

By: Senator(s) Gollott, Woodfield, Hewes,
Cuevas

To: Local and Private

SENATE BILL NO. 3239

1 AN ACT TO AMEND CHAPTER 977, LOCAL AND PRIVATE LAWS OF 1998,
2 TO EXPAND THE TYPES OF IMPROVEMENTS THAT MAY BE CONSTRUCTED BY THE
3 BOARD OF SUPERVISORS OF HARRISON COUNTY, MISSISSIPPI, IN THE
4 SPECIAL ASSESSMENT AREAS THEY CREATE; TO INCREASE FROM
5 \$50,000,000.00 TO \$75,000,000.00 THE TOTAL AMOUNT OF BONDS THAT
6 MAY BE ISSUED UNDER SUCH ACT; AND FOR RELATED PURPOSES.

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

8 SECTION 1. Chapter 977, Local and Private Laws of 1998, is
9 amended as follows:

10 Section 1. For the purposes of this act, the following words
11 and phrases shall have the meanings ascribed to them in this
12 section unless the context clearly indicates otherwise:

13 (a) "Board" means the Board of Supervisors of Harrison
14 County, Mississippi.

15 (b) "County" means Harrison County, Mississippi.

16 (c) "Area" means a special assessment area within the
17 county created pursuant to this act.

18 Section 2. The Legislature finds that certain locations
19 within Harrison County have inadequate water supply facilities,
20 sewer facilities, gas utility facilities, seawalls, fire
21 protection facilities, storm drainage systems and roadways and
22 streets, including curbing, gutters, street lights, irrigation,
23 landscaping and sidewalks that serve those locations for the
24 purposes of casino, resort, theme park, residential, recreation,
25 marinas or other commercial development. The purpose of this act
26 is to authorize the board to designate certain locations within
27 the county in need of utilities and improvements in accordance
28 with the provisions of this act.

29 Section 3. (1) A petition for the designation of an area
30 may be submitted to the board. The petition must be signed by the
31 owners of no less than seventy-five percent (75%) of the land
32 within the boundaries of the proposed area on a square footage
33 basis. The petition shall include: (a) a statement for the
34 necessity for the service or services to be supplied by the
35 county; (b) an estimate of the cost of the acquisition or
36 construction of the facilities * * * by the county; and (c) an
37 estimate by the petitioner or petitioners of the cost of
38 development within the area, which estimate shall include an
39 itemized breakdown of the type or nature of each project, the cost
40 of each project and a projected timetable for completion of each
41 project. The petition shall be signed in person by the
42 petitioners and accompanied by a sworn statement of the person or
43 persons circulating the petition, who shall state under oath that
44 he witnessed the signature of each petitioner, that each signature
45 is the signature of the person it purports to be, and that to the
46 best of his knowledge, each petitioner, at the time of signing,
47 was an owner of real property within the proposed area. A
48 petitioner may be a corporation.

49 (2) If the board determines that the designation of the
50 proposed area is in the best interest of the county, the board,
51 upon the filing of the petition, shall fix a time and place for a
52 public hearing upon the question of the public convenience and
53 necessity of the designation of the proposed area. If the board
54 elects to fix a time and place for a hearing, the date fixed for
55 the hearing shall be not more than sixty (60) days after the
56 filing of the petition. The date, place and notice of the hearing
57 shall be set forth in a notice to be signed by the clerk of the
58 board. The notice shall be published in a newspaper having a
59 general circulation within the county once a week for at least
60 three (3) consecutive weeks before the date of the hearing. The
61 first publication shall be made not less than twenty-one (21) days

62 before the date of the hearing, and the last publication shall be
63 made not more than seven (7) days before the date of the hearing.

64 If, following the public hearing, the board finds that public
65 convenience and necessity require the designation of the proposed
66 area, the board shall adopt a resolution making those findings and
67 designating the area. If the area is within the corporate limits
68 of any municipality, town or city, then the county shall submit
69 its resolution designating the area under this subsection (2) to
70 such municipality, town or city and request that such
71 municipality, town or city adopt a resolution declaring a need
72 therefor. The county shall not proceed to issue any bonds under
73 this act until it has received this resolution from the
74 municipality, town or city.

75 (3) As an alternative to the procedure prescribed in
76 subsection (1) of this section, a petition for the designation of
77 an area may be submitted to the board. The petition must be
78 signed by one or more owners of land within an area who
79 unanimously agree that only their property within the area will be
80 assessed for the proposed project within the area. The petition
81 shall include: (a) a statement for the necessity for the service
82 or services to be supplied by the county; (b) an estimate of the
83 cost of the acquisition or construction of the facilities * * * by
84 the county; and (c) an estimate by the petitioner or petitioners
85 of the cost of development within the area, which estimate shall
86 include an itemized breakdown of the type or nature of each
87 project, the cost of each project and a projected timetable for
88 completion of each project. The petition shall be signed in
89 person by the petitioner and accompanied by a sworn statement of
90 the person or persons circulating the petition, who shall state
91 under oath that he witnessed the signature of each petitioner,
92 that each signature is the signature of the person it purports to
93 be, and that to the best of his knowledge, each petitioner, at the
94 time of signing, was an owner of real property within the proposed

95 area. A petitioner may be a corporation. Benefited owners of
96 land within the designated area who do not petition for
97 designation under this subsection (3) shall not be subject to
98 assessment for projects within the respective designated area. If
99 the board determines that the designation of the proposed area
100 under this subsection (3) is in the best interest of the county,
101 the board shall then proceed under subsection (2) of this section.

102 Section 4. The board shall have the powers enumerated in the
103 resolution of the board designating the area, which shall be
104 limited to constructing, acquiring, reconstructing, improving,
105 bettering or extending roadways and streets, including curbing,
106 gutters, street lights, irrigation, landscaping, sidewalks,
107 seawalls, marinas, recreation, and facilities for a water, sewer,
108 gas utility, fire protection or storm drainage system, or any
109 combination thereof, and to conducting and operating the
110 facilities and to contracting with any municipality, county or
111 other governmental entity, or with any person, firm or corporation
112 to operate such facilities or for a supply of water, gas or other
113 services required incident to the operation and maintenance of the
114 system.

115 Section 5. (1) The county may issue bonds to provide funds
116 for constructing, acquiring, reconstructing, improving, bettering
117 or extending water supply facilities, sewer facilities, gas
118 utility facilities, fire protection facilities, storm drainage
119 systems and roadways and streets, including curbing, gutters,
120 street lights, irrigation, landscaping, sidewalks, marinas and
121 seawalls that serve the area for the purposes of casino, resort,
122 theme park, residential, recreation, marinas or other commercial
123 and industrial development. The bonds shall be payable primarily
124 from the revenues of the facilities and, if so provided for in the
125 proceedings authorizing the bonds, the bonds shall be payable also
126 from special assessments levied pursuant to Section 9 of this act.
127 In addition, if so provided for in the proceedings authorizing

128 the bonds and agreed to by resolution of the board, the bonds
129 shall be payable also from the avails of the ad valorem tax levy
130 as provided for in subsection (2) of this section, or from any
131 combination of monies from the revenues, special assessments and
132 tax levies on property of the area designated under subsection (1)
133 or (2) of Section 3 of this act. The bonds may be issued without
134 an election being held upon the question of their issuance and
135 without the publication of any notice of intention to issue the
136 bonds. The board shall issue bonds of the county by resolution
137 spread upon the minutes of the board. The bonds shall contain
138 those covenants and provisions, be executed, bear interest at the
139 rate or rates not to exceed fourteen percent (14%) per annum, be
140 in the denomination or denominations, be payable, both as to
141 principal and interest, at the place or places, and mature at the
142 time or times not exceeding twenty-five (25) years from their
143 date, as determined by the board and set forth in the resolution
144 pursuant to which the bonds are issued; however, any such bonds
145 which are secured by a pledge of special assessments in addition
146 to a pledge of revenues shall mature at such time or times not
147 exceeding the time period over which such special assessments are
148 payable, as determined by the board pursuant to Section 12 of this
149 act. Notwithstanding any provision of the general law to the
150 contrary, any bonds and interest coupons issued pursuant to the
151 authority of this act shall possess all of the qualities of
152 negotiable instruments, and the bonds, premium, if any, and
153 interest thereon shall be exempt from all state, county, municipal
154 and other taxation under the laws of the State of Mississippi.
155 Any bonds issued pursuant to the authority of this act may be
156 refunded in the manner provided in this act upon a finding by the
157 board that such refunding is in the public interest. Bonds for
158 the betterment, improvement or extension of roadways, streets or
159 other facilities of the area may be included with the refunding
160 bonds. The bonds may be sold without the necessity of advertising

161 for bids therefor, and may be sold by negotiated private sale and
162 on those terms, conditions and covenants agreed to by and between
163 the issuing authority and the purchasers of the bonds. The total
164 amount of bonds issued under this act shall not exceed
165 Seventy-five Million Dollars (\$75,000,000.00).

166 (2) If provided in the proceedings authorizing the issuance
167 of the bonds and agreed to by resolution of the board to make the
168 pledge, then when there are insufficient revenues received from
169 special assessments authorized under this act, according to the
170 provisions made in the proceedings authorizing the issuance of
171 such bonds, to meet the interest or principal payments, or both,
172 when due on any bonds issued under the authority of this act,
173 then, the board shall levy an ad valorem tax on (a) all taxable
174 property within the geographical limits of the area or (b) all
175 taxable property within the geographical limits of the area which
176 is designated pursuant to a petition under subsection (3) of
177 Section 3 of this act, which tax, together with any other monies
178 available for such purpose, shall be sufficient to provide for the
179 payment of the principal of and interest on such bonds as the same
180 falls due, and, if so provided in the proceedings for the issuance
181 of such bonds, to replenish any reserve fund established for such
182 bonds.

183 Section 6. The county is vested with all the powers
184 necessary and requisite that are capable of being delegated by the
185 Legislature for the accomplishment of the purposes of this act.
186 No enumeration of powers in this act shall be construed to impair
187 or limit any general grant of power contained in this act or to
188 limit any grant of power or powers of the same class or classes as
189 those enumerated. The county may do all acts necessary, proper or
190 convenient in the exercise of the powers granted under this act.

191 Section 7. The county, acting by and through the board,
192 shall have the following, among other, powers:

193 (a) To acquire by purchase, gift, devise or lease and

194 to hold and dispose of real and personal property of every kind
195 within or without the area, including franchise rights; however,
196 the sale, assignment, lease or transfer of any certificate of
197 public convenience and necessity or utility property shall be
198 subject to Section 77-3-23, Mississippi Code of 1972;

199 (b) To make and enter into contracts, conveyances,
200 mortgages, deeds of trust, bonds, leases or contracts for
201 financial advisory services;

202 (c) To incur debts, to borrow money, to issue
203 negotiable bonds, and to provide for the rights of the holders
204 thereof;

205 (d) To fix, maintain, collect and revise rates and
206 charges for the services rendered by or through the facilities of
207 the county to the area, which rates and charges shall not be
208 subject to review or regulation by the Mississippi Public Service
209 Commission except in those instances where a city operating
210 similar services would be subject to regulation and review;
211 however, the county shall obtain a certificate of convenience and
212 necessity from the Mississippi Public Service Commission for
213 operating utility systems under the commission's jurisdiction;

214 (e) To pledge all or any part of the revenues from
215 special assessments and tax revenues on real and personal property
216 in the area;

217 (f) To make such covenants in connection with the
218 issuance of bonds or to secure the payment of bonds that a private
219 business corporation can make under the general laws of the state;

220 (g) To use any right-of-way, easement or other similar
221 property rights or any material or equipment necessary or
222 convenient in connection with the acquisition, improvement,
223 operation or maintenance of the facilities in the area held by the
224 state or any political subdivision thereof; however, the governing
225 body of the political subdivision shall consent to the use;

226 (h) To enter into agreements with state and federal

227 agencies for loans, grants and aid, and other forms of assistance,
228 including, but not limited to, participation of the sale and
229 purchase of bonds, and to enter into agreements with state
230 agencies, federal agencies and political subdivisions of the State
231 of Mississippi pertaining to matters relating to the operation of
232 any services of the area authorized under this act, and such state
233 agencies and political subdivisions of the State of Mississippi
234 may so contract with the county;

235 (i) To sell to any municipality or district in the
236 county, under those terms, conditions and covenants that may be
237 imposed or required by the county, part or all of the utility
238 system or systems within the area; however, in the event of a sale
239 of all of the system or systems, the municipality or district
240 shall assume all obligations of the county relating thereto as a
241 condition precedent to the sale;

242 (j) To contract with the United States of America, or
243 any agency of the United States of America, the State of
244 Mississippi, or any political subdivision of the State of
245 Mississippi, or any agency, commission, authority, board or other
246 entity thereof, or any municipality or municipalities, for any of
247 the additional purposes authorized by Section 8 of this act;

248 (k) To contract with any municipality, district,
249 person, partnership, corporation or other entity for the operation
250 and maintenance, including billing services, of any property or
251 facilities of the area, upon those terms, conditions and covenants
252 that may be agreed upon by the contracting parties;

253 (l) To contract with a developer under which the
254 developer may construct all or any part of a project with private
255 funds and may be reimbursed by the county for actual costs
256 incurred by the developer upon issuance and delivery of the bonds
257 and receipt of the proceeds, conditioned upon dedication of the
258 project by the developer to the county to assure public use and
259 access; and

260 (m) To enter into an interlocal cooperation agreement
261 between any political subdivision of the State of Mississippi, or
262 any agency, commission, authority, board or other entity thereof,
263 or any municipality or municipalities, whereby both agree that
264 either party to said contract may be responsible for constructing,
265 operating and/or maintaining improvements or other facilities
266 included within an area.

267 Section 8. In addition to the purposes specified under
268 Section 5(1) of this act, the county may issue bonds of the county
269 in the manner provided in Section 5 of this act for any or all of
270 the following purposes:

271 (a) To refund the outstanding bonds of the county
272 secured by special assessments and tax revenues of the area upon a
273 finding by the board that such refunding is in the public
274 interest;

275 (b) To improve, better or extend roadways and streets,
276 including curbing, gutters, street lights, irrigation,
277 landscaping, sidewalks, seawalls, marinas and the water, sewer or
278 gas utility system or systems and fire protection system or storm
279 drainage systems of the area in connection with any casino,
280 resort, theme park, residential, recreation, marina, industrial or
281 commercial development;

282 (c) To purchase or acquire part or all of the utility
283 system or systems and fire protection system of any district or
284 municipality located in whole or in part in the area, including
285 part or all of the system or systems within the corporate
286 boundaries of any municipality;

287 (d) To provide for the payment of the principal,
288 premium and interest on the outstanding bonds of any district or
289 municipality in connection with the purchase of any facilities
290 located in the area;

291 (e) To purchase or acquire part or all of any privately
292 owned utility system or systems in an area;

293 (f) To enter into cooperative agreements with the state
294 or federal government, or both (reference to the state or federal
295 government as used in this paragraph shall include any agency of
296 the state or federal government); to obtain financial assistance
297 in the form of loans or grants as may be available from the state
298 or federal government, or both; and to execute and deliver at
299 private sale notes or bonds as evidence of the indebtedness in the
300 form and subject to the terms and conditions as may be imposed by
301 the state or federal government, or both; and to pledge the income
302 and revenues of the area, or the income and revenues from any part
303 of the land embraced in the area (which revenues in either
304 instance shall include, but not be limited to, revenues from
305 special assessments and tax revenues) in payment thereof; and the
306 state may enter into such agreements with the county;

307 (g) To purchase or acquire part or all of any utility
308 system or systems located in whole or in part in the area owned by
309 the United States of America, or any agency of the United States
310 of America, or the State of Mississippi, or any political
311 subdivision of the State of Mississippi, or any agency,
312 commission, authority, board or other entity thereof; and

313 (h) To enter into an interlocal cooperation agreement
314 for the purposes set forth in Section 7(m) of this act.

315 Section 9. The board, in its discretion, may exercise the
316 powers set forth in this act at the cost of the property owners in
317 the area. The board may levy and collect special assessments on
318 properties located in the area and may either issue negotiable
319 special improvement bonds of the county or pledge the receipts
320 from the special assessments to secure the payment of the
321 principal of premium, if any, and interest on any bonds authorized
322 pursuant to this act. Any special assessments shall be levied and
323 collected in the manner authorized in Sections 21-41-1 through
324 21-41-53, Mississippi Code of 1972, except to the extent otherwise
325 provided for in this act. The board may secure bonds of the

326 county solely from the receipts from special assessments, or may
327 pledge such receipts in addition to the pledge of revenues of the
328 county or the receipts from any tax levy authorized in this act,
329 or from any combination of monies from the special assessments,
330 revenues and tax levies.

331 Section 10. Bonds issued pursuant to this act shall be
332 payable as to principal and interest solely from the sources
333 authorized by this act. Any bonds secured by a pledge of the
334 special assessments authorized in Section 9 of this act shall
335 mature at any time or times, not exceeding twenty-five (25) years
336 from the date of the bonds, and may be in fully registered form or
337 in bearer form as determined by the board.

338 Section 11. All special assessments levied under this act
339 shall be payable in approximately equal annual installments over a
340 period not in excess of twenty-five (25) years, as determined by
341 the board, with interest from the date of the confirmation of the
342 assessment at a rate, to be fixed by the board, which will produce
343 sufficient funds for the payment of all or a specified portion of
344 the principal and interest on the bonds as they mature and accrue
345 and for fees and expenses for a paying agent or trustee, or both,
346 for the bonds. The amount to be paid pursuant to such special
347 assessments may be limited by the board to the amounts needed for
348 the purposes specified in this section. Any property owner who
349 shall not have taken an appeal from the assessment, upon failure
350 to pay the assessment in full within thirty (30) days from the
351 date of confirmation, shall be deemed to have elected to pay the
352 assessment in installments as provided in this section, and he
353 shall be deemed to have admitted the legality of the assessment,
354 and the right to contest the validity of the assessment shall be
355 waived. The installments of the assessment shall be due and
356 payable at the same time that the annual real property tax becomes
357 due and payable, commencing with the first county tax levy which
358 is payable after the expiration of thirty (30) days from the date

359 of confirmation of the assessment.

360 Section 12. The resolution declaring the intent of the board
361 to proceed with the special improvements authorized by this act
362 may direct that all of the expenses of the property or facilities
363 of the area, or such part of the expenses that the board shall
364 charge upon the properties in the area, shall be assessed
365 according to the frontage rule or area rule, as outlined in this
366 section. Bonds may be issued for one or more projects and the
367 area and method of assessment for each project shall be specified
368 in the resolution declaring the intent of the board to proceed
369 with that project. The resolution declaring the intent of the
370 board to proceed with the special improvements shall:

371 (a) Define the properties in the area to be benefited
372 by each improvement, with each improvement being designated as a
373 project;

374 (b) Fix the amount or percentage of the charge to be
375 levied upon the property benefited;

376 (c) Designate the minimum and maximum number of years
377 between the date of the bonds and the maturity of those bonds;

378 (d) Delineate the method of determining the amount of
379 special assessments to be levied on each lot or parcel of land;

380 (e) Designate the minimum and maximum number of
381 approximately equal annual installments that the board may later
382 allow for the payment of assessments with interest on those
383 assessments.

384 If the board determines that the front foot rule is the most
385 equitable method of distributing the cost among the properties,
386 then the resolution shall direct that the cost to be assessed
387 against each lot or parcel of land shall be determined by dividing
388 the entire cost to be assessed by the total number of front feet
389 of real property abutting upon the utility easement, street,
390 railroad or public or private right-of-way on which the project is
391 located and which will be subject to such special assessment, and

392 multiplying the quotient by the total number of front feet in any
393 particular lot or parcel of land fronting on the utility easement,
394 street, railroad or public or private right-of-way on which the
395 project is located. The result of this formula shall be assessed
396 against each lot or parcel of land for the owner's part of the
397 cost of the entire improvement to be paid through special
398 assessments.

399 If the board determines that the area rule is the most
400 equitable method of distributing the cost among the properties,
401 then the resolution shall direct that the cost to be assessed
402 against each lot or parcel of land shall be determined by dividing
403 the entire cost to be assessed by the total number of acres or
404 square feet in the area being benefited and which is subject to
405 such special assessment, and multiplying the quotient by the total
406 number of acres or square feet in any particular lot or parcel of
407 land. The result of this formula shall be assessed against each
408 lot or parcel of land for the owner's part of the cost of the
409 entire improvement to be paid through special assessments.

410 As provided in subsection (3) of Section 3 of this act, the
411 property subject to assessment may be limited to property owned by
412 landowners within an area who have petitioned the county pursuant
413 to subsection (3) of Section 3 of this act.

414 Section 13. If the owners of a majority of the front footage
415 of the property to be assessed under the front foot rule, or if
416 the owners of a majority of the area of the property to be
417 assessed under the area rule, as described in Section 12 of this
418 act, file a written protest objecting to the assessments
419 authorized under this act and in Section 21-41-7, Mississippi Code
420 of 1972, then the board shall not proceed with the special
421 assessment.

422 Section 14. If owners of the front footage of the property
423 to be assessed under the front foot rule, or if the owners of the
424 property to be assessed under the area rule enter into a written

425 agreement with the county * * * agreeing to pay the total
426 assessments authorized under this act and in Section 21-41-7,
427 Mississippi Code of 1972, then the owners of property not a party
428 to said written agreement shall not be obligated to pay the
429 assessments.

430 Section 15. This act, without reference to any other
431 statute, shall be deemed to be full and complete authority for the
432 designation of the area by the county, and this act, including the
433 provisions of Sections 21-41-1 through 21-41-53, Mississippi Code
434 of 1972, which are not in direct conflict with the provisions of
435 this act, shall be deemed to be full and complete authority for
436 the issuance of bonds by the county and shall be construed as
437 additional and alternative methods therefor. All powers necessary
438 to be exercised in order to carry out the provisions of this act
439 are hereby conferred. No proceedings shall be required for the
440 designation of the area by the county or for the issuance of the
441 bonds other than those provided for and required in this act. Any
442 municipality, district or other entity located in whole or in part
443 in the area is authorized to sell part or all of its water, sewer
444 or gas or storm drainage system to the county. All the necessary
445 powers to be exercised by the board and the governing authorities
446 of any municipality or district that determines to sell part or
447 all of its water, sewer or gas system to the county in order to
448 carry out this act are hereby conferred.

449 Section 16. Any bonds issued under this act may be submitted
450 to validation under the provisions of Chapter 13, Title 31,
451 Mississippi Code of 1972.

452 Section 17. This act shall be liberally construed for the
453 purposes set out in the act, the powers hereby granted being
454 additional, cumulative and supplemental to any power granted to
455 Harrison County, Mississippi, or any municipality therein by any
456 general law or any local and private act of the Legislature.

457 Section 18. If any provision of this act is held to be

458 invalid by any court of competent jurisdiction, the remainder of
459 this act shall not be affected by that determination.

460 Section 19. This act shall be repealed from and after
461 December 31, 2003.

462 Section 20. This act shall take effect and be in force from
463 and after its passage.

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