MISSISSIPPI LEGISLATURE REGULAR SESSION 2007

By: Senator(s) Chaney To: Finance

SENATE BILL NO. 2351

AN ACT TO AMEND SECTION 21-45-9, MISSISSIPPI CODE OF 1972, TO AUTHORIZE A MUNICIPALITY TO IMPOSE A SPECIAL ASSESSMENT ON A REDEVELOPMENT PROJECT FOR WHICH TAX INCREMENT FINANCING BONDS HAVE BEEN ISSUED IF THE ADDED INCREMENTS OF AD VALOREM TAX REVENUES OR ANY PORTION OF THE SALES TAXES TO RESULT FROM ANY REDEVELOPMENT PROJECT BECOME INSUFFICIENT TO PAY THE DEBT SERVICE ON THE BONDS; AND FOR RELATED PURPOSES.

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

SECTION 1. Section 21-45-9, Mississippi Code of 1972, is amended as follows:

21-45-9. (1) Any governing body may issue tax increment bonds, the final maturity of which shall not extend beyond thirty (30) years, for the purpose of financing all or a portion of the cost of a redevelopment project within the boundaries of the municipality, funding any reserve which the governing body may deem advisable in connection with the retirement of the proposed indebtedness and funding any other incidental expenses involved in incurring such indebtedness.

(2) (a) The debt service of indebtedness incurred pursuant to this section shall be provided from the added increments of municipal and county ad valorem tax revenues or any portion of the sales taxes, or both, to result from any such redevelopment project and shall never constitute an indebtedness of the municipality within the meaning of any state constitutional provision or statutory limitation and shall never constitute nor give rise to a pecuniary liability of the municipality or a charge against its general credit or taxing powers.

(b) In the event that the added increments of ad valorem tax revenues or any portion of the sales taxes, or both, to result from any redevelopment project become insufficient to pay the debt service of indebtedness incurred pursuant to this section, the municipal governing authorities are vested with full power to raise the levy on the redevelopment project, both personal and real, by special assessment to pay the insufficiency. The governing authorities shall have all power to enforce and collect the taxes as provided by statutes empowering municipalities to collect special assessments, and it shall be done in the same general way and may be assessed at any time and cover such length of time as the governing authorities may deem proper.

(3) The bonds may be authorized by resolution or resolutions of the governing body, and may be issued in one or more series, may bear such date or dates, mature at such time or times, bear interest at such rate or rates, payable at such times, be in such denominations, be in such form, be registered, be executed in such manner, be payable in such medium of payment, at such place or places, be subject to such terms of redemption, with or without premium, carry such conversion or registration privileges and be declared or become due before the maturity date thereof, as such resolution or resolutions may provide; however, the bonds shall not bear a greater interest rate to maturity than that allowed under Section 75-17-101. The bonds shall be sold for not less than par value plus accrued interest at public sale in the manner provided by Section 31-19-25 or at private sale, in the discretion of the governing body. The lowest interest rate specified for any bonds issued shall not be less than seventy percent (70%) of the highest interest rate specified for the same bond issue. The bonds may be repurchased by the municipality out of any available funds at a price not to exceed the principal amount thereof and accrued interest, and all bonds so repurchased shall be cancelled. In connection with the issuance of the bonds, the municipality shall have the power to enter into contracts for rating of the

bonds by national rating agencies; obtaining bond insurance or guarantees for the bonds and complying with the terms and conditions of such insurance or guarantees; make provision for payment in advance of maturity at the option of the owner or holder of the bonds; covenant for the security and better marketability of the bonds, including, without limitation, the establishment of a debt service reserve fund and sinking funds to secure or pay the bonds; and make any other provisions deemed desirable by the municipality in connection with the issuance of said bonds.

(4) If a governing body desires to issue tax increment financing bonds under the Regional Economic Development Act, the governing body also shall comply with any requirements provided therein.

(5) In connection with the issuance of the bonds, the municipality may arrange for lines of credit with any bank, firm or person for the purpose of providing an additional source of repayment for such bonds and amounts drawn on such lines of credit may be evidenced by bonds, notes or other evidences of indebtedness containing such terms and conditions as the municipality may determine; * * * however, the bonds, notes or evidences of indebtedness shall be secured by and payable from the same sources as are pledged to the payment of the bonds which are additionally secured by the line of credit, and the bonds, notes or other evidences of indebtedness shall be deemed to be bonds for all purposes of this chapter. Pending the preparation or execution of definitive bonds, interim receipts or certificates, or temporary bonds may be delivered to the purchaser or purchasers of the bonds. Any provision of law to the contrary notwithstanding, any bonds, if any, issued pursuant to this chapter shall possess all of the qualities of negotiable instruments.

(6) The municipality may also issue refunding bonds for the purpose of paying any of its bonds at or prior to maturity or upon acceleration or redemption. Refunding bonds may be issued at such time prior to the maturity or redemption of the refunded bonds as the municipality may determine. The refunding bonds may be issued in sufficient amounts to pay or provide the principal of the bonds being refunded, together with any redemption premium thereon, any interest accrued or to accrue to the date of payment of the bonds, the expenses of issuing the refunding bonds, the expenses of redeeming the bonds being refunded, and such reserves for debt service or other capital or current expenses from the proceeds of the refunding bonds as may be required by any of the municipality's resolutions, trust indenture or other security instruments. The issuance of refunding bonds, the maturities and other details thereof, the security therefor, the rights of the holders and the rights, duties and obligations of the municipality in respect to them shall be governed by the provisions of this chapter relating to the issuance of bonds other than refunding bonds, insofar as the they may be applicable.

(7) Before incurring any debt pertaining to a redevelopment project incorporating a tax increment financing plan the governing body may, but shall not be required to, secure an agreement from one or more developers obligating such developer or developers:

(a) To effect the completion of all or any portion of the buildings or other facilities or improvements, as described in the redevelopment project, at no cost to the municipality;

(b) To pay all or any portion of the real property taxes due on the project in a timely manner; and

(c) To maintain and operate all or any portion of the buildings or other facilities or improvements of the project in such a manner as to preserve property values.

No breach of any such agreement shall impose any pecuniary liability upon a municipality or any charge upon its general credit or against its taxing powers.

Additionally, the municipality may enter into an agreement with the developer under which the developer may construct all or any part of the redevelopment project with private funds in advance of issuance of the bonds and may be reimbursed by the municipality for actual costs incurred by the developer upon issuance and delivery of the bonds and receipt of the proceeds, conditioned upon dedication of redevelopment project by the developer to the municipality to assure public use and access. This condition shall not apply to the privately-owned portion of a project for which the Mississippi Development Authority has issued a certificate of convenience and necessity pursuant to the Regional Economic Development Act.

SECTION 2. This act shall take effect and be in force from and after July 1, 2007.

ST: Tax increment financing; governing bodies may levy special assessments on redevelopment projects to pay debt service on TIF bonds.