

By: Representatives Guice, Broomfield,
Hamilton (109th), Read, Zuber, Wells-Smith,
Parker

To: Ways and Means

HOUSE BILL NO. 367

1 AN ACT TO AUTHORIZE THE ISSUANCE OF \$48,000,000.00 IN STATE
2 GENERAL OBLIGATION BONDS TO PROVIDE FUNDS FOR CAPITAL IMPROVEMENTS
3 AT THE STATE-OWNED SHIPYARD LOCATED IN JACKSON COUNTY,
4 MISSISSIPPI; TO PROVIDE THAT THE ISSUANCE OF SUCH BONDS SHALL BE
5 CONDITIONED ON THE LESSEE INCURRING A CERTAIN AMOUNT OF DEBT FOR
6 CAPITAL IMPROVEMENTS, CAPITAL INVESTMENTS OR CAPITAL UPGRADES TO
7 SHIPYARDS IN MISSISSIPPI OWNED OR LEASED BY SUCH LESSEE; AND FOR
8 RELATED PURPOSES.

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

10 **SECTION 1.** As used in this act, the following words shall
11 have the meanings ascribed herein unless the context clearly
12 requires otherwise:

13 (a) "Accreted value" of any bond means, as of any date
14 of computation, an amount equal to the sum of (i) the stated
15 initial value of such bond, plus (ii) the interest accrued thereon
16 from the issue date to the date of computation at the rate,
17 compounded semiannually, that is necessary to produce the
18 approximate yield to maturity shown for bonds of the same
19 maturity.

20 (b) "Commission" means the State Bond Commission.

21 (c) "State shipyard" means the shipyard property owned
22 by the state and located in Jackson County, Mississippi.

23 (d) "State" means the State of Mississippi.

24 (e) "Authority" means the Mississippi Development
25 Authority.

26 **SECTION 2.** (1) The authority may use the proceeds from
27 general obligation bonds issued under this act for the purpose of
28 such capital improvements at the state shipyard as it considers
29 necessary to modernize the facility and keep it competitive with
30 other shipyards.

31 (2) The authority, in its discretion, may set aside for
32 minority businesses not more than twenty percent (20%) of its
33 contracts for making such capital improvements at the state
34 shipyard. For the purposes of this subsection (2), the term
35 "minority business" means a business which is owned by a majority
36 of persons who are United States citizens or permanent resident
37 aliens (as defined by the Immigration and Naturalization Service)
38 of the United States, and who are Asian, Black, Hispanic or Native
39 American, according to the following definitions:

40 (a) "Asian" means persons having origins in any of the
41 original people of the Far East, Southeast Asia, the Indian
42 subcontinent, or the Pacific Islands.

43 (b) "Black" means persons having origins in any black
44 racial group of Africa.

45 (c) "Hispanic" means persons of Spanish or Portuguese
46 culture with origins in Mexico, South or Central America, or the
47 Caribbean Islands, regardless of race.

48 (d) "Native American" means persons having origins in
49 any of the original people of North America, including American
50 Indians, Eskimos and Aleuts.

51 **SECTION 3.** (1) (a) A special fund, to be designated as the
52 "2004 State Shipyard Improvement Fund," is created within the
53 State Treasury. The fund shall be maintained by the State
54 Treasurer as a separate and special fund, separate and apart from
55 the General Fund of the state. Unexpended amounts remaining in
56 the fund at the end of a fiscal year shall not lapse into the
57 State General Fund, and any interest earned or investment earnings
58 on amounts in the fund shall be deposited into such fund.

59 (b) Monies deposited into the fund shall be disbursed,
60 in the discretion of the authority, to pay the costs incurred by
61 the authority in making capital improvements to the state
62 shipyard.

63 (c) Monies in the special fund may be used to reimburse
64 reasonable actual and necessary costs incurred by the authority in
65 providing assistance related to a project for which funding is
66 provided under this act. The authority shall maintain an
67 accounting of actual costs incurred for each project for which
68 reimbursements are sought. Reimbursements under this paragraph
69 (c) shall not exceed Three Hundred Thousand Dollars (\$300,000.00)
70 in the aggregate. Reimbursements under this paragraph (c) shall
71 satisfy any applicable federal tax law requirements.

72 (d) Monies in the special fund may be used to reimburse
73 reasonable actual and necessary costs incurred by the Department
74 of Audit in providing services related to a project for which
75 funding is provided under this act. The Department of Audit shall
76 maintain an accounting of actual costs incurred for each project
77 for which reimbursements are sought. The Department of Audit may
78 escalate its budget and expend such funds in accordance with rules
79 and regulations of the Department of Finance and Administration in
80 a manner consistent with the escalation of federal funds.
81 Reimbursements under this paragraph (d) shall not exceed One
82 Hundred Thousand Dollars (\$100,000.00) in the aggregate.
83 Reimbursements under this paragraph (d) shall satisfy any
84 applicable federal tax law requirements.

85 (2) Amounts deposited into such special fund shall be
86 disbursed to pay the costs of the projects described in subsection
87 (1) of this section. If any monies in the special fund are not
88 used within four (4) years after the date the proceeds of the
89 bonds authorized under this act are deposited into such fund, then
90 the authority shall provide an accounting of such unused monies to
91 the commission. Promptly after the commission has certified, by
92 resolution duly adopted, that the projects described in subsection
93 (1) of this section shall have been completed, abandoned, or
94 cannot be completed in a timely fashion, any amounts remaining in
95 such special fund shall be applied to pay debt service on the

96 bonds issued under this act, in accordance with the proceedings
97 authorizing the issuance of such bonds and as directed by the
98 commission. Before monies in the special fund may be used for the
99 projects described in subsection (1) of this section, the
100 authority shall require that the lessee of the shipyard enter into
101 binding commitments regarding at least the following: (a) that
102 such lessee shall create a certain minimum number of jobs over a
103 certain period of time as determined by the authority (which jobs
104 must be held by persons eligible for employment in the United
105 States under applicable state and federal law) and (b) that if
106 such lessee fails to satisfy any such commitments, the lessee must
107 repay an amount equal to all or a portion of the funds provided by
108 the state under this act as determined by the authority.

109 **SECTION 4.** (1) The commission, at one time, or from time to
110 time, may declare by resolution the necessity for issuance of
111 general obligation bonds of the State of Mississippi to provide
112 funds for all costs incurred or to be incurred for the purposes
113 described in Section 3 of this act. No bonds shall be issued
114 under this act until the authority is provided proof that the
115 lessee of the shipyard has incurred debt or has otherwise
116 irrevocably dedicated funds or a combination of debt and funds in
117 the amount of not less than Ninety-six Million Dollars
118 (\$96,000,000.00) used by the lessee in calendar year 2003, or
119 thereafter, for capital improvements, capital investments or
120 capital upgrades at shipyards in Mississippi owned or leased by
121 the lessee. The debt or dedication of funds or combination of
122 debt and funds required of the lessee under this section shall be
123 in addition to any debt or funds required of the lessee under
124 Section 4 of Chapter 501, Laws of 2003. Upon the adoption of a
125 resolution by the authority, declaring that the lessee has
126 incurred the required amount of debt and/or irrevocable dedication
127 of funds and declaring the necessity for the issuance of any part
128 or all of the general obligation bonds authorized by this section,

129 the authority shall deliver a certified copy of its resolution or
130 resolutions to the commission. Upon receipt of such resolution,
131 the commission, in its discretion, may act as the issuing agent,
132 prescribe the form of the bonds, advertise for and accept bids,
133 issue and sell the bonds so authorized to be sold and do any and
134 all other things necessary and advisable in connection with the
135 issuance and sale of such bonds. The total amount of bonds issued
136 under this act shall not exceed Forty-eight Million Dollars
137 (\$48,000,000.00). No bonds shall be issued under this act after
138 July 1, 2007.

139 (2) Any investment earnings on amounts deposited into the
140 special fund created in Section 3 of this act shall be used to pay
141 debt service on bonds issued under this act, in accordance with
142 the proceedings authorizing issuance of such bonds.

143 **SECTION 5.** The principal of and interest on the bonds
144 authorized under this act shall be payable in the manner provided
145 in this section. Such bonds shall bear such date or dates, be in
146 such denomination or denominations, bear interest at such rate or
147 rates (not to exceed the limits set forth in Section 75-17-101,
148 Mississippi Code of 1972), be payable at such place or places
149 within or without the State of Mississippi, shall mature
150 absolutely at such time or times not to exceed twenty (20) years
151 from date of issue, be redeemable before maturity at such time or
152 times and upon such terms, with or without premium, shall bear
153 such registration privileges, and shall be substantially in such
154 form, all as shall be determined by resolution of the commission.

155 **SECTION 6.** The bonds authorized by this act shall be signed
156 by the chairman of the commission, or by his facsimile signature,
157 and the official seal of the commission shall be affixed thereto,
158 attested by the secretary of the commission. The interest
159 coupons, if any, to be attached to such bonds may be executed by
160 the facsimile signatures of such officers. Whenever any such
161 bonds shall have been signed by the officials designated to sign

162 the bonds who were in office at the time of such signing but who
163 may have ceased to be such officers before the sale and delivery
164 of such bonds, or who may not have been in office on the date such
165 bonds may bear, the signatures of such officers upon such bonds
166 and coupons shall nevertheless be valid and sufficient for all
167 purposes and have the same effect as if the person so officially
168 signing such bonds had remained in office until their delivery to
169 the purchaser, or had been in office on the date such bonds may
170 bear. However, notwithstanding anything herein to the contrary,
171 such bonds may be issued as provided in the Registered Bond Act of
172 the State of Mississippi.

173 **SECTION 7.** All bonds and interest coupons issued under the
174 provisions of this act have all the qualities and incidents of
175 negotiable instruments under the provisions of the Uniform
176 Commercial Code, and in exercising the powers granted by this act,
177 the commission shall not be required to and need not comply with
178 the provisions of the Uniform Commercial Code.

179 **SECTION 8.** The commission shall act as the issuing agent for
180 the bonds authorized under this act, prescribe the form of the
181 bonds, advertise for and accept bids, issue and sell the bonds so
182 authorized to be sold, pay all fees and costs incurred in such
183 issuance and sale, and do any and all other things necessary and
184 advisable in connection with the issuance and sale of such bonds.
185 The commission is authorized and empowered to pay the costs that
186 are incident to the sale, issuance and delivery of the bonds
187 authorized under this act from the proceeds derived from the sale
188 of such bonds. The commission shall sell such bonds on sealed
189 bids at public sale, and for such price as it may determine to be
190 for the best interest of the State of Mississippi, but no such
191 sale shall be made at a price less than par plus accrued interest
192 to the date of delivery of the bonds to the purchaser. All
193 interest accruing on such bonds so issued shall be payable

194 semiannually or annually; however, the first interest payment may
195 be for any period of not more than one (1) year.

196 Notice of the sale of any such bonds shall be published at
197 least one time, not less than ten (10) days before the date of
198 sale, and shall be so published in one or more newspapers
199 published or having a general circulation in the City of Jackson,
200 Mississippi, and in one or more other newspapers or financial
201 journals with a national circulation, to be selected by the
202 commission.

203 The commission, when issuing any bonds under the authority of
204 this act, may provide that bonds, at the option of the State of
205 Mississippi, may be called in for payment and redemption at the
206 call price named therein and accrued interest on such date or
207 dates named therein.

208 **SECTION 9.** The bonds issued under the provisions of this act
209 are general obligations of the State of Mississippi, and for the
210 payment thereof the full faith and credit of the State of
211 Mississippi is irrevocably pledged. If the funds appropriated by
212 the Legislature for such purposes are insufficient to pay the
213 principal of and the interest on such bonds as they become due,
214 then the deficiency shall be paid by the State Treasurer from any
215 funds in the State Treasury not otherwise appropriated. All such
216 bonds shall contain recitals on their faces substantially covering
217 the provisions of this section.

218 **SECTION 10.** Upon the issuance and sale of bonds under the
219 provisions of this act, the commission shall transfer the proceeds
220 of any such sale or sales to the special fund created in Section 3
221 of this act. The proceeds of such bonds shall be disbursed solely
222 upon the order of the authority under such restrictions, if any,
223 as may be contained in the resolution providing for the issuance
224 of the bonds.

225 **SECTION 11.** The bonds authorized under this act may be
226 issued without any other proceedings or the happening of any other

227 conditions or things other than those proceedings, conditions and
228 things which are specified or required by this act. Any
229 resolution providing for the issuance of bonds under the
230 provisions of this act shall become effective immediately upon its
231 adoption by the commission, and any such resolution may be adopted
232 at any regular or special meeting of the commission by a majority
233 of its members.

234 **SECTION 12.** The bonds authorized under the authority of this
235 act may be validated in the Chancery Court of the First Judicial
236 District of Hinds County, Mississippi, in the manner and with the
237 force and effect provided by Chapter 13, Title 31, Mississippi
238 Code of 1972, for the validation of county, municipal, school
239 district and other bonds. The notice to taxpayers required by
240 such statutes shall be published in a newspaper published or
241 having a general circulation in the City of Jackson, Mississippi.

242 **SECTION 13.** Any holder of bonds issued under the provisions
243 of this act or of any of the interest coupons pertaining thereto
244 may, either at law or in equity, by suit, action, mandamus or
245 other proceeding, protect and enforce any and all rights granted
246 under this act, or under such resolution, and may enforce and
247 compel performance of all duties required by this act to be
248 performed, in order to provide for the payment of bonds and
249 interest thereon.

250 **SECTION 14.** All bonds issued under the provisions of this
251 act shall be legal investments for trustees and other fiduciaries,
252 and for savings banks, trust companies and insurance companies
253 organized under the laws of the State of Mississippi, and such
254 bonds shall be legal securities which may be deposited with and
255 shall be received by all public officers and bodies of this state
256 and all municipalities and political subdivisions for the purpose
257 of securing the deposit of public funds.

258 **SECTION 15.** Bonds issued under the provisions of this act
259 and income therefrom shall be exempt from all taxation in the
260 State of Mississippi.

261 **SECTION 16.** The proceeds of the bonds issued under this act
262 shall be used solely for the purposes provided in this act,
263 including the costs incident to the issuance and sale of such
264 bonds.

265 **SECTION 17.** The State Treasurer is authorized, without
266 further process of law, to certify to the Department of Finance
267 and Administration the necessity for warrants, and the Department
268 of Finance and Administration is authorized and directed to issue
269 such warrants, in such amounts as may be necessary to pay when due
270 the principal of, premium, if any, and interest on, or the
271 accreted value of, all bonds issued under this act; and the State
272 Treasurer shall forward the necessary amount to the designated
273 place or places of payment of such bonds in ample time to
274 discharge such bonds, or the interest thereon, on the due dates
275 thereof.

276 **SECTION 18.** All improvements made to the state shipyard with
277 the proceeds of bonds issued pursuant to this act shall, as
278 state-owned property, be exempt from ad valorem taxation, except
279 ad valorem taxation for school district purposes.

280 **SECTION 19.** This act shall be deemed to be full and complete
281 authority for the exercise of the powers herein granted, but this
282 act shall not be deemed to repeal or to be in derogation of any
283 existing law of this state.

284 **SECTION 20.** This act shall take effect and be in force from
285 and after its passage.