To:  Local and Private Legislation; Ways and Means

MISSISSIPPI LEGISLATURE                        REGULAR SESSION 2001

By:  Representative Robinson (63rd)

HOUSE BILL NO. 1693

AN ACT TO AUTHORIZE THE BOARD OF SUPERVISORS OF HINDS COUNTY, MISSISSIPPI, TO CREATE SPECIAL ASSESSMENT AREAS TO ENCOURAGE ECONOMIC DEVELOPMENT IN THE COUNTY; TO AUTHORIZE THE COUNTY TO ISSUE BONDS TO PROVIDE FUNDS TO CONSTRUCT PUBLIC IMPROVEMENTS; TO PROVIDE THAT BONDS ISSUED BY THE COUNTY MAY BE SECURED BY A PLEDGE OF REVENUES OF A SPECIAL ASSESSMENT AREA, BY SPECIAL ASSESSMENTS, BY TAX REVENUES OR BY ANY COMBINATION THEREOF; TO AUTHORIZE THE LEVYING, UNDER CERTAIN CIRCUMSTANCES, OF AN AD VALOREM TAX ON ALL TAXABLE PROPERTY WITHIN A SPECIAL ASSESSMENT AREA; AND FOR RELATED PURPOSES.

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

SECTION 1. For the purposes of this act, the following words and phrases shall have the meanings ascribed to them in this section unless the context clearly indicates otherwise:

(a) "Board" means the Board of Supervisors of Hinds County, Mississippi.

(b) "County" means Hinds County, Mississippi.

(c) "Area" means a special assessment area within the county created pursuant to this act.

SECTION 2. The Legislature finds that certain locations within the county have inadequate infrastructure, including, but not limited to, water supply facilities, sewer facilities, gas utility facilities, fire protection facilities, storm drainage systems, water retention facilities, lakes, recreation facilities, roadways and streets, including curbing, gutters, streetlights, irrigation, landscaping and sidewalks and other public improvements that serve those locations for the purposes of resort, theme park, residential or other commercial development. The purpose of this act is to authorize the board to designate
certain locations within the county in need of utilities and improvements in accordance with the provisions of this act.

SECTION 3. (1) A petition for the designation of an area may be submitted to the board. The petition must be signed by the owners of no less than seventy-five percent (75%) of the land within the boundaries of the proposed area on a square footage basis. The petition shall include (a) a statement for the necessity for the service or services to be supplied by the county; (b) an estimate of the cost of the acquisition or construction of the facilities to be operated by the county; and (c) an estimate by the petitioner or petitioners of the cost of development within the area, which estimate shall include an itemized breakdown of the type or nature of each project, the cost of each project and a projected timetable for completion of each project. The petition shall be signed in person by the petitioners and accompanied by a sworn statement of the person or persons circulating the petition, who shall state under oath that he witnessed the signature of each petitioner, that each signature is the signature of the person it purports to be, and that to the best of his knowledge, each petitioner, at the time of signing, was an owner of real property within the proposed area. A petitioner may be a corporation.

(2) If the board determines that the designation of the proposed area is in the best interest of the county, the board, upon the filing of the petition, shall fix a time and place for a public hearing upon the question of the public convenience and necessity of the designation of the proposed area. If the board elects to fix a time and place for a hearing, the date fixed for the hearing shall not be more than sixty (60) days after the filing of the petition. The date, place and notice of the hearing shall be set forth in a notice to be signed by the clerk of the board. The notice shall be published once a week for at least three (3) consecutive weeks in a newspaper having a general circulation.
circulation within the county. The first publication shall be made not less than twenty-one (21) days before the date of the hearing, and the last publication shall be made not more than seven (7) days before the date of the hearing. If, following the public hearing, the board finds that public convenience and necessity require the designation of the proposed area, the board shall adopt a resolution making those findings and designating the area. If the area is within the corporate limits of any municipality, then the county shall submit its resolution designating the area under this subsection (2) to such municipality and request that such municipality adopt a resolution declaring a need therefor. The county shall not proceed to issue any bonds under this act until it has received this resolution from the municipality.

(3) As an alternative to the procedure prescribed in subsection (1) of this section, a petition for the designation of an area may be submitted to the board. The petition must be signed by one or more owners of land within an area who unanimously agree that only their property within the area will be assessed for the proposed project within the area. The petition shall include (a) a statement for the necessity for the service or services to be supplied by the county; (b) an estimate of the cost of the acquisition or construction of the facilities to be operated by the county; and (c) an estimate by the petitioner or petitioners of the cost of development within the area, which estimate shall include an itemized breakdown of the type or nature of each project, the cost of each project and a projected timetable for completion of each project. The petition shall be signed in person by the petitioner and accompanied by a sworn statement of the person or persons circulating the petition, who shall state under oath that he witnessed the signature of each petitioner, that each signature is the signature of the person it purports to be, and that to the best of his knowledge, each
petitioner, at the time of signing, was an owner of real property within the proposed area. A petitioner may be a corporation. Benefited owners of land within the designated area who do not petition for designation under this subsection (3) shall not be subject to assessment for projects within the respective designated area. If the board determines that the designation of the proposed area under this subsection (3) is in the best interest of the county, the board shall then proceed under subsection (2) of this section.

SECTION 4. The board shall have the powers enumerated in the resolution of the board designating the area, including, but not limited to, constructing, acquiring, reconstructing, improving, bettering or extending roadways and streets, including curbing, gutters, streetlights, irrigation, landscaping and sidewalks, and facilities for a water, sewer, gas utility, fire protection or storm drainage system, water retention facilities, lakes, recreation facilities, and other public improvements, or any combination thereof, and to conducting and operating the facilities and to contracting with any municipality, county or other governmental entity, or with any person, firm or corporation for a supply of water, gas or other services required incident to the operation and maintenance of the system.

SECTION 5. (1) The county may issue bonds to provide funds for constructing, acquiring, reconstructing, improving, bettering or extending water supply facilities, sewer facilities, gas utility facilities, fire protection facilities, storm drainage systems, water retention facilities, lakes, recreation facilities, roadways and streets, including curbing, gutters, streetlights, irrigation, landscaping and sidewalks and other public improvements that serve the area for the purpose of resort, theme park, residential or other commercial and industrial development. The bonds shall be payable primarily from the revenues of the facilities and, if so provided for in the proceedings authorizing
the bonds, the bonds shall be payable also from special
assessments levied under Section 9 of this act. In addition, if
so provided for in the proceedings authorizing the bonds and
agreed to by resolution of the board, the bonds shall be payable
also from the avails of the ad valorem tax levy as provided for in
subsection (2) of this section, or from any combination of monies
from the revenues, special assessments and tax levies on property
of the area designated under Section 3 of this act. The bonds may
be issued without an election being held upon the question of
their issuance and without the publication of any notice of
intention to issue the bonds. The board shall issue bonds of the
county by resolution spread upon the minutes of the board. The
bonds shall contain those covenants and provisions, be executed,
bear interest at the rate or rates not to exceed fourteen percent
(14%) per annum, be in the denomination or denominations, be
payable as to principal and interest, at the place or places, and
mature at the time or times not exceeding twenty-five (25) years
from their date, as determined by the board and set forth in the
resolution pursuant to which the bonds are issued; however, any
such bonds which are secured by a pledge of special assessments in
addition to a pledge of revenues shall mature at such time or
times not exceeding the time period over which such special
assessments are payable, as determined by the board pursuant to
Section 12 of this act. Notwithstanding any provision of the
general law to the contrary, any bonds and interest coupons issued
under the authority of this act shall possess all of the qualities
of negotiable instruments, and the bonds, premium, if any, and
interest thereon shall be exempt from all state, county, municipal
and other taxation under the laws of the State of Mississippi.
Any bonds issued under the authority of this act may be refunded
in the manner provided in this act upon a finding by the board
that such refunding is in the public interest. Bonds for the
betterment, improvement or extension of roadways, streets or other
facilities of the area may be included with the refunding bonds. The bonds may be sold without the necessity of advertising with the refunding bonds. The bonds may be sold without the necessity of advertising for bids therefor, and may be sold by negotiated private sale and on those terms, conditions and covenants agreed to by and between the issuing authority and the purchasers of the bonds. The total amount of bonds issued under this act shall not exceed Fifty Million Dollars ($50,000,000.00).

(2) If provided in the proceedings authorizing the issuance of the bonds and agreed to by resolution of the board to make the pledge, then when there are insufficient revenues received from special assessments authorized under this act, according to the provisions made in the proceedings authorizing the issuance of such bonds, to meet the interest or principal payments, or both, when due on any bonds issued under the authority of this act, then, the board shall levy an ad valorem tax on (a) all taxable property within the geographical limits of the area or (b) all taxable property within the geographical limits of the area which is designated pursuant to a petition under subsection (3) of Section 3 of this act, which tax, together with any other monies available for such purpose, shall be sufficient to provide for the payment of the principal of and interest on such bonds as the same falls due, and, if so provided in the proceedings for the issuance of such bonds, to replenish any reserve fund established for such bonds.

SECTION 6. The county is vested with all the powers necessary and requisite that are capable of being delegated by the Legislature for the accomplishment of the purposes of this act. No enumeration of powers in this act shall be construed to impair or limit any general grant of power contained in this act or to limit any grant of power or powers of the same class or classes as those enumerated. The county may do all acts necessary, proper or convenient in the exercise of the powers granted under this act.
SECTION 7. The county, acting by and through the board, shall have the following, among other, powers:

(a) To acquire by purchase, gift, devise or lease and to hold and dispose of real and personal property of every kind within or without the area, including franchise rights; however, the sale, assignment, lease or transfer of any certificate of public convenience and necessity or utility property shall be subject to Section 77-3-23, Mississippi Code of 1972;

(b) To make and enter into contracts, conveyances, mortgages, deeds of trust, bonds, leases or contracts for financial advisory services;

(c) To incur debts, to borrow money, to issue negotiable bonds, and to provide for the rights of the holders thereof;

(d) To fix, maintain, collect and revise rates and charges for the services rendered by or through the facilities of the county to the area, which rates and charges shall not be subject to review or regulation by the Mississippi Public Service Commission except in those instances where a municipality operating similar services would be subject to regulation and review; however, the county shall obtain a certificate of convenience and necessity from the Mississippi Public Service Commission for operating utility systems under the commission's jurisdiction;

(e) To pledge all or any part of the revenues from special assessments and tax revenues on real and personal property in the area;

(f) To make such covenants in connection with the issuance of bonds or to secure the payment of bonds that a private business corporation can make under the general laws of the state;

(g) To use any right-of-way, easement or other similar property rights or any material or equipment necessary or convenient in connection with the acquisition, improvement,
operation or maintenance of the facilities in the area held by the
state or any political subdivision thereof; however, the consent
of the governing body of the political subdivision shall be
required before such use;

(h) To enter into agreements with state and federal
agencies for loans, grants and aid, and other forms of assistance,
including, but not limited to, participation of the sale and
purchase of bonds, and to enter into agreements with state
agencies, federal agencies and political subdivisions of the State
of Mississippi pertaining to matters relating to the operation of
any services of the area authorized under this act, and such state
agencies and political subdivisions of the State of Mississippi
may so contract with the county;

(i) To sell to any municipality or district in the
county, under those terms, conditions and covenants that may be
imposed or required by the county, part or all of the utility
system or systems within the area; however, in the event of a sale
of all of the system or systems, the municipality or district
shall assume all obligations of the county relating thereto as a
condition precedent to the sale;

(j) To contract with the United States of America, or
any agency of the United States of America, the State of
Mississippi, or any political subdivision of the State of
Mississippi, or any agency, commission, authority, board or other
entity thereof, or any municipality or municipalities, for any of
the additional purposes authorized by Section 8 of this act;

(k) To contract with any municipality, district,
person, partnership, corporation or other entity for the operation
and maintenance, including billing services, of any property or
facilities of the area, upon those terms, conditions and covenants
that may be agreed upon by the contracting parties;

(l) To contract with a developer under which the
developer may construct all or any part of a project with private
funds and may be reimbursed by the county for actual costs incurred by the developer upon issuance and delivery of the bonds and receipt of the proceeds, conditional upon dedication of the project by the developer to the county to assure public use and access; and

(m) To enter into an interlocal cooperation agreement with any political subdivision of the State of Mississippi, or any agency, commission, authority, board or other entity thereof, or any municipality or municipalities, whereby both agree that either party to such agreement may be responsible for constructing, operating and/or maintaining improvements or other facilities included within an area.

SECTION 8. In addition to the purposes specified under Section 5(1) of this act, the county may issue bonds of the county in the manner provided in Section 5 of this act for any or all of the following purposes:

(a) To refund the outstanding bonds of the county secured by special assessments and tax revenues of the area upon a finding by the board that such refunding is in the public interest;

(b) To improve, better or extend roadways and streets, including curbing, gutters, streetlights, irrigation, landscaping and sidewalks, and the water, sewer or gas utility system or systems and fire protection system or storm drainage systems of the area;

(c) To purchase or acquire part or all of the utility system or systems and fire protection system of any district or municipality located in whole or in part in the area, including part or all of the system or systems within the corporate boundaries of any municipality;

(d) To provide for the payment of the principal, premium and interest on the outstanding bonds of any district or
municipality in connection with the purchase of any facilities located in the area;

(e) To purchase or acquire part or all of any privately owned utility system or systems in an area;

(f) To enter into cooperative agreements with the state or federal government, or both (reference to the state or federal government as used in this paragraph shall include any agency of the state or federal government); to obtain financial assistance in the form of loans or grants as may be available from the state or federal government, or both; and to execute and deliver at private sale notes or bonds as evidence of the indebtedness in the form and subject to the terms and conditions as may be imposed by the state or federal government, or both; and to pledge the income and revenues of the area, or the income and revenues from any part of the land embraced in the area (which revenues in either instance shall include, but not be limited to, revenues from special assessments and tax revenues) in payment thereof; and the state may enter into such agreements with the county;

(g) To purchase or acquire part or all of any utility system or systems located in whole or in part in the area owned by the United States of America, or any agency of the United States of America, or the State of Mississippi, or any political subdivision of the State of Mississippi, or any agency, commission, authority, board or other entity thereof; and

(h) To enter into an interlocal cooperation agreement for the purposes set forth in Section 7(m) of this act.

SECTION 9. The board, in its discretion, may exercise the powers set forth in this act at the cost of the property owners in the area. The board may levy and collect special assessments on properties located in the area and may either issue negotiable special improvement bonds of the county or pledge the receipts from the special assessments to secure the payment of the principal of premium, if any, and interest on any bonds authorized.
under this act. Any special assessments shall be levied and collected in the manner authorized in Sections 21-41-1 through 21-41-53, Mississippi Code of 1972, except to the extent otherwise provided for in this act. The board may secure bonds of the county solely from the receipts from special assessments, or may pledge such receipts in addition to the pledge of revenues of the county or the receipts from any tax levy authorized in this act, or from any combination of monies from the special assessments, revenues and tax levies.

SECTION 10. Bonds issued under this act shall be payable as to principal and interest solely from the sources authorized by this act. Any bonds secured by a pledge of the special assessments authorized in Section 9 of this act shall mature at any time or times, not exceeding twenty-five (25) years from the date of the bonds, and may be in fully registered form or in bearer form as determined by the board.

SECTION 11. All special assessments levied under this act shall be payable in one or more installments over a period not in excess of twenty-five (25) years, as determined by the board, with interest from the date of the confirmation of the assessment at a rate to be fixed by the board, which will produce sufficient funds for the payment of all or a specified portion of the principal and interest on the bonds as they mature and accrue and for fees and expenses for a paying agent or trustee, or both, for the bonds. The amount to be paid pursuant to such special assessments may be limited by the board to the amounts needed for the purposes specified in this section. Any property owner who shall not have taken an appeal from the assessment, upon failure to pay the assessment in full within thirty (30) days from the date of confirmation, shall be deemed to have elected to pay the assessment in installments as provided in this section, and he shall be deemed to have admitted the legality of the assessment, and the right to contest the validity of the assessment shall be
waived. The installments of the assessment shall be due and
payable at the same time that the annual real property tax becomes
due and payable, commencing with the first county tax levy which
is payable after the expiration of thirty (30) days from the date
of confirmation of the assessment.

SECTION 12. The resolution declaring the intent of the board
to proceed with the special improvements authorized by this act
may direct that all of the expenses of the property or facilities
of the area, or such part of the expenses that the board shall
charge upon the properties in the area, shall be assessed
according to the frontage rule or area rule, as outlined in this
section. Bonds may be issued for one or more projects and the
area and method of assessment for each project shall be specified
in the resolution declaring the intent of the board to proceed
with that project. The resolution declaring the intent of the
board to proceed with the special improvements shall:

(a) Define the properties in the area to be benefited
by each improvement, with each improvement being designated as a
project;

(b) Fix the amount or percentage of the charge to be
levied upon the property benefited;

(c) Designate the minimum and maximum number of years
between the date of the bonds and the maturity of those bonds;

(d) Delineate the method of determining the amount of
special assessments to be levied on each lot or parcel of land;

(e) Designate the minimum and maximum number of one or
more installments that the board may later allow for the payment
of assessments with interest on those assessments.

If the board determines that the frontage rule is the most
equitable method of distributing the cost among the properties,
then the resolution shall direct that the cost to be assessed
against each lot or parcel of land shall be determined by dividing
the entire cost to be assessed by the total number of front feet
of real property abutting upon the utility easement, street, railroad or public or private right-of-way on which the project is located and which will be subject to such special assessment, and multiplying the quotient by the total number of front feet in any particular lot or parcel of land fronting on the utility easement, street, railroad or public or private right-of-way on which the project is located. The result of this formula shall be assessed against each lot or parcel of land for the owner's part of the cost of the entire improvement to be paid through special assessments.

If the board determines that the area rule is the most equitable method of distributing the cost among the properties, then the resolution shall direct that the cost to be assessed against each lot or parcel of land shall be determined by dividing the entire cost to be assessed by the total number of acres or square feet in the area being benefited and which is subject to such special assessment, and multiplying the quotient by the total number of acres or square feet in any particular lot or parcel of land. The result of this formula shall be assessed against each lot or parcel of land for the owner's part of the cost of the entire improvements to be paid through special assessments.

As provided in subsection (3) of Section 3 of this act, the property subject to assessment may be limited to property owned by landowners within an area who have petitioned the county pursuant to subsection (3) of Section 3 of this act.

SECTION 13. If the owners of a majority of the front footage of the property to be assessed under the frontage rule, or if the owners of a majority of the area of the property to be assessed under the area rule, as described in Section 12 of this act, file a written protest objecting to the assessments authorized under this act and in Section 21-41-7, Mississippi Code of 1972, then the board shall not proceed with the special assessment.
SECTION 14. If owners of the front footage of the property to be assessed under the frontage rule, or if the owners of the property to be assessed under the area rule enter into a written agreement with the county agreeing to pay the total assessments authorized under this act and in Section 21-41-7, Mississippi Code of 1972, then the owners of property not a party to such written agreement shall not be obligated to pay the assessments.

SECTION 15. This act, without reference to any other statute, shall be deemed to be full and complete authority for the designation of the area by the county, and this act, including the provisions of Sections 21-41-1 through 21-41-53, Mississippi Code of 1972, which are not in direct conflict with the provisions of this act, shall be deemed to be full and complete authority for the issuance of bonds by the county and shall be construed as additional and alternative methods therefor. All powers necessary to be exercised in order to carry out the provisions of this act are hereby conferred. No proceedings shall be required for the designation of the area by the county or for the issuance of the bonds other than those provided for and required in this act. Any municipality, district or other entity located in whole or in part in the area is authorized to sell part or all of its water, sewer or gas or storm drainage system to the county. All the necessary powers to be exercised by the board and the governing authorities of any municipality or district that determines to sell part or all of its water, sewer or gas system to the county in order to carry out this act are hereby conferred.

SECTION 16. Any bonds issued under this act may be submitted to validation under the provisions of Chapter 13, Title 31, Mississippi Code of 1972.

SECTION 17. This act shall be liberally construed for the purposes set out in the act, the powers hereby granted being additional, cumulative and supplemental to any power granted to
the county or any municipality therein by any general law or any
local and private act of the Legislature.

SECTION 18. If any provision of this act is held to be
invalid by any court of competent jurisdiction, the remainder of
this act shall not be affected by that determination.

SECTION 19. This act shall take effect and be in force from
and after its passage.