

By: Senator(s) Michel

To: County Affairs; Finance

SENATE BILL NO. 2990

1 AN ACT TO AMEND SECTIONS 19-31-5, 19-31-7 AND 19-31-47,
 2 MISSISSIPPI CODE OF 1972, TO ALLOW CONTIGUOUS COUNTIES TO FORM A
 3 PUBLIC IMPROVEMENT DISTRICT; TO AMEND SECTION 19-31-23,
 4 MISSISSIPPI CODE OF 1972, TO PLACE CERTAIN CONDITIONS ON THE
 5 INCURRING OF DEBT BY A DISTRICT; TO AMEND SECTION 19-31-33,
 6 MISSISSIPPI CODE OF 1972, TO REVISE THE TERM OF PAYMENTS OF
 7 DISTRICT ASSESSMENTS; AND FOR RELATED PURPOSES.

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

9 **SECTION 1.** Section 19-31-5, Mississippi Code of 1972, is
 10 amended as follows:

11 19-31-5. As used in this chapter the following terms shall
 12 have the meanings ascribed to them in this section unless the
 13 context clearly requires otherwise:

14 (a) "Assessable improvements" means any public
 15 improvements and community facilities that the district is
 16 empowered to provide in accordance with this chapter.

17 (b) "Assessment bonds" means special obligations of the
 18 district that are payable solely from proceeds of the special
 19 assessments levied for an assessable project.

20 (c) "Board" or "board of directors" means the governing
 21 board of the district or, if such board has been abolished the
 22 board, body or commission succeeding to the principal functions
 23 thereof or to whom the powers given to the board by this chapter
 24 have been given by law.

25 (d) "Bond" includes certificate, and the provisions
 26 that are applicable to bonds are equally applicable to
 27 certificates. The term "bond" includes any assessment bond,
 28 refunding bond, revenue bond and other such obligation in the
 29 nature of a bond as is provided for in this chapter.

30 (e) "Public improvement district" or "district" means a
31 special district that is created pursuant to this chapter and
32 limited to the performance of those specialized functions
33 authorized by this chapter, the boundaries of which are contained
34 wholly within a single county or two (2) or more contiguous
35 counties; the governing head of which is a body created, organized
36 and constituted and authorized to function specifically as
37 prescribed in this chapter for the delivery of public improvement
38 services; and the formation powers, governing body, operation,
39 duration accountability, requirements for disclosure and
40 termination of which are as required by general law.

41 (f) "Cost," when used with reference to any project,
42 includes but is not limited to:

43 (i) The expenses of determining the feasibility or
44 practicability of acquisition, construction or reconstruction.

45 (ii) The cost of surveys, estimates, plans and
46 specifications.

47 (iii) The cost of improvements.

48 (iv) Engineering, fiscal and legal expenses and
49 charges.

50 (v) The cost of all labor, materials, machinery
51 and equipment.

52 (vi) The cost of all lands, rights, servitudes and
53 franchises acquired.

54 (vii) Financing charges.

55 (viii) The creation of initial reserve and debt
56 service funds.

57 (ix) Working capital.

58 (x) Interest charges incurred or estimated to be
59 incurred on money borrowed before and during construction and
60 acquisition and for such reasonable period of time after
61 completion of construction or acquisition as the board may
62 determine.

63 (xi) The cost of issuance of bonds pursuant to
64 this chapter, including advertisements and printing.

65 (xii) The cost of any election held pursuant to
66 this chapter and all other expenses of issuance of bonds.

67 (xiii) The discount, if any, on the sale or
68 exchange of bonds.

69 (xiv) Administrative expenses.

70 (xv) Such other expenses as may be necessary or
71 incidental to the acquisition, construction or reconstruction of
72 any project or to the financing thereof, or to the development of
73 any lands within the district.

74 (g) "District manager" means the manager of the
75 district.

76 (h) "District roads" means highways, streets, roads,
77 alleys, sidewalks, landscaping, storm drains, bridges and
78 thoroughfares of all kinds and descriptions.

79 (i) "Landowner" means the owner of land, including real
80 property as it appears in the official records of the county,
81 including a trustee, a private corporation or other entity, and an
82 owner of a condominium unit.

83 (j) "Project" means any development, improvement,
84 property, utility, facility, works, enterprise or service
85 undertaken after the passage of this chapter or established under
86 the provisions of this chapter.

87 (k) "Revenue bonds" means obligations of the district
88 that are payable from revenues derived from sources other than ad
89 valorem taxes on real or personal property and that do not pledge
90 the property, credit or general tax revenue of the district.

91 (l) "Sewer system" means any plant, system, facility or
92 property, and additions, extensions and improvements thereto,
93 useful or necessary in connection with the collection, treatment
94 or disposal of sewage.

95 (m) "Water management and control facilities" means any
96 lakes, canals, ditches, reservoirs, dams, levees, floodways,
97 pumping stations or any other works, structures or facilities for
98 the conservation, control, development, utilization and disposal
99 of water, and any purposes incidental thereto.

100 (n) "Water system" means any plant system, facility or
101 property, and additions, extensions, and improvements thereto,
102 useful or necessary in connection with the development of sources,
103 treatment or purification and distribution of water.

104 **SECTION 2.** Section 19-31-7, Mississippi Code of 1972, is
105 amended as follows:

106 19-31-7. (1) The method for the establishment of a public
107 improvement district shall be pursuant to an ordinance adopted by
108 the governing body of each county in which the land is located
109 granting a petition for the establishment of a public improvement
110 district. The petition for the establishment of a public
111 improvement district shall be filed by the petitioner with the
112 governing body of the county or counties. The petition shall
113 contain:

114 (a) A description of the boundaries of the district;

115 (b) The written consent to the establishment of the
116 district by all landowners in the district;

117 (c) A designation of five (5) persons to be the initial
118 members of the board of directors, who shall serve in that office
119 until replaced by elected members as provided in this chapter;

120 (d) The proposed name of the district;

121 (e) A map of the proposed district showing existing
122 infrastructure, if any; and

123 (f) Based upon available data, the proposed timetable
124 for construction of the district services and the estimated cost
125 of constructing the proposed services.

126 (2) A public hearing on the petition shall be conducted by
127 the governing body of each county of the proposed district within

128 forty-five (45) days after the petition is filed unless an
129 extension of time is requested by the petitioners and granted by
130 the governing body of each county. The hearing shall be held at
131 an accessible location in each county in which the public
132 improvement district is to be located. The petitioner shall cause
133 a notice of the hearing to be published in a newspaper having
134 general circulation in each county at least once a week for the
135 four (4) successive weeks immediately prior to the hearing. Such
136 notice shall give the time and place for the hearing, a
137 description of the area to be included in the district, and any
138 other relevant information which the establishing governing bodies
139 may require. The advertisement shall be published in the official
140 minutes of the local governing body.

141 (3) The governing body of each county shall consider the
142 record of the public hearing and any other relevant factors in
143 making its determination to grant or deny a petition for the
144 establishment of a public improvement district.

145 (4) An ordinance establishing a public improvement district
146 shall include the boundaries of the district, the names of the
147 five (5) persons designated to be the initial members of the board
148 of directors of the district and the name of the district.

149 (5) If all of the land in the area for the proposed district
150 is within the territorial jurisdiction of a municipality, then the
151 petition requesting establishment of a public improvement district
152 under this chapter shall be filed by the petitioner with that
153 particular municipality. In such event, the duties of the county
154 with regard to the petition shall be the duties of the
155 municipality. If any of the land area of a proposed district is
156 within the land area of a municipality, the governing body of the
157 county may not create the district without the approval of the
158 municipality.

159 (6) The governing body of any governmental agency, county
160 and/or * * * municipality may enter into contribution agreements
161 with the district.

162 **SECTION 3.** Section 19-31-23, Mississippi Code of 1972, is
163 amended as follows:

164 19-31-23. (1) The district may issue and sell from time to
165 time bonds, notes, negotiable notes, tax anticipation notes, bond
166 anticipation notes, other fund anticipation notes, renewal notes,
167 refunding bonds, interim certificates, certificates of
168 indebtedness, certificates of participation, debentures, warrants,
169 commercial paper or other obligations or evidences of indebtedness
170 to provide funds for and to fulfill and achieve its public purpose
171 or corporate purposes, as set forth in this chapter, including,
172 but not limited to, the payment of all or a portion of the costs
173 of a project, to provide amounts necessary for any corporate
174 purposes, including incidental expenses in connection with the
175 issuance of the obligations, the payment of principal and interest
176 on the obligations of the district, the establishment of reserves
177 to secure such obligations, and all other purposes and
178 expenditures of the district incident to and necessary or
179 convenient to carry out its public functions or corporate
180 purposes, and any credit enhancement for such obligations.

181 (2) Except as may otherwise be provided by the district, all
182 obligations issued by the district shall be negotiable instruments
183 and payable solely from the levy of any special assessment by the
184 district or from any other sources whatsoever that may be
185 available to the district but shall not be secured by the full
186 faith and credit of the state or the county or municipality that
187 created the district.

188 (3) Obligations shall be authorized, issued and sold by a
189 resolution or resolutions of the district adopted as provided in
190 this chapter. Such bonds or obligations may be of such series,
191 bear such date or dates, mature at such time or times, bear

192 interest at such rate or rates, including variable, adjustable, or
193 zero interest rates, be payable at such time or times, be in such
194 denominations, be sold at such price or prices, at public or
195 private negotiated sale, after advertisement as is provided for in
196 Section 17-21-53(1), (2), be in such form, carry such registration
197 and exchangeability privileges, be payable at such place or
198 places, be subject to such terms of redemption and be entitled to
199 such priorities on the income, revenue and receipts of, or
200 available to, the district as may be provided by the district in
201 the resolution or resolutions providing for the issuance and sale
202 of the bonds or obligations of the district.

203 (4) The obligations of the district shall be signed by such
204 directors or officers of the district by either manual or
205 facsimile signatures as shall be determined by resolution or
206 resolutions of the district, and shall have impressed or imprinted
207 thereon the seal of the district or a facsimile thereof.

208 (5) Any obligations of the district may be validly issued,
209 sold and delivered notwithstanding that one or more of the
210 directors or officers of the district signing such obligations or
211 whose facsimile signature or signatures may be on the obligations
212 shall have ceased to be such director or officer of the district
213 at the time such obligations shall actually have been delivered.

214 (6) Obligations of the district may be sold in such manner
215 and from time to time as may be determined by the district to be
216 most beneficial, and the district may pay all expenses, premiums,
217 fees or commissions that it deems necessary or advantageous in
218 connection with the issuance and sale thereof, subject to the
219 provisions of this chapter.

220 (7) The district may authorize the establishment of a fund
221 or funds for the creation of a debt service reserve, a renewal and
222 replacement reserve or such other funds or reserves as the
223 district may approve with respect to the financing and operation
224 of any project and as may be authorized by any bond resolution,

225 trust agreement indenture of trust or similar instrument or
226 agreement pursuant to the provisions of which the issuance of
227 bonds or other obligations of the district may be authorized.

228 (8) Any cost, obligation or expense incurred for any of the
229 purposes specified in this chapter shall be a part of the project
230 costs and may be paid or reimbursed as such out of the proceeds of
231 bonds or other obligations issued by the district.

232 (9) Neither the directors of the board nor any person
233 executing the bonds shall be personally liable for the bonds or be
234 subject to any personal liability by reason of the issuance
235 thereof. No earnings or assets of the district shall accrue to
236 the benefit of any private persons. However, the limitation of
237 liability provided for in this subsection shall not apply to any
238 gross negligence or criminal negligence on the part of any
239 director or person executing the bonds.

240 (10) The district may avail itself of the provisions of
241 Sections 31-13-1 through 31-13-11.

242 (11) This chapter constitutes full and complete authority
243 for the issuance of bonds and the exercise of the powers of the
244 district provided herein. No procedures or proceedings,
245 publications, notices, consents, approvals, orders, acts or things
246 by the board or any board, officers, commission, department,
247 agency or instrumentality of the district, other than those
248 required by this chapter, shall be required to perform anything
249 under this chapter, except that the issuance or sale of bonds
250 pursuant to the provisions of this chapter shall comply with the
251 general law requirements applicable to the issuance or sale of
252 bonds by the district. Nothing in this chapter shall be construed
253 to authorize the district to utilize bond proceeds to fund the
254 ongoing operations of the district.

255 (12) Before incurring any debt as provided in subsection (1)
256 of this section, the district may, but shall not be required to,

257 secure an agreement from one or more developers obligating such
258 developer or developers:

259 (a) To effect the completion of all or any portion of a
260 project at no cost to the district;

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

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

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

269 Additionally, the district may enter into an agreement with
270 the developer under which the developer may construct all or any
271 part of the project with private funds in advance of issuance of
272 bonds and may be reimbursed by the district for actual costs
273 incurred by the developer upon issuance and delivery of bonds and
274 receipt of the proceeds, conditioned upon dedication of project by
275 the developer to the district, a governmental agency, a county or
276 a municipality to assure public use and access. This condition
277 shall not apply to the privately owned portion of a project for
278 which the Mississippi Development Authority has issued a
279 certificate of convenience and necessity pursuant to the Regional
280 Economic Development Act.

281 As used in this section, the term "developer" means any
282 entity or natural person which enters into an agreement with a
283 district whereby the developer agrees to construct, operate and
284 maintain or procure the construction, operation and maintenance of
285 a project or projects, or portions thereof, upon land within the
286 district.

287 **SECTION 4.** Section 19-31-33, Mississippi Code of 1972, is
288 amended as follows:

289 19-31-33. (1) The board shall annually determine, order and
290 levy the annual installment of the total benefit special
291 assessments for bonds issued and related expenses to finance
292 district facilities and projects that are levied under this
293 chapter. These assessments may be due and collected during each
294 year that county taxes are due and collected, in which case such
295 annual installment and levy shall be evidenced to and certified to
296 the assessor by the board not later than August 31 of each year.
297 Such assessments shall be entered by the assessor on the county
298 tax rolls and shall be collected and enforced by the tax collector
299 in the same manner and at the same time as county taxes, and the
300 proceeds thereof shall be paid to the district. These benefit
301 special assessments shall be a lien on the property against which
302 assessed until paid and shall be collectible and enforceable in
303 like manner as county property taxes. All statutes regulating the
304 collection and enforcement of county property taxes shall apply to
305 the enforcement and collection of the benefit special assessments
306 levied under this section. The amount of the assessment for the
307 exercise of the district's powers under this chapter shall be
308 determined by the board based upon a report of the district's
309 engineer and assessed by the board upon such lands, which may be
310 part or all of the lands within the district benefited by the
311 improvement, apportioned between benefited lands in proportion to
312 the benefits received by each tract of land.

313 (2) To maintain and preserve the facilities and projects of
314 the district, the board shall levy a maintenance special
315 assessment. This assessment may be evidenced by and certified to
316 the assessor by the board of directors not later than August 31 of
317 each year and shall be entered by the assessor on the county tax
318 rolls and shall be collected and enforced by the tax collector in
319 the same manner and at the same time as county taxes, and the
320 proceeds therefrom shall be paid to the district. These
321 maintenance special assessments shall be a lien on the property

322 against which assessed until paid and shall be collectible and
323 enforceable in like manner as county property taxes and all
324 statutes regulating the collection and enforcement of county
325 property taxes shall apply to the enforcement and collection of
326 the benefit special assessments levied under this section. The
327 amount of the maintenance special assessment for the exercise of
328 the district's powers under this chapter shall be determined by
329 the board based upon a report of the district's engineer and
330 assessed by the board upon such lands, which may be all of the
331 lands within the district benefited by the maintenance thereof,
332 apportioned between the benefited lands in proportion to the
333 benefits received by each tract of land.

334 (3) Benefit special assessments and maintenance special
335 assessments authorized by this section shall be levied and payable
336 in annual installments for each year for which bonds secured by
337 the assessment are outstanding. The tax collector shall collect
338 and enforce assessments in the same manner and at the same time as
339 ad valorem taxes. Benefit special assessments and maintenance
340 special assessments shall constitute a lien on the property
341 against which assessed until paid and shall be on a parity with
342 the lien of state, county, municipal and school board property
343 taxes.

344 (4) The tax assessor and tax collector are entitled to
345 reasonable compensation for preparing the rolls and collecting the
346 assessments.

347 (5) District assessments may be made payable in no more than
348 forty (40) yearly installments.

349 **SECTION 5.** Section 19-31-47, Mississippi Code of 1972, is
350 amended as follows:

351 19-31-47. Within thirty (30) days after the effective date
352 of the ordinance establishing a public improvement district under
353 this chapter, the district shall cause to be recorded in the land
354 records in each county in which it is located a "Notice of

355 Establishment of the _____ Public Improvement
356 District." The notice shall include the legal description of the
357 district and a copy of the disclosure statement specified in this
358 chapter.

359 **SECTION 6.** This act shall take effect and be in force from
360 and after its passage.