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Chapter No. 308

11/HR07/R757

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HOUSE BILL NO. 1415

Originated in House Don Richardson Clerk

HOUSE BILL NO. 1415

AN ACT TO AMEND SECTION 37-33-157, MISSISSIPPI CODE OF 1972, TO AUTHORIZE THE DEPARTMENT OF REHABILITATION SERVICES TO BORROW MONEY FROM THE MISSISSIPPI DEVELOPMENT BANK OR OTHER FINANCIAL INSTITUTIONS FOR THE PURPOSE OF CONSTRUCTION, REPAIR AND RENOVATION OR FURNISHING AND EQUIPPING FACILITIES OWNED OR UNDER THE SUPERVISION OF THE DEPARTMENT; TO PROVIDE THAT PRIOR TO ENTERING INTO ANY LOAN THE DEPARTMENT SHALL CERTIFY THE AVAILABLE REVENUE THAT THE DEPARTMENT INTENDS TO UTILIZE TO REPAY THE LOAN AND THAT THE DEPARTMENT DOES NOT INTEND TO REQUEST AN ADDITIONAL APPROPRIATION FROM STATE SOURCE FUNDING TO PAY DEBT SERVICE ON ANY SUCH LOAN; TO AMEND SECTION 31-25-28, MISSISSIPPI CODE OF 1972, TO AUTHORIZE THE DEPARTMENT OF REHABILITATION SERVICES TO BORROW MONEY FROM THE MISSISSIPPI DEVELOPMENT BANK IN AN AMOUNT NOT TO EXCEED \$7,000,000.00 FOR THE PURPOSE OF CONSTRUCTION AT, AND REPAIR AND RENOVATION, FURNISHING AND EQUIPPING OF, THE DEPARTMENT'S OFFICE BUILDING LOCATED IN MADISON, MISSISSIPPI; AND FOR RELATED PURPOSES.

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

SECTION 1. Section 37-33-157, Mississippi Code of 1972, is amended as follows:

37-33-157. The Department of Rehabilitation Services shall provide the rehabilitation services authorized by law and by the rules, regulations and policies of the board to every individual determined to be eligible therefor, and in carrying out the purposes of this chapter the department is authorized, when consistent with the rules, regulations and policies of the State Board of Rehabilitation Services:

(a) To expend funds received either by appropriation or directly from federal or private sources.

(b) To cooperate with other departments, agencies and institutions, both public and private, in providing the services authorized by this chapter to disabled individuals, in studying the problems involved therein, and in establishing, developing and

providing in conformity with the purposes of this chapter, such programs, facilities and services as may be necessary or desirable.

(c) To enter into reciprocal agreements with other states to provide for the services authorized by this chapter to residents of the states concerned.

(d) To conduct research and compile statistics relating to the provision of services to or the need of services by disabled individuals.

(e) To enter into contractual arrangements with the federal government and with other authorized public agencies or persons for performance of services related to rehabilitation.

(f) To contract with schools, hospitals and other agencies, and with doctors, optometrists, nurses, technicians and other persons, for training, physical restoration, transportation and other rehabilitation services.

(g) To take such action as may be necessary to enable the department to apply for, accept and receive for the state and its residents the full benefits available under the federal Vocational Rehabilitation Act, and any amendments thereto, and under any other federal legislation or program having as its purpose the providing of, improvement or extension of, vocational rehabilitation services.

(h) To establish an Office on the Deaf and Hard of Hearing to provide services and activities authorized under Section 37-33-171.

(i) To own in the name of the State of Mississippi certain real property described in Section 7 of Chapter 512, Laws of 2005, and to construct, renovate or repair under the supervision of the Department of Finance and Administration any buildings on such property.

(j) To borrow money from the Mississippi Development Bank or other financial institution for the purpose of

construction, repair and renovation, furnishing or equipping facilities owned or under the supervision of the department; however, the department shall certify the following to the Mississippi Development Bank or other financial institution prior to entering into any loan:

(i) The available revenue that the department intends to utilize to repay the loan; and

(ii) That the department does not intend to request an additional appropriation from state source funding to pay debt service on any loan entered into under this paragraph.

(k) To fingerprint and perform a current criminal history record check, child abuse registry check, sex offender registry check, and vulnerable adult abuse or neglect check on any person performing services for or on behalf of the department including, but not limited to, every employee, volunteer, contractual worker, and independent contractor.

(l) To use the results of the fingerprinting and background checks performed under paragraph (j) for the purposes of employment decisions and/or actions and service provision to consumers of the department's services. The department and its agents, officers, employees, attorneys and representatives shall be exempt from liability for any findings, recommendations or actions taken under this paragraph.

SECTION 2. Section 31-25-28, Mississippi Code of 1972, is amended as follows:

31-25-28. (1) Local governmental units may borrow money or receive grants from the bank for any of the purposes set forth in this section or Section 31-25-20(g) and pay to the bank such fees and charges for services as the bank may prescribe. Whenever any such loan is made to a local governmental unit, such local governmental unit may use available revenues for the repayment of the principal of, premium, if any, and interest on such loan, and pledge such available revenues or monies for the repayment of the

principal of, premium, if any, and interest on such loan. It is the intention of the Legislature that any such pledge of revenues or other monies shall be valid and binding from the date the pledge is made; that such revenues or other monies so pledged and thereafter received by the local governmental unit shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act, and that the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the local governmental unit irrespective of whether such parties have notice thereof; and neither the resolutions, contracts or any other instrument by which a pledge is created need be recorded.

(2) Local governmental units may contract with the bank with respect to any such loan and such contract shall contain such terms and conditions as may be prescribed by the bank.

(3) Local governmental units may in connection with any such loan enter into any covenants and agreements with respect to such local governmental unit's operations, revenues, assets, monies, funds or property, or such loan, as may be prescribed by the bank.

(4) Upon the making of any such loan by the bank to any local governmental unit, such local governmental unit shall be held and be deemed to have agreed that if such governmental unit fails to pay the principal of, premium, if any, and interest on any such loan as when due and payable, such governmental unit shall have waived any and all defenses to such nonpayment, and the bank, upon such nonpayment, shall thereupon avail itself of all remedies, rights and provisions of law applicable in such circumstance, including, without limitation, any remedies or rights theretofore agreed to by the local governmental unit, and that such loan shall for all of the purposes of this section, be held and be deemed to have become due and payable and to be unpaid. The bank may carry out the provisions of this section and exercise all of the rights and remedies and provisions of law

provided or referred to in this section and of all other applicable laws of the state.

(5) Any local governmental unit that borrows from the bank under this section may agree in writing with the bank that, as provided in this subsection, the Department of Revenue or any state agency, department or commission created pursuant to state law shall (a) withhold all or any part (as agreed by the local governmental unit) of any monies that such local governmental unit is entitled to receive from time to time pursuant to any law and that is in the possession of the Department of Revenue or any state agency, department or commission created pursuant to state law and (b) pay the same over to the bank to satisfy any delinquent payments on any such loan made to such local governmental unit under the provisions of this section and any other delinquent payments due and owing the bank by such local governmental unit, all as the same shall occur. If the bank files a copy of such written agreement, together with a statement of delinquency, with the Department of Revenue or any state agency, department or commission created pursuant to state law, then the Department of Revenue or any state agency, department or commission created pursuant to state law shall immediately make the withholdings provided in such agreement from the amounts due the local governmental unit and shall continue to pay the same over to the bank until all such delinquencies are satisfied.

(6) Before authorizing any loan for any of the purposes enumerated in Section 31-25-20(e), the governing authority of the local governmental unit shall adopt a resolution declaring its intention so to do, stating the amount of the loan proposed to be authorized and the purpose for which the loan is to be authorized, and the date upon which the loan will be authorized. Such resolution shall be published once a week for at least three (3) consecutive weeks in at least one (1) newspaper published in such local governmental unit. The first publication of such resolution

shall be made not less than twenty-one (21) days before the date fixed in such resolution for the authorization of the loan and the last publication shall be made not more than seven (7) days before such date. If no newspaper is published in such local governmental unit, then such notice shall be given by publishing the resolution for the required time in some newspaper having a general circulation in such local governmental unit and, in addition, by posting a copy of such resolution for at least twenty-one (21) days next preceding the date fixed therein at three (3) public places in such local governmental unit. If fifteen percent (15%) of the qualified electors of the local governmental unit or fifteen hundred (1500), whichever is the lesser, file a written protest against the authorization of such loan on or before the date specified in such resolution, then an election on the question of the authorization of such loan shall be called and held as otherwise provided for in connection with the issuance of general obligation indebtedness of such local governmental unit. Notice of such election shall be given as otherwise required in connection with the issuance of general obligation indebtedness of such local governmental unit. If three-fifths (3/5) of the qualified electors voting in the election vote in favor of authorizing the loan, then the governing authority of the local governmental unit shall proceed with the loan; however, if less than three-fifths (3/5) of the qualified electors voting in the election vote in favor of authorizing the loan, then the loan shall not be incurred. If no protest be filed, then such loan may be entered into by the local governmental unit without an election on the question of the authorization of such loan, at any time within a period of two (2) years after the date specified in the resolution. However, the governing authority of any local governmental unit in its discretion may nevertheless call an election on such question, in which event it shall not be necessary to publish the resolution

declaring its intention to authorize such loan as provided in this subsection.

(7) (a) The Department of Environmental Quality may borrow money from the bank for any purpose as otherwise authorized by this act or for the purpose of funding loan programs (including revolving loan programs) for the Department of Environmental Quality, or both. The Department of Environmental Quality may contract with the bank with respect to any loan from the bank to fund such loan programs and the loan from the bank may include any terms and conditions as provided for in this section. If the Department of Environmental Quality borrows funds pursuant to this subsection (7), then the Department of Environmental Quality shall certify the following to the bank prior to making the loan from the bank:

(i) The revolving loan program or other program to be funded through the issuance of the bonds;

(ii) Available revenues which the Department of Environmental Quality intends to use to repay the loan; and

(iii) That the Department of Environmental Quality does not intend to request an additional appropriation from the Legislature to pay debt service on the loan from the bank or for such security.

(b) If the Department of Environmental Quality meets the requirements of paragraph (a) of this subsection (7), then the Department of Environmental Quality shall not be required to meet the requirements of Section 31-25-27(14). Notwithstanding any other provision of law, including any limitations or restrictions under Section 49-17-81 et seq., the Department of Environmental Quality may designate or pledge any funds, revenues or any other amounts received under its loan programs designated under paragraph (a)(i) of this subsection (7) to repay a loan from the bank under this subsection (7). Funds, revenues or any other amounts received under a loan program as provided under this

subsection (7) specifically include, but are not limited to, any principal and/or interest loan repayments from any participant under the program, any investment earnings, or other amounts held by the Department of Environmental Quality in connection with the applicable loan program. Any loan program of the Department of Environmental Quality otherwise authorized by law shall be deemed to be a public purpose for purposes of this act which the bank may loan funds under the provisions of this act.

(c) In connection with a loan under this subsection (7), the bank may administer and manage loan programs as provided in the contracts with the bank to loan funds thereunder.

(d) The maximum amount that the Department of Environmental Quality may borrow under this subsection (7) shall not exceed Eighty Million Dollars (\$80,000,000.00) in the aggregate.

(e) This subsection (7) shall stand repealed on July 1, 2014.

(8) (a) In connection with any refunding of the Ten Million Five Hundred Seventy Thousand Dollars (\$10,570,000.00), State of Mississippi, Department of Rehabilitation Services, Certificates of Participation (State of Mississippi, Department of Rehabilitation Services Project) dated August 1, 1993, the bank may issue its bonds to provide for such refunding and the Department of Rehabilitation Services may borrow money from the bank for the purpose of providing for the refunding of such Certificates of Participation. The Department of Rehabilitation Services may contract with the bank with respect to any loan from the bank under this paragraph (a), to provide for the refunding of such Certificates of Participation and such loan from the bank may include any terms and conditions as provided for in this section. In connection with the refunding of the Certificates of Participation pursuant to this paragraph (a), such refunding shall result in an overall net present value savings to maturity of not

less than two percent (2%) of the Certificates of Participation being refunded.

(b) The Department of Rehabilitation Services may borrow money from the bank in an amount not to exceed Seven Million Dollars (\$7,000,000.00) for the purpose of construction at, and repair and renovation, furnishing and equipping of, the department's office building located in Madison, Mississippi.

(c) In connection with any loan under this subsection (8), the Department of Rehabilitation Services shall not be required to meet the requirements of Section 31-25-27(14).

(9) (a) The State Department of Health may borrow money from the bank for any purpose as otherwise authorized by this act or for the purpose of funding loan programs (including revolving loan programs) for the State Department of Health, or both. The State Department of Health may contract with the bank with respect to any loan from the bank to fund loan programs and the loan from the bank may include any terms and conditions as provided for in this section. If the State Department of Health borrows funds pursuant to this subsection (9), then the State Department of Health shall certify the following to the bank prior to making the loan from the bank:

(i) The revolving loan program or other program to be funded through the issuance of the bonds;

(ii) Available revenues which the State Department of Health intends to use to repay the loan; and

(iii) That the State Department of Health does not intend to request an additional appropriation from the Legislature to pay debt service on the loan from the bank or for such security.

(b) If the State Department of Health meets the requirements of paragraph (a) of this subsection (9), then the State Department of Health shall not be required to meet the requirements of Section 31-25-27(14). Notwithstanding any other

provision of law, including any limitations or restrictions under Section 41-3-16 et seq., the State Department of Health may designate or pledge any funds, revenues or any other amounts received under its loan programs designated under paragraph (a)(i) of this subsection (9) to repay a loan from the bank under this subsection (9). Funds, revenues or any other amounts received under a loan program as provided under this subsection (9) specifically include, but are not limited to, any principal and/or interest loan repayments from any participant under the program, any investment earnings, or other amounts held by the State Department of Health in connection with the applicable loan program. Any loan program of the State Department of Health otherwise authorized by law shall be deemed to be a public purpose for purposes of this act which the bank may loan funds under the provisions of this act.

(c) In connection with a loan under this subsection (9), the bank may administer and manage loan programs as provided in the contracts with the bank to loan funds thereunder.

(d) The maximum amount that the State Department of Health may borrow under this subsection (9) shall not exceed Eighty Million Dollars (\$80,000,000.00) in the aggregate.

(e) This subsection (9) shall stand repealed on July 1, 2014.

(10) This section shall be deemed to provide an additional, alternative and complete method for the doing of the things authorized by this section and shall be deemed and construed to be supplemental to any power conferred by other laws on local governmental units and not in derogation of any such powers. Any loan made pursuant to the provisions of this section shall not constitute an indebtedness of the local governmental unit within the meaning of any constitutional or statutory limitation or restriction. In connection with a loan under this chapter, a

local governmental unit shall not be required to comply with the provisions of any other law except as provided in this section.

SECTION 3. This act shall take effect and be in force from and after July 1, 2011.

PASSED BY THE HOUSE OF REPRESENTATIVES
February 2, 2011



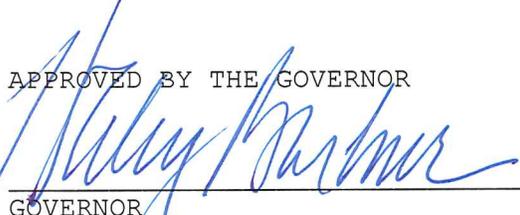
SPEAKER OF THE HOUSE OF REPRESENTATIVES

PASSED BY THE SENATE
February 21, 2011



PRESIDENT OF THE SENATE

APPROVED BY THE GOVERNOR



GOVERNOR

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