

By: Minor

To: Finance

SENATE BILL NO. 3194
(As Passed the Senate)

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 PUBLIC UTILITY DISTRICTS ESTABLISHED BY THE
4 COUNTY FOR THE PROVISION OF SERVICES FOR MASTER PLANNED
5 COMMUNITIES FOR THE CONSTRUCTION FOR MASTER PLANNED COMMUNITY OR
6 WATER PRODUCTION AND DISTRIBUTION FACILITIES AND WASTEWATER
7 TREATMENT AND COLLECTION FACILITIES; AND FOR RELATED 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 water and sewer facilities and water and sewer 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 public utility districts established by the county for the
94 provision of services to master planned communities for the

95 construction for such master planned communities of water
96 production and distribution facilities and wastewater treatment
97 collection facilities

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

108 SECTION 3. For the purpose of providing for the payment of
109 the principal of and interest upon bonds issued under the
110 provision of this act there is hereby created in the State
111 Treasury the "Master Planned Community Environmental Protection
112 Bond Sinking Fund." Such sinking fund shall consist of the money
113 required to be deposited into such fund pursuant to Section 4 of
114 this act and such other amount as shall be paid into such fund by
115 appropriation of other authorization by the Legislature. Funds
116 required in excess of the amount available in the Master Planned
117 Community Environmental Protection Bond Sinking Fund to pay the
118 principal of and interest upon bonds issued under the provisions
119 of this act shall be appropriated from the State General Fund.

120 SECTION 4. (1) Prior to the issuance of any bonds under
121 this act, the Department of Economic and Community Development
122 shall require the public utility district to enter into binding
123 commitments to pay the annual debt service on the bonds issued to
124 provide funds to such public utility district. A public utility
125 district that receives funds provided under this act shall pledge
126 the revenues received by the district for the provision of
127 services to the master planned community for the payment of the

128 annual debt service on the bonds issued to provide such funds.
129 The Department of Economic and Community Development shall enter
130 into an interlocal agreement with the county and the public
131 utility district which shall provide that in the event the
132 revenues of the district are insufficient to pay the annual debt
133 service on the bonds issued to provide the funds, a special
134 assessment ad valorem tax shall be levied on the real property
135 served by the district in an amount sufficient to pay the annual
136 debt service on such bonds. All funds required to be paid by this
137 subsection shall be deposited into the Master Planned Community
138 Environmental Protection Bond Sinking Fund created under Section 3
139 of this act.

140 (2) In accordance with the proceeding authorizing the
141 issuance of the bonds, the Department of Economic and Community
142 Development may provide in the resolution declaring the necessity
143 for such bonds and in the agreements required in subsection (1) of
144 this section that the payment of the debt service on the bonds
145 issued to provide funds to the public utility district may be
146 deferred for a period of time not to exceed three (3) years from
147 the date of the issuance of the bonds.

148 (3) The Mississippi Department of Economic and Community
149 Development, acting through its executive director, at one time,
150 or from time to time, may declare by resolution the necessity for
151 issuance of general obligation bonds of the State of Mississippi
152 to provide funds for all costs incurred or to be incurred for the
153 purposes described in Section 2 of this act. Upon the adoption of
154 a resolution by the Department of Economic and Community
155 Development, declaring the necessity for the issuance of any part
156 or all of the general obligation bonds authorized by this section,
157 the Department of Economic and Community Development shall deliver
158 a certified copy of its resolution or resolutions to the
159 commission. Upon receipt of such resolution, the commission, in
160 its discretion, may act as the issuing agent, prescribe the form

161 of the bonds, advertise for and accept bids, issue and sell the
162 bonds so authorized to be sold and do any and all other things
163 necessary and advisable in connection with the issuance and sale
164 of such bonds. The total amount of bonds issued under this act
165 shall not exceed Three Million Dollars (\$3,000,000.00).

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

170 SECTION 5. The principal of and interest on the bonds
171 authorized under this act shall be payable in the manner provided
172 in this section. Such bonds shall bear such date or dates, be in
173 such denomination or denominations, bear interest at such rate or
174 rates (not to exceed the limits set forth in Section 75-17-101,
175 Mississippi Code of 1972), be payable at such place or places
176 within or without the State of Mississippi, shall mature
177 absolutely at such time or times not to exceed twenty-five (25)
178 years from date of issue, be redeemable before maturity at such
179 time or times and upon such terms, with or without premium, shall
180 bear such registration privileges, and shall be substantially in
181 such form, all as shall be determined by resolution of the
182 commission.

183 SECTION 6. The bonds authorized by this act shall be signed
184 by the chairman of the commission, or by his facsimile signature,
185 and the official seal of the commission shall be affixed thereto,
186 attested by the secretary of the commission. The interest
187 coupons, if any, to be attached to such bonds may be executed by
188 the facsimile signatures of such officers. Whenever any such
189 bonds shall have been signed by the officials designated to sign
190 the bonds who were in office at the time of such signing but who
191 may have ceased to be such officers before the sale and delivery
192 of such bonds, or who may not have been in office on the date such
193 bonds may bear, the signatures of such officers upon such bonds

194 and coupons shall nevertheless be valid and sufficient for all
195 purposes and have the same effect as if the person so officially
196 signing such bonds had remained in office until their delivery to
197 the purchaser, or had been in office on the date such bonds may
198 bear. However, notwithstanding anything herein to the contrary,
199 such bonds may be issued as provided in the Registered Bond Act of
200 the State of Mississippi.

201 SECTION 7. All bonds and interest coupons issued under the
202 provisions of this act have all the qualities and incidents of
203 negotiable instruments under the provisions of the Uniform
204 Commercial Code, and in exercising the powers granted by this act,
205 the commission shall not be required to and need not comply with
206 the provisions of the Uniform Commercial Code.

207 SECTION 8. The commission shall act as the issuing agent for
208 the bonds authorized under this act, prescribe the form of the
209 bonds, advertise for and accept bids, issue and sell the bonds so
210 authorized to be sold, pay all fees and costs incurred in such
211 issuance and sale, and do any and all other things necessary and
212 advisable in connection with the issuance and sale of such bonds.

213 The commission is authorized and empowered to pay the costs that
214 are incident to the sale, issuance and delivery of the bonds
215 authorized under this act from the proceeds derived from the sale
216 of such bonds. The commission shall sell such bonds on sealed
217 bids at public sale, and for such price as it may determine to be
218 for the best interest of the State of Mississippi, but no such
219 sale shall be made at a price less than par plus accrued interest
220 to the date of delivery of the bonds to the purchaser. All
221 interest accruing on such bonds so issued shall be payable
222 semiannually or annually; however, the first interest payment may
223 be for any period of not more than one (1) year.

224 Notice of the sale of any such bond shall be published at
225 least one (1) time, not less than ten (10) days before the date of
226 sale, and shall be so published in one or more newspapers

227 published or having a general circulation in the City of Jackson,
228 Mississippi, and in one or more other newspapers or financial
229 journals with a national circulation, to be selected by the
230 commission.

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

235 SECTION 9. The bonds issued under the provision of this act
236 shall be payable from the Master Planned Community Environmental
237 Protection Bond Sinking Fund and are general obligations of the
238 State of Mississippi, and for the payment thereof the full faith
239 and credit of the State of Mississippi is irrevocably pledged. If
240 the funds available in the Master Planned Community Environmental
241 Protection Bond Sinking Fund and any funds appropriated by the
242 Legislature for such purpose are insufficient to pay the principal
243 of and the interest upon such bonds as they become due, the
244 deficiency shall be paid by the State Treasurer from any funds in
245 the State Treasury not otherwise appropriated. All such bonds
246 shall contain recitals on their faces substantially covering the
247 foregoing provisions of this section.

248 SECTION 10. Upon the issuance and sale of bonds under the
249 provisions of this act, the commission shall transfer the proceeds
250 of any such sale or sales to the special fund created in Section 2
251 of this act. The proceeds of such bonds shall be disbursed solely
252 upon the order of the Executive Director of the Department of
253 Economic and Community Development under such restrictions, if
254 any, as may be contained in the resolution providing for the
255 issuance of the bonds.

256 SECTION 11. The bonds authorized under this act may be
257 issued without any other proceedings or the happening of any other
258 conditions or things other than those proceedings, conditions and
259 things which are specified or required by this act. Any

260 resolution providing for the issuance of bonds under the
261 provisions of this act shall become effective immediately upon its
262 adoption by the commission, and any such resolution may be adopted
263 at any regular or special meeting of the commission by a majority
264 of its members.

265 SECTION 12. The bonds authorized under the authority of this
266 act may be validated in the Chancery Court of the First Judicial
267 District of Hinds County, Mississippi, in the manner and with the
268 force and effect provided by Chapter 13, Title 31, Mississippi
269 Code of 1972, for the validation of county, municipal, school
270 district and other bonds. The notice to taxpayers required by
271 such statutes shall be published in a newspaper published or
272 having a general circulation in the City of Jackson, Mississippi.

273 SECTION 13. Any holder of bonds issued under the provisions
274 of this act or of any of the interest coupons pertaining thereto
275 may, either at law or in equity, by suit, action, mandamus or
276 other proceeding, protect and enforce any and all rights granted
277 under this act, or under such resolution, and may enforce and
278 compel performance of all duties required by this act to be
279 performed, in order to provide for the payment of bonds and
280 interest thereon.

281 SECTION 14. All bonds issued under the provisions of this
282 act shall be legal investments for trustees and other fiduciaries,
283 and for savings banks, trust companies and insurance companies
284 organized under the laws of the State of Mississippi, and such
285 bonds shall be legal securities which may be deposited with and
286 shall be received by all public officers and bodies of this state
287 and all municipalities and political subdivisions for the purpose
288 of securing the deposit of public funds.

289 SECTION 15. Bonds issued under the provisions of this act
290 and income therefrom shall be exempt from all taxation in the
291 State of Mississippi.

292 SECTION 16. The proceeds of the bonds issued under this act

293 shall be used solely for the purposes therein provided, including
294 the costs incident to the issuance and sale of such bonds.

295 SECTION 17. The State Treasurer is authorized, without
296 further process of law, to certify to the Department of Finance
297 and Administration the necessity for warrants, and the Department
298 of Finance and Administration is authorized and directed to issue
299 such warrants, in such amounts as may be necessary to pay when due
300 the principal of, premium, if any, and interest on, or the
301 accreted value of, all bonds issued under this act; and the State
302 Treasurer shall forward the necessary amount to the designated
303 place or places of payment of such bonds in ample time to
304 discharge such bonds, or the interest thereon, on the due dates
305 thereof.

306 SECTION 18. This act shall be deemed to be full and complete
307 authority for the exercise of the powers therein granted, but this
308 act shall not be deemed to repeal or to be in derogation of any
309 existing law of this state.

310 SECTION 19. This act shall take effect and be in force from
311 and after July 1, 2000.