

By: Representative Morris

To: Ways and Means

HOUSE BILL NO. 1558
(As Sent to Governor)

1 AN ACT TO AUTHORIZE COUNTIES AND MUNICIPALITIES TO ESTABLISH
2 PUBLIC IMPROVEMENT DISTRICTS; TO PROVIDE FOR THE APPOINTMENT OF A
3 BOARD OF DIRECTORS TO GOVERN AND MANAGE THE OPERATION OF ANY SUCH
4 DISTRICT; TO PRESCRIBE THE POWERS AND DUTIES OF THE BOARD,
5 INCLUDING THE AUTHORITY TO ACQUIRE PROPERTY THROUGH GIFT, PURCHASE
6 OR CONDEMNATION PROCEEDINGS, TO CONSTRUCT AND IMPROVE FACILITIES
7 FOR WATER, SEWER AND WASTEWATER MANAGEMENT, FOR ROADS, PARKS, AND
8 RECREATIONAL INFRASTRUCTURE, AND FOR FIRE STATIONS AND FIRE
9 PREVENTION CONTROL FACILITIES AND EQUIPMENT; TO AUTHORIZE THE
10 DISTRICT TO ISSUE BONDS, NOTES AND OTHER EVIDENCES OF DEBT AND
11 INCUR INDEBTEDNESS FOR PROJECTS PERFORMED BY THE DISTRICT; TO
12 PROVIDE FOR SPECIAL ASSESSMENTS, FEES AND CHARGES THAT MAY BE
13 LEVIED AND IMPOSED UPON PROPERTY WITHIN THE DISTRICT; TO PROVIDE
14 FOR THE ESTABLISHMENT OF LIENS UPON REAL PROPERTY WITHIN THE
15 DISTRICT TO ENFORCE THE COLLECTION OF ASSESSMENTS, FEES AND
16 CHARGES IMPOSED BY THE DISTRICT; TO PRESCRIBE THE MANNER AND
17 PROCEDURE FOR TERMINATION OF THE DISTRICT; TO PROVIDE THAT PUBLIC
18 UTILITY DISTRICTS SHALL OBTAIN A CERTIFICATE OF PUBLIC CONVENIENCE
19 AND NECESSITY FROM THE PUBLIC SERVICE COMMISSION IN ORDER TO
20 PROVIDE CERTAIN UTILITY SERVICES; TO REQUIRE UTILITIES THAT
21 PETITION THE PUBLIC SERVICE COMMISSION FOR A CERTIFICATE OF PUBLIC
22 CONVENIENCE AND NECESSITY FOR AN UNCERTIFICATED AREA TO NOTIFY
23 PROPERTY OWNERS AND GOVERNMENTAL ENTITIES LOCATED IN SUCH AREAS;
24 TO CREATE A NEW SECTION TO BE CODIFIED AS SECTION 77-3-12,
25 MISSISSIPPI CODE OF 1972, TO PROVIDE THAT A CERTIFICATE OF PUBLIC
26 CONVENIENCE AND NECESSITY ISSUED BY THE PUBLIC SERVICE COMMISSION
27 GRANTS AN EXCLUSIVE RIGHT TO THE PUBLIC UTILITY TO PROVIDE THE
28 SERVICES FOR WHICH THE CERTIFICATE WAS ISSUED IN THE CERTIFICATED
29 AREA; TO AUTHORIZE UTILITY SYSTEMS TO EXTEND THEIR FACILITIES
30 THROUGH THE CERTIFICATED AREA OF ANOTHER UTILITY FOR PURPOSES
31 OTHER THAN PROVIDING SERVICES TO THE PUBLIC FOR COMPENSATION
32 SIMILAR TO THE SERVICES PROVIDED BY THE CERTIFICATED UTILITY; TO
33 AMEND SECTION 17-13-5, MISSISSIPPI CODE OF 1972, IN CONFORMITY TO
34 THE PROVISIONS OF THIS ACT; AND FOR RELATED PURPOSES.

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

36 **SECTION 1.** This act shall be known and may be cited as the
37 "Public Improvement District Act."

38 **SECTION 2.** The Legislature finds that:

39 (a) There is a need for uniform, focused and fair
40 procedures in state law to provide a reasonable alternative for
41 the establishment, power, operation and duration of independent
42 districts to manage and finance basic public improvement services;
43 and that, based upon a proper and fair determination of applicable



44 facts, an independent district can constitute a timely, efficient,
45 effective, responsive and economic way to deliver these basic
46 services, thereby providing a solution to the state's planning,
47 management and financing needs for delivery of capital
48 infrastructure in order to service projected growth without
49 overburdening counties and municipalities and their taxpayers.

50 (b) It is the legislative intent and purpose to
51 authorize a uniform procedure by general law to establish an
52 independent special district as an alternative method to manage
53 and finance basic services for public improvements through the
54 levy and collection of special assessments. It is further the
55 legislative intent and purpose to provide by general law for the
56 uniform operation, exercise of power and procedure for termination
57 of any such independent district. It is further the purpose and
58 intent of the Legislature that a district created under this act
59 not have or exercise any zoning or permitting power. It is
60 further the purpose and intent of the Legislature that no debt or
61 obligation of a district shall constitute a burden on any local
62 government without its consent.

63 **SECTION 3.** As used in this act the following terms shall
64 have the meanings ascribed to them in this section unless the
65 context clearly requires otherwise:

66 (a) "Assessable improvements" means any public
67 improvements and community facilities that the district is
68 empowered to provide in accordance with this act.

69 (b) "Assessment bonds" means special obligations of the
70 district that are payable solely from proceeds of the special
71 assessments levied for an assessable project.

72 (c) "Board" or "board of directors" means the governing
73 board of the district or, if such board has been abolished the
74 board, body or commission succeeding to the principal functions
75 thereof or to whom the powers given to the board by this act have
76 been given by law.



77 (d) "Bond" includes "certificate," and the provisions
78 that are applicable to bonds are equally applicable to
79 certificates. The term "bond" includes any assessment bond,
80 refunding bond, revenue bond and other such obligation in the
81 nature of a bond as is provided for in this act.

82 (e) "Public improvement district" or "district" means a
83 special district that is created pursuant to this act and limited
84 to the performance of those specialized functions authorized by
85 this act, the boundaries of which are contained wholly within a
86 single county; the governing head of which is a body created,
87 organized and constituted and authorized to function specifically
88 as prescribed in this act for the delivery of public improvement
89 services; and the formation powers, governing body, operation,
90 duration accountability, requirements for disclosure and
91 termination of which are as required by general law.

92 (f) "Cost," when used with reference to any project,
93 includes but is not limited to:

94 (i) The expenses of determining the feasibility or
95 practicability of acquisition, construction or reconstruction.

96 (ii) The cost of surveys, estimates, plans and
97 specifications.

98 (iii) The cost of improvements.

99 (iv) Engineering, fiscal and legal expenses and
100 charges.

101 (v) The cost of all labor, materials, machinery
102 and equipment.

103 (vi) The cost of all lands, rights, servitudes and
104 franchises acquired.

105 (vii) Financing charges.

106 (viii) The creation of initial reserve and debt
107 service funds.

108 (ix) Working capital.



(x) Interest charges incurred or estimated to be incurred on money borrowed before and during construction and acquisition and for such reasonable period of time after completion of construction or acquisition as the board may determine.

(xi) The cost of issuance of bonds pursuant to this act, including advertisements and printing.

(xii) The cost of any election held pursuant to this act and all other expenses of issuance of bonds.

(xiii) The discount, if any, on the sale or exchange of bonds.

(xiv) Administrative expenses.

(xv) Such other expenses as may be necessary or incidental to the acquisition, construction or reconstruction of any project or to the financing thereof, or to the development of any lands within the district.

(g) "District manager" means the manager of the district.

(h) "District roads" means highways, streets, roads, alleys, sidewalks, landscaping, storm drains, bridges and thoroughfares of all kinds and descriptions.

(i) "Landowner" means the owner of land, including real property as it appears in the official records of the county, including a trustee, a private corporation and an owner of a condominium unit.

(j) "Project" means any development, improvement, property, utility, facility, works, enterprise or service undertaken after the passage of this act or established under the provisions of this act.

(k) "Revenue bonds" means obligations of the district that are payable from revenues derived from sources other than ad valorem taxes on real or personal property and that do not pledge the property, credit or general tax revenue of the district.



(l) "Sewer system" means any plant, system, facility or property, and additions, extensions and improvements thereto, useful or necessary in connection with the collection, treatment or disposal of sewage.

(m) "Water management and control facilities" means any lakes, canals, ditches, reservoirs, dams, levees, floodways, pumping stations or any other works, structures or facilities for the conservation, control, development, utilization and disposal of water, and any purposes incidental thereto.

(n) "Water system" means any plant system, facility or property, and additions, extensions, and improvements thereto, useful or necessary in connection with the development of sources, treatment or purification and distribution of water.

SECTION 4. (1) The method for the establishment of a public improvement district shall be pursuant to an ordinance adopted by the governing body of the county in which the land is located granting a petition for the establishment of a public improvement district. The petition for the establishment of a public improvement district shall be filed by the petitioner with the governing body of the county. The petition shall contain:

(a) A description of the boundaries of the district;

(b) The written consent to the establishment of the district by all landowners in the district;

(c) A designation of five (5) persons to be the initial members of the board of directors, who shall serve in that office until replaced by elected members as provided in this act;

(d) The proposed name of the district;

(e) A map of the proposed district showing existing infrastructure, if any; and

(f) Based upon available data, the proposed timetable for construction of the district services and the estimated cost of constructing the proposed services.



174 (2) A public hearing on the petition shall be conducted by
175 the governing body of the county within forty-five (45) days after
176 the petition is filed unless an extension of time is requested by
177 the petitioners and granted by the governing body of the county.
178 The hearing shall be held at an accessible location in the county
179 in which the public improvement district is to be located. The
180 petitioner shall cause a notice of the hearing to be published in
181 a newspaper having general circulation in the county at least once
182 a week for the four (4) successive weeks immediately prior to the
183 hearing. Such notice shall give the time and place for the
184 hearing, a description of the area to be included in the district,
185 and any other relevant information which the establishing
186 governing bodies may require. The advertisement shall be
187 published in the official minutes of the local governing body.

188 (3) The governing body of the county shall consider the
189 record of the public hearing and any other relevant factors in
190 making its determination to grant or deny a petition for the
191 establishment of a public improvement district.

192 (4) An ordinance establishing a public improvement district
193 shall include the boundaries of the district, the names of the
194 five (5) persons designated to be the initial members of the board
195 of directors of the district and the name of the district.

196 (5) If all of the land in the area for the proposed district
197 is within the territorial jurisdiction of a municipality, then the
198 petition requesting establishment of a public improvement district
199 under this act shall be filed by the petitioner with that
200 particular municipality. In such event, the duties of the county
201 with regard to the petition shall be the duties of the
202 municipality. If any of the land area of a proposed district is
203 within the land area of a municipality, the governing body of the
204 county may not create the district without the approval of the
205 municipality.



206 (6) The governing body of a county and/or a municipality may
207 enter into contribution agreements with the district.

208 **SECTION 5.** (1) The board of the district shall exercise the
209 powers granted to the district pursuant to this act. The board
210 shall consist of five (5) members as otherwise provided in this
211 section. Each member shall hold office for a term of four (4)
212 years and until a successor is chosen and qualifies. The initial
213 members of the board shall be residents of the state and at least
214 one (1) of the initial members shall be a resident of the area
215 immediately adjacent to the district.

216 (2) Beginning six (6) years after the initial appointment of
217 members, the position of each member whose term has expired shall
218 be filled by a qualified elector of the district, elected by the
219 qualified electors of the district.

220 (3) Members of the board shall be known as directors and,
221 upon entering into office, shall take an oath of office. They
222 shall hold office for the terms for which they were elected or
223 appointed and until their successors are chosen and qualified. If
224 during the term of office, a vacancy occurs, the remaining members
225 of the board shall fill the vacancy by an appointment for the
226 remainder of the unexpired term.

227 (4) A majority of the members of the board constitutes a
228 quorum for the purposes of conducting its business and exercising
229 its powers and for all other purposes. Action taken by the
230 district shall be upon a vote of a majority of the members present
231 unless general law or a rule of the district requires a greater
232 number.

233 (5) As soon as practicable after each election or
234 appointment, the board shall organize by electing one (1) of its
235 members as chair and by electing a secretary, who need not be a
236 member of the board, and such other officers as the board may deem
237 necessary.



(6) The board shall keep a permanent minute book in which shall be recorded minutes of all meetings, resolutions, ordinances, proceedings and all corporate acts.

(7) Members of the board may receive per diem compensation for services in an amount as provided under Section 25-3-69, and shall be entitled to expenses necessarily incurred in the discharge of their duties in accordance with Section 25-3-41. Any payments for compensation and expenses shall be paid from funds of the district.

SECTION 6. (1) The board shall employ and fix the compensation of a district manager. The district manager shall have charge and supervision of the works of the district and shall be responsible for (a) preserving and maintaining any improvement or facility constructed or erected pursuant to the provisions of this act, (b) maintaining and operating the equipment owned by the district, and (c) for performing such other duties as may be prescribed by the board. The district manager may hire or otherwise employ and terminate the employment of such other persons including, without limitation, professional, supervisory and clerical employees, as may be necessary as authorized by the board. The compensation and other conditions of employment of the officers and employees of the district shall be as provided by the board. The district manager, a board member or district employee may be a stockholder, officer or employee of a landowner.

(2) The board shall designate a person who is a resident of the state as treasurer of the district, who shall have charge of the funds of the district. Such funds shall be disbursed only upon the order or pursuant to the resolution of the board by warrant or check countersigned by the treasurer and by such other person as may be authorized by the board. The board may give the treasurer such other or additional powers and duties as the board may deem appropriate and may fix his or her compensation. The board may require the treasurer to give a bond in such amount on



such terms, and with such sureties as may be deemed satisfactory to the board to secure the performance by the treasurer of his or her powers and duties. The financial records of the district shall be audited by an independent certified public accountant at least once a year.

(3) The board may select as a depository for its funds any qualified public depository as provided for under Sections 27-105-301 through 27-105-371.

SECTION 7. (1) The district shall comply with Sections 19-11-1 through 19-11-27, the County Budget Law.

(2) At least sixty (60) days before adoption of the annual budget, the district board shall submit to the local governing authorities having jurisdiction over the area included in the district for purposes of disclosure and information only, the proposed annual budget for the ensuing fiscal year and any proposed long-term financial plan or program of the district for future operations.

SECTION 8. The district shall take affirmative steps to provide for the full disclosure of information relating to the public financing and maintenance of improvements to real property undertaken by the district. Such information shall be made available to all existing residents and to all prospective residents of the district. The district shall furnish each developer of a residential development within the district with sufficient copies of that information who shall provide each prospective initial purchaser of property in that development with a copy.

SECTION 9. The district shall have, and the board may exercise, the power:

(a) To sue and be sued in the name of the district; to adopt and use a seal and authorize the use of a facsimile thereof; to acquire, by purchase, gift, devise or otherwise, and to dispose of, real and personal property; and to make and execute contracts



304 and other instruments necessary or convenient to the exercise of
305 its powers.

306 (b) To contract for the services of consultants to
307 perform planning, engineering financial, legal, or other
308 appropriate services of a professional nature.

309 (c) To borrow money and accept gifts; to apply for and
310 use grants or loans of money or other property from the United
311 States, the state, a unit of local government or any person or any
312 organization for any district purposes and enter into agreements
313 required in connection therewith; and to hold, use and dispose of
314 such monies or property for any district purposes in accordance
315 with the terms of the gift, grant, loan or agreement relating
316 thereto.

317 (d) To adopt bylaws prescribing the powers, duties and
318 functions of the officers of the district, the conduct of the
319 business of the district and the maintenance of records.

320 (e) To maintain an office at such place or places as it
321 may designate within a county in which the district is located,
322 which office must be reasonably accessible to the landowners.
323 Meetings shall be held at such office or such other location as
324 may be designated by the board.

325 (f) To hold, control and acquire by donation, or
326 purchase or dispose of, any public servitudes or dedications to
327 public use and to make use of such servitudes or dedications for
328 any of the purposes authorized by this act.

329 (g) To lease as lessor or lessee to or from any person,
330 firm, corporation, association, or body public or private, any
331 projects of the type that the district is authorized to undertake
332 and facilities or property of any nature for the use of the
333 district to carry out any of the purposes authorized by this act.

334 (h) To borrow money and issue bonds, certificates,
335 warrants, notes or other evidence of indebtedness as provided in



336 this act; to levy such special assessments as may be authorized;
337 and to charge, collect and enforce fees and other user charges.

338 (i) To acquire property within the boundaries of the
339 district for public use through condemnation, exercised pursuant
340 to Sections 11-27-1 through 11-27-51, subject to the approval of
341 the governing body of the county and/or the municipality that
342 enacted the ordinance establishing the district.

343 (j) To raise, by user charges or fees authorized by
344 resolution of the board, amounts of money which are necessary for
345 the conduct of the district activities and services and to enforce
346 their receipt and collection in the manner prescribed by
347 resolution not inconsistent with law.

348 (k) To cooperate with, contract, or enter into
349 contribution agreements with, other governmental agencies,
350 including the governing bodies of counties and/or municipalities,
351 as may be necessary, convenient, incidental or proper in
352 connection with any of the powers, duties or purposes authorized
353 by this act.

354 (l) To determine, order, levy, impose, collect and
355 enforce special assessments pursuant to this act.

356 (m) To enter into interlocal cooperative agreements
357 pursuant to Section 17-13-1 et seq.

358 (n) To exercise all of the powers necessary and proper
359 in connection with any of the powers, duties or purposes
360 authorized by this act.

361 **SECTION 10.** The district shall have, and the board may
362 exercise, any or all of the special powers relating to public
363 improvements and community facilities authorized by this act. The
364 district shall have the power to finance, fund, establish,
365 acquire, construct or reconstruct, enlarge or extend, equip,
366 operate and maintain systems, facilities and basic infrastructures
367 for the following:



(a) Water management and control for the lands within the district and connection of some or any of such facilities with roads and bridges.

(b) Water supply, sewer and wastewater management, reclamation and reuse, or any combination thereof.

(c) Bridges or culverts that may be needed across any drain, ditch canal, floodway, holding basin, excavation, public highway, tract, grade, fill or cut and roadways over levees and embankments.

(d) District roads equal to or exceeding the specifications of the county in which such district roads are located, and street lights.

(e) Parks and facilities for indoor and outdoor recreational, cultural and educational uses, and other tourism related infrastructure and facilities.

(f) Fire prevention and control, including fire stations, water mains and plugs, fire trucks, and other vehicles and equipment.

(g) Security, except that the district may not exercise any police power, but may contract with the appropriate local governmental agencies for an increased level of such services within the district boundaries.

(h) Waste collection and disposal.

(i) Systems as defined in Section 21-27-11(b).

SECTION 11. No public improvement district may purchase or sell a water or wastewater utility that provides service to the public, or enter into a management contract for such facilities, until the board has held a public hearing on the purchase, sale or management contract and has made a determination that the purchase, sale or management contract is in the public interest.

SECTION 12. (1) The district may issue and sell from time to time bonds, notes, negotiable notes, tax anticipation notes, bond anticipation notes, other fund anticipation notes, renewal



notes, refunding bonds, interim certificates, certificates of indebtedness, certificates of participation, debentures, warrants, commercial paper or other obligations or evidences of indebtedness to provide funds for and to fulfill and achieve its public purpose or corporate purposes, as set forth in this act, including but not limited to the payment of all or a portion of the costs of a project, to provide amounts necessary for any corporate purposes, including incidental expenses in connection with the issuance of the obligations, the payment of principal and interest on the obligations of the district, the establishment of reserves to secure such obligations, and all other purposes and expenditures of the district incident to and necessary or convenient to carry out its public functions or corporate purposes, and any credit enhancement for such obligations.

(2) Except as may otherwise be provided by the district, all obligations issued by the district shall be negotiable instruments and payable solely from the levy of any special assessment by the district or from any other sources whatsoever that may be available to the district but shall not be secured by the full faith and credit of the state or the county or municipality that created the district.

(3) Obligations shall be authorized, issued and sold by a resolution or resolutions of the district adopted as provided in this act. Such bonds or obligations may be of such series, bear such date or dates, mature at such time or times, bear interest at such rate or rates, including variable, adjustable, or zero interest rates, be payable at such time or times, be in such denominations, be sold at such price or prices, at public or private negotiated sale, after advertisement as is provided for in Section 17-21-53(1), (2), be in such form, carry such registration and exchangeability privileges, be payable at such place or places, be subject to such terms of redemption and be entitled to such priorities on the income, revenue and receipts of, or



434 available to, the district as may be provided by the district in
435 the resolution or resolutions providing for the issuance and sale
436 of the bonds or obligations of the district.

437 (4) The obligations of the district shall be signed by such
438 directors or officers of the district by either manual or
439 facsimile signatures as shall be determined by resolution or
440 resolutions of the district, and shall have impressed or imprinted
441 thereon the seal of the district or a facsimile thereof.

442 (5) Any obligations of the district may be validly issued,
443 sold and delivered notwithstanding that one or more of the
444 directors or officers of the district signing such obligations or
445 whose facsimile signature or signatures may be on the obligations
446 shall have ceased to be such director or officer of the district
447 at the time such obligations shall actually have been delivered.

448 (6) Obligations of the district may be sold in such manner
449 and from time to time as may be determined by the district to be
450 most beneficial, and the district may pay all expenses, premiums,
451 fees or commissions that it deems necessary or advantageous in
452 connection with the issuance and sale thereof, subject to the
453 provisions of this act.

454 (7) The district may authorize the establishment of a fund
455 or funds for the creation of a debt service reserve, a renewal and
456 replacement reserve or such other funds or reserves as the
457 district may approve with respect to the financing and operation
458 of any project and as may be authorized by any bond resolution,
459 trust agreement indenture of trust or similar instrument or
460 agreement pursuant to the provisions of which the issuance of
461 bonds or other obligations of the district may be authorized.

462 (8) Any cost, obligation or expense incurred for any of the
463 purposes specified in this act shall be a part of the project
464 costs and may be paid or reimbursed as such out of the proceeds of
465 bonds or other obligations issued by the district.



(9) Neither the directors of the board nor any person executing the bonds shall be personally liable for the bonds or be subject to any personal liability by reason of the issuance thereof. No earnings or assets of the district shall accrue to the benefit of any private persons. However, the limitation of liability provided for in this subsection shall not apply to any gross negligence or criminal negligence on the part of any director or person executing the bonds.

(10) The district may avail itself of the provisions of Sections 31-13-1 through 31-13-11.

(11) This act constitutes full and complete authority for the issuance of bonds and the exercise of the powers of the district provided herein. No procedures or proceedings, publications, notices, consents, approvals, orders, acts or things by the board or any board, officers, commission, department, agency or instrumentality of the district, other than those required by this act, shall be required to perform anything under this act, except that the issuance or sale of bonds pursuant to the provisions of this act shall comply with the general law requirements applicable to the issuance or sale of bonds by the district. Nothing in this act shall be construed to authorize the district to utilize bond proceeds to fund the ongoing operations of the district.

SECTION 13. Any pledge made by the district shall be valid and binding from time to time when the pledge is made without the need for physical delivery of any pledged property. The money, assets or revenues of the district so pledged and thereafter received by the district shall be immediately subject to the lien of such pledge and shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the district, irrespective of whether such parties have notice thereof. Neither the resolution nor any other instrument by which a pledge is created need be recorded or filed in order to



499 establish and perfect a lien or security interest in the property
500 so pledged by the district.

501 **SECTION 14.** It is hereby determined that the creation of the
502 district and the carrying out of its public functions and
503 corporate purposes is, in all respects, a public and governmental
504 purpose for the benefit of the people of the state and for the
505 improvement of their health, safety, welfare, prosperity and
506 security, that such functions and purposes are public purposes and
507 that the district will be performing an essential governmental
508 function in the exercise of the powers conferred upon it by this
509 act. All obligations authorized to be issued by the district
510 pursuant to the provisions of this act, together with interest
511 thereof, income therefrom, and gain upon the sale thereof shall be
512 exempt from all state and local taxes.

513 **SECTION 15.** Bonds issued under the provisions of this act
514 shall be limited obligations of the district payable solely from
515 the sources pledged for the payment thereof. All such bonds shall
516 contain a statement on their face substantially to the effect that
517 neither the full faith and credit of the state nor the full faith
518 and credit of any governmental unit of the state are pledged to
519 the payment of the principal of or the interest on such bonds.
520 The issuance of bonds under the provisions of this act shall not
521 directly, indirectly or contingently obligate the state or any
522 governmental unit of the state to levy any taxes or to make any
523 appropriation for their payment arising out of contracts
524 authorized under this act.

525 **SECTION 16.** The state and all public officers, any county,
526 municipality or other subdivision or instrumentality of the state,
527 any political subdivision, any bank, banker, trust company,
528 savings bank and institution, building and loan association,
529 savings and loan association, investment company or any person
530 carrying on a banking or investment business, any insurance
531 company or business, insurance association and any person carrying



on an insurance business, any executor, administrator, curator, trustee and other fiduciary, and any retirement system fund may legally invest any sinking funds, monies or other funds belonging to them or within their control in any bonds or other obligations issued by the district pursuant to the provisions of this act, and such bonds or other obligations shall be authorized security for all public deposits. It is the purpose of this section to authorize such persons, firms, corporations, associations, political subdivisions and officers, or other entities public or private, to use any funds owned or controlled by them, including but not limited to sinking, insurance, investment, retirement, compensation, pension and trust funds, and funds held on deposit, for the purchase of any such bonds or other obligations of the district and that any such bonds shall be authorized security for all public deposits. However, nothing contained in this section with regard to legal investments or security for public deposits shall be construed as relieving any such person, firm, corporation or other entity from any duty of exercising reasonable care in selecting securities.

SECTION 17. (1) The board shall annually determine, order and levy the annual installment of the total benefit special assessments for bonds issued and related expenses to finance district facilities and projects that are levied under this act. These assessments may be due and collected during each year that county taxes are due and collected, in which case such annual installment and levy shall be evidenced to and certified to the assessor by the board not later than August 31 of each year. Such assessments shall be entered by the assessor on the county tax rolls and shall be collected and enforced by the tax collector in the same manner and at the same time as county taxes, and the proceeds thereof shall be paid to the district. These benefit special assessments shall be a lien on the property against which assessed until paid and shall be collectible and enforceable in



565 like manner as county property taxes. All statutes regulating the
566 collection and enforcement of county property taxes shall apply to
567 the enforcement and collection of the benefit special assessments
568 levied under this section. The amount of the assessment for the
569 exercise of the district's powers under this act shall be
570 determined by the board based upon a report of the district's
571 engineer and assessed by the board upon such lands, which may be
572 part or all of the lands within the district benefited by the
573 improvement, apportioned between benefited lands in proportion to
574 the benefits received by each tract of land.

575 (2) To maintain and preserve the facilities and projects of
576 the district, the board shall levy a maintenance special
577 assessment. This assessment may be evidenced by and certified to
578 the assessor by the board of directors not later than August 31 of
579 each year and shall be entered by the assessor on the county tax
580 rolls and shall be collected and enforced by the tax collector in
581 the same manner and at the same time as county taxes, and the
582 proceeds therefrom shall be paid to the district. These
583 maintenance special assessments shall be a lien on the property
584 against which assessed until paid and shall be collectible and
585 enforceable in like manner as county property taxes and all
586 statutes regulating the collection and enforcement of county
587 property taxes shall apply to the enforcement and collection of
588 the benefit special assessments levied under this section. The
589 amount of the maintenance special assessment for the exercise of
590 the district's powers under this act shall be determined by the
591 board based upon a report of the district's engineer and assessed
592 by the board upon such lands, which may be all of the lands within
593 the district benefited by the maintenance thereof, apportioned
594 between the benefited lands in proportion to the benefits received
595 by each tract of land.

596 (3) Benefit special assessments and maintenance special
597 assessments authorized by this section shall be levied and payable



598 in annual installments for each year for which bonds secured by
599 the assessment are outstanding. The tax collector shall collect
600 and enforce assessments in the same manner and at the same time as
601 ad valorem taxes. Benefit special assessments and maintenance
602 special assessments shall constitute a lien on the property
603 against which assessed until paid and shall be on a parity with
604 the lien of state, county, municipal and school board property
605 taxes.

606 (4) The tax assessor and tax collector are entitled to
607 reasonable compensation for preparing the rolls and collecting the
608 assessments.

609 (5) District assessments may be made payable in no more than
610 thirty (30) yearly installments.

611 **SECTION 18.** Any lien in favor of the district arising under
612 this act may be enforced by the district in a court of competent
613 jurisdiction as provided by law. Such proceedings may be brought
614 at any time after the expiration of one (1) year from the date any
615 tax or installment thereof becomes delinquent.

616 **SECTION 19.** The district shall comply with the provisions of
617 Section 31-7-1 et seq., regarding the construction of public works
618 or the purchase of materials or supplies.

619 **SECTION 20.** (1) The district may prescribe, fix, establish
620 and collect rates, fees, rentals or other charges for the
621 facilities and services furnished by the district, within the
622 limits of the district, including but not limited to recreational
623 facilities, water management and control facilities and water and
624 sewer systems. The district may also recover the costs of making
625 connection with any district facility or system and provide for
626 reasonable penalties against any user or property for any such
627 rates, fees, rentals or other charges that are delinquent.

628 (2) No such rates, fees, rentals or other charges for any of
629 the facilities or services of the district may be fixed until
630 after a public hearing at which all the users of the proposed



631 facility or services shall have an opportunity to be heard
632 concerning the proposed rates, fees, rentals or other charges.
633 Notice of such public hearing setting forth the proposed schedule
634 of rates, fees, rentals and other charges shall be published in
635 the official journal of the district once at least ten (10) days
636 before such public hearing.

637 **SECTION 21.** The district shall provide by ordinance with
638 respect to nonpayment, delinquency charges and discontinuance of
639 service for water and sewer services provided by the district.

640 **SECTION 22.** (1) The boundaries of the district may be
641 contracted or expanded in the same manner in which the district
642 was created pursuant to this act.

643 (2) The district may be terminated or dissolved in one of
644 the following ways:

645 (a) The district may be terminated or dissolved upon
646 the transfer of all the public improvement services of the
647 district to a unit of local government. The district shall be
648 terminated in accordance with a plan of termination which shall be
649 adopted by the board of directors and filed with the clerk of the
650 court.

651 (b) If, within five (5) years after the effective date
652 of the ordinance creating the district, a landowner has not
653 received a development permit on some part or all of the area
654 covered by the district, then the district will be automatically
655 dissolved and a court of competent jurisdiction shall cause a
656 statement to that effect to be filed in the public records.

657 (c) If the district has become inactive, the county or
658 municipality that created the district shall be informed and shall
659 take appropriate action.

660 **SECTION 23.** After the establishment of a district under this
661 act, each contract for the initial sale of a parcel of real
662 property and each contract for the initial sale of a residential
663 unit within the district shall include, immediately before the



664 space reserved in the contract for the signature of the purchaser,
665 the following disclosure statement in boldfaced and conspicuous
666 type which is larger than the type in the remaining text of the
667 contract: **"THE (Name of District) PUBLIC IMPROVEMENT DISTRICT MAY**
668 **IMPOSE AND LEVY ASSESSMENTS ON THIS PROPERTY. THESE ASSESSMENTS**
669 **PAY THE CONSTRUCTION, OPERATION AND MAINTENANCE COSTS OF CERTAIN**
670 **PUBLIC FACILITIES AND SERVICES OF THE DISTRICT AND ARE SET**
671 **ANNUALLY BY THE GOVERNING BOARD OF THE DISTRICT. THESE**
672 **ASSESSMENTS ARE IN ADDITION TO COUNTY AND OTHER LOCAL GOVERNMENTAL**
673 **TAXES AND ASSESSMENTS AND ALL OTHER TAXES AND ASSESSMENTS PROVIDED**
674 **FOR BY LAW."**

675 **SECTION 24.** Within thirty (30) days after the effective date
676 of the ordinance establishing a public improvement district under
677 this act, the district shall cause to be recorded in the land
678 records in the county in which it is located a "Notice of
679 Establishment of the _____ Public Improvement
680 District." The notice shall include the legal description of the
681 district and a copy of the disclosure statement specified in this
682 act.

683 **SECTION 25.** This act, being necessary for the welfare of the
684 state and its residents, shall be liberally construed to
685 effectuate its purposes.

686 **SECTION 26.** (1) No public improvement district established
687 under this act shall provide any utility service described in
688 Section 77-3-3(d) to or for the public for compensation without
689 first obtaining a certificate of public convenience and necessity
690 from the Public Service Commission.

691 (2) Nothing contained in this section shall prohibit the
692 Public Service Commission from issuing a certificate of public
693 convenience and necessity to any person for service in
694 uncertificated areas within public improvement district
695 boundaries.



696 (3) Notwithstanding any law to the contrary, a public
697 utility that petitions the Public Service Commission for a
698 certificate of public convenience and necessity for any
699 uncertificated area shall give written notice by mail to all
700 property owners, public improvement districts and other public
701 entities located in such area and shall give such property owners
702 and such governmental entities instructions on how they may appear
703 before the Public Service Commission and make any objections or
704 otherwise participate as an interested party.

705 **SECTION 27.** The following provision shall be codified as
706 Section 77-3-12, Mississippi Code of 1972:

707 77-3-12. (1) A certificate of public convenience and
708 necessity issued by the Public Service Commission authorizing
709 public utility services to or for the public for compensation in
710 an area grants an exclusive right to the public utility to provide
711 that service in the certificated area.

712 (2) Nothing contained in subsection (1) of this section or
713 any other provision of law shall prohibit any utility system from
714 extending its system plant, lines or other facilities in or
715 through the certificated area of another utility for purposes
716 other than providing services to or for the public for
717 compensation in such certificated area similar to those services
718 provided by the certificated utility.

719 **SECTION 28.** Section 17-13-5, Mississippi Code of 1972, is
720 amended as follows:

721 17-13-5. For the purpose of this chapter, the following
722 words shall be defined as herein provided unless the context
723 requires otherwise:

724 (a) "Local governmental unit" shall mean any county,
725 any incorporated city, town or village, any school district, any
726 utility district, any community college, any institution of higher
727 learning, * * * any municipal airport authority or regional



728 airport authority in the state or any public improvement district
729 created under the Public Improvement District Act.

730 (b) "Governing authority" shall mean the board of
731 supervisors of any county, board of trustees of any school
732 district or community college whether elective or appointive, the
733 governing board of any city, town or village, the board of
734 commissioners of a utility district, the Board of Trustees of
735 State Institutions of Higher Learning, * * * the commissioners of
736 a municipal airport authority or regional airport authority or the
737 board of directors of any public improvement district created
738 under the Public Improvement District Act.

739 **SECTION 29.** This act shall take effect be in force from and
740 after its passage.

