

By: Senator(s) Johnson (19th), White (29th), To: Finance  
Ross

SENATE BILL NO. 2923

1 AN ACT TO AMEND SECTION 57-75-11, MISSISSIPPI CODE OF 1972,  
2 TO PROVIDE THAT THE MISSISSIPPI MAJOR ECONOMIC IMPACT AUTHORITY  
3 MAY NOT ACQUIRE BY CONDEMNATION REAL PROPERTY THAT IS NOT  
4 NECESSARY FOR THE SITE OF CERTAIN PROJECTS OR ACQUIRE BY  
5 CONDEMNATION LAND FOR THE PURPOSE OF ACQUIRING FILL DIRT FOR  
6 CERTAIN PROJECTS; AND FOR RELATED PURPOSES.

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

8 SECTION 1. Section 57-75-11, Mississippi Code of 1972, is  
9 amended as follows:

10 **[Through June 30, 2001, this section shall read as follows:]**

11 57-75-11. The authority, in addition to any and all powers  
12 now or hereafter granted to it, is empowered and shall exercise  
13 discretion and the use of these powers depending on the  
14 circumstances of the project or projects:

15 (a) To maintain an office at a place or places within  
16 the state.

17 (b) To employ or contract with architects, engineers,  
18 attorneys, accountants, construction and financial experts and  
19 such other advisors, consultants and agents as may be necessary in  
20 its judgment and to fix and pay their compensation.

21 (c) To make such applications and enter into such  
22 contracts for financial assistance as may be appropriate under  
23 applicable federal or state law.

24 (d) To apply for, accept and utilize grants, gifts and  
25 other funds or aid from any source for any purpose contemplated by  
26 the act, and to comply, subject to the provisions of this act,  
27 with the terms and conditions thereof.

28           (e) (i) To acquire by purchase, lease, gift, or in  
29 other manner, including quick-take eminent domain, or obtain  
30 options to acquire, and to own, maintain, use, operate and convey  
31 any and all property of any kind, real, personal, or mixed, or any  
32 interest or estate therein, within the project area, necessary for  
33 the project or any facility related to the project. The  
34 provisions of this paragraph that allow the acquisition of  
35 property by quick-take eminent domain shall be repealed by  
36 operation of law on July 1, 1994; and

37           (ii) Notwithstanding any other provision of this  
38 paragraph (e), from and after the effective date of House Bill No.  
39 1, 2000 Third Extraordinary Session, to exercise the right of  
40 immediate possession pursuant to the provisions of Sections  
41 11-27-81 through 11-27-89 for the purpose of acquiring land,  
42 property and/or rights-of-way in the county in which a project as  
43 defined in Section 57-75-5(f)(iv)1 is located, that are necessary  
44 for such project or any facility related to the project.

45           (f) To acquire by purchase or lease any public lands  
46 and public property, including sixteenth section lands and lieu  
47 lands, within the project area, which are necessary for the  
48 project. Sixteenth section lands or lieu lands acquired under  
49 this act shall be deemed to be acquired for the purposes of  
50 industrial development thereon and such acquisition will serve a  
51 higher public interest in accordance with the purposes of this  
52 act.

53           (g) If the authority identifies any land owned by the  
54 state as being necessary, for the location or use of the project,  
55 or any facility related to the project, to recommend to the  
56 Legislature the conveyance of such land or any interest therein,  
57 as the Legislature deems appropriate.

58           (h) To make or cause to be made such examinations and  
59 surveys as may be necessary to the planning, design, construction  
60 and operation of the project.

61           (i) From and after the date of notification to the  
62 authority by the enterprise that the state has been finally  
63 selected as the site of the project, to acquire by condemnation  
64 and to own, maintain, use, operate and convey or otherwise dispose  
65 of any and all property of any kind, real, personal or mixed, or  
66 any interest or estate therein, within the project area, necessary  
67 for the project or any facility related to the project, with the  
68 concurrence of the affected public agency, and the exercise of the  
69 powers granted by this act, according to the procedures provided  
70 by Chapter 27, Title 11, Mississippi Code of 1972, except as  
71 modified by this act; provided, however, that the authority may  
72 not acquire by condemnation real property that is not necessary  
73 for the site of the project or any facility related to the project  
74 or that is not necessary for access to the project.

75           (i) Except as otherwise provided in subparagraph  
76 (iii) of this paragraph (i), in acquiring lands by condemnation,  
77 the authority shall not acquire minerals or royalties in minerals  
78 unless a competent registered professional engineer shall have  
79 certified that the acquisition of such minerals and royalties in  
80 minerals is necessary for purposes of the project; provided that  
81 limestone, clay, chalk, sand and gravel shall not be considered as  
82 minerals for the purposes of subparagraphs (i) and (ii) of this  
83 paragraph (i);

84           (ii) Unless minerals or royalties in minerals have  
85 been acquired by condemnation or otherwise, no person or persons  
86 owning the drilling rights or the right to share in production of  
87 minerals shall be prevented from exploring, developing, or  
88 producing oil or gas with necessary rights-of-way for ingress and  
89 egress, pipelines and other means of transporting interests on any  
90 land or interest therein of the authority held or used for the  
91 purposes of this act; but any such activities shall be under such  
92 reasonable regulation by the authority as will adequately protect

93 the project contemplated by this act as provided in paragraph (r)  
94 of this section; and

95 (iii) In acquiring lands by condemnation,  
96 including the exercise of immediate possession, for a project, as  
97 defined in Section 57-75-5(f)(iv)1, the authority may acquire  
98 minerals or royalties in minerals; provided, however, that the  
99 authority may not acquire land by condemnation, including the  
100 exercise of the right of immediate possession, for the purpose of  
101 acquiring fill dirt for such project.

102 (j) To negotiate the necessary relocation or rerouting  
103 of roads and highways, railroad, telephone and telegraph lines and  
104 properties, electric power lines, pipelines and related  
105 facilities, or to require the anchoring or other protection of any  
106 of these, provided due compensation is paid to the owners thereof  
107 or agreement is had with such owners regarding the payment of the  
108 cost of such relocation, and to acquire by condemnation or  
109 otherwise easements or rights-of-way for such relocation or  
110 rerouting and to convey the same to the owners of the facilities  
111 being relocated or rerouted in connection with the purposes of  
112 this act.

113 (k) To negotiate the necessary relocation of graves and  
114 cemeteries and to pay all reasonable costs thereof.

115 (l) To perform or have performed any and all acts and  
116 make all payments necessary to comply with all applicable federal  
117 laws, rules or regulations including, but not limited to, the  
118 Uniform Relocation Assistance and Real Property Acquisition  
119 Policies Act of 1970 (42 USCS 4601, 4602, 4621 to 4638, and 4651  
120 to 4655) and relocation rules and regulations promulgated by any  
121 agency or department of the federal government.

122 (m) To construct, extend, improve, maintain, and  
123 reconstruct, to cause to be constructed, extended, improved,  
124 maintained, and reconstructed, and to use and operate any and all  
125 components of the project or any facility related to the project,

126 with the concurrence of the affected public agency, within the  
127 project area, necessary to the project and to the exercise of such  
128 powers, rights, and privileges granted the authority.

129 (n) To incur or defray any designated portion of the  
130 cost of any component of the project or any facility related to  
131 the project acquired or constructed by any public agency.

132 (o) To lease, sell or convey any or all property  
133 acquired by the authority under the provisions of this act to the  
134 enterprise, its successors or assigns, and in connection therewith  
135 to pay the costs of title search, perfection of title, title  
136 insurance and recording fees as may be required. The authority  
137 may provide in the instrument conveying such property a provision  
138 that such property shall revert to the authority if, as and when  
139 the property is declared by the enterprise to be no longer needed.

140 (p) To enter into contracts with any person or public  
141 agency including, but not limited to, contracts authorized by  
142 Section 57-75-17, in furtherance of any of the purposes authorized  
143 by this act upon such consideration as the authority and such  
144 person or public agency may agree. Any such contract may extend  
145 over any period of time, notwithstanding any rule of law to the  
146 contrary, may be upon such terms as the parties thereto shall  
147 agree, and may provide that it shall continue in effect until  
148 bonds specified therein, refunding bonds issued in lieu of such  
149 bonds, and all other obligations specified therein are paid or  
150 terminated. Any such contract shall be binding upon the parties  
151 thereto according to its terms. Such contracts may include an  
152 agreement to reimburse the enterprise, its successors and assigns  
153 for any assistance provided by the enterprise in the acquisition  
154 of real property for the project or any facility related to the  
155 project.

156 (q) To establish and maintain reasonable rates and  
157 charges for the use of any facility within the project area owned  
158 or operated by the authority, and, from time to time, to adjust

159 such rates and to impose penalties for failure to pay such rates  
160 and charges when due.

161 (r) To adopt and enforce with the concurrence of the  
162 affected public agency all necessary and reasonable rules and  
163 regulations to carry out and effectuate the implementation of the  
164 project and any land use plan or zoning classification adopted for  
165 the project area, including, but not limited to, rules,  
166 regulations, and restrictions concerning mining, construction,  
167 excavation or any other activity the occurrence of which may  
168 endanger the structure or operation of the project. Such rules  
169 may be enforced within the project area and without the project  
170 area as necessary to protect the structure and operation of the  
171 project. The authority is authorized to plan or replan, zone or  
172 rezone, and make exceptions to any regulations, whether local or  
173 state, with the concurrence of the affected public agency which  
174 are inconsistent with the design, planning, construction or  
175 operation of the project and facilities related to the project.

176 (s) To plan, design, coordinate and implement measures  
177 and programs to mitigate impacts on the natural environment caused  
178 by the project or any facility related to the project.

179 (t) To develop plans for technology transfer activities  
180 to ensure private sector conduits for exchange of information,  
181 technology and expertise related to the project to generate  
182 opportunities for commercial development within the state.

183 (u) To consult with the State Department of Education  
184 and other public agencies for the purpose of improving public  
185 schools and curricula within the project area.

186 (v) To consult with the State Board of Health and other  
187 public agencies for the purpose of improving medical centers,  
188 hospitals and public health centers in order to provide  
189 appropriate health care facilities within the project area.

190 (w) To consult with the Office of Minority Business  
191 Enterprise Development and other public agencies for the purpose

192 of developing plans for technical assistance and loan programs to  
193 maximize the economic impact related to the project for minority  
194 business enterprises within the State of Mississippi.

195 (x) To deposit into the "Yellow Creek Project Area  
196 Fund" created pursuant to Section 57-75-31:

197 (i) Any funds or aid received as authorized in  
198 this section for the project described in Section 57-75-5(f)(vi),  
199 and

200 (ii) Any funds received from the sale or lease of  
201 property from the project described in Section 57-75-5(f)(vi)  
202 pursuant to the powers exercised under this section.

203 (y) To manage and develop the project described in  
204 Section 57-75-5(f)(vi) subject to the provisions of Section  
205 57-75-29.

206 (z) To promulgate rules and regulations necessary to  
207 effectuate the purposes of this act.

208 (aa) To negotiate a fee-in-lieu with the owners of the  
209 project.

210 (bb) To enter into contractual agreements to warrant  
211 any site work for a project defined in Section 57-75-5(f)(iv)1;  
212 provided, however, that the amount of any such warranty shall not  
213 exceed Ten Million Dollars (\$10,000,000.00).

214 (cc) To provide grant funds to an enterprise operating  
215 a project defined in Section 57-75-5(f)(iv)1 in an amount not to  
216 exceed Seventeen Million Dollars (\$17,000,000.00).

217 **[From and after July 1, 2001, this section shall read as**  
218 **follows:]**

219 57-75-11. The authority, in addition to any and all powers  
220 now or hereafter granted to it, is empowered and shall exercise  
221 discretion and the use of these powers depending on the  
222 circumstances of the project or projects:

223 (a) To maintain an office at a place or places within  
224 the state.

225           (b) To employ or contract with architects, engineers,  
226 attorneys, accountants, construction and financial experts and  
227 such other advisors, consultants and agents as may be necessary in  
228 its judgment and to fix and pay their compensation.

229           (c) To make such applications and enter into such  
230 contracts for financial assistance as may be appropriate under  
231 applicable federal or state law.

232           (d) To apply for, accept and utilize grants, gifts and  
233 other funds or aid from any source for any purpose contemplated by  
234 the act, and to comply, subject to the provisions of this act,  
235 with the terms and conditions thereof.

236           (e) (i) To acquire by purchase, lease, gift, or in  
237 other manner, including quick-take eminent domain, or obtain  
238 options to acquire, and to own, maintain, use, operate and convey  
239 any and all property of any kind, real, personal, or mixed, or any  
240 interest or estate therein, within the project area, necessary for  
241 the project or any facility related to the project. The  
242 provisions of this paragraph that allow the acquisition of  
243 property by quick-take eminent domain shall be repealed by  
244 operation of law on July 1, 1994; and

245           (ii) Notwithstanding any other provision of this  
246 paragraph (e), from and after the effective date of House Bill No.  
247 1, 2000 Third Extraordinary Session, to exercise the right of  
248 immediate possession pursuant to the provisions of Sections  
249 11-27-81 through 11-27-89 for the purpose of acquiring land,  
250 property and/or rights-of-way in the county in which a project as  
251 defined in Section 57-75-5(f)(iv)1 is located, that are necessary  
252 for such project or any facility related to the project.

253           (f) To acquire by purchase or lease any public lands  
254 and public property, including sixteenth section lands and lieu  
255 lands, within the project area, which are necessary for the  
256 project. Sixteenth section lands or lieu lands acquired under  
257 this act shall be deemed to be acquired for the purposes of



258 industrial development thereon and such acquisition will serve a  
259 higher public interest in accordance with the purposes of this  
260 act.

261 (g) If the authority identifies any land owned by the  
262 state as being necessary, for the location or use of the project,  
263 or any facility related to the project, to recommend to the  
264 Legislature the conveyance of such land or any interest therein,  
265 as the Legislature deems appropriate.

266 (h) To make or cause to be made such examinations and  
267 surveys as may be necessary to the planning, design, construction  
268 and operation of the project.

269 (i) From and after the date of notification to the  
270 authority by the enterprise that the state has been finally  
271 selected as the site of the project, to acquire by condemnation  
272 and to own, maintain, use, operate and convey or otherwise dispose  
273 of any and all property of any kind, real, personal or mixed, or  
274 any interest or estate therein, within the project area, necessary  
275 for the project or any facility related to the project, with the  
276 concurrence of the affected public agency, and the exercise of the  
277 powers granted by this act, according to the procedures provided  
278 by Chapter 27, Title 11, Mississippi Code of 1972, except as  
279 modified by this act; provided, however, that the authority may  
280 not acquire by condemnation real property that is not necessary  
281 for the site of the project or any facility related to the project  
282 or that is not necessary for access to the project.

283 (i) Except as otherwise provided in subparagraph  
284 (iii) of this paragraph (i), in acquiring lands by condemnation,  
285 the authority shall not acquire minerals or royalties in minerals  
286 unless a competent registered professional engineer shall have  
287 certified that the acquisition of such minerals and royalties in  
288 minerals is necessary for purposes of the project; provided that  
289 limestone, clay, chalk, sand and gravel shall not be considered as

290 minerals for the purposes of subparagraphs (i) and (ii) of this  
291 paragraph (i);

292           (ii) Unless minerals or royalties in minerals have  
293 been acquired by condemnation or otherwise, no person or persons  
294 owning the drilling rights or the right to share in production of  
295 minerals shall be prevented from exploring, developing, or  
296 producing oil or gas with necessary rights-of-way for ingress and  
297 egress, pipelines and other means of transporting interests on any  
298 land or interest therein of the authority held or used for the  
299 purposes of this act; but any such activities shall be under such  
300 reasonable regulation by the authority as will adequately protect  
301 the project contemplated by this act as provided in paragraph (r)  
302 of this section; and

303           (iii) In acquiring lands by condemnation,  
304 including the exercise of immediate possession, for a project, as  
305 defined in Section 57-75-5(f)(iv)1, the authority may acquire  
306 minerals or royalties in minerals; provided, however, that the  
307 authority may not acquire land by condemnation, including the  
308 exercise of the right of immediate possession, for the purpose of  
309 acquiring fill dirt for such project.

310           (j) To negotiate the necessary relocation or rerouting  
311 of roads and highways, railroad, telephone and telegraph lines and  
312 properties, electric power lines, pipelines and related  
313 facilities, or to require the anchoring or other protection of any  
314 of these, provided due compensation is paid to the owners thereof  
315 or agreement is had with such owners regarding the payment of the  
316 cost of such relocation, and to acquire by condemnation or  
317 otherwise easements or rights-of-way for such relocation or  
318 rerouting and to convey the same to the owners of the facilities  
319 being relocated or rerouted in connection with the purposes of  
320 this act.

321           (k) To negotiate the necessary relocation of graves and  
322 cemeteries and to pay all reasonable costs thereof.

323           (1) To perform or have performed any and all acts and  
324 make all payments necessary to comply with all applicable federal  
325 laws, rules or regulations including, but not limited to, the  
326 Uniform Relocation Assistance and Real Property Acquisition  
327 Policies Act of 1970 (42 USCS 4601, 4602, 4621 to 4638, and 4651  
328 to 4655) and relocation rules and regulations promulgated by any  
329 agency or department of the federal government.

330           (m) To construct, extend, improve, maintain, and  
331 reconstruct, to cause to be constructed, extended, improved,  
332 maintained, and reconstructed, and to use and operate any and all  
333 components of the project or any facility related to the project,  
334 with the concurrence of the affected public agency, within the  
335 project area, necessary to the project and to the exercise of such  
336 powers, rights, and privileges granted the authority.

337           (n) To incur or defray any designated portion of the  
338 cost of any component of the project or any facility related to  
339 the project acquired or constructed by any public agency.

340           (o) To lease, sell or convey any or all property  
341 acquired by the authority under the provisions of this act to the  
342 enterprise, its successors or assigns, and in connection therewith  
343 to pay the costs of title search, perfection of title, title  
344 insurance and recording fees as may be required. The authority  
345 may provide in the instrument conveying such property a provision  
346 that such property shall revert to the authority if, as and when  
347 the property is declared by the enterprise to be no longer needed.

348           (p) To enter into contracts with any person or public  
349 agency including, but not limited to, contracts authorized by  
350 Section 57-75-17, in furtherance of any of the purposes authorized  
351 by this act upon such consideration as the authority and such  
352 person or public agency may agree. Any such contract may extend  
353 over any period of time, notwithstanding any rule of law to the  
354 contrary, may be upon such terms as the parties thereto shall  
355 agree, and may provide that it shall continue in effect until

356 bonds specified therein, refunding bonds issued in lieu of such  
357 bonds, and all other obligations specified therein are paid or  
358 terminated. Any such contract shall be binding upon the parties  
359 thereto according to its terms. Such contracts may include an  
360 agreement to reimburse the enterprise, its successors and assigns  
361 for any assistance provided by the enterprise in the acquisition  
362 of real property for the project or any facility related to the  
363 project.

364 (q) To establish and maintain reasonable rates and  
365 charges for the use of any facility within the project area owned  
366 or operated by the authority, and, from time to time, to adjust  
367 such rates and to impose penalties for failure to pay such rates  
368 and charges when due.

369 (r) To adopt and enforce with the concurrence of the  
370 affected public agency all necessary and reasonable rules and  
371 regulations to carry out and effectuate the implementation of the  
372 project and any land use plan or zoning classification adopted for  
373 the project area, including, but not limited to, rules,  
374 regulations, and restrictions concerning mining, construction,  
375 excavation or any other activity the occurrence of which may  
376 endanger the structure or operation of the project. Such rules  
377 may be enforced within the project area and without the project  
378 area as necessary to protect the structure and operation of the  
379 project. The authority is authorized to plan or replan, zone or  
380 rezone, and make exceptions to any regulations, whether local or  
381 state, with the concurrence of the affected public agency which  
382 are inconsistent with the design, planning, construction or  
383 operation of the project and facilities related to the project.

384 (s) To plan, design, coordinate and implement measures  
385 and programs to mitigate impacts on the natural environment caused  
386 by the project or any facility related to the project.

387 (t) To develop plans for technology transfer activities  
388 to ensure private sector conduits for exchange of information,

389 technology and expertise related to the project to generate  
390 opportunities for commercial development within the state.

391 (u) To consult with the State Department of Education  
392 and other public agencies for the purpose of improving public  
393 schools and curricula within the project area.

394 (v) To consult with the State Board of Health and other  
395 public agencies for the purpose of improving medical centers,  
396 hospitals and public health centers in order to provide  
397 appropriate health care facilities within the project area.

398 (w) To consult with the Office of Minority Business  
399 Enterprise Development and other public agencies for the purpose  
400 of developing plans for technical assistance and loan programs to  
401 maximize the economic impact related to the project for minority  
402 business enterprises within the State of Mississippi.

403 (x) To deposit into the "Yellow Creek Project Area  
404 Fund" created pursuant to Section 57-75-31:

405 (i) Any funds or aid received as authorized in  
406 this section for the project described in Section 57-75-5(f)(vi),  
407 and

408 (ii) Any funds received from the sale or lease of  
409 property from the project described in Section 57-75-5(f)(vi)  
410 pursuant to the powers exercised under this section.

411 (y) To manage and develop the project described in  
412 Section 57-75-5(f)(vi).

413 (z) To promulgate rules and regulations necessary to  
414 effectuate the purposes of this act.

415 (aa) To negotiate a fee-in-lieu with the owners of the  
416 project.

417 (bb) To enter into contractual agreements to warrant  
418 any site work for a project defined in Section 57-75-5(f)(iv)1;  
419 provided, however, that the amount of any such warranty shall not  
420 exceed Ten Million Dollars (\$10,000,000.00).

421                   (cc) To provide grant funds to an enterprise operating  
422 a project defined in Section 57-75-5(f)(iv)1 in an amount not to  
423 exceed Seventeen Million Dollars (\$17,000,000.00).

424           SECTION 2. This act shall take effect and be in force from  
425 and after its passage.