

By: The Entire Membership

To: Ways and Means

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 29

1 AN ACT TO AMEND SECTIONS 17-21-51 AND 17-21-53, MISSISSIPPI
2 CODE OF 1972, TO REVISE THE PURPOSES FOR WHICH COUNTIES AND
3 MUNICIPALITIES LOCATED IN COUNTIES COVERED BY THE PRESIDENTIAL
4 DECLARATION OF MAJOR DISASTER FOR THE STATE OF MISSISSIPPI DATED
5 AUGUST 29, 2005, MAY ISSUE CERTAIN NEGOTIABLE NOTES AND
6 CERTIFICATES OF INDEBTEDNESS; TO PROVIDE THAT SUCH NOTES AND
7 CERTIFICATES MAY BE OFFERED AT PUBLIC OR PRIVATE SALE; TO INCREASE
8 THE MAXIMUM TOTAL INDEBTEDNESS THAT SUCH COUNTIES AND
9 MUNICIPALITIES MAY INCUR AND TO EXEMPT SUCH NOTES AND CERTIFICATES
10 FROM CERTAIN DEBT LIMITATIONS; TO REVISE THE MAXIMUM MATURITY FOR
11 SUCH NOTES AND CERTIFICATES; TO AMEND SECTIONS 31-15-7, 31-15-9,
12 31-15-17, 31-15-21 and 31-15-25, MISSISSIPPI CODE OF 1972, TO
13 REVISE THE MAXIMUM INTEREST RATE FOR REFUNDING BONDS ISSUED BY
14 POLITICAL SUBDIVISIONS; TO REVISE THE TERMS UNDER WHICH REFUNDING
15 BONDS MAY BE ISSUED BY POLITICAL SUBDIVISIONS LOCATED IN COUNTIES
16 COVERED BY THE PRESIDENTIAL DECLARATION OF MAJOR DISASTER FOR THE
17 STATE OF MISSISSIPPI DATED AUGUST 29, 2005; TO PROVIDE THAT ANY
18 SUCH POLITICAL SUBDIVISION THAT HAS ISSUED TAX INCREMENT, SPECIAL
19 ASSESSMENT OR OTHER SPECIAL OR LIMITED OBLIGATION BONDS BEFORE
20 AUGUST 29, 2005, MAY AS AN ALTERNATIVE TO ISSUING REFUNDING BONDS,
21 MAKE PRINCIPAL AND INTEREST PAYMENTS ON SUCH BONDS FROM ANY
22 AVAILABLE FUNDS OF THE POLITICAL SUBDIVISION; TO PROVIDE THAT
23 REFUNDING BONDS OF COUNTIES AND MUNICIPALITIES COVERED BY SUCH
24 PRESIDENTIAL DECLARATION OF MAJOR DISASTER, MAY BE SECURED BY THE
25 PLEDGE OF THE FULL FAITH, CREDIT AND RESOURCES OF THE COUNTY OR
26 MUNICIPALITY; AND FOR RELATED PURPOSES.

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

28 **SECTION 1.** Section 17-21-51, Mississippi Code of 1972, is
29 amended as follows:

30 17-21-51. (1) The board of supervisors of any county and
31 the governing authorities of any municipality (both referred to in
32 this article as "governing authority") are hereby authorized and
33 empowered, in their discretion, to borrow money, pursuant to the
34 provisions of this article, for the following purposes:

35 (a) To accomplish any purpose for which such governing
36 authorities are otherwise authorized by law to issue bonds, notes
37 or certificates of indebtedness; and

38 (b) To provide working capital, fund debt service
39 payments and other expenditures required by law and pay costs

40 incurred by governing authorities as a result of a natural
41 disaster. Such costs shall include, but not be limited to, debris
42 removal and disposal, overtime wages paid to public employees, and
43 the repair or replacement of public streets, roads and bridges,
44 storm drains, water and sewer facilities and other public
45 buildings, facilities and equipment. Money borrowed pursuant to
46 this paragraph (b) may also be utilized as matching funds for
47 federal or state disaster relief assistance.

48 (2) Except as otherwise provided in subsection (3) of this
49 section, the total outstanding indebtedness incurred by a
50 governing authority under this article at any one (1) time shall
51 not exceed the greater of one percent (1%) of the assessed value
52 of all taxable property located within the governing authority
53 according to the last completed assessment for taxation or Two
54 Hundred Fifty Thousand Dollars (\$250,000.00) or, in the case of
55 the governing authorities located in any county covered by the
56 Presidential Declaration of Major Disaster for the State of
57 Mississippi (FEMA-1604-DR) dated August 29, 2005, the greater of
58 two percent (2%) of the assessed value of all the taxable property
59 located within the governing authority according to the last
60 completed assessment for taxation or Two Hundred Fifty Thousand
61 Dollars (\$250,000.00). The total outstanding indebtedness
62 incurred by a governing authority as authorized under this
63 subsection shall be included in computing the statutory limitation
64 upon indebtedness which may be incurred by such governing
65 authority.

66 (3) However, from and after August 29, 2005, through
67 December 31, 2007, any borrowing pursuant to the provisions of
68 this article by governing authorities located in any county
69 covered by the Presidential Declaration of Major Disaster for the
70 State of Mississippi (FEMA-1604-DR) dated August 29, 2005, shall
71 not constitute an indebtedness of the governing authority within

72 the meaning of this subsection or any other constitutional,
73 statutory or municipal charter limitation or restriction.

74 **SECTION 2.** Section 17-21-53, Mississippi Code of 1972, is
75 amended as follows:

76 17-21-53. (1) Before any money is borrowed under the
77 provisions of this article, the governing authority shall adopt a
78 resolution declaring the necessity for such borrowing and
79 specifying the purpose for which the money borrowed is to be
80 expended, the amount to be borrowed, the date or dates of the
81 maturity thereof, and how such indebtedness is to be evidenced.
82 The resolution shall be certified over the signature of the head
83 of the governing authority.

84 (2) The borrowing shall be evidenced by negotiable notes or
85 certificates of indebtedness of the governing authority which
86 shall be signed by the head and clerk of such governing authority.
87 All such notes or certificates of indebtedness shall be offered at
88 public sale by the governing authority after not less than ten
89 (10) days' advertising in a newspaper having general circulation
90 within the governing authority. Each sale shall be made to the
91 bidder offering the lowest rate of interest or whose bid
92 represents the lowest net cost to the governing authority;
93 however, the rate of interest shall not exceed that now or
94 hereafter authorized in Section 75-17-101, Mississippi Code of
95 1972. No such notes or certificates of indebtedness shall be
96 issued and sold for less than par and accrued interest. All notes
97 or certificates of indebtedness shall mature in approximately
98 equal installments of principal and interest over a period not to
99 exceed five (5) years from the dates of the issuance thereof.
100 Principal shall be payable annually, and interest shall be payable
101 annually or semiannually; provided, however, that the first
102 payment of principal or interest may be for any period not
103 exceeding one (1) year. Provided, however, if negotiable notes
104 are outstanding from not more than one (1) previous issue

105 authorized under the provisions of this article, then the schedule
106 of payments for a new or supplementary issue may be so adjusted
107 that the schedule of maturities of all notes or series of notes
108 hereunder shall, when combined, mature in approximately equal
109 installments of principal and interest over a period of five (5)
110 years from the date of the new or supplementary issue, or if a
111 lower interest rate will thereby be secured on notes previously
112 issued and outstanding, a portion of the proceeds of any issue
113 authorized hereunder may be used to refund the balance of the
114 indebtedness previously issued under the authority of this
115 article. Such notes or certificates of indebtedness shall be
116 issued in such form and in such denominations as may be determined
117 by the governing authority and may be made payable at the office
118 of any bank or trust company selected by the governing authority.
119 In such case, funds for the payment of principal and interest due
120 thereon shall be provided in the same manner provided by law for
121 the payment of the principal and interest due on bonds issued by
122 the governing authority.

123 (3) For the prompt payment of notes or certificates of
124 indebtedness at maturity, both principal and interest, the full
125 faith, credit and resources of the issuing entity are pledged. If
126 the issuing entity does not have available funds in an amount
127 sufficient to provide for the payment of principal and interest
128 according to the terms of such notes or certificates of
129 indebtedness, then the governing authority shall annually levy a
130 special tax upon all of its taxable property at a rate the avails
131 of which will be sufficient to provide such payment. Funds
132 derived from any such tax shall be paid into a sinking fund and
133 used exclusively for the payment of principal of and interest on
134 the notes or certificates of indebtedness. Until needed for
135 expenditure, monies in the sinking fund may be invested in the
136 same manner as the governing authority is elsewhere authorized by
137 law to invest surplus funds.

138 (4) Notwithstanding the provisions of subsection (2) of this
139 section, from and after August 29, 2005, through December 31,
140 2007, any governing authority located in any county covered by the
141 Presidential Declaration of Major Disaster for the State of
142 Mississippi (FEMA-1604-DR) dated August 29, 2005, may offer such
143 notes or certificates of indebtedness at private or public sale at
144 such price or prices, at such interest rate or rates, in such
145 manner and at such times as may be agreed to by the governing
146 authority and purchaser of the notes or certificates. Such notes
147 or certificates of indebtedness shall mature over a period of not
148 to exceed ten (10) years from the dates of issuance and may be
149 structured to defer payment of principal and interest for a period
150 not to exceed five (5) years.

151 **SECTION 3.** Section 31-15-7, Mississippi Code of 1972, is
152 amended as follows:

153 31-15-7. Such refunding bonds shall bear such rate or rates
154 of interest as may be determined by the governing body * * *;
155 shall be in such denomination or denominations and form as may be
156 determined by resolution or order of the governing authority; and
157 shall be executed in behalf of the subdivision by such officer or
158 officers thereof as may be determined in such resolution or order.
159 The interest to accrue on such refunding bonds shall be
160 represented by coupons to be attached thereto, which may be
161 executed by the facsimile signature of such officer or officers.
162 All such bonds shall be made to mature serially, beginning not
163 more than five (5) years and running not longer than thirty (30)
164 years after their date, with not less than one per cent (1%) of
165 the total issue to mature each year during the first six (6)
166 years, beginning in the fifth year, after the date of such bonds;
167 not less than three per cent (3%) of the said total issue to
168 mature annually during the next succeeding ten-year period of the
169 life of such bonds; and not less than five per cent (5%) of said
170 total issue to mature annually during the next succeeding ten-year

171 period of the life of the bonds. However, from and after August
172 29, 2005, through December 31, 2007, any political subdivision
173 located in a county covered by the Presidential Declaration of
174 Major Disaster for the State of Mississippi (FEMA-1604-DR) dated
175 August 29, 2005, may issue such refunding bonds as term or serial
176 bonds at such price or prices, at such interest rate or rates, in
177 such manner, at such times, and in accordance with such terms and
178 provisions as may be agreed to by the governing authority of the
179 political subdivision and the purchasers of the refunding bonds,
180 and such issue of refunding bonds may provide that no principal or
181 interest may be due for a period not to exceed five (5) years
182 after the issue date.

183 **SECTION 4.** Section 31-15-9, Mississippi Code of 1972, is
184 amended as follows:

185 31-15-9. The resolution or order providing for the issuance
186 of such bonds may reserve unto the governing authority the right
187 to call in, pay, and redeem such bonds in the inverse order of
188 their numbers and maturities, prior to the maturity date or dates
189 thereof on any interest payment date. Whenever it is desired to
190 exercise the aforesaid right, if reserved in such resolution or
191 order, the governing authority shall cause written notice thereof
192 to be delivered to the bank or office at which such bonds are
193 payable. Such notice shall be so delivered not less than thirty
194 (30) days prior to the interest payment date designated for the
195 redemption of such bonds, after which date so designated, no
196 further interest shall accrue on the bonds so called for
197 redemption. Such refunding bonds may be sold for not less than
198 par and accrued interest, or may be exchanged at par for bonds and
199 interest coupons to be refunded thereby.

200 The board of supervisors may accept county bonds,
201 consolidated school district bonds, rural separate school district
202 bonds or separate road district bonds, as the case may be, at not
203 more than par and interest accruing thereon at the rate fixed in

204 the bonds to be refunded in exchange for said refunding county
205 bonds, consolidated school district bonds, rural separate school
206 district bonds or separate road district bonds, as the case may
207 be. In accepting any bond in exchange for, or in payment of, any
208 such refunding bond, no bond shall be accepted in such exchange or
209 payment that is secured by the property of a smaller or different
210 district, or other subdivision, than that securing the refunding
211 bonds so issued. However, from and after August 29, 2005, through
212 December 31, 2007, refunding bonds issued, sold or exchanged by
213 any political subdivision located in a county covered by the
214 Presidential Declaration of Major Disaster for the State of
215 Mississippi (FEMA-1604-DR) dated August 29, 2005, may be issued,
216 sold or exchanged for any price or prices and accrued interest as
217 determined by any such political subdivision.

218 **SECTION 5.** Section 31-15-17, Mississippi Code of 1972, is
219 amended as follows:

220 31-15-17. (1) Sections 31-15-1 through 31-15-27, without
221 reference to any other statute, shall be deemed full and complete
222 authority for the issuance of refunding bonds by political
223 subdivisions of the state, and shall be construed as an additional
224 and alternative method therefor. None of the present
225 restrictions, requirements, conditions, or limitations of law
226 applicable to the issuance of bonds by political subdivisions of
227 this state shall apply to the issuance and sale or exchange of
228 bonds under the aforesaid sections, and no proceedings shall be
229 required for the issuance of such bonds other than those provided
230 for and required herein. All powers necessary to be exercised by
231 the governing authority of any such political subdivision in order
232 to carry out the provisions of said sections are hereby conferred.

233 (2) From and after August 29, 2005, through December 31,
234 2007, any political subdivision located in any county covered by
235 the Presidential Declaration of Major Disaster for the State of
236 Mississippi (FEMA-1604-DR) dated August 29, 2005, which has issued

237 (and there remain outstanding) any tax increment, special
238 assessment or other special or limited obligation bonds prior to
239 August 29, 2005, may, as an alternative to issuance of refunding
240 bonds pursuant to Sections 31-15-1 through 31-15-27, make
241 principal and interest payments as same accrue and mature on any
242 outstanding tax increment, special assessment or other special or
243 limited obligation bonds issued by such political subdivisions
244 prior to August 29, 2005, from any available funds of the
245 political subdivision, without regard to any limitations and
246 restrictions as to the security and source of payment otherwise
247 imposed by statute or law or that may be provided in the issuing
248 documents of such tax increment, special assessment or other
249 special or limited obligation bonds.

250 **SECTION 6.** Section 31-15-21, Mississippi Code of 1972, is
251 amended as follows:

252 31-15-21. Any bonds heretofore or hereafter issued under
253 authority of Sections 21-27-11, 21-27-23, 21-27-41 through
254 21-27-43, or revenue bonds payable from funds other than the
255 proceeds of ad valorem taxes heretofore or hereafter issued under
256 authority of any other law of the State of Mississippi may be
257 refunded upon surrender, whether such bonds are due, optional, or
258 not yet matured. Such refunding bonds shall be negotiable, shall
259 be authorized by resolution adopted by the board or governing body
260 which shall have authorized the bonds that are being refunded, and
261 may either be delivered in exchange for the bonds to be refunded
262 or sold at not less than par and the proceeds applied to the
263 retirement of such bonds. However, from and after August 29, 2005
264 through December 31, 2007, such refunding bonds issued, sold or
265 exchanged by any political subdivision located in a county covered
266 by the Presidential Declaration of Major Disaster for the State of
267 Mississippi (FEMA-1604-DR) dated August 29, 2005, may be issued,
268 sold or exchanged at such price or prices, and accrued interest,
269 as may be determined by any such political subdivision.

270 **SECTION 7.** Section 31-15-25, Mississippi Code of 1972, is
271 amended as follows:

272 31-15-25. Such refunding bonds shall be payable from the
273 same sources of revenue and so far as possible shall be secured in
274 the same manner and by the same covenants and agreements as were
275 the bonds refunded. All provisions of the law under which the
276 bonds refunded were issued, which provide for the security of such
277 bonds and the requirements for fixing rates sufficient to operate
278 the project acquired or improved and to pay principal of and
279 interest on the bonds, shall remain in effect and shall be fully
280 applicable to the refunding bonds issued hereunder. In no event
281 shall taxes be levied for the payment of such bonds, and they
282 shall recite on their face that they are payable only from
283 revenues. However, from and after August 29, 2005, through
284 December 31, 2007, payment of principal and interest on any
285 refunding bonds issued, sold or exchanged pursuant to Sections
286 31-15-21 through 31-15-27 by any county or municipality covered by
287 the Presidential Declaration of Major Disaster for the State of
288 Mississippi (FEMA-1604-DR) dated August 29, 2005, may, in the
289 discretion of the issuing county or municipality, be further
290 secured by the irrevocable pledge of the full faith, credit and
291 resources of the county or municipality, and in such event, the
292 governing body of the county or municipality issuing the refunding
293 bonds, shall annually levy a tax upon all taxable property therein
294 sufficient to pay the principal of and the interest on such
295 refunding bonds as the same matures and accrues.

296 **SECTION 8.** This act shall take effect and be in force from
297 and after its passage.