MISSISSIPPI LEGISLATURE REGULAR SESSION 2006

By: Senator(s) Moffatt

To: Finance

SENATE BILL NO. 2071

AN ACT TO AMEND CHAPTER 534, LAWS OF 1998, TO AUTHORIZE GENERAL OBLIGATION BONDS ISSUED FOR CERTAIN WORK AT THE PORT OF PASCAGOULA, MISSISSIPPI, TO BE UTILIZED FOR CERTAIN ADDITIONAL PURPOSES; AND FOR RELATED PURPOSES.

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

SECTION 1. Chapter 534, Laws of 1998, is amended as follows:

Section 1. As used in this act, the following words shall have the meanings ascribed herein unless the context clearly requires otherwise:

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

(b) "State" means the State of Mississippi.

(c) "Commission" means the State Bond Commission.

Section 2. (1) A special fund, to be designated the "1998 Port of Pascagoula Improvement Fund," is created within the State Treasury. The fund shall be maintained by the State Treasurer as a separate and special fund, separate and apart from the General Fund of the state, and investment earnings on amounts in the fund shall be deposited into such fund. The expenditure of monies deposited into the fund shall be under the direction of the Department of Finance and Administration, and such funds shall be paid by the State Treasurer upon warrants issued by the Department of Finance and Administration. Monies deposited into such fund

shall be allocated and disbursed according to the provisions of this act.

(2) Monies deposited into the fund shall be disbursed to pay the costs of the following improvements at the Port of Pascagoula:

(a) Construction of and mitigation for an appropriate site to manage dredge material;

(b) Dredging and otherwise improving the shipping channel of the Port of Pascagoula; * * *

(c) Closure of an existing contaminated dredge material placement site on an island owned by the Port of Pascagoula known as Greenwood Island; and

(d) Removal of dredged material from an existing dredged material management site in order to provide additional capacity at the site.

Section 3. (1) The Department of Finance and Administration, at one time or from time to time, may declare by resolution the necessity for issuance of general obligation bonds of the State of Mississippi to provide funds for all costs incurred or to be incurred for the purposes described in Section 2 of this act. Upon the adoption of a resolution by the Department of Finance and Administration declaring the necessity for the issuance of any part or all of the general obligation bonds authorized by this section, the Department of Finance and Administration shall deliver a certified copy of its resolution or resolutions to the State Bond Commission. Upon receipt of such resolution the commission, in its discretion, may act as the issuing agent, prescribe the form of the bonds, advertise for and accept bids, issue and sell the bonds so authorized to be sold, and do any and all other things necessary and advisable in connection with the issuance and sale of such bonds. The amount of bonds issued under this act shall not exceed Twenty Million Dollars ($20,000,000.00).

(2) Any investment earnings on amounts deposited into the 1998 Port of Pascagoula Improvement Fund created in Section 2 of this act shall be used to pay debt service on bonds issued under this act, in accordance with the proceedings authorizing issuance of such bonds.

(3) Upon the completion or abandonment of the projects described in Section 2 of this act, as evidenced by a resolution adopted by the Department of Finance and Administration certifying that all such projects have been completed or abandoned, the balance, if any, remaining in the 1998 Port of Pascagoula Improvement Fund shall be promptly applied to pay debt service on bonds issued under this act, in accordance with the proceedings authorizing the issuance of such bonds.

Section 4. The principal of and interest on the bonds authorized under this act shall be payable in the manner provided in this section. Such bonds shall bear such date or dates, be in such denomination or denominations, bear interest at such rate or rates (not to exceed the limits set forth in Section 75-17-101), be payable at such place or places within or without the State of Mississippi, shall mature absolutely at such time or times not to exceed twenty-five (25) years from date of issue, be redeemable before maturity at such time or times and upon such terms, with or without premium, shall bear such registration privileges, and shall be substantially in such form, all as shall be determined by resolution of the commission.

Section 5. The bonds authorized by this act shall be signed by the Chairman of the State Bond Commission, or by his facsimile signature, and the official seal of the commission shall be affixed thereto, attested by the secretary of the commission. The interest coupons, if any, to be attached to such bonds may be executed by the facsimile signatures of such officers. Whenever any such bonds shall have been signed by the officials designated to sign the bonds who were in office at the time of such signing

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

Section 6. All bonds and interest coupons issued under the provisions of this act have all the qualities and incidents of negotiable instruments under the provisions of the Mississippi Uniform Commercial Code, and in exercising the powers granted by this act, the commission shall not be required to and need not comply with the provisions of the Mississippi Uniform Commercial Code.

Section 7. The commission shall act as the issuing agent for the bonds authorized under this act, prescribe the form of the bonds, advertise for and accept bids, issue and sell the bonds so authorized to be sold, pay all fees and costs incurred in such issuance and sale, and do any and all other things necessary and advisable in connection with the issuance and sale of such bonds. The commission is authorized and empowered to pay the costs that are incident to the sale, issuance and delivery of the bonds authorized under this act from the proceeds derived from the sale of such bonds. The commission shall sell such bonds on sealed bids at public sale, and for such price as it may determine to be for the best interest of the State of Mississippi, but no such sale shall be made at a price less than par plus accrued interest to the date of delivery of the bonds to the purchaser. All interest accruing on such bonds so issued shall be payable

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

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

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

Section 8. The bonds issued under the provisions of this act are general obligations of the State of Mississippi, and for the payment thereof the full faith and credit of the State of Mississippi is irrevocably pledged. If the funds appropriated by the Legislature are insufficient to pay the principal of and the interest on such bonds as they become due, then the deficiency shall be paid by the State Treasurer from any funds in the State Treasury not otherwise appropriated. All such bonds shall contain recitals on their faces substantially covering the provisions of this section.

Section 9. Upon the issuance and sale of bonds under the provisions of this act, the commission shall transfer the proceeds of any such sale or sales to the 1998 Port of Pascagoula Improvement Fund created in Section 2 of this act. The proceeds of such bonds shall be disbursed solely upon the order of the Department of Finance and Administration under such restrictions, if any, as may be contained in the resolution providing for the issuance of the bonds.

Section 10. The bonds authorized under this act may be issued without any other proceedings or the happening of any other conditions or things other than those proceedings, conditions and things which are specified or required by this act. Any resolution providing for the issuance of bonds under the provisions of this act shall become effective immediately upon its adoption by the commission, and any such resolution may be adopted at any regular or special meeting of the commission by a majority of its members.

Section 11. The bonds authorized under the authority of this act may be validated in the Chancery Court of the First Judicial District of Hinds County, Mississippi, in the manner and with the force and effect provided by Chapter 13, Title 31, Mississippi Code of 1972, for the validation of county, municipal, school district and other bonds. The notice to taxpayers required by such statutes shall be published in a newspaper published or having a general circulation in the City of Jackson, Mississippi.

Section 12. Any holder of bonds issued under the provisions of this act or of any of the interest coupons pertaining thereto may, either at law or in equity, by suit, action, mandamus or other proceeding, protect and enforce any and all rights granted under this act, or under such resolution, and may enforce and compel performance of all duties required by this act to be performed, in order to provide for the payment of bonds and interest thereon.

Section 13. All bonds issued under the provisions of this act shall be legal investments for trustees and other fiduciaries, and for savings banks, trust companies and insurance companies organized under the laws of the State of Mississippi, and such bonds shall be legal securities which may be deposited with and shall be received by all public officers and bodies of this state and all municipalities and political subdivisions for the purpose of securing the deposit of public funds.

Section 14. Bonds issued under the provisions of this act and income therefrom shall be exempt from all taxation in the State of Mississippi.

Section 15. The proceeds of the bonds issued under this act shall be used solely for the purposes herein provided, including the costs incident to the issuance and sale of such bonds.

Section 16. The State Treasurer is authorized, without further process of law, to certify to the Department of Finance and Administration the necessity for warrants, and the Department of Finance and Administration is authorized and directed to issue such warrants, in such amounts as may be necessary to pay when due the principal of, premium, if any, and interest on, or the accreted value of, all bonds issued under this act; and the State Treasurer shall forward the necessary amount to the designated place or places of payment of such bonds in ample time to discharge such bonds, or the interest thereon, on the due dates thereof.

Section 17. The provisions of this act shall be deemed to be full and complete authority for the exercise of the powers therein granted, but this act shall not be deemed to repeal or to be in derogation of any existing law of this state.

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