

By: Representatives Lane, Clarke, Buck,
Cummings, Eaton, Flaggs, Fredericks,
Montgomery, Moss, Peranich, Robinson (84th),
Shows, Snowden, Watson

To: Transportation; Ways and
Means

HOUSE BILL NO. 854

1 AN ACT TO AMEND CHAPTER 542, LAWS OF 2006, TO REVISE THE
2 AMOUNT OF DEBT OR FUNDS THAT AN OWNER OR OPERATOR OF A RAILROAD
3 LINE MUST INCUR OR DEDICATE FOR CAPITAL IMPROVEMENTS, CAPITAL
4 INVESTMENTS OR CAPITAL UPGRADES TO CERTAIN RAILROAD LINES BEFORE
5 STATE GENERAL OBLIGATION BONDS MAY BE ISSUED TO ASSIST WAYNE
6 COUNTY, CLARKE COUNTY AND LAUDERDALE COUNTY, AND MUNICIPALITIES
7 LOCATED WITHIN SUCH COUNTIES, IN PAYING COSTS ASSOCIATED WITH
8 CONSTRUCTION AND IMPROVEMENT OF RAILROAD LINES AND RELATED
9 FACILITIES LOCATED IN SUCH COUNTIES AND WHICH CONSTITUTE PART OF A
10 COOPERATIVE PLAN OF SUCH COUNTIES FOR THE IMPROVEMENT OF RAIL
11 TRANSPORTATION; AND FOR RELATED PURPOSES.

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

13 **SECTION 1.** Chapter 542, Laws of 2006, is amended as follows:

14 Section 1. As used in Sections 1 through 17 of this act, the
15 following words shall have the meanings ascribed herein unless the
16 context clearly requires otherwise:

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

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

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

26 (d) "This act" means Sections 1 through 17 of this act.

27 Section 2. (1) (a) A special fund, to be designated as the
28 "2006 Railroad Lines and Bridges Improvements Fund," is created
29 within the State Treasury. The fund shall be maintained by the
30 State Treasurer as a separate and special fund, separate and apart
31 from the General Fund of the state. Unexpended amounts remaining

32 in the fund at the end of a fiscal year shall not lapse into the
33 State General Fund, and any interest earned or investment earnings
34 on amounts in the fund shall be deposited into such fund.

35 (b) Monies deposited into the fund shall be allocated
36 and disbursed as follows:

37 (i) Two Million Dollars (\$2,000,000.00) shall be
38 disbursed, in the discretion of the Mississippi Development
39 Authority, to assist Wayne County, Clarke County and Lauderdale
40 County, and municipalities located within such counties, in paying
41 costs associated with construction and improvement of railroad
42 lines and related facilities, including projects necessary to
43 ensure safety and structural integrity of rail lines and rail
44 beds, located in such counties and which constitute part of a
45 cooperative plan of such counties for the improvement of rail
46 transportation; provided, however:

47 1. Not more than One Million Dollars
48 (\$1,000,000.00) may be disbursed for such purposes in any fiscal
49 year; and

50 2. No bonds shall be issued for the projects
51 described in this paragraph (b)(i) until the Mississippi
52 Development Authority is provided proof that the owner or operator
53 of the railroad line has incurred debt or has otherwise dedicated
54 funds or a combination of debt and funds in the amount of not less
55 than Two Million Dollars (\$2,000,000.00) for capital improvements,
56 capital investments or capital upgrades on such railroad line.

57 (ii) Three Million Dollars (\$3,000,000.00) shall
58 be disbursed, in the discretion of the Mississippi Development
59 Authority, to assist Tippah County, Union County, Tishomingo
60 County and Alcorn County, and municipalities located within such
61 counties, in paying costs associated with construction and
62 improvement of bridges, viaducts and overpasses, including
63 approaches thereto, spanning railroad lines and related railroad
64 facilities and paying the cost of other railroad line

65 improvements; provided, however, not more than One Million Five
66 Hundred Thousand Dollars (\$1,500,000.00) may be disbursed for such
67 purposes in any fiscal year.

68 (c) If the owner or operator of a railroad line that is
69 benefitted from assistance provided under this section sells such
70 railroad line within ten (10) years of the date the assistance was
71 provided, then such owner or operator shall repay to the State of
72 Mississippi the amount of assistance provided under this section
73 that benefitted the railroad line as follows:

74 (i) If the railroad line is sold within one (1)
75 year of such assistance, one hundred percent (100%) of the amount
76 of the assistance;

77 (ii) If the railroad line is sold within two (2)
78 years of such assistance, ninety percent (90%) of the amount of
79 the assistance;

80 (iii) If the railroad line is sold within three
81 (3) years of such assistance, eighty percent (80%) of the amount
82 of the assistance;

83 (iv) If the railroad line is sold within four (4)
84 years of such assistance, seventy percent (70%) of the amount of
85 the assistance;

86 (v) If the railroad line is sold within five (5)
87 years of such assistance, sixty percent (60%) of the amount of the
88 assistance;

89 (vi) If the railroad line is sold within six (6)
90 years of such assistance, fifty percent (50%) of the amount of the
91 assistance;

92 (vii) If the railroad line is sold within seven
93 (7) years of such assistance, forty percent (40%) of the amount of
94 the assistance;

95 (viii) If the railroad line is sold within eight
96 (8) years of such assistance, thirty percent (30%) of the amount
97 of the assistance;

98 (ix) If the railroad line is sold within nine (9)
99 years of such assistance, twenty percent (20%) of the amount of
100 the assistance; and

101 (x) If the railroad line is sold within ten (10)
102 years of such assistance, ten percent (10%) of the amount of the
103 assistance.

104 (d) Monies in the special fund may be used to reimburse
105 reasonable actual and necessary costs incurred by the Mississippi
106 Development Authority in providing assistance related to a project
107 for which funding is provided under this act. The Mississippi
108 Development Authority shall maintain an accounting of actual costs
109 incurred for each project for which reimbursements are sought.
110 Reimbursements under this paragraph (c) shall not exceed Fifteen
111 Thousand Dollars (\$15,000.00) in the aggregate. Reimbursements
112 under this paragraph (c) shall satisfy any applicable federal tax
113 law requirements.

114 (2) Amounts deposited into such special fund shall be
115 disbursed to pay the costs of the projects described in subsection
116 (1) of this section. Promptly after the commission has certified,
117 by resolution duly adopted, that the projects described in
118 subsection (1) of this section shall have been completed,
119 abandoned, or cannot be completed in a timely fashion, any amounts
120 remaining in such special fund shall be applied to pay debt
121 service on the bonds issued under this act, in accordance with the
122 proceedings authorizing the issuance of such bonds and as directed
123 by the commission.

124 Section 3. (1) The commission, at one time, or from time to
125 time, may declare by resolution the necessity for issuance of
126 general obligation bonds of the State of Mississippi to provide
127 funds for all costs incurred or to be incurred for the purposes
128 described in Section 2 of this act. Except as otherwise provided
129 in Section 2(1)(b) of this act, upon the adoption of a resolution
130 by the Mississippi Development Authority, declaring the necessity

131 for the issuance of any part or all of the general obligation
132 bonds authorized by this section, the Mississippi Development
133 Authority shall deliver a certified copy of its resolution or
134 resolutions to the commission. Upon receipt of such resolution,
135 the commission, in its discretion, may act as the issuing agent,
136 prescribe the form of the bonds, advertise for and accept bids,
137 issue and sell the bonds so authorized to be sold and do any and
138 all other things necessary and advisable in connection with the
139 issuance and sale of such bonds. The total amount of bonds issued
140 under this act shall not exceed Five Million Dollars
141 (\$5,000,000.00); provided, however, that not more than Two Million
142 Five Hundred Thousand Dollars (\$2,500,000.00) of bonds may be
143 issued in any fiscal year.

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

148 Section 4. The principal of and interest on the bonds
149 authorized under this act shall be payable in the manner provided
150 in this section. Such bonds shall bear such date or dates, be in
151 such denomination or denominations, bear interest at such rate or
152 rates (not to exceed the limits set forth in Section 75-17-101,
153 Mississippi Code of 1972), be payable at such place or places
154 within or without the State of Mississippi, shall mature
155 absolutely at such time or times not to exceed twenty-five (25)
156 years from date of issue, be redeemable before maturity at such
157 time or times and upon such terms, with or without premium, shall
158 bear such registration privileges, and shall be substantially in
159 such form, all as shall be determined by resolution of the
160 commission.

161 Section 5. The bonds authorized by this act shall be signed
162 by the chairman of the commission, or by his facsimile signature,
163 and the official seal of the commission shall be affixed thereto,

164 attested by the secretary of the commission. The interest
165 coupons, if any, to be attached to such bonds may be executed by
166 the facsimile signatures of such officers. Whenever any such
167 bonds shall have been signed by the officials designated to sign
168 the bonds who were in office at the time of such signing but who
169 may have ceased to be such officers before the sale and delivery
170 of such bonds, or who may not have been in office on the date such
171 bonds may bear, the signatures of such officers upon such bonds
172 and coupons shall nevertheless be valid and sufficient for all
173 purposes and have the same effect as if the person so officially
174 signing such bonds had remained in office until their delivery to
175 the purchaser, or had been in office on the date such bonds may
176 bear. However, notwithstanding anything herein to the contrary,
177 such bonds may be issued as provided in the Registered Bond Act of
178 the State of Mississippi.

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

185 Section 7. The commission shall act as the issuing agent for
186 the bonds authorized under this act, prescribe the form of the
187 bonds, advertise for and accept bids, issue and sell the bonds so
188 authorized to be sold, pay all fees and costs incurred in such
189 issuance and sale, and do any and all other things necessary and
190 advisable in connection with the issuance and sale of such bonds.
191 The commission is authorized and empowered to pay the costs that
192 are incident to the sale, issuance and delivery of the bonds
193 authorized under this act from the proceeds derived from the sale
194 of such bonds. The commission shall sell such bonds on sealed
195 bids at public sale, and for such price as it may determine to be
196 for the best interest of the State of Mississippi, but no such

197 sale shall be made at a price less than par plus accrued interest
198 to the date of delivery of the bonds to the purchaser. All
199 interest accruing on such bonds so issued shall be payable
200 semiannually or annually; however, the first interest payment may
201 be for any period of not more than one (1) year.

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

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

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

224 Section 9. Upon the issuance and sale of bonds under the
225 provisions of this act, the commission shall transfer the proceeds
226 of any such sale or sales to the special fund created in Section 2
227 of this act. The proceeds of such bonds shall be disbursed solely
228 upon the order of the Mississippi Development Authority under such

229 restrictions, if any, as may be contained in the resolution
230 providing for the issuance of the bonds.

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

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

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

256 Section 13. All bonds issued under the provisions of this
257 act shall be legal investments for trustees and other fiduciaries,
258 and for savings banks, trust companies and insurance companies
259 organized under the laws of the State of Mississippi, and such
260 bonds shall be legal securities which may be deposited with and
261 shall be received by all public officers and bodies of this state

262 and all municipalities and political subdivisions for the purpose
263 of securing the deposit of public funds.

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

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

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

281 Section 17. This act shall be deemed to be full and complete
282 authority for the exercise of the powers herein granted, but this
283 act shall not be deemed to repeal or to be in derogation of any
284 existing law of this state.

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