

By: Representative Watson

To: Ways and Means

HOUSE BILL NO. 1045

1 AN ACT TO AMEND SECTION 27-7-22.17, MISSISSIPPI CODE OF 1972,
2 TO AUTHORIZE THE CHAIRMAN OF THE STATE TAX COMMISSION TO WAIVE THE
3 PERIOD OF TIME WITHIN WHICH THE JOBS TAX CREDIT MAY BE UTILIZED BY
4 CERTAIN PERMANENT BUSINESS ENTERPRISES THAT ARE UNABLE TO MAINTAIN
5 THE REQUIRED NUMBER OF JOBS AS A RESULT OF CERTAIN DISASTERS; TO
6 AUTHORIZE THE CHAIRMAN OF THE STATE TAX COMMISSION TO WAIVE THE
7 REQUIREMENT THAT A CERTAIN NUMBER OF JOBS BE MAINTAINED BY SUCH
8 SUPPLIERS AND EXTEND THE CARRYFORWARD PERIOD OF THE CREDIT; TO
9 PROVIDE THAT THE PERIOD OF TIME FOR WHICH THE REQUIREMENTS MAY BE
10 WAIVED AND THE CARRYFORWARD PERIOD MAY BE EXTENDED SHALL NOT
11 EXCEED THREE YEARS; AND FOR RELATED PURPOSES.

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

13 **SECTION 1.** Section 27-7-22.17, Mississippi Code of 1972, is
14 amended as follows:

15 27-7-22.17. (1) Permanent business enterprises engaged in
16 operating a project and companies that are members of an
17 affiliated group that includes such permanent business enterprises
18 are allowed a job tax credit for taxes imposed by Section 27-7-5
19 equal to Five Thousand Dollars (\$5,000.00) annually for each net
20 new full-time employee job for a period of twenty (20) years from
21 the date the credit commences; however, if the permanent business
22 enterprise is located in an area that has been declared by the
23 Governor to be a disaster area and as a result of the disaster the
24 business enterprise is unable to maintain the required number of
25 employees, the commissioner may extend this time period for not
26 more than three (3) years. The credit shall commence on the date
27 selected by the permanent business enterprise; * * *
28 however, * * * the commencement date shall not be more than five
29 (5) years from the date the business enterprise commences
30 commercial production. For the year in which the commencement
31 date occurs, the number of new full-time jobs shall be determined

32 by using the monthly average number of full-time employees subject
33 to the Mississippi income tax withholding. Thereafter, the number
34 of new full-time jobs shall be determined by comparing the monthly
35 average number of full-time employees subject to the Mississippi
36 income tax withholding for the taxable year with the corresponding
37 period of the prior taxable year. Once a permanent business
38 enterprise creates or increases employment three thousand (3,000)
39 or more, such enterprise and the members of the affiliated group
40 that include such enterprise, shall be eligible for the credit.
41 The credit is not allowed for any year of the twenty-year period
42 in which the overall monthly average number of full-time employees
43 subject to the Mississippi income tax withholding falls below
44 three thousand (3,000); however, if the permanent business
45 enterprise is located in an area that has been declared by the
46 Governor to be a disaster area and as a result of the disaster the
47 business enterprise is unable to maintain the required number of
48 employees, the commissioner may waive the employment requirement
49 for a period of time not to exceed three (3) years. The State Tax
50 Commission shall adjust the credit allowed each year for the net
51 new employment fluctuations above three thousand (3,000).

52 (2) Any tax credit claimed under this section but not used
53 in any taxable year may be carried forward for five (5)
54 consecutive years from the close of the tax year in which the
55 credits were earned; however, if the permanent business enterprise
56 is located in an area that has been declared by the Governor to be
57 a disaster area and as a result of the disaster the business
58 enterprise is unable to use the existing carryforward, the
59 commissioner may extend the period that the credit may be carried
60 forward for a period of time not to exceed three (3) years. The
61 credit that may be utilized each year shall be limited to an
62 amount not greater than the total state income tax liability of
63 the permanent business enterprise and the state income tax

64 liability of any member of the affiliated group that includes such
65 enterprise that is generated by, or arises out of, the project.

66 (3) The tax credits provided for in this section shall be in
67 lieu of the tax credits provided for in Section 57-73-21 and any
68 permanent business enterprise or any member of the affiliated
69 group that includes such enterprise utilizing the tax credit
70 authorized in this section shall not utilize the tax credit
71 authorized in Section 57-73-21.

72 (4) As used in this section:

73 (a) "Project" means a project as defined in Section
74 57-75-5(f)(iv).

75 (b) "Affiliated group" means one or more corporations
76 connected through stock ownership with a common parent corporation
77 where at least eighty percent (80%) of the voting power of all
78 classes of stock and at least eighty percent (80%) of each class
79 of the nonvoting stock of each of the member corporations, except
80 the common parent corporation, is directly owned by one or more of
81 the other member corporations; and the common parent corporation
82 directly owns stock possessing at least eighty percent (80%) of
83 the voting power of all classes of stock and at least eighty
84 percent (80%) of each class of the nonvoting stock of at least one
85 (1) of the other member corporations. As used in this subsection,
86 the term "stock" does not include nonvoting stock that is limited
87 and preferred as to dividends.

88 **SECTION 2.** This act shall take effect and be in force from
89 and after July 1, 2007.