

ADVANTAGE MISSISSIPPI INITIATIVE
SENATE BILL 2002, 2ND EXTRAORDINARY SESSION 2000
AUGUST 28-30, 2000

1. SECTIONS 2-3: NAME CHANGE

- Changes the name of the Mississippi Department of Economic and Community Development to the Mississippi Development Authority.
- The Mississippi Development Authority is authorized to continue referring to itself as the Department of Economic and Community Development for as long as it may deem necessary.

2. SECTION 4: ACE FUND

- Creates a special fund in the State Treasury called the ACE Fund.
- Money shall be deposited into the fund from any public or private source designated for deposit into the fund.
- The fund is to be used to make grants to local economic development entities to assist any new or expanding business that meets certain criteria.
- Any business or industry desiring assistance from a local economic development entity must submit an application to the local economic development entity showing that the business is an extraordinary economic development opportunity, demonstrating that the business or industry is at an economic disadvantage by locating the project in the county, a description of the requested assistance and a statement of what efforts have been made or are being made by the business or industry to secure other funds for the project.
- Upon receipt of the application the local economic development entity may apply to the Mississippi Development Authority for assistance from the fund.
- The Mississippi Development Authority has the sole discretion in the awarding of ACE grants.
- "Extraordinary economic development opportunity" means a new or expanded business or industry which maintains a strong financial condition and minimal credit risk and creates substantial employment, particularly in areas of high unemployment.
- The Mississippi Development Authority is given the authority to promulgate rules to implement the ACE Fund. Before the implementation of any rules, the rules must be submitted to a committee consisting of five members of the Senate Finance Committee and five members of the House Ways and Means Committee, appointed by the committee chairmen.

3. SECTIONS 5-23: REGIONAL ECONOMIC DEVELOPMENT ACT

- Enables local government units (counties and municipalities) of the state to cooperate and contract with other local government units and political subdivisions from another state, to form regional economic development alliances to share the costs of and revenues derived from a project, and to pledge revenue from a project to secure the payment of bonds.

- The types of projects for which development alliances may be formed are broad and include any of the following which promotes economic development or which assists in the creation of jobs:
 - (a) Acquisition, construction, repair, renovation, demolition or removal of buildings and site improvements (including fixtures); potable and nonpotable water supply systems; sewage and waste disposal systems; storm water drainage and other drainage systems; airport facilities; rail lines and rail spurs; port facilities; highways, streets and other roadways; fire suppression and prevention systems; utility distribution systems, including, but not limited to, water, electricity, natural gas, telephone and other information and telecommunications facilities, whether by wire, fiber or wireless means (provided that electrical, natural gas, telephone and telecommunications systems shall be constructed, repaired or renovated only for the purpose of completing the project and connecting to existing utility systems); business, industrial and technology parks; and the acquisition of land and acquisition or construction of improvements to land connected with any of the preceding purposes;
 - (b) County purposes authorized by or defined in Sections 17-5-3 (waterworks and sewage systems for military camps) and 19-9-1 (uniform system for issuance of bonds except for construction of school buildings);
 - (c) Municipal purposes authorized by or defined in Sections 17-5-3, 17-17-301 et seq. (regional solid waste authority), 21-27-23 (municipal borrowing powers) and 21-33-301 (uniform system for issuance of bonds); and
 - (d) Refunding of bonds as authorized in Section 21-27-1 et seq.
- To form an alliance the local government unit must apply to the Mississippi Development Authority for a certificate of public convenience and necessity.
- If the certificate is issued it shall authorize the local governmental unit to create and operate the alliance. The certificate shall expire within 12 months unless the alliance is created within that time.
- The Mississippi Development Authority shall issue or refuse to issue a certificate of public convenience and necessity within six months after it receives the application.
- In the certificate the Mississippi Development Authority shall fix and determine:
 - (a) The extent and amount to which the local government unit may issue bonds or make expenditures for such alliance;
 - (b) The extent and amount that the revenues derived from the project shall be shared by the local government unit with other members of the alliance;
 - (c) The extent and amount that the revenues derived from the project may be pledged to secure payment of the bonds issued to finance the project;
 - (d) What property may be acquired therefor;
 - (e) The terms upon which such acquisition may be had;
 - (f) What expenditures may be made; and
 - (g) The construction of buildings and of equipment with its installation.
- If the governing body of the local government unit fails or refuses to follow the requirements of the certificate of public convenience and necessity, the members of the

governing body who vote for such failure or refusal shall be individually and personally liable until one year after they have left office, and liable on their official bond for any loss that the local government unit may sustain by reason of the failure or refusal to follow the requirements, and in addition may be compelled by injunction to comply with the requirements.

- The local government units in the alliance may issue bonds under existing law for the project as authorized in the certificate of public convenience and necessity without regard to whether the activities and improvements are within or without the boundaries of the local government unit.
- Any power that may be exercised by a local government unit of this state may be exercised jointly with any other local government unit in the alliance.
- An alliance may take any action with respect to a project that any local government unit member may take with respect to the project.
- Any agreement between local government units must specify the duration of the agreement, its purposes and a number of other provisions relating to the organization and staffing of the project and termination of the agreement. If an agreement between the local government units in the alliance deals with the provision of services or facilities with regard to which an officer, unit or agency of the state government has control, the agreement must be approved by the officer, unit or agency.
- Before a local government unit may issue any bonds to finance a project under the act, it must publish a notice of its intent to issue the bonds which is in addition to any other publishing required by law.
- Every agreement made under this act must be submitted to the Attorney General and approved by him in order to be effective.
- Copies of the agreement must be filed with the Secretary of State and the chancery clerk of the counties in which each of the participating local governmental units are located.
- Copies of the agreement must be filed with the State Auditor for audit purposes no later than 60 days after the agreement is in force.

4. **SECTIONS 24-33: MISSISSIPPI ADVANTAGE JOBS ACT**

- This act authorizes quarterly incentive payments to certain qualified businesses. The incentives are funded through a diversion of the withholding taxes paid by the qualifying business.
- A qualified business must provide an annual salary to its employees of at least 125% of the most recent state average annual wage or the most recent average annual wage of the county in which the business is located, whichever is lesser, must provide a basic health benefit plan as approved by the Mississippi Development Authority, must create at least 10 full-time jobs in counties that have an unemployment rate that is 150% of the state unemployment rate or in Tier Three counties and must create at least 25 full-time jobs in all other counties.
- The amount of the payments is determined by the Mississippi Development Authority but may not exceed the estimated net direct state benefits of the jobs created.

In order to arrive at the net direct state benefits, the estimated state direct costs are subtracted from the estimated direct state benefits. The benefit rates may be variable but may not exceed 4% of the businesses' gross payroll.

- The State Tax Commission makes the incentive payments and verifies the eligibility of the business before making each payment. The initial incentive payments begin only after the business has met the salary and jobs requirements for four consecutive calendar quarters. If the business fails to meet the requirements in any quarter after the payments have begun, the incentive payments cease until the business has again met the minimum jobs and wage requirements. If a business that is receiving the incentive payments expands, it may apply for additional incentive payments based on the new gross payroll for new direct jobs anticipated from the expansion only.
- The Mississippi Advantage Program Incentive Payment Fund is created in the State Treasury. The State Tax Commission administers the fund and money in the fund, less 3% to be retained by the State Tax Commission for expenses incurred in administering its duties under the act, is utilized by the commission to make incentive payments pursuant to an approved application. The fund is funded through a diversion of the withholding tax revenue paid by an employer who is eligible to receive incentive payments under the act in an amount equal to the estimated amount of the employer's incentive payment.
- After the end of a calendar quarter for which a qualified business or industry has qualified to receive an incentive payment, it must file a claim for the payment with the State Tax Commission and specify the actual number of full-time jobs created and maintained by the business or industry and the gross payroll of the business. The Tax Commission is required to verify the eligibility of the business or industry prior to making the incentive payment.

5. SECTIONS 34-39: GROWTH AND PROSPERITY ACT

- From and after December 31, 2000, and until December 31, 2005, any county of this state which has an annual unemployment rate which is at least 200% of the state's unemployment rate as of December 31 of any year from 2000 through 2005, as determined by the Mississippi Employment Security Commission, or in which 30% or more of the population of the county is at or below the federal poverty level for any year from 2000 to 2005 as of June 30, 2000, may apply to the Mississippi Development Authority for the issuance of a certificate of public convenience and necessity designating the county as a growth and prosperity county.
- Any county that has a supervisors district, as such district exists on January 1, 2001, in which 30% or more of the district's population is at or below the federal poverty level as of June 30, 2000, and which is contiguous to a county in which 30% or more of the population of such county is at or below the federal poverty level, may apply under the Growth and Prosperity Act for a certificate of public convenience and necessity. If a certificate is issued, an approved business that locates in the eligible supervisors

district within eight miles of the qualifying county is eligible for the exemptions under the act.

- A municipality in a designated growth and prosperity county may by order or resolution of the municipality consent to participation in the Growth and Prosperity Program.
 - Upon the issuance of the certificate of public convenience and necessity, any approved business enterprise in the county shall be exempt for a period of 10 years or until December 31, 2015, whichever occurs first, from:
 - (a) All local ad valorem taxes levied by the county, except school taxes and that portion of the ad valorem tax utilized to pay for fire and police protection;
 - (b) All state sales and use taxes imposed related to the purchase of component building materials and equipment; and
 - (c) All state income and franchise taxes.
- If the business is in a municipality in the county and the municipality consents, the business will be exempt from all local ad valorem taxes levied by the municipality, except school taxes.
- Exemptions under this act are not transferable and businesses that claim the exemption may not use the exemption unless they are in full compliance with state and local tax laws and related ordinances.
 - The approved business must enter into an agreement with the Mississippi Development Authority setting out performance requirements for the business and provisions for the recapture of all or a portion of the taxes exempted if the performance requirements for the business are not met.
 - If the annualized unemployment rate in a growth and prosperity county falls below 150% of the state's annualized unemployment rate for three consecutive calendar years, the tax exemptions authorized under Sections 19 through 24 of this act may not be granted to additional business enterprises.

6. **SECTION 40: JOBS TAX CREDIT AMENDMENTS**

- Under current law the amount of the portion of income tax credit under this provision is tied to the designation of the county as "less developed," "moderately developed" or "developed." These designations are renamed "Tier Three," "Tier Two" and "Tier One," respectively.
- Under current law the income tax credit is limited to certain types of enterprises. The amendment includes data or information processing enterprises or computer software development enterprises or any technology intensive facility or enterprise in the types of enterprises for which the income tax credit may be granted.
- Under current law an additional income tax credit of \$500 is authorized for each net new full-time employee for any company establishing or transferring its national or regional headquarters to Mississippi. The amendment authorizes a tax credit for these types of jobs in the amount of a \$1,000 credit for each net new full-time employee who is paid a salary, excluding benefits that are not subject to Mississippi income taxation, of at least 125% of the average annual wage of the state or a

\$2,000 credit for each net new full-time employee who is paid a salary, excluding benefits that are not subject to Mississippi income taxation, of at least 200% of the average annual wage of the state.

- The jobs tax credit for new research and development jobs is increased from \$500 to \$1,000 per job.

7. SECTION 41: BASIC SKILLS TRAINING TAX CREDIT AMENDMENTS

- Under current law a 25% income tax credit is granted to any employer providing certain basic skills training to employees. The amendment increases this credit to 50%.
- The credit cannot exceed \$2500 per employee over a three-year period.
- Under current law the training must be provided through a community/junior college in the district within which the employer is located. The amendment also includes any training which is approved by the community/junior college district.
- The amendment broadens the definition of "retraining expenses."
- A community/junior college may commit to provide employer-sponsored basic skills training or retraining programs for an employer for a multiple number of years, not to exceed five years.
- A July 1, 2002, repeal date is added.

8. SECTIONS 42-45: MISSISSIPPI MAJOR ECONOMIC IMPACT ACT AMENDMENTS

- Revises the definition of the term "project" under the act to include an enterprise:
 - (a) With an initial capital investment of not less than \$150,000,000 from private or United States government sources together with all buildings and other supporting land and facilities, structures or improvements of whatever kind required or useful for construction, maintenance and operation of the enterprise and which creates at least 1,000 net new full-time jobs; or
 - (b) Which creates at least 1,000 net new full-time jobs that provide an average salary, excluding benefits that are not subject to Mississippi income taxation, of at least 125% of the average annual wage of the state as determined by the Mississippi Employment Security Commission.
- The term "project" is expanded to include certain ancillary developments or businesses that occur as a result of certain enterprises.
- The Mississippi Major Economic Impact Authority is authorized to negotiate a fee-in-lieu of franchise tax in an amount not less than \$25,000 with the owners of a project. This applies only to new projects.
- The amendment authorizes the use of general obligation bonds under the act for defraying the cost of providing for the recruitment, screening, selection, training or retraining of employees, candidates for employment or replacement employees of the project and any related activity.

9. SECTION 51: INDUSTRIAL SALES TAX EXEMPTIONS

- The industrial sales tax exemption is brought forward to conform to the provisions of the Growth and Prosperity Act and, in addition, a new exemption is provided for sales of pollution control equipment to manufacturers or custom processors for industrial use. For the purposes of this exemption, "pollution control equipment" means equipment, devices, machinery or systems used or acquired to prevent, control, monitor or reduce air, water or groundwater pollution, or solid or hazardous waste as required by federal or state law or regulation.

10. **SECTION 52: AGRICULTURE INDUSTRY GROWTH FOR AGRIBUSINESS AND FARMERS**

- The Mississippi Development Authority shall develop a program designed to stimulate growth in the agricultural industry for agribusiness concerns and farmers. The program shall:
 - (a) Increase the availability of financial assistance available to agribusiness concerns and farmers;
 - (b) Provide incentives for agribusiness concerns and farmers which will encourage growth in the Mississippi agricultural industry;
 - (c) Assist new agribusiness concerns and farmers in developing and implementing business plans;
 - (d) Develop methods for increasing markets for the goods and services of agribusiness concerns and farmers;
 - (e) Work with public and private entities in disseminating information about public and private programs that benefit agribusiness concerns and farmers;
 - (f) Identify sources of financial assistance available to agribusiness concerns and farmers and assist agribusiness concerns and farmers with the preparation of applications for assistance from public and private sources; and
 - (g) Assist new agribusiness concerns and farmers in developing and implementing business plans.
- The Mississippi Development Authority shall file an annual report with the Governor, the Secretary of the Senate and the Clerk of the House of Representatives, not later than December 1 of each year, with recommendations for any legislation necessary to accomplish the purposes of the program.

11. **SECTIONS 53-55: MISSISSIPPI LAND, WATER AND TIMBER RESOURCES ACT**

- Creates the Mississippi Land, Water and Timber Resources Board to consist of the following members:
 - (a) The Chairman of the Senate Agriculture Committee, or a member of the Senate Agriculture Committee designated by the chairman, as a nonvoting member;
 - (b) The Chairman of the House of Representatives Agriculture Committee or a member of the House of Representatives Agriculture Committee designated by the chairman, as a nonvoting member;
 - (c) The Executive Director of the Mississippi Development Authority, or his designee;

(d) The Commissioner of the Mississippi Department of Agriculture and Commerce, or his designee;

(e) The President of the Mississippi Farm Bureau Federation, or his designee;

(f) The Director of the Cooperative Extension Service at Mississippi State University, or his designee;

(g) The Executive Director of the Agribusiness and Natural Resource Development Center at Alcorn State University, or his designee;

(h) The Director of the Agricultural Finance Division of the Mississippi Development Authority, or his designee;

(i) The Director of the Agriculture Marketing Division of the Mississippi Department of Agriculture and Commerce, or his designee;

(j) The Executive Director of the Mississippi Forestry Commission or his designee;

(k) Three persons (one from each Supreme Court District) appointed by the Governor who are active producers of Mississippi land, water or timber commodities; and

(l) The Chairman of the Senate Forestry Committee, or a member of the Senate Forestry Committee designated by the chairman, as a nonvoting member.

- The Executive Director of the Mississippi Development Authority and the Commissioner of the Mississippi Department of Agriculture and Commerce shall serve as co-chairmen of the board. The board shall meet at least once each calendar quarter at the call of the co-chairmen. All meetings shall take place at the State Capitol in Jackson, Mississippi. The board shall provide a copy of the minutes of each of its meetings to the Chairman of the Senate Agriculture Committee and the Chairman of the House of Representatives Agriculture Committee.
- The powers and duties of the board are:
 - (a) To develop marketing plans and opportunities for independent farmers in Mississippi;
 - (b) To encourage the commercialization of new agricultural technology businesses;
 - (c) To initiate the development of processing facilities for Mississippi agricultural commodities;
 - (d) To initiate the development of Mississippi wholesale distribution businesses for agricultural inputs and products;
 - (e) To promote the development of institutional and specialty markets for Mississippi agriculture products;
 - (f) To encourage additional research for new agricultural product development;
 - (g) To promote the rural quality of life in Mississippi through such programs as 4-H, Future Farmers of America and agricultural education;
 - (h) To file an annual report with the Governor, Secretary of the Senate and the Clerk of the House of Representatives not later than December 1 of each year, with recommendations for any legislation necessary to accomplish the purposes of the Mississippi Land, Water and Timber Resources Act;
 - (i) The board may promulgate and enforce rules and regulations as may be necessary to carry out the provisions of the Mississippi Land, Water and Timber Resources Act; and

(j) To expend funds out of the Mississippi Land, Water and Timber Resources Fund, upon legislative appropriation, to carry out their powers and duties under the Mississippi Land, Water and Timber Resources Act.

- The Mississippi Land, Water and Timber Resources Board may accept and expend funds appropriated or otherwise made available by the Legislature and funds from any other source in order to carry out the provisions of the Mississippi Land, Water and Timber Resources Act. Such funds shall be deposited into a special fund established in the State Treasury to be known as the "Mississippi Land, Water and Timber Resources Fund."

12. **SECTION 57: SMALL MUNICIPALITIES AND LIMITED POPULATION COUNTIES PROGRAM**

- Creates a special fund in the State Treasury called the "Small Municipalities and Limited Population Counties Fund."
- The Mississippi Development Authority shall establish a grant program for grants to small municipalities and limited population counties or natural gas districts created by law and contained therein to assist in completing projects.
- A small municipality or limited population county desiring assistance under this program 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 Mississippi Development Authority.
- The Mississippi Development Authority must file an annual report with the Governor, Secretary of the Senate and the Clerk of the House of Representatives not later than December 1 of each year, describing all assistance provided under this program.
- "Small municipality" means a municipality in the State of Mississippi with a population of 10,000 or less according to the most recent federal decennial census at the time the municipality submits its application to the MDA.
- "Limited population county" means a county in the State of Mississippi with a population of 30,000 or less according to the most recent federal decennial census at the time the county submits its application to the MDA.
- "Project" means highways, streets and other roadways, bridges, sidewalks, utilities, airfields, airports, acquisition of equipment, acquisition of real property, development of real property, improvements to real property, and any other project approved by the Mississippi Development Authority.

13. **SECTION 58: DISPARITY STUDY REGARDING MINORITY CONTRACTORS**

Requires the Mississippi Development Authority to conduct and prepare, or contract for the preparation of, a study to determine if there is a significant statistical disparity in the total number of qualified minority contractors of goods and services doing business in the State of Mississippi and the actual number of such minority

contractors with whom the state, or with whom a prime contractor with the state, has contracted to provide goods and services.

14. **SECTION 59: MULTI-YEAR INDUSTRIAL TRAINING COMMITMENTS**

- In negotiating commitments under the Industrial Training Programs with industries seeking to locate or expand in Mississippi, the State Board for Community and Junior Colleges may enter into multi-year agreements for such training programs subject to the availability of funds appropriated therefor.
- The State Board for Community and Junior Colleges is required to file a report with the Secretary of the Senate and the Clerk of the House of Representatives listing the multi-year commitments that are made.

15. **SECTION 60: ANNUAL REPORT**

The Mississippi Development Authority is required to file an annual report with both houses of the Legislature, beginning July 1, 2001, describing all assistance authorized under the Advantage Mississippi Initiative.

16. **SECTION 61: COUNTY JAILS**

Provides that if the board of supervisors of a county and the governing authorities of a municipality enter into an agreement under the Regional Economic Development Act or an intergovernmental agreement approved by the Attorney General for the operation of a county jail, the jail may be located outside the municipality and shall not be subject to the requirements that the jail be constructed within one mile of the municipality.