 (\$48,000,000.00) to be used by the lessee for capital
119 improvements, capital investments or capital upgrades at shipyards
120 in Mississippi owned or leased by the lessee. Upon the adoption
121 of a resolution by the authority, declaring that the lessee has
122 incurred the required amount of debt and/or irrevocable dedication
123 of funds and declaring the necessity for the issuance of any part
124 or all of the general obligation bonds authorized by this section,
125 the authority shall deliver a certified copy of its resolution or
126 resolutions to the commission. Upon receipt of such resolution,
127 the commission, in its discretion, may act as the issuing agent,
128 prescribe the form of the bonds, advertise for and accept bids,



129 issue and sell the bonds so authorized to be sold and do any and
130 all other things necessary and advisable in connection with the
131 issuance and sale of such bonds. The total amount of bonds issued
132 under this act shall not exceed Forty-eight Million Dollars
133 (\$48,000,000.00). No bonds shall be issued under this act after
134 July 1, 2006.

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

139 **SECTION 5.** The principal of and interest on the bonds
140 authorized under this act shall be payable in the manner provided
141 in this section. Such bonds shall bear such date or dates, be in
142 such denomination or denominations, bear interest at such rate or
143 rates (not to exceed the limits set forth in Section 75-17-101,
144 Mississippi Code of 1972), be payable at such place or places
145 within or without the State of Mississippi, shall mature
146 absolutely at such time or times not to exceed twenty (20) years
147 from date of issue, be redeemable before maturity at such time or
148 times and upon such terms, with or without premium, shall bear
149 such registration privileges, and shall be substantially in such
150 form, all as shall be determined by resolution of the commission.

151 **SECTION 6.** The bonds authorized by this act shall be signed
152 by the chairman of the commission, or by his facsimile signature,
153 and the official seal of the commission shall be affixed thereto,
154 attested by the secretary of the commission. The interest
155 coupons, if any, to be attached to such bonds may be executed by
156 the facsimile signatures of such officers. Whenever any such
157 bonds shall have been signed by the officials designated to sign
158 the bonds who were in office at the time of such signing but who
159 may have ceased to be such officers before the sale and delivery
160 of such bonds, or who may not have been in office on the date such
161 bonds may bear, the signatures of such officers upon such bonds



162 and coupons shall nevertheless be valid and sufficient for all
163 purposes and have the same effect as if the person so officially
164 signing such bonds had remained in office until their delivery to
165 the purchaser, or had been in office on the date such bonds may
166 bear. However, notwithstanding anything herein to the contrary,
167 such bonds may be issued as provided in the Registered Bond Act of
168 the State of Mississippi.

169 **SECTION 7.** All bonds and interest coupons issued under the
170 provisions of this act have all the qualities and incidents of
171 negotiable instruments under the provisions of the Uniform
172 Commercial Code, and in exercising the powers granted by this act,
173 the commission shall not be required to and need not comply with
174 the provisions of the Uniform Commercial Code.

175 **SECTION 8.** The commission shall act as the issuing agent for
176 the bonds authorized under this act, prescribe the form of the
177 bonds, advertise for and accept bids, issue and sell the bonds so
178 authorized to be sold, pay all fees and costs incurred in such
179 issuance and sale, and do any and all other things necessary and
180 advisable in connection with the issuance and sale of such bonds.
181 The commission is authorized and empowered to pay the costs that
182 are incident to the sale, issuance and delivery of the bonds
183 authorized under this act from the proceeds derived from the sale
184 of such bonds. The commission shall sell such bonds on sealed
185 bids at public sale, and for such price as it may determine to be
186 for the best interest of the State of Mississippi, but no such
187 sale shall be made at a price less than par plus accrued interest
188 to the date of delivery of the bonds to the purchaser. All
189 interest accruing on such bonds so issued shall be payable
190 semiannually or annually; however, the first interest payment may
191 be for any period of not more than one (1) year.

192 Notice of the sale of any such bonds shall be published at
193 least one (1) time, not less than ten (10) days before the date of
194 sale, and shall be so published in one or more newspapers



195 published or having a general circulation in the City of Jackson,
196 Mississippi, and in one or more other newspapers or financial
197 journals with a national circulation, to be selected by the
198 commission.

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

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

214 **SECTION 10.** Upon the issuance and sale of bonds under the
215 provisions of this act, the commission shall transfer the proceeds
216 of any such sale or sales to the special fund created in Section 3
217 of this act. The proceeds of such bonds shall be disbursed solely
218 upon the order of the authority under such restrictions, if any,
219 as may be contained in the resolution providing for the issuance
220 of the bonds.

221 **SECTION 11.** The bonds authorized under this act may be
222 issued without any other proceedings or the happening of any other
223 conditions or things other than those proceedings, conditions and
224 things which are specified or required by this act. Any
225 resolution providing for the issuance of bonds under the
226 provisions of this act shall become effective immediately upon its
227 adoption by the commission, and any such resolution may be adopted



228 at any regular or special meeting of the commission by a majority
229 of its members.

230 **SECTION 12.** The bonds authorized under the authority of this
231 act may be validated in the Chancery Court of the First Judicial
232 District of Hinds County, Mississippi, in the manner and with the
233 force and effect provided by Chapter 13, Title 31, Mississippi
234 Code of 1972, for the validation of county, municipal, school
235 district and other bonds. The notice to taxpayers required by
236 such statutes shall be published in a newspaper published or
237 having a general circulation in the City of Jackson, Mississippi.

238 **SECTION 13.** Any holder of bonds issued under the provisions
239 of this act or of any of the interest coupons pertaining thereto
240 may, either at law or in equity, by suit, action, mandamus or
241 other proceeding, protect and enforce any and all rights granted
242 under this act, or under such resolution, and may enforce and
243 compel performance of all duties required by this act to be
244 performed, in order to provide for the payment of bonds and
245 interest thereon.

246 **SECTION 14.** All bonds issued under the provisions of this
247 act shall be legal investments for trustees and other fiduciaries,
248 and for savings banks, trust companies and insurance companies
249 organized under the laws of the State of Mississippi, and such
250 bonds shall be legal securities which may be deposited with and
251 shall be received by all public officers and bodies of this state
252 and all municipalities and political subdivisions for the purpose
253 of securing the deposit of public funds.

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

257 **SECTION 16.** The proceeds of the bonds issued under this act
258 shall be used solely for the purposes provided in this act,
259 including the costs incident to the issuance and sale of such
260 bonds.



261 **SECTION 17.** The State Treasurer is authorized, without
262 further process of law, to certify to the Department of Finance
263 and Administration the necessity for warrants, and the Department
264 of Finance and Administration is authorized and directed to issue
265 such warrants, in such amounts as may be necessary to pay when due
266 the principal of, premium, if any, and interest on, or the
267 accreted value of, all bonds issued under this act; and the State
268 Treasurer shall forward the necessary amount to the designated
269 place or places of payment of such bonds in ample time to
270 discharge such bonds, or the interest thereon, on the due dates
271 thereof.

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

276 **SECTION 19.** This act shall be deemed to be full and complete
277 authority for the exercise of the powers herein granted, but this
278 act shall not be deemed to repeal or to be in derogation of any
279 existing law of this state.

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

