

By: Senator(s) Sparks, Harkins

To: Finance

SENATE BILL NO. 2846
(As Passed the Senate)

1 AN ACT TO AMEND SECTION 17-25-27, MISSISSIPPI CODE OF 1972,
2 TO REVISE THE DEFINITION OF AN ECONOMIC DEVELOPMENT PROJECT TO
3 ALSO INCLUDE QUALIFIED PROJECTS, AS DEFINED IN THE MISSISSIPPI
4 FLEXIBLE TAX INCENTIVE ACT; TO AUTHORIZE A COUNTY BOARD OF
5 SUPERVISORS OR A MUNICIPAL GOVERNING AUTHORITY TO ENTER INTO AN
6 AGREEMENT WITH A QUALIFIED BUSINESS ENTERPRISE TO, EITHER
7 INDIVIDUALLY OR COOPERATIVELY, FUND OR REIMBURSE THE QUALIFIED
8 BUSINESS ENTERPRISE FOR CERTAIN QUALIFIED PROJECT COSTS INCURRED
9 IN CONNECTION WITH A QUALIFIED DEVELOPMENT OR REDEVELOPMENT
10 PROJECT SOLELY USING REVENUES DERIVED FROM THE PROJECT; AND FOR
11 RELATED PURPOSES.

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

13 **SECTION 1.** Section 17-25-27, Mississippi Code of 1972, is
14 amended as follows:

15 17-25-27. (1) (a) As used in this subsection (1),
16 "economic development project" means (i) any project in which the
17 State of Mississippi has committed state or federal program funds
18 to incentivize a company to locate or expand a business in the
19 state and create or maintain jobs within the state, or (ii) a
20 qualified project, as defined in Section 57-114-3 of the
21 Mississippi Flexible Tax incentive Act.



(* * *b) The board of supervisors of a county or the governing authorities of a municipality may enter into agreements with an economic development project that are binding on future boards of supervisors of the county or governing authorities of the municipality:

(* * *i) To provide water, sewer and other county or municipal services; and/or

(* * *ii) Providing that the board of supervisors or governing authorities will agree in advance to approve any request for exemption from ad valorem taxes in the manner provided by law and that any such exemption shall be for a period of ten (10) years.

(* * *2) * * * (a) For the purposes of this subsection (2), the following words shall have the meanings ascribed herein, unless the context otherwise requires:

(i) "County" means any county of this state.

(ii) "Costs of a project" means all costs and expenses of a project or facilities related to a project, such as site preparation and improvements (including clearing, grubbing and grading activities) and other startup costs; acquisition, construction, restoration, repair, renovation, improvement, relocation, demolition or removal costs; and costs of fixtures, equipment and other personal property; which, in all such cases, are required for the purposes of a project or facilities related to a project, whether publicly or privately owned, including,



47 without limitation, any costs associated with land and any rights
48 or undivided interest therein, options, easements, franchises,
49 fees, permits, approvals, licenses and certificates; costs
50 associated with the closure, post-closure maintenance or
51 corrective action on environmental matters; professional services
52 costs, such as costs of engineering, surveying, environmental,
53 geotechnical, architectural and legal services; and costs of plans
54 and specifications and all expenses necessary or incident to
55 determining the feasibility or practicability of a project or any
56 facilities related to a project. Any obligation or expense
57 incurred for any of the foregoing purposes shall be regarded as a
58 part of the costs of a project and may be paid or reimbursed as
59 such out of the proceeds of any revenues derived by any local
60 governmental unit from a project or any facilities related to a
61 project.

62 (iii) "Qualified business enterprise" means any
63 corporation, limited liability company, partnership, person or
64 sole proprietorship, business trust or other legal entity and
65 subunit or affiliate thereof, that enters into an agreement under
66 this subsection (2) with one or more local governmental units
67 pursuant to which the qualified business enterprise agrees to
68 undertake a project or any portion thereof under this subsection
69 (2).

70 (iv) "Facilities related to a project" means and
71 includes the acquisition, construction, restoration, repair,



renovation, improvement, relocation, demolition or removal of: 1.
potable and nonpotable water supply systems that will serve the
project or any portion thereof; 2. sewage and waste disposal
systems that will serve the project or any portion thereof; 3.
stormwater drainage and other drainage systems that will serve the
project or any portion thereof; 4. highways, streets and other
roadways that will provide any access to or from the project or
any portion thereof; 5. fire suppression or prevention systems
that will serve the project or any portion thereof; and 6. utility
distribution systems, including, but not limited to, electricity,
natural gas, telephone and other information and
telecommunications facilities, whether by wire, fiber or wireless
means, that will serve the project or any portion thereof.

(v) "Local authority" means the board of
supervisors of a county or the governing authority of a
municipality.

(vi) "Local governmental unit" means any county or
municipality.

(vii) "Municipality" means any incorporated
municipality in the state.

(viii) "Project" means the development,
redevelopment, construction, reconstruction, rehabilitation,
restoration, or conservation of one or more buildings or other
real property improvements within a local governmental unit for
any commercial, industrial, entertainment or recreational



97 purposes, or otherwise for any public use, and which project is
98 determined by one or more local authorities, as applicable, to
99 promote economic development, assist in the creation of jobs or
100 promote the reconstruction, rehabilitation, restoration or
101 conservation of one or more buildings or other real property
102 improvements within a local governmental unit.

103 (ix) "Project revenues" means any and all taxes,
104 fees, rates, rentals, profits and receipts collected by, payable
105 to or otherwise derived by a local governmental unit, and all
106 other monies and income of whatever kind or character collected
107 by, payable to or otherwise derived by a local governmental unit
108 from a project or any facilities related to a project as provided
109 through this subsection (2).

110 (b) (i) Subject to paragraph (c) of this subsection
111 (2), a local governmental unit, or two (2) or more local
112 governmental units working cooperatively, may enter into an
113 agreement with a qualified business enterprise pursuant to which
114 1. one or more local governmental units, as applicable, may use
115 project revenues to pay any costs of a project, and/or 2. a. the
116 qualified business enterprise may agree to undertake or otherwise
117 fund all or any part of a project or any facilities related to a
118 project using private funds, and b. one or more local governmental
119 units, as applicable, may agree to reimburse the qualified
120 business enterprise for its costs of a project or facilities
121 related to a project actually incurred by the qualified business



enterprise solely using project revenues. Any payments or
reimbursements of costs of a project by any local governmental
unit may be conditioned upon such terms and conditions and
containing such safeguards, including, without limitation, project
deadlines and benchmarks, as the local authority of each local
governmental unit that is party to the agreement determines will
best promote and protect the public interest, convenience and
necessity; provided, however, that in no event shall more than
Five Million Dollars (\$5,000,000.00) in costs of a project be
cumulatively paid or reimbursed by one or more local governmental
units under the agreement or otherwise under this subsection (2).

(ii) Any cooperative undertaking entered into
under this subsection (2) by two (2) or more governmental units
shall be evidenced by a written contractual agreement for such
cooperative action. Subject to paragraph (c) of this subsection
(2), the written agreement with a qualified business enterprise
authorized in subparagraph (i) of this paragraph (b) shall be
sufficient if all participating local governmental units are
parties to such written agreement with the qualified business
enterprise.

(iii) Subject to paragraph (c) of this subsection
(2), appropriate action by order or resolution of each
participating local governmental unit shall be necessary before
any agreement authorized under this subsection (2) shall be in



146 force without the necessity of compliance with Section 17-13-1 et
147 seq.

148 (c) (i) Every agreement made by a local government
149 unit under this subsection (2) shall, prior to and as a condition
150 precedent to its entry into force, be submitted to the Mississippi
151 Development Authority, which shall determine:

152 1. Whether the agreement is in proper form
153 and compatible with the laws of this state; and

154 2. Determine whether the agreement and the
155 project described therein are appropriate for the issuance of an
156 initial certificate of public convenience and necessity to the
157 local government units authorizing the agreement.

158 If the Mississippi Development Authority determines that the
159 agreement and project are appropriate, the Mississippi Development
160 Authority shall issue an initial certificate of public convenience
161 and necessity authorizing the agreement and project.

162 (ii) The Mississippi Development Authority may
163 require and prescribe the form of an application to accompany each
164 agreement submitted by one or more local governing units pursuant
165 to this subsection (2). Any such application, if prescribed by
166 the Mississippi Development Authority, may be submitted by any
167 local governing unit, or jointly by multiple local governing
168 units, if applicable, that will be a party to the associated
169 agreement accompanying the application.



170 (iii) Failure by the Mississippi Development
171 Authority to disapprove an agreement submitted hereunder within
172 sixty (60) days of its submission shall constitute approval
173 thereof.

174 (3) The agreements authorized under this section may be for
175 a period not to exceed twenty (20) years and shall be binding on
176 future boards of supervisors of a county and governing authorities
177 of a municipality.

178 (4) The powers and authority granted and set forth in this
179 section shall be additional and supplemental to any other powers
180 and authority granted by law and shall not amend, repeal or
181 supersede any other powers and authority granted by law.

182 **SECTION 2.** This act shall take effect and be in force from
183 and after its passage.

