

Senate Amendments to House Bill No. 829

TO THE CLERK OF THE HOUSE:

THIS IS TO INFORM YOU THAT THE SENATE HAS ADOPTED THE AMENDMENTS SET OUT BELOW:

AMENDMENT NO. 1

Amend by striking all after the enacting clause and inserting in lieu thereof the following:

11 **SECTION 1.** (1) As used in this section, the term "port"
12 means a state, county or municipal port or harbor established
13 pursuant to Sections 59-5-1 through 59-5-69, Sections 59-7-1
14 through 59-7-519, Sections 59-9-1 through 59-9-85 or Sections
15 59-11-1 through 59-11-7.

16 (2) Subject to the provisions of this section, for any
17 taxpayer utilizing the port facilities at any port for the import
18 of cargo that is unloaded from a carrier calling at any such port,
19 a credit against the taxes imposed pursuant to Chapters 7 and 13
20 of Title 27, Mississippi Code of 1972, shall be allowed in the
21 amounts provided in this section. In order to be eligible for the
22 credit authorized under this section, a taxpayer must either (a)
23 locate its United States headquarters in Mississippi on or after
24 July 1, 2004, employ at least five (5) permanent full-time
25 employees who actually work at such headquarters and have a
26 minimum capital investment of Five Million Dollars (\$5,000,000.00)
27 in Mississippi; or (b) increase the annual amount of cargo
28 imported into Mississippi ports after July 1, 2004, by not less
29 than two hundred thousand (200,000) metric tons. For the purposes
30 of this section, "full-time employee" shall mean an employee who
31 works at least thirty-five (35) hours per week. In determining
32 the annual increase in cargo imported into Mississippi, the
33 taxpayer will compare the total tonnage of the imports in any
34 taxable year ending after July 1, 2004, to the total tonnage of
35 imports during its most recent taxable year ending prior to July
36 1, 2004.

37 (3) (a) Except as otherwise provided by this subsection and
38 subsection (4) of this section, the amount of the credit allowed
39 pursuant to this section shall be the total of the following
40 charges on import of cargo paid by the taxpayer:

- 41 (i) Receiving into the port;
- 42 (ii) Handling from a vessel or barge; and
- 43 (iii) Wharfage.

44 (b) The credit allowed pursuant to this section shall
45 not include charges paid by a corporation on the import of forest
46 products.

47 (4) The credit provided for in this section shall first be
48 used against the income tax liability of the taxpayer and shall
49 not exceed fifty percent (50%) of the amount of income tax imposed
50 upon the taxpayer for the taxable year reduced by the sum of all
51 other credits allowable to such taxpayer under Chapter 7 of Title
52 27, Mississippi Code of 1972, except credit for tax payments made
53 by or on behalf of the taxpayer. Any portion of the credit not
54 used as a credit against the income tax imposed upon the taxpayer
55 may be used as a credit against the franchise tax imposed upon the
56 taxpayer under Chapter 13 of Title 27, Mississippi Code of 1972.
57 Any unused portion of the credit may be carried forward for the
58 succeeding five (5) years. The maximum cumulative credit that may
59 be claimed by a taxpayer under this section that locates its
60 United States headquarters in Mississippi is limited to One
61 Million Dollars (\$1,000,000.00) if the taxpayer employs at least
62 five (5), but not more than twenty-five (25) permanent full-time
63 employees at its headquarters in Mississippi; Two Million Dollars
64 (\$2,000,000.00) if the taxpayer employs more than twenty-five
65 (25), but not more than one hundred (100) permanent full-time
66 employees at its headquarters in Mississippi; Three Million
67 Dollars (\$3,000,000.00) if the taxpayer employs more than one
68 hundred (100), but not more than two hundred (200) permanent
69 full-time employees at its headquarters in Mississippi; and Four
70 Million Dollars (\$4,000,000.00) if the taxpayer employs more than
71 two hundred (200) permanent full-time employees at its

72 headquarters in Mississippi. The maximum cumulative credit that
73 may be claimed by any other eligible taxpayer is limited to Four
74 Million Dollars (\$4,000,000.00).

75 (5) To obtain the credit provided for in this section, a
76 taxpayer must provide to the State Tax Commission a statement from
77 the governing authority of the port certifying the amount of
78 charges paid by the taxpayer for which a credit is claimed and any
79 other information required by the State Tax Commission.

80 (6) Any taxpayer who is eligible, before July 1, 2007, for
81 the credit provided for in this section, shall remain eligible for
82 such credit after July 1, 2007, notwithstanding the repeal of this
83 section.

84 **SECTION 2.** The Mississippi Development Authority shall
85 report annually to the Legislature regarding the impact of the
86 credit granted in Section 1 of this act on shipping and economic
87 growth. Each report shall show the overall annual increase in
88 shipping at each port for the most recent year for which data is
89 available and for each of the previous five (5) years. Each
90 report shall estimate the number of jobs created or retained at
91 each port and in businesses related to port activity at each port
92 since January 1, 2005, as compared to the number of similar jobs
93 created during the ten (10) years preceding January 1, 2005. Each
94 report shall state the net economic impact on the state as a
95 result of the tax credit provided for in Section 1 of this act.
96 The Mississippi Development Authority shall file a copy of the
97 report with the Governor, the Secretary of the Senate, the Clerk
98 of the House of Representatives and the Chairmen of the House Ways
99 and Means Committee and the Senate Finance Committee of the
100 Legislature on May 1 of each year. The State Tax Commission and
101 all state, county and municipal ports shall cooperate with the
102 Mississippi Development Authority in providing the information
103 required in the annual reports.

104 **SECTION 3.** Sections 1 and 2 of this act shall be repealed
105 from and after July 1, 2007.

106 **SECTION 4.** This act shall take effect and be in force from
107 and after January 1, 2005, and shall stand repealed from and after
108 December 31, 2004.

**Further, amend by striking the title in its entirety and
inserting in lieu thereof the following:**

1 AN ACT TO PROVIDE AN INCOME AND FRANCHISE TAX CREDIT FOR
2 CERTAIN TAXPAYERS THAT UTILIZE THE PORT FACILITIES AT STATE,
3 COUNTY AND MUNICIPAL PORTS EQUAL TO CERTAIN CHARGES PAID BY THE
4 TAXPAYER ON THE IMPORT OF CARGO; TO LIMIT THE CHARGES THAT MAY BE
5 USED FOR THE CREDIT; TO LIMIT THE MAXIMUM AMOUNT OF SUCH CREDIT;
6 TO PROVIDE THAT A TAXPAYER MUST PROVIDE CERTAIN INFORMATION TO THE
7 STATE TAX COMMISSION TO RECEIVE SUCH CREDIT; TO REQUIRE THE
8 MISSISSIPPI DEVELOPMENT AUTHORITY TO REPORT ANNUALLY REGARDING THE
9 IMPACT OF THIS ACT; AND FOR RELATED PURPOSES.

SS26\HB829A.2J

John O. Gilbert
Secretary of the Senate