

By: Senator(s) Gollott, Hewes,
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To: Local and Private;
Finance

SENATE BILL NO. 2023

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 THAT SERVES A
4 MASTER PLANNED COMMUNITY IN HARRISON COUNTY, MISSISSIPPI, TO
5 ACQUIRE ALL OR A PART OF ITS WORKS OR FACILITIES PURSUANT TO
6 LEASE-PURCHASE TRANSACTIONS OR DESIGN-BUILD CONTRACTS; TO PROVIDE
7 THE MANNER IN WHICH SUCH LEASE-PURCHASE AGREEMENTS MAY BE ENTERED
8 INTO; TO PROVIDE THAT ACQUISITIONS MADE PURSUANT TO THESE
9 PROVISIONS SHALL BE EXEMPT FROM THE PROVISIONS OF SECTION 31-7-13,
10 MISSISSIPPI CODE OF 1972; AND FOR RELATED PURPOSES.

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

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

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

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

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

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

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

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

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

109 For creation of _____ district ()

110 Against creation of _____ district ()

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

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

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

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

131 adoption of the resolution creating any such district, the
132 creation of such district shall be final and conclusive, and shall
133 not thereafter be subject to attack in any court.

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

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

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

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

197 twenty-five (25) years of age, and of sound mind and judgment
198 shall be eligible to hold the office of commissioner. Each person
199 appointed as a commissioner, before entering upon the discharge of
200 the duties of his office, shall be required to execute a bond,
201 payable to the State of Mississippi, in the penal sum of Ten
202 Thousand Dollars (\$10,000.00) conditioned that he will faithfully
203 discharge the duties of his office; and each such bond shall be
204 approved by the clerk of the board of supervisors and filed with
205 said clerk. Each commissioner shall take and subscribe to an oath
206 of office before the clerk of the board of supervisors that he
207 will faithfully discharge the duties of the office of
208 commissioner, which oath shall also be filed with said clerk and
209 by him preserved with such official bond. Upon express
210 authorization of the such board of commissioners, duly spread upon
211 the minutes of such district, each commissioner may receive a per
212 diem of not to exceed Forty Dollars (\$40.00) per day for attending
213 each day's meeting of such board of commissioners and for each day
214 spent in attending to the business of such district and, in
215 addition, may receive reimbursement for actual and necessary
216 expenses incurred in the discharge of their official duties.

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

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

254 Section 6. Any area adjacent to any district created
255 pursuant to this act and situated within Harrison County,
256 Mississippi, and not being situated within the corporate
257 boundaries of any existing municipality of said county may be
258 annexed to and become a part of such district by the same
259 procedure as is prescribed in Section 1 of this act for the
260 original creation of such district. Additionally, any contiguous
261 lands in an adjoining county, but not amounting to twenty percent
262 (20%) or more of the total land area included in a district, may

263 be served by a district created pursuant to this act. None of the
264 territory lying within any such district shall be subject to
265 annexation by any city, town, or village unless all of the
266 territory of such district be so annexed, in which event such
267 city, town, or village shall assume the operation and maintenance
268 of the facilities of such district and shall assume obligations of
269 such district with respect to the payment of any outstanding bonds
270 of such district, and all other contractual obligations of such
271 district.

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

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

286 (a) To sue and be sued.

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

292 (c) To make and enter into contracts, conveyances,
293 mortgages, deeds of trust, bonds, leases, or contracts for
294 financial advisory services.

295 (d) To incur debts, to borrow money, to issue
296 negotiable bonds, and to provide for the rights of the holders
297 thereof.

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

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

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

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

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

317 (j) To adopt an official seal and alter the same at
318 pleasure.

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

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

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

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

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

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

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

348 (q) To acquire works and facilities in the manner
349 authorized in Section 19 of this act.

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

358 (s) To borrow funds for interim financing subject to
359 receipt of funds.

360 Section 9. (1) Any district created under this act shall
361 have the power to provide funds for the purpose of constructing,
362 acquiring, reconstructing, improving, bettering, repairing, or
363 extending the facilities of such district, or for the purpose of
364 buying, leasing, or otherwise acquiring the assets and facilities
365 of any nonprofit, nonshare corporation chartered under Title 79,
366 Chapter 11, or any other utility district, by the issuance of
367 revenue bonds. Except as hereinafter provided, such bonds shall
368 be payable solely and only from the revenues of such facilities,
369 and such revenues may be pledged from a portion of the service
370 area of the district to the support of debt service for a specific
371 series or issue of bonds if such apportionment is economically
372 feasible.

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

393 assessed to benefited properties as outlined in Section 14 of this
394 act.

395 (3) If the board of supervisors of the county should levy a
396 special tax, as provided in Section 13 of this act, and consent to
397 the pledge of any part thereof, then that part of such tax levy
398 may be pledged in addition to the revenues of such facilities to
399 the payment of such bonds, and upon the pledge thereof such part
400 of the levy so pledged shall not be reduced while such bonds are
401 outstanding and unpaid. If the district should provide for
402 special improvement bonds, the funds received from the charges
403 assessed to the properties being benefited, as provided in Section
404 14 of this act, shall be pledged, separately or in conjunction
405 with the revenues and the avails of taxes described above, for
406 payment of such bonds, and such assessments shall not be reduced
407 while such bonds are outstanding and unpaid.

408 Section 10. (1) The board of commissioners of any district
409 created under this act may issue bonds of the district by
410 resolution spread upon the minutes of the board. Bonds may be
411 issued from time to time without an election being held upon the
412 question of their issuance unless the board of commissioners of
413 the district is presented with a petition for an election upon the
414 question of their issuance signed by twenty percent (20%) or two
415 hundred fifty (250), whichever is the lesser, of the qualified
416 electors residing within the district. The resolution authorizing
417 any future issue of bonds shall be published in a manner similar
418 to the publication outlined in paragraph (b) of Section 1 of this
419 act. If an election is required, it shall be held in substantial
420 accordance with the election outlined in paragraph (b) of Section
421 1 of this act. The cost of this election shall be borne by the
422 district.

423 (2) Except those issued to the state or any instrumentality
424 thereof, or the United States Government, or any instrumentality
425 thereof, all bonds shall be lithographed or engraved and printed

426 in two (2) or more colors to prevent counterfeiting. They shall
427 be in denominations of not less than One Thousand Dollars
428 (\$1,000.00) nor more than Five Thousand Dollars (\$5,000.00), and
429 may be registered as issued, and shall be numbered in a regular
430 series from "one (1)" upward. Each such bond shall specify on its
431 face the purpose for which it was issued, the total amount
432 authorized to be issued, the interest on the bond, that it is
433 payable to the bearer and that the interest to accrue thereon is
434 evidenced by proper coupons attached thereto.

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

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

459 coupons will not be permitted. No interest coupon shall vary more
460 than twenty-five percent (25%) in interest rate from any other
461 interest coupon in the same bond issue, and the interest rate on
462 any one (1) interest coupon shall not exceed that allowed in
463 Section 75-17-103, Mississippi Code of 1972.

464 (5) Such bonds shall be signed by the chairman and treasurer
465 of the commission with the seal of the commission affixed thereto.
466 However, the coupons may bear only the facsimile signatures of
467 such chairman and treasurer.

468 (6) Any provisions of the general laws to the contrary
469 notwithstanding, any bonds and interest coupons issued pursuant to
470 the authority of this act shall be securities within the meaning
471 of Article 8 of the Uniform Commercial Code, being Section
472 75-8-101 et seq., Mississippi Code of 1972.

473 (7) Notwithstanding the foregoing provisions of this
474 section, bonds referred to in this section may be issued pursuant
475 to the supplemental powers and authorizations conferred by the
476 provisions of the Registered Bond Act, being Sections 31-21-1
477 through 31-21-7, Mississippi Code of 1972.

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

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

491 Any bonds issued under the provisions of this act may be
492 refunded in like manner as revenue bonds of municipalities shall
493 be refunded.

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

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

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

522 Section 13. (1) The board of supervisors of the county in
523 which any district created under this act exists may levy a

524 special tax, not to exceed four (4) mills annually, on all of the
525 taxable property in such district, the avails of which shall be
526 paid over to the board of commissioners of the district to be used
527 either for the operation, support and maintenance of the district
528 or for the retirement of any bonds issued by the district, or for
529 both.

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

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

550 (2) So long as any special improvement bond authorized by
551 this act remains outstanding, it shall be the duty of the board of
552 supervisors, at the time annual county tax levies are made, to
553 levy such assessments as are certified to them by the district as
554 being due and payable at a stated time. It shall be the duty of
555 the tax collector of the county in which the district lies to
556 collect such charges and pay the funds collected to the board of

557 commissioners of the district for payment of interest and
558 principal and the retirement of bonds issued by the district in
559 accordance with the maturities schedule pertaining thereto.

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

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

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

582 The resolution shall direct that the cost to be assessed
583 against each lot or parcel of land shall be determined by dividing
584 the entire assessable cost of the project by the total number of
585 front feet fronting on the street, easement or other right-of-way
586 in which all of the mains embraced within the project are
587 installed and multiplying the quotient by the total number of
588 front feet in any particular lot or parcel of land fronting on the
589 street, easement or other right-of-way in which sewer mains or

590 water mains are installed. The result thereof shall be delivered
591 by the board of commissioners of the district to the county board
592 of supervisors as the amount of special tax to be assessed against
593 each lot or piece of ground for the owner's part of the total cost
594 of the improvements.

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

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

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

617 The board of commissioners of the district, after giving
618 notice and hearing protests in the manner prescribed by Sections
619 21-41-5 and 21-41-7, Mississippi Code of 1972, shall by resolution
620 spread upon its minutes define the services to be offered and the
621 entire area to be benefited by each improvement. Each such
622 improvement may be designated as a project or all such

623 improvements may be designated as one (1) project. However, if
624 forty percent (40%) of the property owners or the owners of more
625 than forty percent (40%) of the front footage of the property
626 involved and actually residing on property owned by them and
627 included within that part of any street, avenue, etc., ordered to
628 be specially improved, or otherwise actually occupying property
629 owned by them and included within that area designated as a
630 project, file a protest, then the improvement shall not be made
631 and the assessment shall not be made.

632 Charges shall be assessed in accordance with the provisions
633 of Sections 21-41-9 through 21-41-21 and 21-41-25 through
634 21-41-39, Mississippi Code of 1972.

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

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

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

656 Section 16. The board of commissioners of the district
657 issuing bonds under this act shall prescribe and collect
658 reasonable rates, fees, tolls or charges for the services,
659 facilities and commodities of its system or systems; shall
660 prescribe penalties for the nonpayments thereof; and shall revise
661 such rates, fees, tolls or charges from time to time whenever
662 necessary to insure the economic operation of such system or
663 systems. The rates, fees, tolls or charges prescribed shall be,
664 as nearly as possible, such as will always produce revenue at
665 least sufficient to: (a) provide for all expenses of operation
666 and maintenance of the system or systems, including reserves
667 therefor, (b) pay when due all bonds and interest thereon for the
668 payment of which such revenues are or have been pledged, charged
669 or otherwise encumbered, including reserves therefor, and (c)
670 provide funds for reasonable expansions, extensions and
671 improvements of service.

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

678 Section 18. All construction contracts by the district where
679 the amount of the contract exceeds Ten Thousand Dollars
680 (\$10,000.00) shall, and construction contracts of less than Ten
681 Thousand Dollars (\$10,000.00) may, be made upon at least three (3)
682 weeks' public notice. Such notice shall be published once a week
683 for at least three (3) consecutive weeks in at least one (1)
684 newspaper published in such county or having general circulation
685 therein. The first publication of such notice shall be made not
686 less than twenty-one (21) days prior to the date fixed in such
687 notice for the receipt of bids, and the last publication shall be
688 made not more than seven (7) days prior to such date. The notice

689 shall state the thing to be done and invite sealed proposals, to
690 be filed with the secretary of the district to do the work. In
691 all such cases, before the notice is published, plans and
692 specifications for the work shall be prepared by a registered
693 professional engineer and shall be filed with the secretary of the
694 district and remain there. The board of commissioners of the
695 district shall award the contract to the lowest responsible bidder
696 who will comply with the terms imposed by the board and enter into
697 bond with sufficient sureties to be approved by the board in such
698 penalty as may be fixed by the board. However, in no case shall
699 such bond be less than the contract price, conditioned for the
700 prompt, proper and efficient performance of the contract.

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

705 Section 19. (1) (a) The board of commissioners shall have
706 the power to acquire all or a part of the works and facilities of
707 the district pursuant to a lease-purchase transaction. Any
708 lease-purchase of works and facilities which the board of
709 commissioners elects to lease-purchase may be acquired by a
710 lease-purchase agreement under this subsection. Lease-purchase
711 financing may also be obtained from the vendor or from a
712 third-party source after having solicited and obtained at least
713 two (2) competitive written bids for such financing without
714 advertising for such bids. Bid requirement for a lease-purchase
715 transaction may include requirements for vendor financing of the
716 lease-purchase and service fees for operations, maintenance, bill
717 collection and administration of all or any part of the works and
718 facilities. The cost of financing operations, maintenance and
719 bill collections may be considered by the board of commissioners
720 in determining the lowest and best bid for such lease-purchase
721 transaction. The developer of the master planned community may

722 provide collateral security for lease-purchase transactions.
723 Solicitation for the bids for financing may occur before or after
724 acceptance of bids for the purchase of such works and facilities.
725 No such lease-purchase agreement shall be for an annual rate of
726 interest which is greater than the overall maximum interest rate
727 to maturity on general obligation indebtedness permitted under
728 Section 75-17-101, Mississippi Code of 1972, and the term of such
729 lease-purchase agreement shall not exceed the useful life of the
730 works and facilities covered by the agreement. The board of
731 commissioners shall maintain with respect to each lease-purchase
732 transaction, an itemized statement of the cash price, interest
733 rates, interest costs, commissions, debt service schedules and all
734 other costs and expenses paid incident to the lease-purchase of
735 works and facilities under such agreement. Nothing contained in
736 this section shall be construed to permit the board of
737 commissioners to acquire facilities or systems with a total
738 acquisition cost in the aggregate of less than Ten Thousand
739 Dollars (\$10,000.00) by a single lease-purchase transaction.

740 (b) As used in this subsection, "competitive written
741 bid" means a bid submitted on a bid form furnished by the board of
742 commissioners and signed by authorized personnel representing the
743 vendor, or a bid submitted on a vendor's letterhead or
744 identifiable bid form and signed by authorized personnel
745 representing the vendor developed based upon comparable
746 identification of the needs, that is developed independently and
747 without knowledge of other bids or prospective bids.

748 (2) (a) The district may acquire all or part of works and
749 facilities newly constructed by design-build contracts negotiated
750 by the board of commissioners. The district shall not be
751 obligated to pay for acquisition of such works and facilities
752 until the district's engineer inspects and approves the works and
753 facilities as ready for operation in compliance with the
754 district's permits.

755 (b) The developer of the master planned community may
756 provide collateral security for design-build contracts. The
757 district may contract with the developer of the master planned
758 community to provided works and facilities under design-build
759 contracts; however, the purchase price shall be limited to the
760 developer's cost.

761 (c) Design-build contracts entered into under this
762 subsection may include requirements for vendor financing of the
763 contract and service fees for operations, maintenance, bill
764 collection and administration of all or any part of the works and
765 facilities.

766 (3) Transactions entered into pursuant to this section shall
767 be exempt from the bidding requirement of Section 31-7-13,
768 Mississippi Code of 1972, and any other bid requirements of this
769 act not contained in this section.

770 Section 20. Any district created under this act shall be
771 considered a "local governmental unit" pursuant to Section
772 17-13-5, Mississippi Code of 1972, and, as such, may enter into
773 interlocal cooperation agreements as set forth in Sections 17-13-1
774 through 17-13-17, Mississippi Code of 1972. The board of
775 commissioners of any district created under this act shall have
776 the authority to enter into cooperative agreements with the state
777 or federal government, or both; to obtain financial assistance in
778 the form of loans or grants as may be available from the state or
779 federal government, or both; and to execute and deliver at private
780 sale notes or bonds as evidence of such indebtedness in the form
781 and subject to the terms and conditions as may be imposed by the
782 state or federal government, or both; and to pledge the income and
783 revenues of the district, or the income and revenues from any part
784 of the area embraced in the district, in payment thereof. It is
785 the purpose and intention of this section to authorize districts
786 to do any and all things necessary to secure the financial aid or
787 cooperation of the state or federal government, or both, in the

788 planning, construction, maintenance or operation of project
789 facilities.

790 Section 21. This act shall be deemed to be full and complete
791 authority for the creation of such districts and for the issuance
792 of such bonds. No proceedings shall be required for the creation
793 of such districts or for the issuance of such bonds other than
794 those provided for and required herein. All the necessary powers
795 to be exercised by the board of supervisors of such county and by
796 the board of commissioners of any such district, in order to carry
797 out the provisions of this act, are hereby conferred.

798 Section 22. If any provisions of this act shall be held to
799 be invalid by any court of competent jurisdiction, the remainder
800 of this act shall not be affected thereby.

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