

By: Minor

To: Finance

SENATE BILL NO. 3194
(As Sent to Governor)

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 of 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 and collection facilities, including, but not limited to, costs of
98 construction; costs of engineering and other professional fees
99 pertaining to planning, design and supervision of construction and
100 to applying for and obtaining environmental permits and other
101 related permits; costs of environmental studies necessary to
102 obtain environmental permits and other related permits and costs
103 of providing mitigation necessary to obtain environmental permits
104 and other related permits.

105 (2) Amounts deposited into such special fund shall be
106 disbursed to pay the costs of the projects authorized in
107 subsection (1) of this section. If any monies in such special
108 fund are not used within four (4) years after the date the
109 proceeds of the bonds authorized under this act are deposited into
110 the special fund, the Department of Economic and Community
111 Development shall provide an accounting of such unused monies to
112 the commission. Promptly after the commission has certified, by
113 resolution duly adopted, that the projects authorized in
114 subsection (1) shall have been completed, abandoned, or cannot be
115 completed in a timely fashion, any amounts remaining in such
116 special fund shall be applied to pay debt service on the bonds
117 issued under this act, in accordance with the proceedings
118 authorizing the issuance of such bonds and as directed by the
119 commission.

120 SECTION 3. For the purpose of providing for the payment of
121 the principal of and interest upon bonds issued under the
122 provision of this act there is hereby created in the State
123 Treasury the "Master Planned Community Environmental Protection
124 Bond Sinking Fund." Such sinking fund shall consist of the money
125 required to be deposited into such fund pursuant to Section 4 of
126 this act and such other amount as shall be paid into such fund by
127 appropriation or other authorization by the Legislature. Funds

128 required in excess of the amount available in the Master Planned
129 Community Environmental Protection Bond Sinking Fund to pay the
130 principal of and interest upon bonds issued under the provisions
131 of this act shall be appropriated from the State General Fund.

132 SECTION 4. (1) Prior to the issuance of any bonds under
133 this act, the Department of Economic and Community Development
134 shall require the public utility district to enter into binding
135 commitments to pay the annual debt service on the bonds issued to
136 provide funds to such public utility district. A public utility
137 district that receives funds provided under this act shall pledge
138 the revenues received by the district for the provision of
139 services to the master planned community for the payment of the
140 annual debt service on the bonds issued to provide such funds, and
141 such public utility district may pledge or assign contractual
142 obligations, if any, to provide or guarantee such debt service by
143 a private company or companies that have contracted with the
144 public utility district to design, build, own and lease back,
145 lease, operate or guarantee the debt service for all or part of
146 any one or more facilities of the public utility district.
147 The Department of Economic and Community Development shall enter
148 into an interlocal agreement with the county and the public
149 utility district which shall provide that in the event the
150 revenues of the district are insufficient to pay the annual debt
151 service on the bonds issued to provide the funds, a special
152 assessment ad valorem tax shall be levied on the real property
153 served by the district in an amount sufficient to pay the annual
154 debt service on such bonds. The county also shall pledge any part
155 of the homestead exemption annual tax loss reimbursement to which
156 it may be entitled under Section 27-33-77, to pay the annual debt
157 service on such bonds in the event the revenues of the public
158 utility district and the special ad valorem tax assessment are
159 insufficient to pay the annual debt service on such bonds. All
160 funds required to be paid by this subsection shall be deposited

161 into the Master Planned Community Environmental Protection Bond
162 Sinking Fund created under Section 3 of this act. The total of
163 all payments deposited into the Master Planned Community
164 Environmental Protection Bond Sinking Fund until the maturity date
165 of the bonds authorized under this act shall be in an amount
166 sufficient to retire such bonds, including debt service paid by
167 the state during any period in which payments by the public
168 utility district are deferred as provided in subsection (2) of
169 this section.

170 (2) In accordance with the proceeding authorizing the
171 issuance of the bonds, the Department of Economic and Community
172 Development may provide in the resolution declaring the necessity
173 for such bonds and in the agreements required in subsection (1) of
174 this section that the payment of the debt service on the bonds
175 issued to provide funds to the public utility district may be
176 deferred for a period of time not to exceed three (3) years from
177 the date of the issuance of the bonds.

178 (3) The Mississippi Department of Economic and Community
179 Development, acting through its executive director, at one time,
180 or from time to time, may declare by resolution the necessity for
181 issuance of general obligation bonds of the State of Mississippi
182 to provide funds for all costs incurred or to be incurred for the
183 purposes described in Section 2 of this act. Upon the adoption of
184 a resolution by the Department of Economic and Community
185 Development, declaring the necessity for the issuance of any part
186 or all of the general obligation bonds authorized by this section,
187 the Department of Economic and Community Development shall deliver
188 a certified copy of its resolution or resolutions to the
189 commission. Upon receipt of such resolution, the commission, in
190 its discretion, may act as the issuing agent, prescribe the form
191 of the bonds, advertise for and accept bids, issue and sell the
192 bonds so authorized to be sold and do any and all other things
193 necessary and advisable in connection with the issuance and sale

194 of such bonds. The total amount of bonds issued under this act
195 shall not exceed Three Million Dollars (\$3,000,000.00). The bonds
196 authorized under this act may not be issued after July 1, 2003.

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

201 SECTION 5. The principal of and interest on the bonds
202 authorized under this act shall be payable in the manner provided
203 in this section. Such bonds shall bear such date or dates, be in
204 such denomination or denominations, bear interest at such rate or
205 rates (not to exceed the limits set forth in Section 75-17-101,
206 Mississippi Code of 1972), be payable at such place or places
207 within or without the State of Mississippi, shall mature
208 absolutely at such time or times not to exceed twenty-five (25)
209 years from date of issue, be redeemable before maturity at such
210 time or times and upon such terms, with or without premium, shall
211 bear such registration privileges, and shall be substantially in
212 such form, all as shall be determined by resolution of the
213 commission.

214 SECTION 6. The bonds authorized by this act shall be signed
215 by the chairman of the commission, or by his facsimile signature,
216 and the official seal of the commission shall be affixed thereto,
217 attested by the secretary of the commission. The interest
218 coupons, if any, to be attached to such bonds may be executed by
219 the facsimile signatures of such officers. Whenever any such
220 bonds shall have been signed by the officials designated to sign
221 the bonds who were in office at the time of such signing but who
222 may have ceased to be such officers before the sale and delivery
223 of such bonds, or who may not have been in office on the date such
224 bonds may bear, the signatures of such officers upon such bonds
225 and coupons shall nevertheless be valid and sufficient for all
226 purposes and have the same effect as if the person so officially

227 signing such bonds had remained in office until their delivery to
228 the purchaser, or had been in office on the date such bonds may
229 bear. However, notwithstanding anything herein to the contrary,
230 such bonds may be issued as provided in the Registered Bond Act of
231 the State of Mississippi.

232 SECTION 7. All bonds and interest coupons issued under the
233 provisions of this act have all the qualities and incidents of
234 negotiable instruments under the provisions of the Uniform
235 Commercial Code, and in exercising the powers granted by this act,
236 the commission shall not be required to and need not comply with
237 the provisions of the Uniform Commercial Code.

238 SECTION 8. The commission shall act as the issuing agent for
239 the bonds authorized under this act, prescribe the form of the
240 bonds, advertise for and accept bids, issue and sell the bonds so
241 authorized to be sold, pay all fees and costs incurred in such
242 issuance and sale, and do any and all other things necessary and
243 advisable in connection with the issuance and sale of such bonds.

244 The commission is authorized and empowered to pay the costs that
245 are incident to the sale, issuance and delivery of the bonds
246 authorized under this act from the proceeds derived from the sale
247 of such bonds. The commission shall sell such bonds on sealed
248 bids at public sale, and for such price as it may determine to be
249 for the best interest of the State of Mississippi, but no such
250 sale shall be made at a price less than par plus accrued interest
251 to the date of delivery of the bonds to the purchaser. All
252 interest accruing on such bonds so issued shall be payable
253 semiannually or annually; however, the first interest payment may
254 be for any period of not more than one (1) year.

255 Notice of the sale of any such bond shall be published at
256 least one (1) time, not less than ten (10) days before the date of
257 sale, and shall be so published in one or more newspapers
258 published or having a general circulation in the City of Jackson,
259 Mississippi, and in one or more other newspapers or financial

260 journals with a national circulation, to be selected by the
261 commission.

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

266 SECTION 9. The bonds issued under the provision of this act
267 shall be payable from the Master Planned Community Environmental
268 Protection Bond Sinking Fund and are general obligations of the
269 State of Mississippi, and for the payment thereof the full faith
270 and credit of the State of Mississippi is irrevocably pledged. If
271 the funds available in the Master Planned Community Environmental
272 Protection Bond Sinking Fund and any funds appropriated by the
273 Legislature for such purpose are insufficient to pay the principal
274 of and the interest upon such bonds as they become due, the
275 deficiency shall be paid by the State Treasurer from any funds in
276 the State Treasury not otherwise appropriated. All such bonds
277 shall contain recitals on their faces substantially covering the
278 foregoing provisions of this section.

279 SECTION 10. Upon the issuance and sale of bonds under the
280 provisions of this act, the commission shall transfer the proceeds
281 of any such sale or sales to the special fund created in Section 2
282 of this act. The proceeds of such bonds shall be disbursed solely
283 upon the order of the Executive Director of the Department of
284 Economic and Community Development under such restrictions, if
285 any, as may be contained in the resolution providing for the
286 issuance of the bonds.

287 SECTION 11. The bonds authorized under this act may be
288 issued without any other proceedings or the happening of any other
289 conditions or things other than those proceedings, conditions and
290 things which are specified or required by this act. Any
291 resolution providing for the issuance of bonds under the
292 provisions of this act shall become effective immediately upon its

293 adoption by the commission, and any such resolution may be adopted
294 at any regular or special meeting of the commission by a majority
295 of its members.

296 SECTION 12. The bonds authorized under the authority of this
297 act may be validated in the Chancery Court of the First Judicial
298 District of Hinds County, Mississippi, in the manner and with the
299 force and effect provided by Chapter 13, Title 31, Mississippi
300 Code of 1972, for the validation of county, municipal, school
301 district and other bonds. The notice to taxpayers required by
302 such statutes shall be published in a newspaper published or
303 having a general circulation in the City of Jackson, Mississippi.

304 SECTION 13. Any holder of bonds issued under the provisions
305 of this act or of any of the interest coupons pertaining thereto
306 may, either at law or in equity, by suit, action, mandamus or
307 other proceeding, protect and enforce any and all rights granted
308 under this act, or under such resolution, and may enforce and
309 compel performance of all duties required by this act to be
310 performed, in order to provide for the payment of bonds and
311 interest thereon.

312 SECTION 14. All bonds issued under the provisions of this
313 act shall be legal investments for trustees and other fiduciaries,
314 and for savings banks, trust companies and insurance companies
315 organized under the laws of the State of Mississippi, and such
316 bonds shall be legal securities which may be deposited with and
317 shall be received by all public officers and bodies of this state
318 and all municipalities and political subdivisions for the purpose
319 of securing the deposit of public funds.

320 SECTION 15. Bonds issued under the provisions of this act
321 and income therefrom shall be exempt from all taxation in the
322 State of Mississippi.

323 SECTION 16. The proceeds of the bonds issued under this act
324 shall be used solely for the purposes therein provided, including
325 the costs incident to the issuance and sale of such bonds.

326 SECTION 17. The State Treasurer is authorized, without
327 further process of law, to certify to the Department of Finance
328 and Administration the necessity for warrants, and the Department
329 of Finance and Administration is authorized and directed to issue
330 such warrants, in such amounts as may be necessary to pay when due
331 the principal of, premium, if any, and interest on, or the
332 accreted value of, all bonds issued under this act; and the State
333 Treasurer shall forward the necessary amount to the designated
334 place or places of payment of such bonds in ample time to
335 discharge such bonds, or the interest thereon, on the due dates
336 thereof.

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

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