

By: Representative Mims

To: County Affairs

HOUSE BILL NO. 1359

1 AN ACT TO AMEND SECTIONS 19-5-313 AND 33-15-17, MISSISSIPPI  
2 CODE OF 1972, TO AUTHORIZE THE USE OF EXCESS EMERGENCY TELEPHONE  
3 SERVICE CHARGES TO PURCHASE OUTDOOR WARNING SIRENS; TO AMEND  
4 SECTION 19-3-41, MISSISSIPPI CODE OF 1972, IN CONFORMITY THERETO;  
5 AND FOR RELATED PURPOSES.

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

7 **SECTION 1.** Section 19-5-313, Mississippi Code of 1972, is  
8 amended as follows:

9 19-5-313. (1) The board of supervisors may levy an  
10 emergency telephone service charge in an amount not to exceed One  
11 Dollar (\$1.00) per residential telephone subscriber line per month  
12 and Two Dollars (\$2.00) per commercial telephone subscriber line  
13 per month for exchange telephone service. Any emergency telephone  
14 service charge shall have uniform application and shall be imposed  
15 throughout the entirety of the district to the greatest extent  
16 possible in conformity with availability of such service in any  
17 area of the district. Those districts which exist on the date of  
18 enactment of Chapter 539, Laws of 1993, shall convert to the  
19 following structure for service charge levy: If the current  
20 charge is five percent (5%) of the basic tariff service rate, the  
21 new collection shall be Eighty Cents (\$.80) per month per  
22 residential subscriber line and One Dollar and Sixty Cents (\$1.60)  
23 per month per commercial subscriber line. The collections may be  
24 adjusted as outlined in Chapter 539, Laws of 1993, and within the  
25 limits set forth herein.

26 (2) If the proceeds generated by the emergency telephone  
27 service charge exceed the amount of monies necessary to fund the  
28 service, the board of supervisors may authorize such excess funds

29 to be expended by the county and the municipalities in the  
30 counties to perform the duties and pay the costs relating to  
31 identifying roads, highways and streets, as provided by Section  
32 65-7-143, or to purchase outdoor warning sirens for emergency  
33 management or civil defense, as provided in Section 33-15-17. The  
34 board of supervisors shall determine how the funds are to be  
35 distributed in the county and among municipalities in the county  
36 for paying the costs relating to identifying roads, highways and  
37 streets or for purchasing outdoor warning sirens for emergency  
38 management or civil defense. The board of supervisors may  
39 temporarily reduce the service charge rate or temporarily suspend  
40 the service charge if the proceeds generated exceed the amount  
41 that is necessary to fund the service and/or to pay costs relating  
42 to identifying roads, highways and streets or to purchase outdoor  
43 warning sirens for emergency management or civil defense. Such  
44 excess funds may also be used in the development of county or  
45 district communications and paging systems when used primarily for  
46 the alerting and dispatching of public safety entities and for  
47 other administrative costs such as management personnel,  
48 maintenance personnel and related building and operational  
49 requirements. Such excess funds may be placed in a depreciation  
50 fund for emergency and obsolescence replacement of equipment  
51 necessary for the operation of the overall 911 emergency telephone  
52 and alerting systems.

53 (3) No such service charge shall be imposed upon more than  
54 twenty-five (25) exchange access facilities per person per  
55 location. Trunks or service lines used to supply service to CMRS  
56 providers shall not have a service charge levied against them.  
57 Every billed service user shall be liable for any service charge  
58 imposed under this section until it has been paid to the service  
59 supplier. The duty of the service supplier to collect any such  
60 service charge shall commence upon the date of its implementation,  
61 which shall be specified in the resolution for the installation of

62 such service. Any such emergency telephone service charge shall  
63 be added to and may be stated separately in the billing by the  
64 service supplier to the service user.

65 (4) The service supplier shall have no obligation to take  
66 any legal action to enforce the collection of any emergency  
67 telephone service charge. However, the service supplier shall  
68 annually provide the board of supervisors and board of  
69 commissioners with a list of the amount uncollected, together with  
70 the names and addresses of those service users who carry a balance  
71 that can be determined by the service supplier to be nonpayment of  
72 such service charge. The service charge shall be collected at the  
73 same time as the tariff rate in accordance with the regular  
74 billing practice of the service supplier. Good faith compliance  
75 by the service supplier with this provision shall constitute a  
76 complete defense to any legal action or claim which may result  
77 from the service supplier's determination of nonpayment and/or the  
78 identification of service users in connection therewith.

79 (5) The amounts collected by the service supplier  
80 attributable to any emergency telephone service charge shall be  
81 due the county treasury monthly. The amount of service charge  
82 collected each month by the service supplier shall be remitted to  
83 the county no later than sixty (60) days after the close of the  
84 month. A return, in such form as the board of supervisors and the  
85 service supplier agree upon, shall be filed with the county,  
86 together with a remittance of the amount of service charge  
87 collected payable to the county. The service supplier shall  
88 maintain records of the amount of service charge collected for a  
89 period of at least two (2) years from date of collection. The  
90 board of supervisors and board of commissioners shall receive an  
91 annual audit of the service supplier's books and records with  
92 respect to the collection and remittance of the service charge.  
93 From the gross receipts to be remitted to the county, the service  
94 supplier shall be entitled to retain as an administrative fee, an

95 amount equal to one percent (1%) thereof. From and after March  
96 10, 1987, the service charge is a county fee and is not subject to  
97 any sales, use, franchise, income, excise or any other tax, fee or  
98 assessment and shall not be considered revenue of the service  
99 supplier for any purpose.

100 (6) In order to provide additional funding for the district,  
101 the board of commissioners may receive federal, state, county or  
102 municipal funds, as well as funds from private sources, and may  
103 expend such funds for the purposes of Section 19-5-301 et seq.

104 **SECTION 2.** Section 33-15-17, Mississippi Code of 1972, is  
105 amended as follows:

106 33-15-17. (a) Each county and municipality, or counties and  
107 the municipalities therein acting jointly, or two (2) or more  
108 counties acting jointly, of this state are hereby authorized and  
109 directed to establish a local organization for emergency  
110 management in accordance with the state emergency management plan  
111 and program, if required and authorized so to do by such state  
112 emergency management plan. Each local organization for emergency  
113 management shall have a director who shall be appointed by the  
114 governing body of the political subdivision, or political  
115 subdivisions acting jointly, and who shall have direct  
116 responsibility for the organization, administration and operation  
117 of such local organization for emergency management, subject to  
118 the direction and control of such governing body. Each local  
119 organization for emergency management shall perform emergency  
120 management functions within the territorial limits of the  
121 political subdivision within which it is organized, and, in  
122 addition, shall conduct such functions outside of such territorial  
123 limits as may be required pursuant to the provisions of the state  
124 emergency management plan. Each county shall develop an emergency  
125 management plan and program that is coordinated and consistent  
126 with the State Comprehensive Emergency Management Plan and  
127 program. Counties that are part of an interjurisdictional

128 emergency management agreement entered into pursuant to this  
129 section shall cooperatively develop an emergency management plan  
130 and program that is coordinated and consistent with the state  
131 emergency management plan and program.

132 (b) In carrying out the provisions of this article each  
133 county and municipality, or the two (2) acting jointly, or two (2)  
134 or more counties acting jointly, where there is joint  
135 organization, in which any disaster as described in Section  
136 33-15-3 occurs, shall have the power to enter into contracts and  
137 incur obligations necessary to combat such disaster, protecting  
138 the health and safety of persons and property, and providing  
139 emergency assistance to the victims of such disaster. Each county  
140 and municipality is authorized to exercise the powers vested under  
141 this section in the light of the exigencies of the extreme  
142 emergency situation without regard to time-consuming procedures  
143 and formalities prescribed by law pertaining to the performance of  
144 public work, entering into contracts, the incurring of  
145 obligations, the employment of temporary workers, the rental of  
146 equipment, the purchase of supplies and materials, the levying of  
147 taxes and the appropriation and expenditure of public funds.

148 (c) Each county and each municipality, or two (2) or more  
149 counties acting jointly, shall have the power and authority:

150 (1) To appropriate and expend funds, make contracts,  
151 obtain and distribute equipment, materials, and supplies for  
152 emergency management purposes; provide for the health and safety  
153 of persons and property, including emergency assistance to the  
154 victims of any enemy attack or man-made, technological or natural  
155 disasters; and to direct and coordinate the development of  
156 emergency management plans and programs in accordance with the  
157 policies and plans set by the federal and state emergency  
158 management agencies;

159           (2) To appoint, employ, remove, or provide, with or  
160 without compensation, air raid wardens, rescue teams, auxiliary  
161 fire and police personnel, and other emergency management workers;

162           (3) To establish, as necessary, a primary and one or  
163 more secondary emergency operating centers to provide continuity  
164 of government, and direction and control of emergency operation  
165 during an emergency;

166           (4) Subject to the order of the Governor, or the chief  
167 executive of the political subdivision, to assign and make  
168 available for duty, the employees, property or equipment of the  
169 subdivision relating to fire fighting, engineering, rescue,  
170 health, medical and related services, police, transportation,  
171 construction, and similar items or services for emergency  
172 management purposes either within or outside of the limits of the  
173 subdivision;

174           (5) Subject to the order of the chief executive of the  
175 county or municipality or the Governor to order the evacuation of  
176 any area subject to an impending or existing enemy attack or  
177 man-made, technological or natural disaster;

178           (6) Subject to the order of the chief executive of the  
179 county or municipality or the Governor, to control or restrict  
180 egress, ingress and movement within the disaster area to the  
181 degree necessary to facilitate the protection of life and  
182 property.

183           (d) A local emergency as defined in Section 33-15-5 may be  
184 proclaimed by the governing body of a municipality or county. The  
185 governing body shall review the need for continuing the local  
186 emergency at least every seven (7) days until such local emergency  
187 is terminated, and shall proclaim the termination of such local  
188 emergency at the earliest possible date that conditions warrant.  
189 During a local emergency, the governing body of a political  
190 subdivision may promulgate orders and regulations necessary to  
191 provide for the protection of life and property, including orders

192 or regulations imposing a curfew within designated boundaries  
193 where necessary to preserve the public order and safety. Such  
194 orders and regulations and amendments and rescissions thereof  
195 shall be in writing and shall be given widespread notice and  
196 publicity. The authorization granted by this section to impose a  
197 curfew shall not be construed as restricting in any manner the  
198 existing authority to impose a curfew pursuant to police power for  
199 any other lawful purpose.

200 (e) The board of supervisors of any county is authorized to  
201 expend excess funds as provided in Section 19-5-313 to purchase  
202 outdoor warning sirens for emergency management or civil defense.

203 **SECTION 3.** Section 19-3-41, Mississippi Code of 1972, is  
204 amended as follows:

205 19-3-41. (1) The boards of supervisors shall have within  
206 their respective counties full jurisdiction over roads, ferries  
207 and bridges, except as otherwise provided by Section 170 of the  
208 Constitution, and all other matters of county police. They shall  
209 have jurisdiction over the subject of paupers. They shall have  
210 power to levy such taxes as may be necessary to meet the demands  
211 of their respective counties, upon such persons and property as  
212 are subject to state taxes for the time being, not exceeding the  
213 limits that may be prescribed by law. They shall cause to be  
214 erected and kept in good repair, in their respective counties, a  
215 good and convenient courthouse and a jail. A courthouse shall be  
216 erected and kept in good repair in each judicial district and a  
217 jail may be erected in each judicial district. They may close a  
218 jail in either judicial district, at their discretion, where one  
219 (1) jail will suffice. They shall have the power, in their  
220 discretion, to prohibit or regulate the sale and use of  
221 firecrackers, roman candles, torpedoes, skyrockets, and any and  
222 all explosives commonly known and referred to as fireworks,  
223 outside the confines of municipalities. They shall have and  
224 exercise such further powers as are or shall be conferred upon

225 them by law. They shall have authority to negotiate with and  
226 contract with licensed real estate brokers for the purpose of  
227 advertising and showing and procuring prospective purchasers for  
228 county-owned real property offered for sale in accordance with the  
229 provisions of Section 19-7-3.

230 (2) The board of supervisors of any county, in its  
231 discretion, may contract with a private attorney or private  
232 collection agent or agency to collect any type of delinquent  
233 payment owed to the county including, but not limited to, past due  
234 fees and fines, delinquent ad valorem taxes on personal property  
235 and delinquent ad valorem taxes on mobile homes that are entered  
236 as personal property on the mobile home rolls. Any such contract  
237 may provide for payment contingent upon successful collection  
238 efforts or payment based upon a percentage of the delinquent  
239 amount collected; however, the entire amount of all delinquent  
240 payments collected shall be remitted to the county and shall not  
241 be reduced by any collection costs or fees. There shall be due to  
242 the county from any person whose delinquent payment is collected  
243 pursuant to a contract executed under this subsection an amount,  
244 in addition to the delinquent payment, of not to exceed  
245 twenty-five percent (25%) of the delinquent payment for  
246 collections made within this state and not to exceed fifty percent  
247 (50%) of the delinquent payment for collections made outside of  
248 this state. However, in the case of delinquent fees owed to the  
249 county for garbage or rubbish collection or disposal, only the  
250 amount of the delinquent fees may be collected and no amount in  
251 addition to the delinquent fees may be collected if the board of  
252 supervisors of the county has notified the county tax collector  
253 under Section 19-5-22 for the purpose of prohibiting the issuance  
254 of a motor vehicle road and bridge privilege license tag to the  
255 person delinquent in the payment of such fees. Any private  
256 attorney or private collection agent or agency contracting with  
257 the county under the provisions of this subsection shall give bond



258 or other surety payable to the county in such amount as the board  
259 of supervisors deems sufficient. Any private attorney with whom  
260 the county contracts under the provisions of this subsection must  
261 be a member in good standing of The Mississippi Bar. Any private  
262 collection agent or agency with whom the county contracts under  
263 the provisions of this subsection must meet all licensing  
264 requirements for doing business in the State of Mississippi.  
265 Neither the county nor any officer or employee of the county shall  
266 be liable, civilly or criminally, for any wrongful or unlawful act  
267 or omission of any person or business with whom the county has  
268 contracted under the provisions of this subsection. The  
269 Mississippi Department of Audit shall establish rules and  
270 regulations for use by counties in contracting with persons or  
271 businesses under the provisions of this subsection.

272 (3) In addition to the authority granted under subsection  
273 (2) of this section, the board of supervisors of any county, in  
274 its discretion, may contract with one or more of the constables of  
275 the county to collect delinquent criminal fines imposed in the  
276 justice court of the county. Any such contract shall provide for  
277 payment contingent upon successful collection efforts, and the  
278 amount paid to a constable may not exceed twenty-five percent  
279 (25%) of the amount which the constable collects. The entire  
280 amount of all delinquent criminal fines collected under such a  
281 contract shall be remitted by the constable to the clerk of the  
282 justice court for deposit into the county general fund as provided  
283 under Section 9-11-19. Any payments made to a constable pursuant  
284 to a contract executed under the provisions of this section may be  
285 paid only after presentation to and approval by the board of  
286 supervisors of the county.

287 (4) If a county uses its own employees to collect any type  
288 of delinquent payment owed to the county, then from and after July  
289 1, 1999, the county may charge an additional fee for collection of  
290 the delinquent payment provided the payment has been delinquent

291 for ninety (90) days. The collection fee may not exceed fifteen  
292 percent (15%) of the delinquent payment if the collection is made  
293 within this state and may not exceed twenty-five percent (25%) of  
294 the delinquent payment if the collection is made outside this  
295 state. In conducting collection of delinquent payments, the  
296 county may utilize credit cards or electronic fund transfers. The  
297 county may pay any service fees for the use of such methods of  
298 collection from the collection fee, but not from the delinquent  
299 payment.

300 (5) In addition to such authority as is otherwise granted  
301 under this section, the board of supervisors of any county may  
302 expend funds necessary to maintain and repair, and to purchase  
303 liability insurance, tags and decals for, any personal property  
304 acquired under the Federal Excess Personal Property Program that  
305 is used by the local volunteer fire department.

306 (6) The board of supervisors of any county, in its  
307 discretion, may expend funds to provide for training and education  
308 of newly elected or appointed county officials before the  
309 beginning of the term of office or employment of such officials.  
310 Any expenses incurred for such purposes may be allowed only upon  
311 prior approval of the board of supervisors. Any payments or  
312 reimbursements made under the provisions of this subsection may be  
313 paid only after presentation to and approval by the board of  
314 supervisors.

315 (7) The board of supervisors of any county may expend funds  
316 to purchase, maintain and repair equipment for the electronic  
317 filing and storage of filings, files, instruments, documents and  
318 records using microfilm, microfiche, data processing, magnetic  
319 tape, optical discs, computers or other electronic process which  
320 correctly and legibly stores and reproduces or which forms a  
321 medium for storage, copying or reproducing documents, files and  
322 records for use by one (1), all or any combination of county  
323 offices, employees and officials, whether appointed or elected.

324 (8) In addition to the authority granted in this section,  
325 the board of supervisors of any county may expend funds as  
326 provided in Section 29-3-23(2).

327 (9) The board of supervisors of any county may perform and  
328 exercise any duty, responsibility or function, may enter into  
329 agreements and contracts, may provide and deliver any services or  
330 assistance, and may receive, expend and administer any grants,  
331 gifts, matching funds, loans or other monies, in accordance with  
332 and as may be authorized by any federal law, rule or regulation  
333 creating, establishing or providing for any program, activity or  
334 service. The provisions of this paragraph shall not be construed  
335 as authorizing any county, the board of supervisors of any county  
336 or any member of a board of supervisors to perform any function or  
337 activity that is specifically prohibited under the laws of this  
338 state or as granting any authority in addition to or in conflict  
339 with the provisions of any federal law, rule or regulation.

340 (10) The board of supervisors of any county may provide  
341 funds from any available source to assist in defraying the actual  
342 expenses to maintain an office as provided in Section 9-1-36. The  
343 authority provided in this subsection shall apply to any office  
344 regardless of ownership of such office or who may be making any  
345 lease payments for such office.

346 (11) In addition to the authority granted in this section,  
347 the board of supervisors of any county may expend excess funds as  
348 provided in Sections 19-5-313 and 33-15-17 to purchase outdoor  
349 warning sirens for emergency management or civil defense.

350 **SECTION 4.** This act shall take effect and be in force from  
351 and after July 1, 2005.