

By: Representatives Simpson,
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To: Local and Private
Legislation

HOUSE BILL NO. 31

1 AN ACT TO AMEND CHAPTER 50, LAWS OF THE FIRST EXTRAORDINARY
2 SESSION OF 1964, AS LAST AMENDED BY CHAPTER 949, LOCAL AND PRIVATE
3 LAWS OF 2000, TO AUTHORIZE A PUBLIC UTILITY DISTRICT ESTABLISHED
4 TO SERVE A MASTER PLANNED COMMUNITY IN HARRISON COUNTY; TO ACQUIRE
5 SYSTEMS BY LEASE-PURCHASE PURSUANT TO SECTION 31-7-13, MISSISSIPPI
6 CODE OF 1972; TO ACQUIRE CERTAIN EXISTING SYSTEMS; AND FOR RELATED
7 PURPOSES.

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

9 **SECTION 1.** Chapter 50, Laws of the First Extraordinary
10 Session of 1964, as amended by Chapter 890, Local and Private Laws
11 of 1973, as amended by Chapter 973, Local and Private Laws of
12 1974, as amended by Chapter 962, Local and Private Laws of 1977,
13 as amended by Chapter 835, Local and Private Laws of 1984, as
14 amended by Chapter 922, Local and Private Laws of 1987, as amended
15 by Chapter 982, Local and Private Laws of 1999, as amended by
16 Chapter 949, Local and Private Laws of 2000, is amended as
17 follows:

18 Section 1. Any contiguous area situated within the County of
19 Harrison, in the State of Mississippi, and not being situated
20 within the corporate boundaries of any existing municipality of
21 said county, and having no adequate water system, sewer system,
22 garbage collection system, or fire protection facilities service
23 such area, may become incorporated as a water district, as a sewer
24 district, as a garbage collection district, as a fire protection
25 district, as a drainage district, as a recreation district, as a
26 combined water and sewer district, as a combined water, sewer and
27 garbage collection district, as a combined water and fire
28 protection district, as a combined water, sewer, garbage
29 collection, and fire protection district, as a combined water,

30 sewer, garbage collection, fire protection, and drainage district,
31 or as a combined water, sewer, garbage collection, fire
32 protection, drainage, and recreation district, in the following
33 manner:

34 (a) A petition for the incorporation of such a district
35 may be submitted to the board of supervisors of said county,
36 signed by the owner of a parcel of land of at least three thousand
37 five hundred (3,500) acres to be developed as a master planned
38 community or signed by not less than twenty-five (25) owners of
39 real property residing within the boundaries of the proposed
40 district. Such petition shall include (1) a statement of the
41 necessity for the service or services to be supplied by the
42 proposed district; (2) the proposed corporate name for the
43 district; (3) the proposed boundaries of the district; and (4) an
44 estimate of the cost of the acquisition or construction of the
45 facilities to be operated by the district, which estimate,
46 however, shall not serve as a limitation upon the financing of
47 improvements or extensions to the facilities. Such petition shall
48 be signed in person by the petitioners, with their respective
49 residence addresses, and shall be accompanied by a sworn statement
50 of the person or persons circulating the petition, who shall state
51 under oath that he or they witnessed the signature of each
52 petitioner, that each signature is the signature of the person it
53 purports to be, and that, to the best of his or their knowledge,
54 each petitioner was, at the time of signing, an owner of real
55 property within and a resident of the proposed district.

56 (b) Upon the filing of such a petition it shall then be
57 the duty of the board of supervisors of said county to fix a time
58 and place for a public hearing upon the question of the public
59 convenience and necessity of the incorporation of the proposed
60 district. The date fixed for such hearing shall be not more than
61 thirty (30) days after the filing of the petition, and the date of
62 the hearing, the place at which it shall be held, and the purpose

63 of the hearing, shall be set forth in a notice to be signed by the
64 clerk of the board of supervisors of said county and it shall be
65 published in a newspaper having general circulation within such
66 proposed district once a week for at least three (3) consecutive
67 weeks prior to the date of such hearing. The first such
68 publication shall be made not less than twenty-one (21) days prior
69 to the date of such hearing and the last such publication shall be
70 made not more than seven (7) days prior to the date of such
71 hearing. If, at such public hearing, the board of supervisors
72 finds (1) that the public convenience and necessity require the
73 creation of the district, and (2) that the creation of the
74 district is economically sound and desirable, the board of
75 supervisors shall adopt a resolution making the aforesaid findings
76 and declaring its intention to create the district on the
77 specified date. Such resolution shall designate the contemplated
78 and territorial limits of said district, which limits may or may
79 not be the same as the boundaries set forth in the petition.

80 A certified copy of the resolution so adopted shall be
81 published in a newspaper having a general circulation within such
82 proposed district once a week for at least three (3) consecutive
83 weeks prior to the date specified in such resolution as the date
84 upon which such board intends to create such district. The first
85 such publication shall be made not less than twenty-one (21) days
86 prior to the date thus specified, and the last such publication
87 shall be made not more than seven (7) days prior to such date. If
88 twenty percent (20%) of the qualified electors of such proposed
89 district file a written petition with such board of supervisors on
90 or before the date specified aforesaid, protesting against the
91 creation of such district, the board of supervisors shall call an
92 election on the question of the creation of such district. Such
93 election shall be held and conducted by the election commissioners
94 of the county as nearly as may be in accordance with the general
95 laws governing elections, and such election commissioners shall

96 determine which of the qualified electors of such county reside
97 within the proposed district and only such qualified electors as
98 reside within such proposed district shall be entitled to vote in
99 such election. Notice of such election, setting forth the time,
100 place or places, and purpose of such election shall be published
101 by the clerk of the board of supervisors, and such notice shall be
102 published for the time and the manner herein provided for the
103 publication of the aforesaid resolution of intention. The ballots
104 to be prepared for and used at said election shall be in
105 substantially the following form:

106 For creation of _____ district ()

107 Against creation of _____ district ()

108 and voters shall vote by placing a cross mark (x) or a check mark
109 (√) opposite their choice.

110 If no petition requiring an election be filed or if a
111 majority of those voting at an election hereunder vote in favor of
112 the creation of such district, the board of supervisors shall
113 adopt a resolution creating the district as described in the
114 aforesaid resolution of intention.

115 All costs incident to the publication of the aforesaid
116 notices and all other costs incident to the public hearing and
117 election hereunder shall be borne by the parties filing the
118 petition, and the board of supervisors, in its discretion, may
119 require the execution by the parties filing the petition of a cost
120 bond in an amount and with good sureties to guarantee the payment
121 of such costs.

122 Any party having an interest in the subject matter and
123 aggrieved or prejudiced by the findings and adjudication of the
124 board of supervisors may appeal to the circuit court of the county
125 in the manner provided by law for appeals from orders of the board
126 of supervisors; provided, that if no such appeal be taken within a
127 period of fifteen (15) days from and after the date of the
128 adoption of the resolution creating any such district, the

129 creation of such district shall be final and conclusive, and shall
130 not thereafter be subject to attack in any court.

131 Section 2. From and after the date of the adoption of the
132 resolution creating any such district, such district shall be a
133 public corporation in perpetuity under its corporate name and
134 shall, in that name, be a body politic and corporate with power of
135 perpetual succession. The powers of each such district shall be
136 vested in and exercised by a board of commissioners consisting of
137 five (5) members, to be appointed by the board of supervisors.
138 Upon their initial appointment, one (1) of the commissioners shall
139 be appointed for a term of one (1) year; one (1) for a term of two
140 (2) years; one (1) for a term of three (3) years; one (1) for a
141 term of four (4) years; and one (1) for a term of five (5) years;
142 and thereafter, each commissioner shall be appointed and shall
143 hold office for a term of five (5) years. Any vacancy occurring
144 on such a board of commissioners shall be filled by the board of
145 supervisors at any regular meeting of such board of supervisors,
146 which board of supervisors shall have the authority to fill all
147 unexpired terms of any commissioner or commissioners. For any
148 district created pursuant to a petition signed by the owner of a
149 parcel of land of at least three thousand five hundred (3,500)
150 acres to be developed or being developed as a master planned
151 community, as provided in Section 1(a) of this act, any such
152 vacancy may be filled by a person who is not a resident of the
153 district but who has been designated by the owner of such parcel
154 to be developed or being developed as a master planned community.
155 Notwithstanding the appointive authority herein granted to the
156 board of supervisors, its legal and actual responsibilities,
157 authority and function, subsequent to the creation of any such
158 district, shall be specifically limited to said appointive
159 function, and the operation, management, subsequent possible
160 annexation, abolition or dissolution of such district, and all
161 other matters in connection therewith, shall be vested solely and

162 only in said board of commissioners to the specific exclusion of
163 said board of supervisors, and the abolition, dissolution or
164 termination of any such district shall be accomplished only by
165 unanimous resolution of the board of commissioners. Provided,
166 however, that such board of commissioners shall have no power,
167 jurisdiction, or authority to abolish, dissolve or terminate any
168 such district while such district has any outstanding indebtedness
169 of any kind or character.

170 Section 3. Such board of commissioners shall organize by
171 electing one (1) of its members as chairman and another as vice
172 chairman. It shall be the duty of the chairman to preside at all
173 meetings of the board and to act as the chief executive officer of
174 the board and of the district. The vice chairman shall act in the
175 absence or disability of the chairman. Such board also shall
176 elect and fix the compensation of a treasurer who may or may not
177 be a member of the board. It shall be the duty of the treasurer
178 to safely keep all funds of the district. The treasurer shall be
179 required to execute a bond, payable to the district, in a sum and
180 with such surety as shall be fixed and approved by the board of
181 commissioners. Such board shall elect one (1) of its members as
182 secretary. It shall be the duty of the secretary to keep all
183 minutes and records of the board. The board may elect such other
184 officers as they deem necessary and advisable. The terms of all
185 officers of the board shall be for one (1) year from and after
186 date of election and shall run until their respective successors
187 are appointed and qualified.

188 Section 4. Any person who is a resident or nonresident of
189 the district who is designated by the owner of a parcel of land of
190 at least three thousand five hundred (3,500) acres to be developed
191 or being developed as a master planned community and every citizen
192 of any district created pursuant to this act, of good reputation,
193 being the owner of land situated within such district and over
194 twenty-five (25) years of age, and of sound mind and judgment

195 shall be eligible to hold the office of commissioner. Each person
196 appointed as a commissioner, before entering upon the discharge of
197 the duties of his office, shall be required to execute a bond,
198 payable to the State of Mississippi, in the penal sum of Ten
199 Thousand Dollars (\$10,000.00) conditioned that he will faithfully
200 discharge the duties of his office; and each such bond shall be
201 approved by the clerk of the board of supervisors and filed with
202 said clerk. Each commissioner shall take and subscribe to an oath
203 of office before the clerk of the board of supervisors that he
204 will faithfully discharge the duties of the office of
205 commissioner, which oath shall also be filed with said clerk and
206 by him preserved with such official bond. Upon express
207 authorization of the such board of commissioners, duly spread upon
208 the minutes of such district, each commissioner may receive a per
209 diem of not to exceed Forty Dollars (\$40.00) per day for attending
210 each day's meeting of such board of commissioners and for each day
211 spent in attending to the business of such district and, in
212 addition, may receive reimbursement for actual and necessary
213 expenses incurred in the discharge of their official duties.

214 Section 5. Districts created under the provisions of this
215 act shall have the powers enumerated in the resolution of the
216 board of supervisors creating such districts and in any subsequent
217 resolution of the board of supervisors adopted upon the request of
218 the owner of a parcel of land of at least three thousand five
219 hundred (3,500) acres to be developed or being developed as a
220 master planned community for the purpose of adding the powers to
221 conduct and operate a system or systems not enumerated in the
222 initial resolution creating the district. However, these powers
223 shall be limited to the conducting and operating of a water supply
224 system, a sewer system, a garbage collection system, a fire
225 protection system, a drainage system, a recreation system, a
226 combined water and fire protection system, a combined water and
227 sewer system, a combined water, sewer and garbage collection

228 system, a combined water, sewer, garbage collection, and fire
229 protection system, a combined water, sewer, garbage collection,
230 fire protection, and drainage system, or a combined water, sewer,
231 garbage collection, fire protection, drainage, and recreation
232 system. To carry out such purpose or purposes, such districts
233 shall have the power and authority to acquire, construct,
234 reconstruct, improve, better, extend, consolidate, maintain, and
235 operate such system or systems and to contract with any
236 municipality, person, firm, or corporation for a supply of water
237 or for services required incident to the operation and maintenance
238 of such a system. As long as any such district continues to
239 furnish any of the services which it was authorized to furnish in
240 and by the resolution by which it was created, it shall be the
241 sole public corporation empowered to furnish such services within
242 such district. The board of commissioners shall have the power to
243 make regulations to secure the general health of those residing in
244 such district; to prevent, remove and abate nuisances; to regulate
245 or prohibit the construction of privy-vaults and cesspools, and to
246 regulate or suppress those already constructed; to compel,
247 regulate and require mandatory connection of all property,
248 residences and businesses with its sewers; and to require
249 mandatory connection of all property, residences and businesses
250 into the water system of the district.

251 Section 6. Any area adjacent to any district created
252 pursuant to this act and situated within Harrison County,
253 Mississippi, and not being situated within the corporate
254 boundaries of any existing municipality of said county may be
255 annexed to and become a part of such district by the same
256 procedure as is prescribed in Section 1 of this act for the
257 original creation of such district. Additionally, any contiguous
258 lands in an adjoining county, but not amounting to twenty percent
259 (20%) or more of the total land area included in a district, may
260 be served by a district created pursuant to this act. None of the

261 territory lying within any such district shall be subject to
262 annexation by any city, town, or village unless all of the
263 territory of such district be so annexed, in which event such
264 city, town, or village shall assume the operation and maintenance
265 of the facilities of such district and shall assume obligations of
266 such district with respect to the payment of any outstanding bonds
267 of such district, and all other contractual obligations of such
268 district.

269 Section 7. Any district created pursuant to the provisions
270 of this act shall be vested with all the powers necessary and
271 requisite for the accomplishment of the purpose for which such
272 district is created, capable of being delegated by the
273 Legislature. No enumeration of powers herein shall be construed
274 to impair or limit any general grant of power herein contained nor
275 to limit any such grant to a power or powers of the same class or
276 classes as those enumerated. Such districts are empowered to do
277 all acts necessary, proper, or convenient in the exercise of the
278 powers granted under this act.

279 Section 8. Any district created pursuant to the provisions
280 of this act, acting by and through the board of commissioners of
281 such district, its governing authority, shall have the following,
282 among other, powers:

283 (a) To sue and be sued.

284 (b) To acquire by purchase, gift, devise, lease, or
285 exercise of the power of eminent domain or other mode of
286 acquisition, hold and dispose of real and personal property of
287 every kind within or without the district on behalf of the
288 district.

289 (c) To make and enter into contracts, conveyances,
290 mortgages, deeds of trust, bonds, leases, or contracts for
291 financial advisory services.

292 (d) To incur debts, to borrow money, to issue
293 negotiable bonds, and to provide for the rights of the holders
294 thereof.

295 (e) To fix, maintain, and collect, and revise rates and
296 charges for the services rendered by or through the facilities of
297 such district, which rates and charges shall not be subject to
298 review or regulation by any agency, board, or commission of the
299 State of Mississippi.

300 (f) To pledge all or any part of its revenues to the
301 payment of its obligations.

302 (g) To make such covenants in connection with the
303 issuance of bonds or to secure the payment of bonds that a private
304 business corporation can make under the general laws of the state.

305 (h) To use any right-of-way, easement, or other similar
306 property or property rights necessary or convenient in connection
307 with the acquisition, improvement, operation, or maintenance of
308 the facilities of such district, held by the state or any
309 political subdivision thereof; provided that the governing body of
310 such political subdivision shall consent to such use.

311 (i) Such districts shall have the same status as
312 counties and municipalities concerning payment of sales taxes on
313 purchases made by such districts for district purposes.

314 (j) To adopt an official seal and alter the same at
315 pleasure.

316 (k) To maintain an office or offices at such place or
317 places within the district as it may determine.

318 (l) To make and enforce, and from time to time amend
319 and repeal, bylaws and rules and regulations for the management of
320 its business and affairs and for the use, maintenance and
321 operation of any of its facilities and any other of its
322 properties.

323 (m) To apply and contract for and to accept any grants,
324 grants-in-aid or gifts or loans or appropriations of funds or

325 property or financial or other aid in any form from the United
326 States or any instrumentality thereof, or from the state or any
327 instrumentality thereof, or from any source, public or private,
328 and to comply with and make agreements with respect to the terms
329 and conditions thereof, subject to any agreements with
330 bondholders.

331 (n) To invest any moneys of the district, including
332 proceeds from the sale of any bonds, notwithstanding any law to
333 the contrary, but subject to any agreements with bondholders, on
334 such terms and in such manner as the district deems proper.

335 (o) To enter on any lands, waters or premises for the
336 purpose of making surveys, borings, soundings and examinations for
337 the purposes of the district.

338 (p) To acquire by purchase any existing works and
339 facilities providing services for which it was created, and any
340 lands, rights, easements, franchises and other property, real and
341 personal, necessary to the completion and operation of such
342 system, upon such terms and conditions as may be agreed upon and,
343 if necessary as part of the purchase price, to assume the payment
344 of outstanding notes, bonds or other obligations upon such system.

345 (q) To extend its services to areas beyond but within
346 one (1) mile of the boundaries of such district; however, no such
347 extension shall be made to areas already occupied by another
348 corporate agency rendering the same service so long as such
349 corporate agency desires to continue to serve such areas. Areas
350 outside of the district desiring to be served which are beyond the
351 one-mile limit must be brought into the district by annexation
352 proceedings.

353 (r) To borrow funds for interim financing subject to
354 receipt of funds.

355 Section 9. (1) Any district created under this act shall
356 have the power to provide funds for the purpose of constructing,
357 acquiring, reconstructing, improving, bettering, repairing, or

358 extending the facilities of such district, or for the purpose of
359 buying, leasing, or otherwise acquiring the assets and facilities
360 of any nonprofit, nonshare corporation chartered under Title 79,
361 Chapter 11, or any other utility district, by the issuance of
362 revenue bonds. Except as hereinafter provided, such bonds shall
363 be payable solely and only from the revenues of such facilities,
364 and such revenues may be pledged from a portion of the service
365 area of the district to the support of debt service for a specific
366 series or issue of bonds if such apportionment is economically
367 feasible.

368 (2) Any such district shall have the power to provide funds,
369 in addition to or in conjunction with the funds authorized in
370 subsection (1) of this section, for water supply or pollution
371 abatement projects or for projects for sewer systems, garbage
372 collection systems, fire protection systems, drainage systems, or
373 recreation systems by issuing special improvement pollution
374 abatement bonds, special improvement water bonds, special
375 improvement sewer bonds, special improvement garbage collection
376 bonds, special improvement fire projection bonds, special
377 improvement drainage bonds, special improvement recreation bonds,
378 or combinations of special improvement water and sewer bonds,
379 special improvement water, sewer and garbage collection bonds,
380 special improvement water, sewer, garbage collection, and fire
381 protection bonds, special improvement water, sewer, garbage
382 collection, fire protection, and drainage bonds, or special
383 improvement water, sewer, garbage collection, fire protection,
384 drainage, and recreation bonds, if the board of supervisors
385 authorizes making assessments against benefited properties as
386 outlined in Section 14 of this act. Except as hereinafter
387 provided, such bonds shall be payable solely and only from charges
388 assessed to benefited properties as outlined in Section 14 of this
389 act.

390 (3) If the board of supervisors of the county should levy a
391 special tax, as provided in Section 13 of this act, and consent to
392 the pledge of any part thereof, then that part of such tax levy
393 may be pledged in addition to the revenues of such facilities to
394 the payment of such bonds, and upon the pledge thereof such part
395 of the levy so pledged shall not be reduced while such bonds are
396 outstanding and unpaid. If the district should provide for
397 special improvement bonds, the funds received from the charges
398 assessed to the properties being benefited, as provided in Section
399 14 of this act, shall be pledged, separately or in conjunction
400 with the revenues and the avails of taxes described above, for
401 payment of such bonds, and such assessments shall not be reduced
402 while such bonds are outstanding and unpaid.

403 Section 10. (1) The board of commissioners of any district
404 created under this act may issue bonds of the district by
405 resolution spread upon the minutes of the board. Bonds may be
406 issued from time to time without an election being held upon the
407 question of their issuance unless the board of commissioners of
408 the district is presented with a petition for an election upon the
409 question of their issuance signed by twenty percent (20%) or two
410 hundred fifty (250), whichever is the lesser, of the qualified
411 electors residing within the district. The resolution authorizing
412 any future issue of bonds shall be published in a manner similar
413 to the publication outlined in paragraph (b) of Section 1 of this
414 act. If an election is required, it shall be held in substantial
415 accordance with the election outlined in paragraph (b) of Section
416 1 of this act. The cost of this election shall be borne by the
417 district.

418 (2) Except those issued to the state or any instrumentality
419 thereof, or the United States Government, or any instrumentality
420 thereof, all bonds shall be lithographed or engraved and printed
421 in two (2) or more colors to prevent counterfeiting. They shall
422 be in denominations of not less than One Thousand Dollars

423 (\$1,000.00) nor more than Five Thousand Dollars (\$5,000.00), and
424 may be registered as issued, and shall be numbered in a regular
425 series from "one (1)" upward. Each such bond shall specify on its
426 face the purpose for which it was issued, the total amount
427 authorized to be issued, the interest on the bond, that it is
428 payable to the bearer and that the interest to accrue thereon is
429 evidenced by proper coupons attached thereto.

430 (3) Such bonds shall contain such covenants and provisions;
431 shall be executed; shall be in such form, format, type,
432 denomination or denominations; shall be payable as to principal
433 and interest, at such place or places; and shall mature at such
434 time or times, all as shall be determined by the board of
435 commissioners and set forth in the resolution pursuant to which
436 the bonds shall be issued. The date of maturity of the bonds
437 shall not exceed forty (40) years from the date of the bond,
438 except that on special improvement pollution abatement bonds,
439 special improvement water bonds, or special improvement water and
440 sewer bonds the date of maturity shall not exceed twenty-five (25)
441 years from their date.

442 (4) All bonds shall bear interest at such rate or rates not
443 to exceed a greater net interest cost to maturity than that
444 allowed in Section 75-17-103, Mississippi Code of 1972. No bond
445 shall bear more than one (1) rate of interest; each bond shall
446 bear interest from its date to its stated maturity date at the
447 interest rate specified in the bid; and all bonds of the same
448 maturity shall bear the same rate of interest. All interest
449 accruing on the bonds so issued shall be payable semiannually or
450 annually, except that the first interest coupon attached to any
451 such bonds may be for any period not exceeding one (1) year. No
452 interest payment shall be evidenced by more than one (1) coupon,
453 and supplemental coupons, cancelled coupons and zero interest
454 coupons will not be permitted. No interest coupon shall vary more
455 than twenty-five percent (25%) in interest rate from any other

456 interest coupon in the same bond issue, and the interest rate on
457 any one (1) interest coupon shall not exceed that allowed in
458 Section 75-17-103, Mississippi Code of 1972.

459 (5) Such bonds shall be signed by the chairman and treasurer
460 of the commission with the seal of the commission affixed thereto.
461 However, the coupons may bear only the facsimile signatures of
462 such chairman and treasurer.

463 (6) Any provisions of the general laws to the contrary
464 notwithstanding, any bonds and interest coupons issued pursuant to
465 the authority of this act shall be securities within the meaning
466 of Article 8 of the Uniform Commercial Code, being Section
467 75-8-101 et seq., Mississippi Code of 1972.

468 (7) Notwithstanding the foregoing provisions of this
469 section, bonds referred to in this section may be issued pursuant
470 to the supplemental powers and authorizations conferred by the
471 provisions of the Registered Bond Act, being Sections 31-21-1
472 through 31-21-7, Mississippi Code of 1972.

473 Section 11. The bonds issued under this act shall be sold
474 upon sealed bids in the manner provided for in Section 31-19-25,
475 Mississippi Code of 1972, in conformity with the provisions of
476 Sections 19-5-151 through 19-5-207, Mississippi Code of 1972.
477 However, bonds may be sold to the United States of America or an
478 agency or instrumentality thereof at private sale.

479 Each interest rate specified in any bid must be in a multiple
480 of one-tenth of one percent (1/10 of 1%) or in a multiple of
481 one-eighth of one percent (1/8 of 1%), and a zero rate of interest
482 cannot be named. Any premium must be paid in bank funds as a part
483 of the purchase price, and bids shall not contemplate the
484 cancellation of any interest coupon or the waiver of interest or
485 other concession by the bidder as a substitute for bank funds.

486 Any bonds issued under the provisions of this act may be
487 refunded in like manner as revenue bonds of municipalities shall
488 be refunded.

489 Any bonds issued under the provisions hereof shall be
490 submitted to validation under the provisions of Sections 31-13-1
491 through 31-13-11, Mississippi Code of 1972.

492 Section 12. There is hereby created a statutory lien of the
493 nature of a mortgage lien upon any system or systems acquired or
494 constructed in accordance with this act, including all extensions
495 and improvements thereof or combinations thereof subsequently
496 made, which lien shall be in favor of the holder or holders of any
497 bonds issued pursuant hereto, and all such property shall remain
498 subject to such statutory lien until the payment in full of the
499 principal of and interest on such bonds. Any holder of such bonds
500 or any of the coupons representing interest thereon may, either at
501 law or in equity, by suit, action, mandamus or other proceeding,
502 in any court of competent jurisdiction, protect and enforce such
503 statutory lien and compel the performance of all duties required
504 by those sections, including the making and collection of
505 sufficient rates for the service or services, the proper
506 accounting thereof, and the performance of any duties required by
507 covenants with the holders of any bonds issued in accordance with
508 this act.

509 If any default is made in the payment of the principal of or
510 interest on such bonds, any court having jurisdiction of the
511 action may appoint a receiver to administer the district and the
512 system or systems with power to charge and collect rates
513 sufficient to provide for the payment of all bonds and obligations
514 outstanding against the system or systems, and for payment of
515 operating expenses, and to apply the income and revenues thereof
516 in conformity with the provisions hereof.

517 Section 13. (1) The board of supervisors of the county in
518 which any district created under this act exists may levy a
519 special tax, not to exceed four (4) mills annually, on all of the
520 taxable property in such district, the avails of which shall be
521 paid over to the board of commissioners of the district to be used

522 either for the operation, support and maintenance of the district
523 or for the retirement of any bonds issued by the district, or for
524 both.

525 (2) The proceeds derived from two (2) mills of the levy
526 authorized in this section shall be included in the ten percent
527 (10%) increase limitation under Section 27-39-321, Mississippi
528 Code of 1972, and the proceeds derived from any additional millage
529 levied under this section in excess of two (2) mills shall be
530 excluded from such limitation for the first year of such
531 additional levy and shall be included within such limitation in
532 any year thereafter.

533 Section 14. (1) Funds for debt service for special
534 improvement pollution abatement bonds, special improvement water
535 bonds, or special improvement water and sewer bonds, special
536 improvement water, sewer and garbage collection bonds, special
537 improvement water, sewer, garbage collection, and fire protection
538 bonds, special improvement water, sewer, garbage collection, fire
539 protection, and drainage bonds, or special improvement water,
540 sewer, garbage collection, fire protection, drainage, and
541 recreation bonds issued in lieu of or in conjunction with revenue
542 bonds and/or tax-supported bonds shall be provided by charges upon
543 the properties benefited according to procedures set forth in this
544 section.

545 (2) So long as any special improvement bond authorized by
546 this act remains outstanding, it shall be the duty of the board of
547 supervisors, at the time annual county tax levies are made, to
548 levy such assessments as are certified to them by the district as
549 being due and payable at a stated time. It shall be the duty of
550 the tax collector of the county in which the district lies to
551 collect such charges and pay the funds collected to the board of
552 commissioners of the district for payment of interest and
553 principal and the retirement of bonds issued by the district in
554 accordance with the maturities schedule pertaining thereto.

555 (3) One of the following procedures may be utilized in
556 providing funds as authorized by this section:

557 (a) Funds for debt service may be provided by charges
558 assessed against the property abutting upon the sewer, or abutting
559 upon the railroad and/or utility right-of-way, street, road,
560 highway, easement or alley in which such sewer mains or water
561 mains are installed according to the frontage thereof.

562 The board of commissioners of the district, after giving
563 notice and hearing protests in the manner prescribed by Sections
564 21-41-5 and 21-41-7, Mississippi Code of 1972, shall by resolution
565 spread upon its minutes define the services to be offered and the
566 entire area to be benefited by each improvement. Each such
567 improvement may be designated as a project or all such
568 improvements may be designated as one (1) project. However, if
569 forty percent (40%) of the property owners or the owners of more
570 than forty percent (40%) of the front footage of the property
571 involved and actually residing on property owned by them and
572 included within that part of any street, avenue, etc., ordered to
573 be specially improved, or otherwise actually occupying property
574 owned by them and included within that area designated as a
575 project, file a protest, then the improvement shall not be made
576 and the assessment shall not be made.

577 The resolution shall direct that the cost to be assessed
578 against each lot or parcel of land shall be determined by dividing
579 the entire assessable cost of the project by the total number of
580 front feet fronting on the street, easement or other right-of-way
581 in which all of the mains embraced within the project are
582 installed and multiplying the quotient by the total number of
583 front feet in any particular lot or parcel of land fronting on the
584 street, easement or other right-of-way in which sewer mains or
585 water mains are installed. The result thereof shall be delivered
586 by the board of commissioners of the district to the county board
587 of supervisors as the amount of special tax to be assessed against

588 each lot or piece of ground for the owner's part of the total cost
589 of the improvements.

590 The resolution, in the discretion of the board of
591 commissioners of the district, may provide for the district to pay
592 the assessment against any property abutting a sewer or water
593 improvement, if the property which assessment is being paid by the
594 district is occupied by a contributor or consumer connected to the
595 sewer or water system who is or will be paying service charges at
596 the time the assessment roll maintained by the district is
597 confirmed. However, such payment shall not exceed an amount equal
598 to that assessed against any one hundred twenty-five (125) feet of
599 frontage of abutting property in a project.

600 The resolution may, in the discretion of the board of
601 commissioners of the district, provide for the district to pay the
602 assessment against any property abutting a section of sewer main
603 or water main designated as necessary and essential to the overall
604 operation of such system or systems. However, no service shall be
605 provided to any such abutting property until and unless all such
606 payments made by the district are repaid to the district by the
607 owners of such benefited property.

608 (b) Funds for debt service may be provided by charges
609 assessed against a lot or block in a recorded subdivision of land
610 or by other appropriately designated parcel or tract of land in
611 accord with the following procedure:

612 The board of commissioners of the district, after giving
613 notice and hearing protests in the manner prescribed by Sections
614 21-41-5 and 21-41-7, Mississippi Code of 1972, shall by resolution
615 spread upon its minutes define the services to be offered and the
616 entire area to be benefited by each improvement. Each such
617 improvement may be designated as a project or all such
618 improvements may be designated as one (1) project. However, if
619 forty percent (40%) of the property owners or the owners of more
620 than forty percent (40%) of the front footage of the property

621 involved and actually residing on property owned by them and
622 included within that part of any street, avenue, etc., ordered to
623 be specially improved, or otherwise actually occupying property
624 owned by them and included within that area designated as a
625 project, file a protest, then the improvement shall not be made
626 and the assessment shall not be made.

627 Charges shall be assessed in accordance with the provisions
628 of Sections 21-41-9 through 21-41-21 and 21-41-25 through
629 21-41-39, Mississippi Code of 1972.

630 The resolution providing for assessments under the provisions
631 of paragraph (3)(b) of this section, in the discretion of the
632 board of commissioners of the district, may provide for the
633 district to pay the assessment against any lot or parcel of ground
634 not exceeding one (1) acre in size, if such property is occupied
635 by a contributor or consumer connected to the sewer or water
636 system who is or will be paying service charges at the time the
637 assessment roll maintained by the district is confirmed.

638 The resolution providing for assessment of benefited
639 properties under this procedure shall provide for appropriate
640 payment to debt service accounts by property owners not included
641 in the original assessment roll but benefited by facilities
642 installed with funds provided by such assessments at or prior to
643 the time at which a nonassessed but benefited property is actually
644 served by those facilities.

645 Section 15. No holder or holders of any bonds issued under
646 this act shall ever have the right to compel the levy of any tax
647 to pay the bonds or the interest thereon except where the board of
648 supervisors of the county has made a levy of a special tax and
649 consented to the pledge thereof, all as is provided in Sections 9
650 and 13 of this act.

651 Section 16. The board of commissioners of the district
652 issuing bonds under this act shall prescribe and collect
653 reasonable rates, fees, tolls or charges for the services,

654 facilities and commodities of its system or systems; shall
655 prescribe penalties for the nonpayments thereof; and shall revise
656 such rates, fees, tolls or charges from time to time whenever
657 necessary to insure the economic operation of such system or
658 systems. The rates, fees, tolls or charges prescribed shall be,
659 as nearly as possible, such as will always produce revenue at
660 least sufficient to: (a) provide for all expenses of operation
661 and maintenance of the system or systems, including reserves
662 therefor, (b) pay when due all bonds and interest thereon for the
663 payment of which such revenues are or have been pledged, charged
664 or otherwise encumbered, including reserves therefor, and (c)
665 provide funds for reasonable expansions, extensions and
666 improvements of service.

667 Section 17. The property and revenue of such district shall
668 be exempt from all state, county and municipal taxation. Bonds
669 issued under this act and the income from the bonds shall be
670 exempt from all state, county and municipal taxation, except
671 inheritance, transfer and estate taxes, and it may be so stated on
672 the face of the bonds.

673 Section 18. All construction contracts by the district where
674 the amount of the contract exceeds Ten Thousand Dollars
675 (\$10,000.00) shall, and construction contracts of less than Ten
676 Thousand Dollars (\$10,000.00) may, be made upon at least three (3)
677 weeks' public notice. Such notice shall be published once a week
678 for at least three (3) consecutive weeks in at least one (1)
679 newspaper published in such county or having general circulation
680 therein. The first publication of such notice shall be made not
681 less than twenty-one (21) days prior to the date fixed in such
682 notice for the receipt of bids, and the last publication shall be
683 made not more than seven (7) days prior to such date. The notice
684 shall state the thing to be done and invite sealed proposals, to
685 be filed with the secretary of the district to do the work. In
686 all such cases, before the notice is published, plans and

687 specifications for the work shall be prepared by a registered
688 professional engineer and shall be filed with the secretary of the
689 district and remain there. The board of commissioners of the
690 district shall award the contract to the lowest responsible bidder
691 who will comply with the terms imposed by the board and enter into
692 bond with sufficient sureties to be approved by the board in such
693 penalty as may be fixed by the board. However, in no case shall
694 such bond be less than the contract price, conditioned for the
695 prompt, proper and efficient performance of the contract.

696 Contracts of less than Ten Thousand Dollars (\$10,000.00) may be
697 negotiated; however, the board of commissioners shall invite and
698 receive written proposals for the work from at least three (3)
699 contractors regularly engaged in the type of work involved.

700 Section 19. Any district created under this act shall be
701 considered a "local governmental unit" pursuant to Section
702 17-13-5, Mississippi Code of 1972, and, as such, may enter into
703 interlocal cooperation agreements as set forth in Sections 17-13-1
704 through 17-13-17, Mississippi Code of 1972. The board of
705 commissioners of any district created under this act shall have
706 the authority to enter into cooperative agreements with the state
707 or federal government, or both; to obtain financial assistance in
708 the form of loans or grants as may be available from the state or
709 federal government, or both; and to execute and deliver at private
710 sale notes or bonds as evidence of such indebtedness in the form
711 and subject to the terms and conditions as may be imposed by the
712 state or federal government, or both; and to pledge the income and
713 revenues of the district, or the income and revenues from any part
714 of the area embraced in the district, in payment thereof. It is
715 the purpose and intention of this section to authorize districts
716 to do any and all things necessary to secure the financial aid or
717 cooperation of the state or federal government, or both, in the
718 planning, construction, maintenance or operation of project
719 facilities.

720 Section 20. This act shall be deemed to be full and complete
721 authority for the creation of such districts and for the issuance
722 of such bonds. No proceedings shall be required for the creation
723 of such districts or for the issuance of such bonds other than
724 those provided for and required herein. All the necessary powers
725 to be exercised by the board of supervisors of such county and by
726 the board of commissioners of any such district, in order to carry
727 out the provisions of this act, are hereby conferred.

728 Section 21. If any provisions of this act shall be held to
729 be invalid by any court of competent jurisdiction, the remainder
730 of this act shall not be affected thereby.

731 Section 22. In addition to the powers granted under the
732 foregoing provisions of this act and notwithstanding any laws to
733 the contrary, the board of commissioners of such district serving
734 a master planned community as defined in Section 1(a) of this act,
735 shall have the following additional powers:

736 (a) To acquire all or part of such facilities and
737 systems under the lease-purchase provisions of Section 37-7-13,
738 Mississippi Code of 1972; such facilities and systems, and any
739 parts thereof, shall be construed to be "equipment" for
740 lease-purchase acquisitions under Section 37-7-13, Mississippi
741 Code of 1972, and may be deemed by such district as personal
742 property detached from the real property until the purchase is
743 consummated under such lease-purchase agreement; bids requirements
744 for such lease-purchase agreements may include requirements for
745 vendor financing of the lease-purchase and service fees for
746 operations, maintenance, bill collection and administration of all
747 or any part of such facilities and systems, and such costs of
748 financing operations, maintenance, bill collection and
749 administration may be considered by the district in determining
750 the lowest and best bid for such lease-purchase agreement; the
751 developer of the master planned community may provide collateral
752 security for such lease-purchase agreements; and

753 (b) To construe "existing works and facilities" under
754 Section 8(p) of this act to include all or part of such facilities
755 and systems newly constructed by design-build contracts and to
756 acquire such existing works and facilities by contracts negotiated
757 by such districts; such design-build contracts shall be excepted
758 from the bidding requirements of this act and of Section 31-7-13,
759 Mississippi Code of 1972, provided that such district shall not be
760 obligated to pay for acquisition of such existing facilities and
761 systems until the district's engineer inspects and approves such
762 facilities and systems as ready for operation in compliance with
763 the district's permits; the developer of the master planned
764 community may provide collateral security for such contracts; such
765 public utility district may contract with the developer of the
766 master planned community to provide such facilities and systems
767 under such design-build contracts, provided that the purchase
768 price shall be limited to the developer's costs; such design-build
769 contracts may include requirements for vendor financing of the
770 contract and service fees for operations, maintenance, bill
771 collection and administration of all or any part of such
772 facilities and systems.

773 **SECTION 2.** This act shall take effect and be in force from
774 and after its passage.