

By: Horne

To: Ways and Means

HOUSE BILL NO. 184

1 AN ACT TO AMEND SECTION 21-45-9, MISSISSIPPI CODE OF 1972, TO
2 PROVIDE FOR A PETITION ELECTION ON THE QUESTION OF ISSUING
3 MUNICIPAL OR COUNTY TAX INCREMENT FINANCING BONDS; AND FOR RELATED
4 PURPOSES.

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

6 SECTION 1. Section 21-45-9, Mississippi Code of 1972, is
7 amended as follows:[JU1]

8 21-45-9. (1) Subject to the requirements of subsection (2)
9 of this section, any governing body may issue tax increment bonds,
10 the final maturity of which shall not extend beyond thirty (30)
11 years, for the purpose of financing all or a portion of the cost
12 of a redevelopment project within the boundaries of the
13 municipality, funding any reserve which the governing body may
14 deem advisable in connection with the retirement of the proposed
15 indebtedness and funding any other incidental expenses involved in
16 incurring such indebtedness. The debt service of indebtedness
17 incurred pursuant to this section shall be provided from the added
18 increments of municipal and county ad valorem tax revenues or any
19 portion of the sales taxes, or both, to result from any such
20 redevelopment project and shall never constitute an indebtedness
21 of the municipality within the meaning of any state constitutional
22 provision or statutory limitation and shall never constitute nor

23 give rise to a pecuniary liability of the municipality or a charge
24 against its general credit or taxing powers.

25 Said bonds may be authorized by resolution or resolutions of
26 the governing body, and may be issued in one or more series, may
27 bear such date or dates, mature at such time or times, bear
28 interest at such rate or rates, payable at such times, be in such
29 denominations, be in such form, be registered, be executed in such
30 manner, be payable in such medium of payment, at such place or
31 places, be subject to such terms of redemption, with or without
32 premium, carry such conversion or registration privileges and be
33 declared or become due before the maturity date thereof, as such
34 resolution or resolutions may provide; however, such bonds shall
35 not bear a greater interest rate to maturity than that allowed
36 under Section 75-17-101. Said bonds shall be sold for not less
37 than par value plus accrued interest at public sale in the manner
38 provided by Section 31-19-25 or at private sale, in the discretion
39 of the governing body. The lowest interest rate specified for any
40 bonds issued shall not be less than seventy percent (70%) of the
41 highest interest rate specified for the same bond issue. Said
42 bonds may be repurchased by the municipality out of any available
43 funds at a price not to exceed the principal amount thereof and
44 accrued interest, and all bonds so repurchased shall be cancelled.

45 In connection with the issuance of said bonds, the municipality
46 shall have the power to enter into contracts for rating of the
47 bonds by national rating agencies; obtaining bond insurance or
48 guarantees for such bonds and complying with the terms and
49 conditions of such insurance or guarantees; make provision for
50 payment in advance of maturity at the option of the owner or
51 holder of the bonds; covenant for the security and better
52 marketability of the bonds, including without limitation the
53 establishment of a debt service reserve fund and sinking funds to

54 secure or pay such bonds; and make any other provisions deemed
55 desirable by the municipality in connection with the issuance of
56 said bonds.

57 In connection with the issuance of said bonds, the
58 municipality may arrange for lines of credit with any bank, firm
59 or person for the purpose of providing an additional source of
60 repayment for such bonds and amounts drawn on such lines of credit
61 may be evidenced by bonds, notes or other evidences of
62 indebtedness containing such terms and conditions as the
63 municipality may determine; provided, however, that such bonds,
64 notes or evidences of indebtedness shall be secured by and payable
65 from the same sources as are pledged to the payment of said bonds
66 which are additionally secured by such line of credit, and that
67 said bonds, notes or other evidences of indebtedness shall be
68 deemed to be bonds for all purposes of this chapter. Pending the
69 preparation or execution of definitive bonds, interim receipts or
70 certificates, or temporary bonds may be delivered to the purchaser
71 or purchasers of said bonds. Any provision of law to the contrary
72 notwithstanding, any bonds, if any, issued pursuant to this
73 chapter shall possess all of the qualities of negotiable
74 instruments.

75 The municipality may also issue refunding bonds for the
76 purpose of paying any of its bonds at or prior to maturity or upon
77 acceleration or redemption. Refunding bonds may be issued at such
78 time prior to the maturity or redemption of the refunded bonds as
79 the municipality may determine. The refunding bonds may be issued
80 in sufficient amounts to pay or provide the principal of the bonds
81 being refunded, together with any redemption premium thereon, any
82 interest accrued or to accrue to the date of payment of such
83 bonds, the expenses of issuing the refunding bonds, the expenses
84 of redeeming the bonds being refunded, and such reserves for debt

85 service or other capital or current expenses from the proceeds of
86 such refunding bonds as may be required by any of the
87 municipality's resolutions, trust indenture or other security
88 instruments. The issuance of refunding bonds, the maturities and
89 other details thereof, the security therefor, the rights of the
90 holders and the rights, duties and obligations of the municipality
91 in respect of the same shall be governed by the provisions of this
92 chapter relating to the issuance of bonds other than refunding
93 bonds, insofar as the same may be applicable.

94 Before incurring any debt pertaining to a redevelopment
95 project incorporating a tax increment financing plan the governing
96 body may, but shall not be required to, secure an agreement from
97 one or more developers obligating such developer or developers:

98 (a) To effect the completion of all or any portion of
99 the buildings or other facilities or improvements, as described in
100 the redevelopment project, at no cost to the municipality;

101 (b) To pay all or any portion of the real property
102 taxes due on the project in a timely manner; and

103 (c) To maintain and operate all or any portion of the
104 buildings or other facilities or improvements of the project in
105 such a manner as to preserve property values.

106 No breach of any such agreement shall impose any pecuniary
107 liability upon a municipality or any charge upon its general
108 credit or against its taxing powers.

109 Additionally, the municipality may enter into an agreement
110 with the developer under which the developer may construct all or
111 any part of the redevelopment project with private funds in
112 advance of issuance of the bonds and may be reimbursed by the

113 municipality for actual costs incurred by the developer upon
114 issuance and delivery of the bonds and receipt of the proceeds,
115 conditioned upon dedication of redevelopment project by the
116 developer to the municipality to assure public use and access.

117 (2) Before issuing any bonds under this chapter, the
118 governing body shall adopt a resolution declaring its intention so
119 to do, stating the amount of bonds proposed to be issued and the
120 purpose for which the bonds are to be issued, and the date upon
121 which the governing body proposes to direct the issuance of such
122 bonds. The resolution shall be published once a week for at least
123 three (3) consecutive weeks in at least one (1) newspaper
124 published in the municipality. The first publication of the
125 resolution shall be made not less than twenty-one (21) days before
126 the date fixed in the resolution for the issuance of the bonds,
127 and the last publication shall be made not more than seven (7)
128 days before such date. If no newspaper is published in the
129 municipality, then the notice shall be given by publishing the
130 resolution for the required time in some newspaper having a
131 general circulation in the municipality and, in addition, by
132 posting a copy of the resolution for at least twenty-one (21) days
133 next preceding the date fixed therein at three (3) public places
134 in the municipality. If ten percent (10%) of the qualified
135 electors of the municipality, or fifteen hundred (1500), whichever
136 is the lesser, shall file a written protest against the issuance
137 of the bonds on or before the date specified in the resolution,
138 then an election on the question of the bonds shall be called and
139 held. Notice of the election shall be signed by the clerk of the
140 municipality and shall be published once a week for at least three

141 (3) consecutive weeks in at least one (1) newspaper published in
142 the municipality. The first publication of the notice shall be
143 made not less than twenty-one (21) days before the date fixed for
144 the election, and the last publication shall be made not more than
145 seven (7) days before such date. If no newspaper is published in
146 the municipality, then the notice shall be given by publishing the
147 same for the required time in some newspaper having a general
148 circulation in the municipality and, in addition, by posting a
149 copy of the notice for at least twenty-one (21) days next
150 preceding the election at three (3) public places in the
151 municipality. If no protest is filed, then the bonds may be
152 issued without an election on the question of the issuance
153 thereof, at any time within a period of two (2) years after the
154 date specified in the resolution. However, the governing body in
155 its discretion may nevertheless call an election on such question,
156 in which event it shall not be necessary to publish the resolution
157 declaring its intention to issue such bonds as herein provided.

158 The election provided for in this subsection (2) shall be
159 held, as far as is practicable, in the same manner as other
160 elections are held in municipalities. At such election, all
161 qualified electors of the municipality may vote. The ballots used
162 at the election shall have printed thereon a brief statement of
163 the amount and purpose of the proposed bond issue and the words
164 "FOR THE BOND ISSUE" and "AGAINST THE BOND ISSUE," and the voter
165 shall vote by placing a cross (X) or check mark (a) opposite his
166 choice on the proposition.

167 When the results of the election on the question of the
168 issuance of the bonds shall have been canvassed by the election

169 commissioners of the municipality and certified by them to the
170 governing body of the municipality, it shall be the duty of the
171 governing body to determine and adjudicate whether or not
172 three-fifths (3/5) of the qualified electors who voted in the
173 election voted in favor of the issuance of the bonds. Unless
174 three-fifths (3/5) of the qualified electors who voted in the
175 election voted in favor of the issuance of the bonds, then the
176 bonds shall not be issued. Should three-fifths (3/5) of the
177 qualified electors who vote in the election vote in favor of the
178 issuance of the bonds, then the governing body may issue the
179 bonds, either in whole or in part, within two (2) years from the
180 date of the election or within two (2) years after the final
181 favorable termination of any litigation affecting the issuance of
182 the bonds, as the governing body shall deem best.

183 SECTION 2. The Attorney General of the State of Mississippi
184 is hereby directed to submit this act, immediately upon approval
185 by the Governor, or upon approval by the Legislature subsequent to
186 a veto, to the Attorney General of the United States or to the
187 United States District Court for the District of Columbia in
188 accordance with the provisions of the Voting Rights Act of 1965,
189 as amended and extended.

190 SECTION 3. This act shall take effect and be in force from
191 and after the date it is effectuated under Section 5 of the Voting
192 Rights Act of 1965, as amended and extended.