MISSISSIPPI LEGISLATURE REGULAR SESSION 2007

By: Representatives Morris, Clark

To: Ways and Means

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 295

AN ACT TO CREATE THE LEONARD MORRIS INDUSTRIAL DEVELOPMENT PROJECTS ACT; TO AUTHORIZE THE ISSUANCE OF STATE GENERAL OBLIGATION BONDS IN THE AMOUNT OF $20,000,000.00 FOR THE PURPOSE OF PROVIDING LOANS TO COUNTIES AND MUNICIPALITIES TO ASSIST IN PAYING COSTS INCURRED FOR PURCHASING REAL PROPERTY AND OPTIONS ON REAL PROPERTY, CONSTRUCTION AND DEVELOPMENT OF BUILDINGS, FACILITIES, INFRASTRUCTURE AND OTHER IMPROVEMENTS TO PROPERTY, AND CONDUCTING ENGINEERING, ENVIRONMENTAL AND RELATED SURVEYS OR STUDIES, NECESSARY TO IMPROVE AND ENHANCE ANY SITE FOR THE RECRUITMENT, LOCATION AND/OR RETENTION OF AN INDUSTRIAL DEVELOPMENT PROJECT; TO REQUIRE THE COMMITMENT OF A CERTAIN AMOUNT OF MATCHING FUNDS BEFORE BONDS MAY BE ISSUED UNDER THIS ACT; AND FOR RELATED PURPOSES.

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

SECTION 1. This act shall be known and may be cited as the "Leonard Morris Industrial Development Projects Act."

SECTION 2. 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 3. (1) (a) A special fund, to be designated as the "Local Industrial Development Projects Improvements 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. Unexpended amounts remaining in the fund at the end of a fiscal year shall not lapse into the State General Fund, and any interest earned or investment earnings on amounts in the fund shall be deposited into such fund.

(b) Monies deposited into the fund shall be disbursed, in the discretion of the Mississippi Development Authority, to make loans to counties and municipalities to assist in paying costs incurred for purchasing real property and options on real property, construction and development of buildings, facilities, infrastructure and other improvements to property, and conducting engineering, environmental and related surveys or studies necessary to improve and enhance any site for the recruitment, location and/or retention of an industrial development project.

(c) Monies in the fund which are derived from proceeds of bonds under this section may be used to reimburse reasonable actual and necessary costs incurred by the Mississippi Development Authority in providing assistance directly related to a project described in paragraph (b) of this subsection for which funding is provided under this section from the use of proceeds of such bonds. An accounting of actual costs incurred for which reimbursement is sought shall be maintained for each project by the Mississippi Development Authority. Reimbursement of reasonable actual and necessary costs for a project shall not exceed three percent (3%) of the proceeds of bonds issued for such project. Monies authorized for a particular project may not be used to reimburse administrative costs for unrelated projects.

(2) (a) (i) The Mississippi Development Authority shall establish a program to make loans available to counties and municipalities for the purposes described in this section. A county or municipality desiring assistance under this section must submit an application to the Mississippi Development Authority. The application must include a description of the project for

which assistance is requested, the cost of the project for which assistance is requested, the amount of assistance requested and any other information required by the authority. In addition, before a county or municipality may receive assistance under this section, it must present proof to the Mississippi Development Authority that local matching funds of not less than thirty percent (30%) of the amount of assistance requested have been committed for such project. Such matching funds may be provided in the form of cash or in-kind contributions or any combination of cash or in-kind contributions. A county that receives a loan under this section shall pledge for repayment of the loan any part of the homestead exemption annual tax loss reimbursement to which it may be entitled under Section 27-33-77. An incorporated municipality that receives a loan under this section shall pledge for repayment of the loan any part of the sales tax revenue distribution to which it may be entitled under Section 27-65-75.

(ii) No interest shall be charged on loans made under this section. Repayments of loans made under this section shall be deposited into the special fund created in subsection (1) of this section.

(b) The Mississippi Development Authority shall have all powers necessary to implement and administer the program established under this section, and the authority shall promulgate rules and regulations, in accordance with the Mississippi Administrative Procedures Law, necessary for the implementation of this section.

SECTION 4. (1) The commission, 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 3 of this act. Upon the adoption of a resolution by the Mississippi Development Authority, declaring the necessity for the issuance of any part or all of the general

obligation bonds authorized by this section, the Mississippi Development Authority shall deliver a certified copy of its resolution or resolutions to the 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 total 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 special fund created in Section 3 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.

SECTION 5. 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, Mississippi Code of 1972), 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 6. The bonds authorized by this act shall be signed by the chairman of the 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 7. 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 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 Uniform Commercial Code.

SECTION 8. 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 9. 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 10. 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 special fund created in Section 3 of this act. The proceeds of such bonds shall be disbursed solely upon the order of the Mississippi Development Authority under such restrictions, if any, as may be contained in the resolution providing for the issuance of the bonds.

SECTION 11. 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 12. 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 13. 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 14. 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 15. Bonds issued under the provisions of this act and income therefrom shall be exempt from all taxation in the State of Mississippi.

SECTION 16. 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 17. 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 18. This act shall be deemed to be full and complete authority for the exercise of the powers herein granted, but this act shall not be deemed to repeal or to be in derogation of any existing law of this state.

SECTION 19. This act shall take effect and be in force from and after its passage.