

By: Representative Eaton (By Request)

To: Ways and Means

HOUSE BILL NO. 1391

1 AN ACT TO AUTHORIZE THE MISSISSIPPI DEVELOPMENT AUTHORITY TO
2 TAKE ACTIONS IT DETERMINES TO BE APPROPRIATE IN ORDER TO PRESERVE
3 THE STATE'S INTEREST IN CERTAIN AGRIBUSINESS ENTERPRISE PROJECTS
4 AND ASSETS OF SUCH PROJECTS FOR WHICH THE STATE ENTERED INTO A
5 LOAN GUARANTY OR OTHER AGREEMENT ON BEHALF OF UNDER THE EMERGING
6 CROPS PROGRAM; TO PROVIDE THAT SUCH ACTIONS INCLUDE ACQUIRING,
7 MARKETING, PROMOTING AND CONVEYING, SELLING, LEASING OR OTHERWISE
8 TRANSFERRING OR DISPOSING OF SUCH PROJECT AND ASSETS; TO AUTHORIZE
9 THE MISSISSIPPI DEVELOPMENT AUTHORITY TO ACQUIRE SUCH PROJECT AND
10 ASSETS FROM ANY ENTITY AND IN ANY MANNER IT DETERMINES TO BE
11 APPROPRIATE AND TO CONVEY, SELL, LEASE OR OTHERWISE TRANSFER OR
12 DISPOSE OF SUCH PROJECT AND ASSETS IN A SIMILAR MANNER; TO CREATE
13 A SPECIAL FUND IN THE STATE TREASURY FROM WHICH THE MISSISSIPPI
14 DEVELOPMENT AUTHORITY MAY EXPEND MONIES FOR SUCH PURPOSES; TO
15 TRANSFER \$5,000,000.00 FROM THE MISSISSIPPI LAND, WATER AND TIMBER
16 RESOURCES FUND TO THE SPECIAL FUND CREATED IN THIS ACT; TO AMEND
17 SECTIONS 57-1-55 AND 69-46-7, MISSISSIPPI CODE OF 1972, IN
18 CONFORMITY TO THE PROVISIONS OF THIS ACT.

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

20 **SECTION 1.** (1) For the purposes of this section, the
21 following terms shall have the meanings ascribed in this section
22 unless the context clearly indicates otherwise:

23 (a) "MDA" means the Mississippi Development Authority.

24 (b) "Project" means any agribusiness enterprise for
25 which the state, acting through the MDA, entered into a loan
26 guaranty or other agreement on behalf of under Section
27 69-2-13(3)(b) and any assets of or related to the project for
28 which the state has an interest by reason of such loan guaranty or
29 other agreement.

30 (c) "State" means the State of Mississippi.

31 (2) (a) There is hereby created in the State Treasury a
32 special fund which shall consist of funds transferred to the fund
33 under this act or otherwise made available by the Legislature in
34 any manner and funds from any other source designated for deposit
35 into such fund. Unexpended amounts remaining in the fund at the

36 end of a fiscal year shall not lapse into the State General Fund,
37 and any investment earnings or interest earned on amounts in the
38 fund shall be deposited to the credit of the fund. Monies in the
39 fund shall be used by the MDA for the purposes provided in this
40 section.

41 (b) The MDA may use monies in the special fund for the
42 purpose of defraying costs incurred by the MDA in order to
43 preserve the project and all or any assets of or related to the
44 project for which the state has an interest by reason of its loan
45 guaranty or any other agreement on behalf of the project. Such
46 costs include, but are not limited to, (i) paying to a bank any
47 interest accrued or that will accrue on the loan for which the
48 state provided a guaranty or similar agreement; (ii) expenses
49 necessary to preserve the operational integrity of the project,
50 including, but not limited to, maintenance and security services,
51 electricity and other utilities, regardless of whether such
52 expenses are for past services or for ongoing and future services;
53 (iii) reimbursing the bank for costs incurred by the bank in
54 preserving the project; (iv) marketing and promoting the project
55 and conveying, selling, leasing or otherwise transferring or
56 disposing of the project and all or any assets of or related to
57 the project for which the state has an interest by reason of its
58 loan guaranty or any other agreement on behalf of the project;
59 (iv) negotiating settlements for contracts regarding construction
60 of the project and other contracts as determined by the MDA; and
61 (v) other purposes determined by the MDA to be appropriate under
62 this section.

63 (c) In addition to the authority provided in paragraph
64 (b) of this subsection, the MDA may take any action it determines
65 to be appropriate in order to preserve, acquire, market, promote,
66 acquire, and/or convey, sell, lease or otherwise transfer or
67 dispose of the project and any or all of the assets of or related
68 to the project for which the state has an interest by reason of

69 its loan guaranty or any other agreement. The MDA may acquire
70 such project and assets from any entity, in any manner, and upon
71 any terms and conditions it determines to be appropriate, and it
72 may convey, sell, lease or otherwise transfer or dispose of such
73 project and assets in a similar manner.

74 (d) The MDA shall file a report with the Secretary of
75 the Senate and the Clerk of the House of Representatives not later
76 than July 1, 2005, and not later than the first day of each month
77 thereafter describing all actions taken by the MDA under this
78 section.

79 **SECTION 2.** The State Treasurer shall transfer to the special
80 fund created in Section 1(2) of this act, Five Million Dollars
81 (\$5,000,000.00) from the Mississippi Land, Water and Timber
82 Resources Fund created in Section 69-46-7.

83 **SECTION 3.** Section 57-1-55, Mississippi Code of 1972, is
84 amended as follows:

85 57-1-55. (1) The Mississippi Development Authority shall
86 have the following general powers and duties: To develop and
87 manage programs which enhance the climate for economic growth
88 through assistance to private sector businesses, local communities
89 and individuals, and through an extensive national and
90 international marketing effort.

91 (2) The Mississippi Development Authority shall have the
92 following general powers and duties with respect to economic
93 development:

94 (a) To plan, supervise and direct an active program of
95 solicitation of industries to locate within the state;

96 (b) To prepare, maintain and disseminate information
97 which is needed by companies in evaluating site locations;

98 (c) To consult with, advise and assist prospective
99 industries wishing to locate within the state;

100 (d) To encourage new or expanding industries, which
101 will add to the economy, to locate within the state;

- 102 (e) To maintain a coordinated liaison function with
103 other development groups, including state and federal agencies,
104 and planning and development districts, utility companies,
105 chambers of commerce and railroads;
- 106 (f) To assist communities and counties within the state
107 in preparation for economic growth;
- 108 (g) To assist new and existing business and industry
109 and encourage their development and expansion;
- 110 (h) To plan and conduct a nationwide advertising
111 program promoting the state to prospective industry. Any contract
112 entered into for such purposes shall be advertised, bid and
113 accepted in accordance with the same procedure as prescribed for
114 the advertisement and acceptance of bids for the purchase of
115 commodities and contracts for public purchases under Chapter 7,
116 Title 31, Mississippi Code of 1972;
- 117 (i) To work with economic development agencies of the
118 federal government in areas of industrial development and provide
119 information to industrial prospects regarding the availability of
120 federal funds and assistance;
- 121 (j) To work with the Department of Corrections,
122 pursuant to the provisions of Section 47-5-501 et seq., in
123 identifying and evaluating acceptable industries and businesses
124 and in acting as an agent of the Department of Corrections by
125 communicating with such concerns and aggressively soliciting their
126 participation in the Correctional Industries Work Program;
- 127 (k) To perform related work as required;
- 128 (l) To disseminate information about financial and
129 other programs of the Mississippi Development Authority that will
130 assist in the creation or expansion of industries processing wood
131 products in this state;
- 132 (m) To market processed and raw agricultural products
133 domestically and abroad;

134 (n) To aid in the establishment of business incubation
135 centers by private business interests, not for profit
136 corporations, and/or governmental entities. The department may
137 provide funds by contract for the establishment of business
138 incubation centers and may contract for space in which business
139 incubation centers will be located. Business incubation centers
140 are defined as facilities and support services that encourage the
141 establishment of successful small businesses by providing a
142 short-term sheltered environment. The department may solicit and
143 accept grants and other financial aid or support from private or
144 public sources to aid in the development of business incubation
145 centers. In addition, advice and assistance to established
146 business incubation centers may be provided by the department; and

147 (o) To employ licensed real estate brokers and
148 appraisers necessary for the industrial development of any real
149 estate under the ownership or control of the Mississippi
150 Development Authority. Any contract entered into for such
151 purposes shall be advertised, bid and accepted in accordance with
152 the same procedure as prescribed for the advertisement and
153 acceptance of bids for the purchase of commodities and contracts
154 for public purchases under Chapter 7, Title 31, Mississippi Code
155 of 1972.

156

(p) To take any action authorized under Section 1 of
157 House Bill No. 1391, 2005 Regular Session, or as otherwise may be
158 provided by law.

159 **SECTION 4.** Section 69-46-7, Mississippi Code of 1972, is
160 amended as follows:

161 69-46-7. (1) (a) The Mississippi Land, Water and Timber
162 Resources Board may accept and expend funds appropriated or
163 otherwise made available by the Legislature and funds from any
164 other source in order to carry out the provisions of the
165 Mississippi Land, Water and Timber Resources Act. Such funds
166 shall be deposited into a special fund hereby established in the

167 State Treasury to be known as the "Mississippi Land, Water and
168 Timber Resources Fund." Unexpended amounts derived from bond
169 proceeds or private funds, or both, remaining in the fund at the
170 end of a fiscal year shall not lapse into the State General Fund,
171 and any investment earnings or interest earned on such amounts in
172 the fund shall be deposited to the credit of the fund. All other
173 unexpended amounts remaining in the fund at the end of a fiscal
174 year shall lapse into the State General Fund. Five Million
175 Dollars (\$5,000,000.00) of the monies in the fund shall be
176 transferred to the special fund created in Section 1 of House Bill
177 No. 1391, 2005 Regular Session, as provided in Section 2 of House
178 Bill No. 1391, 2005 Regular Session. The board may provide to the
179 Mississippi Department of Agriculture and Commerce not more than
180 Two Hundred Fifty Thousand Dollars (\$250,000.00), in the
181 aggregate, of monies in the fund that are derived from proceeds of
182 bonds issued under Sections 1 through 16 of Chapter 538, Laws of
183 2001, and/or Sections 1 through 16 of Chapter 542, Laws of 2002,
184 for the purpose of providing additional funds to defray costs
185 incurred by the department in assisting the board in carrying out
186 the provisions of the Mississippi Land, Water and Timber Resources
187 Act. However, the Mississippi Department of Agriculture and
188 Commerce may not use any portion of such funds for the purpose of
189 hiring any person as an employee as defined in Section 25-3-91(c).
190 The Mississippi Department of Agriculture may escalate its budget
191 and expend such funds, when provided by the board, in accordance
192 with rules and regulations of the Department of Finance and
193 Administration in a manner consistent with the escalation of
194 federal funds. The board may provide to the Mississippi
195 Development Authority not more than Two Hundred Fifty Thousand
196 Dollars (\$250,000.00), in the aggregate, of monies in the fund
197 that are derived from proceeds of bonds issued under Sections 1
198 through 16 of Chapter 538, Laws of 2001, and/or Sections 1 through
199 16 of Chapter 542, Laws of 2002, for the purpose of providing

200 additional funds to defray costs incurred by the Mississippi
201 Development Authority in assisting the board in carrying out the
202 provisions of the Mississippi Land, Water and Timber Resources
203 Act. However, the Mississippi Development Authority may not use
204 any portion of such funds for the purpose of hiring any person as
205 an employee as defined in Section 25-3-91(c). The Mississippi
206 Development Authority may escalate its budget and expend such
207 funds, when provided by the board, in accordance with rules and
208 regulations of the Department of Finance and Administration in a
209 manner consistent with the escalation of federal funds.

210 (b) (i) The Mississippi Land, Water and Timber
211 Resources Board may provide to the Mississippi Department of
212 Agriculture and Commerce not more than One Hundred Twenty-five
213 Thousand Dollars (\$125,000.00), in the aggregate, of monies in the
214 fund that are derived from proceeds of bonds issued under Sections
215 1 through 16 of Chapter 505, Laws of 2003, and One Hundred
216 Twenty-five Thousand Dollars (\$125,000.00), in the aggregate, of
217 monies in the fund that are derived from proceeds of bonds issued
218 under Sections 72 through 87 of Chapter 1, Laws of 2004 Third
219 Extraordinary Session, for the purpose of providing additional
220 funds to defray costs incurred by the department in assisting the
221 board in carrying out the provisions of the Mississippi Land,
222 Water and Timber Resources Act. However, the Mississippi
223 Department of Agriculture and Commerce may not use any portion of
224 such funds for the purpose of hiring any person as an employee as
225 defined in Section 25-3-91(c). The Mississippi Department of
226 Agriculture and Commerce may escalate its budget and expend such
227 funds, when provided by the board, in accordance with rules and
228 regulations of the Department of Finance and Administration in a
229 manner consistent with the escalation of federal funds.

230 (ii) The Mississippi Land, Water and Timber
231 Resources Board may provide to the Mississippi Development
232 Authority not more than One Hundred Twenty-five Thousand Dollars

233 (\$125,000.00), in the aggregate, of monies in the fund that are
234 derived from proceeds of bonds issued under Sections 1 through 16
235 of Chapter 505, Laws of 2003, and One Hundred Twenty-five Thousand
236 Dollars (\$125,000.00), in the aggregate, of monies in the fund
237 that are derived from proceeds of bonds issued under Sections 72
238 through 87 of Chapter 1, Laws of 2004 Third Extraordinary Session,
239 for the purpose of providing additional funds to defray costs
240 incurred by the Mississippi Development Authority in assisting the
241 board in carrying out the provisions of the Mississippi Land,
242 Water and Timber Resources Act. However, the Mississippi
243 Development Authority may not use any portion of such funds for
244 the purpose of hiring any person as an employee as defined in
245 Section 25-3-91(c). The Mississippi Development Authority may
246 escalate its budget and expend such funds, when provided by the
247 board, in accordance with rules and regulations of the Department
248 of Finance and Administration in a manner consistent with the
249 escalation of federal funds.

250 (iii) The Mississippi Land, Water and Timber
251 Resources Board may provide to the Department of Audit not more
252 than Fifty Thousand Dollars (\$50,000.00), in the aggregate, of
253 monies in the fund that are derived from proceeds of bonds issued
254 under Sections 1 through 16 of Chapter 505, Laws of 2003, and
255 Fifty Thousand Dollars (\$50,000.00), in the aggregate, of monies
256 in the fund that are derived from proceeds of bonds issued under
257 Sections 72 through 87 of Chapter 1, Laws of 2004 Third
258 Extraordinary Session, for the purpose of providing additional
259 funds to defray costs incurred by the department in assisting the
260 board in carrying out the provisions of the Mississippi Land,
261 Water and Timber Resources Act. However, the Department of Audit
262 may not use any portion of such funds for the purpose of hiring
263 any person as an employee as defined in Section 25-3-91(c). The
264 Department of Audit may escalate its budget and expend such funds,
265 when provided by the board, in accordance with rules and

266 regulations of the Department of Finance and Administration in a
267 manner consistent with the escalation of federal funds.

268 (2) The Mississippi Land, Water and Timber Resources Board
269 shall set aside One Million Dollars (\$1,000,000.00) of the monies
270 in the Mississippi Land, Water and Timber Resources Fund that are
271 derived from proceeds of bonds issued under Sections 1 through 16
272 of Chapter 505, Laws of 2003, for the purpose of providing funds
273 to the Mississippi Department of Agriculture and Commerce for use
274 in making payments to ethanol producers under Section 69-51-5
275 during the state fiscal year beginning July 1, 2003, and ending
276 June 30, 2004. Any monies set aside which are not used for such
277 purposes during the fiscal year shall no longer be set aside for
278 such purposes after the end of the fiscal year. In addition, if
279 the Commissioner of Agriculture and Commerce determines during
280 such fiscal year that no ethanol producer will be eligible for
281 such payments during the fiscal year, the commissioner shall
282 inform the board of his determination and the monies set aside
283 shall no longer be set aside for such purposes. The Mississippi
284 Department of Agriculture and Commerce may escalate its budget and
285 expend funds, when provided by the board under this subsection
286 (2), in accordance with rules and regulations of the Department of
287 Finance and Administration in a manner consistent with the
288 escalation of federal funds.

289 (3) In anticipation of the issuance of bonds authorized for
290 the purpose of providing funds for the Mississippi Land, Water and
291 Timber Resources Fund, the State Bond Commission is authorized to
292 negotiate and enter into any purchase, loan, credit or other
293 agreement with any bank, trust company or other lending
294 institution or to issue and sell interim notes for the purpose of
295 carrying out the provisions of the Mississippi Land, Water and
296 Timber Resources Act. All borrowings made under this subsection
297 (3) shall be evidenced by notes of the State of Mississippi, which
298 shall be issued from time to time, for such amounts, in such form

299 and in such denomination and subject to such terms and conditions
300 of sale and issuance, prepayment or redemption and maturity, rate
301 or rates of interest not to exceed the maximum rate authorized for
302 bonds in Section 75-17-101, and time of payment of interest as the
303 State Bond Commission shall agree to in such agreement. Such
304 notes shall constitute general obligations of the State of
305 Mississippi, and shall be backed by the full faith and credit of
306 the state. Such notes may also be issued for the purpose of
307 refunding previously issued notes. No note shall mature more than
308 three (3) years following the date of its issuance. The State
309 Bond Commission is authorized to provide for the compensation of
310 any purchaser of the notes by payment of a fixed fee or commission
311 and for all other costs and expenses of issuance and service,
312 including paying agent costs. Such costs and expenses may be paid
313 from the proceeds of the notes. Borrowings made under the
314 provisions of this subsection (3) shall not exceed the aggregate
315 sum of Five Million Dollars (\$5,000,000.00) outstanding at any one
316 time.

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