



Mississippi Manufacturers Association

REPORTER

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THE VOICE OF INDUSTRY

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MMA-PAC supporting candidates in August 30 House special elections

The MMA Political Action Committee is supporting candidates in House Districts 28 and 96 special elections scheduled for **Tuesday, Aug. 30**. The MMA-PAC Board has not made a decision in the crowded field in District 86.

Gov. Barbour scheduled the elections for **Aug. 30** to fill vacancies in House District 28, formerly held by Rep. Charlie Capps Jr. of Cleveland; House District 96, formerly held by Rep. David Green of Gloster; and House District 86, formerly held by Rep. Joe Taylor of Waynesboro.

With vote margins so close in the 122-member House of Representatives, these three races could determine what business legislation passes in the next two legislative sessions.

The MMA-PAC is supporting **Charlie Capps III in House District 28**. He is the son of Charlie Capps Jr., who held the post for 33 years. Charlie III, as he is called, is a 49-year old insurance agent who is a member of the Delta Council and the Cleveland/Bolivar Chamber of Commerce.

Charlie III faces Levi Boone III, David Norquist and Wanda Ray, all of Cleveland. The district includes parts of Bolivar, Sunflower and Washington counties.

In House District 96, Larry J. Lee received the MMA-PAC support. Larry recently retired from a management position in Angola prison in Louisiana. He enjoys wide support from the business

(Continued on page 2)

AFL-CIO defections may bring more union activity

It's been a bad month for the nation's labor movement as the 50-year old AFL-CIO broke apart, but this could mean more union activity and not less.

The United Food and Commercial Workers (1.4-million-members) broke away from the AFL-CIO July 29, following the Service Workers International Union (1.8-million) and International Teamsters Union (1.4-million). One of the reasons is that these unions want to become more aggressive in organizing. Other groups are expected to follow suit.

The AFL-CIO still has 53 unions. Union membership has been on the decline nationally for decades, especially steeply in the private sector. Government employee unions are major areas of

growth for unions in the AFL-CIO.

The unions who left have joined with several others that did not leave the AFL-CIO and have formed a coalition to reverse the decline in union membership known as the Change to Win Coalition, which also includes the United Farm Workers, the Laborers' International Union of North America and Unite Here, representing apparel, hotel and restaurant workers, and the United Brotherhood of Carpenters and Joiners of America.

The coalition wants to focus on Wal-Mart, Federal Express and other large corporations.

Jim Stringer, MMA director of education and membership services, said union activity has also picked up in small companies in Mississippi.

Also in this issue:

• Union Elections	2	• Mississippi economy shows slight improvement; manufacturing sector strengthening	5
• New Members	2	• Washington Update	6
• Gov. Barbour signs Momentum Mississippi into Law ...	2	• Supreme Court accepts MMA tax procedures brief ..	7
• Jennifer Koon presented MMA 2005 Award for Excellence in Vocational Education	3	• Supreme Court decision guts product liability law; MMA files brief	7
• 2005 MMA Convention Speakers & Agenda	4	• State tax revenue up, but not keeping pace with new spending requests	8
• Workforce training tax credit available to Mississippi employers	5	• MFEP asks for investigation of campaign finance violations revealed in Diaz trial	6

Union Election Results

Howard Industries, Mendenhall, versus Southern Council of Industrial Workers/Carpenters & Joiners. Election held Aug. 11 with a vote of 39 to 22 **FOR** the union, with seven challenged ballots.

Mississippi Space Services, Stennis Space Center, versus Machinists & Aerospace Workers, AFL-CIO. **Petition withdrawn.**

Union Elections Pending

Modern Line Products, Indianola, versus Steelworkers (Local 8421). No election date set for decertification election.

L-3 Communications System Vertex Aerospace, Madison, versus The Gray Eagles Association. Election date set for Aug. 23.

P&S Delivery Service, Meridian, versus Teamsters (Local 891). No election date set.

Trans Terra Delivery Service, Jackson, versus Teamsters (Local 891). No election date set.

Special elections

continued from page 1

community in the district, which includes all of Wilkinson and parts of Adams, Amite and Pike counties.

Lee faces Earl Dean Anthony of Woodville, Dorothy Scott Dace Chesser of Liberty, Angela Cockerham of Magnolia, Oliver "OJ" Packnett of Centreville and Holmes Sturgeon of Woodville.

In the House District 86, which includes parts of Clark, Perry and Wayne counties, there are several candidates with business experience, including:

- Wayne Allen of Waynesboro.
- Samuel F. Britton of Waynesboro, a CPA.
- Albert Busby of Strengthford, who has been employed for 33 years at MMA-member Masonite.
- Sherra Hillman Lane of Waynesboro.
- Johnel Rogers of Waynesboro, who owns a heating and air conditioning business.
- Fred Stanley of Waynesboro, who has owned several businesses.

Special election ballots do not list the party affiliations of candidates. Should no candidate in a race receive a majority of votes on Aug. 30, a runoff election will be held on Sept. 13.

The key to victory in these special elections will be which candidate can get his or her supporters to turn out at the polls Tuesday, Aug. 30. Please remember to vote, and also urge your co-workers, employees, friends and family to vote.

NEW MEMBERS

Welcome to the following firms enrolled in MMA during the last month:

Air Comfort Control Inc., Drew
Alcorn County, Corinth
Celebrity Coaches, Tupelo
Corinth Family Care Center, Corinth
Dental Care of Richland, Richland
Diesel Power Inc., Laurel
E.A. Helwick Electronics, Inc., Gulfport
Elkins Wholesale Inc., Laurel
Eye Care Associates, Laurel
Gulfport-Biloxi International Airport, Gulfport
Mike Rozier Construction Co. Inc., Greenwood
Physician Care Specialists PLLC, Corinth
Southern Film and Bag LLC, Summit
Thompson Brothers Drilling Inc., Moselle
Ultra Comfort Foam Co. Inc., New Albany
Vertex Manufacturing Corp., Olive Branch
Wilson's Termite & Environmental, Brandon

Gov. Barbour signs Momentum Mississippi into law July 27



Shown above are MMA staff who attended Gov. Haley Barbour's signing of the Momentum Mississippi bill into law July 27 in the Capitol Rotunda in Jackson. Pictured with the governor are, from left, John Baas, director of industrial relations; Mark Leggett, director of government affairs, Gov. Barbour; and Jay C. Moon, president and CEO.

Jennifer Koon presented MMA 2005 Award for Excellence in Vocational Education

Jennifer Koon of Booneville is the 2005 recipient of the Mississippi Manufacturers Association (MMA) Award for Excellence in Vocational Education. Koon, vocational counselor at Prentiss County Vocational Technical School, was presented the award Wednesday, Aug. 17, at the school.

The Award for Excellence in Vocational Education was established in 1994 to encourage, recognize and reward individuals who are active in advancing vocational education in Mississippi. Nominations for the award are made by the MMA membership, and the winner is selected by an evaluation committee appointed by the MMA Workforce Development committee.

As the Award for Excellence winner, Koon received a \$2,500 cash award and a plaque during the presentation. She was also awarded a complimentary trip to the 2005 MMA annual convention in October.

Koon believes that a top vocational-technical education program includes many people from the fields of education, business and industry working together for the good of students. She often applies for and receives grants in order to provide additional opportunities for her students.

Among her accomplishments last year, Koon obtained a \$1,000 grant to take instructors and second-year vocational students to tour the Nissan assembly plant in Canton, Miss. She also regularly schedules student tours of businesses and industries in Prentiss County.

Last February she obtained a \$500 grant that she used to sponsor a career and technical fair for Prentiss County junior and senior students, focusing on post-secondary vocational-technical options. More than 500 attended the fair, which featured businesses, industries, trade and technical schools, the armed forces and community college representatives.

“Being involved with business and industry helps me to keep abreast of what is happening in the real world,” says Koon. “I feel that all educators need as much exposure as possible to places where we are preparing our students to be employed. The students also need to be exposed to different types



Congratulating Jennifer Koon, center, at a ceremony held at Prentiss County Vocational Technical School are, from left, Sen. J.P. Wilemon (D-Belmont); Jay C. Moon, CECd, president and CEO of MMA; John Baas, MMA director of industrial relations; and James Sardin, associate director of the Mississippi Department of Education.

of workplaces so they will realize the types of skills that are needed to succeed.

“Through visiting industries, I learn the types of training programs that different industries offer. I can return to my school with the knowledge and physical information I need to share with my students,” she said.

Koon has worked with the Prentiss County vocational education program since August 2001. She previously was a counselor at Wheeler Attendance Center and an instructor at New Site High School and Aberdeen Junior High School.

Koon is a National Certified Counselor and a National Certified School Counselor. She currently serves as president of the Northeast Region of the Mississippi Counseling Association, and is past president of the Prentiss County chapter of the Mississippi Association of Educators.

She was named Mississippi’s Most Outstanding High School Sponsor for 1998 and was named Who’s Who Among America’s Teachers in 2004 and 2005. Koon is a member of the Mississippi Counseling Association, the American Counseling Association and the National Tech Prep Network.

Koon is a member of Mount Olive Baptist Church in Baldwyn and an associate member of the Booneville Junior Auxiliary. She has one daughter, Molly.



October 5-8, 2005
 Hilton Sandestin Beach, Destin, Florida

Where does your company stand in today's global economy? Are you taking advantage of the opportunities that exist for your industry? What steps should you take to get the most out of today's changing manufacturing environment? The MMA 2005 convention will help you answer these questions and more as you position yourself in the global economy.

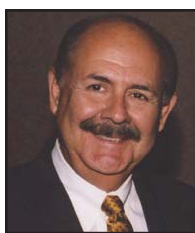
Convention Speakers



Keynote Speaker: Karen Post

A branding enthusiast, entrepreneur and businesswoman, Karen Post ignites action. Known as the Branding Diva, she is a national speaker, author and branding expert. She helps organizations tell their unique story and firmly plant it in the minds of their market. She is the author of *Brain Tattoos, Creating Unique Brands*

That Stick in Your Customers' Minds.



Al Frink, Assistant Secretary for Manufacturing & Services, International Trade Administration, U.S. Department of Commerce. He serves as the chief advocate for the U.S. manufacturing sector within the federal government, bringing 30 years of private-sector experience to the position. As the assistant secretary, he advocates, coordinates and implements policies that will help U.S.

manufacturers compete globally.



Rhonda Keenum (invited), Deputy Assistant to President George W. Bush and Director of Public Liaison. She recently served as assistant secretary for trade promotion and director general of the United States and Foreign Commercial Service, where she managed operations dedicated to assisting American companies to export and

succeed in global markets. She is a graduate of Mississippi State University.



Spouses' Program: Norman Winter, MSU Extension Horticulturist. One of the best-known gardening experts in the South, he is the host of *Southern Gardening* on radio and television, and his Southern Gardening newspaper column is popular all across the state. He is a popular lecturer and the author of several

books on gardening in Mississippi and the South.

2005 Convention Agenda

Wednesday, October 5

- 3:00 p.m. Executive Committee Meeting
- 5:00 p.m. New Board Member Orientation
- 6:30 p.m. Reception for Directors and Convention Committee
- 7:30 p.m. Dinner for Directors and Convention Committee

Thursday, October 6

- 8:00 a.m. Board of Directors Meeting
- 1:30 p.m. Registration Desk opens
- 5:00 p.m. First Time Attenders Orientation
- 5:00 p.m. Host Committee Meeting
- 5:30 p.m. – 7:00 p.m. Reception – Poolside Deck (dinner on your own)

Friday, October 7

- 8:00 a.m. Exhibit Hall Opens
- 8:30 a.m. Omelet Breakfast Bu
- 9:00 a.m. Business Session
- 9:15 a.m. – 11:15 a.m. Keynote Address: Karen Post
- 11:15 a.m. – Noon Golf Tournament – Baytowne (mixed scramble); tee-off at 1 p.m.
- 1:00 p.m. Tennis Tournament – Bayside Sandestin
- 1:00 p.m. Fishing Tournament – Destin Harbor
- 6:00 p.m. – 7:00 p.m. Reception (dinner on your own)

Saturday, October 8

- 7:15 a.m. Continental Breakfast; Exhibit Hall Opens
- 8:15 a.m. Business Session; Presentation of Excellence in Vocational Education Award
- 8:45 a.m. Speaker: Al Frink
- 9:45 a.m. Break
- 10:00 a.m. Spouses' Program: Norman Winter, Landscape Gardening
- 10:15 a.m. Speaker: Rhonda Keenum (invited)
- 6:00 p.m. – 10:00 p.m. Buffet Dinner and Live Music on the Poolside Deck

Register online at www.mma-web.org.
 Click [here](#) to download brochure.

Dress for the entire convention is casual.

Workforce training tax credit available to Mississippi employers

You may not be getting all the credit you deserve for workforce training.

The income tax credit for employer-sponsored skills training was in place for several years before the Mississippi Manufacturers Association worked with the 2004 Legislature to make several changes to increase and redefine the tax credit available. Even with the modifications the plan has not been widely used.

The Skills Training Income Tax Credit is an incentive for businesses to offer training to their Mississippi employees. The credit is up to 50 percent of the expense incurred in that training and up to \$2,500 per Mississippi employee per year.

To qualify, the training must be provided or approved by the community or junior college in the district where the business is located. The training must enhance skills related to the job the employee is performing, improve job performance or be related to a career path anticipated for the employee.

Pre-employment training that involves skills training may be eligible for the credit. Training that is not specifically job related but is required by a governmental entity may be used in computing the credit to the extent it is required.

Expenses that qualify include those related to instructors, instructional material and equipment,

and the construction and maintenance of facilities by an employer designated for training purposes.

The Skills Training Tax Credit can be used in combination with any other tax credit. The credit is allowed for up to 50 percent of the income tax liability attributable to the income derived from operations in Mississippi for that year. Any excess credit amount can be carried forward for up to five years from the original year in which the excess credit could not be used.

The credit is not redeemable for cash. It can only be used against state income tax liability.

Before the credit can be claimed, the training program must be certified by the local community or junior college, **prior to the training being conducted.**

To discuss certification of training programs, employers should contact the workforce director at their local community or junior colleges. For a current list of workforce directors, contact Dexter Holloway, director of workforce education at the State Board for Community and Junior Colleges, at (601) 432-6481.

The Skills Training Tax Credit is authorized under Section 57-73-25 Mississippi code and further defined in Regulation 1304 promulgated by the Mississippi State Tax Commission.

Mississippi economy shows slight improvement; manufacturing sector strengthening

Mississippi's economy showed slight improvement in June on the strength of an improving U.S. manufacturing sector, rising state residential building permits and higher consumer expectations, according to the Mississippi Institutions of Higher Learning University Research Center, Department of Forecast and Analysis.

According to the recent issue of *Mississippi Business*, published by IHL, a strengthening manufacturing sector bodes well for Mississippi, which has a relatively large share of its employment in this industry.

The July economic improvement was much higher than expected and reflected strengthening in production, new orders and employment. The apparent improvement of the manufacturing sector suggests a more robust third quarter for manufacturers.

Employment for the state was down, but withholding tax was up. The decline in employment was driven by weakness in the retail trade and leisure

and hospitality industries.

Despite the increased optimism for the national manufacturing industry, Mississippi manufacturers reduced their work week length in June by 1 percent to 39.5 hours per week. June marked the second consecutive decline.

Prior to May, the workweek had held steady for three months. The declines of the past two months are troublesome, but may be short-lived. If the national manufacturing industry does continue to strengthen, the Mississippi industry will likely follow.

In addition, the national economy appears to be gaining momentum after a springtime lull, says the report. Although rising energy prices remains a threat, the data suggests strong growth for the economy in third quarter. This growth is expected to moderate in 2006 as consumers respond to higher inflation and rising interest rates.

Excerpted from the June issue of *Mississippi's Business*, published by the Mississippi Institutions of Higher Learning, University Research Center, Department of Forecast and Analysis.

Washington Update

Congress makes dramatic strides on manufacturers' issues before Aug. recess

In a race against the clock, Congress passed three of manufacturers' highest priority issues during the last week of July. Mississippi's two Senators and four Representatives need to hear that you appreciate their work on the three bills that became law. Urge them to return in September to work on the other key issues advancing toward passage, as well.

"MMA members working with MMA staff and the National Association of Manufacturers (NAM) helped educate members of Congress about the importance of the following issues to manufacturers," said MMA President and CEO Jay C. Moon, CEcD.

NAM President and CEO John Engler said, "Members of Congress can take satisfaction in the passage of CAFTA-DR, the energy bill and the highway transportation bill. Our economy and our citizenry will benefit for a long time to come."

Following is a summary of the three high-priority bills that were recently signed into law:

- **Central American-Dominican Republic Free Trade Agreement (CAFTA-DR)** (H.R. 3045): Called one of the most important trade votes in a decade, this legislation was approved by the U.S. House of Representatives July 28 by a 217-215 vote. The president signed it into law Tuesday, Aug. 2.

This legislation will help more than 15,000 American exporters and result in \$1 billion in additional U.S. manufactured goods exports each year by eliminating most trade barriers between the United States and Costa Rica, the Dominican Republic, El Salvador, Guatemala, Honduras and Nicaragua.

"Mississippi has a very strong two-way flow of trade with the CAFTA countries. Mississippi ranks 14th nationally in exports to the region with \$224 million in exports in 2004, according to the Office of Trade and Industry Information. Imports from Central America through the ports of Gulfport and Pascagoula also create jobs in Mississippi," Moon told the Congressional delegation in a letter earlier this summer.

- **Highway bill** (H.R. 3): Signed by the president Aug. 10, this bill will improve and repair our roads, bridges and transit systems, and significantly boost GDP over the next five years, according to NAM. The bill includes more than \$100 million for Interstate 69 in Mississippi as well as funding for other projects statewide.

In a letter to our U.S. Senators, Moon connected the CAFTA treaty and the I-69 interstate in H.R. 3, noting that, "When that treaty is approved, I-69 will become a major corridor for trade with Central

Congressional Roll Call

CAFTA	Senate		House	
	Y	N	Y	N
	Lott		Pickering	Taylor
	Cochran		Wicker	Thompson
Energy	Lott		Pickering	Taylor
	Cochran		Wicker	
			Thompson	
Transportation	Lott		Pickering	
	Cochran		Wicker	
			Taylor	
			Thompson	

America. Mississippi-made products will more easily get to customers."

- **Energy bill:** Signed into law Aug. 8, "The new law should help lower energy prices for manufacturers, spur our economy, create thousands of American jobs and take unprecedented steps to promote greater energy conservation and efficiency," said Engler.

MMA was a member of the national Alliance for Energy and Economic Growth, which pushed the bill to passage. This is the first major change to U.S. energy policy in a decade.

Following are the status of other bills that MMA is supporting in Congress:

- **The Trade Rights Enforcement Act** (H.R. 3283) passed the House and has been referred to the Senate Finance Committee. This bill gives U.S. companies the tools to offset unfair subsidies that benefit competitors in China and other nations. H.R.3283 establishes (1) a system of comprehensive monitoring of Chinese compliance with its trade obligations on intellectual property rights and market access, (2) provides for an accounting of subsidies, (3) requires the President to issue regular reports to Congress on China's overall trade obligations, (4) authorizes additional funding for U.S. trade representatives to monitor and investigate trade practices of other countries and (5) requires the Treasury Department to issue a report to Congress that defines currency manipulation and describes actions that are considered to be currency manipulation.

- **Permanent Research and Development Tax Credit** (H.R 1736, referred to the House Ways and Means Committee, and S. 627, in the Senate Finance committee) would permanently extend the research and development tax credit. The credit is set to expire Dec. 31, 2005, for the 12th time. Only U.S.-based R&D jobs qualify for the R&D credit. Nearly 60 percent of all industrial R&D performed in the U.S. is done by manufacturers. According to NAM, R&D fuels innovation that translates into new products and increased productivity. Two-thirds of the growth in manu-

[\(Continued on page 8\)](#)

Supreme Court accepts MMA tax procedures brief

The Supreme Court recently agreed to accept a friend of the court brief MMA filed last month in a response to a decision that would deprive taxpayers of a full evidentiary hearing on tax disputes with the State Tax Commission.

In the recent case of *Mississippi State Tax Commission vs. Murphy Oil USA*, Murphy Oil appealed a decision by the Tax Commission to Chancery Court, where a full evidentiary hearing was held, and the court ruled in favor of Murphy Oil.

The State Tax Commission appealed the trial court's ruling to the state Supreme Court, which reversed the trial court by holding that the Mississippi Constitution prohibited the Chancery Court from conducting a full evidentiary hearing in such an appeal.

Taxpayers have traditionally been given full evidentiary hearings in judicial appeals of State Tax Commission decisions based on a 1969 decision by the Supreme Court acknowledging that practice to be proper. This decision appears to reverse that earlier case and existing practice, although nowhere in the decision did the Supreme Court make reference to that earlier decision.

This recent decision is especially troubling for

taxpayers because legislation passed earlier this year clearly authorizes the Chancery Court to conduct "de novo" full evidentiary hearings in tax appeals, and explicitly excuses the State Tax Commission from providing formal hearings or making official records thereof. This conflict between the prior practice, existing statutes and the Supreme Court's limitations on judicial review of agency decisions leaves taxpayers in a very dangerous and unpredictable position when appealing an assessment, refund denial or other official agency action.

The Tax Commission has recently begun notifying taxpayers that it will begin conducting its administrative tax appeal hearings in a somewhat more formal manner as a result of this decision, but the MMA believes the matter can only be resolved by the Supreme Court clarifying its original decision and/or subsequent legislative action. MMA recommended in its brief that the Supreme Court clarify where taxpayers will get their chance to have a full evidentiary hearing – either at the Tax Commission or in court. Other groups also filing friend of the court briefs were the Tax Section of the Mississippi State Bar Association as well as the Council on State Taxation.

Supreme Court decision guts product liability law; MMA brief accepted

The Mississippi Manufacturers Association and several other groups joined in filing a brief urging the Mississippi Supreme Court to reconsider a decision that could gut a long-standing law on product liability lawsuits.

The Supreme Court has accepted the friend of the court brief and will determine whether to reconsider the decision. If it reconsiders the decision, it could ask for further briefing or oral arguments in the case.

On June 30, 2005, the Mississippi Supreme Court handed down a very broad opinion that likely will result in expensive, extended litigation for manufacturers and retailers operating in Mississippi. The opinion in *R.J. Reynolds Tobacco Co. v. King* specifically relates to the tobacco industry, but its effects will be felt by other industries. The unanimous decision rewrites and weakens the 1993 product liability legislation MMA was involved in passing.

MMA believes the Supreme Court may not have realized the impact this change in the law will have on lawsuits for allegedly defective products in the

state. MMA was joined in the brief by Mississippians for Economic Progress, the state's tort reform coalition, which includes MMA and more than 50 other business associations. Also joining in the filing asking the Supreme Court to rehear the case from Jefferson County were the American Tort Reform Association and the American Chemistry Council.

Prior to the King decision, all lawsuits "for damages caused by a product" were governed solely by a 1993 statute sometimes called the Mississippi Products Liability Act (MPLA). The MPLA was to provide uniform requirements and exclusive reasons for recovery for "any action for damages" in Mississippi relating to injuries "caused by a product."

In the King decision, the Court now says that despite the plain legislative language, a product liability claim — a claim for damages caused by an allegedly defective product — is not covered by the MPLA if it is characterized or labeled as "misrepresentation," "deceptive advertising" or "conspiracy."

[\(Continued on page 8\)](#)

State tax revenue up, but not keeping pace with new spending requests

State tax collections for the first month of the new fiscal year came in \$21.8 million greater than expectations. This is welcome news as the Joint Legislative Budget Committee prepares to meet in September to craft a new budget for the fiscal year that begins next July 1.

But after the last few tight budget years, there is pent-up spending demand from state agencies that could consume all the revenue growth and then some.

The \$21.8 million extra in state tax collections in July, the first month of the 2006 fiscal year, were 10.9 percent over the estimate for the month. Tax Commission officials caution that one month is not enough to establish a trend.

As it has nearly every month, even during serious economic downturns, the state took in more in taxes this month than one year ago. July 2005 collections were \$18.4 million, or 9 percent, over July 2004.

Each September the Joint Legislative Budget Committee meets to hear testimony from state agencies about their budget requests. The 14-member committee of House and Senate leaders

will hear requests September 12 through 22 with the goal of producing a proposed budget by Dec. 7.

Even if tax collections were to come in \$20 million more than expected every month, it would not be enough extra money to cover the increased spending requested by one agency — the State Department of Education. The department is asking for \$265 million more than this year's budget, with most of it going to the Mississippi Adequate Education Program (MAEP).

A separate legislative committee is studying ways to change the MAEP formula, which is requiring a 12 percent increase in funding for next year.

"It is good that the state is experiencing the benefits of a stronger economy," said MMA President and CEO Jay C. Moon, CECD, "but we need to ensure that all the money is put where it is needed most. The best way to do that, we believe, is a performance review of state government.

Other states have conducted performance reviews that use teams of state employees to review individual agencies and practices common to all agencies to suggest efficiencies and cost savings, as well as ways to provide better service.

Product liability law

continued from page 7

This will open the door for plaintiffs to avoid the requirements and protections of the MPLA simply by asserting different theories of recovery.

The King decision is significant to Mississippi manufacturers and others because of the following:

- The MPLA provides a uniform set of requirements for recovery in lawsuits filed against product manufacturers and retailers.

- The MPLA by its terms applies to "any action for damages caused by a product." In the King decision, the Supreme Court found the following causes of action are not governed by the MPLA and thus not subject to its requirements and protections: (1) fraudulent misrepresentation, (2) conspiracy to defraud, (3) negligent misrepresentation,

(4) deceptive advertising and (5) wrongful death. Others could also be allowed.

- In addition to limiting the potential bases for recovery, the MPLA also contains certain *defenses which bar any recovery*, including the inherent characteristics defense, the open and obvious danger defense and assumption of the risk. In a lawsuit with claims that are now not subject to the MPLA, these defenses will now serve only to reduce the amount of potential liability rather than provide an absolute bar to liability, leaving damages to be determined and allocated by the jury.

The 8-0 King decision overruled a 2003 decision upholding the product liability law in a case also involving a tobacco company.

Washington Update

continued from page 6

facturing in the 1990s was due to innovation and technological advances.

MMA is a member of the R&D Credit Coalition, which supports these two bills.

- **Asbestos reform.** Bills in the House and Senate would set up a compensation fund for the victims of asbestos and procedures to ensure that individuals who suffer impairment from illnesses

caused by exposure to asbestos, now or in the future — and in some bills, silica also — receive compensation for their injuries.

- **Protection of Lawful Commerce in Arms Act (S. 397)** would rein in abusive litigation by local governments against firearm manufacturers. There are several firearm and ammunition manufacturers in Mississippi. The bill passed the Senate July 29 and is awaiting action in the House.

MFEP asks for investigation of campaign finance violations revealed in Diaz trial

The judicial bribery trial involving Supreme Court Justice Oliver Diaz, trial lawyer Paul Minor, former Circuit Court Judge John Whitfield, and former Chancery Court Judge Wes Teel may have ended with no convictions, but Mississippians for Economic Progress has urged public officials to investigate the campaign finance violations revealed in court testimony.

In an August 3 letter to Secretary of State Eric Clark and Attorney General Jim Hood, MFEP Chairman Lex Taylor wrote:

“Regardless of the outcome of the Diaz trial, we believe that there are ample reasons for your office to thoroughly review the facts and testimony in this case to determine whether Mr. Diaz has violated Mississippi’s campaign reporting laws. Based upon newspaper accounts of the testimony in this case, it appears that Mr. Diaz received campaign contributions which he never reported to the Secretary of State as required by law and other violations in regard to the statutory limits on the amount of contributions given to the candidate.”

Taylor, president of Taylor Machine Co. in Louisville, pointed out that similar violations for failing to report a \$300 campaign contribution in a legislative race had resulted in prosecution.

“[T]he fair and even-handed administration of justice requires that similar charges be brought against Mr. Diaz if he is found to have committed similar violations, and we have officially requested that Attorney General Hood act accordingly,” wrote Taylor.

In one of the early newspaper articles on the case, Washington Post reporter Thomas B. Edsall wrote, “According to the news accounts and sources familiar with the inquiry, Minor and Scruggs helped Diaz and his then-wife, Jennifer Diaz, obtain bank loans, the proceeds of which helped finance Diaz’s 2000 campaign for his court seat. Later, Minor asked fellow plaintiffs’ lawyers to help the Diazes pay off the loans, according to news reports. Scruggs, who had co-signed an \$80,000 loan to the couple, ended up paying it off himself. Mississippi state law limits contributions in Supreme Court judicial races to \$5,000.”

The Clarion-Ledger reporter Julie Goodman reported June 30 that during the trial “Diaz attorney Rob McDuff said after court that the defendants

were facing prison time for actions that were, at worst, violations of judicial conduct or campaign finance requirements.”

The Sun Herald reporter Anita Lee wrote July 7: “Jennifer Diaz’s father is expected to testify today about a \$10,000 check he endorsed from Paul Minor that went for Oliver Diaz’s 2000 Supreme Court campaign. Minor also secured a \$75,000 loan for Jennifer Diaz in 2000 for the campaign, giving the Diazes cash and securing contributions from other attorneys to pay it off. The checks were funneled through Green Oaks, a bed and breakfast the Diazes operated in Biloxi.”

Lee also wrote July 8: “Defense attorneys argue their clients are guilty at most of violating state campaign contribution laws.”

Sun Herald reporter Geoff Pender quoted Robert McDuff on June 30: “The federal prosecutors are trying to put people in prison for actions that are at worst violations of the state code of judicial conduct or state campaign reporting requirements.”

Pender also reported Aug. 4: “Elected public officials, including judges, are required by law to submit annual Statements of Economic Interest to the state Ethics Commission.”

There is some question concerning the statute of limitations for prosecuting the state campaign finance law violations, but the methods used to evade campaign financing laws need to be investigated, according to MFEP.

As reported in the *Sun Herald* Aug. 16, “Even if found innocent, he [Diaz] could face removal or other action from the state Judicial Performance Commission and a tribunal of state judges.”

The Code of Judicial Conduct includes the following canons:

- A judge should uphold the integrity and independence of the judiciary.
- A judge should avoid impropriety and the appearance of impropriety.
- A judge should regulate his extra-judicial activities to minimize the risk of conflict with his duties.
- A judge should regularly file reports of compensation received for quasi-judicial and extrajudicial activities.
- A judge should refrain from political activity inappropriate to his office.