

By: Representative Eaton

To: Ways and Means

## HOUSE BILL NO. 1413

1 AN ACT TO AMEND SECTION 69-46-5, MISSISSIPPI CODE OF 1972, TO  
2 PROVIDE THAT THE MISSISSIPPI LAND, WATER AND TIMBER RESOURCES  
3 BOARD MAY PROVIDE LOAN GUARANTIES ON BEHALF OF PUBLIC AND PRIVATE  
4 ENTITIES IN ANY MANNER THE BOARD DETERMINES APPROPRIATE FOR THE  
5 PURPOSES OF CARRYING OUT THE PROVISIONS OF THE MISSISSIPPI LAND,  
6 WATER AND TIMBER RESOURCES ACT; TO AMEND SECTION 69-47-7,  
7 MISSISSIPPI CODE OF 1972, TO REQUIRE THE MISSISSIPPI LAND, WATER  
8 AND TIMBER RESOURCES BOARD TO SET ASIDE \$800,000.00 OF THE MONIES  
9 IN THE MISSISSIPPI LAND, WATER AND TIMBER RESOURCES FUND FOR THE  
10 PURPOSE OF PROVIDING LOANS, GRANTS, CONTRACTS, LOAN GUARANTIES OR  
11 OTHER FORMS OF ASSISTANCE TO ANY PRIVATE ENTITY ENGAGED IN THE  
12 MANUFACTURE OF ENVIRONMENTALLY RESPONSIBLE PRODUCTS; TO AMEND  
13 SECTION 31-7-1, MISSISSIPPI CODE OF 1972, TO DEFINE THE TERMS  
14 "GREEN SEAL" AND "VOLATILE ORGANIC COMPOUNDS" FOR PURPOSES OF THE  
15 STATE PUBLIC PURCHASING LAWS; TO AMEND SECTION 31-7-15,  
16 MISSISSIPPI CODE OF 1972, TO REQUIRE THE DEPARTMENT OF FINANCE AND  
17 ADMINISTRATION TO ADOPT BID AND PRODUCT SPECIFICATIONS REQUIRING  
18 ALL STATE AGENCIES TO PROCURE ENVIRONMENTALLY RESPONSIBLE INTERIOR  
19 ARCHITECTURAL PAINT PRODUCTS; TO PROVIDE A PREFERENCE FOR THE  
20 PURCHASE OF ENVIRONMENTALLY RESPONSIBLE INTERIOR ARCHITECTURAL  
21 PAINT PRODUCTS; AND FOR RELATED PURPOSES.

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

23 **SECTION 1.** Section 69-46-5, Mississippi Code of 1972, is  
24 amended as follows:

25 69-46-5. The board shall have the following powers and  
26 duties:

27 (a) To develop marketing plans and opportunities for  
28 independent farmers in Mississippi;

29 (b) To encourage the commercialization of new  
30 agricultural technology businesses;

31 (c) To initiate the development of processing  
32 facilities for Mississippi agricultural commodities;

33 (d) To initiate the development of Mississippi  
34 wholesale distribution businesses for agricultural inputs and  
35 products;

36 (e) To promote the development of institutional and  
37 specialty markets for Mississippi agriculture products;

38 (f) To encourage additional research for new  
39 agricultural product development;

40 (g) To develop a working relationship with the state  
41 offices of the United States Department of Agriculture as may be  
42 appropriate for the promotion and development of agriculture in  
43 Mississippi;

44 (h) To promote the rural quality of life in Mississippi  
45 through such programs as 4-H, Future Farmers of America and  
46 agricultural education;

47 (i) To encourage, promote and initiate the development  
48 of alternative energy strategies, applied research technologies  
49 and commercialization enterprises that focus on Mississippi  
50 natural resources, including, but not limited to, agriculture,  
51 timber and poultry products and byproducts;

52 (j) To file an annual report with the Governor,  
53 Secretary of the Senate and the Clerk of the House of  
54 Representatives not later than December 1 of each year, with  
55 recommendations for any legislation necessary to accomplish the  
56 purposes of the Mississippi Land, Water and Timber Resources Act;

57 (k) The board may promulgate and enforce rules and  
58 regulations, in accordance with the Mississippi Administrative  
59 Procedures Law, as may be necessary to carry out the provisions of  
60 the Mississippi Land, Water and Timber Resources Act;

61 (l) To expend funds out of the Mississippi Land, Water  
62 and Timber Resources Fund to carry out its powers and duties under  
63 the Mississippi Land, Water and Timber Resources Act;

64 (m) The board may provide funds to public entities and  
65 private entities through loans, grants, contracts and any other  
66 manner the board determines appropriate for the purposes of  
67 carrying out the provisions of the Mississippi Land, Water and  
68 Timber Resources Act. The board also may provide loan guaranties

69 on behalf of public entities and private entities in any manner  
70 the board determines appropriate for the purposes of carrying out  
71 the provisions of the Mississippi Land, Water and Timber Resources  
72 Act.

73 **SECTION 2.** Section 69-46-7, Mississippi Code of 1972, is  
74 amended as follows:

75 69-46-7. (1) (a) The Mississippi Land, Water and Timber  
76 Resources Board may accept and expend funds appropriated or  
77 otherwise made available by the Legislature and funds from any  
78 other source in order to carry out the provisions of the  
79 Mississippi Land, Water and Timber Resources Act. Such funds  
80 shall be deposited into a special fund hereby established in the  
81 State Treasury, to be known as the "Mississippi Land, Water and  
82 Timber Resources Fund." Unexpended amounts derived from bond  
83 proceeds or private funds, or both, remaining in the fund at the  
84 end of a fiscal year shall not lapse into the State General Fund,  
85 and any investment earnings or interest earned on such amounts in  
86 the fund shall be deposited to the credit of the fund. All other  
87 unexpended amounts remaining in the fund at the end of a fiscal  
88 year shall lapse into the State General Fund. The board may  
89 provide to the Mississippi Department of Agriculture and Commerce  
90 not more than Two Hundred Fifty Thousand Dollars (\$250,000.00), in  
91 the aggregate, of monies in the fund, that are derived from  
92 proceeds of bonds issued under Sections 1 through 16 of Laws,  
93 2001, Chapter 538, and/or Sections 1 through 16 of Laws, 2002,  
94 Chapter 542, for the purpose of providing additional funds to  
95 defray costs incurred by the department in assisting the board in  
96 carrying out the provisions of the Mississippi Land, Water and  
97 Timber Resources Act. However, the Mississippi Department of  
98 Agriculture and Commerce may not use any portion of such funds for  
99 the purpose of hiring any person as an employee as defined in  
100 Section 25-3-91(c). The Mississippi Department of Agriculture may  
101 escalate its budget and expend such funds, when provided by the

102 board, in accordance with rules and regulations of the Department  
103 of Finance and Administration in a manner consistent with the  
104 escalation of federal funds. The board may provide to the  
105 Mississippi Development Authority not more than Two Hundred Fifty  
106 Thousand Dollars (\$250,000.00), in the aggregate, of monies in the  
107 fund that are derived from proceeds of bonds issued under Sections  
108 1 through 16 of Laws, 2001, Chapter 538, and/or Sections 1 through  
109 16 of Laws, 2002, Chapter 542, for the purpose of providing  
110 additional funds to defray costs incurred by the Mississippi  
111 Development Authority in assisting the board in carrying out the  
112 provisions of the Mississippi Land, Water and Timber Resources  
113 Act. However, the Mississippi Development Authority may not use  
114 any portion of such funds for the purpose of hiring any person as  
115 an employee as defined in Section 25-3-91(c). The Mississippi  
116 Development Authority may escalate its budget and expend such  
117 funds, when provided by the board, in accordance with rules and  
118 regulations of the Department of Finance and Administration in a  
119 manner consistent with the escalation of federal funds.

120 (b) (i) The Mississippi Land, Water and Timber  
121 Resources Board may provide to the Mississippi Department of  
122 Agriculture and Commerce not more than One Hundred Twenty-five  
123 Thousand Dollars (\$125,000.00), in the aggregate, of monies in the  
124 fund, that are derived from proceeds of bonds issued under  
125 Sections 1 through 16 of Laws, 2003, Chapter 505, for the purpose  
126 of providing additional funds to defray costs incurred by the  
127 department in assisting the board in carrying out the provisions  
128 of the Mississippi Land, Water and Timber Resources Act. However,  
129 the Mississippi Department of Agriculture and Commerce may not use  
130 any portion of such funds for the purpose of hiring any person as  
131 an employee as defined in Section 25-3-91(c). The Mississippi  
132 Department of Agriculture and Commerce may escalate its budget and  
133 expend such funds, when provided by the board, in accordance with  
134 rules and regulations of the Department of Finance and

135 Administration in a manner consistent with the escalation of  
136 federal funds.

137                   (ii) The Mississippi Land, Water and Timber  
138 Resources Board may provide to the Mississippi Development  
139 Authority not more than One Hundred Twenty-five Thousand Dollars  
140 (\$125,000.00), in the aggregate, of monies in the fund, that are  
141 derived from proceeds of bonds issued under Sections 1 through 16  
142 of Laws, 2003, Chapter 505, for the purpose of providing  
143 additional funds to defray costs incurred by the Mississippi  
144 Development Authority in assisting the board in carrying out the  
145 provisions of the Mississippi Land, Water and Timber Resources  
146 Act. However, the Mississippi Development Authority may not use  
147 any portion of such funds for the purpose of hiring any person as  
148 an employee as defined in Section 25-3-91(c). The Mississippi  
149 Development Authority may escalate its budget and expend such  
150 funds, when provided by the board, in accordance with rules and  
151 regulations of the Department of Finance and Administration in a  
152 manner consistent with the escalation of federal funds.

153                   (iii) The Mississippi Land, Water and Timber  
154 Resources Board may provide to the Department of Audit not more  
155 than Fifty Thousand Dollars (\$50,000.00), in the aggregate, of  
156 monies in the fund, that are derived from proceeds of bonds issued  
157 under Sections 1 through 16 of Laws, 2003, Chapter 505, for the  
158 purpose of providing additional funds to defray costs incurred by  
159 the department in assisting the board in carrying out the  
160 provisions of the Mississippi Land, Water and Timber Resources  
161 Act. However, the Department of Audit may not use any portion of  
162 such funds for the purpose of hiring any person as an employee as  
163 defined in Section 25-3-91(c). The Department of Audit may  
164 escalate its budget and expend such funds, when provided by the  
165 board, in accordance with rules and regulations of the Department  
166 of Finance and Administration in a manner consistent with the  
167 escalation of federal funds.

168           (2) The Mississippi Land, Water and Timber Resources Board  
169 shall set aside One Million Dollars (\$1,000,000.00) of the monies  
170 in the Mississippi Land, Water and Timber Resources Fund, that are  
171 derived from proceeds of bonds issued under Sections 1 through 16  
172 of Laws, 2003, Chapter 505, for the purpose of providing funds to  
173 the Mississippi Department of Agriculture and Commerce for use in  
174 making payments to ethanol producers under Section 69-51-5 during  
175 the state fiscal year beginning July 1, 2003, and ending June 30,  
176 2004. Any monies set aside which are not used for such purposes  
177 during the fiscal year shall no longer be set aside for such  
178 purposes after the end of the fiscal year. In addition, if the  
179 Commissioner of Agriculture and Commerce determines during such  
180 fiscal year that no ethanol producer will be eligible for such  
181 payments during the fiscal year, the commissioner shall inform the  
182 board of his determination and the monies set aside shall no  
183 longer be set aside for such purposes. The Mississippi Department  
184 of Agriculture and Commerce may escalate its budget and expend  
185 funds, when provided by the board under this subsection (2), in  
186 accordance with rules and regulations of the Department of Finance  
187 and Administration in a manner consistent with the escalation of  
188 federal funds.

189           (3) The Mississippi Land, Water and Timber Resources Board  
190 shall set aside Eight Hundred Thousand Dollars (\$800,000.00) of  
191 the monies in the Mississippi Land, Water and Timber Resources  
192 Fund for the purpose of providing any form of assistance described  
193 in Section 69-46-5(m) to any private entity engaged in the  
194 manufacturing of environmentally responsible products. For the  
195 purposes of this subsection (3), the term "environmentally  
196 responsible products" means products or services that have been  
197 verified by an independent third party to cause less toxic  
198 pollution and waste, to conserve resources and habitats, and to  
199 minimize global warming and ozone depletion.

200       (4) In anticipation of the issuance of bonds authorized for  
201 the purpose of providing funds for the Mississippi Land, Water and  
202 Timber Resources Fund, the State Bond Commission is authorized to  
203 negotiate and enter into any purchase, loan, credit or other  
204 agreement with any bank, trust company or other lending  
205 institution or to issue and sell interim notes for the purpose of  
206 carrying out the provisions of the Mississippi Land, Water and  
207 Timber Resources Act. All borrowings made under this subsection  
208 (4) shall be evidenced by notes of the State of Mississippi, which  
209 shall be issued from time to time, for such amounts, in such form  
210 and in such denomination and subject to such terms and conditions  
211 of sale and issuance, prepayment or redemption and maturity, rate  
212 or rates of interest not to exceed the maximum rate authorized for  
213 bonds in Section 75-17-101, and time of payment of interest as the  
214 State Bond Commission shall agree to in such agreement. Such  
215 notes shall constitute general obligations of the State of  
216 Mississippi, and shall be backed by the full faith and credit of  
217 the state. Such notes may also be issued for the purpose of  
218 refunding previously issued notes. No note shall mature more than  
219 three (3) years following the date of its issuance. The State  
220 Bond Commission is authorized to provide for the compensation of  
221 any purchaser of the notes by payment of a fixed fee or commission  
222 and for all other costs and expenses of issuance and service,  
223 including paying agent costs. Such costs and expenses may be paid  
224 from the proceeds of the notes. Borrowings made under the  
225 provisions of this subsection (4) shall not exceed the aggregate  
226 sum of Five Million Dollars (\$5,000,000.00) outstanding at any one  
227 time.

228       **SECTION 3.** Section 31-7-1, Mississippi Code of 1972, is  
229 amended as follows:

230       31-7-1. The following terms are defined for the purposes of  
231 this chapter to have the following meanings:

232           (a) "Agency" shall mean any state board, commission,  
233 committee, council, university, department or unit thereof created  
234 by the Constitution or statutes if such board, commission,  
235 committee, council, university, department, unit or the head  
236 thereof is authorized to appoint subordinate staff by the  
237 Constitution or statute, except a legislative or judicial board,  
238 commission, committee, council, department or unit thereof.

239           (b) "Governing authority" shall mean boards of  
240 supervisors, governing boards of all school districts, all boards  
241 of directors of public water supply districts, boards of directors  
242 of master public water supply districts, municipal public utility  
243 commissions, governing authorities of all municipalities, port  
244 authorities, commissioners and boards of trustees of any public  
245 hospitals, boards of trustees of public library systems, district  
246 attorneys, school attendance officers and any political  
247 subdivision of the state supported wholly or in part by public  
248 funds of the state or political subdivisions thereof, including  
249 commissions, boards and agencies created or operated under the  
250 authority of any county or municipality of this state. The term  
251 "governing authority" shall not include economic development  
252 authorities supported in part by private funds, or commissions  
253 appointed to hold title to and oversee the development and  
254 management of lands and buildings which are donated by private  
255 individuals to the public for the use and benefit of the community  
256 and which are supported in part by private funds.

257           (c) "Purchasing agent" shall mean any administrator,  
258 superintendent, purchase clerk or other chief officer so  
259 designated having general or special authority to negotiate for  
260 and make private contract for or purchase for any governing  
261 authority.

262           (d) "Public funds" shall mean and include any  
263 appropriated funds, special funds, fees or any other emoluments  
264 received by an agency or governing authority.



265           (e) "Commodities" shall mean and include the various  
266 commodities, goods, merchandise, furniture, equipment, automotive  
267 equipment of every kind, and other personal property purchased by  
268 the agencies of the state and governing authorities, but not  
269 commodities purchased for resale or raw materials converted into  
270 products for resale.

271           (i) "Equipment" shall be construed to include:  
272 automobiles, trucks, tractors, office appliances and all other  
273 equipment of every kind and description.

274           (ii) "Furniture" shall be construed to include:  
275 desks, chairs, tables, seats, filing cabinets, bookcases and all  
276 other items of a similar nature as well as dormitory furniture,  
277 appliances, carpets and all other items of personal property  
278 generally referred to as home, office or school furniture.

279           (f) "Emergency" shall mean any circumstances caused by  
280 fire, flood, explosion, storm, earthquake, epidemic, riot,  
281 insurrection or caused by any inherent defect due to defective  
282 construction, or when the immediate preservation of order or of  
283 public health is necessary by reason of unforeseen emergency, or  
284 when the immediate restoration of a condition of usefulness of any  
285 public building, equipment, road or bridge appears advisable, or  
286 in the case of a public utility when there is a failure of any  
287 machine or other thing used and useful in the generation,  
288 production or distribution of electricity, water or natural gas,  
289 or in the transportation or treatment of sewage; or when the delay  
290 incident to obtaining competitive bids could cause adverse impact  
291 upon the governing authorities or agency, its employees or its  
292 citizens; or in the case of a public airport, when the delay  
293 incident to publishing an advertisement for competitive bids would  
294 endanger public safety in a specific (not general) manner, result  
295 in or perpetuate a specific breach of airport security, or prevent  
296 the airport from providing specific air transportation services.

297 (g) "Construction" shall mean the process of building,  
298 altering, improving, renovating or demolishing a public structure,  
299 public building, or other public real property. It does not  
300 include routine operation, routine repair or regularly scheduled  
301 maintenance of existing public structures, public buildings or  
302 other public real property.

303 (h) "Purchase" shall mean buying, renting, leasing or  
304 otherwise acquiring.

305 (i) "Certified purchasing office" shall mean any  
306 purchasing office wherein fifty percent (50%) or more of the  
307 purchasing agents hold a certification from the Universal Public  
308 Purchasing Certification Council or other nationally recognized  
309 purchasing certification.

310 (j) "Green seal" means the independent organization  
311 that certifies that products are in fact environmentally  
312 responsible. Green Seal certification of products or services is  
313 a formal verification by an independent third party that those  
314 products or services cause less toxic pollution and waste,  
315 conserve resources and habitats, and minimize global warming and  
316 ozone depletion.

317 (k) "Volatile organic compounds" means any organic  
318 compound that can evaporate into the atmosphere and contribute to  
319 the formation of ozone or smog.

320 **SECTION 4.** Section 31-7-15, Mississippi Code of 1972, is  
321 amended as follows:

322 31-7-15. (1) Whenever two (2) or more competitive bids are  
323 received, one or more of which relates to commodities grown,  
324 processed or manufactured within this state, and whenever all  
325 things stated in such received bids are equal with respect to  
326 price, quality and service, the commodities grown, processed or  
327 manufactured within this state shall be given preference. A  
328 similar preference shall be given to commodities grown, processed  
329 or manufactured within this state whenever purchases are made

330 without competitive bids, and when practical the Department of  
331 Finance and Administration may by regulation establish reasonable  
332 preferential policies for other commodities, giving preference to  
333 resident suppliers of this state.

334 (2) Any foreign manufacturing company with a factory in the  
335 state and with over fifty (50) employees working in the state  
336 shall have preference over any other foreign company where both  
337 price and quality are the same, regardless of where the product is  
338 manufactured.

339 (3) On or before January 1, 1991, the Department of Finance  
340 and Administration shall adopt bid and product specifications to  
341 be utilized by all state agencies that encourage the procurement  
342 of commodities made from recovered materials. On or before July  
343 1, 2004, the Department of Finance and Administration also shall  
344 adopt bid and product specifications requiring all state agencies  
345 to procure environmentally responsible interior architectural  
346 paint products that are Green Seal Certified containing less than  
347 five (5) grams per liter of volatile organic compounds and possess  
348 no other known hazardous materials. Preference in awarding  
349 contracts for commodities shall be given to commodities offered at  
350 a competitive price and of comparable quality.

351 (4) Each state agency is required to procure products made  
352 from recovered materials and environmentally responsible interior  
353 architectural paint products when those products are available at  
354 a competitive price. For purposes of this subsection,  
355 "competitive price" means a price not greater than ten percent  
356 (10%) above the lowest and best bidder. A decision not to procure  
357 products made from recovered materials must be based on a  
358 determination that such procurement:

359 (a) Is not available within a reasonable period of  
360 time; or

361 (b) Fails to meet the performance standards set forth  
362 in the applicable specifications; or

363 (c) Is not available at a competitive price.

364 **SECTION 5.** This act shall take effect and be in force from  
365 and after its passage.