

By: Minor

To: Finance

SENATE BILL NO. 3194

1 AN ACT TO AUTHORIZE THE ISSUANCE OF GENERAL OBLIGATION BONDS
2 OF THE STATE OF MISSISSIPPI IN THE AMOUNT OF \$3,000,000.00 FOR THE
3 PURPOSE OF ASSISTING MASTER PLANNED COMMUNITIES IN THE
4 CONSTRUCTION OF WATER PRODUCTION AND DISTRIBUTION FACILITIES,
5 SEWER TREATMENT AND COLLECTION FACILITIES AND IN PAYING
6 ENVIRONMENTAL PROTECTION AND MITIGATION COSTS; AND FOR RELATED
7 PURPOSES.

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

9 SECTION 1. As used in this act, the following words shall
10 have the meanings ascribed herein unless the context clearly
11 requires otherwise:

12 (a) "Accreted value" of any bond means, as of any date
13 of computation, an amount equal to the sum of (i) the stated
14 initial value of such bond, plus (ii) the interest accrued thereon
15 from the issue date to the date of computation at the rate,
16 compounded semiannually, that is necessary to produce the
17 approximate yield to maturity shown for bonds of the same
18 maturity.

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

20 (c) "Commission" means the State Bond Commission.

21 (d) "Master planned community" means a development by
22 one or more developers of real estate consisting of residential,
23 commercial, educational, health care, open space and recreational
24 components that is developed pursuant to a long range, multi-phase
25 master plan providing comprehensive land use planning and staged
26 implementation and development and the master plan must include
27 the following minimum provisions:

28 (i) The real estate described in the master plan

29 must consist of at least three thousand five hundred (3,500) acres
30 of which not less than fifty percent (50%) of the total dwelling
31 units planned for such acreage must be:

32 A. Dwelling units within a certified
33 retirement community certified by the Mississippi Department of
34 Economic and Community Development; or

35 B. Dwelling units where at least one (1)
36 occupant:

37 1. Is sixty-two (62) years of age; or
38 2. Receives pension income reported on
39 his most recent federal income tax return filed prior to
40 occupancy; or

41 3. Declares himself to be retired.

42 (ii) The real estate described in the master plan
43 must be subjected to a set of land use restrictions imposed by
44 deed restriction or restrictive covenants recorded by the
45 developer in the land records of the chancery clerk of the county
46 as land is developed and sold in phases to users. Such
47 restrictions shall include design guidelines and standards that
48 provide for:

49 A. Internal community self-governance by the
50 owners of the property;

51 B. The establishment of one or more legal
52 persons endowed with the powers, rights and duties to administer,
53 manage, own and maintain common areas, establish community
54 activities and enforce the land use restrictions on the common
55 areas and private property; and

56 C. The establishment of assessments and lien
57 rights to fund amenities, services and maintenance of common
58 areas.

59 (iii) The real estate described in the master plan
60 must be within the territorial boundaries of one or more public
61 utility districts established by the county for the provision of,

62 at least, water and sewer facilities and services.

63 The master plan for a master planned community shall be
64 subject to modification from time to time by the original owner or
65 owners of the real estate described in the initial master plan,
66 its affiliates, successors or assigns, to meet changing economic
67 and market conditions.

68 Once a dwelling unit has met the criteria provided for in
69 item (i)B of this paragraph (d), such dwelling unit shall
70 thereafter be included in the fifty percent (50%) requirement
71 provided for in item (i) of this paragraph (d) notwithstanding the
72 fact that subsequent thereto the dwelling unit is occupied by
73 persons who do not meet the criteria provided for in item (i)B of
74 this paragraph (d).

75 As used in this paragraph (d) the term "dwelling unit" means
76 single-family residences, apartments or other units within a
77 multi-family residence, or a room or apartment in a nursing home
78 or congregate-care facility.

79 SECTION 2. (1) (a) A special fund, to be designated as the
80 "Mississippi Master Planned Community Environmental Protection
81 Fund," is created within the State Treasury. The fund shall be
82 maintained by the State Treasurer as a separate and special fund,
83 separate and apart from the General Fund of the state. Unexpended
84 amounts remaining in the fund at the end of a fiscal year shall
85 not lapse into the State General Fund, and any interest earned or
86 investment earnings on amounts in the fund shall be deposited to
87 the credit of the fund. Monies in the fund may not be used or
88 expended for any purpose except as authorized under this act.

89 (b) Monies deposited into the fund shall be under the
90 direction of the Department Economic and Community Development,
91 and shall be disbursed, in the discretion of the department, in
92 combination with funds from other sources, to provide funding to
93 master planned communities for the construction of water
94 production and distribution facilities, sewer treatment and

95 collection facilities and for the payment of environmental
96 protection and mitigation costs, including, but not limited to the
97 cost of protecting threatened or endangered species, purchasing
98 wetlands, paying for wetlands mitigation and the costs of
99 environmental studies and obtaining permits related thereto.

100 (2) Amounts deposited into such special fund shall be
101 disbursed to pay the costs of the projects authorized in
102 subsection (1) of this section. Promptly after the commission has
103 certified, by resolution duly adopted, that the projects
104 authorized in subsection (1) shall have been completed, abandoned,
105 or cannot be completed in a timely fashion, any amounts remaining
106 in such special fund shall be applied to pay debt service on the
107 bonds issued under this act, in accordance with the proceedings
108 authorizing the issuance of such bonds and as directed by the
109 commission.

110 SECTION 3. (1) The Mississippi Department of Economic and
111 Community Development, acting through its executive director, at
112 one (1) time, or from time to time, may declare by resolution the
113 necessity for issuance of general obligation bonds of the State of
114 Mississippi to provide funds for all costs incurred or to be
115 incurred for the purposes described in Section 2 of this act.
116 Upon the adoption of a resolution by the Department of Economic
117 and Community Development, declaring the necessity for the
118 issuance of any part or all of the general obligation bonds
119 authorized by this section, the Department of Economic and
120 Community Development shall deliver a certified copy of its
121 resolution or resolutions to the commission. Upon receipt of such
122 resolution, the commission, in its discretion, may act as the
123 issuing agent, prescribe the form of the bonds, advertise for and
124 accept bids, issue and sell the bonds so authorized to be sold and
125 do any and all other things necessary and advisable in connection
126 with the issuance and sale of such bonds. The total amount of
127 bonds issued under this act shall not exceed Three Million Dollars

128 (\$3,000,000.00).

129 (2) Any investment earnings on amounts deposited into the
130 special fund created in Section 2 of this act shall be used to pay
131 debt service on bonds issued under this act, in accordance with
132 the proceedings authorizing issuance of such bonds.

133 SECTION 4. The principal of and interest on the bonds
134 authorized under this act shall be payable in the manner provided
135 in this section. Such bonds shall bear such date or dates, be in
136 such denomination or denominations, bear interest at such rate or
137 rates (not to exceed the limits set forth in Section 75-17-101,
138 Mississippi Code of 1972), be payable at such place or places
139 within or without the State of Mississippi, shall mature
140 absolutely at such time or times not to exceed twenty-five (25)
141 years from date of issue, be redeemable before maturity at such
142 time or times and upon such terms, with or without premium, shall
143 bear such registration privileges, and shall be substantially in
144 such form, all as shall be determined by resolution of the
145 commission.

146 SECTION 5. The bonds authorized by this act shall be signed
147 by the chairman of the commission, or by his facsimile signature,
148 and the official seal of the commission shall be affixed thereto,
149 attested by the secretary of the commission. The interest
150 coupons, if any, to be attached to such bonds may be executed by
151 the facsimile signatures of such officers. Whenever any such
152 bonds shall have been signed by the officials designated to sign
153 the bonds who were in office at the time of such signing but who
154 may have ceased to be such officers before the sale and delivery
155 of such bonds, or who may not have been in office on the date such
156 bonds may bear, the signatures of such officers upon such bonds
157 and coupons shall nevertheless be valid and sufficient for all
158 purposes and have the same effect as if the person so officially
159 signing such bonds had remained in office until their delivery to
160 the purchaser, or had been in office on the date such bonds may

161 bear. However, notwithstanding anything herein to the contrary,
162 such bonds may be issued as provided in the Registered Bond Act of
163 the State of Mississippi.

164 SECTION 6. All bonds and interest coupons issued under the
165 provisions of this act have all the qualities and incidents of
166 negotiable instruments under the provisions of the Uniform
167 Commercial Code, and in exercising the powers granted by this act,
168 the commission shall not be required to and need not comply with
169 the provisions of the Uniform Commercial Code.

170 SECTION 7. The commission shall act as the issuing agent for
171 the bonds authorized under this act, prescribe the form of the
172 bonds, advertise for and accept bids, issue and sell the bonds so
173 authorized to be sold, pay all fees and costs incurred in such
174 issuance and sale, and do any and all other things necessary and
175 advisable in connection with the issuance and sale of such bonds.

176 The commission is authorized and empowered to pay the costs that
177 are incident to the sale, issuance and delivery of the bonds
178 authorized under this act from the proceeds derived from the sale
179 of such bonds. The commission shall sell such bonds on sealed
180 bids at public sale, and for such price as it may determine to be
181 for the best interest of the State of Mississippi, but no such
182 sale shall be made at a price less than par plus accrued interest
183 to the date of delivery of the bonds to the purchaser. All
184 interest accruing on such bonds so issued shall be payable
185 semiannually or annually; however, the first interest payment may
186 be for any period of not more than one (1) year.

187 Notice of the sale of any such bond shall be published at
188 least one (1) time, not less than ten (10) days before the date of
189 sale, and shall be so published in one or more newspapers
190 published or having a general circulation in the City of Jackson,
191 Mississippi, and in one or more other newspapers or financial
192 journals with a national circulation, to be selected by the
193 commission.

194 The commission, when issuing any bonds under the authority of
195 this act, may provide that bonds, at the option of the state, may
196 be called in for payment and redemption at the call price named
197 therein and accrued interest on such date or dates named therein.

198 SECTION 8. The bonds issued under the provisions of this act
199 are general obligations of the State of Mississippi, and for the
200 payment thereof the full faith and credit of the State of
201 Mississippi is irrevocably pledged. If the funds appropriated by
202 the Legislature are insufficient to pay the principal of and the
203 interest on such bonds as they become due, then the deficiency
204 shall be paid by the State Treasurer from any funds in the State
205 Treasury not otherwise appropriated. All such bonds shall contain
206 recitals on their faces substantially covering the provisions of
207 this section.

208 SECTION 9. Upon the issuance and sale of bonds under the
209 provisions of this act, the commission shall transfer the proceeds
210 of any such sale or sales to the special fund created in Section 2
211 of this act. The proceeds of such bonds shall be disbursed solely
212 upon the order of the Executive Director of the Department of
213 Economic and Community Development under such restrictions, if
214 any, as may be contained in the resolution providing for the
215 issuance of the bonds.

216 SECTION 10. The bonds authorized under this act may be
217 issued without any other proceedings or the happening of any other
218 conditions or things other than those proceedings, conditions and
219 things which are specified or required by this act. Any
220 resolution providing for the issuance of bonds under the
221 provisions of this act shall become effective immediately upon its
222 adoption by the commission, and any such resolution may be adopted
223 at any regular or special meeting of the commission by a majority
224 of its members.

225 SECTION 11. The bonds authorized under the authority of this
226 act may be validated in the Chancery Court of the First Judicial

227 District of Hinds County, Mississippi, in the manner and with the
228 force and effect provided by Chapter 13, Title 31, Mississippi
229 Code of 1972, for the validation of county, municipal, school
230 district and other bonds. The notice to taxpayers required by
231 such statutes shall be published in a newspaper published or
232 having a general circulation in the City of Jackson, Mississippi.

233 SECTION 12. Any holder of bonds issued under the provisions
234 of this act or of any of the interest coupons pertaining thereto
235 may, either at law or in equity, by suit, action, mandamus or
236 other proceeding, protect and enforce any and all rights granted
237 under this act, or under such resolution, and may enforce and
238 compel performance of all duties required by this act to be
239 performed, in order to provide for the payment of bonds and
240 interest thereon.

241 SECTION 13. All bonds issued under the provisions of this
242 act shall be legal investments for trustees and other fiduciaries,
243 and for savings banks, trust companies and insurance companies
244 organized under the laws of the State of Mississippi, and such
245 bonds shall be legal securities which may be deposited with and
246 shall be received by all public officers and bodies of this state
247 and all municipalities and political subdivisions for the purpose
248 of securing the deposit of public funds.

249 SECTION 14. Bonds issued under the provisions of this act
250 and income therefrom shall be exempt from all taxation in the
251 State of Mississippi.

252 SECTION 15. The proceeds of the bonds issued under this act
253 shall be used solely for the purposes therein provided, including
254 the costs incident to the issuance and sale of such bonds.

255 SECTION 16. The State Treasurer is authorized, without
256 further process of law, to certify to the Department of Finance
257 and Administration the necessity for warrants, and the Department
258 of Finance and Administration is authorized and directed to issue
259 such warrants, in such amounts as may be necessary to pay when due

260 the principal of, premium, if any, and interest on, or the
261 accreted value of, all bonds issued under this act; and the State
262 Treasurer shall forward the necessary amount to the designated
263 place or places of payment of such bonds in ample time to
264 discharge such bonds, or the interest thereon, on the due dates
265 thereof.

266 SECTION 17. This act shall be deemed to be full and complete
267 authority for the exercise of the powers therein granted, but this
268 act shall not be deemed to repeal or to be in derogation of any
269 existing law of this state.

270 SECTION 18. This act shall take effect and be in force from
271 and after July 1, 2000.