

By: Representative Ward

To: Transportation; Ways and
Means

HOUSE BILL NO. 1322

1 AN ACT TO AUTHORIZE THE MISSISSIPPI TRANSPORTATION
2 COMMISSION, COUNTY BOARDS OF SUPERVISORS AND THE GOVERNING
3 AUTHORITIES OF MUNICIPALITIES TO CONSTRUCT, INDIVIDUALLY OR
4 JOINTLY WITH OTHER GOVERNMENTAL ENTITIES, TOLL ROAD OR TOLL BRIDGE
5 PROJECTS WITHIN THE STATE; TO AUTHORIZE THE MISSISSIPPI
6 TRANSPORTATION COMMISSION, COUNTY BOARDS OF SUPERVISORS AND THE
7 GOVERNING AUTHORITIES OF MUNICIPALITIES TO CONTRACT WITH ANY
8 PERSON, CORPORATION OR OTHER BUSINESS LICENSED TO DO BUSINESS IN
9 THE STATE FOR THE PURPOSE OF CONSTRUCTING TOLL ROADS OR BRIDGES;
10 TO PRESCRIBE THE TERMS AND CONDITIONS FOR THE LETTING OF SUCH
11 CONTRACTS AND THE RIGHTS AND DUTIES OF THE PARTIES ENTERING INTO
12 SUCH CONTRACTS; TO AUTHORIZE COUNTIES, CITIES AND THE STATE TO
13 ISSUE REVENUE BONDS TO FINANCE TOLL ROAD AND TOLL BRIDGE PROJECTS;
14 TO AMEND SECTIONS 65-3-1 AND 11-46-9, MISSISSIPPI CODE OF 1972, IN
15 CONFORMITY TO THE PROVISIONS OF THIS ACT; AND FOR RELATED
16 PURPOSES.

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

18 **SECTION 1.** The Mississippi Transportation Commission, county
19 boards of supervisors and/or the governing authorities of
20 municipalities (hereinafter referred to as governmental entities),
21 in their discretion, may construct, operate and maintain,
22 individually or jointly with other governmental entities, one or
23 more new toll roads or toll bridges in the state for motor vehicle
24 traffic, including toll booths and related facilities, at such
25 locations where an alternate untolled route exists. All such
26 highways, pavement, bridges, drainage related structures and other
27 infrastructure comprising the projects shall be built and
28 maintained in accordance with not less than the minimum highway
29 design, construction and maintenance standards established by the
30 contracting governmental entity for such highways, infrastructure
31 and facilities.

32 **SECTION 2.** (1) In addition to and as an alternative to any
33 other authority granted by law, including, but not limited to,
34 Section 1 of this act, any governmental entities, as defined in

35 Section 1 of this act, in their discretion, may contract,
36 individually or jointly with other governmental entities, with any
37 persons, corporations, partnerships or other businesses licensed
38 to do business in the State of Mississippi (hereinafter referred
39 to as "companies" or "company") for the purpose of designing,
40 financing, constructing, operating and maintaining one or more
41 toll roads or toll bridges in the state for motor vehicle traffic,
42 including toll booths and related facilities, of such locations
43 where an untolled route exists. Such contracts shall provide that
44 land held by the governmental entities, whether in fee simple, as
45 an easement or other interest, shall be leased or assigned to a
46 company for design, construction, operation and maintenance of
47 roadways, highways or bridges for motor vehicle traffic, toll
48 booths and related facilities. All such highways, pavement,
49 bridges, drainage related structures and other infrastructure
50 comprising the projects shall be built and maintained in
51 accordance with not less than the minimum highway design,
52 construction and maintenance standards established by the
53 contracting governmental entity for such highways, infrastructure
54 and facilities. The contracting governmental entity shall conduct
55 periodic inspections of any such project throughout the term of
56 the contract to ensure compliance by the company. Failure of a
57 company to comply with minimum standards established for the
58 project by the contracting governmental entity shall constitute a
59 breach and shall subject the company to liability on its bond or
60 security or to rescission of the contract in accordance with the
61 terms and provisions of the contract.

62 (2) Every contract entered into by a governmental entity
63 under this section shall require a company to enter into bond and
64 provide such security as the governmental entity determines may be
65 necessary or advisable to ensure timely completion and proper
66 execution and performance of the contract. The governmental
67 entities are authorized to acquire such property or interests in

68 property as may be necessary, by gift, purchase or eminent domain,
69 for construction and maintenance of the highways or bridges built
70 pursuant to contracts entered into under this section. Upon
71 expiration, termination or rescission of the contract, all
72 interests that the company may have in the land, infrastructure,
73 facilities or other improvements to the property subject to
74 contract shall terminate and automatically, by operation of law,
75 be returned or conveyed to and vest in the State of Mississippi or
76 the contracting governmental entity. Upon termination, expiration
77 or rescission of the contract, the collection of tolls shall cease
78 after all associated debts have been retired or released.

79 (3) During the term of any contract entered into under this
80 section, the company may establish, charge and collect motor
81 vehicle operators tolls for use of the highway and its facilities.
82 The amount of such tolls, and any modification thereto, shall be
83 subject to approval by the contracting governmental entity;
84 however, all such contracts entered into with the Mississippi
85 Transportation Commission may require a company to pay a
86 percentage of all tolls collected to the Mississippi Department of
87 Transportation. All such monies paid to the department shall be
88 deposited into the State Highway Fund and may be expended, upon
89 appropriation by the Legislature, only for maintenance of state
90 highways.

91 (4) All statutes of this state relating to traffic
92 regulation and control shall be applicable to motor vehicles
93 operated upon highways and bridges constructed under this section
94 and shall be enforceable by the Mississippi Department of Public
95 Safety, the Mississippi Highway Safety Patrol or any other law
96 enforcement agency having jurisdiction over such highways and
97 bridges.

98 (5) The State of Mississippi, the Mississippi Transportation
99 Commission, the Mississippi Department of Transportation,
100 counties, municipalities or any other agency or political

101 subdivision, or any officer or employee thereof, shall not be
102 liable for any tortious act or omission arising out of the
103 construction, maintenance or operation of any highway or bridge
104 project under the provisions of this section where the act or
105 omission occurs during the term of any such contract entered into
106 by the Mississippi Transportation Commission or other governmental
107 entity and a company.

108 (6) The powers conferred by this section shall be in
109 addition to the powers conferred by any other law, general,
110 special or local. This section shall be construed as an
111 additional and alternative method of funding all or any portion of
112 the purchasing, building, improving, owning or operating of
113 roadways, highways or bridges under the jurisdiction of the
114 Mississippi Transportation Commission, county boards of
115 supervisors or municipal governing authorities, any provision of
116 the laws of the state or any charter of any municipality to the
117 contrary notwithstanding.

118 **SECTION 3.** (1) For the purpose of providing funds to defray
119 the expenses of projects authorized pursuant to Sections 1 and 2
120 of this act, the board of supervisors of a county or the governing
121 authorities of a municipality shall have the right to borrow money
122 for the project, and to issue revenue bonds therefor in such
123 principal amounts as the board of supervisors or governing
124 authorities may determine to be necessary to provide sufficient
125 funds to defray the expenses of projects authorized pursuant to
126 Sections 1 and 2 of this act. The bonds shall be payable out of
127 any revenues derived from the project, including grants or
128 contributions from the federal government or other sources. Such
129 bonds may be sold at public or private sale at not less than par
130 and shall bear interest at a rate or rates not exceeding that
131 allowed in Section 75-17-103. Any such bonds so issued shall not
132 constitute a debt of the county, the municipality or any political
133 subdivision of the county or the city within the meaning of any

134 constitutional, statutory or charter restriction, limitation or
135 provision. It shall be plainly stated on the face of each bond in
136 substance that the bond has been issued pursuant to the authority
137 granted in this section and that the taxing power of the county or
138 municipality issuing the bond is not pledged to the payment of the
139 bond or the interest on it and that the bond and the interest on
140 it are payable solely from the revenues of the project for which
141 the bond is issued.

142 (2) All bonds issued under the authority of this section
143 shall bear such date or dates, shall be in such form or
144 denomination, shall bear such rate of interest, and shall mature
145 at such times as the county or municipality shall determine, but
146 no bonds issued under the authority of this section shall mature
147 more than twenty-five (25) years from the date of the issuance
148 thereof and none of the bonds shall be sold for less than par and
149 accrued interest. All bonds shall be sold in the manner now
150 provided by law for the sale of bonds without any restrictions,
151 limitations, requirements or conditions applicable to the
152 borrowing of such money and the issuance of such bonds which are
153 not herein contained. The denomination, form, place of payment
154 and other details of such bonds may be determined by resolution or
155 order of the board of supervisors of a county or the governing
156 authorities of a municipality, and shall be executed on behalf of
157 the county or municipality as is now provided by law.

158 (3) Before issuing any bonds under the provisions of this
159 section, the board of supervisors of the county or the governing
160 authorities of the municipality shall, by resolution spread upon
161 the minutes, declare its intention to issue such bonds for the
162 purposes authorized by this section and shall state in the
163 resolution the amount of bonds proposed to be issued and shall
164 likewise fix in the resolution the date upon which the board of
165 supervisors of the county or the governing authorities of the
166 municipality proposes to direct the issuance of the bonds. Notice

167 of such intention shall be published once a week for at least
168 three (3) consecutive weeks in a newspaper published or having a
169 general circulation in the county or the municipality, with the
170 first publication of the notice to be made not less than
171 twenty-one (21) days prior to the date fixed in the resolution for
172 the issuance of the bonds and the last publication to be made not
173 more than seven (7) days prior to such date. If, on or before the
174 date specified in the resolution, twenty percent (20%) of the
175 qualified electors of the county or municipality shall file a
176 written protest against the issuance of the bonds, then an
177 election upon the issuance of the bonds shall be called, and held,
178 as provided in this section. If no such protest shall be filed,
179 then the board of supervisors of the county or the governing
180 authorities of the municipality may issue such bonds without an
181 election on the question of the issuance of the bonds at any time
182 within a period of two (2) years after the date specified in the
183 resolution.

184 (4) If an election is called under the provisions of this
185 section on the question of the issuance of bonds, the election
186 shall be held, insofar as practicable, in the same manner as other
187 elections are held in the county or municipality. At the
188 election, all qualified electors of the county or municipality may
189 vote and the ballots used in the election shall have printed
190 thereon a brief statement of the amount and purposes of the
191 proposed bond issue and the words "FOR THE BOND ISSUE" and the
192 words "AGAINST THE BOND ISSUE," and the voters shall vote by
193 placing a cross (X) or check mark (✓) opposite their choice on the
194 proposition.

195 (5) When the results of any election provided for in this
196 section shall have been canvassed by the election commissioners of
197 the county or municipality and certified by them to the proper
198 authorities, it shall be the duty of the board of supervisors of
199 the county or the governing authorities of the municipality to

200 determine and adjudicate whether or not a majority of the
201 qualified electors who voted in the election voted in favor of the
202 issuance of the bonds and unless a majority of the qualified
203 electors who voted in the election voted in favor of the issuance
204 of the bonds, then the bonds shall not be issued. Should a
205 majority of the qualified electors who vote in the election vote
206 in favor of the bonds, the board of supervisors of the county or
207 the governing authorities of the municipality may issue the bonds,
208 either in whole or in part, within two (2) years from the date of
209 such election, or within two (2) years after final favorable
210 determination of any litigation affecting the issuance of such
211 bonds at such time or times, and in such amount or amounts, not
212 exceeding that specified in the notice of the election, as shall
213 be deemed proper.

214 (6) This section, without reference to any other statute,
215 shall be deemed to be full and complete authority for the issuance
216 of bonds and borrowing of money as authorized in this section by
217 counties or municipalities, and shall be construed as an
218 additional and alternate method therefor. The bonds authorized by
219 this section shall not constitute an indebtedness within the
220 meaning of any constitutional or statutory limitation or
221 restriction.

222 **SECTION 4.** (1) (a) A special fund, to be designated as the
223 "Toll Road Revenue Bond Fund," is created within the State
224 Treasury. The fund shall be maintained by the State Treasurer as
225 a separate and special fund, separate and apart from the General
226 Fund of the state. Unexpended amounts remaining in the fund at
227 the end of a fiscal year shall not lapse into the State General
228 Fund, and any interest earned or investment earnings on amounts in
229 the fund shall be deposited into such fund.

230 (b) Monies deposited into the fund shall be disbursed,
231 in the discretion of the Mississippi Transportation Commission, to

232 pay the costs incurred in defraying the expenses of projects
233 authorized pursuant to Sections 1 and 2 of this act.

234 (2) Amounts deposited into such special fund shall be
235 disbursed to pay the expenses described in subsection (1) of this
236 section. If any monies in the special fund are not used within
237 four (4) years after the date the proceeds of the bonds authorized
238 under Sections 4 through 18 of this act are deposited into such
239 fund, then the Mississippi Transportation Commission shall provide
240 an accounting of such unused monies to the State Bond Commission.
241 Promptly after the State Bond Commission has certified, by
242 resolution duly adopted, that the projects for which the revenue
243 bonds have been issued shall have been completed, abandoned or
244 cannot be completed in a timely fashion, any amounts remaining in
245 such special fund shall be applied to pay debt service on the
246 bonds issued under Sections 4 through 18 of this act, in
247 accordance with the proceedings authorizing the issuance of such
248 bonds and as directed by the commission.

249 **SECTION 5.** The State Bond Commission, at one time or from
250 time to time, may declare by resolution the necessity for issuance
251 of revenue bonds of the State of Mississippi for the purpose of
252 providing funds to defray the expenses of projects authorized
253 pursuant to Sections 1 and 2 of this act. Upon the adoption of a
254 resolution by the Mississippi Transportation Commission, declaring
255 the necessity for the issuance of the revenue bonds authorized by
256 this section, the Mississippi Transportation Commission shall
257 deliver a certified copy of its resolution or resolutions to the
258 State Bond Commission. Upon receipt of such resolution, the State
259 Bond Commission, in its discretion, may act as the issuing agent,
260 prescribe the form of the bonds, advertise for and accept bids,
261 issue and sell the bonds so authorized to be sold and do any and
262 all other things necessary and advisable in connection with the
263 issuance and sale of such bonds. Revenue bonds issued under this
264 section shall be in such principal amounts as the Mississippi

265 Transportation Commission may determine to be necessary to provide
266 sufficient funds to defray the expenses of projects authorized
267 pursuant to Sections 1 and 2 of this act.

268 (2) Any investment earnings on amounts deposited into the
269 special fund created in Section 4 of this act shall be used to pay
270 debt service on bonds issued under Sections 4 through 18 of this
271 act, in accordance with the proceedings authorizing issuance of
272 such bonds.

273 **SECTION 6.** The principal of and interest on the bonds
274 authorized under Sections 4 through 18 of this act shall be
275 payable in the manner provided in this section. Such bonds shall
276 bear such date or dates, be in such denomination or denominations,
277 bear interest at such rate or rates (not to exceed the limits set
278 forth in Section 75-17-103, Mississippi Code of 1972), be payable
279 at such place or places within or without the State of
280 Mississippi, shall mature absolutely at such time or times not to
281 exceed twenty (20) years from date of issue, be redeemable before
282 maturity at such time or times and upon such terms, with or
283 without premium, shall bear such registration privileges, and
284 shall be substantially in such form, all as shall be determined by
285 resolution of the State Bond Commission.

286 **SECTION 7.** The bonds authorized by Sections 4 through 18 of
287 this act shall be signed by the Chairman of the State Bond
288 Commission, or by his facsimile signature, and the official seal
289 of the State Bond Commission shall be affixed thereto, attested by
290 the secretary of the commission. The interest coupons, if any, to
291 be attached to such bonds may be executed by the facsimile
292 signatures of such officers. Whenever any such bonds shall have
293 been signed by the officials designated to sign the bonds who were
294 in office at the time of such signing but who may have ceased to
295 be such officers before the sale and delivery of such bonds, or
296 who may not have been in office on the date such bonds may bear,
297 the signatures of such officers upon such bonds and coupons shall

298 nevertheless be valid and sufficient for all purposes and have the
299 same effect as if the person so officially signing such bonds had
300 remained in office until their delivery to the purchaser, or had
301 been in office on the date such bonds may bear. However,
302 notwithstanding anything herein to the contrary, such bonds may be
303 issued as provided in the Registered Bond Act of the State of
304 Mississippi.

305 **SECTION 8.** All bonds and interest coupons issued under the
306 provisions of Sections 4 through 18 of this act have all the
307 qualities and incidents of negotiable instruments under the
308 provisions of the Uniform Commercial Code, and in exercising the
309 powers granted by Sections 4 through 18 of this act, the State
310 Bond Commission shall not be required to and need not comply with
311 the provisions of the Uniform Commercial Code.

312 **SECTION 9.** The State Bond Commission shall act as the
313 issuing agent for the bonds authorized under Sections 4 through 18
314 of this act, prescribe the form of the bonds, advertise for and
315 accept bids, issue and sell the bonds so authorized to be sold,
316 pay all fees and costs incurred in such issuance and sale, and do
317 any and all other things necessary and advisable in connection
318 with the issuance and sale of such bonds. The State Bond
319 Commission is authorized and empowered to pay the costs that are
320 incident to the sale, issuance and delivery of the bonds
321 authorized under Sections 4 through 18 of this act from the
322 proceeds derived from the sale of such bonds. The State Bond
323 Commission shall sell such bonds on sealed bids at public sale,
324 and for such price as it may determine to be for the best interest
325 of the State of Mississippi, but no such sale shall be made at a
326 price less than par plus accrued interest to the date of delivery
327 of the bonds to the purchaser. All interest accruing on such
328 bonds so issued shall be payable semiannually or annually;
329 however, the first interest payment may be for any period of not
330 more than one (1) year.

331 Notice of the sale of any such bonds shall be published at
332 least one time, not less than ten (10) days before the date of
333 sale, and shall be so published in one or more newspapers
334 published or having a general circulation in the City of Jackson,
335 Mississippi, and in one or more other newspapers or financial
336 journals with a national circulation, to be selected by the State
337 Bond Commission.

338 The State Bond Commission, when issuing any bonds under the
339 authority of Sections 4 through 18 of this act, may provide that
340 bonds, at the option of the State of Mississippi, may be called in
341 for payment and redemption at the call price named therein and
342 accrued interest on such date or dates named therein.

343 **SECTION 10.** Bonds issued under authority of Sections 4
344 through 18 of this act shall be revenue bonds of the state, the
345 principal of and interest on which shall be payable solely from
346 the revenue from projects authorized under Section 1 or 2 of this
347 act. The bonds shall never constitute an indebtedness of the
348 state within the meaning of any state constitutional provision or
349 statutory limitation, and shall never constitute or give rise to a
350 pecuniary liability of the state, or a charge against its general
351 credit or taxing powers, and such fact shall be plainly stated on
352 the face of each such bond. The bonds shall not be considered
353 when computing any limitation of indebtedness of the state. All
354 bonds issued under the authority of Sections 4 through 18 of this
355 act and all interest coupons applicable thereto shall be construed
356 to be negotiable instruments, despite the fact that they are
357 payable solely from a specified source.

358 **SECTION 11.** Upon the issuance and sale of bonds under the
359 provisions of Sections 4 through 18 of this act, the State Bond
360 Commission shall transfer the proceeds of any such sale or sales
361 to a special fund created in Section 4 of this act. The proceeds
362 of such bonds shall be disbursed solely upon the order of the
363 Mississippi Transportation Commission under such restrictions, if

364 any, as may be contained in the resolution providing for the
365 issuance of the bonds.

366 **SECTION 12.** The bonds authorized under Sections 4 through 18
367 of this act may be issued without any other proceedings or the
368 happening of any other conditions or things other than those
369 proceedings, conditions and things which are specified or required
370 by Sections 4 through 18 of this act. Any resolution providing
371 for the issuance of bonds under the provisions of Sections 4
372 through 18 of this act shall become effective immediately upon its
373 adoption by the commission, and any such resolution may be adopted
374 at any regular or special meeting of the commission by a majority
375 of its members.

376 **SECTION 13.** The bonds authorized under the authority of
377 Sections 4 through 18 of this act may be validated in the Chancery
378 Court of the First Judicial District of Hinds County, Mississippi,
379 in the manner and with the force and effect provided by Chapter
380 13, Title 31, Mississippi Code of 1972, for the validation of
381 county, municipal, school district and other bonds. The notice to
382 taxpayers required by such statutes shall be published in a
383 newspaper published or having a general circulation in the City of
384 Jackson, Mississippi.

385 **SECTION 14.** Any holder of bonds issued under the provisions
386 of Sections 4 through 18 of this act or of any of the interest
387 coupons pertaining thereto may, either at law or in equity, by
388 suit, action, mandamus or other proceeding, protect and enforce
389 any and all rights granted under Sections 4 through 18 of this
390 act, or under such resolution, and may enforce and compel
391 performance of all duties required by Sections 4 through 18 of
392 this act to be performed, in order to provide for the payment of
393 bonds and interest thereon.

394 **SECTION 15.** All bonds issued under the provisions of
395 Sections 4 through 18 of this act shall be legal investments for
396 trustees and other fiduciaries, and for savings banks, trust

397 companies and insurance companies organized under the laws of the
398 State of Mississippi, and such bonds shall be legal securities
399 which may be deposited with and shall be received by all public
400 officers and bodies of this state and all municipalities and
401 political subdivisions for the purpose of securing the deposit of
402 public funds.

403 **SECTION 16.** Bonds issued under the provisions of Sections 4
404 through 18 of this act and income therefrom shall be exempt from
405 all taxation in the State of Mississippi.

406 **SECTION 17.** The proceeds of the bonds issued under Sections
407 4 through 18 of this act; shall be used solely for the purposes
408 provided in Sections 4 through 18 of this act, including the costs
409 incident to the issuance and sale of such bonds.

410 **SECTION 18.** The State Treasurer is authorized, without
411 further process of law, to certify to the Department of Finance
412 and Administration the necessity for warrants, and the Department
413 of Finance and Administration is authorized and directed to issue
414 such warrants, in such amounts as may be necessary to pay when due
415 the principal of, premium, if any, and interest on, or the
416 accreted value of, all bonds issued under Sections 4 through 18 of
417 this act; and the State Treasurer shall forward the necessary
418 amount to the designated place or places of payment of such bonds
419 in ample time to discharge such bonds, or the interest thereon, on
420 the due dates thereof.

421 **SECTION 19.** Section 65-3-1, Mississippi Code of 1972, is
422 amended as follows:

423 65-3-1. Subject only to the provisions hereinafter
424 contained, it shall be unlawful for any person, acting privately
425 or in any official capacity or as an employee of any subdivision
426 of the state, to charge or collect any toll or other charge from
427 any person for the privilege of traveling on any part of any
428 highway which has been heretofore or may hereafter be designated
429 as a state highway, and being a part of the state highway system,

430 or on or across any bridge wholly within this state, which is a
431 part of any such highway.

432 For a violation of this section, any judge or chancellor may,
433 in termtime or vacation, grant an injunction upon complaint of the
434 Mississippi Transportation Commission.

435 However, none of the provisions of this section shall
436 prohibit the collection of any toll or other charge for the
437 privilege of traveling on, or the use of, any causeway, bridge,
438 tunnel, toll bridge, or any combination of such facility
439 constructed under the provisions of Sections 65-23-101 through
440 65-23-119, forming a part of U.S. Highway * * * 90 across the Bay
441 of St. Louis, or across or under the East Pascagoula River or the
442 West Pascagoula River on * * * U.S. Highway 90.

443 The provisions of this section shall be inapplicable to any
444 toll road or bridge built or operated under the authority of
445 Section 1 or Section 2 of House Bill No. _____, 2004 Regular
446 Session.

447 **SECTION 20.** Section 11-46-9, Mississippi Code of 1972, is
448 amended as follows:

449 11-46-9. (1) A governmental entity and its employees acting
450 within the course and scope of their employment or duties shall
451 not be liable for any claim:

452 (a) Arising out of a legislative or judicial action or
453 inaction, or administrative action or inaction of a legislative or
454 judicial nature;

455 (b) Arising out of any act or omission of an employee
456 of a governmental entity exercising ordinary care in reliance
457 upon, or in the execution or performance of, or in the failure to
458 execute or perform, a statute, ordinance or regulation, whether or
459 not the statute, ordinance or regulation be valid;

460 (c) Arising out of any act or omission of an employee
461 of a governmental entity engaged in the performance or execution
462 of duties or activities relating to police or fire protection

463 unless the employee acted in reckless disregard of the safety and
464 well-being of any person not engaged in criminal activity at the
465 time of injury;

466 (d) Based upon the exercise or performance or the
467 failure to exercise or perform a discretionary function or duty on
468 the part of a governmental entity or employee thereof, whether or
469 not the discretion be abused;

470 (e) Arising out of an injury caused by adopting or
471 failing to adopt a statute, ordinance or regulation;

472 (f) Which is limited or barred by the provisions of any
473 other law;

474 (g) Arising out of the exercise of discretion in
475 determining whether or not to seek or provide the resources
476 necessary for the purchase of equipment, the construction or
477 maintenance of facilities, the hiring of personnel and, in
478 general, the provision of adequate governmental services;

479 (h) Arising out of the issuance, denial, suspension or
480 revocation of, or the failure or refusal to issue, deny, suspend
481 or revoke any privilege, ticket, pass, permit, license,
482 certificate, approval, order or similar authorization where the
483 governmental entity or its employee is authorized by law to
484 determine whether or not such authorization should be issued,
485 denied, suspended or revoked unless such issuance, denial,
486 suspension or revocation, or failure or refusal thereof, is of a
487 malicious or arbitrary and capricious nature;

488 (i) Arising out of the assessment or collection of any
489 tax or fee;

490 (j) Arising out of the detention of any goods or
491 merchandise by any law enforcement officer, unless such detention
492 is of a malicious or arbitrary and capricious nature;

493 (k) Arising out of the imposition or establishment of a
494 quarantine, whether such quarantine relates to persons or
495 property;

496 (1) Of any claimant who is an employee of a
497 governmental entity and whose injury is covered by the Workers'
498 Compensation Law of this state by benefits furnished by the
499 governmental entity by which he is employed;

500 (m) Of any claimant who at the time the claim arises is
501 an inmate of any detention center, jail, workhouse, penal farm,
502 penitentiary or other such institution, regardless of whether such
503 claimant is or is not an inmate of any detention center, jail,
504 workhouse, penal farm, penitentiary or other such institution when
505 the claim is filed;

506 (n) Arising out of any work performed by a person
507 convicted of a crime when the work is performed pursuant to any
508 sentence or order of any court or pursuant to laws of the State of
509 Mississippi authorizing or requiring such work;

510 (o) Under circumstances where liability has been or is
511 hereafter assumed by the United States, to the extent of such
512 assumption of liability, including, but not limited to, any claim
513 based on activities of the Mississippi National Guard when such
514 claim is cognizable under the National Guard Tort Claims Act of
515 the United States, 32 USC 715 (32 USCS 715), or when such claim
516 accrues as a result of active federal service or state service at
517 the call of the Governor for quelling riots and civil
518 disturbances;

519 (p) Arising out of a plan or design for construction or
520 improvements to public property, including, but not limited to,
521 public buildings, highways, roads, streets, bridges, levees,
522 dikes, dams, impoundments, drainage channels, diversion channels,
523 harbors, ports, wharfs or docks, where such plan or design has
524 been approved in advance of the construction or improvement by the
525 legislative body or governing authority of a governmental entity
526 or by some other body or administrative agency, exercising
527 discretion by authority to give such approval, and where such plan

528 or design is in conformity with engineering or design standards in
529 effect at the time of preparation of the plan or design;

530 (q) Arising out of an injury caused solely by the
531 effect of weather conditions on the use of streets and highways;

532 (r) Arising out of the lack of adequate personnel or
533 facilities at a state hospital or state corrections facility if
534 reasonable use of available appropriations has been made to
535 provide such personnel or facilities;

536 (s) Arising out of loss, damage or destruction of
537 property of a patient or inmate of a state institution;

538 (t) Arising out of any loss of benefits or compensation
539 due under a program of public assistance or public welfare;

540 (u) Arising out of or resulting from riots, unlawful
541 assemblies, unlawful public demonstrations, mob violence or civil
542 disturbances;

543 (v) Arising out of an injury caused by a dangerous
544 condition on property of the governmental entity that was not
545 caused by the negligent or other wrongful conduct of an employee
546 of the governmental entity or of which the governmental entity did
547 not have notice, either actual or constructive, and adequate
548 opportunity to protect or warn against; provided, however, that a
549 governmental entity shall not be liable for the failure to warn of
550 a dangerous condition which is obvious to one exercising due care;

551 (w) Arising out of the absence, condition, malfunction
552 or removal by third parties of any sign, signal, warning device,
553 illumination device, guardrail or median barrier, unless the
554 absence, condition, malfunction or removal is not corrected by the
555 governmental entity responsible for its maintenance within a
556 reasonable time after actual or constructive notice; * * *

557 (x) Arising out of the administration of corporal
558 punishment or the taking of any action to maintain control and
559 discipline of students, as defined in Section 37-11-57, by a
560 teacher, assistant teacher, principal or assistant principal of a

561 public school district in the state unless the teacher, assistant
562 teacher, principal or assistant principal acted in bad faith or
563 with malicious purpose or in a manner exhibiting a wanton and
564 willful disregard of human rights or safety; or

565 (y) Arising out of any act or omission relating to a
566 highway, bridge or roadway project under a contract entered into
567 under Section 1 or Section 2 of House Bill No. _____, 2004 Regular
568 Session.

569 (2) A governmental entity shall also not be liable for any
570 claim where the governmental entity:

571 (a) Is inactive and dormant;

572 (b) Receives no revenue;

573 (c) Has no employees; and

574 (d) Owns no property.

575 (3) If a governmental entity exempt from liability by
576 subsection (2) becomes active, receives income, hires employees or
577 acquires any property, such governmental entity shall no longer be
578 exempt from liability as provided in subsection (2) and shall be
579 subject to the provisions of this chapter.

580 **SECTION 21.** This act shall take effect and be in force from
581 and after July 1, 2004.