

By: Representative Compretta

To: Local and Private
Legislation; Ways and Means

HOUSE BILL NO. 1703

1 AN ACT TO AUTHORIZE THE BOARD OF SUPERVISORS OF HANCOCK
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 Hancock
16 County, Mississippi.

17 (b) "County" means Hancock 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 casino, resort, theme park, residential or other commercial
29 development. The purpose of this act is to authorize the board to

30 designate certain locations within the county in need of utilities
31 and 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 casino,
126 resort, theme park, residential or other commercial and industrial
127 development. The bonds shall be payable primarily from the
128 revenues of the facilities and, if so provided for in the

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

162 roadways, streets or other facilities of the area may be included
163 with the refunding bonds. The bonds may be sold without the
164 necessity of advertising with the refunding bonds. The bonds may
165 be sold without the necessity of advertising for bids therefor,
166 and may be sold by negotiated private sale and on those terms,
167 conditions and covenants agreed to by and between the issuing
168 authority and the purchasers of the bonds. The total amount of
169 bonds issued under this act shall not exceed Fifty Million Dollars
170 (\$50,000,000.00).

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

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

194 those enumerated. The county may do all acts necessary, proper or
195 convenient in the exercise of the powers granted under this act.

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

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

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

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

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

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

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

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

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

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

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

255 (k) To contract with any municipality, district,
256 person, partnership, corporation or other entity for the operation
257 and maintenance, including billing services, of any property or

258 facilities of the area, upon those terms, conditions and covenants
259 that may be agreed upon by the contracting parties;

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

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

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

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

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

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

290 part or all of the system or systems within the corporate
291 boundaries of any municipality;

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

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

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

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

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

320 SECTION 9. The board, in its discretion, may exercise the
321 powers set forth in this act at the cost of the property owners in
322 the area. The board may levy and collect special assessments on

323 properties located in the area and may either issue negotiable
324 special improvement bonds of the county or pledge the receipts
325 from the special assessments to secure the payment of the
326 principal of premium, if any, and interest on any bonds authorized
327 under this act. Any special assessments shall be levied and
328 collected in the manner authorized in Sections 21-41-1 through
329 21-41-53, Mississippi Code of 1972, except to the extent otherwise
330 provided for in this act. The board may secure bonds of the
331 county solely from the receipts from special assessments, or may
332 pledge such receipts in addition to the pledge of revenues of the
333 county or the receipts from any tax levy authorized in this act,
334 or from any combination of monies from the special assessments,
335 revenues and tax levies.

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

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

356 confirmation, shall be deemed to have elected to pay the
357 assessment in installments as provided in this section, and he
358 shall be deemed to have admitted the legality of the assessment,
359 and the right to contest the validity of the assessment shall be
360 waived. The installments of the assessment shall be due and
361 payable at the same time that the annual real property tax becomes
362 due and payable, commencing with the first county tax levy which
363 is payable after the expiration of thirty (30) days from the date
364 of confirmation of the assessment.

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

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

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

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

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

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

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

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

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

418 SECTION 13. If the owners of a majority of the front footage
419 of the property to be assessed under the frontage rule, or if the
420 owners of a majority of the area of the property to be assessed

421 under the area rule, as described in Section 12 of this act, file
422 a written protest objecting to the assessments authorized under
423 this act and in Section 21-41-7, Mississippi Code of 1972, then
424 the board shall not proceed with the special assessment.

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

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

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

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

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

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