

By: Robinson (84th), Horne

To: Local and Private
Legislation

HOUSE BILL NO. 1717

1 AN ACT TO AMEND CHAPTER 904, LOCAL AND PRIVATE LAWS OF 1988,
2 AS AMENDED BY CHAPTER 872, LOCAL AND PRIVATE LAWS OF 1989, AS
3 AMENDED BY CHAPTER 903, LOCAL AND PRIVATE LAWS OF 1990, TO
4 AUTHORIZE THE BOARD OF SUPERVISORS OF LAUDERDALE COUNTY TO CONVERT
5 CERTAIN FIRE DISTRICTS TO FIRE PROTECTION GRADING DISTRICTS AND TO
6 GRANT THE BOARD OF SUPERVISORS CERTAIN POWERS REGARDING THE FIRE
7 PROTECTION GRADING DISTRICTS; TO PROVIDE THAT THE TERMS OF THE
8 MEMBERS OF THE COUNTY FIRE COMMISSION SHALL EXPIRE AND THE BOARD
9 OF SUPERVISORS SHALL SERVE AS THE COMMISSION; AND FOR RELATED
10 PURPOSES.

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

12 SECTION 1. Chapter 904, Local and Private Laws of 1988, as
13 amended by Chapter 872, Local and Private Laws of 1989, as amended
14 by Chapter 903, Local and Private Laws of 1990, is amended
15 as follows:

16 Section 1. The Board of Supervisors of Lauderdale County,
17 Mississippi, is hereby authorized, in its discretion, to establish
18 a county fire commission for such county.

19 Section 2. (1) The commission shall be composed of eleven
20 (11) members who shall be the county fire coordinator and ten (10)
21 persons to be appointed by a majority vote of the board of
22 supervisors, two (2) members from each supervisor district. The
23 initial appointments shall be made for the following terms: three
24 (3) members for one (1) year, three (3) members for two (2) years
25 and four (4) members for three (3) years. The county fire
26 coordinator shall serve a term concurrent with his appointment as
27 fire coordinator. Appointments made thereafter shall be made for
28 a term of four (4) years and each commissioner shall serve until
29 his successor is appointed and qualified. Vacancies in the office
30 of commissioner shall be filled for the remainder of the unexpired

term by the board of supervisors. Upon the effective date of this act, the terms of the members of the commission shall expire, and the Board of Supervisors of Lauderdale County, Mississippi, shall serve as the commission. Whenever the term "commission" appears in this chapter, it means the Board of Supervisors of Lauderdale County.

(2) Commissioners shall receive no compensation, but may be reimbursed for all actual expenses incurred in the discharge of their duties outside Lauderdale County, including, but not limited to mileage, meals and lodging. Commissioners may attend seminars, workshops and other educational programs designed to provide information to assist the commissioners in the discharge of their duties and may be reimbursed for expenses incurred therein, including registration fees.

(3) The commission shall elect a chairman, vice chairman and secretary from among its members and shall maintain a record of its proceedings and actions through its minutes and shall act through orders, resolutions and ordinances adopted by a majority of the commission and spread upon the minutes of the commission.

(4) Each person appointed as a commissioner, before entering upon the discharge of the duties of his office, shall be required to execute a bond payable to the State of Mississippi in the sum of Ten Thousand Dollars (\$10,000.00) conditioned that the commissioner will faithfully discharge the duties of his office. Each such bond shall be approved by the clerk of the board of supervisors and filed with such clerk.

(5) Each commissioner shall take and subscribe to an oath of office prescribed in Section 268, Mississippi Constitution of 1890, before the clerk of the board of supervisors that he will faithfully discharge the duties of the office of commissioner which oath shall also be filed with such clerk and preserved by the clerk along with the commissioner's bond.

(6) The commission shall meet within thirty (30) days after all appointments have been made pursuant to this act at the regular meeting place of the board of supervisors and shall adopt a seal and such bylaws, rules and regulations as may be necessary to govern the time, place and manner for holding subsequent

68 meetings of the authority and for the conduct of its business.

69 (7) The county treasurer shall serve as treasurer of the
70 commission.

71 Section 3. (1) The commission shall be responsible for the
72 operation and management of the fire districts in the county
73 established pursuant to Section 19-5-151 et seq., Mississippi Code
74 of 1972, and for the county's fire protection program in areas of
75 the county outside such fire districts and outside an incorporated
76 municipality which provides fire protection services. The
77 commission shall have the following powers and duties:

78 (a) To receive and review proposed budgets from
79 volunteer fire departments and fire districts and to submit a
80 proposed consolidated fire protection district budget and to
81 annually submit a plan of operation to the board of supervisors;

82 (b) To acquire by purchase, gift, devise or lease, or
83 other means, other than by eminent domain, hold and dispose of
84 real and personal property of every kind within and without the
85 district;

86 (c) To make and enter into the contracts, conveyances,
87 mortgages, deeds of trust, bonds and leases;

88 (d) To promulgate such reasonable rules and regulations
89 as it shall deem necessary to effectuate the intent and purposes
90 of this act, which are not in contravention of this act or any
91 other law and, in its discretion, to elect an executive committee
92 from its members to perform such duties and functions and exercise
93 such power and authority as the commission may prescribe by
94 resolution;

95 (e) To request the board of supervisors to borrow money
96 and issue negotiable notes or bonds evidencing the same and to
97 secure such notes or bonds by the execution of deeds of trust,
98 mortgages or security agreements on any property not otherwise
99 encumbered belonging to the district;

100 (f) With the approval of the board of supervisors, to

101 employ a director or to contract for staff and professional
102 services with other organizations or governmental bodies,
103 including, but not limited to, attorneys, engineers, accountants,
104 consultants and such other personnel as may be reasonably
105 necessary to carry out the duties and powers authorized by this
106 act;

107 (g) To expend funds from taxes levied by the board of
108 supervisors and funds made available to the county under the
109 provisions of Section 83-1-39, Mississippi Code of 1972, to
110 promote improved fire protection in the county for the health,
111 safety and welfare of persons and property within the county;

112 (h) To use any public right-of-way or easement
113 necessary or convenient in connection with the acquisition,
114 improvement, operation or maintenance of the property and
115 facilities of such district;

116 (i) To enter into agreements with state and federal
117 agencies for loans, grants, grants-in-aid and other forms of
118 assistance, including, but not limited to, participation in the
119 sale and purchase of bond and notes;

120 (j) To acquire by purchase any existing works and
121 facilities providing services for which the commission is created,
122 and any lands, rights, easements, franchises and other property,
123 real and personal, necessary to the completion and operation of
124 the commission upon such terms and conditions as may be agreed
125 upon, and if necessary as part of the purchase price to assume the
126 payment of outstanding notes, bonds or other obligations thereon;

127 (k) To extend its services to areas beyond but within
128 one (1) mile of the boundaries of such county; however, no such
129 extension shall be made to areas already occupied by another
130 corporate agency rendering the same service so long as such
131 corporate agency desires to continue to serve such areas;

132 (l) To be deemed to have the same status as counties
133 and municipalities with respect to payment of sales taxes on

134 purchases made by such commission;

135 (m) To allow the use of any real or personal property
136 owned by the commission by any volunteer fire department located
137 within the county and eligible to receive funds under the
138 provisions of Section 83-1-39, Mississippi Code of 1972;

139 (n) To acquire and maintain accident and disability
140 insurance to cover members of volunteer fire departments within
141 the county who are injured or disabled while engaged in the
142 performance of their duties;

143 (o) To make improvements to any real or personal
144 property owned by a volunteer fire department located in the
145 county and eligible to receive funds under Section 83-1-39,
146 Mississippi Code of 1972; * * *

147 (p) To serve as required by general law to govern a
148 fire district established pursuant to Section 19-5-151 et seq.,
149 Mississippi Code of 1972, and to have such powers and duties in
150 the operation of such districts as may be granted by such sections
151 or as may be granted herein;

152 (q) To convert the fire districts established under
153 this chapter to fire protection grading districts in accordance
154 with Section 19-5-215 et seq. However, the commission may not
155 convert any fire protection district in which a state prison
156 facility is located; and

157 (r) To exercise those powers granted under Section
158 19-5-235 regarding fire protecting grading districts.

159 Section 4. Upon petition by the commission, the board of
160 supervisors may exercise the power of eminent domain on behalf of
161 the commission wherever and whenever public necessity and
162 convenience so requires.

163 Section 5. (1) Upon request of the commission by resolution
164 declaring the necessity for the issuance of bonds or notes for
165 capital improvements, including the acquisition of land, repair
166 and renovation of facilities and/or equipment purchases for the

167 purposes of this act, the board of supervisors shall, upon
168 approval of three-fifths (3/5) of the qualified electorate, issue
169 and secure the negotiable bonds or notes of the county for such
170 purposes in an aggregate principal amount not in excess of One
171 Million Dollars (\$1,000,000.00) in accordance with Sections
172 19-9-5, 19-9-7, 19-9-9, 19-9-19, 19-9-21 and 19-9-23, Mississippi
173 Code of 1972.

174 (2) In addition to the tax levy set forth in Section 19-9-9,
175 such bonds or notes may be secured by the execution of deeds of
176 trust, mortgages or security agreements on any property not
177 otherwise encumbered belonging to the commission. Such bonds or
178 notes shall be sold for not less than par value plus accrued
179 interest at public sale in the manner provided by Section
180 31-19-25, Mississippi Code of 1972.

181 (3) Before any such bonds are issued, there shall be called
182 an election on the question of issuance of the bonds. When such
183 election is called, notice of such election shall be signed by the
184 clerk of the board of supervisors and shall be published once a
185 week for at least three (3) consecutive weeks, in at least one (1)
186 newspaper published in such county. The first publication of such
187 notice shall be made not less than twenty-one (21) days prior to
188 the date fixed for such election, and the last publication shall
189 be made not more than seven (7) days prior to such date. If no
190 newspaper is published in such county, then such notice shall be
191 given by publishing the same for the required time in some
192 newspaper having a general circulation in such county and, in
193 addition, by posting a copy of such notice for at least twenty-one
194 (21) days next preceding such election at three (3) public places
195 in such county.

196 The advertisement shall be no less than one-fourth (1/4) page
197 in size and the type used shall be no smaller than eighteen (18)
198 point and surrounded by a one-fourth (1/4) inch solid black
199 border. The advertisement may not be placed in that portion of

200 the newspaper where legal notices and classified advertisements
201 appear.

202 (4) Such election shall be held, as far as is practicable,
203 in the same manner as other elections are held in counties. At
204 such election, all qualified electors of such county may vote, and
205 the ballots used at such election shall have printed thereon a
206 brief statement of the amount and purpose of the proposed bond
207 issue and the words "FOR THE BOND ISSUE" and "AGAINST THE BOND
208 ISSUE" and the voter shall vote by placing a cross (x) or check
209 mark (v) opposite his choice on the proposition.

210 (5) When the results of the election on the question of the
211 issuance of such bonds shall have been canvassed by the election
212 commissioners of such county and certified by them to the board of
213 supervisors of such county, it shall be the duty of such board of
214 supervisors to determine and adjudicate whether or not
215 three-fifths (3/5) of the qualified electors who voted in such
216 election voted in favor of the issuance of such bonds. Unless
217 three-fifths (3/5) of the qualified electors who voted in such
218 election shall have voted in favor of the issuance of such bonds,
219 then such bonds shall not be issued. Should three-fifths (3/5) of
220 the qualified electors who vote in such election vote in favor of
221 the issuance of such bonds, then the board of supervisors of the
222 county may issue such bonds, either in whole or in part, within
223 two (2) years from the date of such election or within two (2)
224 years after the final favorable termination of any litigation
225 affecting the issuance of such bonds, as such board shall deem
226 best.

227 Section 6. (1) The board of supervisors shall, upon
228 approval by three-fifths (3/5) of the qualified electorate, levy a
229 tax of not more than two (2) mills against the taxable property in
230 the county outside a municipality which provides fire protection
231 services, to be used to support and maintain the activities of the
232 commission. The levy so made shall be in addition to all other

levies required or provided by law. Receipts derived from the tax levy shall be excluded from the limitation on the growth of ad valorem tax receipts under Section 27-39-321, Mississippi Code of 1972, for the first year of the levy and included within such limitation in years thereafter.

(2) Before any such tax levy is made, there shall be an election on the question of levying of the tax. When such election is called, notice of such election shall be signed by the clerk of the board of supervisors and shall be published once a week for at least three (3) consecutive weeks, in at least one (1) newspaper published in such county. The first publication of such notice shall be made not less than twenty-one (21) days prior to the date fixed for such election, and the last publication shall be made not more than seven (7) days prior to such date. If no newspaper is published in such county, then such notice shall be given by publishing the same for the required time in some newspaper having a general circulation in such county and, in addition, by posting a copy of such notice for at least twenty-one (21) days next preceding such election at three (3) public places in such county.

The advertisement shall be no less than one-fourth (1/4) page in size and the type used shall be no smaller than eighteen (18) point and surrounded by a one-fourth (1/4) inch solid black border. The advertisement may not be placed in that portion of the newspaper where legal notices and classified advertisements appear.

(3) Such election shall be held, as far as is practicable, in the same manner as other elections are held in counties. At such election all qualified electors of such county outside a municipality which provides fire protection services may vote, and the ballots used at such election shall have printed thereon a brief statement of the amount and purpose of the proposed tax levy and the words "FOR THE TAX LEVY" and "AGAINST THE TAX LEVY" and

the voter shall vote by placing a cross (x) or check mark (v) opposite his choice on the proposition.

(4) When the results of the election on the question of the issuance of such bonds shall have been canvassed by the election commissioners of such county and certified by them to the board of supervisors of such county, it shall be the duty of such board of supervisors to determine and adjudicate whether or not three-fifths (3/5) of the qualified electors who voted in such election voted in favor of the tax levy. Unless three-fifths (3/5) of the qualified electors who voted in such election shall have voted in favor of the tax levy, then such tax levy shall not be made. Should three-fifths (3/5) of the qualified electors who vote in such election vote in favor of the tax levy, then the board of supervisors of the county shall make such levy within two (2) years from the date of such election.

Section 7. There is hereby created in the county treasury a special fund wherein shall be deposited the proceeds of the tax levy for the support and maintenance of the commission and, unless otherwise provided by law, such other funds received by the county or the commission for county fire protection purposes. Expenditures may be made from the special fund upon requisition by the chairman or director of the commission.

Section 8. The property and revenue of the commission shall be exempt from all state, county and municipal taxation. Bonds issued under this act and the income therefrom shall be exempt from all state, county and municipal taxation, except inheritance, transfer and estate taxes, and it may be so stated on the face of said bonds.

Section 9. The fiscal year of the commission shall begin on October 1 of each calendar year and shall end on September 30 of the following calendar year. Within ninety (90) days following the close of each fiscal year, the commission shall submit to the board of supervisors an audit prepared by a certified public

299 accountant utilizing generally accepted accounting procedures.

300 Section 10. Any countywide fire protection district
301 established pursuant to the authority of Chapter 872, Local and
302 Private Laws of 1989, is hereby dissolved.

303 Section 11. Any attorney's fees paid as the result of the
304 issuance of bonds under this act shall be in compliance with the
305 existing limits on attorney's fees for bond issues as adopted by
306 the State Bond Commission. No attorney's fees paid as the result
307 of the issuance of bonds under this act shall be subject to
308 negotiation and the limits established by the State Bond
309 Commission shall be strictly enforced. A detailed accounting of
310 all expenses incurred by all persons, firms, corporations,
311 associations or other organizations involved in such bond issues
312 shall be submitted to the members of the Board of Supervisors of
313 Lauderdale County.

314 Section 12. All qualified attorneys residing in Lauderdale
315 County desiring to handle the issuance of bonds under this act
316 shall be afforded an equal opportunity to perform such functions;
317 however, only qualified attorneys shall handle the issuance of
318 bonds.

319 Section 13. No elected official shall derive any pecuniary
320 benefit, directly or indirectly, as a result of such elected
321 official's duties under this act. No person who has contributed
322 Five Hundred Dollars (\$500.00) to the campaign of any elected
323 official who has duties under this act or no person who has
324 provided services to such campaign, the value of which is Five
325 Hundred Dollars (\$500.00) or more, shall derive any pecuniary
326 benefit, directly or indirectly, under the provisions of this act.
327 Any person convicted of a violation of this section shall be
328 punished by imprisonment for not less than one (1) year and not
329 more than five (5) years and a fine of not less than Two Thousand
330 Five Hundred Dollars (\$2,500.00) and not to exceed Ten Thousand
331 Dollars (\$10,000.00).

332 Section 14. This act, without reference to any other statute
333 not referred to herein, shall be deemed to be full and complete
334 authority for the purposes set forth in this act and shall be
335 construed as an additional and alternate method therefor.

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