

By: Representatives Woods, Jennings, Mayo,
Robertson

To: Local and Private
Legislation; Ways and Means

HOUSE BILL NO. 1701

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

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

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

15 (a) "Board" means the Board of Supervisors of DeSoto
16 County, Mississippi.

17 (b) "County" means DeSoto County, Mississippi.

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

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

30 certain locations within the county in need of utilities and
31 improvements in accordance with the provisions of this act.

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

52 (2) If the board determines that the designation of the
53 proposed area is in the best interest of the county, the board,
54 upon the filing of the petition, shall fix a time and place for a
55 public hearing upon the question of the public convenience and
56 necessity of the designation of the proposed area. If the board
57 elects to fix a time and place for a hearing, the date fixed for
58 the hearing shall not be more than sixty (60) days after the
59 filing of the petition. The date, place and notice of the hearing
60 shall be set forth in a notice to be signed by the clerk of the
61 board. The notice shall be published once a week for at least
62 three (3) consecutive weeks in a newspaper having a general

63 circulation within the county. The first publication shall be
64 made not less than twenty-one (21) days before the date of the
65 hearing, and the last publication shall be made not more than
66 seven (7) days before the date of the hearing. If, following the
67 public hearing, the board finds that public convenience and
68 necessity require the designation of the proposed area, the board
69 shall adopt a resolution making those findings and designating the
70 area. If the area is within the corporate limits of any
71 municipality, then the county shall submit its resolution
72 designating the area under this subsection (2) to such
73 municipality and request that such municipality adopt a resolution
74 declaring a need therefor. The county shall not proceed to issue
75 any bonds under this act until it has received this resolution
76 from the municipality.

77 (3) As an alternative to the procedure prescribed in
78 subsection (1) of this section, a petition for the designation of
79 an area may be submitted to the board. The petition must be
80 signed by one or more owners of land within an area who
81 unanimously agree that only their property within the area will be
82 assessed for the proposed project within the area. The petition
83 shall include (a) a statement for the necessity for the service or
84 services to be supplied by the county; (b) an estimate of the cost
85 of the acquisition or construction of the facilities to be
86 operated by the county; and (c) an estimate by the petitioner or
87 petitioners of the cost of development within the area, which
88 estimate shall include an itemized breakdown of the type or nature
89 of each project, the cost of each project and a projected
90 timetable for completion of each project. The petition shall be
91 signed in person by the petitioner and accompanied by a sworn
92 statement of the person or persons circulating the petition, who
93 shall state under oath that he witnessed the signature of each
94 petitioner, that each signature is the signature of the person it
95 purports to be, and that to the best of his knowledge, each

96 petitioner, at the time of signing, was an owner of real property
97 within the proposed area. A petitioner may be a corporation.
98 Benefited owners of land within the designated area who do not
99 petition for designation under this subsection (3) shall not be
100 subject to assessment for projects within the respective
101 designated area. If the board determines that the designation of
102 the proposed area under this subsection (3) is in the best
103 interest of the county, the board shall then proceed under
104 subsection (2) of this section.

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

118 SECTION 5. (1) The county may issue bonds to provide funds
119 for constructing, acquiring, reconstructing, improving, bettering
120 or extending water supply facilities, sewer facilities, gas
121 utility facilities, fire protection facilities, storm drainage
122 systems, water retention facilities, lakes, recreation facilities,
123 roadways and streets, including curbing, gutters, streetlights,
124 irrigation, landscaping and sidewalks and other public
125 improvements that serve the area for the purpose of resort, theme
126 park, residential or other commercial and industrial development.
127 The bonds shall be payable primarily from the revenues of the
128 facilities and, if so provided for in the proceedings authorizing

129 the bonds, the bonds shall be payable also from special
130 assessments levied under Section 9 of this act. In addition, if
131 so provided for in the proceedings authorizing the bonds and
132 agreed to by resolution of the board, the bonds shall be payable
133 also from the avails of the ad valorem tax levy as provided for in
134 subsection (2) of this section, or from any combination of monies
135 from the revenues, special assessments and tax levies on property
136 of the area designated under Section 3 of this act. The bonds may
137 be issued without an election being held upon the question of
138 their issuance and without the publication of any notice of
139 intention to issue the bonds. The board shall issue bonds of the
140 county by resolution spread upon the minutes of the board. The
141 bonds shall contain those covenants and provisions, be executed,
142 bear interest at the rate or rates not to exceed fourteen percent
143 (14%) per annum, be in the denomination or denominations, be
144 payable as to principal and interest, at the place or places, and
145 mature at the time or times not exceeding twenty-five (25) years
146 from their date, as determined by the board and set forth in the
147 resolution pursuant to which the bonds are issued; however, any
148 such bonds which are secured by a pledge of special assessments in
149 addition to a pledge of revenues shall mature at such time or
150 times not exceeding the time period over which such special
151 assessments are payable, as determined by the board pursuant to
152 Section 12 of this act. Notwithstanding any provision of the
153 general law to the contrary, any bonds and interest coupons issued
154 under the authority of this act shall possess all of the qualities
155 of negotiable instruments, and the bonds, premium, if any, and
156 interest thereon shall be exempt from all state, county, municipal
157 and other taxation under the laws of the State of Mississippi.
158 Any bonds issued under the authority of this act may be refunded
159 in the manner provided in this act upon a finding by the board
160 that such refunding is in the public interest. Bonds for the
161 betterment, improvement or extension of roadways, streets or other

162 facilities of the area may be included with the refunding bonds.
163 The bonds may be sold without the necessity of advertising with
164 the refunding bonds. The bonds may be sold without the necessity
165 of advertising for bids therefor, and may be sold by negotiated
166 private sale and on those terms, conditions and covenants agreed
167 to by and between the issuing authority and the purchasers of the
168 bonds. The total amount of bonds issued under this act shall not
169 exceed Fifty Million Dollars (\$50,000,000.00).

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

187 SECTION 6. The county is vested with all the powers
188 necessary and requisite that are capable of being delegated by the
189 Legislature for the accomplishment of the purposes of this act.
190 No enumeration of powers in this act shall be construed to impair
191 or limit any general grant of power contained in this act or to
192 limit any grant of power or powers of the same class or classes as
193 those enumerated. The county may do all acts necessary, proper or
194 convenient in the exercise of the powers granted under this act.

195 SECTION 7. The county, acting by and through the board,
196 shall have the following, among other, powers:

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

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

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

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

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

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

225 (g) To use any right-of-way, easement or other similar
226 property rights or any material or equipment necessary or
227 convenient in connection with the acquisition, improvement,

228 operation or maintenance of the facilities in the area held by the
229 state or any political subdivision thereof; however, the consent
230 of the governing body of the political subdivision shall be
231 required before such use;

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

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

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

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

259 (l) To contract with a developer under which the
260 developer may construct all or any part of a project with private

261 funds and may be reimbursed by the county for actual costs
262 incurred by the developer upon issuance and delivery of the bonds
263 and receipt of the proceeds, conditional upon dedication of the
264 project by the developer to the county to assure public use and
265 access; and

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

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

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

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

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

291 (d) To provide for the payment of the principal,
292 premium and interest on the outstanding bonds of any district or

293 municipality in connection with the purchase of any facilities
294 located in the area;

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

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

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

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

319 SECTION 9. The board, in its discretion, may exercise the
320 powers set forth in this act at the cost of the property owners in
321 the area. The board may levy and collect special assessments on
322 properties located in the area and may either issue negotiable
323 special improvement bonds of the county or pledge the receipts
324 from the special assessments to secure the payment of the
325 principal of, premium, if any, and interest on any bonds

326 authorized under this act. Any special assessments shall be
327 levied and collected in the manner authorized in Sections 21-41-1
328 through 21-41-53, Mississippi Code of 1972, except to the extent
329 otherwise provided for in this act. The board may secure bonds of
330 the county solely from the receipts from special assessments, or
331 may pledge such receipts in addition to the pledge of revenues of
332 the county or the receipts from any tax levy authorized in this
333 act, or from any combination of monies from the special
334 assessments, revenues and tax levies.

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

342 SECTION 11. All special assessments levied under this act
343 shall be payable in one or more installments over a period not in
344 excess of twenty-five (25) years, as determined by the board, with
345 interest from the date of the confirmation of the assessment at a
346 rate to be fixed by the board, which will produce sufficient funds
347 for the payment of all or a specified portion of the principal and
348 interest on the bonds as they mature and accrue and for fees and
349 expenses for a paying agent or trustee, or both, for the bonds.
350 The amount to be paid pursuant to such special assessments may be
351 limited by the board to the amounts needed for the purposes
352 specified in this section. Any property owner who shall not have
353 taken an appeal from the assessment, upon failure to pay the
354 assessment in full within thirty (30) days from the date of
355 confirmation, shall be deemed to have elected to pay the
356 assessment in installments as provided in this section, and he
357 shall be deemed to have admitted the legality of the assessment,
358 and the right to contest the validity of the assessment shall be

359 waived. The installments of the assessment shall be due and
360 payable at the same time that the annual real property tax becomes
361 due and payable, commencing with the first county tax levy which
362 is payable after the expiration of thirty (30) days from the date
363 of confirmation of the assessment.

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

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

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

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

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

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

387 If the board determines that the frontage rule is the most
388 equitable method of distributing the cost among the properties,
389 then the resolution shall direct that the cost to be assessed
390 against each lot or parcel of land shall be determined by dividing
391 the entire cost to be assessed by the total number of front feet

392 of real property abutting upon the utility easement, street,
393 railroad or public or private right-of-way on which the project is
394 located and which will be subject to such special assessment, and
395 multiplying the quotient by the total number of front feet in any
396 particular lot or parcel of land fronting on the utility easement,
397 street, railroad or public or private right-of-way on which the
398 project is located. The result of this formula shall be assessed
399 against each lot or parcel of land for the owner's part of the
400 cost of the entire improvement to be paid through special
401 assessments.

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

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

417 SECTION 13. If the owners of a majority of the front footage
418 of the property to be assessed under the frontage rule, or if the
419 owners of a majority of the area of the property to be assessed
420 under the area rule, as described in Section 12 of this act, file
421 a written protest objecting to the assessments authorized under
422 this act and in Section 21-41-7, Mississippi Code of 1972, then
423 the board shall not proceed with the special assessment.

424 SECTION 14. If owners of the front footage of the property
425 to be assessed under the frontage rule, or if the owners of the
426 property to be assessed under the area rule enter into a written
427 agreement with the county agreeing to pay the total assessments
428 authorized under this act and in Section 21-41-7, Mississippi Code
429 of 1972, then the owners of property not a party to such written
430 agreement shall not be obligated to pay the assessments.

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

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

453 SECTION 17. This act shall be liberally construed for the
454 purposes set out in the act, the powers hereby granted being
455 additional, cumulative and supplemental to any power granted to

456 the county or any municipality therein by any general law or any
457 local and private act of the Legislature.

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

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