

*****Adopted*****

AMENDMENT No. 1 PROPOSED TO

Senate Bill NO. 3194

By Representative(s) Committee

9 **Amend by striking all after the enacting clause and inserting**
10 **in lieu thereof the following:**

11

12 SECTION 1. As used in this act, the following words shall
13 have the meanings ascribed herein unless the context clearly
14 requires otherwise:

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

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

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

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

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

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

35 A. Dwelling units within a certified
36 retirement community certified by the Mississippi Department of
37 Economic and Community Development; or

38 B. Dwelling units where at least one (1)
39 occupant:

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

44 3. Declares himself to be retired.

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

52 A. Internal community self-governance by the
53 owners of the property;

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

59 C. The establishment of assessments and lien
60 rights to fund amenities, services and maintenance of common
61 areas.

62 (iii) The real estate described in the master plan
63 must be within the territorial boundaries of one or more public
64 utility districts established by the county for the provision of
65 water and sewer facilities and water and sewer services.

66 The master plan for a master planned community shall be

67subject to modification from time to time by the original owner or
68owners of the real estate described in the initial master plan,
69its affiliates, successors or assigns, to meet changing economic
70and market conditions.

71 Once a dwelling unit has met the criteria provided for in
72item (i)B of this paragraph (d), such dwelling unit shall
73thereafter be included in the fifty percent (50%) requirement
74provided for in item (i) of this paragraph (d) notwithstanding the
75fact that subsequent thereto the dwelling unit is occupied by
76persons who do not meet the criteria provided for in item (i)B of
77this paragraph (d).

78 As used in this paragraph (d) the term "dwelling unit" means
79single-family residences, apartments or other units within a
80multi-family residence, or a room or apartment in a nursing home
81or congregate-care facility.

82 SECTION 2. (1) (a) A special fund, to be designated as the
83"Mississippi Master Planned Community Environmental Protection
84Fund," is created within the State Treasury. The fund shall be
85maintained by the State Treasurer as a separate and special fund,
86separate and apart from the General Fund of the state. Unexpended
87amounts remaining in the fund at the end of a fiscal year shall
88not lapse into the State General Fund, and any interest earned or
89investment earnings on amounts in the fund shall be deposited to
90the credit of the fund. Monies in the fund may not be used or
91expended for any purpose except as authorized under this act.

92 (b) Monies deposited into the fund shall be under the
93direction of the Department Economic and Community Development,
94and shall be disbursed, in the discretion of the department, in
95combination with funds from other sources, to provide funding to
96public utility districts established by the county for the
97provision of services to master planned communities for the
98construction for such master planned communities of water
99production and distribution facilities and wastewater treatment
100and collection facilities, including, but not limited to, costs of
101construction; costs of engineering and other professional fees

102pertaining to planning, design and supervision of construction and
103to applying for and obtaining environmental permits and other
104related permits; costs of environmental studies necessary to
105obtain environmental permits and other related permits and costs
106of providing mitigation necessary to obtain environmental permits
107and other related permits.

108 (2) Amounts deposited into such special fund shall be
109disbursed to pay the costs of the projects authorized in
110subsection (1) of this section. If any monies in such special
111fund are not used within four (4) years after the date the
112proceeds of the bonds authorized under this act are deposited into
113the special fund, the Department of Economic and Community
114Development shall provide an accounting of such unused monies to
115the commission. Promptly after the commission has certified, by
116resolution duly adopted, that the projects authorized in
117subsection (1) shall have been completed, abandoned, or cannot be
118completed in a timely fashion, any amounts remaining in such
119special fund shall be applied to pay debt service on the bonds
120issued under this act, in accordance with the proceedings
121authorizing the issuance of such bonds and as directed by the
122commission.

123 SECTION 3. For the purpose of providing for the payment of
124the principal of and interest upon bonds issued under the
125provision of this act there is hereby created in the State
126Treasury the "Master Planned Community Environmental Protection
127Bond Sinking Fund." Such sinking fund shall consist of the money
128required to be deposited into such fund pursuant to Section 4 of
129this act and such other amount as shall be paid into such fund by
130appropriation or other authorization by the Legislature. Funds
131required in excess of the amount available in the Master Planned
132Community Environmental Protection Bond Sinking Fund to pay the
133principal of and interest upon bonds issued under the provisions
134of this act shall be appropriated from the State General Fund.

135 SECTION 4. (1) Prior to the issuance of any bonds under
136this act, the Department of Economic and Community Development

137shall require the public utility district to enter into binding
138commitments to pay the annual debt service on the bonds issued to
139provide funds to such public utility district. A public utility
140district that receives funds provided under this act shall pledge
141the revenues received by the district for the provision of
142services to the master planned community for the payment of the
143annual debt service on the bonds issued to provide such funds, and
144such public utility district may pledge or assign contractual
145obligations, if any, to provide or guarantee such debt service by
146a private company or companies that have contracted with the
147public utility district to design, build, own and lease back,
148lease, operate or guarantee the debt service for all or part of
149any one or more facilities of the public utility district.
150The Department of Economic and Community Development shall enter
151into an interlocal agreement with the county and the public
152utility district which shall provide that in the event the
153revenues of the district are insufficient to pay the annual debt
154service on the bonds issued to provide the funds, a special
155assessment ad valorem tax shall be levied on the real property
156served by the district in an amount sufficient to pay the annual
157debt service on such bonds. The county also shall pledge any part
158of the homestead exemption annual tax loss reimbursement to which
159it may be entitled under Section 27-33-77, to pay the annual debt
160service on such bonds in the event the revenues of the public
161utility district and the special ad valorem tax assessment are
162insufficient to pay the annual debt service on such bonds. All
163funds required to be paid by this subsection shall be deposited
164into the Master Planned Community Environmental Protection Bond
165Sinking Fund created under Section 3 of this act. The total of
166all payments deposited into the Master Planned Community
167Environmental Protection Bond Sinking Fund until the maturity date
168of the bonds authorized under this act shall be in an amount
169sufficient to retire such bonds, including debt service paid by
170the state during any period in which payments by the public
171utility district are deferred as provided in subsection (2) of

172this section.

173 (2) In accordance with the proceeding authorizing the
174issuance of the bonds, the Department of Economic and Community
175Development may provide in the resolution declaring the necessity
176for such bonds and in the agreements required in subsection (1) of
177this section that the payment of the debt service on the bonds
178issued to provide funds to the public utility district may be
179deferred for a period of time not to exceed three (3) years from
180the date of the issuance of the bonds.

181 (3) The Mississippi Department of Economic and Community
182Development, acting through its executive director, at one time,
183or from time to time, may declare by resolution the necessity for
184issuance of general obligation bonds of the State of Mississippi
185to provide funds for all costs incurred or to be incurred for the
186purposes described in Section 2 of this act. Upon the adoption of
187a resolution by the Department of Economic and Community
188Development, declaring the necessity for the issuance of any part
189or all of the general obligation bonds authorized by this section,
190the Department of Economic and Community Development shall deliver
191a certified copy of its resolution or resolutions to the
192commission. Upon receipt of such resolution, the commission, in
193its discretion, may act as the issuing agent, prescribe the form
194of the bonds, advertise for and accept bids, issue and sell the
195bonds so authorized to be sold and do any and all other things
196necessary and advisable in connection with the issuance and sale
197of such bonds. The total amount of bonds issued under this act
198shall not exceed Three Million Dollars (\$3,000,000.00). The bonds
199authorized under this act may not be issued after July 1, 2003.

200 (4) Any investment earnings on amounts deposited into the
201special fund created in Section 2 of this act shall be used to pay
202debt service on bonds issued under this act, in accordance with
203the proceedings authorizing issuance of such bonds.

204 SECTION 5. The principal of and interest on the bonds
205authorized under this act shall be payable in the manner provided
206in this section. Such bonds shall bear such date or dates, be in

207such denomination or denominations, bear interest at such rate or
208rates (not to exceed the limits set forth in Section 75-17-101,
209Mississippi Code of 1972), be payable at such place or places
210within or without the State of Mississippi, shall mature
211absolutely at such time or times not to exceed twenty-five (25)
212years from date of issue, be redeemable before maturity at such
213time or times and upon such terms, with or without premium, shall
214bear such registration privileges, and shall be substantially in
215such form, all as shall be determined by resolution of the
216commission.

217 SECTION 6. The bonds authorized by this act shall be signed
218by the chairman of the commission, or by his facsimile signature,
219and the official seal of the commission shall be affixed thereto,
220attested by the secretary of the commission. The interest
221coupons, if any, to be attached to such bonds may be executed by
222the facsimile signatures of such officers. Whenever any such
223bonds shall have been signed by the officials designated to sign
224the bonds who were in office at the time of such signing but who
225may have ceased to be such officers before the sale and delivery
226of such bonds, or who may not have been in office on the date such
227bonds may bear, the signatures of such officers upon such bonds
228and coupons shall nevertheless be valid and sufficient for all
229purposes and have the same effect as if the person so officially
230signing such bonds had remained in office until their delivery to
231the purchaser, or had been in office on the date such bonds may
232bear. However, notwithstanding anything herein to the contrary,
233such bonds may be issued as provided in the Registered Bond Act of
234the State of Mississippi.

235 SECTION 7. All bonds and interest coupons issued under the
236provisions of this act have all the qualities and incidents of
237negotiable instruments under the provisions of the Uniform
238Commercial Code, and in exercising the powers granted by this act,
239the commission shall not be required to and need not comply with
240the provisions of the Uniform Commercial Code.

241 SECTION 8. The commission shall act as the issuing agent for

242the bonds authorized under this act, prescribe the form of the
243bonds, advertise for and accept bids, issue and sell the bonds so
244authorized to be sold, pay all fees and costs incurred in such
245issuance and sale, and do any and all other things necessary and
246advisable in connection with the issuance and sale of such bonds.
247 The commission is authorized and empowered to pay the costs that
248are incident to the sale, issuance and delivery of the bonds
249authorized under this act from the proceeds derived from the sale
250of such bonds. The commission shall sell such bonds on sealed
251bids at public sale, and for such price as it may determine to be
252for the best interest of the State of Mississippi, but no such
253sale shall be made at a price less than par plus accrued interest
254to the date of delivery of the bonds to the purchaser. All
255interest accruing on such bonds so issued shall be payable
256semiannually or annually; however, the first interest payment may
257be for any period of not more than one (1) year.

258 Notice of the sale of any such bond shall be published at
259least one (1) time, not less than ten (10) days before the date of
260sale, and shall be so published in one or more newspapers
261published or having a general circulation in the City of Jackson,
262Mississippi, and in one or more other newspapers or financial
263journals with a national circulation, to be selected by the
264commission.

265 The commission, when issuing any bonds under the authority of
266this act, may provide that bonds, at the option of the state, may
267be called in for payment and redemption at the call price named
268therein and accrued interest on such date or dates named therein.

269 SECTION 9. The bonds issued under the provision of this act
270shall be payable from the Master Planned Community Environmental
271Protection Bond Sinking Fund and are general obligations of the
272State of Mississippi, and for the payment thereof the full faith
273and credit of the State of Mississippi is irrevocably pledged. If
274the funds available in the Master Planned Community Environmental
275Protection Bond Sinking Fund and any funds appropriated by the
276Legislature for such purpose are insufficient to pay the principal

277of and the interest upon such bonds as they become due, the
278deficiency shall be paid by the State Treasurer from any funds in
279the State Treasury not otherwise appropriated. All such bonds
280shall contain recitals on their faces substantially covering the
281foregoing provisions of this section.

282 SECTION 10. Upon the issuance and sale of bonds under the
283provisions of this act, the commission shall transfer the proceeds
284of any such sale or sales to the special fund created in Section 2
285of this act. The proceeds of such bonds shall be disbursed solely
286upon the order of the Executive Director of the Department of
287Economic and Community Development under such restrictions, if
288any, as may be contained in the resolution providing for the
289issuance of the bonds.

290 SECTION 11. The bonds authorized under this act may be
291issued without any other proceedings or the happening of any other
292conditions or things other than those proceedings, conditions and
293things which are specified or required by this act. Any
294resolution providing for the issuance of bonds under the
295provisions of this act shall become effective immediately upon its
296adoption by the commission, and any such resolution may be adopted
297at any regular or special meeting of the commission by a majority
298of its members.

299 SECTION 12. The bonds authorized under the authority of this
300act may be validated in the Chancery Court of the First Judicial
301District of Hinds County, Mississippi, in the manner and with the
302force and effect provided by Chapter 13, Title 31, Mississippi
303Code of 1972, for the validation of county, municipal, school
304district and other bonds. The notice to taxpayers required by
305such statutes shall be published in a newspaper published or
306having a general circulation in the City of Jackson, Mississippi.

307 SECTION 13. Any holder of bonds issued under the provisions
308of this act or of any of the interest coupons pertaining thereto
309may, either at law or in equity, by suit, action, mandamus or
310other proceeding, protect and enforce any and all rights granted
311under this act, or under such resolution, and may enforce and

312compel performance of all duties required by this act to be
313performed, in order to provide for the payment of bonds and
314interest thereon.

315 SECTION 14. All bonds issued under the provisions of this
316act shall be legal investments for trustees and other fiduciaries,
317and for savings banks, trust companies and insurance companies
318organized under the laws of the State of Mississippi, and such
319bonds shall be legal securities which may be deposited with and
320shall be received by all public officers and bodies of this state
321and all municipalities and political subdivisions for the purpose
322of securing the deposit of public funds.

323 SECTION 15. Bonds issued under the provisions of this act
324and income therefrom shall be exempt from all taxation in the
325State of Mississippi.

326 SECTION 16. The proceeds of the bonds issued under this act
327shall be used solely for the purposes therein provided, including
328the costs incident to the issuance and sale of such bonds.

329 SECTION 17. The State Treasurer is authorized, without
330further process of law, to certify to the Department of Finance
331and Administration the necessity for warrants, and the Department
332of Finance and Administration is authorized and directed to issue
333such warrants, in such amounts as may be necessary to pay when due
334the principal of, premium, if any, and interest on, or the
335accrued value of, all bonds issued under this act; and the State
336Treasurer shall forward the necessary amount to the designated
337place or places of payment of such bonds in ample time to
338discharge such bonds, or the interest thereon, on the due dates
339thereof.

340 SECTION 18. This act shall be deemed to be full and complete
341authority for the exercise of the powers therein granted, but this
342act shall not be deemed to repeal or to be in derogation of any
343existing law of this state.

344 SECTION 19. This act shall take effect and be in force from
345and after July 1, 2000.