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Chapter No. 538
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HOUSE BILL NO. 1296

Originated in House  Clerk

HOUSE BILL NO. 1296

AN ACT TO CREATE THE "MISSISSIPPI ENERGY SUSTAINABILITY AND DEVELOPMENT ACT"; TO AMEND SECTION 57-39-1, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT WHEREVER THE WORD "DIVISION" APPEARS IN THE CHAPTER OF LAW WHICH PROVIDES FOR ENERGY PLANNING, IT SHALL MEAN THE MISSISSIPPI DEVELOPMENT AUTHORITY ENERGY AND NATURAL RESOURCES DIVISION; TO AMEND SECTION 57-39-9, MISSISSIPPI CODE OF 1972, TO REVISE THE POWERS AND DUTIES OF THE DIVISION; TO AMEND SECTION 57-39-11, MISSISSIPPI CODE OF 1972, TO REVISE THE CONTENTS OF THE MISSISSIPPI ENERGY PLAN; TO AMEND SECTION 57-39-19, MISSISSIPPI CODE OF 1972, TO REQUIRE THE DIVISION TO COORDINATE THE DEVELOPMENT AND IMPLEMENTATION OF A STATE ENERGY MANAGEMENT PLAN FOR STATE-OWNED AND OPERATED FACILITIES IN CONJUNCTION WITH THE DEPARTMENT OF FINANCE AND ADMINISTRATION; TO AMEND SECTION 57-39-39, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT MISSISSIPPI DEVELOPMENT AUTHORITY SHALL PROMULGATE RULES FOR LOAN ELIGIBILITY AND WILL ADMINISTER THE ENERGY DEVELOPMENT FUND; TO AMEND SECTION 57-39-112, MISSISSIPPI CODE OF 1972, TO REVISE THE DIVISION'S DUTIES IN ASSISTING THE PUBLIC SCHOOL DISTRICTS IN REDUCING ENERGY CONSUMPTION; TO CREATE A NEW SECTION TO REQUIRE THE DIVISION TO BE RESPONSIBLE FOR COMPILING DATA RELATED TO THE ENERGY RESOURCES, BOTH NATURAL AND MANMADE, OF THE STATE OF MISSISSIPPI; TO REPEAL SECTION 57-39-15, MISSISSIPPI CODE OF 1972, WHICH PROVIDES FOR THE SUBMISSION OF THE MISSISSIPPI ENERGY PLAN TO THE LEGISLATURE; TO REPEAL SECTION 57-39-17, MISSISSIPPI CODE OF 1972, WHICH PROVIDES ADDITIONAL PROGRAMS AND ACTIVITIES OF THE BOARD OF ENERGY AND TRANSPORTATION; TO REPEAL SECTION 57-39-23, MISSISSIPPI CODE OF 1972, WHICH PROVIDES FOR LIMITATIONS ON DISCLOSURE OF PROPRIETY INFORMATION; TO REPEAL SECTION 57-39-25, MISSISSIPPI CODE OF 1972, WHICH PROVIDES CRIMINAL PENALTIES FOR THE FAILURE TO SUBMIT CERTAIN INFORMATION; TO REPEAL SECTION 57-39-27, MISSISSIPPI CODE

OF 1972, WHICH REQUIRES THE BOARD OF ENERGY AND TRANSPORTATION TO PRESCRIBE POLICIES AS TO ENERGY EFFICIENCY AND ALLOCATION OF PETROLEUM PRODUCTS; TO REPEAL SECTION 57-39-29, MISSISSIPPI CODE OF 1972, WHICH DESIGNATES THE BOARD AS THE STATE OFFICE OF PETROLEUM ALLOCATION; TO REPEAL SECTION 57-39-31, MISSISSIPPI CODE OF 1972, WHICH REQUIRES THE BOARD OF ENERGY AND TRANSPORTATION TO ADMINISTER THE STATE SET-ASIDE PROGRAM; TO REPEAL SECTION 57-39-33, MISSISSIPPI CODE OF 1972, WHICH PROVIDES THE BOARD WITH SOLE AUTHORITY TO ESTABLISH PRIORITIES AMONG USERS AND CONSUMERS OF ALLOCATED PRODUCTS; TO REPEAL SECTION 57-39-35, MISSISSIPPI CODE OF 1972, WHICH PROHIBITS THE ESTABLISHMENT OF PRIORITIES BY LOCAL GOVERNMENT OR SUPPLIER WITHOUT BOARD APPROVAL; TO REPEAL SECTION 57-39-41, MISSISSIPPI CODE OF 1972, WHICH REQUIRES THE BOARD TO PREPARE A PLAN FOR ESTABLISHING A CENTRAL MOTOR POOL; TO REPEAL SECTION 57-39-105, MISSISSIPPI CODE OF 1972, WHICH REQUIRES THE DEPARTMENT OF ECONOMIC AND COMMUNITY DEVELOPMENT TO DEVELOP AND IMPLEMENT A GENERAL ENERGY MANAGEMENT PLAN; TO REPEAL SECTION 57-39-107, MISSISSIPPI CODE OF 1972, WHICH REQUIRES THE DEPARTMENT OF FINANCE AND ADMINISTRATION TO SUBMIT DATA REGARDING ENERGY CONSUMPTION; TO REPEAL SECTION 57-39-111, MISSISSIPPI CODE OF 1972, WHICH REQUIRES STATE AGENCIES TO SUBMIT ENERGY MANAGEMENT PLANS; TO REPEAL SECTION 57-39-113, MISSISSIPPI CODE OF 1972, WHICH ALLOWS FOR A SMALLER PERCENTAGE REDUCTION GOAL FOR QUALIFYING AGENCIES; TO REPEAL SECTION 57-39-115, MISSISSIPPI CODE OF 1972, WHICH REQUIRES AN ANNUAL REPORT ON ENERGY REDUCTION PROGRAMS; TO REPEAL SECTION 57-39-201, MISSISSIPPI CODE OF 1972, WHICH AUTHORIZES LOANS FOR SCHOOL ENERGY CONSERVATION PROGRAMS; TO REPEAL SECTION 57-39-203, MISSISSIPPI CODE OF 1972, WHICH DESCRIBES THE PROCESS FOR APPROVAL OF LOANS AND REPAYMENT; TO REPEAL SECTION 57-39-205, MISSISSIPPI CODE OF 1972, WHICH ALLOWS FOR THE FORFEITURE OF HOMESTEAD EXEMPTION IN THE CASE OF A LOAN DEFAULT; AND FOR RELATED PURPOSES.

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

SECTION 1. This act shall be known and may be cited as the "Mississippi Energy Sustainability and Development Act."

SECTION 2. Section 57-39-1, Mississippi Code of 1972, is amended as follows:

57-39-1. (1) The purpose of this chapter is to coordinate all energy-related needs and activities in Mississippi with the

objective of providing an efficient and economical energy system through a statewide plan. To that end, the * * * Mississippi Development Authority is directed to evaluate this state's energy needs and availability.

(2) The powers, duties and responsibilities of the Board of Energy and Transportation with respect to the state's energy needs and activities are transferred to the * * * Mississippi Development Authority, and wherever the word "board" appears in this chapter meaning the former Board of Energy and Transportation it shall mean the * * * Mississippi Development Authority. Whenever the word "division" appears in this chapter, it shall mean the Mississippi Development Authority Energy and Natural Resources Division.

SECTION 3. Section 57-39-9, Mississippi Code of 1972, is amended as follows:

57-39-9. The powers and duties of the * * * division shall include, but not be limited to, the following:

(a) To promote Mississippi as a leader in energy development, job creation and research.

(b) To contribute to economic development activities related to the energy production and manufacturing sectors.

(c) To promote energy efficiency across state government and within the private sector and other sectors, so that the state can realize the monetary and environmental benefits of energy efficiency.

(* * *d) To prepare, when necessary, a Mississippi Energy Plan and a State Energy Management Plan as hereinafter set forth.

(e) To develop policies and long-term strategic plans for the State of Mississippi to accomplish the duties hereinafter set forth.

(f) To collect, maintain and provide analysis of data related to energy consumption, production and natural resources pertinent to the development of more energy opportunities within the state.

(g) To promote the development, manufacturing and use of renewable technologies, processes and products in the state.

(h) To serve as the State Energy Office for the State of Mississippi and fulfill requirements of the State Energy Office as mandated by the federal government or the Governor.

(* * *i) To prepare implementation programs in accordance with the requirements of the plan.

(* * *j) Upon request, to accept, receive and receipt for federal monies and other monies, either public or private, for and in behalf of this state. Upon request of any political subdivision of the state, to accept, receive and receipt for any designated purpose, federal monies and other monies, either public or private, for and in behalf of any such political subdivision.

(* * *k) To confer with or to hold joint hearings with any agency of the United States in connection with any matter

arising under this chapter, or relating to the sound development of energy utilization.

* * *

(* * *l) To perform such acts, make, promulgate and amend such reasonable general or special rules, regulations and procedures as it shall deem necessary to carry out the provisions of this chapter and to perform its duties hereunder. No rules, regulations or procedures prescribed by the board shall be inconsistent with, or contrary to, any acts of the Congress of the United States or any regulations promulgated pursuant thereto, or to this chapter or any other statutes of the State of Mississippi.

(* * *m) To enter into contracts, grants and cooperative agreements with any federal or state agency, department or subdivision thereof, or any public or private institution located inside or outside the State of Mississippi, or any person, corporation or association in connection with carrying out the provisions of this chapter, provided the agreements do not have a financial cost in excess of the amounts appropriated for such purposes by the Legislature.

(n) As required by the federal government or as directed by the Governor of the State of Mississippi, to establish a state program to administer the State Petroleum Set-Aside Program and to provide assistance in obtaining adjustments specified in orders issued by the Federal Energy Office.

SECTION 4. Section 57-39-11, Mississippi Code of 1972, is amended as follows:

57-39-11. (1) The * * * division shall be tasked with developing, implementing and refining over time the Mississippi Energy Plan. The Mississippi Energy Plan shall include, but not be limited to the following: * * *

* * *

(a) * * * Efforts to promote Mississippi as a leader in energy development, job creation and research;

(b) * * * Plans to encourage the safe and responsible exploration and extraction of the state's natural resources;

(c) * * * Plans to add value and sustain resources through advances in manufacturing, conversion, and processing related to energy consumption and generation;

(d) Expanding energy capacity and realizing savings through energy efficiency;

(e) Encourage investments in the energy infrastructure of transmission and distribution to maintain the state's leadership in this area;

(f) Plans to ensure the state competes in technology-based energy economic development, research and development, and commercialization;

(g) Prepare a twenty-first century energy workforce;

(h) Statewide forecasts of energy needs and deficiencies;

(* * *i) A program for directing the expenditure of local, state and federal energy funds in conformity with the statewide plan;

(* * *j) Statewide implementation program, including a schedule of improvement programs, an operations program, a financial plan, necessary policies and legislation for implementation of the energy plan * * *; and

(* * *k) Financial impact statement.

* * *

SECTION 5. Section 57-39-19, Mississippi Code of 1972, is amended as follows:

57-39-19. * * * (1) To ensure that state-owned facilities be operated in an energy-efficient manner to reduce operating costs to the General Fund and demonstrate successful energy consumption reduction strategies to other sectors of the state economy, the division shall coordinate the development and implementation of a general energy management plan for state-owned and operated facilities in conjunction with the Department of Finance and Administration, Bureau of Building, Grounds and Real Property Management. The general energy management plan shall include, but not be limited to, the following elements:

(a) * * * Gathering of energy-related data from state agencies, state institutions of higher learning, and community and junior colleges in a form and manner as required by the division;

(b) * * * Benchmarking of energy consumption and costs;

(c) * * * Use of a central system to aggregate and track energy consumption data for all state-owned facilities;

(d) * * * Model buildings and facilities energy audit procedures;

(e) * * * Model energy consumption reduction techniques;

(f) * * * Uniform data analysis procedures;

(g) Model employee energy education program procedures;

(h) Model training program for agency and institution personnel and energy coordinators;

(i) Model guidelines for buildings and facilities managers;

(j) Program monitoring and evaluation procedures.

(2) The State Energy Management Plan shall also include a description of actions to reduce consumption of electricity and nonrenewable energy sources used for heating, cooling, ventilation, lighting and water heating. A designee of each of the following entities - the Board of Trustees of State Institutions of Higher Learning, the Community College Board, the Department of Education, and the Department of Finance and Administration shall assist in the preparation of the State Energy Management Plan and serve together on an advisory board; the director of the division shall serve as the head of this board and shall convene representatives of these institutions no fewer than

once each year in order to review implementation of the State Energy Management Plan.

(3) The State Energy Management Plan shall be developed and implemented with input and assistance from the Department of Finance and Administration, Bureau of Building, Grounds and Real Property Management, and the two (2) state agencies shall work together and pledge to use pertinent resources and programs in conjunction with one another to accomplish the goals described in this section.

(4) The Department of Finance and Administration, Bureau of Building, Grounds and Real Property Management shall transmit to the division an updated state building inventory on an annual basis.

(5) All state agencies having buildings on the inventory of buildings submitted to the Department of Finance and Administration as well as all institutions of higher learning and community and junior colleges (hereafter referred to as "covered entities"), shall submit energy consumption in a form and manner prescribed by the division.

(6) Energy-related data may include, but shall not be limited to, the following:

- (a) Electrical consumption data;
- (b) Natural gas consumption; and
- (c) Fuel oil consumption.

Any covered entity that does not enter its energy data in the form and manner prescribed by the division shall, at the discretion of the division, not be eligible to receive energy conservation funds from the Bureau of Building, Grounds and Real Property Management or be eligible to receive any state, federal or other funds from the division. The Mississippi Development Authority, in coordination with the Bureau of Building, Grounds and Real Property Management, shall promulgate rules pertaining to this section.

(7) By September 1 of each year, the division shall provide to the Legislature and the Governor a report on the energy consumption of covered entities. This report shall include, but shall not be limited to, total energy consumption for the state, total costs related to the energy metrics being tracked, increases or decreases from year-to-year by the state and by each covered entity, and forecast models for the coming fiscal year. The Bureau of Building, Grounds and Real Property Management shall provide assistance in the development of this report, as needed. The division will also provide a list of covered entities that have not reported data in accordance with this section.

(8) By November 1, 2014, and each subsequent five-year interval, each covered entity must submit a detailed energy management plan to the division. The detailed energy management plan shall describe specific measures to be taken to reduce the agency's energy consumption by energy unit measure over a

five-year period. The plan shall also include a timetable to accomplish the agency's reduction goals. If the detailed energy management plan meets the criteria developed by the division, the division shall approve the plan. If the detailed energy management plan fails to meet the criteria, the division shall disapprove the detailed energy management plan and notify the submitting agency in writing, including the reasons for disapproval. Covered entities that do not submit an energy management plan by the deadline or fail to remedy changes subsequently required by the division shall, at the discretion of the division, not be eligible to receive energy conservation funds from the Bureau of Building, Grounds and Real Property Management or be eligible to receive capital improvement funds from the Bureau of Building, Grounds and Real Property Management or be eligible to receive any state, federal or other funds from the division until such time as the entity has an energy management plan approved by the division.

SECTION 6. Section 57-39-39, Mississippi Code of 1972, is amended as follows:

57-39-39. (1) There is hereby created in the State Treasury a fund to be known as the Energy Development Fund. Monies in such fund are reserved exclusively for:

(a) Promoting the * * * development of Mississippi's energy resources.

(b) Developing projects under this section which will demonstrate a realistic promise of making a significant energy contribution to the State of Mississippi.

(c) Effectively utilizing the state's existing alternative and conventional energy resources to foster economic and social improvements in the state.

(2) The * * * division will administer the fund. The * * * division will establish policy and guidelines for use of the fund not later than one hundred twenty (120) days after July 1, * * * 2013. * * *

(* * * 3) * * * The department will submit to the Governor on or before December 31 of each year a comprehensive report on the operation of the fund.

* * *

SECTION 7. Section 57-39-112, Mississippi Code of 1972, is amended as follows:

57-39-112. The division shall * * * provide technical assistance to the Mississippi Department of Education so that the department can assist local school districts in developing a detailed energy management plan for that public school district. The purposes of the plan shall be to assist the public school district in * * * reducing consumption of energy in its buildings and facilities * * * and to maintain or reduce that level of energy consumption, subject to any allowances for building and

facilities modernization, remodeling or upgrading for educational purposes, and for increased or decreased enrollment.

SECTION 8. (1) The division shall be responsible for compiling an ongoing basis data related to the energy resources, both natural and manmade, of the State of Mississippi. This information shall be compiled from trusted and verified sources for the purposes of aggregation for analysis and dissemination to partners and the public with the intent to maximize the energy resources of the state.

(2) **Biomass resources.** The division shall be responsible for maintaining a current database and map of biomass feedstocks found in the State of Mississippi. The division shall work with the Mississippi Forestry Commission, the Department of Agriculture, the institutions of higher learning, and other knowledgeable partners to produce and maintain accurate data on the renewable biomass resources of the state. The division shall analyze the data and prepare reports on a regular basis in order to highlight and promote the biomass resources of the state.

(3) **Energy infrastructure.** The division shall be responsible for maintaining a current database and map of the infrastructure that transports energy fuels and products across the state. The division shall analyze the data and prepare reports on a regular basis in order to highlight and promote the energy infrastructure of the state.

(4) **Energy production and reserves.** The division shall be responsible for maintaining information from all readily available resources on the energy production capacity in the state. The division shall maintain information on the energy reserves of the state.

(5) **Reports and publications.** The division shall produce reports, white papers, or articles for placement in targeted publications that include information to promote Mississippi as a leader in the energy sector.

SECTION 9. Section 57-39-15, Mississippi Code of 1972, which provides for the submission of the Mississippi Energy Plan to the Legislature, is hereby repealed.

SECTION 10. Section 57-39-17, Mississippi Code of 1972, which provides additional programs and activities of the Board of Energy and Transportation, is hereby repealed.

SECTION 11. Section 57-39-23, Mississippi Code of 1972, which provides for limitations on disclosure of proprietary information, is hereby repealed.

SECTION 12. Section 57-39-25, Mississippi Code of 1972, which provides criminal penalties for the failure to submit certain information, is hereby repealed.

SECTION 13. Section 57-39-27, Mississippi Code of 1972, which requires the Board of Energy and Transportation to prescribe policies as to energy efficiency and allocation of petroleum products, is hereby repealed.

SECTION 14. Section 57-39-29, Mississippi Code of 1972, which designates the board as the State Office of Petroleum Allocation, is hereby repealed.

SECTION 15. Section 57-39-31, Mississippi Code of 1972, which requires the Board of Energy and Transportation to administer the state set-aside program, is hereby repealed.

SECTION 16. Section 57-39-33, Mississippi Code of 1972, which provides the board with sole authority to establish priorities among users and consumers of allocated products, is hereby repealed.

SECTION 17. Section 57-39-35, Mississippi Code of 1972, which prohibits the establishment of priorities by local government or supplier without board approval, is hereby repealed.

SECTION 18. Section 57-39-41, Mississippi Code of 1972, which requires the board to prepare a plan for establishing central motor pool, is hereby repealed.

SECTION 19. Section 57-39-105, Mississippi Code of 1972, which requires the Department of Economic and Community Development to develop and implement a general energy management plan, is hereby repealed.

SECTION 20. Section 57-39-107, Mississippi Code of 1972, which requires the Department of Finance and Administration to submit data regarding energy consumption, is hereby repealed.

SECTION 21. Section 57-39-111, Mississippi Code of 1972, which requires state agencies to submit energy management plans, is hereby repealed.

SECTION 22. Section 57-39-113, Mississippi Code of 1972, which allows for a smaller percentage reduction goal for qualifying agencies, is hereby repealed.

SECTION 23. Section 57-39-115, Mississippi Code of 1972, which requires an annual report on energy reduction programs, is hereby repealed.

SECTION 24. Section 57-39-201, Mississippi Code of 1972, which authorizes loans for school energy conservation programs, is hereby repealed.

SECTION 25. Section 57-39-203, Mississippi Code of 1972, which describes the process for approval of loans and repayment, is hereby repealed.

SECTION 26. Section 57-39-205, Mississippi Code of 1972, which allows for the forfeiture of homestead exemption in the case of a loan default, is hereby repealed.

SECTION 27. This act shall take effect and be in force from and after July 1, 2013.

PASSED BY THE HOUSE OF REPRESENTATIVES
April 2, 2013



SPEAKER OF THE HOUSE OF REPRESENTATIVES

PASSED BY THE SENATE
April 2, 2013



PRESIDENT OF THE SENATE

APPROVED BY THE GOVERNOR



GOVERNOR

4-23-13
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