

By: Senator(s) Carmichael, King

To: Veterans and Military
Affairs

SENATE BILL NO. 3031

1 AN ACT TO AMEND SECTION 33-15-305, MISSISSIPPI CODE OF 1972,
2 TO DEFINE THE TERMS "GOVERNOR'S AUTHORIZED REPRESENTATIVE" AND
3 "PROJECT WORKSHEET"; TO AMEND SECTION 33-15-307, MISSISSIPPI CODE
4 OF 1972, TO ALLOW THE DISASTER ASSISTANCE TRUST FUND TO BE USED
5 FOR MEETING THE STATE COST-SHARE OF THE INDIVIDUALS AND HOUSEHOLDS
6 ASSISTANCE PROGRAM AND TO REIMBURSE ACTUAL COSTS INCURRED BY
7 REGIONAL RESPONSE TEAMS; TO AMEND SECTIONS 33-15-311, 33-15-313
8 AND 33-15-317, MISSISSIPPI CODE OF 1972, IN CONFORMITY THERETO;
9 AND FOR RELATED PURPOSES.

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

11 **SECTION 1.** Section 33-15-305, Mississippi Code of 1972, is
12 amended as follows:

13 33-15-305. The following terms shall have the meanings
14 ascribed in this section, unless the context requires otherwise:

15 (a) "Director" means the Director of the Mississippi
16 Emergency Management Agency.

17 (b) "Disaster" means a fire, flood, storm, tornado,
18 hurricane, earthquake or other similar public calamity affecting
19 homeland security resulting directly from man-made, technological
20 or natural causes.

21 (c) "Local agency" means any municipality, county or
22 special district.

23 (d) "Local emergency" means the existence of conditions
24 of disaster or extreme peril to the safety of persons and property
25 within a county or municipality proclaimed by the local governing
26 body in accordance with Section 33-15-17(d).

27 (e) "Governor's authorized representative" means the
28 primary and alternate emergency management official designated by
29 the Governor to administer federal assistance programs on behalf
30 of the state and local governments and other grant or loan

31 recipients and is responsible for the state compliance with the
32 FEMA-State Agreement.

33 (f) "Project" means the repair or restoration, or both,
34 other than normal maintenance, or the replacement of public real
35 property of a local agency or a state agency, including, but not
36 limited to, buildings, schools, levees, flood control works,
37 channels, irrigation works, city streets, county roads, bridges
38 and other public works, including those facilities used for
39 recreation purposes, that are damaged or destroyed by a disaster.

40 (g) "Project application" means the written application
41 made by a state or local agency to the director for federal and
42 state financial assistance, which shall include all damage to
43 public property that resulted from a disaster within the
44 jurisdiction of the agency making application.

45 (h) "Project worksheet" means the appropriate federal
46 form that must be used to prepare each eligible public assistance
47 project identifying the scope of work and a quantitative estimate
48 for the eligible work.

49 (i) "Regional response team" means the local government
50 regional response teams, the state response team and the capitol
51 complex response team.

52 (j) "State agency" means any agency, department,
53 commission, board, institution or special district of the state.

54 (k) "State of emergency" means the existence of
55 conditions of disaster or extreme peril to the safety of persons
56 or property within the state declared by the Governor in
57 accordance with Section 33-15-11(b)(16).

58 (l) "Trust fund" means the Disaster Assistance Trust
59 Fund.

60 **SECTION 2.** Section 33-15-307, Mississippi Code of 1972, is
61 amended as follows:

62 33-15-307. (1) The provisions of this article shall be
63 invoked only pursuant to a state of emergency declared by the

64 Governor or an emergency or major disaster declared by the
65 President, or pursuant to an executive order of the Governor, or
66 administrative order of the director, in order to provide state or
67 local government resources and personnel in compliance with the
68 provisions of the Emergency Management Assistance Compact, Section
69 45-18-1 et seq., or in nondeclared times for administrative and
70 training costs associated with state disaster response and
71 recovery programs. Each declaration shall cite the cause for the
72 declaration and define the area eligible for assistance and the
73 type of assistance to be provided.

74 (2) The Disaster Assistance Trust Fund is created as a
75 special fund in the State Treasury into which shall be paid any
76 funds appropriated or otherwise made available by the Legislature
77 for disaster assistance, any funds transferred from the Working
78 Cash-Stabilization Reserve Fund as provided under subsection (5)
79 of this section, any income from investment of the funds in the
80 trust fund, and federal reimbursement for administrative costs for
81 management of the Individuals and Households Program (IHP), the
82 Public Assistance Program, the Hazard Mitigation Program and
83 Disaster Reservist Program.

84 (3) Income from investment of the funds in the trust fund,
85 and all other funds deposited therein pursuant to law, shall be
86 available for expenditure, transfer and allocation pursuant to
87 this article.

88 (4) The Disaster Assistance Trust Fund shall be used only
89 for the following purposes:

90 (a) The state's portion of the cost share for public
91 assistance under a major disaster declaration.

92 (b) The state's cost share of the Individuals and
93 Households Program (IHP) pursuant to Section 33-15-209(1) under a
94 major disaster declared by the President.

95 (c) Administrative costs for managing the IHP Program.

96 (d) Administrative costs for managing the Public
97 Assistance Program.

98 (e) The State Temporary Housing Program pursuant to
99 Section 33-15-217 under a state of emergency declared by the
100 Governor.

101 (f) Out-of-pocket expenses, including travel, per diem,
102 overtime and other similar expenses, of state or local agencies
103 when so tasked by the Governor or the director for emergency
104 response under the provisions of Section 33-15-11(b)(7) and
105 current executive orders. This includes actual emergency response
106 and recovery activities, and applies to mobilization and
107 deployment of state or local agencies to another state under the
108 provisions of the Emergency Management Assistance Compact.

109 (g) Costs incurred as a result of state active duty for
110 the Mississippi National Guard when so tasked by the Governor to
111 provide support to other agencies and local governments in a major
112 disaster or emergency situation, or when tasked by the Governor to
113 provide support to another state under the provisions of the
114 Emergency Management Assistance Compact.

115 (h) The state's portion of the cost share for hazard
116 mitigation under a major disaster declaration.

117 (i) Administrative costs of the Hazard Mitigation
118 Program.

119 (j) Costs incurred as a result of the implementation of
120 the Disaster Reservist Program under a major disaster declaration.

121 (k) Administrative costs of the Disaster Reservist
122 Program.

123 (l) Costs incurred as a result of the implementation of
124 public assistance, and/or individual assistance, and/or Disaster
125 Reservist Program, and/or hazard mitigation, and/or temporary
126 housing under a Governor's state of emergency.

127 (m) The state's portion of the cost share for public
128 assistance under a major disaster declaration for tornado or other

129 storm damage to public facilities and infrastructure occurring on
130 November 10, 2002, as provided in Sections 1 through 16 of Chapter
131 3, Third Extraordinary Session 2002.

132 (n) Actual costs, including personnel call-back wages,
133 base and overtime wages, travel, per diem and other out-of-pocket
134 expenses incurred by regional response teams as a result of being
135 mobilized or deployed when so tasked by the Governor pursuant to
136 Section 33-15-11(b)(7), or by the director for emergency response
137 pursuant to Section 33-15-15(a).

138 (5) Whenever the director determines that funds are
139 immediately needed in the Disaster Assistance Trust Fund to
140 provide for disaster assistance under this article, he shall
141 notify the Executive Director of the Department of Finance and
142 Administration of his determination and shall requisition the
143 amount of funds from the Working Cash-Stabilization Fund that are
144 needed in the trust fund, which shall be subject to the
145 limitations set forth below in this subsection. At the same time
146 he makes the requisition, the director shall notify the Lieutenant
147 Governor, the Speaker of the House of Representatives and the
148 respective Chairmen of the Senate Appropriations Committee, the
149 Senate Finance Committee, the House Appropriations Committee and
150 the House Ways and Means Committee of his determination of the
151 need for the funds and the amount that he has requisitioned. Upon
152 receipt of such a requisition from the director, the Executive
153 Director of the Department of Finance and Administration shall
154 ascertain if the amount requisitioned is available in the Working
155 Cash-Stabilization Reserve Fund and is within the limitations set
156 forth below in this subsection and, if it is, he shall transfer
157 that amount from the Working Cash-Stabilization Reserve Fund to
158 the trust fund. If the amount requisitioned is more than the
159 amount available in the Working Cash-Stabilization Fund or above
160 the limitations set forth below in this subsection, the executive
161 director shall transfer the amount that is available within the

162 limitations. The maximum amount that may be transferred from the
163 Working Cash-Stabilization Reserve Fund to the trust fund for any
164 one (1) disaster occurrence shall be Five Hundred Thousand Dollars
165 (\$500,000.00) and the maximum amount that may be transferred
166 during any fiscal year shall be One Million Dollars
167 (\$1,000,000.00).

168 (6) Unexpended state funds in the Disaster Assistance Trust
169 Fund at the end of a fiscal year shall not lapse into the State
170 General Fund but shall remain in the trust fund for use under this
171 article for as long as the funds are needed for the particular
172 purpose for which they were appropriated, deposited or transferred
173 into the trust fund. After any state funds in the trust fund are
174 no longer needed for the particular purpose for which they were
175 appropriated, deposited or transferred into the trust fund, the
176 director may use those funds for any other purpose under this
177 article for which they currently are needed and for which other
178 funds are not available. If there is no current need for such
179 funds for any purpose under this article, the funds and the income
180 earned from the investment of the funds shall be transferred back
181 to the particular fund or funds in the State Treasury from which
182 they were appropriated or transferred into the trust fund, upon
183 certification of the director to the Executive Director of the
184 Department of Finance and Administration that the funds are not
185 currently needed; however, if such funds are derived from the
186 proceeds of general obligation bonds issued by the state, such
187 excess funds and the income earned from such funds shall be
188 utilized to pay the debt service on the bonds.

189 **SECTION 3.** Section 33-15-311, Mississippi Code of 1972, is
190 amended as follows:

191 33-15-311. (1) The director shall make allocations from the
192 trust fund in such amounts as he determines to be necessary to
193 state agencies for out-of-pocket expenditures incurred for
194 emergency response, preliminary damage assessments, estimates,

195 reports and training of state agency personnel. Allocations also
196 may be made from the trust fund for the purpose of preparing
197 project worksheets, estimates and reports as may be necessary to
198 enable state or local agencies to obtain federal aid for disaster
199 assistance purposes. The director may make allocations to any
200 state agency or office from the trust fund or other funds
201 available therefor in such amounts as are necessary to administer
202 the provisions of this article.

203 (2) State agencies that are to receive allocations from the
204 trust fund for carrying out the purposes of this article shall
205 request the Department of Finance and Administration for
206 escalations of their budgets as necessary for the expenditure of
207 the allocated funds, in the same manner as the department
208 escalates budgets for federal funds under Section 27-104-21(1).

209 **SECTION 4.** Section 33-15-313, Mississippi Code of 1972, is
210 amended as follows:

211 33-15-313. (1) Subject to the conditions specified in this
212 section, the director shall allocate funds from the trust fund to
213 meet the cost of any one or more projects. The completion of all
214 or part of a project before application for funds under this
215 article shall not disqualify such project or any part thereof.

216 (2) To be eligible for state and/or federal funding, the
217 governing body of the local agency must declare a local emergency
218 within ten (10) days of the disaster occurrence and forward such
219 declaration to the Governor.

220 (3) A state or local agency shall make application to the
221 director for state and/or federal financial assistance within
222 thirty (30) days after the date of the declaration of a major
223 disaster or emergency declared by the President or a state of
224 emergency declared by the Governor; however, the director may
225 extend the time for such filing, but only under unusual
226 circumstances. No financial aid shall be provided until an
227 applicant has filed a Notice of Interest and a Request for Federal

228 Assistance and a state and/or federal team has first investigated
229 and reported upon the proposed work, has estimated the cost of the
230 work, and has filed a project worksheet thereon with the
231 Governor's authorized representative and a project application has
232 been prepared. The estimate of cost of the work may include
233 expenditures made by the state or local agency for such work
234 before the making of such estimate. "Unusual circumstances," as
235 used in this subsection, means unavoidable delays that result from
236 recurrence of a disaster, prolonged severe weather or other
237 conditions beyond the control of the applicant. Delays resulting
238 from administrative procedures are not unusual circumstances that
239 warrant extensions of time.

240 (4) No funds shall be allocated from the trust fund to a
241 state or local agency until the agency has indicated in writing
242 its acceptance of the project application and the cost-sharing
243 related thereto in such form as the director prescribes. The
244 project application shall provide for the performance of the work
245 by the state or local agency, shall provide for the methods of
246 handling the funds allocated and the matching funds provided by
247 the local agency, and shall contain such other provisions as are
248 deemed necessary to ensure completion of the work included in the
249 project application and the proper expenditures of funds as
250 provided herein.

251 **SECTION 5.** Section 33-15-317, Mississippi Code of 1972, is
252 amended as follows:

253 33-15-317. (1) Under procedures prescribed by the director,
254 a state or local agency may receive an advance of funds to
255 initiate a project. Such advances shall be limited to not more
256 than seventy-five percent (75%) of the estimated federal share of
257 the project under the President's state of emergency, or fifty
258 percent (50%) of the estimated share of the project under the
259 Governor's state of emergency.

260 (2) Disaster assistance funds provided from federal sources
261 under the provisions of PL 93-288 as amended by PL 100-707 and PL
262 106-390 shall be deposited in the trust fund, and the director
263 shall make advances or reimbursement therefrom for expenditures
264 for eligible work or for payment for performance.

265 (3) State and federal contributions for the repair and
266 restoration of facilities shall be reduced by an amount equal to
267 the insurance settlement received or an amount equal to the amount
268 the local agency would have recovered from an insurance settlement
269 if necessary, adequate and reasonably available insurance had been
270 maintained.

271 **SECTION 6.** This act shall take effect and be in force from
272 and after July 1, 2004.