MISSISSIPPI LEGISLATURE REGULAR SESSION 2004

By: Representatives Janus, Bentz, Patterson

To: Ports, Harbors and Airports

HOUSE BILL NO. 1268

AN ACT TO AMEND SECTIONS 59-7-405 AND 59-7-407, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT A MUNICIPAL PORT COMMISSION MAY BE DISSOLVED AND THE MUNICIPALITY ASSUME SUCH DUTIES; TO CREATE A NEW SECTION TO BE CODIFIED AS SECTION 59-7-408, MISSISSIPPI CODE OF 1972, TO PROVIDE A PROCEDURE AND REQUIREMENTS FOR THE DISSOLUTION OF A MUNICIPAL PORT COMMISSION; AND FOR RELATED PURPOSES.

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

SECTION 1. Section 59-7-405, Mississippi Code of 1972, is amended as follows:

59-7-405. (1) (a) The governing authorities of any municipality in which there is situated and located, in whole or in part, a port or harbor through which commerce flows, and having not less than eight (8) industries engaged in the seafood industry, which maintains a channel and/or harbor to a depth of not less than eight (8) feet, may engage in, either directly or through the commission hereinafter provided and designated, and such other agencies as hereafter may be provided by law, works of internal improvement, or promoting, developing, constructing, maintaining and operating harbors or seaports within the state and its jurisdiction, and either directly or through the commission hereinafter provided for, with the power and authority to acquire, purchase, install, rent, lease, mortgage and/or otherwise encumber, to construct, own, hold, maintain, equip, use, control and operate at seaports or harbors, wharves, piers, docks, warehouses, cold storage facilities, water and rail terminals, airplane landing fields and strips, and other structures and facilities, needful for the convenient use of the same in the aid of commerce and navigation, and including the dredging of channels and approaches to the facilities, and being authorized to fill in

and reclaim bottomlands where incidental and necessary to the foregoing development.

(b) A municipality, which is operating a port through a port commission under this section, may dissolve the port commission as provided in Section 59-7-408 and directly operate and maintain the port as provided under this article.

(2) The municipal authorities or commission, in connection with the exercise of the foregoing works of improvement and development, may as an adjunct to any such work of improvement or development to erect or construct such bridges, causeways or structures as may be required for access to and from the harbors or facilities provided as aforesaid by the municipal authorities or the commission, and including any necessary bridge or causeway or combination of the same, connecting with any island or islands lying within three (3) leagues of the main shoreline of the Mississippi Sound or the Gulf of Mexico, and whether the same be within or without the limits of the municipality concerned.

(3) The municipal authorities or commission may procure, by gift, grant, purchase, or by the exercise of eminent domain, and for the public purposes and uses herein provided for, such land or interest therein as may be required for the purposes of this article, and regardless of whether the land be within or without the limits of the municipality involved.

(4) The municipal authorities or commission * * *, in the exercise of the powers granted hereunder, may provide any of the aforesaid facilities alone or in collaboration and in conjunction with any other public bodies, entities or commissions, as may now or hereafter be established by law.

(5) The municipal authorities or commission may provide, among other harbor facilities, small craft and pleasure craft harbors and facilities needed therefor, including park and recreational facilities as an adjunct thereto, and in order to develop and promote tourist and recreational trade in the port.

(6) The municipal authorities or commission * * * have the * * * power and authority to carry out the provisions of this article, to employ engineers, attorneys, and such employees as may be necessary in carrying out the provisions of this article, from time to time, and for the purpose of operating the facilities herein provided for, and may prescribe reasonable compensation in connection with such employment.

SECTION 2. Section 59-7-407, Mississippi Code of 1972, is amended as follows:

59-7-407. A port commission created under this article shall consist of six (6) members who shall be qualified electors of the municipality operating under this article, and shall be appointed as follows: two (2) shall be appointed by the Governor, two (2) shall be appointed by the governing authorities of the municipality, and two (2) shall be appointed by the board of supervisors of the county. The commission shall have jurisdiction over the port, terminals, harbors and passes leading thereto, and all vessels, boats and wharves, common carriers and public utilities using the port. Commissioners shall be paid the uniform per diem compensation authorized in Section 25-3-69 for the discharge of official duties at meetings called in accordance with Section 59-7-409.

In the first instance, the two (2) commissioners appointed by the Governor shall be appointed for terms of five (5) and four (4) years, respectively, from the date of appointment; one (1) member appointed by the board of supervisors shall be appointed for a term of three (3) years from the date of appointment, and the members appointed by the governing authorities of the municipality shall be appointed for terms of two (2) and one (1) years, respectively, from the date of appointment. The additional member appointed by the board of supervisors shall be appointed to a term of five (5) years. After the first appointments, thereafter each member appointed shall be appointed for a term of five (5) years.

The commission shall, upon appointment, organize as provided in Section 59-7-409.

A port commission created under this article may be dissolved by the governing authorities of the municipality as provided under Section 59-7-408.

SECTION 3. The following shall be codified as Section 59-7-408, Mississippi Code of 1972:

59-7-408. (1) The governing authorities of a municipality may dissolve a port commission created under this article by adopting a resolution in which they determine that the dissolution of the port commission is in the best interest of the citizens of the municipality and authorizing the municipality to assume the powers and duties of the port commission.

(2) After the adoption of the dissolution resolution, the port commission shall enter into an agreement with the municipality which shall provide for:

(a) the transfer of all powers, duties, and responsibilities of the port commission to the municipality;

(b) the transfer of all property and assets, real and personal, of the port commission to the municipality;

(c) the assignment of all contracts, leases, agreements and revenue generated by the port commission to the municipality;

(d) the assumption by the municipality of all just claims and obligations of the port commission associated with the operation and maintenance of the port facilities; and

(e) any other provisions necessary for the implementation of the dissolution.

(3) All tax levies and assessments used for existing bonded indebtedness shall continue until such indebtedness is paid.

SECTION 4. This act shall take effect and be in force from and after its passage.