

By: Senator(s) Fillingane, Jackson (11th)

To: Finance

SENATE BILL NO. 2343

1 AN ACT TO AMEND SECTION 57-1-221, MISSISSIPPI CODE OF 1972,
 2 TO PROVIDE THAT REPAYMENTS OF LOANS MADE FROM THE MISSISSIPPI
 3 INDUSTRY INCENTIVE FINANCING REVOLVING FUND SHALL BE DEPOSITED TO
 4 THE CREDIT OF THE MISSISSIPPI INDUSTRY INCENTIVE FINANCING
 5 REVOLVING FUND UNTIL THE BALANCE IN THE FUND REACHES
 6 \$50,000,000.00; TO PROVIDE THAT ONCE THE BALANCE IN THE FUND
 7 REACHES \$50,000,000.00, REPAYMENTS OF SUCH LOANS SHALL BE
 8 DEPOSITED TO THE CREDIT OF FUND NO. 3951 IN THE STATE TREASURY TO
 9 PAY DEBT SERVICE ON BONDS UNTIL SUCH TIME AS THE BALANCE IN THE
 10 FUND FALLS BELOW \$50,000,000.00; TO REQUIRE THE MISSISSIPPI
 11 DEVELOPMENT AUTHORITY TO NOTIFY THE CHAIRMAN OF THE SENATE FINANCE
 12 COMMITTEE AND THE CHAIRMAN OF THE HOUSE WAYS AND MEANS COMMITTEE
 13 OF THE APPROVAL OF ANY GRANT OR LOAN APPLICATION; AND FOR RELATED
 14 PURPOSES.

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

16 **SECTION 1.** Section 57-1-221, Mississippi Code of 1972, is
 17 amended as follows:

18 57-1-221. (1) As used in this section:

19 (a) "Approved business enterprise" means any project
 20 that:

21 (i) Locates or expands in this state and creates a
 22 minimum of two hundred fifty (250) new, full-time jobs with a
 23 total capital investment in the state of a minimum of Thirty
 24 Million Dollars (\$30,000,000.00) in Tier 1 or Tier 2 counties;

25 (ii) Locates or expands in this state and creates
 26 a minimum of one hundred fifty (150) new, full-time jobs with a
 27 total capital investment in the state of a minimum of Fifteen
 28 Million Dollars (\$15,000,000.00) in areas federally designated as
 29 low-income census tracts;

30 (iii) Locates or expands in this state and creates
 31 a minimum of one thousand (1,000) new, full-time jobs; or



32 (iv) Locates or expands in this state with
33 significant regional impact as determined by MDA.

34 (b) "MDA" means the Mississippi Development Authority.

35 (c) "Facility related to the project" means and
36 includes any of the following, as they may pertain to the project:

37 (i) Facilities to provide potable and industrial
38 water supply systems, sewage and waste disposal systems and water,
39 natural gas and electric transmission systems to the site of the
40 project;

41 (ii) Building facilities and equipment necessary
42 to operate the facility;

43 (iii) Rail lines;

44 (iv) Airports, airfields, air terminals and port
45 facilities;

46 (v) Highways, streets and other roadways; and

47 (vi) Fire protection facilities, equipment and
48 elevated water tanks.

49 (d) "Project" means any industrial, commercial,
50 research and development, warehousing, distribution,
51 transportation, processing, mining, United States government or
52 tourism enterprise together with all real property required for
53 construction, maintenance and operation of the enterprise that is
54 approved by the MDA.

55 (2) (a) There is created a special fund in the State
56 Treasury to be known as the Mississippi Industry Incentive
57 Financing Revolving Fund which shall consist of money from any
58 source designated for deposit into the fund. Unexpended amounts
59 remaining in the fund at the end of a fiscal year shall not lapse
60 into the State General Fund, and any interest earned on amounts in
61 the fund shall be deposited to the credit of the fund. Money in
62 the fund shall be disbursed by the Mississippi Development
63 Authority for the purposes authorized in subsection (3) of this
64 section.



65 (b) Money in the fund that is derived from the proceeds
66 of general obligation bonds may be used to reimburse reasonable
67 actual and necessary costs incurred by the MDA in providing grants
68 or loans under this section through the use of general obligation
69 bonds. An accounting of actual costs incurred for which
70 reimbursement is sought shall be maintained for each grant or loan
71 by the MDA. Reimbursement of reasonable actual and necessary
72 costs for assistance shall not exceed three percent (3%) of the
73 proceeds of bonds issued for such assistance. Reimbursements made
74 under this subsection shall satisfy any applicable federal tax law
75 requirements.

76 (3) The MDA shall establish a program to make grants or
77 loans from the Mississippi Industry Incentive Financing Revolving
78 Fund to local governments, including, but not limited to,
79 counties, municipalities, industrial development authorities and
80 economic development districts, and approved business enterprises
81 to construct or otherwise provide facilities related to the
82 project.

83 (4) (a) Any business enterprise or local government
84 desiring a grant or loan under this section shall submit an
85 application to the MDA which shall include, at a minimum:

86 (i) Evidence that the business or industry meets
87 the definition of an approved business enterprise;

88 (ii) A description, including the cost, of the
89 requested assistance;

90 (iii) A description of the purpose for which the
91 assistance is requested; and

92 (iv) Any other information required by the MDA.

93 (b) The MDA shall require that binding commitments be
94 entered into requiring that:

95 (i) The minimum requirements of this section and
96 such other requirements as the MDA considers proper shall be met;

97 and



98 (ii) If such requirements are not met, all or a
99 portion of the funds provided by this section as determined by the
100 MDA shall be repaid.

101 (c) Upon receipt of the application from a business
102 enterprise or local government for a grant or loan under this
103 section, the MDA shall determine whether the enterprise meets the
104 definition of an approved business enterprise and determine
105 whether to provide the assistance requested in the form of a grant
106 or a loan.

107 (d) The MDA shall have sole discretion in providing
108 grants or loans under this section. The terms of a grant or loan
109 provided under this section and the manner of repayment of any
110 loan shall be within the discretion of the MDA. Repayments of
111 loans made under this section shall be deposited to the credit of
112 the Mississippi Industry Incentive Financing Revolving Fund until
113 the balance in the fund reaches Fifty Million Dollars
114 (\$50,000,000.00). Once the balance in the fund reaches Fifty
115 Million Dollars (\$50,000,000.00), repayments of loans under this
116 section shall be deposited to the credit of Fund No. 3951 in the
117 State Treasury to pay debt service on bonds until such time as the
118 balance in the fund falls below Fifty Million Dollars
119 (\$50,000,000.00).

120 (e) The MDA shall notify the Chairman of the Senate
121 Finance Committee and the Chairman of the House Ways and Means
122 Committee of the approval of any grant or loan application thirty
123 (30) days prior to the disbursement of any money for the loan or
124 grant from the Mississippi Industry Incentive Financing Revolving
125 Fund. The notification shall identify the applicant and the
126 purposes for which the loan or grant is made.

127 (5) (a) Contracts, by local governments, including, but not
128 limited to, design and construction contracts, for the
129 acquisition, purchase, construction or installation of a project
130 shall be exempt from the provisions of Section 31-7-13 if:



131 (i) The MDA finds and records such finding on its
132 minutes, that because of availability or the particular nature of
133 a project, it would not be in the public interest or would less
134 effectively achieve the purposes of this section to enter into
135 such contracts on the basis of Section 31-7-13; and

136 (ii) The approved business enterprise that is
137 involved in the project concurs in such finding.

138 (b) When the requirements of paragraph (a) of this
139 subsection are met:

140 (i) The requirements of Section 31-7-13 shall not
141 apply to such contracts; and

142 (ii) The contracts may be entered into on the
143 basis of negotiation.

144 (6) It is the policy of the MDA and the MDA is authorized to
145 accommodate and support any enterprise that receives a loan under
146 this section for a project defined in Section 17-25-23 that wishes
147 to have a program of diversity in contracting, and/or that wishes
148 to do business with or cause its prime contractor to do business
149 with Mississippi companies, including those companies that are
150 small business concerns owned and controlled by socially and
151 economically disadvantaged individuals. The term "socially and
152 economically disadvantaged individuals" shall have the meaning
153 ascribed to such term under Section 8(d) of the Small Business Act
154 (15 USCS 637(d)) and relevant subcontracting regulations
155 promulgated pursuant thereto; except that women shall be presumed
156 to be socially and economically disadvantaged individuals for the
157 purposes of this subsection.

158 (7) The MDA shall promulgate rules and regulations, in
159 accordance with the Mississippi Administrative Procedures Law, for
160 the implementation of this section.

161 **SECTION 2.** This act shall take effect and be in force from
162 and after July 1, 2012.

