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Chapter No. 938
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SENATE BILL NO. 3128

Originated in Senate Teresa W Gumpres Secretary

SENATE BILL NO. 3128

AN ACT TO AUTHORIZE THE GOVERNING AUTHORITIES OF THE CITY OF OXFORD, MISSISSIPPI, TO ESTABLISH THE CITY OF OXFORD MUNICIPAL RESERVE AND TRUST FUND; TO PROVIDE THAT ALL PROCEEDS RECEIVED BY THE CITY AS A RESULT OF THE TERMINATION OF LEASE AND FOR THE SALE OF THE REAL AND PERSONAL PROPERTY RELATED TO THE BAPTIST MEMORIAL HOSPITAL-NORTH MISSISSIPPI FACILITIES LOCATED ON LAMAR AVENUE SHALL BE DEPOSITED INTO THE FUND; TO PROVIDE FOR THE ESTABLISHMENT OF THE BOARD OF TRUSTEES OF THE CITY OF OXFORD MUNICIPAL RESERVE AND TRUST FUND AND PROVIDE FOR THE APPOINTMENT OF ITS MEMBERS; TO PROVIDE FOR THE POWERS AND DUTIES OF THE BOARD OF TRUSTEES; TO PROVIDE FOR THE INVESTMENT OF THE ASSETS OF THE TRUST FUND; TO PROVIDE THAT THE FUND SHALL BE DIVIDED INTO A CORPUS COMPONENT AND AN EARNING COMPONENT; TO PROVIDE THAT THE CORPUS COMPONENT SHALL REMAIN INVIOLATE EXCEPT AS OTHERWISE PROVIDED IN THIS ACT; TO PROVIDE THAT THE EARNINGS COMPONENT SHALL BE TRANSFERRED FROM THE TRUST FUND TO THE GENERAL FUND OF THE CITY AND SHALL BE AVAILABLE FOR APPROPRIATION AND SPENDING BY THE GOVERNING AUTHORITIES OF THE CITY; TO AUTHORIZE MONEY FROM THE CORPUS OF THE TRUST TO BE EXPENDED BY THE CITY UNDER CERTAIN CIRCUMSTANCES; AND FOR RELATED PURPOSES.

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

SECTION 1. It is hereby determined and declared that for the benefit of the people of the City of Oxford, Mississippi, and the continued improvement and maintenance of the City of Oxford, and for providing for the fiscal security and sustained revenue for the city and its citizens, that it is the purpose of this act to establish an alternative method to make funds available to fulfill these obligations and important and prudent purposes by authorizing the creation, operation, administration and governance of the City of Oxford Municipal Reserve and Trust Fund, through which the ongoing needs of the city shall be met and ongoing improvements to the city be made and through which the quality and welfare of all residents of the City of Oxford will be increased, all to the public benefit and good, as more fully provided herein.

This act shall apply only to the funds creating the City of Oxford Municipal Reserve and Trust Fund as more fully provided herein.

SECTION 2. As used in this act, unless a different meaning clearly appears in the context, the following terms shall have the following meaning:

(a) "City" means the City of Oxford, Mississippi, acting by and through its mayor and board of aldermen.

(b) "Clerk" means the then clerk of the city.

(c) "Governing authorities" means the mayor and board of aldermen of the city.

(c) "Mayor" means the then mayor of the city.

(d) "Mayor Pro Tem" means the then mayor pro tempore of the city.

(e) "Board of aldermen" means the then board of aldermen of the city.

(f) "Fund" means the City of Oxford Municipal Reserve and Trust Fund established under this act for the deposit of the sales proceeds received by the city as a result of the termination of lease and for the sale of the real and personal property related to the existing Baptist Memorial Hospital-North Mississippi facilities.

(g) "Trustees" mean the persons chosen in accordance with this act to perform in a manner so as to safeguard the interests of the people of the city, the administrative and management duties necessary to fulfill the purposes of the City of Oxford Municipal Reserve and Trust Fund. If the city assumes administration of the fund as provided in this act, then the trustees shall refer to the mayor and board of aldermen of the city acting in the position of trustees of the fund.

(h) "Income" means all interest and dividends derived from the investment of monies in the fund.

SECTION 3. The governing authorities are authorized to establish the City of Oxford Municipal Reserve and Trust Fund.

The governing authorities are authorized to fund and deposit into the fund all proceeds received by the city as a result of the termination of the lease and for the sale of the real and personal property related to the Baptist Memorial Hospital-North Mississippi facilities located on Lamar Avenue in the city and any income from the investment of those funds.

SECTION 4. (1) There is established the Board of Trustees of the City of Oxford Municipal Reserve and Trust Fund. The fund shall be administered, managed, invested and governed by the board of trustees.

(2) The governing authorities of the city is authorized to delegate the administration and management of the fund to the trustees, to be chosen in the manner provided in this section, and the trustees are hereby authorized to manage and invest the fund as provided in this act.

(3) The board of trustees shall consist of nine (9) members as follows:

(a) One (1) member shall be the mayor;

(b) One (1) member shall be the mayor pro tem;

(c) One (1) member shall be an alderman appointed by the mayor with the advice and consent of the board of aldermen; and

(d) Six (6) members shall be appointed by the mayor with the advice and consent of the board of aldermen.

(4) The initial term of office of the six (6) nonaldermen members shall be for one (1) year, two (2) years, three (3) years, four (4) years, five (5) years and six (6) years, respectively, as designated by the mayor.

(5) The term of office for the appointed alderman member shall be two (2) years.

(6) Notwithstanding the day on which the appointment began, all terms of the appointed trustees shall end on the first day of August of the year in which their term ends. After the initial

appointments, each new trustee shall be appointed for a term of office of two (2) years, beginning on the first day of August. Members shall be eligible for reappointment. Vacancies shall be filled for the remainder of the unexpired term in the same manner as regular appointments.

(7) Each member appointed by the mayor shall possess knowledge, skill and experience in business or financial matters commensurate with the duties and responsibilities of the board of trustees in administering the fund.

(8) Nongovernmental trustees shall serve without compensation, but shall be reimbursed per diem in the amount established by Section 25-3-69, Mississippi Code of 1972, for each meeting of the board of trustees that the trustee is in attendance, and for travel and lodging expenses as established by Section 25-3-41, Mississippi Code of 1972. The expenses of the board of trustees in carrying out its duties and responsibilities shall be paid from income from the fund. The mayor, mayor pro tem and appointed board of alderman shall serve as trustees without compensation.

(9) The mayor pro tem shall be the chairman of the board of trustees. The board of trustees shall annually elect one (1) member to serve as vice chairman of the board of trustees. The vice chairman shall act as chairman in the absence of or upon the disability of the chairman or if there is a vacancy in the office of the chairman.

(10) The board of trustees may be dissolved at any time by the governing authorities if, by majority vote, the governing authorities finds such dissolution to be in the best interest of the public. In the case of dissolution, the governing authorities shall administer the fund directly, acting always in accordance with the provisions of this act, until such time, if any, as the governing authorities elects to reestablish a board of trustees in

accordance with the procedures for appointment in as provided in of this section.

(11) The trustees shall administer and manage the fund and manage the principal and interest income of the fund, and establish a comprehensive investment plan for the purposes of this act. The comprehensive investment plan shall specify the policies to be utilized by the board of trustees in its administration of the fund. The board of trustees shall invest the fund in any of the investments authorized for the Mississippi Prepaid Affordable College Tuition Program under Section 37-155-9, Mississippi Code of 1972, and those investments shall be subject to the limitations prescribed by Section 37-155-9, except the fund shall be restricted from investment in the covered call and put options allowed in Section 37-155-9(v)(xi) or in the pooled or commingled real estate funds or real estate securities as outlined in Section 37-155-9(v)(xiii).

(12) In furtherance of the powers granted under subsection (11) of this section, the board of trustees shall have such powers as necessary or convenient to carry out the purposes and provisions of this act, including, but not limited to, the following express powers:

(a) To contract for necessary goods and services, to employ necessary personnel, and to engage the services of consultants for administrative and technical assistance in carrying out its duties and responsibilities in administering the fund;

(b) To administer the fund in a manner that is sufficiently actuarially sound to meet the obligations of this act;

(c) Subject to the terms, conditions, limitations and restrictions specified in Section 37-155-9 and subsection (11) of this section, the board of trustees shall have power to sell,

assign, transfer and dispose of any of the securities and investments of the fund, provided that any such sale, assignment or transfer has the majority approval of the entire board of trustees; and

(d) To annually prepare, or cause to be prepared, a report setting forth in appropriate detail an accounting of the fund and a description of the financial condition of the fund at the close of each fiscal year. The report shall be submitted to the governing authorities on or before July 1 of each fiscal year. In addition, at all times, the governing authorities shall have the right upon reasonable notice to review, inspect and/or audit fund records and accounts maintained by the trustees.

SECTION 5. The fund shall be invested and disbursed as follows:

(a) The fund shall be divided into two (2) components: (i) the corpus component, and (ii) the earnings component.

(b) The corpus component of the funds shall consist of the initial deposit as described above, and additional subsequent deposits from the annual income earned from the investment of the fund. Except as otherwise provided in this act, the corpus shall be inviolate and maintained and used to generate interest income and shall not be invaded or used by the trustees.

(c) The earnings component shall be composed of a percentage of the annual interest earned on the corpus component of the fund, and shall be defined and available for distribution by the trustees as described in this subsection.

(d) For the first three (3) fiscal years after the fund is established, the earnings component shall be considered an amount equal to three percent (3%) of the amount of the full fund balance.

(e) Thereafter, seventy-five percent (75%) of the average of the net yield of fund income from the previous three (3) fiscal years, as determined by the board of trustees in their

discretion, shall be considered the earnings component and shall be available for distribution by the trustees as described in this act. All remaining portions of the annual income earned from the investment of the fund shall be part of the corpus component.

(f) On or before July 1 each year, the trustees shall determine the portion of the earnings component of the trust fund, and shall report to the governing authorities as set out in Section 4 of this act. Trustees are specifically given the power to expend from the earnings component amounts required in connection with the management by the trustees of the fund, including, but not limited to, payments for accounting fees, legal fees and investment advisor or fund management fees. These expenditures shall be included in the full report as required in Section 4 of this act.

(g) Funds comprising the earnings component shall be transferred from the fund to the general fund of the city at the direction of the clerk and shall be available for appropriation and spending by the governing authorities. Any earnings component not transferred to the city for such general purposes shall remain in the fund, but shall be available for use and transfer to the city in the following years.

SECTION 6. (1) Upon a three-fourths (3/4) majority vote of the board of aldermen and with approval by the mayor, the governing authorities are authorized to withdraw monies from the corpus component and have the monies disbursed to the city for appropriation and spending, in the event of the following:

(a) A state of emergency or local emergency has been declared under federal, state, or local law; or

(b) Overall budgeted collections of the city are more than five percent (5%) below that fiscal year's budgeted estimates for at least three (3) consecutive calendar months. In this instance, corpus monies may be withdrawn by the city to meet up to ninety-eight percent (98%) of projected budget shortfalls.

(2) In the event of withdrawal of any portion of the corpus component by the city pursuant to subsection (1)(a) or (1)(b) of this section, annual disbursements by the trustees of the earnings components authorized in Section 5 of this act shall cease and all income shall be retained by the trustees and repaid to the corpus until such time as the corpus component equals its full prewithdrawal amount, at which time, disbursement of earning components in accordance with Section 5 of this act may continue.

(3) In addition to the authority to withdraw as provided in subsection (1) of this section, upon a unanimous vote of the board of aldermen and with approval by the mayor, the governing authorities are authorized to withdraw monies from the corpus component and have them disbursed to the city for appropriation and spending. The withdrawal by the governing authorities pursuant to this subsection, shall be limited in the following manner:

(a) No such vote or withdrawal may occur without the governing authorities first conducting a full public, open municipal hearing on consideration of the matter for which such appropriation and spending would be made;

(b) Withdrawal pursuant to this subsection may occur only one time during each four-year term of the then board of aldermen and mayor;

(c) Withdrawal shall not exceed ten percent (10%) of the corpus component of the fund, as determined by the trustees; and

(d) The withdrawal must be repaid to the fund as provided in subsection (2) of this section before a withdrawal under this subsection could be authorized within a subsequent four-year term.

SECTION 7. This act shall take effect and be in force from and after its passage.

PASSED BY THE SENATE
March 23, 2011

PRESIDENT OF THE SENATE

PASSED BY THE HOUSE OF REPRESENTATIVES
March 28, 2011

SPEAKER OF THE HOUSE OF REPRESENTATIVES

APPROVED BY THE GOVERNOR

GOVERNOR

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