

By: Representatives Boyd (37th), McLean,
Mickens, Gibbs (36th)

To: Ways and Means

HOUSE BILL NO. 1617

1 AN ACT TO CREATE NEW SECTION 57-31-35, MISSISSIPPI CODE OF
2 1972, TO AUTHORIZE THE ACQUISITION AND DEVELOPMENT BY AN
3 INDUSTRIAL DEVELOPMENT AUTHORITY CREATED PURSUANT TO SECTION
4 57-31-1 ET SEQ., OR BY AN ECONOMIC DEVELOPMENT DISTRICT, CREATED
5 PURSUANT TO SECTION 19-5-99, OF AT LEAST 800 OR MORE CONTIGUOUS
6 ACRES AS A MEGASITE TO ATTRACT SIGNIFICANT INDUSTRIAL DEVELOPMENT
7 PROJECTS; TO PROVIDE FOR THE FINANCING AND DEVELOPMENT OF SUCH A
8 MEGASITE PROJECT; TO AMEND SECTIONS 19-9-1, 19-9-5 AND 43-37-3,
9 MISSISSIPPI CODE OF 1972, IN CONFORMITY TO THE PRECEDING SECTION;
10 AND FOR RELATED PURPOSES.

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

12 **SECTION 1.** The following shall be codified as Section
13 57-31-35, Mississippi Code of 1972:

14 57-31-35. (1) For the purposes of this section, the
15 following words shall have the meanings ascribed herein, unless
16 the context otherwise requires:

17 (a) "Authority" means an industrial development
18 authority created pursuant to this chapter or an economic
19 development district created pursuant to Section 19-5-99 of any
20 county in which an industrial development authority is created
21 pursuant to this chapter.



22 (b) "Costs of a megasite project" means all costs of a
23 megasite project including site preparation and other start-up
24 costs, construction, fixtures and real and personal property
25 required for the purposes of a megasite project, whether publicly
26 or privately owned, including land and any rights or undivided
27 interest therein, options, easements, franchises, fees, permits,
28 approvals, licenses, and certificates and the securing of such
29 permits, approvals, licenses, and certificates and all machinery
30 and equipment; any cost associated with the closure, post-closure
31 maintenance or corrective action on environmental matters,
32 financing charges and interest prior to and during development
33 and/or construction and during such additional period necessary
34 for the development and operation of a megasite project; costs of
35 engineering, surveying, environmental, geotechnical, architectural
36 and legal services; costs of plans and specifications and all
37 expenses necessary or incident to determining the feasibility or
38 practicability of a megasite project; administrative expenses; and
39 such other expenses as may be necessary or incidental to the
40 financing authorized in this chapter. The costs of a megasite
41 project may also include funds for the creation of a debt service
42 reserve, a renewal and replacement reserve, bond insurance and
43 credit enhancement, and such other reserves as may be authorized
44 by any bond resolution or trust agreement or indenture pursuant to
45 the provisions of which the issuance of any such bonds may be
46 authorized by a county board of supervisors pursuant to subsection



47 (3) below. Any obligation or expense incurred for any of the
48 foregoing purposes shall be regarded as a part of the costs of a
49 megasite project and may be paid or reimbursed as such out of the
50 proceeds of any revenues obtained by the county including, without
51 limitation, special assessments, general obligation bonds or notes
52 issued pursuant to Section 19-9-1 et seq. or revenue bonds or
53 notes.

54 (c) "Facilities related to a megasite" means and
55 includes the acquisition, construction, restoration, repair,
56 renovation, improvement, demolition or removal of any of the
57 following, or any portion thereof, as they may pertain to a
58 megasite and/or the development of one or more industrial projects
59 thereon: (i) megasite preparation and improvements (including
60 clearing, grubbing and grading activities); (ii) potable and
61 nonpotable water supply systems that will serve the megasite or
62 any portion thereof, whether or not such potable and nonpotable
63 water supply systems are located on or outside of the megasite;
64 (iii) sewage and waste disposal systems that will serve the
65 megasite or any portion thereof, whether or not such sewage and
66 waste disposal systems are located on or outside of the megasite;
67 (iv) storm water drainage and other drainage systems that will
68 serve the megasite or any portion thereof, whether or not such
69 storm water drainage and other drainage systems are located on or
70 outside of the megasite; (v) highways, streets and other roadways
71 located upon the megasite or which are otherwise necessary to



72 provide any access to and from the megasite or any portion
73 thereof; (vi) fire suppression and prevention systems that will
74 serve the megasite or any portion thereof, whether or not such
75 fire suppression and prevention systems are located on or outside
76 of the megasite; (vii) utility distribution systems, including,
77 but not limited to, electricity, natural gas, telephone and other
78 information and telecommunications facilities, whether by wire,
79 fiber or wireless means, that will serve the megasite, whether or
80 not such utility distribution systems are located on or outside of
81 the megasite; provided that this subsection (vii) shall not
82 empower the authority to acquire, construct, restore, repair,
83 renovate, improve, demolish or remove any utility distribution
84 system with respect to the megasite or any portion thereof which
85 the authority is not otherwise already permitted to do under other
86 applicable law; (viii) any other purposes authorized by or defined
87 in Section 19-9-1.

88 (d) "Megasite project" means the acquisition and
89 development of a megasite by an authority created pursuant to this
90 chapter for purposes of establishing a new industrial park or a
91 single or multiple parcel industrial development zone to attract
92 significant single- or multi-use industrial development projects,
93 together with, as applicable, any industrial project undertaken on
94 a megasite and/or any facilities related to a megasite.

95 (e) "Megasite" means any single tract or combination of
96 contiguous tracts, excluding intervening roadways, railways,



97 waterways or utility-ways, of at least eight hundred (800) acres
98 acquired or otherwise under the control of an authority for the
99 purposes of undertaking a megasite project on all or portion
100 thereof; provided that, in the event a megasite initially contains
101 at least eight hundred (800) acres, the use of the term megasite
102 shall also include any adjoining real property tracts that are
103 subsequently acquired or otherwise brought under the control of
104 such authority.

105 (2) An authority is authorized and empowered to:

106 (a) Acquire by gift, purchase or otherwise, and to own,
107 hold, maintain, control and develop real estate situated within
108 the county and/or any interests therein for the purposes of
109 undertaking a megasite project;

110 (b) Acquire by gift, purchase or otherwise, and to own,
111 hold, repair, maintain, control and develop any facilities related
112 to a megasite;

113 (c) Sell, lease, sublease, sub-sub lease, sell and
114 leaseback, lease and sublease-back, trade, exchange or otherwise
115 convey or dispose of a megasite project or any portions thereof or
116 any interests therein to individuals, firms or business
117 enterprises, public or private; in each of the above instances for
118 such consideration, and with such safeguards as are determined by
119 the authority will best promote and protect the public interest,
120 convenience and necessity, and to enter into and execute purchase
121 options, purchase agreements, deeds, leases, subleases,



122 development agreements and other contracts, easements and other
123 legal instruments necessary or convenient therefor. Such
124 authority is further authorized and empowered to undertake any of
125 the preceding authorized transactions, and enter into and execute
126 any contract, agreement or instruments with respect thereto on the
127 basis of negotiation with the authority without the necessity of
128 any appraisal, advertisement for proposals, bids or offers, or of
129 any other public procurement or sale requirements.

130 (3) The county board of supervisors of any county in which
131 an authority is created pursuant to this chapter is authorized to
132 (a) (i) incur bonded and floating indebtedness by issuing general
133 obligation bonds, revenue bonds or special assessment bonds as
134 authorized by any statute authorizing the issuance of such bonds,
135 (ii) accept and borrow any loan from the federal government, its
136 agencies and instrumentalities, and/or (iii) incur any other
137 indebtedness in any manner for which it is authorized by law to
138 incur debt, (b) may appropriate funds for the purposes and in the
139 manner prescribed by law, and (c) may accept and utilize grants,
140 donations or contributions from any source, whether public or
141 private, to fund any costs of a megasite project. Any revenues
142 derived from a project financed with indebtedness incurred
143 pursuant to this act may be pledged, in whole or in part, by such
144 county board of supervisors to secure payment of the bonded
145 indebtedness incurred to finance a project.



146 **SECTION 2.** Section 19-9-1, Mississippi Code of 1972, is
147 amended as follows:

148 19-9-1. The board of supervisors of any county is authorized
149 to issue negotiable bonds of the county to raise money for the
150 following purposes:

151 (a) Purchasing or erecting, equipping, repairing,
152 reconstructing, remodeling and enlarging county buildings,
153 courthouses, office buildings, jails, hospitals, nurses' homes,
154 health centers, clinics, and related facilities, and the purchase
155 of land therefor;

156 (b) Erecting, equipping, repairing, reconstructing,
157 remodeling, or acquiring county homes for indigents, and
158 purchasing land therefor;

159 (c) Purchasing or constructing, repairing, improving
160 and equipping buildings for public libraries and for purchasing
161 land, equipment and books therefor, whether the title to same be
162 vested in the county issuing such bonds or in some subdivision of
163 the state government other than the county, or jointly in such
164 county and other such subdivision;

165 (d) Establishing county farms for convicts, purchasing
166 land therefor, and erecting, remodeling, and equipping necessary
167 buildings therefor;

168 (e) Constructing, reconstructing, and repairing roads,
169 highways and bridges, and acquiring the necessary land, including
170 land for road building materials, acquiring rights-of-way



171 therefor; and the purchase of heavy construction equipment and
172 accessories thereto reasonably required to construct, repair and
173 renovate roads, highways and bridges and approaches thereto within
174 the county;

175 (f) Erecting, repairing, equipping, remodeling or
176 enlarging or assisting or cooperating with another county or other
177 counties in erecting, repairing, equipping, remodeling, or
178 enlarging buildings, and related facilities for an agricultural
179 high school, or agricultural high school-junior college, including
180 gymnasiums, auditoriums, lunchrooms, vocational training
181 buildings, libraries, teachers' homes, school barns, garages for
182 transportation vehicles, and purchasing land therefor;

183 (g) Purchasing or renting voting machines and any other
184 election equipment to be used in elections held within the county;

185 (h) Constructing, reconstructing or repairing boat
186 landing ramps and wharves fronting on the Mississippi Sound or the
187 Gulf of Mexico and on the banks or shores of the inland waters,
188 levees, bays and bayous of any county bordering on the Gulf of
189 Mexico or fronting on the Mississippi Sound, having two (2)
190 municipalities located therein, each with a population in excess
191 of twenty thousand (20,000) in accordance with the then last
192 preceding federal census;

193 (i) Assisting the Board of Trustees of State
194 Institutions of Higher Learning, the Office of General Services or
195 any other state agency in acquiring a site for constructing



196 suitable buildings and runways and equipping an airport for any
197 state university or other state-supported four-year college now or
198 hereafter in existence in such county;

199 (j) Aiding and cooperating in the planning,
200 undertaking, construction or operation of airports and air
201 navigation facilities, including lending or donating money,
202 pursuant to the provisions of the airport authorities law, being
203 Sections 61-3-1 through 61-3-83, Mississippi Code of 1972,
204 regardless of whether such airports or air navigation facilities
205 are located in the county or counties issuing such bonds;

206 (k) Establishing rubbish and garbage disposal systems
207 in accordance with the provisions of Sections 19-5-17 through
208 19-5-27;

209 (l) Defraying the expenses of projects of the county
210 cooperative service district in which it is a participating
211 county, regardless of whether the project is located in the county
212 issuing such bonds;

213 (m) Purchasing machinery and equipment which have an
214 expected useful life in excess of ten (10) years. The life of
215 such bonds shall not exceed the expected useful life of such
216 machinery and equipment. Machinery and equipment shall not
217 include any motor vehicle weighing less than twelve thousand
218 (12,000) pounds;



219 (n) Purchasing fire fighting equipment and apparatus,
220 and providing housing for the same and purchasing land necessary
221 therefor;

222 (o) A project for which a certificate of public
223 convenience and necessity has been obtained by the county pursuant
224 to the Regional Economic Development Act;

225 (p) Constructing dams or low-water control structures
226 on lakes or bodies of water under the provisions of Section
227 19-5-92;

228 (q) For the purposes provided for in Section
229 57-75-37 * * *; and

230 (r) For the purposes provided for in Section 57-31-35.

231 **SECTION 3.** Section 19-9-5, Mississippi Code of 1972, is
232 amended as follows:

233 19-9-5. No county shall hereafter issue bonds secured by a
234 pledge of its full faith and credit for the purposes authorized by
235 law in an amount which, when added to the then outstanding bonds
236 of such county, shall exceed either (a) fifteen percent (15%) of
237 the assessed value of the taxable property within such county
238 according to the last completed assessment for taxation, or (b)
239 fifteen percent (15%) of the assessment upon which taxes were
240 levied for its fiscal year ending September 30, 1984, whichever is
241 greater.

242 However, any county in the state which shall have experienced
243 washed-out or collapsed bridges on the public roads of the county



244 for any cause or reason may hereafter issue bonds for bridge
245 purposes as now authorized by law in an amount which, when added
246 to the then outstanding general obligation bonds of such county,
247 shall not exceed either (a) twenty percent (20%) of the assessed
248 value of the taxable property within such county according to the
249 last completed assessment for taxation or (b) fifteen percent
250 (15%) of the assessment upon which taxes were levied for its
251 fiscal year ending September 30, 1984, whichever is greater.

252 Provided further, in computing such indebtedness, there may
253 be deducted all bonds or other evidences of indebtedness
254 heretofore or hereafter issued, for the construction of hospitals,
255 ports or other capital improvements which are payable primarily
256 from the net revenue to be generated from such hospital, port or
257 other capital improvement, which revenue shall be pledged to the
258 retirement of such bonds or other evidences of indebtedness,
259 together with the full faith and credit of the county. However,
260 in no case shall any county contract any indebtedness payable, in
261 whole or in part, from proceeds of ad valorem taxes which, when
262 added to all of the outstanding general obligation indebtedness,
263 both bonded and floating, shall exceed either (a) twenty percent
264 (20%) of the assessed value of all taxable property within such
265 county according to the last completed assessment for taxation, or
266 (b) fifteen percent (15%) of the assessment upon which taxes were
267 levied for its fiscal year ending September 30, 1984, whichever is
268 greater. Nothing herein contained shall be construed to apply to



269 contract obligations in any form heretofore or hereafter incurred
270 by any county which are subject to annual appropriations therefor,
271 or to bonds heretofore or hereafter issued by any county for
272 school purposes, or to bonds issued by any county under the
273 provisions of Sections 57-1-1 through 57-1-51, or to any
274 indebtedness incurred under Section 55-23-8, or to bonds issued
275 under Section 57-75-37 or to any other indebtedness incurred under
276 Sections 57-75-37(4), * * * 57-75-37(5) * * *, * * *
277 57-75-37(6), * * * 57-75-37(7) or Section 57-31-35.

278 **SECTION 4.** Section 43-37-3, Mississippi Code of 1972, is
279 amended as follows:

280 43-37-3. (1) Any person, agency or other entity acquiring
281 real property for any project or program in which public funds are
282 used shall comply with the following policies:

283 (a) Every reasonable effort shall be made to acquire
284 expeditiously real property by negotiation.

285 (b) Real property shall be appraised before the
286 initiation of negotiations, except that the acquiring person,
287 agency or other entity may adopt a procedure in compliance with
288 federal regulations to waive the appraisal in cases involving the
289 acquisition by sale or donation of property with a low fair market
290 value. For the purposes of this chapter, property with a low fair
291 market value is property with a fair market value of Ten Thousand
292 Dollars (\$10,000.00) or less. The owner or his designated



293 representative shall be given an opportunity to accompany the
294 appraiser during his inspection of the property.

295 (c) (i) Except as otherwise provided in subparagraph
296 (ii) of this paragraph, the price that shall be paid for real
297 property shall be the lesser of the best negotiated price or the
298 approved appraisal of the fair market value or the price at which
299 the property is offered for sale. Any decrease or increase in the
300 fair market value of real property prior to the date of valuation
301 caused by the public improvement for which the property is
302 acquired or by the likelihood that the property would be acquired
303 for such improvement, other than that due to physical
304 deterioration within the reasonable control of the owner, will be
305 disregarded in determining the compensation for the property. The
306 owner of the real property to be acquired shall be provided with a
307 written statement of, and summary of the basis for, the amount
308 established as just compensation. Where appropriate, the just
309 compensation for the real property acquired and for damages to
310 remaining real property shall be separately stated.

311 (ii) The purchase price for real property may
312 exceed the amount offered as just compensation for the property
313 when reasonable efforts to negotiate an agreement at that amount
314 have failed, and the person, agency or other entity seeking to
315 acquire the property approves an administrative settlement as
316 reasonable, prudent and in the best interests of the public. When
317 state funds pay for all or a portion of the acquisition, the



318 purchasing person, agency or other entity shall prepare a written
319 statement explaining the reasons that justified the purchase price
320 exceeding the amount offered as just compensation, including any
321 anticipated trial risks, and any available information supporting
322 an administrative settlement.

323 (d) No owner shall be required to surrender possession
324 of real property before the agreed purchase price is paid or there
325 is deposited with the state court, in accordance with applicable
326 law, for the benefit of the owner an amount not less than the
327 approved appraisal of the fair market value of such property, or
328 the amount of the award of compensation in the condemnation
329 proceeding of such property.

330 (e) The construction or development of a public
331 improvement shall be so scheduled that, to the greatest extent
332 practicable, no person lawfully occupying real property shall be
333 required to move from a dwelling (assuming a replacement dwelling
334 will be available) or to move his business or farm operation
335 without at least ninety (90) days' written notice from the date by
336 which such move is required.

337 (f) If an owner or tenant is permitted to occupy the
338 real property acquired on a rental basis for a short term or for a
339 period subject to termination by the acquiring authority on short
340 notice, the amount of rent required shall not exceed the fair
341 rental value of the property to a short-term occupier.



342 (g) In no event shall the time of condemnation be
343 advanced, or negotiations or condemnation and the deposit of funds
344 in court for the use of the owner be deferred, or any other
345 coercive action be taken to compel an agreement on the price to be
346 paid for the property.

347 (h) If an interest in real property is to be acquired
348 by exercise of power of eminent domain, formal condemnation
349 proceedings shall be instituted. The acquiring authority shall
350 not intentionally make it necessary for an owner to institute
351 legal proceedings to prove the fact of the taking of his real
352 property.

353 (i) If the acquisition of only part of the property
354 would leave its owner with an uneconomic remnant, an offer to
355 acquire that remnant shall be made. For the purposes of this
356 chapter, an uneconomic remnant is a parcel of real property in
357 which the owner is left with an interest after the partial
358 acquisition of the owner's property and which the person, agency
359 or other entity acquiring the property determines has little or no
360 value or utility to the owner.

361 (j) A person whose real property is being acquired in
362 accordance with this chapter may, after the person has been fully
363 informed of his right to receive just compensation for such
364 property, donate such property, any part thereof, any interest
365 therein or any compensation paid therefor to the person, agency or



366 other entity acquiring the property in such manner as he so
367 determines.

368 (2) Any real property acquired by any person, agency or
369 other entity using public funds in accordance with Section
370 57-75-37(3), Section 57-75-37(4), Section 57-75-37(5), Section
371 57-75-37(6), * * * Section 57-75-37(7) or Section 57-31-35 shall
372 be exempt from the provisions of subsection (1)(b) and (c) of this
373 section to the extent permitted by Section 57-75-37(3), Section
374 57-75-37(4), Section 57-75-37(5), Section 57-75-37(6), * * *
375 Section 57-75-37(7) or Section 57-31-5.

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

