

4/18 9:02a

Chapter No. 929
13/SS26/R1050PS
CRH / SCBP

SENATE BILL NO. 2920

Originated in Senate

Sejwal

Secretary

SENATE BILL NO. 2920

AN ACT TO AMEND CHAPTER 947, LOCAL AND PRIVATE LAWS OF 1979, AS LAST AMENDED BY CHAPTER 961, LOCAL AND PRIVATE LAWS OF 1998, TO AUTHORIZE THE MADISON COUNTY ECONOMIC DEVELOPMENT AUTHORITY TO BORROW \$100,000,000.00 SECURED BY EXECUTION OF A DEED OF TRUST OR LEASE UPON ANY PROPERTY OWNED OR LEASED BY THE AUTHORITY, OR OTHER COLLATERAL AVAILABLE TO OR IN THE POSSESSION OF THE AUTHORITY; AND FOR RELATED PURPOSES.

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

SECTION 1. Chapter 947, Local and Private Laws of 1979, as amended by Chapter 877, Local and Private Laws of 1983, as amended by Chapter 809, Local and Private Laws of 1989, as amended by Chapter 968, Local and Private Laws of 1993, as amended by Chapter 1000, Local and Private Laws of 1996, as amended by Chapter 961, Local and Private Laws of 1998, is amended as follows:

Section 1. When the Board of Supervisors of Madison County shall find and determine that the public convenience and necessity require the same, as evidenced by a resolution duly adopted and entered on the official minutes of such board, it shall establish an industrial development authority, to be known as the Madison County Economic Development Authority, hereinafter "Authority."

The Authority shall be composed of seven (7) resident citizens of such county, one (1) from each supervisor's district, who shall be qualified electors therein, and two (2) appointed from the county at large by the board of supervisors of such county for a term of five (5) years. The initial members of the board shall serve terms as follows: two (2) members shall be appointed for terms of one (1) year; two (2) for terms of two (2) years, one (1) for a term of three (3) years, one (1) for a term of four (4) years and one (1) for a term of five (5) years. Thereafter, all members shall serve terms of five (5) years.

Section 2. Before entering upon the duties of the office, each member of such Authority, shall take and subscribe the oath of office required by Section 268, Mississippi Constitution of 1890, and shall give bond in the sum of Five Thousand Dollars (\$5,000.00), conditioned upon the faithful performance of his duties, such bond to be made payable to Madison County and to be approved by the board of supervisors of such county. The members of such Authority shall meet at the regular meeting place of the Board of Supervisors of Madison County within five (5) days after the members are initially appointed and shall elect from among their number a chairman, vice chairman and secretary-treasurer of the Authority and shall adopt a seal and such bylaws, rules and regulations as may be necessary to govern the time, place and manner for holding subsequent meetings of the Authority and for conduct of its business, not inconsistent with the provisions of

this act. The members of said Authority shall serve without salary or compensation, provided, however, that their actual expenses incurred in the performance of their duties may be reimbursed, including mileage as authorized by law for state employees.

Section 3. (1) The Authority is hereby expressly authorized and empowered to acquire by gift, purchase or otherwise, and to own, hold, maintain, control and develop real estate situated within the county, either within or without the corporate limits of a municipality, for development, use and operation as industrial park complexes, industrial sites or for other economic development purposes, such complexes, sites and purposes hereinafter referred to in this act as "projects," and is further authorized and empowered to engage in works of internal improvement therefor, including, but not limited to, construction or contracting for the construction of streets, roads, railroads, site improvements, and water, sewerage, drainage, pollution and other related facilities necessary or required for the development of such projects, and to acquire, purchase, install, lease, finance, construct, own, hold, equip, control, maintain, use, operate and repair structures and facilities necessary and convenient for the planning, development, use, operation and maintenance of such projects, including, but not limited to, utility installations, elevators, compressors, warehouses and

buildings, and air, rail and other transportation terminals, and pollution control facilities.

(2) * * * The Authority is authorized and empowered to sell, lease, trade, exchange or otherwise dispose of sites situated within projects to individuals, firms or corporations, public or private, for all types of industrial, commercial, agricultural or other economic development uses upon such terms and conditions, for such consideration, and with such safeguards as will best promote and protect the public interest, convenience and necessity, and to execute options, deeds, leases, contracts, easements and other legal instruments necessary or convenient therefor.

* * *

(3) The Authority is authorized and empowered to fix and prescribe fees, charges and rates for the use of any water, sewerage, pollution or other facilities constructed and operated in connection with projects and to collect the same from persons, firms and corporations using the same for industrial, commercial, agricultural or other economic development purposes, except as to rates and charges against common carriers regulated by an agency of the federal government or the Mississippi Public Service Commission.

(4) The Authority is authorized and empowered to employ engineers, attorneys, accountants, consultants and such personnel

as shall be reasonably necessary to carry out the duties and authority authorized by this chapter.

(5) When disposing of its real property pursuant to this act, the Authority may contract with duly licensed realtors and real estate brokers and may pay real estate commissions resulting from such dispositions. When disposing of its real property pursuant to this act, the Authority may contract with duly licensed realtors and real estate brokers and may pay real estate commissions not to exceed six percent (6%) resulting from such dispositions. No current Authority board member or officer may be paid a real estate commission or any other form of compensation from such disposition.

(6) (a) Subject to the prior written approval of the Board of Supervisors of Madison County, the Authority is expressly authorized and empowered to borrow money under the provisions of Sections 4 through 10 of this act * * *. The board of supervisors may pledge a portion of the levy authorized for support of the Authority provided for in Section 15 hereunder for the repayment of any indebtedness authorized under the provisions of this act, and the county is obligated to continue such levy until the authorized indebtedness is paid in full. The pledge of the tax levy to secure repayment of any sums borrowed shall be done only by order spread upon the minutes of the board of supervisors and the Authority after the affirmative vote of a majority of the members of the board of supervisors and members of the Authority.

This authority to borrow money shall be in addition to the authority of the county to borrow money or issue bonds as contained elsewhere herein.

The county shall not be liable for the repayment of any indebtedness incurred by the Authority unless the Board of Supervisors of Madison County has pledged a portion of the tax levy otherwise authorized as security therefor, in which event the county shall be obligated only to the extent of the tax levy so pledged. The board of supervisors may, however, authorize payment on such debt from other sources available for such payment.

(b) The Authority is authorized to borrow money by issuing its negotiable promissory notes secured by execution of a deed of trust or lease upon any property owned or leased by the Authority, or other collateral available to or in the possession of the Authority. The Authority may borrow an amount not to exceed One Hundred Million Dollars (\$100,000,000.00) pursuant to this paragraph (b); however, the Authority may not borrow money pursuant to this paragraph (b) after March 31, 2014.

(7) The Authority is authorized to acquire property for the purposes of this act by eminent domain as provided by Chapter 27, Title 11, Mississippi Code of 1972.

(8) The enumeration of any specific rights and powers contained herein, and elsewhere in this act, where followed by general powers, shall not be construed in a restrictive sense, but

rather in as broad and comprehensive a sense as possible to effectuate the purposes of this act.

(9) Any industrial or economic development lease may be executed upon such terms and conditions and for such monetary rental or other consideration as may be found adequate and approved by the Authority in orders or resolutions authorizing the same. Any covenants and obligations of the lessee to make expenditures in determined amounts, and within such time or times, for improvements to be erected on the land by such lessee and to conduct thereon industrial or economic development operations in such aggregate payroll amounts and for such period of time or times as may be determined and defined in such lease, and to give preference in employment where practicable to qualified residents of the county in which any project is situated, shall, if included in such lease, constitute and be deemed sufficient consideration for the execution of any such lease in the absence of a monetary rental or other considerations; any such instrument may contain reasonable provisions giving the lessee the right to remove its or his improvements upon termination of the lease.

(10) If no bonds are issued under the authority of Sections 4 through 10 of this act, the board of supervisors upon request of the Authority is authorized to issue bonds, the principal of and interest on which shall be payable solely out of the revenue derived from the sale, operation and leasing of the project and its facilities. The terms, conditions, forms and laws applicable

to such bonds shall be as provided in Sections 57-3-19 through 57-3-23, Mississippi Code of 1972.

(11) Not less than sixty (60) days prior to the end of its fiscal year, the Authority shall file with the board of supervisors a budget of projected revenues, expenses and other financial activities for the coming fiscal year in a form satisfactory to the board of supervisors and, in addition thereto, as soon after the end of each fiscal year as practicable, said Authority shall file with the board of supervisors a copy of its certified audit and financial statement for the immediate past fiscal year of the Authority.

Section 4. For the purpose of providing funds to defray the expense of acquiring land and buildings, and the expense of improving the same, or other purposes related to economic development as provided by this act, and to refund any debt incurred by the Authority pursuant to Section 3(6) (a) of this chapter, the Board of Supervisors of Madison County is hereby authorized to issue the negotiable bonds or notes of such county.

Section 5. The amount of all bonds or notes authorized to be issued under the provisions of Sections 4 through 10 of this act shall not exceed the outstanding principal amount of Twelve Million Dollars (\$12,000,000.00).

Section 6. All bonds issued under the authority of Section 4 of this act may be serial or term, may be redeemable with or without premium, or nonredeemable, and may be registered or coupon

bonds with registration privileges as to either principal or interest, principal only or both. All bonds or notes shall bear interest at such rate or rates not exceeding the rate of interest authorized by law to be paid by counties, in effect at the time such bonds (or any series thereof) or notes are issued, shall be in such denomination or denominations, and shall be payable, both principal and interest, at such place or places, all as the Board of Supervisors of Madison County shall determine. All bonds shall be sold in the manner now provided by law for the sale of bonds subject to the restrictions, limitations, requirements or conditions applicable to the borrowing of such money and the issuance of such bonds which are provided by law and shall be sold for not less than par value and shall mature not more than twenty-five (25) years from date, with or without the right of redemption, with or without premium, all as shall be determined by the board. No less than one-fiftieth (1/50) of the total issue shall mature during each year during the first five (5) years of the life of such bonds, and not less than one-twenty-fifth (1/25) of the total issue shall mature each year during the succeeding period of ten (10) years of the life of such bonds, and the remainder shall be divided into approximately equal annual payments, with payment to be made each year for the remaining life of such bonds. If, at the time bonds are proposed to be issued under the authority of Section 4 of this act, bonds previously issued pursuant to said authority are then outstanding, the

aforesaid minimum principal retirement requirements for the proposed issue may be calculated on the basis of the principal amount of the proposed bond issue alone, or on the basis of the aggregate original principal amount of all outstanding bond issues issued pursuant to said authority and those proposed to be issued, and taking into account for each fiscal year the principal being retired on the outstanding bond issues in determining the minimum amount of principal to be retired. Such bonds shall be executed on behalf of Madison County in the manner provided by law for general obligation bonds of counties.

No bond shall bear more than one (1) rate of interest; each bond shall bear interest from its date to its stated maturity date at the interest rate specified in the bid; all bonds of the same maturity shall bear the same rate of interest from date to maturity; and all interest accruing on such bonds so issued shall be payable semiannually or annually, except that the first interest payment may be for any period not exceeding one (1) year.

No interest payment on coupon bonds shall be evidenced by more than one (1) coupon and neither cancelled nor supplemental coupons shall be permitted; the lowest interest rate specified for any bonds issued shall not be less than seventy percent (70%) of the highest interest rate specified for the same bond issue.

Each interest rate specified in any bid must be in multiples of one-eighth of one percent ($1/8$ of 1%) or in multiples of one-tenth of one percent ($1/10$ of 1%).

Section 7. Before issuing any bonds or notes supported by a tax levy under the provisions of Sections 4 and 5 of this act, the Board of Supervisors of Madison County shall, by resolution spread upon its minutes, declare its intention to issue such bonds or notes supported by a tax levy for the purposes authorized by this act, and shall state in said resolution the amount of bonds or notes supported by a tax levy proposed to be issued, and shall likewise fix in said resolution the date upon which such county proposes to direct the issuance of such bonds or notes supported by a tax levy. Notice of such intention shall be published once a week for at least three (3) consecutive weeks in a newspaper published or having a general circulation in Madison County, Mississippi, with the first publication of such notice to be made not less than twenty-one (21) days prior to the date fixed in the resolution declaring the intent to issue such bonds or notes supported by a tax levy, and the last publication to be made not more than seven (7) days prior to such date. If, on or before the date specified in the resolution, ten percent (10%) of the qualified electors of the county proposing to issue such bonds or notes supported by a tax levy shall file a written protest against the issuance thereof, then an election upon the issuance thereof shall be called and held as hereby provided. If no such protest shall be filed, then the county may issue such bonds or notes supported by a tax levy without an election on the question of the issuance thereof at any time within a period of two (2) years

after the date specified in the resolution. If an election is required by the protest of the appropriate number of qualified electors of the county, then an election shall be held by such county under applicable laws. Provided, however, that nothing in this act shall prevent such county from calling an election, whether required by ten percent (10%) of the qualified electors or not, in which event it shall not be necessary to publish the resolution of intent above described.

Section 8. At such election, all qualified electors of the county may vote and the ballots used in such election shall have printed thereon a brief statement of the amount and purposes of the proposed borrowing and the words "FOR THE BOND (OR NOTE) ISSUE" and the words "AGAINST THE BOND (OR NOTE) ISSUE," and the voters shall vote by placing a cross (X) or check (✓) opposite their choice on the proposition.

Section 9. When the results of any such election shall have been canvassed by the election commission of the county, and certified, the board of supervisors may issue the bonds or notes supported by a tax levy if a majority of the qualified electors who vote in such an election vote in favor of the issuance of such bonds or notes supported by a tax levy. If the borrowing shall be approved, the county may issue said bonds or notes supported by a tax levy within two (2) years from the date of such election, or within two (2) years after final favorable determination of any litigation affecting the issuance of such bonds or notes supported

by a tax levy at such time or times and in such amount or amounts, not exceeding that specified in the notice of the election, as shall be deemed proper by the county.

Section 10. It shall be the duty of the board of supervisors annually to levy and collect a special tax, not to exceed five (5) mills, upon all of the taxable property within said county which shall be sufficient to provide for the payment of the principal and interest on the bonds or notes supported by a tax levy issued pursuant to Sections 4 through 10 of this act and the interest thereon, according to the terms thereof; provided, however, of any income derived by the Authority from the sale or lease of the real property authorized to be acquired by bonds or notes issued pursuant to Sections 4 through 10 of this act, ninety percent (90%) shall be used for the retirement of the bonds or notes supported by a tax levy authorized to be sold under the foregoing sections of this act, after excluding the costs of improvements made and paid from sources other than the bonds or notes, and ten percent (10%) may be used for further industrial or economic development purposes including retiring other outstanding debt of the Authority.

Section 11. (1) Any bonds issued under Section 4 of this act at any time outstanding may, at any time and from time to time, be refunded by the county by the issuance of its refunding bonds in such amount as the board of supervisors may deem necessary, but not exceeding (a) the principal amount of the

obligations being refinanced, (b) applicable redemption premiums thereon, (c) unpaid interest on such obligations to the date of delivery or exchange of the refunding bonds, (d) in the event the proceeds from the sale of the refunding bonds are to be deposited in trust as hereinafter provided, interest to accrue on such obligations from the date of delivery of the refunding bonds to the date of maturity or to the first redemption date of the obligations to be refunded, and (e) expenses, premiums and commissions deemed by the board of supervisors to be necessary in connection with the issuance of the refunding bonds.

(2) Any such refunding may be effected, whether the obligations to be refunded shall have then matured or shall thereafter mature, either by the exchange of the refunding bonds for the obligations to be refunded thereby with the consent of the holders of the obligations so to be refunded, or by sale of the refunding bonds and the application of the proceeds thereof to the payment of the obligations to be refunded thereby, and regardless of whether the obligations proposed to be refunded shall be payable on the same date or different dates or shall be due serially or otherwise.

(3) The principal proceeds from the sale of any refunding bonds shall be applied only as follows:

(a) To the immediate payment and retirement of the obligations being refunded; or

(b) To the extent not required for the immediate payment of the obligations being refunded, then such proceeds shall be deposited in trust to provide for the payment and retirement of the principal of and interest on obligations being refunded, and to pay any expenses incurred in connection with such refunding, but may also be used to pay interest on the refunding bonds prior to the retirement of the obligations being refunded. Money in any such trust fund may be invested in direct obligations of, or obligations the principal of and interest on which are guaranteed by, the United States Government, or obligations of any agency or instrumentality of the United States Government, or in certificates of deposit issued by a bank or trust company or insured savings and loan association located in the State of Mississippi, if such certificates shall be secured by a pledge of any of said obligations having an aggregate market value, exclusive of accrued interest, equal at least to the principal amount of the certificates so secured. Nothing herein shall be construed as a limitation on the duration of any deposit in trust for the retirement of obligations being refunded, but which shall not have matured and which shall not be presently redeemable.

Section 12. The bonds or notes supported by a tax levy issued hereunder shall be exempt from taxation as provided in Section 57-1-39, Mississippi Code of 1972, and their inclusion in any statutory debt limitation shall be governed by the laws

applicable to the issuance of bonds as authorized and provided by Section 19-9-5, Mississippi Code of 1972.

Section 13. All bonds or notes issued under the provisions of this act shall be legal investments for trustees and other fiduciaries, and for savings banks, trust companies and insurance companies organized under the laws of the State of Mississippi, and such bonds shall be legal securities which may be deposited with and shall be received by all public officers and bodies of this state and all municipalities and political subdivisions for the purpose of securing the deposit of public funds.

Section 14. The carrying out of the corporate purposes of the Authority is in all respects for the benefit of the people of Madison County and is a public purpose, and the Authority will be performing an essential governmental function in the exercise of the powers conferred upon it by this act. Hence, any property owned or held by the Authority or under its jurisdiction under the provisions of this chapter shall be exempt from all taxation in the State of Mississippi.

Section 15. In addition to rights, duties and powers now or hereafter conferred upon Madison County, the Board of Supervisors of Madison County, at the request of the Authority, is authorized and empowered, in its discretion, to levy an ad valorem tax, not to exceed two (2) mills on the dollar of assessed valuation of the taxable property of such county, to provide an operating fund for the Authority.

Section 16. The Authority, in addition to the monies which may be received by it from the sale of bonds and from the collection of revenues, rents and earnings derived under the provisions of this act, shall have the authority to accept from any public or private agency, or from any individual, grants for or in aid of the construction of any project, or for the payment of bonds, and to receive and accept contributions from any source of money or property or other things of value to be held, used and applied only for the purposes for which such grants or contributions may be made.

Section 17. The Authority shall not contract with any person who is related to a member of the Authority within the third degree or who is the spouse of a member of the Authority, nor shall the Authority contract with a business entity of which a member of the Authority is an officer, director, owner, partner or employee, or is a holder of more than six percent (6%) of the fair market value, or from which a member of the Authority or his relative within the third degree derives more than One Thousand Dollars (\$1,000.00) in annual income, or over which a member of the Authority or his relative within the third degree exercises control.

Section 18. This act shall be deemed to be full and complete authority for the exercise of the powers herein granted, but this act shall not be deemed to repeal or to be in derogation of any

existing law of this state whereunder projects of the character herein defined may be constructed or financed.

SECTION 2. This act shall take effect and be in force from and after its passage.

PASSED BY THE SENATE
March 27, 2013



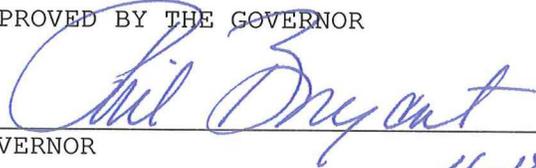
PRESIDENT OF THE SENATE

PASSED BY THE HOUSE OF REPRESENTATIVES
March 30, 2013



SPEAKER OF THE HOUSE OF REPRESENTATIVES

APPROVED BY THE GOVERNOR



GOVERNOR

4-18-13
9:02 AM