

MISSISSIPPI LEGISLATURE
2024 Regular Session
To: Ways and Means
By: Representatives Boyd (37th), McLean, Mickens, Gibbs (36th)

House Bill 1617

(As Sent to Governor)

AN ACT TO CREATE NEW SECTION 57-31-35, MISSISSIPPI CODE OF 1972, TO AUTHORIZE THE ACQUISITION AND DEVELOPMENT BY AN INDUSTRIAL DEVELOPMENT AUTHORITY CREATED PURSUANT TO SECTION 57-31-1 ET SEQ., OR BY AN ECONOMIC DEVELOPMENT DISTRICT, CREATED PURSUANT TO SECTION 19-5-99, OF AT LEAST 800 OR MORE CONTIGUOUS ACRES AS A MEGASITE TO ATTRACT SIGNIFICANT INDUSTRIAL DEVELOPMENT PROJECTS; TO PROVIDE FOR THE FINANCING AND DEVELOPMENT OF SUCH A MEGASITE PROJECT; TO AMEND SECTIONS 19-9-1, 19-9-5 AND 43-37-3, MISSISSIPPI CODE OF 1972, IN CONFORMITY TO THE PRECEDING SECTION; AND FOR RELATED PURPOSES.

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

SECTION 1. The following shall be codified as Section 57-31-35, Mississippi Code of 1972:

57-31-35. (1) For the purposes of this section, the following words shall have the meanings ascribed herein, unless the context otherwise requires:

(a) "Authority" means an industrial development authority created pursuant to this chapter or an economic development district created pursuant to Section 19-5-99 of any county in which an industrial development authority is created pursuant to this chapter.

(b) "Costs of a megasite project" means all costs of a megasite project including site preparation and other start-up costs, construction, fixtures and real and personal property required for the purposes of a megasite project, whether

publicly or privately owned, including land and any rights or undivided interest therein, options, easements, franchises, fees, permits, approvals, licenses, and certificates and the securing of such permits, approvals, licenses, and certificates and all machinery and equipment; any cost associated with the closure, post-closure maintenance or corrective action on environmental matters, financing charges and interest prior to and during development and/or construction and during such additional period necessary for the development and operation of a megasite project; costs of engineering, surveying, environmental, geotechnical, architectural and legal services; costs of plans and specifications and all expenses necessary or incident to determining the feasibility or practicability of a megasite project; administrative expenses; and such other expenses as may be necessary or incidental to the financing authorized in this chapter. The costs of a megasite project may also include funds for the creation of a debt service reserve, a renewal and replacement reserve, bond insurance and credit enhancement, and such other reserves as may be authorized by any bond resolution or trust agreement or indenture pursuant to the provisions of which the issuance of any such bonds may be authorized by a county board of supervisors pursuant to subsection (3) below. Any obligation or expense incurred for any of the foregoing purposes shall be regarded as a part of the costs of a megasite project and may be paid or reimbursed as such out of the proceeds of any revenues obtained by the county including, without limitation, special assessments, general

obligation bonds or notes issued pursuant to Section 19-9-1 et seq. or revenue bonds or notes.

(c) "Facilities related to a megasite" means and includes the acquisition, construction, restoration, repair, renovation, improvement, demolition or removal of any of the following, or any portion thereof, as they may pertain to a megasite and/or the development of one or more industrial projects thereon: (i) megasite preparation and improvements (including clearing, grubbing and grading activities); (ii) potable and nonpotable water supply systems that will serve the megasite or any portion thereof, whether or not such potable and nonpotable water supply systems are located on or outside of the megasite; (iii) sewage and waste disposal systems that will serve the megasite or any portion thereof, whether or not such sewage and waste disposal systems are located on or outside of the megasite; (iv) storm water drainage and other drainage systems that will serve the megasite or any portion thereof, whether or not such storm water drainage and other drainage systems are located on or outside of the megasite; (v) highways, streets and other roadways located upon the megasite or which are otherwise necessary to provide any access to and from the megasite or any portion thereof; (vi) fire suppression and prevention systems that will serve the megasite or any portion thereof, whether or not such fire suppression and prevention systems are located on or outside of the megasite; (vii) utility distribution systems, including, but not limited to, electricity, natural gas, telephone and other information and

telecommunications facilities, whether by wire, fiber or wireless means, that will serve the megasite, whether or not such utility distribution systems are located on or outside of the megasite; provided that this subsection (vii) shall not empower the authority to acquire, construct, restore, repair, renovate, improve, demolish or remove any utility distribution system with respect to the megasite or any portion thereof which the authority is not otherwise already permitted to do under other applicable law; (viii) any other purposes authorized by or defined in Section 19-9-1.

(d) "Megasite project" means the acquisition and development of a megasite by an authority created pursuant to this chapter for purposes of establishing a new industrial park or a single or multiple parcel industrial development zone to attract significant single- or multi-use industrial development projects, together with, as applicable, any industrial project undertaken on a megasite and/or any facilities related to a megasite.

(e) "Megasite" means any single tract or combination of contiguous tracts, excluding intervening roadways, railways, waterways or utility-ways, of at least eight hundred (800) acres acquired or otherwise under the control of an authority for the purposes of undertaking a megasite project on all or portion thereof; provided that, in the event a megasite initially contains at least eight hundred (800) acres, the use of the term megasite shall also include any adjoining real property tracts

that are subsequently acquired or otherwise brought under the control of such authority.

(2) An authority is authorized and empowered to:

(a) Acquire by gift, purchase or otherwise, and to own, hold, maintain, control and develop real estate situated within the county and/or any interests therein for the purposes of undertaking a megasite project;

(b) Acquire by gift, purchase or otherwise, and to own, hold, repair, maintain, control and develop any facilities related to a megasite;

(c) Sell, lease, sublease, sub-sub lease, sell and leaseback, lease and sublease-back, trade, exchange or otherwise convey or dispose of a megasite project or any portions thereof or any interests therein to individuals, firms or business enterprises, public or private; in each of the above instances for such consideration, and with such safeguards as are determined by the authority will best promote and protect the public interest, convenience and necessity, and to enter into and execute purchase options, purchase agreements, deeds, leases, subleases, development agreements and other contracts, easements and other legal instruments necessary or convenient therefor. Such authority is further authorized and empowered to undertake any of the preceding authorized transactions, and enter into and execute any contract, agreement or instruments with respect thereto on the basis of negotiation with the authority without the necessity of any appraisal, advertisement

for proposals, bids or offers, or of any other public procurement or sale requirements.

(3) The county board of supervisors of any county in which an authority is created pursuant to this chapter is authorized to (a) (i) incur bonded and floating indebtedness by issuing general obligation bonds, revenue bonds or special assessment bonds as authorized by any statute authorizing the issuance of such bonds, (ii) accept and borrow any loan from the federal government, its agencies and instrumentalities, and/or (iii) incur any other indebtedness in any manner for which it is authorized by law to incur debt, (b) may appropriate funds for the purposes and in the manner prescribed by law, and (c) may accept and utilize grants, donations or contributions from any source, whether public or private, to fund any costs of a megasite project. Any revenues derived from a project financed with indebtedness incurred pursuant to this act may be pledged, in whole or in part, by such county board of supervisors to secure payment of the bonded indebtedness incurred to finance a project.

SECTION 2. Section 19-9-1, Mississippi Code of 1972, is amended as follows:

19-9-1. The board of supervisors of any county is authorized to issue negotiable bonds of the county to raise money for the following purposes:

(a) Purchasing or erecting, equipping, repairing, reconstructing, remodeling and enlarging county buildings, courthouses, office buildings, jails, hospitals, nurses' homes,

health centers, clinics, and related facilities, and the purchase of land therefor;

(b) Erecting, equipping, repairing, reconstructing, remodeling, or acquiring county homes for indigents, and purchasing land therefor;

(c) Purchasing or constructing, repairing, improving and equipping buildings for public libraries and for purchasing land, equipment and books therefor, whether the title to same be vested in the county issuing such bonds or in some subdivision of the state government other than the county, or jointly in such county and other such subdivision;

(d) Establishing county farms for convicts, purchasing land therefor, and erecting, remodeling, and equipping necessary buildings therefor;

(e) Constructing, reconstructing, and repairing roads, highways and bridges, and acquiring the necessary land, including land for road building materials, acquiring rights-of-way therefor; and the purchase of heavy construction equipment and accessories thereto reasonably required to construct, repair and renovate roads, highways and bridges and approaches thereto within the county;

(f) Erecting, repairing, equipping, remodeling or enlarging or assisting or cooperating with another county or other counties in erecting, repairing, equipping, remodeling, or enlarging buildings, and related facilities for an agricultural high school, or agricultural high school-junior college, including gymnasiums, auditoriums, lunchrooms, vocational

training buildings, libraries, teachers' homes, school barns, garages for transportation vehicles, and purchasing land therefor;

(g) Purchasing or renting voting machines and any other election equipment to be used in elections held within the county;

(h) Constructing, reconstructing or repairing boat landing ramps and wharves fronting on the Mississippi Sound or the Gulf of Mexico and on the banks or shores of the inland waters, levees, bays and bayous of any county bordering on the Gulf of Mexico or fronting on the Mississippi Sound, having two (2) municipalities located therein, each with a population in excess of twenty thousand (20,000) in accordance with the then last preceding federal census;

(i) Assisting the Board of Trustees of State Institutions of Higher Learning, the Office of General Services or any other state agency in acquiring a site for constructing suitable buildings and runways and equipping an airport for any state university or other state-supported four-year college now or hereafter in existence in such county;

(j) Aiding and cooperating in the planning, undertaking, construction or operation of airports and air navigation facilities, including lending or donating money, pursuant to the provisions of the airport authorities law, being Sections 61-3-1 through 61-3-83, Mississippi Code of 1972, regardless of whether such airports or air navigation facilities are located in the county or counties issuing such bonds;

(k) Establishing rubbish and garbage disposal systems in accordance with the provisions of Sections 19-5-17 through 19-5-27;

(l) Defraying the expenses of projects of the county cooperative service district in which it is a participating county, regardless of whether the project is located in the county issuing such bonds;

(m) Purchasing machinery and equipment which have an expected useful life in excess of ten (10) years. The life of such bonds shall not exceed the expected useful life of such machinery and equipment. Machinery and equipment shall not include any motor vehicle weighing less than twelve thousand (12,000) pounds;

(n) Purchasing fire fighting equipment and apparatus, and providing housing for the same and purchasing land necessary therefor;

(o) A project for which a certificate of public convenience and necessity has been obtained by the county pursuant to the Regional Economic Development Act;

(p) Constructing dams or low-water control structures on lakes or bodies of water under the provisions of Section 19-5-92;

(q) For the purposes provided for in Section 57-75-37 * * *; and

(r) For the purposes provided for in Section 57-31-35.

SECTION 3. Section 19-9-5, Mississippi Code of 1972, is amended as follows:

19-9-5. No county shall hereafter issue bonds secured by a pledge of its full faith and credit for the purposes authorized by law in an amount which, when added to the then outstanding bonds of such county, shall exceed either (a) fifteen percent (15%) of the assessed value of the taxable property within such county according to the last completed assessment for taxation, or (b) fifteen percent (15%) of the assessment upon which taxes were levied for its fiscal year ending September 30, 1984, whichever is greater.

However, any county in the state which shall have experienced washed-out or collapsed bridges on the public roads of the county for any cause or reason may hereafter issue bonds for bridge purposes as now authorized by law in an amount which, when added to the then outstanding general obligation bonds of such county, shall not exceed either (a) twenty percent (20%) of the assessed value of the taxable property within such county according to the last completed assessment for taxation or (b) fifteen percent (15%) of the assessment upon which taxes were levied for its fiscal year ending September 30, 1984, whichever is greater.

Provided further, in computing such indebtedness, there may be deducted all bonds or other evidences of indebtedness heretofore or hereafter issued, for the construction of hospitals, ports or other capital improvements which are payable primarily from the net revenue to be generated from such

hospital, port or other capital improvement, which revenue shall be pledged to the retirement of such bonds or other evidences of indebtedness, together with the full faith and credit of the county. However, in no case shall any county contract any indebtedness payable, in whole or in part, from proceeds of ad valorem taxes which, when added to all of the outstanding general obligation indebtedness, both bonded and floating, shall exceed either (a) twenty percent (20%) of the assessed value of all taxable property within such county according to the last completed assessment for taxation, or (b) fifteen percent (15%) of the assessment upon which taxes were levied for its fiscal year ending September 30, 1984, whichever is greater. Nothing herein contained shall be construed to apply to contract obligations in any form heretofore or hereafter incurred by any county which are subject to annual appropriations therefor, or to bonds heretofore or hereafter issued by any county for school purposes, or to bonds issued by any county under the provisions of Sections 57-1-1 through 57-1-51, or to any indebtedness incurred under Section 55-23-8, or to bonds issued under Section 57-75-37 or to any other indebtedness incurred under Sections 57-75-37(4), * * * 57-75-37(5) * * *, * * * 57-75-37(6), * * * 57-75-37(7) or Section 57-31-35.

SECTION 4. Section 43-37-3, Mississippi Code of 1972, is amended as follows:

43-37-3. (1) Any person, agency or other entity acquiring real property for any project or program in which public funds are used shall comply with the following policies:

(a) Every reasonable effort shall be made to acquire expeditiously real property by negotiation.

(b) Real property shall be appraised before the initiation of negotiations, except that the acquiring person, agency or other entity may adopt a procedure in compliance with federal regulations to waive the appraisal in cases involving the acquisition by sale or donation of property with a low fair market value. For the purposes of this chapter, property with a low fair market value is property with a fair market value of Ten Thousand Dollars (\$10,000.00) or less. The owner or his designated representative shall be given an opportunity to accompany the appraiser during his inspection of the property.

(c) (i) Except as otherwise provided in subparagraph (ii) of this paragraph, the price that shall be paid for real property shall be the lesser of the best negotiated price or the approved appraisal of the fair market value or the price at which the property is offered for sale. Any decrease or increase in the fair market value of real property prior to the date of valuation caused by the public improvement for which the property is acquired or by the likelihood that the property would be acquired for such improvement, other than that due to physical deterioration within the reasonable control of the owner, will be disregarded in determining the compensation for the property. The owner of the real property to be acquired shall be provided with a written statement of, and summary of the basis for, the amount established as just compensation. Where appropriate, the just compensation for the real property

acquired and for damages to remaining real property shall be separately stated.

(ii) The purchase price for real property may exceed the amount offered as just compensation for the property when reasonable efforts to negotiate an agreement at that amount have failed, and the person, agency or other entity seeking to acquire the property approves an administrative settlement as reasonable, prudent and in the best interests of the public. When state funds pay for all or a portion of the acquisition, the purchasing person, agency or other entity shall prepare a written statement explaining the reasons that justified the purchase price exceeding the amount offered as just compensation, including any anticipated trial risks, and any available information supporting an administrative settlement.

(d) No owner shall be required to surrender possession of real property before the agreed purchase price is paid or there is deposited with the state court, in accordance with applicable law, for the benefit of the owner an amount not less than the approved appraisal of the fair market value of such property, or the amount of the award of compensation in the condemnation proceeding of such property.

(e) The construction or development of a public improvement shall be so scheduled that, to the greatest extent practicable, no person lawfully occupying real property shall be required to move from a dwelling (assuming a replacement dwelling will be available) or to move his business or farm

operation without at least ninety (90) days' written notice from the date by which such move is required.

(f) If an owner or tenant is permitted to occupy the real property acquired on a rental basis for a short term or for a period subject to termination by the acquiring authority on short notice, the amount of rent required shall not exceed the fair rental value of the property to a short-term occupier.

(g) In no event shall the time of condemnation be advanced, or negotiations or condemnation and the deposit of funds in court for the use of the owner be deferred, or any other coercive action be taken to compel an agreement on the price to be paid for the property.

(h) If an interest in real property is to be acquired by exercise of power of eminent domain, formal condemnation proceedings shall be instituted. The acquiring authority shall not intentionally make it necessary for an owner to institute legal proceedings to prove the fact of the taking of his real property.

(i) If the acquisition of only part of the property would leave its owner with an uneconomic remnant, an offer to acquire that remnant shall be made. For the purposes of this chapter, an uneconomic remnant is a parcel of real property in which the owner is left with an interest after the partial acquisition of the owner's property and which the person, agency or other entity acquiring the property determines has little or no value or utility to the owner.

(j) A person whose real property is being acquired in accordance with this chapter may, after the person has been fully informed of his right to receive just compensation for such property, donate such property, any part thereof, any interest therein or any compensation paid therefor to the person, agency or other entity acquiring the property in such manner as he so determines.

(2) Any real property acquired by any person, agency or other entity using public funds in accordance with Section 57-75-37(3), Section 57-75-37(4), Section 57-75-37(5), Section 57-75-37(6), * * * Section 57-75-37(7) or Section 57-31-35 shall be exempt from the provisions of subsection (1)(b) and (c) of this section to the extent permitted by Section 57-75-37(3), Section 57-75-37(4), Section 57-75-37(5), Section 57-75-37(6), * * * Section 57-75-37(7) or Section 57-31-5.

SECTION 5. This act shall take effect and be in force from and after its passage.
