

By: Henderson, Mayo

To: Local and Private
Legislation; Ways and
Means

HOUSE BILL NO. 1731
(As Sent to Governor)

1 AN ACT TO AUTHORIZE THE CREATION OF ONE OR MORE SPECIAL
2 IMPROVEMENT DISTRICTS WITHIN TUNICA COUNTY, MISSISSIPPI; TO
3 PROVIDE FOR THE POWERS AND DUTIES OF THE BOARD OF SUPERVISORS OF
4 TUNICA COUNTY WITH REGARD TO SUCH DISTRICTS; TO AUTHORIZE THE
5 BOARD OF SUPERVISORS OF TUNICA COUNTY TO ISSUE BONDS TO PROVIDE
6 FUNDS FOR THE EXERCISE OF ITS POWERS AND DUTIES PURSUANT TO THIS
7 ACT; TO ESTABLISH THE TERMS AND CONDITIONS UPON WHICH SUCH BONDS
8 MAY BE ISSUED; TO AUTHORIZE THE BOARD OF SUPERVISORS OF TUNICA
9 COUNTY TO MAKE SPECIAL ASSESSMENTS WITHIN ANY SUCH DISTRICTS; TO
10 AUTHORIZE THE BOARD OF SUPERVISORS OF TUNICA COUNTY TO LEVY AN AD
11 VALOREM TAX WITHIN ANY SUCH DISTRICTS; AND FOR RELATED PURPOSES.

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

13 SECTION 1. The following words and phrases shall have the
14 meanings ascribed in this section unless the context clearly
15 indicates otherwise:

16 (a) "Board of supervisors" means the Board of
17 Supervisors of Tunica County, Mississippi.

18 (b) "County" means Tunica County, Mississippi.

19 (c) "State" means the State of Mississippi.

20 SECTION 2. Any contiguous area situated within Tunica
21 County, Mississippi, may be established by the Board of
22 Supervisors of Tunica County, Mississippi, as a special
23 improvement district, in the manner set forth in this act.

24 SECTION 3. A petition for the establishment of one or more
25 special improvement district may be submitted to the board of
26 supervisors signed by one hundred percent (100%) of the owners of
27 real property within the boundaries of the proposed district. A
28 petitioner may be a corporation or any other entity authorized to
29 own property. Such petition shall include:

30 (a) A description of the proposed improvements;

31 (b) A statement of necessity for the improvements to be
32 provided for the proposed district;

33 (c) The proposed boundaries of the district;

34 (d) An opinion letter from an attorney licensed in the
35 State of Mississippi setting forth the names of all owners of real
36 property within the boundaries of the proposed district;

37 (e) A statement of whether or not the board of
38 supervisors is requested to be authorized to exercise its
39 authority to levy each of the taxes as outlined in this act. Such
40 petition shall be signed by the petitioners, with their respective
41 resident addresses and shall be accompanied by a sworn statement
42 of each petitioner that such petitioner was, at the time of
43 signing the petition, an owner of real property within the
44 proposed district; and

45 (f) A statement of whether the board of supervisors is
46 requested to issue bonds for the requested improvements and, if
47 so, the maximum principal amount of such bonds.

48 SECTION 4. (1) Upon the filing of a petition, if the board
49 of supervisors shall determine that it is in the interests of the
50 county and its residents, then it shall declare its intent to
51 create such district and shall fix a time and date for a public
52 hearing on the question of the public convenience and necessity of
53 the establishment of the proposed district. The date fixed for
54 such hearing shall not be more than thirty (30) days after the
55 filing of the petition with the board of supervisors. The date of
56 the hearing, the place where it shall be held, the proposed
57 boundaries of the district, a statement of the purpose for the
58 establishment of the proposed district, and the purpose of the
59 hearing shall be set forth in a notice. The notice shall be
60 signed by the clerk of the board of supervisors. Such notice
61 shall be published in a newspaper having general circulation
62 within the county once a week for at least three (3) consecutive
63 weeks before the date of such hearing. The first publication

64 shall be made not less than twenty-one (21) days before the date
65 of such hearing and the last such publication shall be made not
66 more than fourteen (14) days before the date of such hearing.

67 (2) If, at such public hearing, the board of supervisors
68 finds that the creation of the district is economically sound and
69 desirable, then the board of supervisors shall adopt a resolution
70 (a) establishing the district; (b) designating the name of the
71 proposed district; (c) defining the territorial limits of the
72 district, which shall be fixed by the board pursuant to such
73 hearing; (d) stating the maximum principal amount of bonds
74 authorized to be issued; and (e) stating whether or not the board
75 of supervisors shall be authorized to levy each of the taxes
76 authorized by this act.

77 SECTION 5. (1) The board of supervisors, upon compliance
78 with the actions and procedures required in Sections 3 and 4 of
79 this act, shall be authorized to issue bonds and take such other
80 actions as may be provided in the aforesaid petitions. However,
81 the district shall be dissolved and shall have no further
82 existence in the event that:

83 (a) No bonds have been issued for the district within
84 three (3) years from the date any such petition was presented to
85 the board of supervisors, or

86 (b) All bonds issued for such district have been paid
87 in full as to principal, premium, if any, and interest accrued
88 thereon.

89 (2) With regard to any district previously created pursuant
90 to this act, supplemental petitions may be filed and bonds may be
91 issued for additional amounts and for additional projects in the
92 same manner and following the same procedures and requirements set
93 forth in this act.

94 SECTION 6. All costs incident to the publication of the
95 notices and the public hearing, the preparation of the
96 resolutions, and all other costs associated with meeting the

97 requirements of this act, may be paid by the board of supervisors,
98 in its discretion, from any available county fund it deems
99 appropriate, or shall be borne by the parties filing the petition.
100 The board of supervisors, in its discretion, may require the
101 execution of a cost bond by the parties filing the petition. Such
102 bond shall be in an amount and with good surety to guarantee the
103 payment of such costs.

104 SECTION 7. Any party having an interest in the subject
105 matter who is aggrieved or prejudiced by the findings and
106 adjudication of the board of supervisors may appeal in the manner
107 provided by law for appeals from orders of the board of
108 supervisors. However, if no such appeal is taken within a period
109 of fifteen (15) days after the date of the adoption of the
110 resolution creating any district under this act, the creation of
111 the district shall be final and conclusive and shall not
112 thereafter be subject to attack in any court.

113 SECTION 8. The board of supervisors shall exercise all of
114 the powers and duties with respect to any district created under
115 this act.

116 SECTION 9. The board of supervisors shall have the power to
117 make regulations consistent with its powers as set forth in
118 Sections 11 and 12 of this act.

119 SECTION 10. The board of supervisors shall have the powers
120 enumerated in this act and in the resolution creating any such
121 district, which shall be limited to the promotion of the
122 commercial, industrial, recreational and residential development
123 of the district and of the county.

124 With respect to any district created under this act, the
125 board of supervisors shall be vested with all the powers necessary
126 and requisite for the accomplishment of the purpose for which such
127 district is created. No enumeration of powers herein shall be
128 construed to impair or limit any general grant of power herein
129 contained, nor to limit any such grant to a power or powers of the

130 same class or classes as those enumerated. The board of
131 supervisors is empowered to do all acts necessary, proper or
132 convenient to the exercise of the powers granted under this act.

133 SECTION 11. Any district created under this act, acting by
134 and through the board of supervisors as its governing authority,
135 shall have the following, among other, powers:

136 (a) To sue and be sued;

137 (b) To acquire by purchase, gift, devise and lease, or
138 any other mode of acquisition (other than by eminent domain), and
139 to hold and dispose of, real and personal property of every kind
140 within or without the district;

141 (c) To make and enter into contracts, conveyances,
142 deeds of trust, bonds, leases or contracts for financial advisory
143 services;

144 (d) To incur debts, to borrow money, to issue
145 negotiable bonds to accomplish any of the purposes authorized in
146 this act, and to provide for the rights of the holders thereof;

147 (e) To pledge all or any part of its revenues to the
148 payment of its debt obligations, including, but not limited to,
149 revenues from the district's operations, revenues from special
150 assessments and tax revenues;

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

154 (g) To use any right-of-way, public right-of-way,
155 easement, or other similar property or property rights, necessary
156 or convenient in connection with the acquisition, improvement or
157 maintenance of the facilities of the district held by the state,
158 or any political subdivision thereof; however, the governing body
159 of such political subdivisions shall consent to such use;

160 (h) To enter into cooperative agreements with the state
161 or federal government, or both, to obtain financial assistance in
162 the form of loans or grants as may be available from the state or

163 federal government, or both (reference to the state or federal
164 government as used herein shall specifically include any agency
165 thereof); and to execute and deliver at private sale notes or
166 bonds as evidence of such indebtedness in the form and subject to
167 the terms and conditions as may be imposed by the state or federal
168 government, or both; and to pledge the income and revenues of the
169 district, or the income and revenues from any part of the area
170 embraced in the district (which revenues in either instance shall
171 include, but not be limited to, revenues from special assessments
172 and tax revenues), in payment thereof; and the state and any
173 agency thereof is authorized to enter into such agreements with
174 the district;

175 (i) To sell or transfer to any municipality or district
176 in the county, under such terms, conditions and covenants as may
177 be imposed or required by the county, part or all of any utility
178 facilities or other property within the district;

179 (j) To contract with the United States of America, or
180 any agency of the United States of America, the State of
181 Mississippi, or any political subdivision of the State of
182 Mississippi, or any agency, commission, authority, board or other
183 entity thereof, or any municipality or municipalities, for the
184 sale of bonds issued under this act, and to accomplish any
185 projects authorized herein;

186 (k) To contract with any person, partnership,
187 corporation or other entity for the operation and maintenance,
188 including billing services, of any property or facilities of the
189 district, upon such terms, conditions and covenants as may be
190 agreed upon by such contracting parties. The board of supervisors
191 may contract for the operation and maintenance of any property or
192 facilities of the district for a term of up to twenty (20) years;

193 (l) To contract with a developer under which the
194 developer may construct all or any part of a project with private
195 funds and may be reimbursed by the county for actual costs

196 incurred by the developer upon issuance and delivery of the bonds
197 and receipt of the proceeds, conditioned upon dedication of the
198 project by the developer to the county to assure public use and
199 access;

200 (m) To enter into agreements with any political
201 subdivision of the State of Mississippi, or any agency,
202 commission, authority, board or other entity thereof, or any
203 municipality or municipalities or any district or districts
204 whereby any party to said contract may be responsible for
205 constructing, operating and/or maintaining improvements or other
206 facilities included with a district; and

207 (n) To purchase or acquire part or all of any privately
208 owned utility system or systems in any district.

209 SECTION 12. (1) The board of supervisors shall have the
210 power to issue its bonds on behalf of the district and the county
211 to provide funds for installing, constructing or reconstructing
212 streets, sidewalks, parking facilities, utilities and other side
213 improvements essential to preparation of sites, and constructing
214 other infrastructure improvements, which infrastructure
215 improvements include but are not limited to installation and/or
216 relocation of utilities such as water, sanitary sewer, natural
217 gas, electricity and fire protection systems, construction of
218 drainage improvements and facilities, construction of roadways and
219 bridges with curbs and gutters, asphalt overlay, installation of
220 traffic signalization and signage, acquisition of rights-of-way,
221 landscaping, irrigation and lighting of rights-of-way, and related
222 engineering fees, attorneys' fees, capitalized interest and other
223 related soft costs and such bonds may include monies for any
224 reserve fund determined to be necessary or desirable. Such
225 improvements may be inside of the district or outside of the
226 district, or both, if the board of supervisors determines that
227 such improvements benefit developments or projects within the
228 district. The board of supervisors shall have the power to

229 accomplish and carry out any of the projects or purposes for which
230 it is authorized to issue bonds in this act. Such bonds may be
231 payable from the special ad valorem tax revenues of such property
232 authorized in this act, and if so provided for in the proceedings
233 authorizing such bonds, such bonds may be payable from special
234 assessments levied pursuant to Section 14 of this act, or from any
235 combination of monies from such special assessments and tax
236 levies. Such bonds may be issued without an election being held
237 upon the question of their issuance and without the publication of
238 any notice of intention to issue such bonds. The board of
239 supervisors shall issue bonds pursuant to this act by resolution
240 spread upon the minutes of such board. Such bonds shall contain
241 such covenants and provisions; shall be executed; shall bear
242 interest at such rate or rates not to exceed fourteen percent
243 (14%) per annum; shall be in such denomination or denominations;
244 shall be payable, both as to principal and interest, at such place
245 or places; and shall mature at such time or times not exceeding
246 thirty-five (35) years from their date, all as shall be determined
247 by the board of supervisors and set forth in the resolution
248 pursuant to which such bonds shall be issued. However, any such
249 bonds which are secured only by a pledge of special assessments
250 shall mature at such time or times not exceeding the time period
251 that will allow the payment thereof from such special assessments,
252 as determined by the board of supervisors. Any provisions of
253 general law to the contrary notwithstanding, any bonds and
254 interest coupons issued pursuant to the authority of this act
255 shall be deemed to possess all of the qualities of negotiable
256 instruments; and such bonds, premium, if any, and interest thereon
257 shall be exempt from all state, county, municipal and other
258 taxation under the laws of the State of Mississippi. Any bonds
259 issued pursuant to the authority of this act may be refunded in
260 the manner provided herein upon a finding by the board of
261 supervisors that such refunding is in the public interest, and

262 bonds for the purposes and in the manner provided for in this act
263 may be included with such refunding bonds. Such bonds may be sold
264 without the necessity of advertising for bids therefor and may be
265 sold by negotiated private sale and on such terms, conditions and
266 covenants as may be agreed to by and between the issuing authority
267 and the purchasers of such bonds.

268 (2) If provided in the proceedings authorizing the issuance
269 of the bonds, then when there are insufficient revenues accruing
270 from the operation of such district or insufficient revenues
271 received from special assessments authorized hereunder, according
272 to the provisions made in the proceedings authorizing the issuance
273 of such bonds, to meet the payments of principal of, premium, if
274 any, and interest when due on any bonds issued under the authority
275 of this act (excluding for such purpose any amounts in a reserve
276 fund for any such bonds), it shall be the mandatory duty of the
277 board of supervisors to levy an ad valorem tax on all taxable
278 property within the geographical limits of the district, which
279 tax, together with any other monies available for such purpose,
280 shall be sufficient to provide for the payment of the principal
281 of, premium, if any, and interest on such bonds as the same falls
282 due, and, if so provided in the proceedings for the issuance of
283 such bonds, to replenish any reserve fund established for such
284 bonds.

285 (3) Notwithstanding any other provision of this act, no
286 taxes or special assessments may be imposed by the district or
287 county on property of the Yazoo-Mississippi Delta Levee District
288 in connection with the issuance of bonds by the district.
289 However, the district and the county may levy taxes and impose
290 special assessments on the leasehold interests of private entities
291 in real property included in property owned by the
292 Yazoo-Mississippi Delta Levee District and on any personal
293 property of such private entities located on property owned by the
294 Yazoo-Mississippi Delta Levee District. Such taxes and special

295 assessments shall be applied in the manner set forth in the
296 proceedings pertaining thereto, consistent with the provisions of
297 this act.

298 SECTION 13. In addition to the purposes authorized by
299 Section 12 of this act, any district created under this act may
300 issue bonds of such district in the manner provided in Section 12
301 of this act to refund the outstanding bonds of such district upon
302 a finding by the board of supervisors that such refunding is in
303 the public interest.

304 SECTION 14. In addition to the charges and levies provided
305 for in this act, the board of supervisors may levy and collect
306 special assessments on property located in the district to provide
307 funds for the purposes for which bonds may be issued under
308 Sections 12 and 13 of this act, and may issue negotiable special
309 improvement bonds of the district and pledge the receipts from the
310 special assessments to secure the payment of the principal of,
311 premium, if any, and interest on any bonds authorized to be issued
312 pursuant to this act. The property on which such special
313 assessments may be levied, shall be limited to property within the
314 boundaries of the district at the time such special assessments
315 are levied and to the boundaries of Tunica County, Mississippi.

316 Any special assessments authorized under this section shall
317 be levied and collected in the manner provided in Sections 21-41-1
318 through 21-41-53, Mississippi Code of 1972, except as otherwise
319 herein provided. The board of supervisors may secure bonds of the
320 district solely from the aforesaid receipts from special
321 assessments, or may pledge such receipts in addition to the pledge
322 of revenues of the district or the receipts from any tax levy
323 authorized in this act, or from any combination of monies from the
324 special assessments, revenues and tax levies. All bonds issued
325 pursuant to this act shall be payable as to principal, premium, if
326 any, and interest solely from the sources authorized in this act.

327 SECTION 15. Any bonds secured only by a pledge of the

328 special assessments authorized in Section 14 of this act shall
329 mature at any time or times, not exceeding the time allowed
330 pursuant to Section 12 of this act, and may be in fully registered
331 form or in bearer form, as determined by the board of supervisors.

332 SECTION 16. All special assessments levied under this act
333 shall be payable in equal annual installments over a period not in
334 excess of twenty (20) years, as determined by the board of
335 supervisors. The installments of the assessment shall be due and
336 payable at the same time that the annual real property tax becomes
337 due and payable, commencing with the first county tax levy which
338 is payable after the expiration of thirty (30) days from the date
339 of confirmation of the assessment and shall be in such amount as
340 will produce sufficient funds for the payment of all or a
341 specified portion of the principal of, premium, if any, and
342 interest on the bonds as they mature and accrue and for fees and
343 expenses for a paying agent or trustee, or both, for the bonds.

344 SECTION 17. (1) The resolution declaring the intent of the
345 board of supervisors to proceed with the special improvements
346 authorized by this act may direct that all of the assessments for
347 the payments set forth in Section 16 of this act shall be made
348 according to the frontage rule or area rule, as outlined in this
349 section. Bonds may be issued for one or more projects, and the
350 area and method of assessment for each project for which special
351 assessments have been made shall be specified in the resolution
352 directing the issuance of such bonds.

353 (2) If the board of supervisors determines that the front
354 foot rule is the most equitable method of distributing the cost
355 among the properties, then the resolution shall direct that the
356 cost to be assessed against each lot or parcel of land shall be
357 determined by dividing the entire cost to be assessed by the total
358 number of front feet of real property abutting upon the utility
359 easement, street, railroad or public or private right-of-way on
360 which the project is located and which will be subject to such

361 special assessment, and multiplying the quotient by the total
362 number of front feet in any particular lot or parcel of land
363 fronting in the utility easement, street, railroad or public or
364 private right-of-way on which the project is located. The result
365 of this formula shall be assessed against each lot or parcel of
366 land for the owner's part of the cost of the entire improvement to
367 be paid through special assessments.

368 (3) If the board of supervisors determines that the area
369 rule is the most equitable method of distributing the cost among
370 the properties, then the resolution shall direct that the cost to
371 be assessed against each lot or parcel of land shall be determined
372 by dividing the entire cost to be assessed by the total number of
373 acres or square feet in the area being benefited and that is
374 subject to such special assessment, and multiplying the quotient
375 by the total number of acres or square feet in any particular lot
376 or parcel of land. The result of this formula shall be assessed
377 against each lot or parcel of land for the owner's part of the
378 cost of the entire improvement to be paid through special
379 assessments.

380 (4) The resolution declaring the intent of the board of
381 supervisors to proceed with the special improvements shall: (a)
382 define the area to be benefited by each improvement, with each
383 improvement being designated as a project; (b) fix the amount or
384 percentage of the charge to be levied upon the property benefited;
385 (c) designate the minimum and maximum number of years between the
386 date of the bonds and the maturity of those bonds; (d) delineate
387 the method of determining the amount of special assessments to be
388 levied on each lot or parcel of land in the benefited area; and
389 (e) designate the minimum and maximum number of equal annual
390 installments that the board of supervisors may later allow for the
391 payment of assessments. Such resolution shall be published at
392 least two (2) times in a newspaper published in Tunica County,
393 Mississippi, the first publication thereof to be made at least ten

394 (10) days before the date fixed to hear any protest against
395 issuing such bonds and implementing such special assessments.

396 (5) If an owner of any of the property to be assessed under
397 the front foot rule, or if an owner of property to be assessed
398 under the area rule, as described in this section, files a written
399 protest objecting to the assessments authorized under this act and
400 in Section 21-41-7, Mississippi Code of 1972, then the board of
401 supervisors shall not proceed with the special assessment.

402 SECTION 18. All construction contracts by the district shall
403 be let in the same manner as provided by law for other county
404 construction contracts where the amount of the contract exceeds
405 Ten Thousand Dollars (\$10,000.00). Contracts of less than Ten
406 Thousand Dollars (\$10,000.00) may be negotiated; however, the
407 board of supervisors shall invite and receive written proposals
408 for the work from at least three (3) contractors regularly engaged
409 in the type of work involved.

410 SECTION 19. The board of supervisors, acting with regard to
411 any district created under this act, shall have the authority to
412 enter into cooperative agreements with the state or federal
413 government, or both, to obtain financial assistance in the form of
414 loans or grants as may be available from the state or federal
415 government, or both, and to execute and deliver at private sale
416 notes or bonds as evidence of such indebtedness in the form and
417 subject to the terms and conditions as may be imposed by the state
418 or federal government, or both, and to pledge the income and
419 revenues of the district, or the income and revenues from any part
420 of the area embraced in the district, in payment thereof. It is
421 the purpose and intent of this section to authorize the district
422 to do any and all things necessary to secure the financial aid or
423 cooperation of the state or federal government, or both, in the
424 planning, construction, maintenance or operation of project
425 facilities.

426 SECTION 20. This act, without reference to any statute not

427 referenced herein, shall be deemed to be full and complete
428 authority for the establishment of the district and for the
429 issuance of bonds. No proceedings shall be required for the
430 establishment of the district or for the issuance of bonds other
431 than those provided for and required herein. All necessary powers
432 to be exercised by the board of supervisors in order to carry out
433 the provisions of this act are hereby conferred.

434 SECTION 21. Any bonds issued under the provisions of this
435 act may be submitted for validation under the provisions of
436 Chapter 13, Title 31, Mississippi Code of 1972.

437 SECTION 22. No member of the Legislature, elected official
438 or appointed official, or any partner or associate of any member
439 of the Legislature, elected official or appointed official shall
440 derive any income from the issuance of any bonds under this act.

441 SECTION 23. This act shall be liberally construed for the
442 purposes herein set out, the powers hereby granted being
443 additional, cumulative and supplemental to any power granted to
444 Tunica County or any municipality or district therein by any
445 general or local and private act of the Legislature.

446 SECTION 24. If any provisions of this act shall be held to
447 be invalid by any court of competent jurisdiction, the remainder
448 of this act shall not be affected thereby.

449 SECTION 25. This act shall take effect and be in force from
450 and after its passage.