HOUSE BILL NO. 1604

AN ACT TO AMEND SECTIONS 3 THROUGH 18, CHAPTER 541, LAWS OF 2001, AS AMENDED BY CHAPTER 540, LAWS OF 2002, TO INCREASE THE AMOUNT OF STATE GENERAL OBLIGATION BONDS THAT MAY BE ISSUED FOR THE PURPOSE OF PROVIDING FUNDS FOR THE BUILDING FUND FOR THE ARTS; TO AMEND SECTION 39-11-13, MISSISSIPPI CODE OF 1972, IN CONFORMITY THERETO; TO AUTHORIZE THE ISSUANCE OF STATE GENERAL OBLIGATION BONDS TO PROVIDE FUNDS FOR CONSTRUCTION OF THE OHR-O'KEEFE MUSEUM OF ART IN BILoxI, MISSISSIPPI; AND FOR RELATED PURPOSES.

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

SECTION 1. Sections 3 through 18, Chapter 541, Laws of 2001, as amended by Chapter 540, laws of 2002, is amended as follows:

Section 3. As used in Sections 3 through 18 of this act, the following words shall have the meanings ascribed herein unless the context clearly requires otherwise:

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

(b) "State" means the State of Mississippi; and

(c) "Commission" means the State Bond Commission.

Section 4. (1) The Mississippi Arts 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 the grant program authorized in Section 2 of this act. Upon the adoption of a resolution by the Mississippi Arts Commission, declaring the necessity for the issuance of any part or all of the general obligation bonds...
authorized by this section, the Mississippi Arts Commission 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 Sections 3 through 18 of this act shall not exceed Sixteen Million Dollars ($16,000,000.00).

(2) The proceeds of bonds issued pursuant to Sections 3 through 18 of this act shall be deposited into the Building Fund for the Arts created pursuant to Section 2 of this act. Any investment earnings on bonds issued pursuant to Sections 3 through 18 of this act shall be used to pay debt service on bonds issued under Sections 3 through 18 of this act, in accordance with the proceedings authorizing issuance of such bonds.

Section 5. The principal of and interest on the bonds authorized under Sections 3 through 18 of 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-five (25) 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 Sections 3 through 18 of 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 Sections 3 through 18 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 Sections 3 through 18 of 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 Sections 3 through 18 of 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 Sections 3 through 18 of 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 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
Sections 3 through 18 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 Sections
3 through 18 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 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.

Section 10. Upon the issuance and sale of bonds under the
provisions of Sections 3 through 18 of this act, the commission
shall transfer the proceeds of any such sale or sales to the
special fund created in Section 2 of this act. Except as
otherwise provided in Section 2 of this act, the proceeds of such bonds shall be disbursed solely upon the order of the Department of Finance and Administration under such restrictions, if any, as may be contained in the resolution providing for the issuance of the bonds.

Section 11. The bonds authorized under Sections 3 through 18 of this act may be issued without any other proceedings or the happening of any other conditions or things other than those proceedings, conditions and things which are specified or required by Sections 3 through 18 of this act. Any resolution providing for the issuance of bonds under the provisions of Sections 3 through 18 of this act shall become effective immediately upon its adoption by the commission, and any such resolution may be adopted at any regular or special meeting of the commission by a majority of its members.

Section 12. The bonds authorized under the authority of Sections 3 through 18 of this act may be validated in the Chancery Court of the First Judicial District of Hinds County, Mississippi, in the manner and with the force and effect provided by Chapter 13, Title 31, Mississippi Code of 1972, for the validation of county, municipal, school district and other bonds. The notice to taxpayers required by such statutes shall be published in a newspaper published or having a general circulation in the City of Jackson, Mississippi.

Section 13. Any holder of bonds issued under the provisions of Sections 3 through 18 of this act or of any of the interest coupons pertaining thereto may, either at law or in equity, by suit, action, mandamus or other proceeding, protect and enforce any and all rights granted under Sections 3 through 18 of this act, or under such resolution, and may enforce and compel performance of all duties required by Sections 3 through 18 of this act to be performed, in order to provide for the payment of bonds and interest thereon.
Section 14. All bonds issued under the provisions of Sections 3 through 18 of this act shall be legal investments for trustees and other fiduciaries, and for savings banks, trust companies and insurance companies organized under the laws of the State of Mississippi, and such bonds shall be legal securities which may be deposited with and shall be received by all public officers and bodies of this state and all municipalities and political subdivisions for the purpose of securing the deposit of public funds.

Section 15. Bonds issued under the provisions of Sections 3 through 18 of this act and income therefrom shall be exempt from all taxation in the State of Mississippi.

Section 16. The proceeds of the bonds issued under Sections 3 through 18 of this act shall be used solely for the purposes therein provided, including the costs incident to the issuance and sale of such bonds.

Section 17. The State Treasurer is authorized, without further process of law, to certify to the Department of Finance and Administration the necessity for warrants, and the Department of Finance and Administration is authorized and directed to issue such warrants, in such amounts as may be necessary to pay when due the principal of, premium, if any, and interest on, or the accreted value of, all bonds issued under Sections 3 through 18 of this act; and the State Treasurer shall forward the necessary amount to the designated place or places of payment of such bonds in ample time to discharge such bonds, or the interest thereon, on the due dates thereof.

Section 18. Sections 3 through 18 of this act shall be deemed to be full and complete authority for the exercise of the powers therein granted, but Sections 3 through 18 of this act shall not be deemed to repeal or to be in derogation of any existing law of this state.
SECTION 2. Section 39-11-13, Mississippi Code of 1972, is amended as follows:

39-11-13. (1) (a) A special fund, to be designated as the "Building Fund for the Arts" is created within the State Treasury. The fund shall be maintained by the State Treasurer as a separate and special fund, separate and apart from the General Fund of the state. The fund shall consist of any money designated for deposit therein from any source, including, but not limited to, any state general obligation bonds issued for the purposes described in this section. Unexpended amounts remaining in the fund at the end of a fiscal year shall not lapse into the State General Fund, and investment earnings on amounts in the fund shall be deposited into such fund.

(b) Money deposited into the fund shall be disbursed, in the discretion of the Mississippi Arts Commission, to provide grants to nonprofit organizations that are qualified as tax exempt under Section 501(c)(3) of the Internal Revenue Code and units of local government to pay the costs of:

(i) Repair, upgrading, expansion, renovation or enhancement of existing buildings and facilities for the presentation, teaching or exhibition of the arts in any and all of its forms and furniture, equipment and/or technology for such buildings or facilities; or

(ii) The development, construction, equipping and furnishing of an entertainment and film center and museum and completion of a sound stage project.

(c) The entity to which such grants are made shall provide matching funds from local, federal or private sources equal to forty percent (40%) of the proposed project cost in order to be eligible for a grant under this section.

(d) The maximum aggregate amount of monies in the special fund that may be used to provide grant funds to an entity or combination of entities under paragraph (b)(ii) of this
subsection shall not exceed One Million Dollars ($1,000,000.00),
and no monies in the special fund may be used to provide grant
funds under paragraph (b)(ii) of this subsection after July 1, 2003. The maximum aggregate amount of grant funds that may be
provided to an entity or combination of entities under paragraph
(b)(ii) of this subsection during a fiscal year shall not exceed
Five Hundred Thousand Dollars ($500,000.00).

(2) (a) Amounts deposited into such special fund shall be
disbursed to pay the costs of projects described in subsection (1)
of this section. If any monies in the special fund are derived
from proceeds of bonds issued under Sections 3 through 18 of Laws,
2001, Chapter 541, as amended by Laws, 2002, Chapter 540, as
amended by House Bill No. 1604, 2003 Regular Session, and are not
used within four (4) years after the date such bond proceeds are
deposited into the special fund, then the Mississippi Arts
Commission shall provide an accounting of such unused monies to
the State Bond Commission.

(b) Monies in the special fund which are derived from
proceeds of bonds issued after April 9, 2002, may be used to
reimburse reasonable actual and necessary costs incurred by the
Mississippi Arts Commission in providing assistance directly
related to a project described in subsection (1) of this section
for which grant funds are provided under this section from the use
of proceeds of such bonds. Reimbursement may be made only until
such time as the project is completed. An accounting of actual
costs incurred for which reimbursement is sought shall be
maintained for each project by the Mississippi Arts Commission.
Reimbursement of reasonable actual and necessary costs for a
project shall not exceed three percent (3%) of the proceeds of
bonds issued for such project. Monies authorized for a particular
project may not be used to reimburse administrative costs for
unrelated projects. This paragraph (b) shall be repealed from and
after July 1, 2005.
(3) The Mississippi Arts Commission is expressly authorized and empowered to receive and expend any local or other source funds in connection with the expenditure of funds provided for in this section. The expenditure of money deposited into the special fund shall be under the direction of the Mississippi Arts Commission, and such funds shall be paid by the State Treasurer upon warrants issued by the Department of Finance and Administration upon request of the Mississippi Arts Commission, which warrants shall be issued upon requisitions signed by the Executive Director of the Mississippi Arts Commission or his or her designee.

(4) The Mississippi Arts Commission shall adopt necessary rules and regulations to govern the administration of the program described in subsection (1) of this section, including, but not limited to, rules and regulations governing applications for grants and rules and regulations providing for the distribution of grant funds. The Mississippi Arts Commission shall comply with the provisions of the Mississippi Administrative Procedures Law.

SECTION 3. As used in Sections 3 through 19 of this act, the following words shall have the meanings ascribed herein unless the context clearly requires otherwise:

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

(b) "State" means the State of Mississippi; and

(c) "Commission" means the State Bond Commission.

SECTION 4. (1) (a) A special fund, to be designated as the "Ohr-O'Keefe Museum of Art Fund" is created within the State Treasury. The fund shall be maintained by the State Treasurer as
a separate and special fund, separate and apart from the General
Fund of the state. Unexpended amounts remaining in the fund at
the end of a fiscal year shall not lapse into the State General
Fund, and any interest earned or investment earnings on amounts
in the fund shall be deposited into such fund.

(b) Monies deposited into the fund shall be disbursed,
in the discretion of the Mississippi Arts Commission, to pay the
costs of construction of the Ohr-O'Keefe Museum of Art in Biloxi,
Mississippi.

(2) Amounts deposited into such special fund shall be
disbursed to pay the costs of the project described in subsection
(1) of this section. 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 Sections 3 through 19 of this
act, in accordance with the proceedings authorizing the issuance
of such bonds and as directed by the commission.

(3) The Mississippi Arts Commission is expressly authorized
and empowered to receive and expend any local or other source
funds in connection with the expenditure of funds provided for in
this section. The expenditure of monies deposited into the
special fund shall be under the direction of the Mississippi Arts
Commission, and such funds shall be paid by the State Treasurer
upon warrants issued by the Department of Finance and
Administration upon request of the Mississippi Arts Commission,
which warrants shall be issued upon requisitions signed by the
Executive Director of the Mississippi Arts Commission or his
designee.

SECTION 5. (1) The Mississippi Arts 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 4 of this act. Upon the adoption of a resolution by the Mississippi Arts Commission, declaring the necessity for the issuance of any part or all of the general obligation bonds authorized by this section, the Mississippi Arts Commission 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 Sections 3 through 19 of this act shall not exceed One Million Dollars ($1,000,000.00).

(2) The proceeds of bonds issued pursuant to Sections 3 through 19 of this act shall be deposited into the special fund created pursuant to Section 4 of this act. Any investment earnings on bonds issued pursuant to Sections 3 through 19 of this act shall be used to pay debt service on bonds issued under Sections 3 through 19 of this act, in accordance with the proceedings authorizing issuance of such bonds.

SECTION 6. The principal of and interest on the bonds authorized under Sections 3 through 19 of 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-five (25) 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 the resolution of the commission.

SECTION 7. The bonds authorized by Sections 3 through 19 of 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 8. All bonds and interest coupons issued under the provisions of Sections 3 through 19 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 Sections 3 through 19 of this act, the commission shall not be required to and need not comply with the provisions of the Uniform Commercial Code.

SECTION 9. The commission shall act as the issuing agent for the bonds authorized under Sections 3 through 19 of 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 Sections 3 through 19
of 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 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
Sections 3 through 19 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 10. The bonds issued under the provisions of
Sections 3 through 19 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 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.

SECTION 11. Upon the issuance and sale of bonds under the provisions of Sections 3 through 19 of this act, the commission shall transfer the proceeds of any such sale or sales to the special fund created in Section 4 of this act. Except as otherwise provided in Section 4 of this act, the proceeds of such bonds shall be disbursed solely upon the order of the Department of Finance and Administration under such restrictions, if any, as may be contained in the resolution providing for the issuance of the bonds.

SECTION 12. The bonds authorized under Sections 3 through 19 of this act may be issued without any other proceedings or the happening of any other conditions or things other than those proceedings, conditions and things which are specified or required by Sections 3 through 19 of this act. Any resolution providing for the issuance of bonds under the provisions of Sections 3 through 19 of this act shall become effective immediately upon its adoption by the commission, and any such resolution may be adopted at any regular or special meeting of the commission by a majority of its members.

SECTION 13. The bonds authorized under the authority of Sections 3 through 19 of this act may be validated in the Chancery Court of the First Judicial District of Hinds County, Mississippi, in the manner and with the force and effect provided by Chapter 13, Title 31, Mississippi Code of 1972, for the validation of county, municipal, school district and other bonds. The notice to taxpayers required by such statutes shall be published in a newspaper published or having a general circulation in the City of Jackson, Mississippi.

SECTION 14. Any holder of bonds issued under the provisions of Sections 3 through 19 of this act or of any of the interest coupons pertaining thereto may, either at law or in equity, by
suit, action, mandamus or other proceeding, protect and enforce
any and all rights granted under Sections 3 through 19 of this
act, or under such resolution, and may enforce and compel
performance of all duties required by Sections 3 through 19 of
this act to be performed, in order to provide for the payment of
bonds and interest thereon.

SECTION 15. All bonds issued under the provisions of
Sections 3 through 19 of this act shall be legal investments for
trustees and other fiduciaries, and for savings banks, trust
companies and insurance companies organized under the laws of the
State of Mississippi, and such bonds shall be legal securities
which may be deposited with and shall be received by all public
officers and bodies of this state and all municipalities and
political subdivisions for the purpose of securing the deposit of
public funds.

SECTION 16. Bonds issued under the provisions of Sections 3
through 19 of this act and income therefrom shall be exempt from
all taxation in the State of Mississippi.

SECTION 17. The proceeds of the bonds issued under Sections
3 through 19 of this act shall be used solely for the purposes
therein provided, including the costs incident to the issuance and
sale of such bonds.

SECTION 18. The State Treasurer is authorized, without
further process of law, to certify to the Department of Finance
and Administration the necessity for warrants, and the Department
of Finance and Administration is authorized and directed to issue
such warrants, in such amounts as may be necessary to pay when due
the principal of, premium, if any, and interest on, or the
accrued value of, all bonds issued under Sections 3 through 19 of
this act; and the State Treasurer shall forward the necessary
amount to the designated place or places of payment of such bonds
in ample time to discharge such bonds, or the interest thereon, on
the due dates thereof.
SECTION 19. Sections 3 through 19 of this act shall be deemed to be full and complete authority for the exercise of the powers therein granted, but Sections 3 through 19 of this act shall not be deemed to repeal or to be in derogation of any existing law of this state.

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