

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

To: Local and Private

SENATE BILL NO. 3239
(As Passed the Senate)

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; AND FOR RELATED PURPOSES.

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

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

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

11 (a) "Board" means the Board of Supervisors of Harrison
12 County, Mississippi.

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

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

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

27 Section 3. (1) A petition for the designation of an area

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

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

61 made not more than seven (7) days before the date of the hearing.

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

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

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

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

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

125 In addition, if so provided for in the proceedings authorizing
126 the bonds and agreed to by resolution of the board, the bonds

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

160 on those terms, conditions and covenants agreed to by and between
161 the issuing authority and the purchasers of the bonds. The total
162 amount of bonds issued under this act shall not exceed Fifty
163 Million Dollars (\$50,000,000.00).

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

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

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

191 (a) To acquire by purchase, gift, devise or lease and
192 to hold and dispose of real and personal property of every kind

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

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

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

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

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

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

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

224 (h) To enter into agreements with state and federal
225 agencies for loans, grants and aid, and other forms of assistance,

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

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

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

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

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

258 (m) To enter into an interlocal cooperation agreement

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

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

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

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

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

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

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

291 (f) To enter into cooperative agreements with the state

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

420 Section 14. If owners of the front footage of the property
421 to be assessed under the front foot rule, or if the owners of the
422 property to be assessed under the area rule enter into a written
423 agreement with the county * * * agreeing to pay the total

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

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

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

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

455 Section 18. If any provision of this act is held to be
456 invalid by any court of competent jurisdiction, the remainder of

457 this act shall not be affected by that determination.

458 Section 19. This act shall be repealed from and after
459 December 31, 2003.

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

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