

By: Representative Smith (39th)

To: Ways and Means

HOUSE BILL NO. 1261
(As Sent to Governor)

1 AN ACT TO REVISE CERTAIN PROVISIONS OF THE PUBLIC IMPROVEMENT
2 DISTRICT ACT; TO AMEND SECTION 19-31-5, MISSISSIPPI CODE OF 1972,
3 TO DEFINE ADDITIONAL TERMS USED UNDER THE ACT; TO AMEND SECTION
4 19-31-7, MISSISSIPPI CODE OF 1972, TO EXTEND THE TIMEFRAME DURING
5 WHICH A PUBLIC HEARING MUST BE HELD ON A PETITION FOR THE
6 ESTABLISHMENT OF A PUBLIC IMPROVEMENT DISTRICT; TO AMEND SECTION
7 19-31-9, MISSISSIPPI CODE OF 1972, TO INCREASE THE TERM OF OFFICE
8 OF MEMBERS OF A PUBLIC IMPROVEMENT DISTRICT'S BOARD OF DIRECTORS,
9 TO REQUIRE CANDIDATES FOR THE BOARD OF DIRECTORS TO QUALIFY FOR
10 THE OFFICE BY FILING A PRESCRIBED STATEMENT OF INTENT, TO PROVIDE
11 A FORM FOR VOTING BY PROXY, AND TO REQUIRE THE APPOINTMENT OF A
12 BOARD MEMBER IF A MEMBER DOES NOT COMPLETE HIS TERM OF OFFICE; TO
13 AMEND SECTION 19-31-17, MISSISSIPPI CODE OF 1972, TO AUTHORIZE
14 PUBLIC IMPROVEMENT DISTRICTS TO PLEDGE USER CHARGES AND FEES FOR
15 THE PAYMENT OF INDEBTEDNESS OF THE DISTRICT AND TO COVENANT WITH
16 BOND HOLDERS TO COLLECT ASSESSMENTS, CHARGES AND FEES; TO AMEND
17 SECTION 19-31-19, MISSISSIPPI CODE OF 1972, TO REVISE CERTAIN
18 SPECIAL POWERS OF PUBLIC UTILITY DISTRICTS RELATING TO PUBLIC
19 IMPROVEMENTS AND COMMUNITY FACILITIES; TO AMEND SECTION 19-31-23,
20 MISSISSIPPI CODE OF 1972, TO REQUIRE A DISTRICT TO HOLD A PUBLIC
21 HEARING BEFORE ISSUING BONDS OR ENTERING INTO A CONTRIBUTION
22 AGREEMENT WITH A PUBLIC UTILITY, TO SPECIFY CERTAIN INFORMATION
23 THAT MUST BE GIVEN IN NOTICE OF THE PUBLIC HEARING ON A PROPOSED
24 CONTRIBUTION AGREEMENT, TO REQUIRE APPRAISALS OF PROPERTY IN THE
25 DISTRICT BEFORE ISSUING BONDS, AND TO AUTHORIZE THE DISTRICT TO
26 INVEST MONIES NOT NEEDED FOR IMMEDIATE USE IN THE MANNER
27 PRESCRIBED; TO AMEND SECTION 19-31-29, MISSISSIPPI CODE OF 1972,
28 IN CONFORMITY TO THE PROVISIONS OF THIS ACT; TO AMEND SECTION
29 19-31-33, MISSISSIPPI CODE OF 1972, TO AUTHORIZE THE PREPAYMENT OF
30 BENEFIT SPECIAL ASSESSMENTS; TO AMEND SECTION 19-31-35,
31 MISSISSIPPI CODE OF 1972, TO DELETE THE TIMEFRAME IN WHICH
32 PROCEEDINGS MAY BE INSTITUTED FOR THE ENFORCEMENT OF LIENS IN
33 FAVOR OF A DISTRICT; TO AMEND SECTION 19-31-39, MISSISSIPPI CODE
34 OF 1972, TO REQUIRE NOTICE OF A PUBLIC HEARING ON PROPOSED FEES
35 AND OTHER CHARGES TO BE PUBLISHED IN A NEWSPAPER HAVING GENERAL
36 CIRCULATION IN EACH COUNTY IN WHICH THE DISTRICT IS LOCATED; TO
37 AMEND SECTION 19-31-43, MISSISSIPPI CODE OF 1972, TO REQUIRE ALL
38 LANDOWNERS IN AN AREA PROPOSED TO BE ADDED TO OR TAKEN FROM A
39 DISTRICT TO CONSENT TO THE CHANGE, AND TO PROHIBIT THE DISSOLUTION
40 OF A DISTRICT IF BONDS OR OTHER SECURITY INSTRUMENTS ISSUED BY THE
41 DISTRICT ARE OUTSTANDING; TO AMEND SECTION 19-31-45, MISSISSIPPI
42 CODE OF 1972, TO REQUIRE CERTAIN LANGUAGE TO BE INCLUDED IN
43 INSTRUMENTS OF CONVEYANCE FOR REAL PROPERTY WITHIN A DISTRICT; TO
44 AMEND SECTION 19-31-47, MISSISSIPPI CODE OF 1972, TO SPECIFY THAT
45 A NOTICE OF ESTABLISHMENT OF A PUBLIC IMPROVEMENT DISTRICT MUST BE



46 RECORDED IN THE SECTIONAL OR SUBDIVISIONAL INDEX IN EACH INVOLVED
47 COUNTY'S LAND RECORDS; AND FOR RELATED PURPOSES.

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

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

51 19-31-5. As used in this chapter the following terms shall
52 have the meanings ascribed to them in this section unless the
53 context clearly requires otherwise:

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

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

60 (c) "Board" or "board of directors" means the governing
61 board of the district or, if such board has been abolished, the
62 board, body or commission succeeding to the principal functions
63 thereof or to whom the powers given to the board by this chapter
64 have been given by law.

65 (d) "Bond" includes certificate, and the provisions
66 that are applicable to bonds are equally applicable to
67 certificates. The term "bond" includes any assessment bond,
68 refunding bond, revenue bond and other such obligation in the
69 nature of a bond as is provided for in this chapter.

70 (e) "Public improvement district" or "district" means a
71 special district that is created pursuant to this chapter and
72 limited to the performance of those specialized functions
73 authorized by this chapter, the boundaries of which are contained
74 wholly within a single county or two (2) or more contiguous
75 counties; the governing head of which is a body created, organized
76 and constituted and authorized to function specifically as
77 prescribed in this chapter for the delivery of public improvement
78 services; and the formation powers, governing body, operation,



79 duration accountability, requirements for disclosure and
80 termination of which are as required by general law.

81 (f) "Contribution agreement" means an agreement between
82 a district and a public entity under which the public entity
83 agrees to provide financial or credit support in the form of cash,
84 pledge, guaranty or other enhancement, which agreement must be
85 approved in accordance with Sections 17-13-1 through 17-13-17.

86 (g) "Cost," when used with reference to any project,
87 includes, but is not limited to:

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

90 (ii) The cost of surveys, estimates, plans and
91 specifications.

92 (iii) The cost of improvements.

93 (iv) Engineering, fiscal and legal expenses and
94 charges.

95 (v) The cost of all labor, materials, machinery
96 and equipment.

97 (vi) The cost of all lands, rights, servitudes and
98 franchises acquired.

99 (vii) Financing charges.

100 (viii) The creation of initial reserve and debt
101 service funds.

102 (ix) Working capital.

103 (x) Interest charges incurred or estimated to be
104 incurred on money borrowed before and during construction and
105 acquisition and for such reasonable period of time after
106 completion of construction or acquisition as the board may
107 determine.

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

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



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

114 (xiv) Administrative expenses.

115 (xv) Such other expenses as may be necessary or
116 incidental to the acquisition, construction or reconstruction of
117 any project or to the financing thereof, or to the development of
118 any lands within the district.

119 (h) "District manager" means the manager of the
120 district.

121 (i) "District roads" means highways, streets, roads,
122 alleys, sidewalks, landscaping, storm drains, bridges and
123 thoroughfares of all kinds and descriptions.

124 (j) "Landowner" means the owner of land, including real
125 property as it appears in the official records of the county,
126 including a trustee, a private corporation or other entity, and an
127 owner of a condominium unit.

128 (k) "Market value" means the amount in cash, or on
129 terms reasonably equivalent to cash, for which in all probability
130 the property would have sold on the effective date of the
131 appraisal, after a reasonable exposure time on the open
132 competitive market, from a willing and reasonably knowledgeable
133 seller to a willing and reasonably knowledgeable buyer, with
134 neither acting under any compulsion to buy or sell, giving due
135 consideration to all available economic uses of the property at
136 the time of the appraisal. Market value must be determined in
137 accordance with Section 27-35-50 and must conform to the Uniform
138 Standards of Professional Appraisers Practice.

139 (l) "Project" means any development, improvement,
140 property, utility, facility, works, enterprise or service
141 undertaken after April 1, 2002, or established under the
142 provisions of this chapter, including, but not limited to, the
143 following:



144 (i) Water management and control for the lands
145 within the district and connection of some or any of such
146 facilities with roads and bridges;

147 (ii) Water supply, sewer and wastewater
148 management, reclamation and reuse, or any combination thereof;

149 (iii) Bridges or culverts that may be needed
150 across any drain, ditch, canal, floodway, holding basin,
151 excavation, public highway, tract, grade, fill or cut and roadways
152 over levees and embankments;

153 (iv) District roads equal to or exceeding the
154 specifications of the county in which the district roads are
155 located, including street lights and the location of underground
156 utilities;

157 (v) Parks and facilities for indoor and outdoor
158 recreational, cultural and educational uses, and other tourism
159 related infrastructure and facilities;

160 (vi) Fire prevention and control, including fire
161 stations, water mains and plugs, fire trucks, and other vehicles
162 and equipment;

163 (vii) Security, except that the district may not
164 exercise any police power but may contract with the appropriate
165 local governmental agencies for an increased level of such
166 services within the district boundaries;

167 (viii) Waste collection and disposal;

168 (ix) Acquisition, construction, repair,
169 renovation, demolition or removal of:

170 1. Buildings and site improvements (including
171 fixtures);

172 2. Potable and nonpotable water supply
173 systems;

174 3. Sewage and waste disposal systems;

175 4. Storm water drainage and other drainage
176 systems;



177 5. Airport facilities;
178 6. Rail lines and rail spurs;
179 7. Port facilities;
180 8. Highways, streets and other roadways;
181 9. Fire suppression and prevention systems;
182 10. Utility distribution systems, including,
183 but not limited to, water, electricity, natural gas, telephone and
184 other information and telecommunications facilities, whether by
185 wire, fiber or wireless means; however, electrical, natural gas,
186 telephone and telecommunication systems may be constructed,
187 repaired or renovated only for the purpose of completing the
188 project and connecting to existing utility systems. This
189 provision may not be construed to prevent a city, county or
190 natural gas district from supplying utility service that it is
191 authorized to supply in the service area that it is authorized to
192 serve; and

193 11. Business, industrial and technology parks
194 and the acquisition of land and acquisition or construction of
195 improvements to land connected with any of the preceding purposes;

196 (x) County purposes authorized by or defined in
197 Sections 17-5-3 and 19-9-1, except Section 19-9-1(f); and

198 (xi) Municipal purposes authorized by or defined
199 in Sections 17-5-3, 17-17-301 through 17-17-349, 21-27-23 and
200 21-33-301.

201 (m) "Public entity" means any governmental agency,
202 county or municipality, which enters into a contribution agreement
203 with a district in accordance with this chapter.

204 (n) "Qualified voter" means any landowner within the
205 district who is at least eighteen (18) years of age, or the
206 landowner's authorized representative who is at least eighteen
207 (18) years of age. If the landowner of a parcel consists of more
208 than one (1) person or is a corporation, partnership, limited
209 liability company or any association or legal entity organized to



210 conduct business, the majority interest of the landowners of the
211 parcel shall select one (1) person who is at least eighteen (18)
212 years of age to serve as the "qualified voter" for the group.

213 (o) "Revenue bonds" means obligations of the district
214 that are payable from revenues derived from sources other than ad
215 valorem taxes on real or personal property and that do not pledge
216 the property, credit or general tax revenue of the district.

217 (p) "Sewer system" means any plant, system, facility or
218 property, and additions, extensions and improvements thereto,
219 useful or necessary in connection with the collection, treatment
220 or disposal of sewage.

221 (q) "Water management and control facilities" means any
222 lakes, canals, ditches, reservoirs, dams, levees, floodways,
223 pumping stations or any other works, structures or facilities for
224 the conservation, control, development, utilization and disposal
225 of water, and any purposes incidental thereto.

226 (r) "Water system" means any plant system, facility or
227 property, and additions, extensions, and improvements thereto,
228 useful or necessary in connection with the development of sources,
229 treatment or purification and distribution of water.

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

232 19-31-7. (1) The method for the establishment of a public
233 improvement district shall be pursuant to an ordinance adopted by
234 the governing body of each county in which the land is located
235 granting a petition for the establishment of a public improvement
236 district. The petition for the establishment of a public
237 improvement district shall be filed by the petitioner with the
238 governing body of the county or counties. The petition shall
239 contain:

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

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



243 (c) A designation of five (5) persons to be the initial
244 members of the board of directors, who shall serve in that office
245 until replaced by elected members as provided in Section 19-31-9;

246 (d) The proposed name of the district;

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

249 (f) Based upon available data, the proposed timetable
250 for construction of the district services and the estimated cost
251 of constructing the proposed services.

252 (2) A public hearing on the petition shall be conducted by
253 the governing body of each county of the proposed district within
254 sixty (60) days after the petition is filed unless an extension of
255 time is requested by the petitioners and granted by the governing
256 body of each county. The hearing shall be held at an accessible
257 location in each county in which the public improvement district
258 is to be located. The petitioner shall cause a notice of the
259 hearing to be published in a newspaper having general circulation
260 in each county at least once a week for the four (4) successive
261 weeks immediately prior to the hearing. Such notice shall give
262 the time and place for the hearing, a description of the area to
263 be included in the district, and any other relevant information
264 which the establishing governing bodies may require. The
265 advertisement shall be published in the official minutes of the
266 local governing body.

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

271 (4) An ordinance establishing a public improvement district
272 shall include the boundaries of the district, the names of the
273 five (5) persons designated to be the initial members of the board
274 of directors of the district and the name of the district.



275 (5) If all of the land in the area for the proposed district
276 is within the territorial jurisdiction of a municipality, then the
277 petition requesting establishment of a public improvement district
278 under this chapter shall be filed by the petitioner with that
279 particular municipality. In such event, the duties of the county
280 with regard to the petition shall be the duties of the
281 municipality. If any of the land area of a proposed district is
282 within the land area of a municipality, the governing body of the
283 county may not create the district without the approval of the
284 municipality.

285 (6) The governing body of any governmental agency, county
286 and/or municipality may enter into contribution agreements with
287 the district.

288 **SECTION 3.** Section 19-31-9, Mississippi Code of 1972, is
289 amended as follows:

290 19-31-9. (1) The board of the district shall exercise the
291 powers granted to the district pursuant to this chapter. The
292 board shall consist of five (5) members as otherwise provided in
293 this section. Each member shall hold office for an initial term
294 of six (6) years and until a successor is chosen and qualifies.
295 The initial members of the board shall be residents of the state,
296 and at least one (1) of the initial members shall be either a
297 qualified voter within the district or an individual resident of
298 the area immediately adjacent to the district. Upon appointment
299 or election, the board members shall elect a chair who shall
300 conduct board meetings.

301 (2) (a) Beginning six (6) years after the initial
302 appointment of members, the position of each member whose term has
303 expired shall be filled by a qualified voter of the district,
304 elected by the qualified voters of the district. There shall be
305 an election of members every six (6) years from the date of the
306 ordinance establishing the district. The district manager shall
307 determine the date and time of the election, which election must



308 be held at least twenty (20) days before the anniversary date of
309 the ordinance establishing the district. If a contribution
310 agreement exists, then the governing body of the public entity
311 that is a party to the contribution agreement may appoint one (1)
312 of the five (5) members to the board of the district at the time
313 of the election in lieu of electing that member.

314 (b) Candidates must qualify in writing by submitting a
315 "Statement of Intent," as prescribed in this paragraph, to the
316 district manager thirty (30) days before the election. The
317 district manager shall prepare a ballot of all candidates
318 qualified to run for office twenty-eight (28) days before the
319 election.

320 **Statement of Intent**

321 Candidate for (insert name of district) Public Improvement
322 District
323 I, (name of candidate as it will appear on the ballot),
324 (mailing address, street address, city, state, zip code, telephone
325 number of the candidate), certify that I am a qualified voter, as
326 defined in Section 19-31-5, Mississippi Code of 1972, of the
327 (insert name of public improvement district) Public Improvement
328 District in the State of Mississippi; and I do hereby declare my
329 candidacy for Board of the (insert name of public improvement
330 district) Public Improvement District at the election to be held
331 on (insert date of election).

332 _____

333 (Signature of candidate) (Date)

334 Received by

335 (Signature) (Title) (Date)

336 (c) Notice of the election shall be announced at a
337 public meeting of the board at least ninety (90) days before the
338 date of the election and shall be published once a week for two
339 (2) consecutive weeks in a newspaper which is in general
340 circulation in the area of the district, the last day of such



341 publication to be not fewer than fourteen (14) days nor more than
342 twenty-eight (28) days before the election. In addition, notice
343 of the election shall be sent by United States first-class mail,
344 not fewer than fourteen (14) days before the election, to all
345 qualified voters at their last known address as shown on the tax
346 rolls. Instructions on how all qualified voters may participate
347 in the election, along with sample proxies, shall be provided as
348 part of the notice required by this paragraph, and the location,
349 date and time of the election shall be included on all
350 instructions and notices.

351 (d) Each qualified voter shall be entitled to cast only
352 one (1) ballot to elect each of the board members, regardless of
353 the number of parcels owned by that voter within the district.
354 Parcels may not be aggregated for determining the number of
355 ballots allowed to be cast by a qualified voter. A list of
356 qualified voters in the form of a voter roll must be kept current
357 by the district manager and deemed final thirty (30) days before
358 the election.

359 (e) A qualified voter may vote in person or by proxy in
360 writing. A vote cast by proxy must be submitted at or within
361 fourteen (14) days before the election and must be submitted in
362 the form prescribed in this section. Each proxy must be signed
363 by * * * the qualified voter for which the vote is cast and must
364 contain the typed or printed name of the individual who signed the
365 proxy and the street address, legal description of the property or
366 the property's tax parcel identification number * * *. The
367 signature on a proxy need not be notarized. All votes cast by
368 proxy must be reflected in the voter roll.

369 **Proxy for Election**

370 (Insert name of district) Public Improvement District

371 I, _____, (name of qualified voter);

372 _____ (street address);



373 _____ (legal description);
374 _____ (tax parcel identification number).

375 [NOTE: To be considered, this proxy must contain at least one (1)
376 of either: the street address; legal description; or tax parcel
377 identification number.]

378 1. Do constitute and appoint _____
379 _____ (name), attorney and agent for me, and in my
380 name, place and stead, to vote as my proxy for the election of
381 members of the Board of Directors of the (name of district) Public
382 Improvement District on (insert date), at the (insert voting
383 location/facility name with street address); **OR (only choose one)**

384 2. Do hereby cast my vote for:
385 _____ [print or type name of
386 person being voted for - PLEASE NOTE THAT YOUR VOTE MUST BE FOR A
387 QUALIFIED VOTER (AS DEFINED IN MISSISSIPPI CODE SECTION 19-31-5)
388 OF THE DISTRICT. A QUALIFIED VOTER MEANS ANY LANDOWNER OF THE
389 DISTRICT WHO IS AT LEAST EIGHTEEN (18) YEARS OF AGE OR AN
390 AUTHORIZED REPRESENTATIVE OF THE LANDOWNER WHO IS ALSO AT LEAST
391 EIGHTEEN (18) YEARS OF AGE.] to be elected as a member of the
392 Board of Directors of the (name of district) Public Improvement
393 District for a term beginning (date of term) and ending six (6)
394 years from that date or until a successor is chosen.

395 I understand that I have the right to revoke this proxy at
396 any time before the election. I understand that I have the right
397 to be present in person at the election.

398 I have executed this proxy on (insert date).
399 _____

400 **(Printed Name of Qualified Voter)**

401 _____
402 **(Signature of Qualified Voter)**

403 (f) A qualified voter may cast only one (1) vote for
404 each of the five (5) board member positions. When a qualified
405 voter casts a vote for the same person more than once, only one

406 (1) of the votes cast for that person will be counted. When a
407 qualified voter casts more votes to elect board members than he or
408 she is entitled to cast, all votes are invalid, and the qualified
409 voter is deemed to have voted for none of them. When a qualified
410 voter casts fewer votes to elect board members than he or she is
411 entitled to cast, all votes cast by the qualified voter must be
412 counted, but no votes shall be counted more than once.

413 (g) If a board member dies, resigns or otherwise is
414 prevented from serving as a board member, the board of the
415 district shall appoint a member to fill the remainder of the board
416 member's term. If no qualified voter is willing to serve on the
417 board of the district, the governing body that established the
418 district shall appoint members as necessary to fill any vacancy
419 for the remainder of the term.

420 (3) Members of the board shall be known as directors and,
421 upon entering into office, shall take an oath of office. They
422 shall hold office for the terms for which they were elected or
423 appointed and until their successors are chosen and qualified. If
424 during the term of office, a vacancy occurs, the remaining members
425 of the board shall fill the vacancy by an appointment for the
426 remainder of the unexpired term.

427 (4) A majority of the members of the board constitutes a
428 quorum for the purposes of conducting its business and exercising
429 its powers and for all other purposes. Action taken by the
430 district shall be upon a vote of a majority of the members present
431 unless general law or a rule of the district requires a greater
432 number. If a quorum cannot be obtained in a board meeting, the
433 governing body that established the district shall appoint members
434 as necessary to replace any board member missing three (3)
435 consecutive meetings.

436 (5) As soon as practicable after each election or
437 appointment, the board shall organize by electing one (1) of its
438 members as chair and by electing a secretary, who need not be a



439 member of the board, and such other officers as the board may deem
440 necessary.

441 (6) The board shall keep a permanent minute book in which
442 shall be recorded minutes of all meetings, resolutions,
443 ordinances, proceedings and all corporate acts.

444 (7) Members of the board may receive per diem compensation
445 for services in an amount as provided under Section 25-3-69, and
446 shall be entitled to expenses necessarily incurred in the
447 discharge of their duties in accordance with Section 25-3-41. Any
448 payments for compensation and expenses shall be paid from funds of
449 the district.

450 **SECTION 4.** Section 19-31-17, Mississippi Code of 1972, is
451 amended as follows:

452 19-31-17. The district shall have, and the board may
453 exercise, the power:

454 (a) To sue and be sued in the name of the district.

455 (b) To adopt and use a seal and authorize the use of a
456 facsimile thereof.

457 (c) To acquire, by purchase, gift, devise or otherwise,
458 and to dispose of, real and personal property.

459 (d) To dedicate, donate or convey in any manner, real
460 and personal property under such terms and conditions as may be
461 agreed upon, to:

462 (i) Nonprofit entities that have been issued a
463 certificate of public convenience and necessity by the Public
464 Service Commission; or

465 (ii) Governmental entities.

466 (e) To make and execute contracts and other instruments
467 necessary or convenient to the exercise of its powers.

468 (f) To contract for the services of consultants to
469 perform planning, engineering, financial, legal, or other
470 appropriate services of a professional nature.



471 (g) To borrow money and accept gifts; to apply for and
472 use grants or loans of money or other property from the United
473 States, the state, a unit of local government or any person or any
474 organization for any district purposes and enter into agreements
475 required in connection therewith; and to hold, use and dispose of
476 such monies or property for any district purposes in accordance
477 with the terms of the gift, grant, loan or agreement relating
478 thereto.

479 (h) To adopt bylaws prescribing the powers, duties and
480 functions of the officers of the district, the conduct of the
481 business of the district and the maintenance of records.

482 (i) To maintain an office at such place or places as it
483 may designate within a county in which the district is located,
484 which office must be reasonably accessible to the landowners.
485 Meetings shall be held at such office or such other location as
486 may be designated by the board.

487 (j) To hold, control and acquire by donation, or
488 purchase or dispose of, any public servitudes or dedications to
489 public use and to make use of such servitudes or dedications for
490 any of the purposes authorized by this chapter.

491 (k) To lease as lessor or lessee to or from any person,
492 firm, corporation, association, or body public or private, any
493 projects of the type that the district is authorized to undertake
494 and facilities or property of any nature for the use of the
495 district to carry out any of the purposes authorized by this
496 chapter.

497 (l) To borrow money and issue bonds, certificates,
498 warrants, notes or other evidence of indebtedness as provided in
499 this chapter; to levy such special assessments as may be
500 authorized; and to charge, collect and enforce fees and other user
501 charges.

502 (m) To acquire property within the boundaries of the
503 district for public use through condemnation, exercised pursuant



504 to Sections 11-27-1 through 11-27-51, subject to the approval of
505 the governing body of the county and/or the municipality that
506 enacted the ordinance establishing the district.

507 (n) To raise, by user charges or fees authorized by
508 resolution of the board, amounts of money which are necessary for
509 the conduct of the district activities and services; to finance
510 projects and to pledge user charges and fees for the payment of
511 any bond or other indebtedness of the district; and to enforce the
512 receipt and collection of user charges and fees in the manner
513 prescribed by resolution not inconsistent with law.

514 (o) To cooperate * * *, contract, or enter into
515 contribution agreements with other governmental agencies,
516 including the governing bodies of counties and/or municipalities,
517 as may be necessary, convenient, incidental or proper in
518 connection with any of the powers, duties or purposes authorized
519 by this chapter.

520 (p) To determine, order, levy, impose, collect and
521 enforce special assessments pursuant to this chapter.

522 (q) To enter into interlocal cooperative agreements
523 pursuant to Sections 17-13-1 through 17-13-17.

524 (r) To covenant with the holders of assessment bonds or
525 other obligations that it will diligently and faithfully enforce
526 and collect all the special assessments, charges and fees, and
527 interest and penalties thereon.

528 (s) To exercise all of the powers necessary and proper
529 in connection with any of the powers, duties or purposes
530 authorized by this chapter.

531 **SECTION 5.** Section 19-31-19, Mississippi Code of 1972, is
532 amended as follows:

533 19-31-19. The district shall have, and the board may
534 exercise, any or all of the special powers relating to public
535 improvements and community facilities authorized by this chapter.
536 The district shall have the power to finance, fund, establish,



537 acquire, construct or reconstruct, enlarge or extend, equip,
538 operate and maintain systems, facilities, projects and basic
539 infrastructures that are within the district, or which benefit or
540 serve the district, for the following:

541 (a) Water management and control for the lands within
542 the district and connection of some or any of such facilities with
543 roads and bridges;

544 (b) Water supply, sewer and wastewater management,
545 reclamation and reuse, or any combination thereof;

546 (c) Bridges or culverts that may be needed across any
547 drain, ditch, canal, floodway, holding basin, excavation, public
548 highway, tract, grade, fill or cut and roadways over levees and
549 embankments;

550 (d) District roads equal to or exceeding the
551 specifications of the county in which such district roads are
552 located, including street lights and the location of underground
553 utilities;

554 (e) Parks and facilities for indoor and outdoor
555 recreational, cultural and educational uses, and other tourism
556 related infrastructure and facilities;

557 (f) Fire prevention and control, including fire
558 stations, water mains and plugs, fire trucks, and other vehicles
559 and equipment;

560 (g) Security, except that the district may not exercise
561 any police power, but may contract with the appropriate local
562 governmental agencies for an increased level of such services
563 within the district boundaries;

564 (h) Waste collection and disposal;

565 (i) Systems, as defined in Section 21-27-11(b); and

566 (j) Projects, as defined in this chapter.

567 **SECTION 6.** Section 19-31-23, Mississippi Code of 1972, is
568 amended as follows:



569 19-31-23. (1) The district may issue and sell from time to
570 time bonds, notes, negotiable notes, tax anticipation notes, bond
571 anticipation notes, other fund anticipation notes, renewal notes,
572 refunding bonds, interim certificates, certificates of
573 indebtedness, certificates of participation, debentures, warrants,
574 commercial paper or other obligations or evidences of indebtedness
575 to provide funds for and to fulfill and achieve its public purpose
576 or corporate purposes, as set forth in this chapter, including,
577 but not limited to, the payment of all or a portion of the costs
578 of a project, to provide amounts necessary for any corporate
579 purposes, including incidental expenses in connection with the
580 issuance of the obligations, the payment of principal and interest
581 on the obligations of the district, the establishment of reserves
582 to secure such obligations, and all other purposes and
583 expenditures of the district incident to and necessary or
584 convenient to carry out its public functions or corporate
585 purposes, and any credit enhancement for such obligations.

586 (2) Before the issuance of any bonds as authorized under
587 this chapter, the district shall hold a public hearing on the
588 advisability of the indebtedness. Notice of the hearing must be
589 published twice in a newspaper having general circulation in each
590 county where the district is located. The final publication of
591 notice must be at least ten (10) days before the public hearing.
592 The district shall give, by United States first-class mail,
593 written notice of the public hearing to all qualified voters in
594 the district. The notice must be addressed to "Property Owner"
595 and mailed by United States first-class mail to the current
596 address of the owner, as reflected on tax rolls of property
597 located in the district.

598 (3) (a) If a district proposes to enter into a contribution
599 agreement with a public entity for any bond issue, the public
600 entity shall hold a public hearing on the advisability of the



601 contribution agreement for any bonds the district proposes to
602 enter.

603 (b) Notice of the hearing must be published twice in a
604 newspaper having general circulation in each county where the
605 public entity is located. The final publication of notice must be
606 at least ten (10) days before the public hearing.

607 (c) The notice must state the following:

608 (i) Time and place of the hearing;

609 (ii) General nature of the proposed improvement;

610 (iii) Estimated cost of the improvement;

611 (iv) Boundaries of the public improvement

612 district;

613 (v) Proposed method of assessment;

614 (vi) Proposed amount and term of indebtedness;

615 (vii) Name of the public entity entering into the
616 contribution agreement; and

617 (viii) Proposed amount of contribution by the
618 public entity.

619 (d) The hearing may be adjourned from time to time
620 until the governing body of the public entity makes findings by
621 resolution as to the following:

622 (i) Advisability of the improvement;

623 (ii) Nature of the improvement;

624 (iii) Estimated cost of the improvement;

625 (iv) Boundaries of the public improvement

626 district;

627 (v) Method of assessment;

628 (vi) Market value of real property within the
629 district determined in accordance with paragraph (c) of this
630 subsection; and

631 (vii) Terms of the contribution agreement.

632 (e) As provided in subsection (3) (d) (vi) of this

633 section, the governing body of the public entity shall obtain an



634 appraisal in accordance with the Uniform Standards of Professional
635 Appraisal Practice, with special consideration given to the Income
636 Approach to Value using a discounted cash flow analysis of the
637 entire commercial, residential or industrial subdivision. The
638 appraisal must satisfy all parties to the contribution agreement
639 that the value of the property in the district will be sufficient
640 to ensure payment of any obligation to which a public entity is
641 subject.

642 (4) Except as may otherwise be provided by the district,
643 all obligations issued by the district shall be negotiable
644 instruments and payable solely from the levy of any special
645 assessment by the district or from any other sources whatsoever
646 that may be available to the district but shall not be secured by
647 the full faith and credit of the state or the county or
648 municipality that created the district.

649 (5) Obligations shall be authorized, issued and sold by a
650 resolution or resolutions of the district adopted as provided in
651 this chapter. Such bonds or obligations may be of such series,
652 bear such date or dates, mature at such time or times, bear
653 interest at such rate or rates, including variable, adjustable, or
654 zero interest rates, be payable at such time or times, be in such
655 denominations, be sold at such price or prices, at public or
656 private negotiated sale, after advertisement as is provided for in
657 Section 17-21-53(2) for and in connection with any public sale, be
658 in such form, carry such registration and exchangeability
659 privileges, be payable at such place or places, be subject to such
660 terms of redemption and be entitled to such priorities on the
661 income, revenue and receipts of, or available to, the district as
662 may be provided by the district in the resolution or resolutions
663 providing for the issuance and sale of the bonds or obligations of
664 the district.

665 (6) The obligations of the district shall be signed by such
666 directors or officers of the district by either manual or



667 facsimile signatures as shall be determined by resolution or
668 resolutions of the district, and shall have impressed or imprinted
669 thereon the seal of the district or a facsimile thereof.

670 (7) Any obligations of the district may be validly issued,
671 sold and delivered notwithstanding that one or more of the
672 directors or officers of the district signing such obligations or
673 whose facsimile signature or signatures may be on the obligations
674 shall have ceased to be such director or officer of the district
675 at the time such obligations shall actually have been delivered.

676 (8) Obligations of the district may be sold in such manner
677 and from time to time as may be determined by the district to be
678 most beneficial, and the district may pay all expenses, premiums,
679 fees or commissions that it deems necessary or advantageous in
680 connection with the issuance and sale thereof, subject to the
681 provisions of this chapter.

682 (9) The district may authorize the establishment of a fund
683 or funds for the creation of a debt service reserve, a renewal and
684 replacement reserve or such other funds or reserves as the
685 district may approve with respect to the financing and operation
686 of any project and as may be authorized by any bond resolution,
687 trust agreement, indenture of trust or similar instrument or
688 agreement pursuant to the provisions of which the issuance of
689 bonds or other obligations of the district may be authorized.

690 (10) Notwithstanding any other law to the contrary, but
691 subject to any agreement with bondholders or noteholders, monies
692 of the district not required for immediate use, including proceeds
693 from the sale of any bonds, notes or other obligations, may be
694 invested in the following:

695 (a) Obligations of any municipality, the State of
696 Mississippi or the United States of America;

697 (b) Obligations of which the principal and interest are
698 guaranteed by the State of Mississippi or the United States of
699 America;



700 (c) Obligations of any corporation wholly owned by the
701 United States of America;

702 (d) Obligations of any corporation sponsored by the
703 United States of America which are, or may become, eligible as
704 collateral for advances to member banks as determined by the Board
705 of Governors of the Federal Reserve System;

706 (e) Obligations of insurance firms or other
707 corporations whose investments are rated "A" or better by
708 recognized rating companies;

709 (f) Certificates of deposit or time deposits of
710 qualified depositories of the State of Mississippi as approved by
711 the State Depository Commission, secured in such manner, if any,
712 as the commission determines appropriate;

713 (g) Contracts for the purchase and sale of obligations
714 of the type described in paragraphs (a) through (e) of this
715 subsection;

716 (h) Repurchase agreements secured by obligations
717 described in paragraphs (a) through (e) of this subsection; and

718 (i) Money market funds, the assets of which are
719 required to be invested in obligations described in paragraphs (a)
720 through (f) of this subsection.

721 (11) Any cost, obligation or expense incurred for any of the
722 purposes specified in this chapter shall be a part of the project
723 costs and may be paid or reimbursed as such out of the proceeds of
724 bonds or other obligations issued by the district.

725 (12) Neither the directors of the board nor any person
726 executing the bonds shall be personally liable for the bonds or be
727 subject to any personal liability by reason of the issuance
728 thereof. No earnings or assets of the district shall accrue to
729 the benefit of any private persons. However, the limitation of
730 liability provided for in this subsection shall not apply to any
731 gross negligence or criminal negligence on the part of any
732 director or person executing the bonds.



733 (13) The district may avail itself of the provisions of
734 Sections 31-13-1 through 31-13-11.

735 (14) This chapter constitutes full and complete authority
736 for the issuance of bonds and the exercise of the powers of the
737 district provided herein. No procedures or proceedings,
738 publications, notices, consents, approvals, orders, acts or things
739 by the board or any board, officers, commission, department,
740 agency or instrumentality of the district, other than those
741 required by this chapter, shall be required to perform anything
742 under this chapter, except that the issuance or sale of bonds
743 pursuant to the provisions of this chapter shall comply with the
744 general law requirements applicable to the issuance or sale of
745 bonds by the district. Nothing in this chapter shall be construed
746 to authorize the district to utilize bond proceeds to fund the
747 ongoing operations of the district.

748 (15) Before incurring any debt as provided in subsection (1)
749 of this section, the district may, but shall not be required to,
750 secure an agreement from one or more developers obligating such
751 developer or developers:

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

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

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

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

762 Additionally, the district may enter into an agreement with
763 the developer under which the developer may construct all or any
764 part of the project with private funds in advance of issuance of
765 bonds and may be reimbursed by the district for actual costs



766 incurred by the developer upon issuance and delivery of bonds and
767 receipt of the proceeds, conditioned upon dedication of the
768 project by the developer to the district, a governmental agency, a
769 county or a municipality to assure public use and access. This
770 condition shall not apply to the privately owned portion of a
771 project for which the Mississippi Development Authority has issued
772 a certificate of convenience and necessity pursuant to the
773 Regional Economic Development Act.

774 As used in this section, the term "developer" means any
775 entity or natural person which enters into an agreement with a
776 district whereby the developer agrees to construct, operate and
777 maintain or procure the construction, operation and maintenance of
778 a project or projects, or portions thereof, upon land within the
779 district.

780 **SECTION 7.** Section 19-31-29, Mississippi Code of 1972, is
781 amended as follows:

782 19-31-29. Bonds issued under the provisions of this chapter
783 shall be limited obligations of the district payable solely from
784 the sources pledged for the payment thereof. All such bonds shall
785 contain a statement on their face substantially to the effect that
786 neither the full faith and credit of the state nor the full faith
787 and credit of any governmental unit of the state are pledged to
788 the payment of the principal of or the interest on such bonds.
789 Except as provided in a contribution agreement, the issuance of
790 bonds under the provisions of this chapter shall not directly,
791 indirectly or contingently obligate the state or any governmental
792 unit of the state to levy any taxes or to make any appropriation
793 for their payment arising out of contracts authorized under this
794 chapter.

795 **SECTION 8.** Section 19-31-33, Mississippi Code of 1972, is
796 amended as follows:

797 19-31-33. (1) The board shall annually determine, order and
798 levy the annual installment of the total benefit special



799 assessments for bonds issued and related expenses to finance
800 district facilities and projects that are levied under this
801 chapter. These assessments may be due and collected during each
802 year that county taxes are due and collected, in which case such
803 annual installment and levy shall be evidenced to and certified to
804 the assessor by the board not later than August 31 of each year.
805 Such assessments shall be entered by the assessor on the county
806 tax rolls and shall be collected and enforced by the tax collector
807 in the same manner and at the same time as county taxes, and the
808 proceeds thereof shall be paid to the district. These benefit
809 special assessments shall be a lien on the property against which
810 assessed until paid and shall be collectible and enforceable in
811 like manner as county property taxes. All statutes regulating the
812 collection and enforcement of county property taxes shall apply to
813 the enforcement and collection of the benefit special assessments
814 levied under this section. The amount of the assessment for the
815 exercise of the district's powers under this chapter shall be
816 determined by the board based upon a report of the district's
817 engineer and assessed by the board upon such lands, which may be
818 part or all of the lands within the district benefited by the
819 improvement, apportioned between benefited lands in proportion to
820 the benefits received by each tract of land.

821 (2) To maintain and preserve the facilities and projects of
822 the district, the board shall levy a maintenance special
823 assessment. This assessment may be evidenced by and certified to
824 the assessor by the board of directors not later than August 31 of
825 each year and shall be entered by the assessor on the county tax
826 rolls and shall be collected and enforced by the tax collector in
827 the same manner and at the same time as county taxes, and the
828 proceeds therefrom shall be paid to the district. These
829 maintenance special assessments shall be a lien on the property
830 against which assessed until paid and shall be collectible and
831 enforceable in like manner as county property taxes and all



832 statutes regulating the collection and enforcement of county
833 property taxes shall apply to the enforcement and collection of
834 the benefit special assessments levied under this section. The
835 amount of the maintenance special assessment for the exercise of
836 the district's powers under this chapter shall be determined by
837 the board based upon a report of the district's engineer and
838 assessed by the board upon such lands, which may be all of the
839 lands within the district benefited by the maintenance thereof,
840 apportioned between the benefited lands in proportion to the
841 benefits received by each tract of land.

842 (3) Benefit special assessments and maintenance special
843 assessments authorized by this section shall be levied and payable
844 in annual installments for each year for which bonds secured by
845 the assessment are outstanding. The tax collector shall collect
846 and enforce benefit special assessments and maintenance special
847 assessments in the same manner and at the same time as ad valorem
848 taxes. Benefit special assessments and maintenance special
849 assessments shall constitute a lien on the property against which
850 assessed until paid and shall be on a parity with the lien of
851 state, county, municipal and school board property taxes.

852 (4) The tax assessor and tax collector are entitled to
853 reasonable compensation for preparing the rolls and collecting the
854 assessments.

855 (5) District assessments may be made payable in no more than
856 forty (40) yearly installments. Benefit special assessments are
857 prepayable. Any prepayment of benefit special assessments must be
858 credited against the payor's pro rata share of principal and
859 interest of the indebtedness.

860 **SECTION 9.** Section 19-31-35, Mississippi Code of 1972, is
861 amended as follows:

862 19-31-35. Any lien in favor of the district arising under
863 this chapter may be enforced by the district in a court of
864 competent jurisdiction as provided by law. * * *



865 **SECTION 10.** Section 19-31-39, Mississippi Code of 1972, is
866 amended as follows:

867 19-31-39. (1) The district may prescribe, fix, establish
868 and collect rates, fees, rentals or other charges for the
869 facilities and services furnished by the district, within the
870 limits of the district, including, but not limited to,
871 recreational facilities, water management and control facilities
872 and water and sewer systems. The district may also recover the
873 costs of making connection with any district facility or system
874 and provide for reasonable penalties against any user or property
875 for any such rates, fees, rentals or other charges that are
876 delinquent.

877 (2) No such rates, fees, rentals or other charges for any of
878 the facilities or services of the district may be fixed until
879 after a public hearing at which all the users of the proposed
880 facility or services shall have an opportunity to be heard
881 concerning the proposed rates, fees, rentals or other charges.
882 Notice of such public hearing setting forth the proposed schedule
883 of rates, fees, rentals and other charges shall be published in a
884 newspaper having general circulation in each county where the
885 district is located once at least ten (10) days before such public
886 hearing.

887 **SECTION 11.** Section 19-31-43, Mississippi Code of 1972, is
888 amended as follows:

889 19-31-43. (1) The boundaries of the district may be
890 contracted or expanded in the same manner in which the district
891 was created pursuant to this chapter; however, the petition must
892 be filed by the board and must contain the written consent of all
893 landowners within only the proposed area of expansion or
894 contraction.

895 (2) (a) Subject to the limitations of paragraph (b) of this
896 subsection, the district may be terminated or dissolved in one (1)
897 of the following ways:



898 (i) The district may be terminated or dissolved
899 upon the transfer of all the public improvement services of the
900 district to a unit of local government. The district shall be
901 terminated in accordance with a plan of termination which shall be
902 adopted by the board of directors and filed with the clerk of the
903 court.

904 (ii) If, within five (5) years after the effective
905 date of the ordinance creating the district, a landowner has not
906 received a development permit on some part or all of the area
907 covered by the district, then the district will be automatically
908 dissolved and a court of competent jurisdiction shall cause a
909 statement to that effect to be filed in the public records.

910 (iii) If the district has become inactive, the
911 county or municipality that created the district shall be informed
912 and shall take appropriate action.

913 (b) Following the establishment of the district with no
914 timely appeal challenging the district, a district may not be
915 dissolved or terminated if any bonds issued by the district, or
916 bonds for which the district is obligated, are outstanding or are
917 secured by special assessments or other security instruments to
918 which the district is a party in connection with the bonds.

919 **SECTION 12.** Section 19-31-45, Mississippi Code of 1972, is
920 amended as follows:

921 19-31-45. After the establishment of a district under this
922 chapter, each contract and instrument of conveyance of a parcel of
923 real property * * * within the district shall include, immediately
924 before the space reserved in the contract and instrument of
925 conveyance for the signature of the purchaser, the following
926 disclosure statement in boldfaced and conspicuous type which is
927 larger than the type in the remaining text of the contract and the
928 instrument of conveyance: "THE (Name of District) PUBLIC
929 IMPROVEMENT DISTRICT MAY IMPOSE AND LEVY ASSESSMENTS ON THIS
930 PROPERTY. THESE ASSESSMENTS PAY THE CONSTRUCTION, OPERATION AND



931 MAINTENANCE COSTS OF CERTAIN PUBLIC FACILITIES AND SERVICES OF THE
932 DISTRICT AND ARE SET ANNUALLY BY THE GOVERNING BOARD OF THE
933 DISTRICT. THESE ASSESSMENTS ARE IN ADDITION TO COUNTY AND OTHER
934 LOCAL GOVERNMENTAL TAXES AND ASSESSMENTS AND ALL OTHER TAXES AND
935 ASSESSMENTS PROVIDED FOR BY LAW."

936 However, the failure to include the above language does not and
937 may not be deemed to invalidate any assessment levied by the
938 district or the contract or instrument of conveyance of the real
939 property.

940 **SECTION 13.** Section 19-31-47, Mississippi Code of 1972, is
941 amended as follows:

942 19-31-47. Within thirty (30) days after the effective date
943 of the ordinance establishing a public improvement district under
944 this chapter, the district shall cause to be recorded in the
945 sectional index and the subdivisional index, if applicable, in the
946 land records in each county in which it is located a "Notice of
947 Establishment of the _____ Public Improvement
948 District." The notice shall include the legal description of the
949 district and a copy of the disclosure statement specified in this
950 chapter.

951 **SECTION 14.** This act shall take effect and be in force from
952 and after its passage.

