

By: Representative Banks

To: Ways and Means

HOUSE BILL NO. 661

1 AN ACT TO AMEND SECTION 19-5-189, MISSISSIPPI CODE OF 1972,  
 2 TO PROVIDE THAT NO ANNEXED TERRITORY THAT IS ANNEXED BY A  
 3 MUNICIPALITY AND INCLUDES A FIRE PROTECTION DISTRICT SHALL BE  
 4 TAXED SIMULTANEOUSLY FOR FIRE PROTECTION SERVICES BY THE BOARD OF  
 5 SUPERVISORS AND THE GOVERNING AUTHORITIES OF THE MUNICIPALITY; TO  
 6 PROVIDE THAT IF THERE IS A LOSS OF AD VALOREM TAX REVENUE IN A  
 7 FIRE PROTECTION DISTRICT DUE TO ANNEXATION BY A MUNICIPALITY THEN  
 8 THE MUNICIPALITY SHALL REIMBURSE THE DISTRICT FOR A PERIOD OF  
 9 THREE YEARS FOR THE LOSS; TO AMEND SECTIONS 21-1-27, 21-1-61 AND  
 10 21-1-29, MISSISSIPPI CODE OF 1972, IN CONFORMITY TO THE PRECEDING  
 11 SECTION; AND FOR RELATED PURPOSES.

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

13 **SECTION 1.** Section 19-5-189, Mississippi Code of 1972, is  
 14 amended as follows:

15 19-5-189. (1) (a) Except as otherwise provided in  
 16 subsection (2) of this section for levies for fire protection  
 17 purposes and subsection (3) of this section for certain districts  
 18 providing water service, the board of supervisors of the county in  
 19 which any such district exists may, according to the terms of the  
 20 resolution, levy a special tax, not to exceed four (4) mills  
 21 annually, on all of the taxable real property in such district,  
 22 the avails of which shall be paid over to the board of



23 commissioners of the district to be used either for the operation,  
24 support and maintenance of the district or for the retirement of  
25 any bonds issued by the district, or for both.

26 (b) The proceeds derived from two (2) mills of the levy  
27 authorized herein shall be included in the ten percent (10%)  
28 increase limitation under Section 27-39-321, and the proceeds  
29 derived from any additional millage levied under this subsection  
30 in excess of two (2) mills shall be excluded from such limitation  
31 for the first year of such additional levy and shall be included  
32 within such limitation in any year thereafter.

33 (2) (a) In respect to fire protection purposes, the board  
34 of supervisors of the county in which any such district exists on  
35 July 1, 1987, may levy a special tax annually, not to exceed the  
36 tax levied for such purposes for the 1987 fiscal year on all of  
37 the taxable real property in such district, the avails of which  
38 shall be paid over to the board of commissioners of the district  
39 to be used either for the operation, support and maintenance of  
40 the fire protection district or for the retirement of any bonds  
41 issued by the district for fire protection purposes, or for both.  
42 Any such district for which no taxes have been levied for the 1987  
43 fiscal year may be treated as having been created after July 1,  
44 1987, for the purposes of this subsection.

45 (b) In respect to fire protection purposes, the board  
46 of supervisors of the county in which any such district is created  
47 after July 1, 1987, may, according to the terms of the resolution



48 of intent to incorporate the district, levy a special tax not to  
49 exceed two (2) mills annually on all of the taxable real property  
50 in such district, the avails of which shall be paid over to the  
51 board of commissioners of the district to be used either for the  
52 operation, support and maintenance of the fire protection district  
53 or for the retirement of any bonds issued by the district for fire  
54 protection purposes, or for both; however, the board of  
55 supervisors may increase the tax levy under this subsection as  
56 provided for in paragraph (c) of this subsection.

57 (c) The tax levy under this subsection may be increased  
58 only when the board of supervisors has determined the need for  
59 additional revenues. Prior to levying a tax increase under this  
60 paragraph, the board of supervisors shall adopt a resolution  
61 declaring its intention to levy the tax. The resolution shall  
62 describe the amount of the increase in the tax levy and the  
63 purposes for which the proceeds of the additional tax will be  
64 used. The board of supervisors shall have a copy of the  
65 resolution published once a week for three (3) consecutive weeks  
66 in at least one (1) newspaper published in the county and having a  
67 general circulation therein. If no newspaper is published in the  
68 county, then notice shall be given by publishing the resolution  
69 for the required time in some newspaper having a general  
70 circulation in the county. A copy of the resolution shall also be  
71 posted at three (3) public places in the county for a period of at  
72 least twenty-one (21) days during the time of its publication in a



73 newspaper. If more than twenty percent (20%) of the qualified  
74 electors of the district shall file with the clerk of the board of  
75 supervisors, within twenty-one (21) days after adoption of the  
76 resolution of intent to increase the tax levy, a petition  
77 requesting an election on the question of the increase in tax  
78 levy, then and in that event such increase shall not be made  
79 unless authorized by a majority of the votes cast at an election  
80 to be called and held for that purpose within the district.  
81 Notice of such election shall be given, the election shall be held  
82 and the result thereof determined, as far as is practicable, in  
83 the same manner as other elections are held in the county. If an  
84 election results in favor of the increase in the tax levy or if no  
85 election is required, the board of supervisors may increase the  
86 tax levy. The board of supervisors, in its discretion, may call  
87 an election on such question, in which event it shall not be  
88 necessary to publish the resolution declaring its intention to  
89 have the tax imposed.

90 (d) Notwithstanding any provisions of this subsection  
91 to the contrary, in any county bordering on the Gulf of Mexico and  
92 the State of Louisiana, the board of supervisors may levy not to  
93 exceed four (4) mills annually on all the taxable real property  
94 within any fire protection district, the avails of which shall be  
95 paid over to the board of commissioners of the district to be used  
96 either for the operation, support and maintenance of the fire  
97 protection district or for the retirement of any bonds issued by



98 the district for fire protection purposes, or for both. Prior to  
99 levying the tax under this paragraph, the board of supervisors  
100 shall adopt a resolution declaring its intention to levy the tax.  
101 The resolution shall describe the amount of the tax levy and the  
102 purposes for which the proceeds of the tax will be used. The  
103 board of supervisors shall have a copy of the resolution published  
104 once a week for three (3) consecutive weeks in at least one (1)  
105 newspaper published in the county and having a general circulation  
106 therein. If no newspaper is published in the county, then notice  
107 shall be given by publishing the resolution for the required time  
108 in some newspaper having a general circulation in the county. A  
109 copy of the resolution shall also be posted at three (3) public  
110 places in the county for a period of at least twenty-one (21) days  
111 during the time of its publication in a newspaper. If more than  
112 twenty percent (20%) of the qualified electors of the district  
113 shall file with the clerk of the board of supervisors, within  
114 twenty-one (21) days after adoption of the resolution of intent to  
115 levy the tax, a petition requesting an election on the question of  
116 the levy of such tax, then and in that event such tax levy shall  
117 not be made unless authorized by a majority of the votes cast at  
118 an election to be called and held for that purpose within the  
119 district. Notice of such election shall be given, the election  
120 shall be held and the result thereof determined, as far as is  
121 practicable, in the same manner as other elections are held in the  
122 county. If an election results in favor of the tax levy or if no



123 election is required, the board of supervisors may levy such tax.  
124 The board of supervisors, in its discretion, may call an election  
125 on such question, in which event it shall not be necessary to  
126 publish the resolution declaring its intention to have the tax  
127 imposed.

128           (e) Notwithstanding any provisions of this subsection  
129 to the contrary, in any county bordering on the Mississippi River  
130 in which legal gaming is conducted and in which U.S. Highway 61  
131 intersects with Highway 4, the board of supervisors may levy a  
132 special tax not to exceed five (5) mills annually on all the  
133 taxable real and personal property within any fire protection  
134 district, except for utilities as defined in Section 77-3-3(d) (i)  
135 and (iii), the avails of which shall be paid over to the board of  
136 commissioners of the district to be used either for the operation,  
137 support and maintenance of the fire protection district or for the  
138 retirement of any bonds issued by the district for fire protection  
139 purposes, or for both. Before levying the tax under this  
140 paragraph, the board of supervisors shall adopt a resolution  
141 declaring its intention to levy the tax. The resolution shall  
142 describe the amount of the tax levy and the purposes for which the  
143 proceeds of the tax will be used. The board of supervisors shall  
144 have a copy of the resolution published once a week for three (3)  
145 consecutive weeks in at least one (1) newspaper published in the  
146 county and having a general circulation therein. If no newspaper  
147 is published in the county, then notice shall be given by



148 publishing the resolution for the required time in some newspaper  
149 having general circulation in the county. A copy of the  
150 resolution shall also be posted at three (3) public places in the  
151 county for a period of at least twenty-one (21) days during the  
152 time of its publication in a newspaper. If more than twenty  
153 percent (20%) of the qualified electors of the district shall file  
154 with the clerk of the board of supervisors, within twenty-one (21)  
155 days after adoption of the resolution of intent to levy the tax, a  
156 petition requesting an election of the questions of the levy of  
157 such tax, then and in that event such tax levy shall not be made  
158 unless authorized by a majority of the votes cast at an election  
159 to be called and held for that purpose within the district.  
160 Notice of such election shall be given, the election shall be held  
161 and the result thereof determined, as far as is practicable, in  
162 the same manner as other elections are held in the county. If an  
163 election results in favor of the tax levy or if no election is  
164 required, the board of supervisors may levy such tax. The board  
165 of supervisors, in its discretion, may call an election on such  
166 question, in which event it shall not be necessary to publish the  
167 resolution declaring its intention to have the tax imposed.

168 (f) Any taxes levied under this subsection shall be  
169 excluded from the ten percent (10%) increase limitation under  
170 Section 27-39-321.

171 (g) Notwithstanding any provisions of this subsection,  
172 if taxable real or personal property within a fire protection



173 district is annexed by a municipality then the board of  
174 supervisors shall not continue to levy a special tax, and the  
175 municipality shall primarily be responsible for fire protection  
176 services. In addition, if a fire protection district sustains a  
177 loss in ad valorem tax revenue because of the annexation, then the  
178 municipality shall reimburse the fire protection district for the  
179 amount of such loss for a period of three (3) years. At no time  
180 shall a tax be levied for fire protection services on the annexed  
181 territory simultaneously by the board of supervisors and the  
182 governing authorities of a municipality.

183 (3) For any district authorized under Section 19-5-151(2),  
184 the board of supervisors shall not levy the special tax authorized  
185 in this section.

186 **SECTION 2.** Section 21-1-27, Mississippi Code of 1972, is  
187 amended as follows:

188 21-1-27. (1) The limits and boundaries of existing cities,  
189 towns and villages shall remain as now established until altered  
190 in the manner \* \* \* provided in this chapter. When any  
191 municipality \* \* \* desires to enlarge or contract \* \* \* its  
192 boundaries \* \* \* by adding \* \* \* adjacent unincorporated territory  
193 or excluding \* \* \* any part of the incorporated territory of such  
194 municipality, the governing authorities of \* \* \* the municipality  
195 shall pass an ordinance defining with certainty the territory  
196 proposed to be included in or excluded from the corporate limits,  
197 and also defining the entire boundary as changed. \* \* \* If the





198 municipality desires to enlarge \* \* \* its boundaries, \* \* \* the  
199 ordinance shall in general terms describe the proposed  
200 improvements to be made in the annexed territory, the manner and  
201 extent of such improvements, and the approximate time within which  
202 such improvements are to be made \* \* \*. The ordinance shall also  
203 contain a statement of the municipal or public services  
204 which \* \* \* the municipality proposes to render in such annexed  
205 territory. \* \* \* If the municipality \* \* \* desires to contract  
206 its boundaries, \* \* \* the ordinance shall contain a statement of  
207 the reasons for such contraction and a statement showing \* \* \*  
208 that the public convenience and necessity would be served thereby.

209 If a municipality desires to annex territory in a fire  
210 protection district, as created in Section 21-25-21, the ordinance  
211 shall also state that the municipality shall primarily be  
212 responsible for fire protection services within the fire  
213 protection district. The ordinance shall also state that if a  
214 fire protection district sustains a loss in ad valorem tax revenue  
215 because of the annexation, then the municipality shall reimburse  
216 the fire protection district for the amount of such loss for a  
217 period of three (3) years. At no time shall a tax be levied for  
218 fire protection services on the annexed territory simultaneously  
219 by the board of supervisors and the governing authorities of the  
220 municipality.

221 (2) (a) When any municipality having a population in excess  
222 of forty thousand (40,000) wherein is located a state-supported



223 university and in which U.S. Highways 49 and 11 intersect and  
224 which has boundaries that lie within two (2) counties desires to  
225 enlarge its boundaries by adding adjacent unincorporated territory  
226 after January 1, 2016, the governing authorities of the  
227 municipality shall pass, in addition to the requirements provided  
228 in subsection (1), an ordinance:

229           (i) Certifying that more than fifty percent (50%)  
230 of the people who reside in the unincorporated area of the census  
231 block within the territory proposed to be annexed shall be  
232 included in the proposed annexation; or

233           (ii) Certifying that upon approval of the  
234 annexation, the municipality shall cede any authority to provide  
235 zoning and subdivision regulation to the board of supervisors of  
236 the county in which the territory is located, if fifty percent  
237 (50%) or fewer people who reside in the unincorporated area of the  
238 census block within such territory is included in the proposed  
239 annexation. If such authority is ceded, as provided under this  
240 subparagraph, then the governing authorities of the  
241 municipality \* \* \* are authorized to advise the board of  
242 supervisors of the county concerning such regulation; however, the  
243 ultimate authority regarding the regulation shall lie with the  
244 board of supervisors of the county.

245           This subsection (2) shall stand repealed from and after July  
246 1, 2019.



247 (3) For the purposes of this section, "census block" refers  
248 to certain geographic areas as designated by the latest federal  
249 decennial census preceding any annexation under this section.

250 This subsection (3) shall stand repealed from and after July  
251 1, 2019.

252 **SECTION 3.** Section 21-1-61, Mississippi Code of 1972, is  
253 amended as follows:

254 21-1-61. In all cases where a municipality is created or the  
255 limits of an existing municipality are enlarged under the  
256 provisions of this chapter, the property included within the  
257 municipal boundaries by such creation or enlargement shall become  
258 liable for and subject to municipal ad valorem taxation on the tax  
259 lien date next succeeding the effective date of the decree  
260 creating or enlarging such municipality.

261 In all cases where the limits of an existing municipality are  
262 enlarged through annexation and the annexation includes a fire  
263 protection district, as created in Section 21-25-21, the  
264 municipality shall primarily be responsible for fire protection  
265 services within the fire protection district. In addition, if a  
266 fire protection district sustains a loss in ad valorem tax revenue  
267 because of the annexation, then the municipality shall reimburse  
268 the fire protection district for the amount of such loss for a  
269 period of three (3) years. At no time shall a tax be levied for  
270 fire protection services on the annexed territory simultaneously



271 by the board of supervisors and the governing authorities of the  
272 municipality.

273 **SECTION 4.** Section 21-1-29, Mississippi Code of 1972, is  
274 amended as follows:

275 21-1-29. When any such ordinance \* \* \* described in Section  
276 21-1-27 is passed by the municipal authorities, \* \* \* the  
277 municipal authorities shall file a petition in the chancery court  
278 of the county in which such municipality is located; however, when  
279 a municipality wishes to annex or extend its boundaries across and  
280 into an adjoining county such municipal authorities shall file a  
281 petition in the chancery court of the county in which \* \* \* the  
282 territory is located. The petition shall recite the fact of the  
283 adoption of such ordinance and shall pray that the enlargement or  
284 contraction of the municipal boundaries, as the case may be, shall  
285 be ratified, approved and confirmed by the court. If a  
286 municipality desires to annex territory in a fire protection  
287 district, as created in Section 21-25-21, the petition shall also  
288 state that the municipality shall primarily be responsible for  
289 fire protection services within the fire protection district. The  
290 petition shall also state that if a fire protection district  
291 sustains a loss in ad valorem tax revenue because of the  
292 annexation, then the municipality shall reimburse the fire  
293 protection district for the amount of such loss for a period of  
294 three (3) years. At no time shall a tax be levied for fire  
295 protection services on the annexed territory simultaneously by the



296 board of supervisors and the governing authorities of the  
297 municipality. There shall be attached to such petition, as  
298 exhibits \* \* \*, a certified copy of the ordinance adopted by the  
299 municipal authorities and a map or plat of the municipal  
300 boundaries as they will exist in event such enlargement or  
301 contraction becomes effective.

302         **SECTION 5.** This act shall take effect and be in force from  
303 and after July 1, 2018.

