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Chapter No. 450

12/SS26/R1029

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SENATE BILL NO. 2885

Originated in Senate *Liz Welch* Secretary

SENATE BILL NO. 2885

AN ACT TO AMEND SECTION 61-3-13, MISSISSIPPI CODE OF 1972, TO DESIGNATE THE POWERS AND AUTHORITY OF THE EXECUTIVE DIRECTOR OF THE AIRPORT AUTHORITY; TO AMEND SECTION 61-3-15, MISSISSIPPI CODE OF 1972, TO AUTHORIZE THE ESTABLISHMENT OF AIRPORT AUTHORITY FIRE DEPARTMENTS; TO AUTHORIZE AIRPORT AUTHORITIES TO ENTER INTO JOINT USE OR SIMILAR AGREEMENTS WITH THE UNITED STATES OF AMERICA AND THE STATE OF MISSISSIPPI; TO AUTHORIZE AIRPORT AUTHORITIES TO ENTER INTO MUTUAL AID AGREEMENTS; TO AMEND SECTION 61-3-19, MISSISSIPPI CODE OF 1972, TO PROVIDE FOR THE LEASE OF OIL, GAS AND MINERAL INTERESTS; TO AMEND SECTION 61-3-79, MISSISSIPPI CODE OF 1972, TO AUTHORIZE CERTAIN MUNICIPALITIES TO PROVIDE SERVICES ON AUTHORITY PROPERTY; TO ESTABLISH A PROCEDURE FOR AIRPORT AUTHORITIES TO ENFORCE COMMERCIAL AIRCRAFT LIENS; TO AMEND SECTION 61-5-19, MISSISSIPPI CODE OF 1972, TO AUTHORIZE MUNICIPALITIES TO ENTER INTO JOINT USE OR SIMILAR AGREEMENTS WITH THE UNITED STATES OF AMERICA AND THE STATE OF MISSISSIPPI; TO ESTABLISH A PROCEDURE FOR MUNICIPALITIES TO ENFORCE COMMERCIAL AIRCRAFT LIENS; AND FOR RELATED PURPOSES.

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

SECTION 1. Section 61-3-13, Mississippi Code of 1972, is amended as follows:

61-3-13. (1) Each commissioner of a regional or municipal airport authority may receive from that airport authority per diem compensation in the amount provided by Section 25-3-69 for each day or fraction of a day engaged in attendance of meetings of the authority or engaged in other official duties of the authority, not to exceed one hundred twenty (120) days in any one (1) year, and may receive from the airport authority actual traveling expenses incurred in the discharge of his duties. Each commissioner shall hold office until his successor has been appointed and has qualified. The certificates of the appointment and reappointment of commissioners shall be filed with the authority.

(2) The powers of each authority shall be vested in the commissioners of that authority. A majority of the commissioners of an authority shall constitute a quorum for the purpose of conducting the business of the authority and exercising its powers and for all other purposes. Action may be taken by the authority upon a vote of not less than a majority of the commissioners present. There shall be elected a chairman and vice chairman from among the commissioners.

(3) The commissioners of an authority shall designate an executive director, who shall be the chief executive officer of the authority and shall perform those duties as are required by law and any other duties as may be assigned by the commissioners. The commissioners may designate the executive director as the purchasing agent of the authority. If so designated, the executive director shall have the authority of the purchasing agent of a state agency under Section 31-7-13.

SECTION 2. Section 61-3-15, Mississippi Code of 1972, is amended as follows:

61-3-15. An authority shall have all the powers necessary or convenient to carry out the purposes of this chapter (excluding the power to levy and collect taxes or special assessments) including, but not limited to, the power:

(a) To sue and be sued, to have a seal and to have perpetual succession.

(b) To purchase general liability insurance coverage, including errors and omissions insurance, for its officials and employees.

(c) To employ an executive director, secretary, technical experts, and such other officers, agents and employees, permanent and temporary, as it may require, and to determine their qualifications and duties, and to establish compensation and other employment benefits as may be advisable to attract and retain proficient personnel.

(d) To execute such contracts and other instruments and take such other action as may be necessary or convenient to carry out the purposes of this chapter.

(e) To plan, establish, develop, construct, enlarge, improve, maintain, equip, operate, regulate and protect airports and air navigation facilities within this state and within any adjoining state, including the acquisition, lease, lease-purchase, construction, installation, equipment, maintenance and operation of such airports or buildings, equipment and other facilities or other property for the servicing of aircraft or for the comfort and accommodation of air travelers or for any other purpose deemed by the authority to be necessary to carry out its duties; to develop, operate, manage or own and maintain intermodal facilities to serve air and surface cargo and multimodal facilities to serve highway and rail passenger transportation needs to ensure interface and interaction between modes for cargo and passengers; to construct, improve, and maintain means of ingress and egress to airport properties from and over off-airport sites with approval of the city or county in which the off-airport site is located; to market, promote and advertise airport properties, goods and services; and to directly purchase and sell supplies, goods and commodities incident to the operation of its airport properties without having to make purchases thereof through the municipal governing authorities, and with the authority to utilize dual-phase design-build and construction manager at-risk methods of construction in accordance with Sections 31-7-13.1 and 31-7-13.2. For all the previously stated purposes, an authority may, by purchase, gift, devise, lease, eminent domain proceedings or otherwise, acquire property, real or personal, or any interest therein, including easements in airport hazards or land outside the boundaries of an airport or airport site, as are necessary to permit the removal, elimination, obstruction-marking or

obstruction-lighting of airport hazards, to prevent the establishment of airport hazards or to carry out its duties.

(f) To acquire, by purchase, gift, devise, lease, lease-purchase, eminent domain proceedings or otherwise, existing airports and air navigation facilities. However, an authority shall not acquire or take over any airport or air navigation facility owned or controlled by another authority, a municipality or public agency of this or any other state without the consent of such authority, municipality or public agency.

(g) To establish or acquire and maintain airports in, over and upon any public waters of this state, and any submerged lands under such public waters, and to construct and maintain terminal buildings, landing floats, causeways, roadways and bridges for approaches to or connecting with any such airport, and landing floats and breakwaters for the protection thereof.

(h) To establish, enact and enforce ordinances, rules, regulations and standards for public safety, aviation safety, airport operations and the preservation of good order and peace of the authority; to prevent injury to, destruction of or interference with public or private property; to protect property, health and lives and to enhance the general welfare of the authority by restricting the movements of citizens or any group thereof on the property of the authority when there is imminent danger to the public safety because of freedom of movement thereof; to regulate the entrances to property and buildings of the authority and the way of ingress and egress to and from the same; to establish fire limits and to hire firemen, including aircraft fire and rescue and similar personnel, and to establish and equip a fire department to provide fire and other emergency services on any property of the authority; to regulate, restrain or prohibit construction failing to meet standards established by the authority; to appoint and discharge police officers with jurisdiction limited to property of the airport authority and

authorization to enforce the ordinances, rules and regulations of the authority, as well as the laws of the State of Mississippi, and to issue citations for infractions of all of such ordinances, rules, regulations, standards and laws of the State of Mississippi returnable to the court of appropriate jurisdiction.

(i) To develop and operate an industrial park or parks and exercise all authority provided for under Chapter 7, Title 57, Mississippi Code of 1972.

(j) To attach, pursuant to the power and procedure set forth in Chapter 33, Title 11, Mississippi Code of 1972, the equipment of debtors of the authority.

(k) To enter into agreements with local governments pursuant to Section 17-13-1 et seq.

(l) To render emergency assistance to other airports within the United States at an aggregate cost of less than Twenty Thousand Dollars (\$20,000.00) per emergency. The assistance authorized in this paragraph must be rendered within ninety (90) days after a state of emergency has been declared by the federal government, or by the local or state government that has jurisdiction over the area where the airport needing assistance is located.

(m) To enter into joint use or similar agreements with any department or agency of the United States of America or the State of Mississippi, including any military department of the United States of America or the State of Mississippi, with respect to the use and operation of, or services provided at, any airport or other property of the authority on the terms and conditions as the authority may deem appropriate, including provisions limiting the liability of the United States of America or the State of Mississippi for loss or damage to the authority if the authority determines that the limitation of liability is reasonable, necessary and appropriate under the circumstances.

(n) To enter into mutual aid agreements with counties and municipalities for reciprocal emergency aid and assistance in case of emergencies too extensive to be dealt with unassisted; to participate in the Statewide Mutual Aid Compact (SMAC) in accordance with Section 33-15-19.

SECTION 3. Section 61-3-19, Mississippi Code of 1972, is amended as follows:

61-3-19. (1) (a) Except as may be limited by the terms and conditions of any grant, loan or agreement authorized by Section 61-3-25, an authority may, by sale, lease or otherwise, dispose of any airport, air navigation facility or other property, real or personal, or portion thereof or interest therein, acquired pursuant to this chapter. If Section 29-1-1 is applicable to a sale of real property, the sale shall comply with Section 29-1-1.

(b) If Section 29-1-1 is not applicable, the disposal by sale, lease or otherwise, shall be in accordance with the following procedure. The authority shall find and determine by resolution duly and lawfully adopted and spread upon its minutes that:

(i) The property is no longer needed for authority purposes and is not to be used in the authority's operation;

(ii) There is no state agency, board, commission or any governing authority within the state that has expressed a need or use for the property and the federal government has not expressed a need or use for the property; and

(iii) The use of the property for the purpose for which it is to be sold, leased or otherwise disposed of will promote and foster the development and improvement of the authority or of the community in which it is located and the civic, social, educational, cultural, moral, economic or industrial welfare thereof.

(2) After making the determinations, the authority may sell, lease or otherwise dispose of the property in accordance with applicable law and by any of the following methods:

(a) The authority may sell, lease or otherwise dispose of the property if the consideration is not less than the fair market price for the property as determined by averaging the appraisals of two (2) professional property appraisers selected by the authority and approved by the purchaser or lessee. Appraisal fees shall be shared equally by the authority and the purchaser or lessee.

(b) The authority may sell, lease or otherwise dispose of the property to the highest bidder after publishing at least once each week for three (3) consecutive weeks in a public newspaper published in the county in which the property is located, or if no newspaper is published in the county, then in a newspaper having general circulation therein, the authority's intention to lease, sell or otherwise dispose of the property and to accept sealed competitive bids for the sale, lease or disposal of the property. The authority shall thereafter accept bids for the sale, lease or disposal of the property and shall award the sale, lease or disposal to the highest bidder.

(c) The authority may sell and dispose of personal property at public sale for cash to the highest bidder after publishing at least once each week for three (3) consecutive weeks in a public newspaper published in the county in which the property is located, or if no newspaper is published in the county, then in a newspaper having general circulation therein, the authority's intention to sell and dispose of the personal property at public sale for cash. Any public sale for cash may be conducted by or on behalf of the authority. At the public sale for cash, the personal property shall be sold and disposed of to the highest bidder.

(d) The authority may sell and dispose of personal property by use of an Internet web service available to the public, including, but not limited to, an Internet auction website, for cash or irrevocable electronic transfer of funds, to the highest bidder after publishing at least once each week for three (3) consecutive weeks in a public newspaper published in the county in which the property is located, or if no newspaper is published in the county, then in a newspaper having general circulation therein, the following information:

(i) The authority's intention to sell and dispose of the personal property through use of the Internet web service;

(ii) The listing location of the personal property on the Internet website; and

(iii) The closing date and time of the Internet sale.

At the Internet sale, the personal property shall be sold and disposed of to the highest bidder; provided, all Internet sales shall comply with federal law.

Notwithstanding anything herein to the contrary, in the case of a sale, lease or disposal of property to another authority, a municipality or an agency of the state or federal government for use and operation as a public airport, the sale, lease or other disposal thereof may be effected in such manner and upon such terms as the commissioners of the authority may deem to be in the best interest of civil aviation.

(3) The authority may lease lands owned by the authority for oil, gas and mineral exploration and development upon the terms and conditions and for consideration as the authority shall deem proper and advisable. However, no oil, gas or mineral lease shall be for a primary term of more than ten (10) years and the lease or leases shall provide for annual rentals of not less than One Dollar (\$1.00) per acre and shall provide for royalties of not less than three-sixteenths (3/16) of all oil, gas and other

minerals produced, including sulphur. All rentals, royalties or other revenue payable under any lease executed under this section shall be paid to and collected by the authority. The leases shall specifically provide that, in no event, shall any such lease or the exercise of any rights thereunder, interfere with the use of any airport or air navigational facilities for their intended purposes.

SECTION 4. Section 61-3-79, Mississippi Code of 1972, is amended as follows:

61-3-79. For the purpose of aiding and cooperating in the planning, undertaking, construction, or operation of airports and air navigation facilities pursuant to the provisions of this chapter, any municipality for which an authority has been created or any municipality in which any of the property of the authority is located or which is contiguous to any property of the authority may, upon such terms, with or without consideration, as it may determine:

(a) Lend or donate money to the authority;

(b) Provide that all or a portion of the taxes or funds available or to become available to, or required by law to be used by, the municipality for airport purposes, be transferred or paid directly to the airport authority as such funds become available to the municipality;

(c) Cause water, sewer, or drainage facilities, or any other facilities which it is empowered to provide, to be furnished * * * onto or in connection with such airports or air navigation facilities;

(d) Dedicate, sell, convey, or lease any of its interest in any property, or grant easements, licenses, or any other rights or privileges therein to the authority;

(e) Furnish, dedicate, close, pave, install, grade, regrade, plan or replan streets, roads, roadways, and walks from

established streets or roads to such airports or air navigation facilities;

(f) Do any and all things, whether or not specifically authorized in this section and not otherwise prohibited by law, that are necessary or convenient to aid and cooperate with the authority in the planning, undertaking, construction, or operation of airports and air navigation facilities; and

(g) Enter into agreements with the authority respecting action to be taken by the municipality pursuant to the provisions of this section.

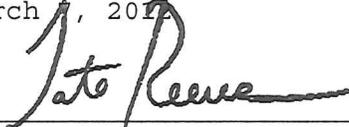
SECTION 5. Section 61-5-19, Mississippi Code of 1972, is amended as follows:

61-5-19. A municipality may enter into any contracts necessary to the execution of the powers granted it, and for the purposes provided by the Municipal Airport Law.

Without limiting the foregoing, a municipality may enter into joint use or similar agreements with any department or agency of the United States of America or the State of Mississippi, including any military department of the United States of America or the State of Mississippi, with respect to the use and operation of, or services at, any airport or other property of the municipality used in connection with an airport on the terms and conditions as the municipality may deem appropriate, including provisions limiting the liability of the United States of America or the State of Mississippi to the municipality if the municipality determines that the limitation of liability is reasonable, necessary and appropriate under the circumstances.

SECTION 6. This act shall take effect and be in force from and after its passage.

PASSED BY THE SENATE
March 1, 2012



PRESIDENT OF THE SENATE

PASSED BY THE HOUSE OF REPRESENTATIVES
April 5, 2012



SPEAKER OF THE HOUSE OF REPRESENTATIVES

APPROVED BY THE GOVERNOR



GOVERNOR

4:30 pm