MISSISSIPPI LEGISLATURE

REGULAR SESSION 2000

By: Carmichael

To: Local and Private

SENATE BILL NO. 3332
(As Passed the Senate)

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

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

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

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

Section 2. (1) The commission shall be composed of eleven (11) members who shall be the county fire coordinator and ten (10) persons to be appointed by a majority vote of the board of supervisors, two (2) members from each supervisor district. The initial appointments shall be made for the following terms: three (3) members for one (1) year, three (3) members for two (2) years and four (4) members for three (3) years. The county fire coordinator shall serve a term concurrent with his appointment as fire coordinator. Appointments made thereafter shall be made for a term of four (4) years and each commissioner shall serve until his successor is appointed and qualified. Vacancies in the office 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
meetings of the authority and for the conduct of its business.

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

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

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

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

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

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

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

(f) With the approval of the board of supervisors, to
employ a director or to contract for staff and professional
services with other organizations or governmental bodies,
including, but not limited to, attorneys, engineers, accountants,
consultants and such other personnel as may be reasonably
necessary to carry out the duties and powers authorized by this
act;

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

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

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

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

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

(l) To be deemed to have the same status as counties
and municipalities with respect to payment of sales taxes on
purchases made by such commission;

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

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

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

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

(q) To convert the fire districts established under Section 19-5-151 et seq., to fire protection grading districts in accordance with Section 19-5-215 et seq. However, the commission may not convert any fire protection district in which a state prison facility is located; and

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

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

Section 5. (1) Upon request of the commission by resolution declaring the necessity for the issuance of bonds or notes for capital improvements, including the acquisition of land, repair and renovation of facilities and/or equipment purchases for the
purposes of this act, the board of supervisors shall, upon
approval of three-fifths (3/5) of the qualified electorate, issue
and secure the negotiable bonds or notes of the county for such
purposes in an aggregate principal amount not in excess of One
Million Dollars ($1,000,000.00) in accordance with Sections

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

(3) Before any such bonds are issued, there shall be called
an election on the question of issuance of the bonds. 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.

(4) 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 may vote, and
the ballots used at such election shall have printed thereon a
brief statement of the amount and purpose of the proposed bond
issue and the words "FOR THE BOND ISSUE" and "AGAINST THE BOND
ISSUE" and the voter shall vote by placing a cross (x) or check
mark (a) opposite his choice on the proposition.

(5) 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 issuance of such bonds. Unless
three-fifths (3/5) of the qualified electors who voted in such
election shall have voted in favor of the issuance of such bonds,
then such bonds shall not be issued. Should three-fifths (3/5) of
the qualified electors who vote in such election vote in favor of
the issuance of such bonds, then the board of supervisors of the
county may issue such bonds, either in whole or in part, within
two (2) years from the date of such election or within two (2)
years after the final favorable termination of any litigation
affecting the issuance of such bonds, as such board shall deem
best.

Section 6. (1) The board of supervisors shall, upon
approval by three-fifths (3/5) of the qualified electorate, levy a
tax of not more than two (2) mills against the taxable property in
the county outside a municipality which provides fire protection
services, to be used to support and maintain the activities of the
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 (a) 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
accountant utilizing generally accepted accounting procedures.

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

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

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

Section 13. No elected official shall derive any pecuniary benefit, directly or indirectly, as a result of such elected official's duties under this act. No person who has contributed Five Hundred Dollars ($500.00) to the campaign of any elected official who has duties under this act or no person who has provided services to such campaign, the value of which is Five Hundred Dollars ($500.00) or more, shall derive any pecuniary benefit, directly or indirectly, under the provisions of this act. Any person convicted of a violation of this section shall be punished by imprisonment for not less than one (1) year and not more than five (5) years and a fine of not less than Two Thousand Five Hundred Dollars ($2,500.00) and not to exceed Ten Thousand Dollars ($10,000.00).
Section 14. This act, without reference to any other statute not referred to herein, shall be deemed to be full and complete authority for the purposes set forth in this act and shall be construed as an additional and alternate method therefor.

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