

By: Senator(s) Frazier

To: Local and Private;
Finance

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 land
33 within the boundaries of the proposed area on a square footage
34 basis. The petition shall include (a) a statement for the
35 necessity for the service or services to be supplied by the
36 county; (b) an estimate of the cost of the acquisition or
37 construction of the facilities to be operated by the county; and
38 (c) an estimate by the petitioner or petitioners of the cost of
39 development within the area, which estimate shall include an
40 itemized breakdown of the type or nature of each project, the cost
41 of each project and a projected timetable for completion of each
42 project. The petition shall be signed in person by the
43 petitioners and accompanied by a sworn statement of the person or
44 persons circulating the petition, who shall state under oath that
45 he witnessed the signature of each petitioner, that each signature
46 is the signature of the person it purports to be, and that to the
47 best of his knowledge, each petitioner, at the time of signing,
48 was an owner of real property within the proposed area. A
49 petitioner may be a corporation.

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

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

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

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

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

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

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

164 authority and the purchasers of the bonds. The total amount of
165 bonds issued under this act shall not exceed Fifty Million Dollars
166 (\$50,000,000.00).

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

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

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

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

197 the sale, assignment, lease or transfer of any certificate of
198 public convenience and necessity or utility property shall be
199 subject to Section 77-3-23, Mississippi Code of 1972;

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

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

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

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

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

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

229 (h) To enter into agreements with state and federal
230 agencies for loans, grants and aid, and other forms of assistance,
231 including, but not limited to, participation of the sale and
232 purchase of bonds, and to enter into agreements with state
233 agencies, federal agencies and political subdivisions of the State
234 of Mississippi pertaining to matters relating to the operation of
235 any services of the area authorized under this act, and such state
236 agencies and political subdivisions of the State of Mississippi
237 may so contract with the county;

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

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

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

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

261 project by the developer to the county to assure public use and
262 access; and

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

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

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

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

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

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

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

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

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

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

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

327 county solely from the receipts from special assessments, or may
328 pledge such receipts in addition to the pledge of revenues of the
329 county or the receipts from any tax levy authorized in this act,
330 or from any combination of monies from the special assessments,
331 revenues and tax levies.

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

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

359 is payable after the expiration of thirty (30) days from the date
360 of confirmation of the assessment.

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

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

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

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

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

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

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

392 multiplying the quotient by the total number of front feet in any
393 particular lot or parcel of land fronting on the utility easement,
394 street, railroad or public or private right-of-way on which the
395 project is located. The result of this formula shall be assessed
396 against each lot or parcel of land for the owner's part of the
397 cost of the entire improvement to be paid through special
398 assessments.

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

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

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

421 **SECTION 14.** If owners of the front footage of the property
422 to be assessed under the frontage rule, or if the owners of the
423 property to be assessed under the area rule enter into a written
424 agreement with the county agreeing to pay the total assessments

425 authorized under this act and in Section 21-41-7, Mississippi Code
426 of 1972, then the owners of property not a party to such written
427 agreement shall not be obligated to pay the assessments.

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

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

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

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

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