

By: Chamberlin

To: Finance

SENATE BILL NO. 3063

1 AN ACT TO AMEND SECTION 65-4-5, MISSISSIPPI CODE OF 1972, TO  
2 INCLUDE POWER PLANTS WITHIN THE DEFINITION OF PRIVATE COMPANY  
3 UNDER THE ECONOMIC DEVELOPMENT HIGHWAY ACT; TO AMEND SECTION  
4 65-4-7, MISSISSIPPI CODE OF 1972, TO AUTHORIZE THE UTILIZATION OF  
5 ECONOMIC DEVELOPMENT HIGHWAY ACT FUNDS TO CONSTRUCT OR IMPROVE  
6 GAS, WATER OR SEWER FACILITIES IN CONNECTION WITH THE CONSTRUCTION  
7 OR IMPROVEMENT OF HIGHWAY SEGMENTS UNDER SUCH ACT; TO AMEND  
8 SECTIONS 65-4-9, 65-4-11, 65-4-13 AND 65-4-15, MISSISSIPPI CODE OF  
9 1972, IN CONFORMITY THERETO; AND FOR RELATED PURPOSES.

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

11 SECTION 1. Section 65-4-5, Mississippi Code of 1972, is  
12 amended as follows:[WAN1]

13 65-4-5. (1) The following words when used in this chapter  
14 shall have the meanings herein ascribed unless the context  
15 otherwise clearly requires:

16 (a) "Board" means the Mississippi Department of  
17 Economic and Community Development;

18 (b) "Department" means the Mississippi Department of  
19 Transportation;

20 (c) "High economic benefit project" means (i) any new  
21 investment by a private company with capital investments in land,  
22 buildings, depreciable fixed assets and improvements of at least  
23 Fifty Million Dollars (\$50,000,000.00); (ii) any new investment of  
24 at least Twenty Million Dollars (\$20,000,000.00) by a private  
25 company having capital investments in this state in land,  
26 buildings, depreciable fixed assets and improvements of at least  
27 One Billion Dollars (\$1,000,000,000.00) in the aggregate; (iii)  
28 public investment of at least One Hundred Million Dollars  
29 (\$100,000,000.00) to take place over a specified period of time

30 and in accordance with a master plan duly adopted by the  
31 controlling political subdivision; (iv) any new investments in  
32 land, buildings, depreciable fixed assets and improvements by two  
33 (2) private companies upon land that is adjacent whenever the new  
34 investments of both companies is at least Sixty Million Dollars  
35 (\$60,000,000.00) in the aggregate, and such new investments by  
36 both private companies provide for the employment of at least five  
37 hundred (500) employees in the aggregate; (v) any project which  
38 would benefit from the construction of any highway bypass which  
39 would aid in economic development and would provide an alternate  
40 route to avoid an existing route which underpasses a railroad and  
41 which would aid in existing or proposed industry; or (vi) any  
42 master planned community consisting of an integrated commercial,  
43 industrial, recreational, educational, health care and residential  
44 development and improvements located on a project site of which  
45 not less than fifty percent (50%) of the housing units within such  
46 residential development is set aside for and devoted to retirees  
47 and which development is the product of a long-range, multi-phase  
48 development plan combining a complementary mix of land uses  
49 representing unifying characteristics and design elements and  
50 providing comprehensive planning and logical and staged  
51 implementation and development;

52 (d) "Political subdivision" means one or more counties  
53 or incorporated municipalities in the state, or a state-owned port  
54 located in a county bordering on the Gulf of Mexico;

55 (e) "Private company" means (i) any agricultural,  
56 aquacultural, maricultural, processing, distribution, warehousing,  
57 manufacturing or research and development enterprise; (ii) any air  
58 transportation and maintenance facility, regional shopping mall,  
59 hospital, large hotel, resort or movie industry studio; (iii) the  
60 federal government with respect to any specific project which  
61 meets the criteria established in paragraph (c)(i) of this  
62 subsection; (iv) any existing or proposed industry in regard to a  
63 project described in paragraph (c)(v) of this subsection; \* \* \*  
64 (v) a developer with respect to any specific project which meets  
65 the criteria established in paragraph (c)(vi) of this subsection  
66 or (vi) any power plant.

67 (2) The Mississippi Department of Transportation is hereby  
68 authorized to purchase rights-of-way and construct and maintain  
69 roads and highways authorized to be constructed pursuant to this  
70 chapter.

71 SECTION 2. Section 65-4-7, Mississippi Code of 1972, is  
72 amended as follows:[WAN2]

73 65-4-7. Any political subdivision desiring the assistance of  
74 the state in order to construct or improve any highways or highway  
75 segments, or to construct or improve gas, water or sewer  
76 facilities in connection with the construction or improvement of  
77 such highways or highway segments, the primary purpose of such  
78 construction or improvement being to encourage a private company  
79 to engage in a high economic benefit project within the geographic  
80 boundaries of the political subdivision, may apply to the board  
81 for such approval and assistance. The application from the  
82 political subdivision shall include, but not be limited to:

83 (a) A description of the highways or highway segments  
84 requested to be constructed or improved;

85 (b) A description of the gas, water or sewer facilities  
86 requested to be constructed or improved;

87 (c) A certified resolution from the governing  
88 authorities of the political subdivision detailing the source and  
89 amount of funds which the political subdivision has committed or  
90 is willing to commit for construction or improvement of such  
91 highways or highway segments or gas, water or sewer facilities;

92 (d) A certified copy of a signed letter of intent from  
93 the private company to the political subdivision describing in  
94 detail the high economic benefit project in which it is committed  
95 to engage upon construction or improvement of the highways or  
96 highway segments or gas, water or sewer facilities within the  
97 political subdivision and the proposed timetable for completion of  
98 such project;

99 (e) Demonstration that the private company is

100 financially sound and is likely to fulfill the commitments made in  
101 its letter of intent; and

102           (f) An estimate by the private company of the number,  
103 size and weight of motor vehicles and the frequency of travel of  
104 such vehicles upon the highways or highway segments requested to  
105 be constructed or improved after completion of the project by the  
106 private company.

107           (g) An estimate by the private company of its gas,  
108 water and sewer facility needs.

109           SECTION 3. Section 65-4-9, Mississippi Code of 1972, is  
110 amended as follows:[WAN3]

111           65-4-9. Upon receipt of an application by a political  
112 subdivision as provided under Section 65-4-7, Mississippi Code of  
113 1972, the board shall review the application and may approve the  
114 application if it determines:

115           (a) The highways or highway segments or gas, water or  
116 sewer facilities for which the political subdivision is requesting  
117 assistance in constructing or improving are necessary and  
118 essential to ensure adequate and appropriate access to the  
119 proposed project or to ensure the gas, water and sewer needs of  
120 the proposed project are met for the purpose of encouraging its  
121 location within the geographical boundaries of the political  
122 subdivision;

123           (b) The project proposed by the private company meets  
124 the definition of a "high economic benefit project" as such term  
125 is defined in Section 65-4-5, Mississippi Code of 1972;

126           (c) The private company has demonstrated financial  
127 soundness and appears to have such assets and credit worthiness as  
128 to permit it to secure necessary funds to complete the project  
129 according to its commitments; and

130           (d) The costs for the construction or improvement of  
131 such highways or highway segments or the gas, water or sewer  
132 facilities to be funded hereunder will not exceed the funds

133 available in the Economic Development Highway Fund created by  
134 Section 65-4-15, Mississippi Code of 1972.

135 SECTION 4. Section 65-4-11, Mississippi Code of 1972, is  
136 amended as follows:[WAN4]

137 65-4-11. Before approving any application under this chapter  
138 the board shall have the Mississippi Department of Transportation,  
139 or the political subdivision, if the political subdivision will  
140 have the construction or improvement performed, prepare and submit  
141 to it a detailed engineering study and report of all estimated  
142 costs associated with the construction and improvement of the  
143 highways and highway segments or the gas, water or sewer  
144 facilities requested by the application of the political  
145 subdivision along with the estimated annual costs necessary to be  
146 expended for maintenance of the highways or highway segments. If  
147 the political subdivision will have the construction or  
148 improvement performed on a state designated highway that will be  
149 maintained by the Mississippi Department of Transportation, the  
150 board shall not approve the application of such political  
151 subdivision for construction and improvement of highways or  
152 highway segments until the engineering study of all estimated cost  
153 associated with the construction and improvement of the highways  
154 and highway segments required in this section has been submitted  
155 by the board to the Mississippi Department of Transportation and  
156 has been certified by the Transportation Department to the board  
157 as proposing construction or improvement of highways and highway  
158 segments that meets Transportation Department standards for such  
159 work. If the political subdivision will have the construction or  
160 improvement performed on a highway that is not on the designated  
161 state highway system, the board shall not approve the application  
162 of such political subdivision until the engineering study required  
163 in this section has been submitted by the board to the Office of  
164 State Aid Road Construction and has been certified by the Office  
165 of State Aid Road Construction to the board as proposing

166 construction or improvement of highways and highway segments that  
167 meets Office of State Aid Road Construction standards for such  
168 work.

169 The Mississippi Department of Transportation or the Office of  
170 State Aid Road Construction, as the case may be, may recommend  
171 modifications to the location and route of those highways and  
172 highway segments proposed in the application of the political  
173 subdivision if such modifications are more cost effective and  
174 would not have a substantially negative economic impact on the  
175 project of the private company.

176 SECTION 5. Section 65-4-13, Mississippi Code of 1972, is  
177 amended as follows:[WAN5]

178 65-4-13. If, after reviewing the application of the  
179 political subdivision and the report of the State Highway  
180 Department or political subdivision, the board determines that the  
181 application meets the requirements for approval and should be  
182 approved, the board shall notify the political subdivision and the  
183 department of its approval and contracts may be let. Upon  
184 certification by the board that monies currently available in the  
185 Economic Development Highway Fund are sufficient to defray the  
186 costs of the construction or improvement, then contracts with  
187 respect to such work may be executed by the \* \* \* department or  
188 political subdivision and work necessary for the construction or  
189 improvement of the highways and highway segments or the gas, water  
190 or sewer facilities so approved shall commence by the \* \* \*  
191 department or political subdivision, as determined by the  
192 Department of Economic and Community Development. If the  
193 construction or improvement of a highway or highway segment is by  
194 a political subdivision, the State Aid Engineer shall have such  
195 work inspected periodically during the progress of such  
196 construction or improvement to ensure that it meets the standards  
197 prescribed in Section 65-4-17, Mississippi Code of 1972. However,  
198 no application shall be approved by the board if the total costs

199 for constructing or improving the proposed highways or highway  
200 segments or gas, water or sewer facilities to be funded hereunder,  
201 according to estimates in the report of the \* \* \* department or  
202 political subdivision, will exceed monies currently available in  
203 the Economic Development Highway Fund created in Section 65-4-15,  
204 Mississippi Code of 1972.

205 SECTION 6. Section 65-4-15, Mississippi Code of 1972, is  
206 amended as follows:[WAN6]

207 65-4-15. There is hereby established a special fund in the  
208 State Treasury to be known as the "Economic Development Highway  
209 Fund" which shall consist of such monies as the Legislature shall  
210 appropriate thereto or such other monies as the Legislature may  
211 designate to be deposited therein. Any monies to the credit of  
212 such fund may be expended by the Mississippi Department of  
213 Transportation or political subdivision, as appropriate, upon  
214 approval of requisitions therefor by the Department of Economic  
215 and Community Development for any expenses incurred by the  
216 Transportation Department or political subdivision in constructing  
217 and improving highways and highway segments or gas, water or sewer  
218 facilities which have been approved by the Department of Economic  
219 and Community Development under the provisions of this chapter.  
220 The Office of State Aid Road Construction shall be entitled to  
221 reimbursement from monies in the fund, upon approval by the  
222 Department of Economic and Community Development of requisitions  
223 therefor by the State Aid Engineer, for the actual expenses  
224 incurred by the office in administering and providing engineering  
225 services to political subdivisions. Monies remaining unexpended  
226 to the credit of such special fund at the end of a fiscal year  
227 shall not lapse into the State General Fund, and any interest  
228 earned on the investment of monies in the special fund shall be  
229 deposited to the credit of the fund.

230 SECTION 7. This act shall take effect and be in force from  
231 and after July 1, 2000.