

By: Senator(s) White (29th), Frazier, Horhn,
Harden

To: Local and Private;
Finance

SENATE BILL NO. 3198

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

17 (b) "County" means Hinds 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 Hinds County have inadequate water supply facilities, sewer
22 facilities, gas utility facilities, fire protection facilities,
23 storm drainage systems and roadways and streets, including
24 curbing, gutters, streetlights, irrigation, landscaping and
25 sidewalks that serve those locations for the purposes of resort,
26 theme park, residential or other commercial development. The
27 purpose of this act is to authorize the board to designate certain
28 locations within the county in need of utilities and improvements
29 in accordance with the provisions of this act.

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

50 (2) If the board determines that the designation of the
51 proposed area is in the best interest of the county, the board,
52 upon the filing of the petition, shall fix a time and place for a
53 public hearing upon the question of the public convenience and
54 necessity of the designation of the proposed area. If the board
55 elects to fix a time and place for a hearing, the date fixed for
56 the hearing shall not be more than sixty (60) days after the
57 filing of the petition. The date, place and notice of the hearing
58 shall be set forth in a notice to be signed by the clerk of the
59 board. The notice shall be published in a newspaper having a
60 general circulation within the county once a week for at least
61 three (3) consecutive weeks before the date of the hearing. The
62 first publication shall be made not less than twenty-one (21) days

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

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

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

104 SECTION 4. The board shall have the powers enumerated in the
105 resolution of the board designating the area, which shall be
106 limited to constructing, acquiring, reconstructing, improving,
107 bettering or extending roadways and streets, including curbing,
108 gutters, streetlights, irrigation, landscaping and sidewalks, and
109 facilities for a water, sewer, gas utility, fire protection or
110 storm drainage system, or any combination thereof, and to
111 conducting and operating the facilities and to contracting with
112 any municipality, county or other governmental entity, or with any
113 person, firm or corporation for a supply of water, gas or other
114 services required incident to the operation and maintenance of the
115 system.

116 SECTION 5. (1) The county may issue bonds to provide funds
117 for constructing, acquiring, reconstructing, improving, bettering
118 or extending water supply facilities, sewer facilities, gas
119 utility facilities, fire protection facilities, storm drainage
120 systems and roadways and streets, including curbing, gutters,
121 streetlights, irrigation, landscaping and sidewalks that serve the
122 area for the purpose of resort, theme park, residential or other
123 commercial and industrial development. The bonds shall be payable
124 primarily from the revenues of the facilities and, if so provided
125 for in the proceedings authorizing the bonds, the bonds shall be
126 payable also from special assessments levied pursuant to Section 9
127 of this act. In addition, if so provided for in the proceedings
128 authorizing the bonds and agreed to by resolution of the board,

129 the bonds shall be payable also from the avails of the ad valorem
130 tax levy as provided for in subsection (2) of this section, or
131 from any combination of monies from the revenues, special
132 assessments and tax levies on property of the area designated
133 under subsection (1) or (2) of Section 3 of this act. The bonds
134 may be issued without an election being held upon the question of
135 their issuance and without the publication of any notice of
136 intention to issue the bonds. The board shall issue bonds of the
137 county by resolution spread upon the minutes of the board. The
138 bonds shall contain those covenants and provisions, be executed,
139 bear interest at the rate or rates not to exceed fourteen percent
140 (14%) per annum, be in the denomination or denominations, be
141 payable as to principal and interest, at the place or places, and
142 mature at the time or times not exceeding twenty-five (25) years
143 from their date, as determined by the board and set forth in the
144 resolution pursuant to which the bonds are issued; however, any
145 such bonds which are secured by a pledge of special assessments in
146 addition to a pledge of revenues shall mature at such time or
147 times not exceeding the time period over which such special
148 assessments are payable, as determined by the board pursuant to
149 Section 12 of this act. Notwithstanding any provision of the
150 general law to the contrary, any bonds and interest coupons issued
151 pursuant to the authority of this act shall possess all of the
152 qualities of negotiable instruments, and the bonds, premium, if
153 any, and interest thereon shall be exempt from all state, county,
154 municipal and other taxation under the laws of the State of
155 Mississippi. Any bonds issued pursuant to the authority of this
156 act may be refunded in the manner provided in this act upon a
157 finding by the board that such refunding is in the public
158 interest. Bonds for the betterment, improvement or extension of
159 roadways, streets or other facilities of the area may be included
160 with the refunding bonds. The bonds may be sold without the
161 necessity of advertising with the refunding bonds. The bonds may

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

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

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

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

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

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

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

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

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

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

222 (g) To use any right-of-way, easement or other similar
223 property rights or any material or equipment necessary or
224 convenient in connection with the acquisition, improvement,
225 operation or maintenance of the facilities in the area held by the
226 state or any political subdivision thereof; however, the governing
227 body of the political subdivision shall consent to the use;

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

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

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

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

255 (l) To contract with a developer under which the
256 developer may construct all or any part of a project with private
257 funds and may be reimbursed by the county for actual costs
258 incurred by the developer upon issuance and delivery of the bonds
259 and receipt of the proceeds, conditional upon dedication of the

260 project by the developer to the county to assure public use and
261 access; and

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

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

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

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

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

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

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

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

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

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

315 SECTION 9. The board, in its discretion, may exercise the
316 powers set forth in this act at the cost of the property owners in
317 the area. The board may levy and collect special assessments on
318 properties located in the area and may either issue negotiable
319 special improvement bonds of the county or pledge the receipts
320 from the special assessments to secure the payment of the
321 principal of premium, if any, and interest on any bonds authorized
322 pursuant to this act. Any special assessments shall be levied and
323 collected in the manner authorized in Sections 21-41-1 through
324 21-41-53, Mississippi Code of 1972, except to the extent otherwise
325 provided for in this act. The board may secure bonds of the

326 county solely from the receipts from special assessments, or may
327 pledge such receipts in addition to the pledge of revenues of the
328 county or the receipts from any tax levy authorized in this act,
329 or from any combination of monies from the special assessments,
330 revenues and tax levies.

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

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

358 is payable after the expiration of thirty (30) days from the date
359 of confirmation of the assessment.

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

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

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

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

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

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

383 If the board determines that the front foot rule is the most
384 equitable method of distributing the cost among the properties,
385 then the resolution shall direct that the cost to be assessed
386 against each lot or parcel of land shall be determined by dividing
387 the entire cost to be assessed by the total number of front feet
388 of real property abutting upon the utility easement, street,
389 railroad or public or private right-of-way on which the project is
390 located and which will be subject to such special assessment, and

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

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

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

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

421 SECTION 14. If owners of the front footage of the property
422 to be assessed under the front foot rule, or if the owners of the
423 property to be assessed under the area rule enter into a written

424 agreement with the county government with the county agreeing to
425 pay the total assessments authorized under this act and in Section
426 21-41-7, Mississippi Code of 1972, then the owners of property not
427 a party to said written agreement shall not be obligated to pay
428 the assessments.

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

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

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

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

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