

By: Senator(s) Gollott

To: Local and Private;
Finance

SENATE BILL NO. 3015

1 AN ACT TO AUTHORIZE THE GOVERNING AUTHORITIES OF THE CITY OF
 2 BILOXI, MISSISSIPPI, TO MAKE IMPROVEMENTS TO THE POINT CADET
 3 PROPERTY THAT IS JOINTLY OWNED BY THE CITY AND THE STATE FOR THE
 4 PURPOSES OF ESTABLISHING A MISSISSIPPI OYSTER AQUACULTURE AND
 5 CONSERVATION CENTER WITH PUBLIC OFF-LOADING DOCK FOR OYSTERMEN AND
 6 OYSTER AQUACULTURE FARMERS, A MISSISSIPPI SEAFOOD MARKETPLACE, A
 7 MISSISSIPPI DEEP SEA FISHING TOURNAMENT AND CONSERVATION CENTER,
 8 AND RELATED FACILITIES AND USES, AND TO ISSUE MUNICIPAL REVENUE
 9 BONDS TO CONSTRUCT THESE FACILITIES AND TO AUTHORIZE CERTAIN STATE
 10 AND INSTITUTIONS OF HIGHER LEARNING (IHL) RENTS FROM THE POINT
 11 CADET LEASING FUND TO BE DISBURSED TO THE POINT CADET WATERFRONT
 12 ENTERPRISE FUND FOR FINANCING THE FACILITIES AUTHORIZED BY THIS
 13 ACT; AND FOR RELATED PURPOSES.

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

15 **SECTION 1.** As used in this act, the following terms shall
 16 have the following meanings unless a different meaning is clearly
 17 indicated by the context in which they are used:

18 (a) "Bonds" means bonds, notes or any other evidence of
 19 indebtedness issued pursuant to this act, including any bonds
 20 issued to refund bonds.

21 (b) "City" means the City of Biloxi, Mississippi.

22 (c) "Covacevich Compromise and Settlement Agreement" or
 23 "CCSA" means that agreement, entered on August 15, 2002, by and



24 between the state and city, and all existing and future amendments
25 to it.

26 (d) "Covacevich Property" means that property described
27 in the CCSA and held as a tenancy in common by the city and state,
28 in which the city holds a vested undivided one-half (1/2) interest
29 and the state holds a vested undivided one-half (1/2) interest, as
30 more fully described in the CCSA, recorded in Deed Book 390, Page
31 628, in the land records of the Chancery Clerk of the Second
32 Judicial District of Harrison County.

33 (e) "Governing authorities" means the mayor and city
34 council of the City of Biloxi, Mississippi.

35 (f) "DMR" means the Mississippi Department of Marine
36 Resources.

37 (g) "IHL" or "board of trustees" means the Board of
38 Trustees of State Institutions of Higher Learning, for itself and
39 on behalf of the University of Southern Mississippi and the Gulf
40 Coast Research Laboratory.

41 (h) "Point Cadet Compromise and Settlement Agreement"
42 or "PCCSA" means that agreement, entered on August 15, 2002, by
43 and between IHL, the state, the city, and Riverboat Corporation of
44 Mississippi, a Mississippi corporation, as amended effective
45 August 1, 2010, by "Amendment to the Point Cadet Compromise and
46 Settlement Agreement" and all future amendments to PCCSA
47 (collectively, the "Point Cadet Compromise and Settlement
48 Agreement" or "PCCSA").



49 (i) "Point Cadet Property" means that certain property
50 described in the PCCSA and held as a tenancy in common by the city
51 and state, in which the city holds a vested undivided one-third
52 (1/3) interest and the state holds a vested undivided two-thirds
53 (2/3) interest (of which the state holds an undivided one-third
54 (1/3) interest for the benefit of IHL), as more fully described in
55 the PCCSA recorded in Deed Book 390, Page 600, and amendment
56 recorded as Instrument 2012 1168D-J2, in the land records of the
57 Chancery Clerk of the Second Judicial District of Harrison County.

58 (j) "Point Cadet Leasing Fund" means that certain fund
59 designated by the State Treasurer and administered by the
60 Secretary of State pursuant to the PCCSA and CCSA for the
61 collection and disbursement of rents received from the Point Cadet
62 Property and the Covacevich Property.

63 (k) "Point Cadet Waterfront Enterprise Fund" or the
64 "Enterprise Fund" means a fund to be created and administered by
65 the City of Biloxi for purposes authorized and described in this
66 act. This fund shall not be considered by the city as general
67 fund revenues but shall be an enterprise fund of the city
68 dedicated to and expended solely for the purposes specified in
69 this act.

70 (l) "Shared CCSA Rents" means the rents described in
71 the CSSA, paragraph IV(1)(b), providing for all rents in excess of
72 Three Hundred Fifty-two Thousand Dollars (\$352,000.00) to be
73 divided and disbursed one-half (1/2) to the city and one-half



74 (1/2) to the state with the state's portion to be paid to the
75 Public Trust Tidelands Fund created under Section 29-15-9(1);
76 provided, however, from and after July 1, 2018, the division and
77 disbursements of increases, if any, in the Shared CCSA Rents above
78 the amounts collected and disbursed for the state fiscal year
79 ending June 30, 2018, shall be subject to the conditions,
80 exceptions and adjustments described in Section 2 of this act.

81 (m) "Shared PCCSA Rents" means the rents described in
82 the PCCSA, paragraphs IV(1)(b) and (2), that provides for all
83 rents in excess of Two Million Seven Hundred Thirty-three Thousand
84 Dollars (\$2,733,000.00) to be divided and disbursed as follows:
85 one-third (1/3) to the city, one-third (1/3) to IHL, one-third
86 (1/3) to the state with the state's portion to be paid to the
87 Public Trust Tidelands Fund created by Section 29-15-9(1).

88 (n) "State" means the State of Mississippi, acting by
89 and through the Mississippi Secretary of State.

90 **SECTION 2.** For purposes of providing funds to pay costs
91 associated with planning, designing, constructing, equipping,
92 owning, operating, leasing, furnishing, improving and maintaining
93 any one or more of the centers, marketplaces, buildings,
94 equipment, facilities, and any other improvements and uses as
95 described in Section 4 of this act, and further for the purpose of
96 paying principal, premium (if any), interest and costs of issuance
97 (including, without limitation, printing and delivery costs, legal
98 fees, financial advisor fees, consultant fees, credit enhancement



99 and other expenses) for bonds authorized and issued under Section
100 5 of this act, the Secretary of State, State Treasurer, and
101 Department of Finance and Administration are directed to disburse
102 the state and IHL's Shared PCCSA Rents and the state's Shared CCSA
103 Rents, as, if and when collected by the Point Cadet Leasing Fund,
104 within thirty (30) days of collection, to the City of Biloxi for
105 deposit to the Point Cadet Waterfront Enterprise Fund, and such
106 disbursements and deposits shall be made subject to the following
107 conditions, exceptions, and adjustments:

108 (a) IHL's one-third (1/3) share of the Shared PCCSA
109 Rents shall be disbursed to the City of Biloxi for deposit to the
110 Point Cadet Waterfront Enterprise Fund for the purposes authorized
111 by this act only if, and after, IHL, in its discretion, delivers
112 written certification to the Secretary of State, Department of
113 Finance and Administration, and State Treasurer that IHL
114 authorizes such disbursements for all Shared PCCSA Rents received
115 after July 1, 2018; however, if IHL does not certify and authorize
116 its one-third (1/3) share of the Shared PCCSA Rents beginning July
117 1, 2018, to be so disbursed and dedicated, then, thereafter, IHL's
118 share of Shared PCCSA Rents shall not include any part of the
119 amount of increases in Shared PCCSA Rents above the amounts
120 collected and disbursed for the state fiscal year ending June 30,
121 2018, and for each state fiscal year thereafter, and such increase
122 shall be disbursed to the City of Biloxi for deposit to the Point
123 Cadet Waterfront Enterprise Fund. IHL is hereby authorized to



124 dedicate and use its one-third (1/3) share of the Shared PCCSA
125 Rents for all the facilities, improvements and uses in paragraph
126 2(c) of the Amendment to PCCSA that amended paragraph IV(5) of the
127 initial PCCSA.

128 (b) The state's one-third (1/3) share of the Shared
129 PCCSA Rents and the state's one-half (1/2) share of the Shared
130 CCSA Rents shall be disbursed by the Department of Finance and
131 Administration and the State Treasurer to the City of Biloxi for
132 deposit to the Point Cadet Waterfront Enterprise Fund; also, the
133 state's annual rent from the state leases described in paragraph
134 III(4) (a) of the PCCSA shall be disbursed by the Department of
135 Finance and Administration and the State Treasurer to the City of
136 Biloxi for deposit to the Point Cadet Waterfront Enterprise Fund
137 for the state fiscal year ending June 30, 2018, and each state
138 fiscal year thereafter.

139 (c) Prior to the adoption of this act, the governing
140 authorities of the city adopted, contingent upon passage of this
141 act, a binding resolution dedicating the city's one-third (1/3)
142 share of the Shared PCCSA Rents and the city's share of the Shared
143 CCSA Rents to the Point Cadet Waterfront Enterprise Fund created
144 by this act.

145 (d) Within thirty (30) days after the city receives
146 each certified annual audit of the city's revenues and
147 expenditures as described in Section 3 of this act, and in the
148 event the city's audit states, and accounts for, an excess amount



149 of revenues received over expenditures, restricted funds and any
150 reserves required to meet contractual obligations (including
151 obligations with respect to bonds issued pursuant to Section 5 of
152 this act) in the Point Cadet Waterfront Enterprise Fund, then the
153 city shall remit to the state and IHL's respective shares of the
154 excess amount in proportion to their interests as set forth in the
155 PCCSA.

156 **SECTION 3.** (1) The city shall hold title to the Point Cadet
157 Waterfront Enterprise Fund, subject to the rights of the state and
158 IHL as provided in Section 2(d) of this act, shall hold such funds
159 separate from the general funds or any other restricted funds of
160 the city, and shall spend such funds for the purposes set forth in
161 this act.

162 (2) The city's accounting for receipts and expenditures of
163 the Point Cadet Waterfront Enterprise Fund shall be made
164 separately from the accounting of receipts and expenditures of the
165 city's general fund and any other funds of the city. The records
166 reflecting the receipts and expenditures of the Point Cadet
167 Waterfront Enterprise Fund prescribed in this act shall be
168 included in the annual audit of the city's revenues and
169 expenditures by an independent certified public accountant, and
170 the accountant shall include, as part of the annual audit, a
171 written report of the revenues and expenditures of the Point Cadet
172 Waterfront Enterprise Fund to the governing authorities, the state
173 and IHL.



174 **SECTION 4.** (1) The governing authorities of the city are
175 authorized to make, or cause to be made, improvements to the Point
176 Cadet Property and/or the Covacevich Property jointly owned by the
177 city and the state, for the purposes of establishing a Mississippi
178 Oyster Aquaculture and Conservation Center; a public off-loading
179 dock in the marina adjacent to the Point Cadet Property and/or the
180 Covacevich Property, for use by oystermen that harvest from
181 natural or man-made reefs and oyster aquaculture farmers that
182 harvest from aquaculture farms established by DMR or other public
183 agencies; a Mississippi Seafood Marketplace and related waterfront
184 boardwalks, piers, structures and facilities on and/or adjacent to
185 the Point Cadet Property and/or the Covacevich Property; a
186 Mississippi Deep Sea Fishing Tournament and Conservation Center on
187 and/or adjacent to the Point Cadet Property and the Covacevich
188 Property; and/or any other buildings, equipment, facilities,
189 public recreation, family-oriented attractions, and other
190 improvements and uses that may enhance and improve any of the
191 following: public access to the Public Trust Tidelands,
192 conservation of marine resources, research and development of
193 marine resources, enhancement and improvement of commerce and jobs
194 in the oyster and other commercial seafood industries, charter
195 boat and other recreational fishing and touring vessels and
196 related industries, recreational and commercial sailing vessels
197 and related industries, fishing tournaments and festivals, and the
198 tourism and hospitality industry. Title to all improvements made



199 to the Covacevich Property with funds from the Enterprise Fund (or
200 with the proceeds of bonds issued pursuant to Section 5 of this
201 act) shall be held by the state and the city as tenants in common
202 in the same proportion that they hold title to the Covacevich
203 Property under the CCSA. Title to all improvements made to the
204 Point Cadet Property with funds from the Enterprise Fund (or with
205 the proceeds of bonds issued pursuant to Section 5 of this act)
206 shall be held by the state and the city as tenants in common in
207 the same proportion that they hold title to the Point Cadet
208 Property under the PCCSA.

209 (2) The city may operate and maintain one or more elements
210 of improvements authorized by this section through city personnel
211 or by management agreement(s) between the city and third parties,
212 including, but not limited to, DMR, IHL, USM (Gulf Coast Research
213 Laboratory), and private for-profit or nonprofit business
214 entities. If the city operates and maintains any improvements,
215 any net revenue the city collects from the operation of
216 improvements shall be paid to the Point Cadet Waterfront
217 Enterprise Fund.

218 (3) The city and state may lease one or more specific
219 parcels of the Covacevich Property and/or the Point Cadet
220 Property, and the improvements thereon, authorized by this act to
221 private for-profit or nonprofit business entities under leases
222 negotiated by the city and the Secretary of State and obtained and
223 entered according to state laws pertaining to leases of municipal



224 properties, and such leases shall require the tenants to pay rent
225 to the Point Cadet Leasing Fund and all taxes, maintenance and
226 insurance for the leased premises.

227 (4) In carrying out its rights and duties under this act,
228 the city may:

229 (a) Establish bank accounts in the name of the city in
230 any qualified state depository into which the monies of the Point
231 Cadet Waterfront Enterprise Fund shall be deposited and held
232 except for such funds as are otherwise invested as permitted by
233 this act;

234 (b) Contract for necessary goods and services, employ
235 necessary personnel, and engage the services of consultants for
236 administrative and technical assistance in carrying out its duties
237 and responsibilities under this act, and enter into other
238 contracts and/or agreements that the city determines to be
239 necessary in carrying out its duties and responsibilities under
240 this act, which are all in compliance with state laws pertaining
241 to municipal contracting generally;

242 (c) Receive into the Enterprise Fund and administer any
243 gift, concession, loan or donation of any property or money,
244 including, but not limited to, those made by the state or any
245 agency or instrumentality thereof, and spend or lend the same or
246 the income therefrom for any of the purposes of this act, and
247 comply with all lawful conditions or requirements thereof;



248 (d) Pledge or assign any income, including rents, and
249 all or part of the monies received or to be received into the
250 Enterprise Fund; and

251 (e) In addition to its investments in improvements
252 pursuant to Section 5 of this act, invest monies in the Enterprise
253 Fund in any of the investments permitted by Section 31-19-5 or
254 other applicable law, subject to the restrictions or limitations
255 set forth therein and to applicable restrictions in any contract,
256 resolution or indenture then in effect with respect to outstanding
257 bonds issued pursuant to this act.

258 **SECTION 5.** (1) For purposes of providing funds to finance,
259 reimburse or refinance costs associated with planning, designing,
260 constructing, equipping, owning, operating, leasing, furnishing,
261 improving and maintaining any one or more of the centers,
262 marketplaces, buildings, equipment, facilities, and any other
263 improvements and uses as described in Section 4 of this act, and
264 to pay the costs of issuance thereof (including, without
265 limitation, printing and delivery costs, legal fees, financial
266 advisor fees, consultant fees, credit enhancement and other
267 expenses), the city is authorized to issue, sell and deliver its
268 bonds as provided herein.

269 (2) Bonds shall be authorized by a resolution or resolutions
270 of the city and shall be dated, shall bear interest at such rate
271 or rates (which may be fixed or variable), shall mature at such
272 time or times in either serial or term form or both not exceeding



273 thirty (30) years from their date, and may be made redeemable
274 prior to maturity at such price or prices and upon such terms and
275 conditions as the city may by resolution determined. The bonds
276 shall not bear a greater overall maximum interest rate to maturity
277 than that allowed under Section 75-17-103. The bonds shall be in
278 such form and denomination or denominations and payable at such
279 place or places, either within or without the state, and may be
280 executed or authenticated in such manner, as the city may by
281 resolution determined. The city shall sell the bonds at such
282 price or prices, as it shall determine, at public or private sale.

283 (3) Bonds issued pursuant to this act shall not constitute a
284 debt of the state nor of any of its instrumentalities or political
285 subdivisions other than the city (but only to the extent provided
286 herein) and neither the state nor its instrumentalities or
287 political subdivisions shall be liable for the same. The
288 principal of, premium (if any) and interest on such bonds shall be
289 payable only from and may be secured by one or more of the
290 following: all or any part of the proceeds of bonds, those funds
291 received or to be received in the Enterprise Fund and such other
292 security authorized pursuant hereto, which may include a pledge of
293 any grant, contribution or guarantee from the federal government
294 or any corporation, association, institution or person. A pledge
295 of any of the foregoing made by the city shall be valid and
296 binding as of the moment it is made without the need of any filing
297 or recordation. The security thus pledged, including funds which



298 the Enterprise Fund receives subsequently, shall be immediately
299 subject to the pledge without the need of the physical delivery
300 thereof or of any other action, and the pledge shall be valid and
301 binding and shall prevail against any third party having a claim
302 of any kind for damages, breach of contract or other motive
303 against the city, regardless of whether the third party has been
304 notified to that effect. Neither the indenture or resolution, nor
305 any collateral contract by means of which the rights of the city
306 to any revenues are pledged or assigned, shall have to be filed or
307 registered to formalize the pledge of the same against any third
308 party, except in the official records of the city.

309 (4) The resolution or resolutions authorizing the bond issue
310 or the indenture or agreement securing the same may contain
311 provisions not inconsistent with this act which shall be part of
312 the contract with the holders of the bonds issued under the
313 resolution or resolutions or under the indenture or agreement as
314 may be found to be necessary or desirable by the city for the most
315 advantageous sale thereof, which may include, but not be limited
316 to, provisions with respect to: the security and creation of
317 pledges on the revenues and assets pledged, the creation and
318 maintenance of redemption and reserve funds, limitations regarding
319 the purposes for which the proceeds of the bonds may be used,
320 limitations regarding the issuance of additional bonds, and
321 limitations as to the adoption of amendments or supplements to the
322 resolution or resolutions or to the indenture or agreement, the



323 granting of rights, powers and privileges and the imposition of
324 obligations and responsibilities to the trustee under any
325 indenture or resolution, and the rights, powers, obligations and
326 responsibilities which shall arise in the event of the
327 noncompliance with any obligation under the resolution or
328 resolutions or under the indenture or agreement, or regarding any
329 rights, powers or privileges conferred on the bondholders as
330 security on the same, to increase the marketability of the bonds.

331 (5) The trustee under any trust indenture securing the bonds
332 may be any bank having the power of a trust company or any trust
333 company within or without the state. Such trust indenture may
334 contain such provisions for protecting and enforcing the rights
335 and remedies of the bondholders as may be reasonable and proper
336 and not in violation of law, including covenants setting forth the
337 duties of the city in relation to the exercise of its powers and
338 the custody, safekeeping and application of all money. The city
339 may provide by the trust indenture for the payment of the proceeds
340 of the bonds and the pledged revenues to the trustee under the
341 trust indenture or other depository, and for the method of
342 disbursement thereof, with such safeguards and restrictions as the
343 city may determine. All expenses incurred in carrying out the
344 trust indenture may be paid from the pledged funds. If the bonds
345 shall be secured by a trust indenture, the bondholders shall have
346 no authority to appoint a separate trustee to represent them.



347 (6) Bonds issued under this act shall not be included in the
348 limitation on indebtedness imposed in Section 21-33-303 or any
349 other limitation on indebtedness of the city.

350 (7) The city is authorized to issue bonds pursuant to this
351 act for the purpose of refunding any such bonds then outstanding.
352 The total amount of such refunding bonds shall be an amount
353 sufficient to effect the refunding, and may include an amount
354 sufficient to pay: (a) the principal amount of the refunded
355 bonds, (b) interest accrued or to accrue to the date of maturity
356 or the date of redemption of the bonds to be refunded which need
357 not necessarily be on the first available redemption date, (c) any
358 redemption premiums to be paid thereon, (d) any reasonable
359 expenses incurred in connection with such refunding, and (e) any
360 other reasonable costs deemed necessary by the city to effect the
361 refunding. The proceeds of such refunding bonds may be applied in
362 the manner determined by the city and may be placed in escrow and
363 invested, without regard to the limitations of any law to the
364 contrary, but not inconsistent with the provisions of this act, in
365 the manner and on the terms determined by the city. All such
366 refunding bonds shall be issued and secured and shall be subject
367 to the provisions of this act in the same manner and to the same
368 extent as any other bonds issued pursuant hereto.

369 (8) Interest on the bonds, and any profits obtained from
370 their sale, shall be and remain at all times exempted from the



371 payment of all taxes imposed by the state or any of its political
372 subdivisions.

373 (9) The bonds shall constitute lawful investments and may be
374 accepted as collateral for fiduciary, trust and public funds,
375 whose investment or deposit is under the authority or the control
376 of the state or of any official or officials thereof or any
377 political subdivision thereof.

378 (10) Bonds may be validated pursuant to the provisions of
379 Section 31-13-1 et seq.

380 **SECTION 6.** No provisions of this act shall be used in any
381 proceeding or litigation, either offensively or defensively,
382 relating to any claims or interest involving any other real
383 properties or involving any claims of title or other interests of
384 IHL, the state and city arising out of the PCCSA or the CCSA.

385 **SECTION 7.** The powers and authorities conferred by this act
386 shall be regarded as supplemental and additional to powers by any
387 other laws.

388 **SECTION 8.** This act shall take effect and be in force from
389 and after July 1, 2018.

