

By: Reeves, Whittington, Brown

To: Ways and Means

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 1545

1 AN ACT TO AMEND SECTIONS 21-33-501, 21-33-503, 21-33-505,
2 21-33-507, 21-33-509, 21-33-511, 21-33-513, 21-33-517 AND
3 21-33-519, MISSISSIPPI CODE OF 1972, TO REVISE THE DEFINITION OF
4 THE TERM "SPECIAL IMPROVEMENTS" FOR PURPOSES OF SPECIAL LOCAL
5 IMPROVEMENT TAXING DISTRICTS; TO REVISE THE PROCEDURES FOR
6 ESTABLISHING SPECIAL LOCAL IMPROVEMENT TAXING DISTRICTS; TO REVISE
7 THE ENTITIES THAT MAY MANAGE A SPECIAL LOCAL IMPROVEMENT TAXING
8 DISTRICT AND USE THE PROCEEDS FROM THE SPECIAL AD VALOREM TAX
9 LEVIED BY A MUNICIPALITY TO FUND IMPROVEMENTS IN A DISTRICT; TO
10 REVISE THE SPECIAL LOCAL IMPROVEMENT DISTRICTS FOR WHICH A
11 MUNICIPALITY MAY ISSUE BONDS TO FUND IMPROVEMENTS; TO REVISE THE
12 SPECIAL LOCAL IMPROVEMENT DISTRICTS FOR WHICH A MUNICIPALITY MAY
13 DELEGATE AUTHORITY TO AN URBAN RENEWAL AGENCY OR REDEVELOPMENT
14 AUTHORITY; TO BRING FORWARD SECTIONS 21-33-515, 21-33-521,
15 21-33-523 AND 21-33-525, MISSISSIPPI CODE OF 1972; AND FOR RELATED
16 PURPOSES.

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

18 SECTION 1. Section 21-33-501, Mississippi Code of 1972, is
19 amended as follows:

20 21-33-501. For the purposes of this article, the following
21 words and phrases shall have the meanings ascribed herein unless
22 the context clearly indicates otherwise:

23 (a) "Issuing authority" means any municipality or any
24 urban renewal agency or redevelopment authority within such city
25 or town having authority to issue bonds pursuant to this article.

26 (b) "Local improvements" means (i) any improvements
27 constructed within a special local improvement taxing district or
28 services established under this article to improve the appearance
29 or functioning of property located within the district including,
30 but not limited to, parks and related facilities, sidewalks,
31 streets, street curbing, street medians, planting areas, walls,
32 lighting equipment, fountains and flagpoles; (ii) trees, shrubs,
33 flowers and other vegetation; (iii) security enhancements

34 including, but not limited to, cameras, radios, monitors and
35 related equipment; (iv) private patrol services; (v) the
36 acquisition, rehabilitation and sale of property in a special
37 local improvement taxing district; and (vi) any expenditures made
38 in conjunction with the improvements set forth above such as the
39 removal and relocation of utility service or purchase and removal
40 of signs.

41 (c) "Special local improvement taxing district" means a
42 district established pursuant to Section 21-33-503 and may be
43 comprised of either residential or nonresidential real property.
44 Nonresidential real property located within or immediately
45 adjacent to a special local improvement taxing district comprised
46 of residential real property may be included within such special
47 local improvement taxing district by a request submitted in
48 writing by the owner of such nonresidential property to the
49 governing authorities of the municipality. Residential real
50 estate property located within or immediately adjacent to a
51 special local improvement taxing district comprised of
52 nonresidential real property may be included within such special
53 local improvement taxing district by a request submitted in
54 writing by the owner of such residential property to the governing
55 authorities of the municipality.

56 (d) "Municipality" means any city or town incorporated
57 under the laws of the State of Mississippi with a population in
58 excess of one hundred ninety thousand (190,000) according to the
59 latest federal decennial census.

60 SECTION 2. Section 21-33-503, Mississippi Code of 1972, is
61 amended as follows:

62 21-33-503. (1) (a) The governing authority of a
63 municipality is authorized to establish one or more special local
64 improvement taxing districts and to levy and collect an annual
65 special tax not to exceed six (6) mills against only that taxable
66 real property that is included within each such district, provided
67 that such a special tax shall not be levied or collected unless
68 the governing authority (a) shall have adopted a resolution (i)
69 designating an area a special local improvement taxing district
70 and (ii) specifying the maximum millage to be levied on taxable

71 real property in the district under this section, and (b) has
72 received a petition in favor of the levy of such tax signed by the
73 owners of at least sixty percent (60%) of the taxable real
74 property in the proposed district. For purposes of this
75 subsection, "owners" means those persons possessing a majority of
76 the ownership interest in a piece of taxable real property.

77 (b) Such special tax levy shall be excluded from the
78 limitations imposed under Section 27-39-321. Before adopting such
79 resolution, the governing authority shall hold a public hearing
80 with respect thereto after public notice by publication at least
81 twice, once a week for two (2) consecutive weeks in a newspaper of
82 general circulation in the municipality, with the first
83 publication being not less than fourteen (14) calendar days before
84 the date specified for such hearing, such notice to include the
85 date, time and place of such hearing, the proposed boundaries of
86 such special local improvement taxing district and the maximum
87 special tax to be levied on property in such district under this
88 section.

89 (c) The boundaries of the special local improvement
90 taxing district shall not be modified and special taxes shall not
91 be levied in excess of the maximum set forth in such resolution,
92 unless:

93 (i) The governing authority shall have amended
94 such resolution to reflect such modifications in the boundaries
95 and tax levy;

96 (ii) The governing authority has received a
97 petition in favor of the levy of the special tax signed by owners,
98 as that term is defined in subsection (1) of this section, of at
99 least seventy percent (70%) of the taxable real property within
100 the modified boundaries of the district; and

101 (iii) A public hearing is held as provided in
102 subsection (2) of this section. Any special local improvement
103 taxing district established under this article may include any

104 real property located within the corporate boundaries of the
105 municipality.

106 (2) (a) As an alternative to the procedure provided in
107 subsection (1) of this section, a special local improvement taxing
108 district may be created under this subsection (2) if the
109 boundaries of the proposed special local improvement taxing
110 district are within the boundaries of the homeowners' association
111 representing that area. Upon delivery of a petition to the clerk
112 of the municipality in which the proposed district is located,
113 signed by the owners of at least sixty percent (60%) of the
114 taxable real property in the homeowners' association representing
115 the area in the proposed district, the municipality shall begin
116 efforts to establish the district. Within fifteen (15) days after
117 receipt of such a petition, the clerk of the municipality shall
118 mail ballots to all of the property owners in the proposed special
119 local improvement taxing district providing for a referendum on
120 the issue of creating the district. The ballot shall clearly
121 state the issue to be decided and shall indicate the date by which
122 the ballot must be returned to the clerk of the municipality,
123 which date may not be later than thirty (30) days after the date
124 the clerk mailed the ballots. The governing authorities of the
125 municipality shall adopt a resolution creating the special local
126 improvement taxing district if on or before the last day fixed for
127 the return of ballots, the owners of at least sixty percent (60%)
128 of the taxable real property in the proposed special local
129 improvement taxing district vote in favor of creating the
130 district. The resolution shall contain a description of the
131 boundaries of the district and shall specify the maximum millage
132 rate to be levied upon taxable real property in the district for
133 the municipality's fiscal year.

134 (b) The homeowners' association representing the
135 property owners in the special local improvement taxing district
136 shall submit a plan to the municipality specifying the local

137 improvements proposed for the district during the municipality's
138 upcoming fiscal year and the total amount proposed to be expended
139 for the improvements. The governing authorities of the
140 municipality may levy a special tax not to exceed six (6) mills
141 upon all taxable real property in the district to provide funds
142 for the local improvements.

143 (c) The procedures required in this subsection (2) for
144 the establishment of a district shall be used for the modification
145 of the boundaries of a district.

146 SECTION 3. Section 21-33-505, Mississippi Code of 1972, is
147 amended as follows:

148 21-33-505. (1) (a) Upon the adoption of a resolution
149 establishing a special local improvement taxing district as set
150 forth under Section 21-33-503(1), the governing authority of a
151 municipality shall be authorized to exercise the following powers
152 within any special local improvement taxing district:

153 (i) To provide for the planning and design of
154 local improvements and the coordination of landscape design on
155 different parcels of property, including the preparation of
156 working drawings for the construction, acquisition and
157 installation of local improvements;

158 (ii) To purchase, acquire, install and construct
159 local improvements;

160 (iii) To purchase and acquire easements, air
161 rights, scenic rights-of-way and other interests in land on which
162 local improvements can be placed and which are necessary or
163 desirable in connection with any local improvements;

164 (iv) To provide for the management of local
165 improvements, including but not limited to, providing maintenance
166 and services within the district; and

167 (v) To contract with a nonprofit local association
168 duly incorporated under the laws of the State of Mississippi to
169 undertake all or a portion of the activities within the local

170 improvement district.

171 (b) A special local improvement taxing district created
172 under Section 21-33-503(1) shall be dissolved by resolution of the
173 governing authority of the municipality if all activities for
174 which such district was established have been completed and no
175 debts incurred in connection with such activities are outstanding.

176 (2) (a) Upon the adoption of a resolution establishing a
177 special local improvement taxing district as set forth under
178 Section 21-33-503(2), the homeowners' association representing the
179 property area in the district shall be authorized to exercise the
180 following powers within the special local improvement taxing
181 district:

182 (i) To provide for the planning and design of
183 local improvements and the coordination of landscape design on
184 different parcels of property, including the preparation of
185 working drawings for the construction, acquisition and
186 installation of local improvements;

187 (ii) To purchase, acquire, install and construct
188 local improvements;

189 (iii) To purchase and acquire easements, air
190 rights, scenic rights-of-way and other interests in land on which
191 local improvements can be placed and which are necessary or
192 desirable in connection with any local improvements;

193 (iv) To provide for the management of local
194 improvements, including but not limited to, providing maintenance
195 and services within the district; and

196 (v) To contract with a nonprofit local association
197 duly incorporated under the laws of the State of Mississippi to
198 undertake all or a portion of the activities within the district.

199 (b) A special local improvement taxing district
200 established under Section 21-33-503(2) that has satisfied all
201 indebtedness incurred in connection with activities of the
202 district may be dissolved by following the petition and ballot

203 procedures provided for the establishment of the district in
204 Section 21-33-503(2).

205 SECTION 4. Section 21-33-507, Mississippi Code of 1972, is
206 amended as follows:

207 21-33-507. (1) The proceeds of any special tax levied on
208 real estate property located within a special local improvement
209 taxing district under Section 21-33-503(1) may be used to pay
210 costs including administrative costs of and relating to exercising
211 the powers set forth in Section 21-33-505(1).

212 Nothing stated herein shall prevent the use of such special
213 tax for the purpose of planning and design of local improvement
214 for any property located within a district and the coordination of
215 landscape design on different parcels of property.

216 (2) (a) The proceeds of any special ad valorem tax levied
217 on real property located within a special local improvement taxing
218 district under Section 21-33-503(2) may be used to pay costs
219 including administrative costs of and relating to exercising the
220 powers set forth in Section 21-33-505(2). The municipality shall
221 hold the proceeds of the special ad valorem tax levy until
222 disbursing the proceeds to the homeowners' association
223 representing the area in a district created under Section
224 21-33-503(2). The proceeds from the special ad valorem tax levy
225 disbursed to a homeowners' association shall remain public funds
226 and shall be subject to review by the State Auditor of Public
227 Accounts. The municipality may retain a portion of the proceeds
228 of such tax levy in an amount necessary to defray costs incurred
229 by the municipality in establishing a district or modifying the
230 boundaries of a district. A homeowners' association shall keep
231 the proceeds of such ad valorem tax levy separate and apart from
232 other funds of the association. Accounting for receipts and
233 expenditures of proceeds from the ad valorem tax levy shall be
234 made separately and apart from the accounting of receipts and
235 expenditures of the homeowners' association for other funds of the

236 district. The homeowners' association shall have its books and
237 records audited annually by an independent certified public
238 accountant and shall file a written report of the audit with the
239 clerk of the municipality. The clerk of the municipality shall
240 make the report of the audit available for public review. A
241 special local improvement taxing district shall operate on the
242 same fiscal year as the municipality.

243 (b) Nothing in this subsection (2) shall prevent the
244 use of such special tax for the purpose of planning and design of
245 local improvements for any property located within a district and
246 the coordination of landscape design on different parcels of
247 property.

248 SECTION 5. Section 21-33-509, Mississippi Code of 1972, is
249 amended as follows:

250 21-33-509. (1) (a) The governing authority of a
251 municipality exercising the authority to levy a special tax as set
252 forth in Section 21-33-503(1) shall levy such tax at the maximum
253 rate specified in the resolution provided for in Section
254 21-33-503(1) against all property in such special local
255 improvement taxing district unless a lesser rate will provide
256 revenues sufficient to pay debt service on all bonds payable from
257 such tax and to pay costs of exercising the powers authorized
258 pursuant to Section 21-33-505(1), and if a municipality has
259 delegated to an urban renewal agency or redevelopment authority
260 any of its authority under this article, the governing authority
261 of such urban renewal agency or redevelopment authority shall have
262 certified to the municipality that a lesser tax rate will be
263 sufficient to make such payments, in which event the governing
264 authority of the municipality shall levy such tax at such lesser
265 rate.

266 (b) The governing authority may also enter into
267 agreements for the benefit of holders of bonds issued by an urban
268 renewal agency or redevelopment authority of the municipality

269 pursuant to Section 21-33-511 including, without limitation,
270 agreements limiting or restricting issuance of bonds by the
271 municipality which would be payable from such special tax, to the
272 extent that such governing authorities shall determine that such
273 agreements are necessary or desirable in connection with the
274 issuance of bonds by an urban renewal agency or redevelopment
275 authority pursuant to Section 21-33-511.

276 (2) The governing authorities of a municipality exercising
277 the authority to levy a special tax as set forth in Section
278 21-33-503(2) shall levy such tax at the maximum rate specified in
279 the resolution provided for in Section 21-33-503(2) against all
280 taxable property in such special local improvement taxing district
281 unless a lesser rate will provide revenues sufficient to pay the
282 costs of improvements included in the plan submitted to the
283 municipality under Section 21-33-503(2)(b).

284 SECTION 6. Section 21-33-511, Mississippi Code of 1972, is
285 amended as follows:

286 21-33-511. The governing authority which has elected to
287 exercise the authority to establish special local improvement
288 taxing districts as provided in Section 21-33-503(1) and the
289 governing authority of any urban renewal agency or redevelopment
290 authority to which authority under this article shall have been
291 delegated, are authorized, in their discretion, to issue bonds for
292 the purpose of defraying any costs described in Section
293 21-33-507(1); refunding outstanding bonds; paying costs relating
294 to the issuance of such bonds; and establishing any reserve funds
295 determined to be appropriate. Such bonds may be issued without an
296 election thereon upon the adoption of a resolution by the
297 governing authority of the issuing authority. Such bonds shall
298 not be subject to any limitation as to amount and shall not be
299 included in computing the statutory limitation of indebtedness of
300 such issuing authority under any present or future law. Such
301 bonds shall bear such date or dates, shall be of such denomination

302 or denominations, shall bear interest at such rate or rates as
303 shall be approved by the issuing authority, shall be payable at
304 such place or places within or without the State of Mississippi,
305 shall mature at such time or times and upon such terms and may be
306 made redeemable prior to maturity with or without premium, shall
307 bear such registration privileges and shall be in substantially
308 such form as shall be determined by resolution of the governing
309 authority of such issuing authority. Any bonds issued under this
310 article may be sold at public or private sale at such price as may
311 be determined by the governing authority.

312 Such bonds shall be executed by the manual or facsimile
313 signature of the official or officials of such issuing authority
314 which have been designated by the governing authority, with the
315 seal of the issuing authority affixed thereto or reproduced
316 thereon. Whenever such bonds shall have been signed by the
317 officials designated to sign the same who were in office at the
318 time of such signing but who may have ceased to be such officials
319 prior to the date of the sale and delivery of such bonds, or who
320 may not have been in office on the date such bonds may bear, the
321 signatures of such officials upon such bonds shall nevertheless be
322 valid and sufficient for all purposes and have the same effect as
323 if the person so officially signing such bonds had remained in
324 office until the delivery of the same to the purchaser or had been
325 in office on the date such bonds may bear.

326 SECTION 7. Section 21-33-513, Mississippi Code of 1972, is
327 amended as follows:

328 21-33-513. Bonds issued under the provisions of this article
329 shall be payable, both as to principal and interest, solely out of
330 such special taxes levied pursuant to Section 21-33-503(1), and
331 any contributions received by the issuing authority for such
332 purpose, as shall be specified in the resolution authorizing
333 issuance of such bonds, and the full faith and credit of the
334 issuing authority shall not be pledged therefor, and such fact

335 shall be recited on the face of each bond.

336 SECTION 8. Section 21-33-517, Mississippi Code of 1972, is
337 amended as follows:

338 21-33-517. The governing body of a municipality that has
339 established a special local improvement taxing district under
340 Section 21-33-503(1), by resolution or order adopted by such
341 governing body, may delegate the other authority granted under
342 this article, including the authority to plan, construct and
343 maintain local improvements pursuant to Section 21-33-505(1) and
344 the authority to issue bonds pursuant to Section 21-33-511, to the
345 urban renewal agency or the redevelopment authority of the
346 municipality. If such authority has been so delegated hereunder
347 and thereafter exercised, then any taxes levied hereunder shall be
348 paid, upon receipt by the municipality, to the entity to which
349 such authority has been delegated.

350 SECTION 9. Section 21-33-519, Mississippi Code of 1972, is
351 amended as follows:

352 21-33-519. Any municipality which has formed a special
353 local improvement taxing district under the authority of Section
354 21-33-503(1), any urban renewal agency or redevelopment authority
355 which has been delegated authority under this article, and any
356 homeowners' association representing the area in a district
357 established under Section 21-33-503(2), may accept and expend
358 contributions from any other sources and apply such contributions
359 to any of the purposes set forth in this article.

360 SECTION 10. Section 21-33-515, Mississippi Code of 1972, is
361 brought forward as follows:

362 21-33-515. (1) A resolution issuing bonds in compliance
363 with this article may include any covenants which the governing
364 authority deems necessary to make such bonds secure and
365 marketable, including, but without limitation, covenants regarding
366 the application of the bond proceeds; the pledging, application
367 and securing of special taxes; the creation and maintenance of

368 reserves; covenants to levy special taxes; covenants to enforce
369 agreements; the investment of funds; the issuance of additional
370 bonds; the terms and conditions upon which bondholders may
371 exercise their rights and remedies; the replacement of lost,
372 destroyed or mutilated bonds; the definition, consequences and
373 remedies of an event of default; and the appointment of a receiver
374 in the event of a default.

375 (2) All taxes or other revenues pledged to the payment of
376 such bonds shall be subject to a lien in favor of the holders of
377 such bonds, and all such taxes received by the issuing authority,
378 or the municipality if such bonds shall have been issued by a
379 redevelopment authority or an urban renewal agency shall be
380 immediately subject to such lien without any physical delivery
381 thereof or further act by the issuing authority, and such lien
382 shall be effective as against all parties asserting claims against
383 the issuing authority or municipality, whether by way of tort,
384 contract or otherwise, whether or not such parties may have had
385 notice of such lien. Such pledge or trust agreement creating the
386 same need not be filed or recorded except in the official minutes
387 of the issuing authority.

388 (3) The state does hereby covenant with the holders of any
389 such bonds that it will not, while any such bonds shall be
390 outstanding, limit or diminish the right and power of any
391 municipality to levy the special taxes authorized by this article,
392 or the right and power of any municipality, urban renewal agency
393 or redevelopment authority to fulfill any covenants with or for
394 the benefit of such bondholders.

395 SECTION 11. Section 21-33-521, Mississippi Code of 1972, is
396 brought forward as follows:

397 21-33-521. Bonds issued under the provisions of this article
398 shall be legal investments for commercial banks, savings and loan
399 associations and insurance companies organized under the laws of
400 this state.

401 SECTION 12. Section 21-33-523, Mississippi Code of 1972, is
402 brought forward as follows:

403 21-33-523. This article, without reference to any statute
404 not referred to herein, shall be deemed to be full and complete
405 authority for the issuance of bonds, and shall be construed as an
406 additional and alternative method therefor, and none of the
407 present restrictions, requirements, conditions or limitations of
408 law applicable to the issuance or sale of bonds, notes or other
409 obligations by issuers in this state shall apply to the issuance
410 and sale of bonds under this article, and no proceedings shall be
411 required for the issuance of bonds other than those provided for
412 and required herein, and all powers necessary to be exercised in
413 order to carry out the provisions of this article are hereby
414 conferred.

415 SECTION 13. Section 21-33-525, Mississippi Code of 1972, is
416 brought forward as follows:

417 21-33-525. The bonds authorized by this article and the
418 income therefrom shall be exempt from all taxation in the State of
419 Mississippi.

420 SECTION 14. The Attorney General of the State of Mississippi
421 shall submit this act, immediately upon approval by the Governor,
422 or upon approval by the Legislature subsequent to a veto, to the
423 Attorney General of the United States or to the United States
424 District Court for the District of Columbia in accordance with the
425 provisions of the Voting Rights Act of 1965, as amended and
426 extended.

427 SECTION 15. This act shall take effect and be in force from
428 and after the date it is effectuated under Section 5 of the Voting
429 Rights Act of 1965, as amended and extended.