

By: Senator(s) Frazier

To: Local and Private;
Finance

COMMITTEE SUBSTITUTE
FOR
SENATE BILL NO. 3108

1 AN ACT TO AUTHORIZE THE BOARD OF SUPERVISORS OF HINDS COUNTY,
2 MISSISSIPPI, TO CREATE SPECIAL ASSESSMENT AREAS TO ENCOURAGE
3 ECONOMIC DEVELOPMENT IN THE COUNTY; TO AUTHORIZE THE COUNTY TO
4 ISSUE BONDS TO PROVIDE FUNDS TO CONSTRUCT PUBLIC IMPROVEMENTS; TO
5 PROVIDE THAT BONDS ISSUED BY THE COUNTY MAY BE SECURED BY A PLEDGE
6 OF REVENUES OF A SPECIAL ASSESSMENT AREA, BY SPECIAL ASSESSMENTS,
7 BY TAX REVENUES OR BY ANY COMBINATION THEREOF; TO AUTHORIZE THE
8 LEVYING, UNDER CERTAIN CIRCUMSTANCES, OF AN AD VALOREM TAX ON ALL
9 TAXABLE PROPERTY WITHIN A SPECIAL ASSESSMENT AREA; AND FOR RELATED
10 PURPOSES.

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

12 **SECTION 1.** For the purposes of this act, the following words
13 and phrases shall have the meanings ascribed to them in this
14 section unless the context clearly indicates otherwise:

15 (a) "Board" means the Board of Supervisors of Hinds
16 County, Mississippi.

17 (b) "County" means Hinds County, Mississippi.

18 (c) "Area" means a special assessment area within the
19 county created pursuant to this act.

20 **SECTION 2.** The Legislature finds that certain locations
21 within the county have inadequate water supply facilities, sewer
22 facilities, gas utility facilities, fire protection facilities,
23 storm drainage systems and roadways and streets, including
24 curbing, gutters, streetlights, irrigation, landscaping and
25 sidewalks that serve those locations for the purposes of resort,
26 theme park, residential or other commercial development. The
27 purpose of this act is to authorize the board to designate certain
28 locations within the county in need of utilities and improvements
29 in accordance with the provisions of this act.

30 **SECTION 3.** (1) A petition for the designation of an area
31 may be submitted to the board. The petition must be signed by the

32 owners of no less than seventy-five percent (75%) of the
33 landowners within the boundaries of the proposed area. The
34 petition shall include (a) a statement for the necessity for the
35 service or services to be supplied by the county; (b) an estimate
36 of the cost of the acquisition or construction of the facilities
37 to be operated by the county; and (c) an estimate by the
38 petitioner or petitioners of the cost of development within the
39 area, which estimate shall include an itemized breakdown of the
40 type or nature of each project, the cost of each project and a
41 projected timetable for completion of each project. The petition
42 shall be signed in person by the petitioners and accompanied by a
43 sworn statement of the person or persons circulating the petition,
44 who shall state under oath that he witnessed the signature of each
45 petitioner, that each signature is the signature of the person it
46 purports to be, and that to the best of his knowledge, each
47 petitioner, at the time of signing, was an owner of real property
48 within the proposed area. A petitioner may be a corporation.

49 (2) If the board determines that the designation of the
50 proposed area is in the best interest of the county, the board,
51 upon the filing of the petition, shall fix a time and place for a
52 public hearing upon the question of the public convenience and
53 necessity of the designation of the proposed area. If the board
54 elects to fix a time and place for a hearing, the date fixed for
55 the hearing shall not be more than sixty (60) days after the
56 filing of the petition. The date, place and notice of the hearing
57 shall be set forth in a notice to be signed by the clerk of the
58 board. The notice shall be published once a week for at least
59 three (3) consecutive weeks in a newspaper having a general
60 circulation within the county. The first publication shall be
61 made not less than twenty-one (21) days before the date of the
62 hearing, and the last publication shall be made not more than
63 seven (7) days before the date of the hearing. If, following the
64 public hearing, the board finds that public convenience and

65 necessity require the designation of the proposed area, the board
66 shall adopt a resolution making those findings and designating the
67 area. If the area is within the corporate limits of any
68 municipality, then the county shall submit its resolution
69 designating the area under this subsection (2) to such
70 municipality and request that such municipality adopt a resolution
71 declaring a need therefor. The county shall not proceed to issue
72 any bonds under this act until it has received this resolution
73 from the municipality.

74 (3) As an alternative to the procedure prescribed in
75 subsection (1) of this section, a petition for the designation of
76 an area may be submitted to the board. The petition must be
77 signed by one or more owners of land within an area who
78 unanimously agree that only their property within the area will be
79 assessed for the proposed project within the area. The petition
80 shall include (a) a statement for the necessity for the service or
81 services to be supplied by the county; (b) an estimate of the cost
82 of the acquisition or construction of the facilities to be
83 operated by the county; and (c) an estimate by the petitioner or
84 petitioners of the cost of development within the area, which
85 estimate shall include an itemized breakdown of the type or nature
86 of each project, the cost of each project and a projected
87 timetable for completion of each project. The petition shall be
88 signed in person by the petitioner and accompanied by a sworn
89 statement of the person or persons circulating the petition, who
90 shall state under oath that he witnessed the signature of each
91 petitioner, that each signature is the signature of the person it
92 purports to be, and that to the best of his knowledge, each
93 petitioner, at the time of signing, was an owner of real property
94 within the proposed area. A petitioner may be a corporation.
95 Benefited owners of land within the designated area who do not
96 petition for designation under this subsection (3) shall not be
97 subject to assessment for projects within the respective

98 designated area. If the board determines that the designation of
99 the proposed area under this subsection (3) is in the best
100 interest of the county, the board shall then proceed under
101 subsection (2) of this section.

102 **SECTION 4.** The board shall have the powers enumerated in the
103 resolution of the board designating the area which shall be
104 limited to constructing, acquiring, reconstructing, improving,
105 bettering or extending roadways and streets, including curbing,
106 gutters, streetlights, irrigation, landscaping and sidewalks, and
107 facilities for a water, sewer, gas utility, fire protection or
108 storm drainage system, or any combination thereof, and to
109 conducting and operating the facilities and to contracting with
110 any municipality, county or other governmental entity, or with any
111 person, firm or corporation for a supply of water, gas or other
112 services required incident to the operation and maintenance of the
113 system.

114 **SECTION 5.** (1) The county may issue bonds to provide funds
115 for constructing, acquiring, reconstructing, improving, bettering
116 or extending water supply facilities, sewer facilities, gas
117 utility facilities, fire protection facilities, storm drainage
118 systems and roadways and streets, including curbing, gutters,
119 streetlights, irrigation, landscaping and sidewalks and other
120 public improvements that serve the area for the purpose of resort,
121 theme park, residential or other commercial and industrial
122 development. The bonds shall be payable primarily from the
123 revenues of the facilities and, if so provided for in the
124 proceedings authorizing the bonds, the bonds shall be payable also
125 from special assessments levied under Section 9 of this act. In
126 addition, if so provided for in the proceedings authorizing the
127 bonds and agreed to by resolution of the board, the bonds shall be
128 payable also from the avails of the ad valorem tax levy as
129 provided for in subsection (2) of this section, or from any
130 combination of monies from the revenues, special assessments and

131 tax levies on property of the area designated under Section 3 of
132 this act. The bonds may be issued without an election being held
133 upon the question of their issuance and without the publication of
134 any notice of intention to issue the bonds. The board shall issue
135 bonds of the county by resolution spread upon the minutes of the
136 board. The bonds shall contain those covenants and provisions, be
137 executed, bear interest at the rate or rates not to exceed
138 fourteen percent (14%) per annum, be in the denomination or
139 denominations, be payable as to principal and interest, at the
140 place or places, and mature at the time or times not exceeding
141 twenty-five (25) years from their date, as determined by the board
142 and set forth in the resolution pursuant to which the bonds are
143 issued; however, any such bonds which are secured by a pledge of
144 special assessments in addition to a pledge of revenues shall
145 mature at such time or times not exceeding the time period over
146 which such special assessments are payable, as determined by the
147 board pursuant to Section 12 of this act. Notwithstanding any
148 provision of the general law to the contrary, any bonds and
149 interest coupons issued under the authority of this act shall
150 possess all of the qualities of negotiable instruments, and the
151 bonds, premium, if any, and interest thereon shall be exempt from
152 all state, county, municipal and other taxation under the laws of
153 the State of Mississippi. Any bonds issued under the authority of
154 this act may be refunded in the manner provided in this act upon a
155 finding by the board that such refunding is in the public
156 interest. Bonds for the betterment, improvement or extension of
157 roadways, streets or other facilities of the area may be included
158 with the refunding bonds. The bonds may be sold without the
159 necessity of advertising with the refunding bonds. The bonds may
160 be sold without the necessity of advertising for bids therefor,
161 and may be sold by negotiated private sale and on those terms,
162 conditions and covenants agreed to by and between the issuing
163 authority and the purchasers of the bonds. The total amount of

164 bonds issued under this act shall not exceed Fifty Million Dollars
165 (\$50,000,000.00).

166 (2) If provided in the proceedings authorizing the issuance
167 of the bonds and agreed to by resolution of the board to make the
168 pledge, then when there are insufficient revenues received from
169 special assessments authorized under this act, according to the
170 provisions made in the proceedings authorizing the issuance of
171 such bonds, to meet the interest or principal payments, or both,
172 when due on any bonds issued under the authority of this act,
173 then, the board shall levy an ad valorem tax on (a) all taxable
174 property within the geographical limits of the area; or (b) all
175 taxable property within the geographical limits of the area which
176 is designated pursuant to a petition under subsection (3) of
177 Section 3 of this act, which tax, together with any other monies
178 available for such purpose, shall be sufficient to provide for the
179 payment of the principal of and interest on such bonds as the same
180 falls due, and, if so provided in the proceedings for the issuance
181 of such bonds, to replenish any reserve fund established for such
182 bonds.

183 **SECTION 6.** The county is vested with all the powers
184 necessary and requisite that are capable of being delegated by the
185 Legislature for the accomplishment of the purposes of this act.
186 No enumeration of powers in this act shall be construed to impair
187 or limit any general grant of power contained in this act or to
188 limit any grant of power or powers of the same class or classes as
189 those enumerated. The county may do all acts necessary, proper or
190 convenient in the exercise of the powers granted under this act.

191 **SECTION 7.** The county, acting by and through the board,
192 shall have the following, among other, powers:

193 (a) To acquire by purchase, gift, devise or lease and
194 to hold and dispose of real and personal property of every kind
195 within or without the area, including franchise rights; however,
196 the sale, assignment, lease or transfer of any certificate of

197 public convenience and necessity or utility property shall be
198 subject to Section 77-3-23, Mississippi Code of 1972;

199 (b) To make and enter into contracts, conveyances,
200 mortgages, deeds of trust, bonds, leases or contracts for
201 financial advisory services;

202 (c) To incur debts, to borrow money, to issue
203 negotiable bonds, and to provide for the rights of the holders
204 thereof;

205 (d) To fix, maintain, collect and revise rates and
206 charges for the services rendered by or through the facilities of
207 the county to the area, which rates and charges shall not be
208 subject to review or regulation by the Mississippi Public Service
209 Commission except in those instances where a municipality
210 operating similar services would be subject to regulation and
211 review; however, the county shall obtain a certificate of
212 convenience and necessity from the Mississippi Public Service
213 Commission for operating utility systems under the commission's
214 jurisdiction;

215 (e) To pledge all or any part of the revenues from
216 special assessments and tax revenues on real and personal property
217 in the area;

218 (f) To make such covenants in connection with the
219 issuance of bonds or to secure the payment of bonds that a private
220 business corporation can make under the general laws of the state;

221 (g) To use any right-of-way, easement or other similar
222 property rights or any material or equipment necessary or
223 convenient in connection with the acquisition, improvement,
224 operation or maintenance of the facilities in the area held by the
225 state or any political subdivision thereof; however, the consent
226 of the governing body of the political subdivision shall be
227 required before such use;

228 (h) To enter into agreements with state and federal
229 agencies for loans, grants and aid, and other forms of assistance,

230 including, but not limited to, participation of the sale and
231 purchase of bonds, and to enter into agreements with state
232 agencies, federal agencies and political subdivisions of the State
233 of Mississippi pertaining to matters relating to the operation of
234 any services of the area authorized under this act, and such state
235 agencies and political subdivisions of the State of Mississippi
236 may so contract with the county;

237 (i) To sell to any municipality or district in the
238 county, under those terms, conditions and covenants that may be
239 imposed or required by the county, part or all of the utility
240 system or systems within the area; however, in the event of a sale
241 of all of the system or systems, the municipality or district
242 shall assume all obligations of the county relating thereto as a
243 condition precedent to the sale;

244 (j) To contract with the United States of America, or
245 any agency of the United States of America, the State of
246 Mississippi, or any political subdivision of the State of
247 Mississippi, or any agency, commission, authority, board or other
248 entity thereof, or any municipality or municipalities, for any of
249 the additional purposes authorized by Section 8 of this act;

250 (k) To contract with any municipality, district,
251 person, partnership, corporation or other entity for the operation
252 and maintenance, including billing services, of any property or
253 facilities of the area, upon those terms, conditions and covenants
254 that may be agreed upon by the contracting parties;

255 (l) To contract with a developer under which the
256 developer may construct all or any part of a project with private
257 funds and may be reimbursed by the county for actual costs
258 incurred by the developer upon issuance and delivery of the bonds
259 and receipt of the proceeds, conditional upon dedication of the
260 project by the developer to the county to assure public use and
261 access; and

262 (m) To enter into an interlocal cooperation agreement
263 with any political subdivision of the State of Mississippi, or any
264 agency, commission, authority, board or other entity thereof, or
265 any municipality or municipalities, whereby both agree that either
266 party to such agreement may be responsible for constructing,
267 operating and/or maintaining improvements or other facilities
268 included within an area.

269 **SECTION 8.** In addition to the purposes specified under
270 Section 5(1) of this act, the county may issue bonds of the county
271 in the manner provided in Section 5 of this act for any or all of
272 the following purposes:

273 (a) To refund the outstanding bonds of the county
274 secured by special assessments and tax revenues of the area upon a
275 finding by the board that such refunding is in the public
276 interest;

277 (b) To improve, better or extend roadways and streets,
278 including curbing, gutters, streetlights, irrigation, landscaping
279 and sidewalks, and the water, sewer or gas utility system or
280 systems and fire protection system or storm drainage systems of
281 the area;

282 (c) To purchase or acquire part or all of the utility
283 system or systems and fire protection system of any district or
284 municipality located in whole or in part in the area, including
285 part or all of the system or systems within the corporate
286 boundaries of any municipality;

287 (d) To provide for the payment of the principal,
288 premium and interest on the outstanding bonds of any district or
289 municipality in connection with the purchase of any facilities
290 located in the area;

291 (e) To purchase or acquire part or all of any privately
292 owned utility system or systems in an area;

293 (f) To enter into cooperative agreements with the state
294 or federal government, or both (reference to the state or federal

295 government as used in this paragraph shall include any agency of
296 the state or federal government); to obtain financial assistance
297 in the form of loans or grants as may be available from the state
298 or federal government, or both; and to execute and deliver at
299 private sale notes or bonds as evidence of the indebtedness in the
300 form and subject to the terms and conditions as may be imposed by
301 the state or federal government, or both; and to pledge the income
302 and revenues of the area, or the income and revenues from any part
303 of the land embraced in the area (which revenues in either
304 instance shall include, but not be limited to, revenues from
305 special assessments and tax revenues) in payment thereof; and the
306 state may enter into such agreements with the county;

307 (g) To purchase or acquire part or all of any utility
308 system or systems located in whole or in part in the area owned by
309 the United States of America, or any agency of the United States
310 of America, or the State of Mississippi, or any political
311 subdivision of the State of Mississippi, or any agency,
312 commission, authority, board or other entity thereof; and

313 (h) To enter into an interlocal cooperation agreement
314 for the purposes set forth in Section 7(m) of this act.

315 **SECTION 9.** The board, in its discretion, may exercise the
316 powers set forth in this act at the cost of the property owners in
317 the area. The board may levy and collect special assessments on
318 properties located in the area and may either issue negotiable
319 special improvement bonds of the county or pledge the receipts
320 from the special assessments to secure the payment of the
321 principal of premium, if any, and interest on any bonds authorized
322 under this act. Any special assessments shall be levied and
323 collected in the manner authorized in Sections 21-41-1 through
324 21-41-53, Mississippi Code of 1972, except to the extent otherwise
325 provided for in this act. The board may secure bonds of the
326 county solely from the receipts from special assessments, or may
327 pledge such receipts in addition to the pledge of revenues of the

328 county or the receipts from any tax levy authorized in this act,
329 or from any combination of monies from the special assessments,
330 revenues and tax levies.

331 **SECTION 10.** Bonds issued under this act shall be payable as
332 to principal and interest solely from the sources authorized by
333 this act. Any bonds secured by a pledge of the special
334 assessments authorized in Section 9 of this act shall mature at
335 any time or times, not exceeding twenty-five (25) years from the
336 date of the bonds, and may be in fully registered form or in
337 bearer form as determined by the board.

338 **SECTION 11.** All special assessments levied under this act
339 shall be payable in one or more installments over a period not in
340 excess of twenty-five (25) years, as determined by the board, with
341 interest from the date of the confirmation of the assessment at a
342 rate to be fixed by the board, which will produce sufficient funds
343 for the payment of all or a specified portion of the principal and
344 interest on the bonds as they mature and accrue and for fees and
345 expenses for a paying agent or trustee, or both, for the bonds.
346 The amount to be paid pursuant to such special assessments may be
347 limited by the board to the amounts needed for the purposes
348 specified in this section. Any property owner who shall not have
349 taken an appeal from the assessment, upon failure to pay the
350 assessment in full within thirty (30) days from the date of
351 confirmation, shall be deemed to have elected to pay the
352 assessment in installments as provided in this section, and he
353 shall be deemed to have admitted the legality of the assessment,
354 and the right to contest the validity of the assessment shall be
355 waived. The installments of the assessment shall be due and
356 payable at the same time that the annual real property tax becomes
357 due and payable, commencing with the first county tax levy which
358 is payable after the expiration of thirty (30) days from the date
359 of confirmation of the assessment.

360 **SECTION 12.** The resolution declaring the intent of the board
361 to proceed with the special improvements authorized by this act
362 may direct that all of the expenses of the property or facilities
363 of the area, or such part of the expenses that the board shall
364 charge upon the properties in the area, shall be assessed
365 according to the frontage rule or area rule, as outlined in this
366 section. Bonds may be issued for one or more projects and the
367 area and method of assessment for each project shall be specified
368 in the resolution declaring the intent of the board to proceed
369 with that project. The resolution declaring the intent of the
370 board to proceed with the special improvements shall:

371 (a) Define the properties in the area to be benefited
372 by each improvement, with each improvement being designated as a
373 project;

374 (b) Fix the amount or percentage of the charge to be
375 levied upon the property benefited;

376 (c) Designate the minimum and maximum number of years
377 between the date of the bonds and the maturity of those bonds;

378 (d) Delineate the method of determining the amount of
379 special assessments to be levied on each lot or parcel of land;

380 (e) Designate the minimum and maximum number of one or
381 more installments that the board may later allow for the payment
382 of assessments with interest on those assessments.

383 If the board determines that the frontage rule is the most
384 equitable method of distributing the cost among the properties,
385 then the resolution shall direct that the cost to be assessed
386 against each lot or parcel of land shall be determined by dividing
387 the entire cost to be assessed by the total number of front feet
388 of real property abutting upon the utility easement, street,
389 railroad or public or private right-of-way on which the project is
390 located and which will be subject to such special assessment, and
391 multiplying the quotient by the total number of front feet in any
392 particular lot or parcel of land fronting on the utility easement,

393 street, railroad or public or private right-of-way on which the
394 project is located. The result of this formula shall be assessed
395 against each lot or parcel of land for the owner's part of the
396 cost of the entire improvement to be paid through special
397 assessments.

398 If the board determines that the area rule is the most
399 equitable method of distributing the cost among the properties,
400 then the resolution shall direct that the cost to be assessed
401 against each lot or parcel of land shall be determined by dividing
402 the entire cost to be assessed by the total number of acres or
403 square feet in the area being benefited and which is subject to
404 such special assessment, and multiplying the quotient by the total
405 number of acres or square feet in any particular lot or parcel of
406 land. The result of this formula shall be assessed against each
407 lot or parcel of land for the owner's part of the cost of the
408 entire improvements to be paid through special assessments.

409 As provided in subsection (3) of Section 3 of this act, the
410 property subject to assessment may be limited to property owned by
411 landowners within an area who have petitioned the county pursuant
412 to subsection (3) of Section 3 of this act.

413 **SECTION 13.** If the owners of a majority of the front footage
414 of the property to be assessed under the frontage rule, or if the
415 owners of a majority of the area of the property to be assessed
416 under the area rule, as described in Section 12 of this act, file
417 a written protest objecting to the assessments authorized under
418 this act and in Section 21-41-7, Mississippi Code of 1972, then
419 the board shall not proceed with the special assessment.

420 **SECTION 14.** If owners of the front footage of the property
421 to be assessed under the frontage rule, or if the owners of the
422 property to be assessed under the area rule enter into a written
423 agreement with the county agreeing to pay the total assessments
424 authorized under this act and in Section 21-41-7, Mississippi Code

425 of 1972, then the owners of property not a party to such written
426 agreement shall not be obligated to pay the assessments.

427 **SECTION 15.** This act, without reference to any other
428 statute, shall be deemed to be full and complete authority for the
429 designation of the area by the county, and this act, including the
430 provisions of Sections 21-41-1 through 21-41-53, Mississippi Code
431 of 1972, which are not in direct conflict with the provisions of
432 this act, shall be deemed to be full and complete authority for
433 the issuance of bonds by the county and shall be construed as
434 additional and alternative methods therefor. All powers necessary
435 to be exercised in order to carry out the provisions of this act
436 are hereby conferred. No proceedings shall be required for the
437 designation of the area by the county or for the issuance of the
438 bonds other than those provided for and required in this act. Any
439 municipality, district or other entity located in whole or in part
440 in the area is authorized to sell part or all of its water, sewer
441 or gas or storm drainage system to the county. All the necessary
442 powers to be exercised by the board and the governing authorities
443 of any municipality or district that determines to sell part or
444 all of its water, sewer or gas system to the county in order to
445 carry out this act are hereby conferred.

446 **SECTION 16.** Any bonds issued under this act may be submitted
447 to validation under the provisions of Chapter 13, Title 31,
448 Mississippi Code of 1972.

449 **SECTION 17.** This act shall be liberally construed for the
450 purposes set out in the act, the powers hereby granted being
451 additional, cumulative and supplemental to any power granted to
452 the county or any municipality therein by any general law or any
453 local and private act of the Legislature.

454 **SECTION 18.** If any provision of this act is held to be
455 invalid by any court of competent jurisdiction, the remainder of
456 this act shall not be affected by that determination.

457 **SECTION 19.** This act shall take effect and be in force from
458 and after its passage.