

*****Adopted*****

AMENDMENT No. 1 PROPOSED TO

House Bill NO. 1558

By Senator(s) Committee

**Amend by striking all after the enacting clause and inserting
in lieu thereof the following:**

33 SECTION 1. This act shall be known and may be cited as the
34 "Public Improvement District Act."

35 SECTION 2. The Legislature finds that:

36 (a) There is a need for uniform, focused and fair
37 procedures in state law to provide a reasonable alternative for
38 the establishment, power, operation and duration of independent
39 districts to manage and finance basic public improvement services;
40 and that, based upon a proper and fair determination of applicable
41 facts, an independent district can constitute a timely, efficient,
42 effective, responsive and economic way to deliver these basic
43 services, thereby providing a solution to the state's planning,
44 management and financing needs for delivery of capital
45 infrastructure in order to service projected growth without
46 overburdening counties and municipalities and their taxpayers.

47 (b) It is the legislative intent and purpose to
48 authorize a uniform procedure by general law to establish an
49 independent special district as an alternative method to manage
50 and finance basic services for public improvements through the
51 levy and collection of special assessments. It is further the
52 legislative intent and purpose to provide by general law for the

53 uniform operation, exercise of power and procedure for termination
54 of any such independent district. It is further the purpose and
55 intent of the Legislature that a district created under this act
56 not have or exercise any zoning or permitting power. It is
57 further the purpose and intent of the Legislature that no debt or
58 obligation of a district shall constitute a burden on any local
59 government without its consent.

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

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

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

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

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

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

88 termination of which are as required by general law.

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

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

93 (ii) The cost of surveys, estimates, plans and
94 specifications.

95 (iii) The cost of improvements.

96 (iv) Engineering, fiscal and legal expenses and
97 charges.

98 (v) The cost of all labor, materials, machinery
99 and equipment.

100 (vi) The cost of all lands, rights, servitudes and
101 franchises acquired.

102 (vii) Financing charges.

103 (viii) The creation of initial reserve and debt
104 service funds.

105 (ix) Working capital.

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

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

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

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

117 (xiv) Administrative expenses.

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

122 (g) "District manager" means the manager of the

123 district.

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

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

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

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

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

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

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

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

158 governing body of the county. The petition shall contain:

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

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

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

165 (d) The proposed name of the district;

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

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

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

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

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

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

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

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

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

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

224 (4) A majority of the members of the board constitutes a
225 quorum for the purposes of conducting its business and exercising
226 its powers and for all other purposes. Action taken by the
227 district shall be upon a vote of a majority of the members present

228 unless general law or a rule of the district requires a greater
229 number.

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

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

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

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

259 (2) The board shall designate a person who is a resident of
260 the state as treasurer of the district, who shall have charge of
261 the funds of the district. Such funds shall be disbursed only
262 upon the order or pursuant to the resolution of the board by

263 warrant or check countersigned by the treasurer and by such other
264 person as may be authorized by the board. The board may give the
265 treasurer such other or additional powers and duties as the board
266 may deem appropriate and may fix his or her compensation. The
267 board may require the treasurer to give a bond in such amount on
268 such terms, and with such sureties as may be deemed satisfactory
269 to the board to secure the performance by the treasurer of his or
270 her powers and duties. The financial records of the district shall
271 be audited by an independent certified public accountant at least
272 once a year.

273 (3) The board may select as a depository for its funds any
274 qualified public depository as provided for under Sections
275 27-105-301 through 27-105-371.

276 **SECTION 7.** (1) The district shall comply with Sections
277 19-11-1 through 19-11-27, the County Budget Law.

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

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

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

297 (a) To sue and be sued in the name of the district; to

298 adopt and use a seal and authorize the use of a facsimile thereof;
299 to acquire, by purchase, gift, devise or otherwise, and to dispose
300 of, real and personal property; and to make and execute contracts
301 and other instruments necessary or convenient to the exercise of
302 its powers.

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

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

314 (d) To adopt bylaws prescribing the powers, duties and
315 functions of the officers of the district, the conduct of the
316 business of the district and the maintenance of records.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

387 (h) Waste collection and disposal.

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

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

395 **SECTION 12.** (1) The district may issue and sell from time
396 to time bonds, notes, negotiable notes, tax anticipation notes,
397 bond anticipation notes, other fund anticipation notes, renewal
398 notes, refunding bonds, interim certificates, certificates of
399 indebtedness, certificates of participation, debentures, warrants,
400 commercial paper or other obligations or evidences of indebtedness
401 to provide funds for and to fulfill and achieve its public purpose
402 or corporate purposes, as set forth in this act, including but not

403 limited to the payment of all or a portion of the costs of a
404 project, to provide amounts necessary for any corporate purposes,
405 including incidental expenses in connection with the issuance of
406 the obligations, the payment of principal and interest on the
407 obligations of the district, the establishment of reserves to
408 secure such obligations, and all other purposes and expenditures
409 of the district incident to and necessary or convenient to carry
410 out its public functions or corporate purposes, and any credit
411 enhancement for such obligations.

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

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

434 (4) The obligations of the district shall be signed by such
435 directors or officers of the district by either manual or
436 facsimile signatures as shall be determined by resolution or
437 resolutions of the district, and shall have impressed or imprinted

438 thereon the seal of the district or a facsimile thereof.

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

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

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

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

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

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

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

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

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

508 thereof, income therefrom, and gain upon the sale thereof shall be
509 exempt from all state and local taxes.

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

522 **SECTION 16.** The state and all public officers, any county,
523 municipality or other subdivision or instrumentality of the state,
524 any political subdivision, any bank, banker, trust company,
525 savings bank and institution, building and loan association,
526 savings and loan association, investment company or any person
527 carrying on a banking or investment business, any insurance
528 company or business, insurance association and any person carrying
529 on an insurance business, any executor, administrator, curator,
530 trustee and other fiduciary, and any retirement system fund may
531 legally invest any sinking funds, monies or other funds belonging
532 to them or within their control in any bonds or other obligations
533 issued by the district pursuant to the provisions of this act, and
534 such bonds or other obligations shall be authorized security for
535 all public deposits. It is the purpose of this section to
536 authorize such persons, firms, corporations, associations,
537 political subdivisions and officers, or other entities public or
538 private, to use any funds owned or controlled by them, including
539 but not limited to sinking, insurance, investment, retirement,
540 compensation, pension and trust funds, and funds held on deposit,
541 for the purchase of any such bonds or other obligations of the
542 district and that any such bonds shall be authorized security for

543 all public deposits. However, nothing contained in this section
544 with regard to legal investments or security for public deposits
545 shall be construed as relieving any such person, firm, corporation
546 or other entity from any duty of exercising reasonable care in
547 selecting securities.

548 **SECTION 17.** (1) The board shall annually determine, order
549 and levy the annual installment of the total benefit special
550 assessments for bonds issued and related expenses to finance
551 district facilities and projects that are levied under this act.
552 These assessments may be due and collected during each year that
553 county taxes are due and collected, in which case such annual
554 installment and levy shall be evidenced to and certified to the
555 assessor by the board not later than August 31 of each year. Such
556 assessments shall be entered by the assessor on the county tax
557 rolls and shall be collected and enforced by the tax collector in
558 the same manner and at the same time as county taxes, and the
559 proceeds thereof shall be paid to the district. These benefit
560 special assessments shall be a lien on the property against which
561 assessed until paid and shall be collectible and enforceable in
562 like manner as county property taxes. All statutes regulating the
563 collection and enforcement of county property taxes shall apply to
564 the enforcement and collection of the benefit special assessments
565 levied under this section. The amount of the assessment for the
566 exercise of the district's powers under this act shall be
567 determined by the board based upon a report of the district's
568 engineer and assessed by the board upon such lands, which may be
569 part or all of the lands within the district benefited by the
570 improvement, apportioned between benefited lands in proportion to
571 the benefits received by each tract of land.

572 (2) To maintain and preserve the facilities and projects of
573 the district, the board shall levy a maintenance special
574 assessment. This assessment may be evidenced by and certified to
575 the assessor by the board of directors not later than August 31 of
576 each year and shall be entered by the assessor on the county tax
577 rolls and shall be collected and enforced by the tax collector in

578 the same manner and at the same time as county taxes, and the
579 proceeds therefrom shall be paid to the district. These
580 maintenance special assessments shall be a lien on the property
581 against which assessed until paid and shall be collectible and
582 enforceable in like manner as county property taxes and all
583 statutes regulating the collection and enforcement of county
584 property taxes shall apply to the enforcement and collection of
585 the benefit special assessments levied under this section. The
586 amount of the maintenance special assessment for the exercise of
587 the district's powers under this act shall be determined by the
588 board based upon a report of the district's engineer and assessed
589 by the board upon such lands, which may be all of the lands within
590 the district benefited by the maintenance thereof, apportioned
591 between the benefited lands in proportion to the benefits received
592 by each tract of land.

593 (3) Benefit special assessments and maintenance special
594 assessments authorized by this section shall be levied and payable
595 in annual installments for each year for which bonds secured by
596 the assessment are outstanding. The tax collector shall collect
597 and enforce assessments in the same manner and at the same time as
598 ad valorem taxes. Benefit special assessments and maintenance
599 special assessments shall constitute a lien on the property
600 against which assessed until paid and shall be on a parity with
601 the lien of state, county, municipal and school board property
602 taxes.

603 (4) The tax assessor and tax collector are entitled to
604 reasonable compensation for preparing the rolls and collecting the
605 assessments.

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

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

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

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

625 (2) No such rates, fees, rentals or other charges for any of
626 the facilities or services of the district may be fixed until
627 after a public hearing at which all the users of the proposed
628 facility or services shall have an opportunity to be heard
629 concerning the proposed rates, fees, rentals or other charges.
630 Notice of such public hearing setting forth the proposed schedule
631 of rates, fees, rentals and other charges shall be published in
632 the official journal of the district once at least ten (10) days
633 before such public hearing.

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

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

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

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

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

654 (c) If the district has become inactive, the county or
655 municipality that created the district shall be informed and shall
656 take appropriate action.

657 **SECTION 23.** After the establishment of a district under this
658 act, each contract for the initial sale of a parcel of real
659 property and each contract for the initial sale of a residential
660 unit within the district shall include, immediately before the
661 space reserved in the contract for the signature of the purchaser,
662 the following disclosure statement in boldfaced and conspicuous
663 type which is larger than the type in the remaining text of the
664 contract: **"THE (Name of District) PUBLIC IMPROVEMENT DISTRICT MAY
665 IMPOSE AND LEVY ASSESSMENTS ON THIS PROPERTY. THESE ASSESSMENTS
666 PAY THE CONSTRUCTION, OPERATION AND MAINTENANCE COSTS OF CERTAIN
667 PUBLIC FACILITIES AND SERVICES OF THE DISTRICT AND ARE SET
668 ANNUALLY BY THE GOVERNING BOARD OF THE DISTRICT. THESE
669 ASSESSMENTS ARE IN ADDITION TO COUNTY AND OTHER LOCAL GOVERNMENTAL
670 TAXES AND ASSESSMENTS AND ALL OTHER TAXES AND ASSESSMENTS PROVIDED
671 FOR BY LAW."**

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

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

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

688 (2) Nothing contained in this section shall prohibit the
689 Public Service Commission from issuing a certificate of public
690 convenience and necessity to any person for service in
691 uncertificated areas within public improvement district
692 boundaries. If requested by the district, the Public Service
693 Commission shall notify the district of any petition for a
694 certificate within the district.

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

697 77-3-12. (1) A certificate of public convenience and
698 necessity issued by the Public Service Commission authorizing
699 public utility services to or for the public for compensation in
700 an area grants an exclusive right to the public utility to provide
701 that service in the certificated area.

702 (2) Nothing contained in subsection (1) of this section or
703 any other provision of law shall prohibit any utility system from
704 extending its system plant, lines or other facilities in or
705 through the certificated area of another utility for purposes
706 other than providing services to or for the public for
707 compensation in such certificated area similar to those services
708 provided by the certificated utility.

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

711 17-13-5. For the purpose of this chapter, the following
712 words shall be defined as herein provided unless the context
713 requires otherwise:

714 (a) "Local governmental unit" shall mean any county,
715 any incorporated city, town or village, any school district, any
716 utility district, any community college, any institution of higher
717 learning, * * * any municipal airport authority or regional

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

720 (b) "Governing authority" shall mean the board of
721 supervisors of any county, board of trustees of any school
722 district or community college whether elective or appointive, the
723 governing board of any city, town or village, the board of
724 commissioners of a utility district, the Board of Trustees of
725 State Institutions of Higher Learning, * * * the commissioners of
726 a municipal airport authority or regional airport authority or the
727 board of directors of any public improvement district created
728 under the Public Improvement District Act.

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

**Further, amend by striking the title in its entirety and
inserting in lieu thereof the following:**

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 CREATE A NEW SECTION TO BE
21 CODIFIED AS SECTION 77-3-12, MISSISSIPPI CODE OF 1972, TO PROVIDE
22 THAT A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY ISSUED BY
23 THE PUBLIC SERVICE COMMISSION GRANTS AN EXCLUSIVE RIGHT TO THE
24 PUBLIC UTILITY TO PROVIDE THE SERVICES FOR WHICH THE CERTIFICATE
25 WAS ISSUED IN THE CERTIFICATED AREA; TO AUTHORIZE UTILITY SYSTEMS
26 TO EXTEND THEIR FACILITIES THROUGH THE CERTIFICATED AREA OF
27 ANOTHER UTILITY FOR PURPOSES OTHER THAN PROVIDING SERVICES TO THE
28 PUBLIC FOR COMPENSATION SIMILAR TO THE SERVICES PROVIDED BY THE
29 CERTIFICATED UTILITY; TO AMEND SECTION 17-13-5, MISSISSIPPI CODE
30 OF 1972, IN CONFORMITY TO THE PROVISIONS OF THIS ACT; AND FOR
31 RELATED PURPOSES.