

By: Representatives Baker, Denny

To: Ways and Means

HOUSE BILL NO. 1612

1 AN ACT TO AUTHORIZE MUNICIPALITIES TO CREATE SPECIAL LOCAL  
 2 IMPROVEMENT ASSESSMENT DISTRICTS; TO AUTHORIZE THE LEVY OF AN  
 3 ASSESSMENT OF UP TO SIX MILLS ON TAXABLE REAL PROPERTY LOCATED  
 4 WITHIN SUCH ASSESSMENT DISTRICTS; TO PROVIDE FOR THE DUTIES AND  
 5 POWERS OF SUCH ASSESSMENT DISTRICTS; TO REQUIRE THE DISSOLUTION OF  
 6 SUCH ASSESSMENT DISTRICTS UNDER CERTAIN CIRCUMSTANCES; TO SPECIFY  
 7 THE USE FOR THE PROCEEDS OF THE SPECIAL ASSESSMENT; TO ALLOW SUCH  
 8 DISTRICTS TO LEVY LESS THAN THE MAXIMUM ALLOWABLE ASSESSMENT LEVY;  
 9 TO AUTHORIZE THE ISSUANCE OF BONDS BY A MUNICIPALITY THAT HAS  
 10 CREATED A SPECIAL LOCAL IMPROVEMENT ASSESSMENT DISTRICT UNDER THIS  
 11 ACT; TO PROVIDE THAT BONDS ISSUED BY A MUNICIPALITY UNDER THIS ACT  
 12 SHALL BE PAYABLE OUT OF THE PROCEEDS OF THE SPECIAL ASSESSMENT  
 13 AUTHORIZED UNDER THIS ACT; TO AUTHORIZE THE DELEGATION OF CERTAIN  
 14 AUTHORITY UNDER THIS ACT; TO PROVIDE THAT BONDS ISSUED UNDER THIS  
 15 ACT SHALL BE LEGAL INVESTMENTS; TO PROVIDE THAT BONDS ISSUED BY A  
 16 MUNICIPALITY UNDER THIS ACT SHALL BE EXCLUDED FROM THE  
 17 MUNICIPALITY'S DEBT LIMITATION; TO AMEND SECTION 21-33-303,  
 18 MISSISSIPPI CODE OF 1972, TO CONFORM TO THE PROVISIONS OF THIS  
 19 ACT; AND FOR RELATED PURPOSES.

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

21 **SECTION 1.** For the purposes of Sections 1 through 13 of this  
 22 act, the following words and phrases shall have the meanings  
 23 ascribed herein unless the context clearly indicates otherwise:

24 (a) "Homeowners' Association" means a homeowners'  
 25 association duly organized as a nonprofit organization with tax



26 exempt status under Section 501(c)(3) of the Internal Revenue  
27 Code.

28 (b) "Issuing authority" means any municipality or any  
29 urban renewal agency or redevelopment authority within such  
30 municipality having authority to issue bonds pursuant to Sections  
31 1 through 13 of this act.

32 (c) "Local improvements" means (i) any improvements  
33 constructed within a special local improvement assessment district  
34 or services established under Sections 1 through 13 of this act to  
35 improve the appearance or functioning of property located within  
36 the district including, but not limited to, parks and related  
37 facilities, sidewalks, streets, street curbing, street medians,  
38 planting areas, walls, lighting equipment, fountains and  
39 flagpoles; (ii) trees, shrubs, flowers and other vegetation; (iii)  
40 security enhancements including, but not limited to, cameras,  
41 radios, monitors and related equipment; (iv) private patrol  
42 services; (v) the acquisition, rehabilitation and sale of property  
43 in a special local improvement assessment district; and (vi) any  
44 expenditures made in conjunction with the improvements set forth  
45 above such as the removal and relocation of utility service or  
46 purchase and removal of signs.

47 (d) "Municipality" means any municipality incorporated  
48 under the laws of the state.

49 (e) "Special local improvement assessment district"  
50 means a district established pursuant to Section 2 of this act and



51 may be comprised of either residential or nonresidential real  
52 property. Nonresidential real property located within or  
53 immediately adjacent to a special local improvement assessment  
54 district comprised of residential real property may be included  
55 within such special local improvement assessment district by a  
56 request submitted in writing by the owner of such nonresidential  
57 property to the governing authorities of the municipality.  
58 Residential real estate property located within or immediately  
59 adjacent to a special local improvement assessment district  
60 comprised of nonresidential real property may be included within  
61 such special local improvement assessment district by a request  
62 submitted in writing by the owner of such residential property to  
63 the governing authorities of the municipality.

64 (f) "State" means the State of Mississippi.

65 **SECTION 2.** (1) (a) The governing authority of a  
66 municipality is authorized to establish one or more special local  
67 improvement assessment districts and to levy and collect an annual  
68 special assessment not to exceed six (6) mills against only that  
69 taxable real property that is included within each such district,  
70 provided that such a special assessment shall not be levied or  
71 collected unless the governing authority (i) shall have adopted a  
72 resolution designating an area a special local improvement  
73 assessment district and specifying the maximum millage to be  
74 levied on taxable real property in the district under this  
75 section, and (ii) has received a petition in favor of the levy of



76 such assessment signed by the owners of at least sixty percent  
77 (60%) of the taxable real property in the proposed district. For  
78 purposes of this subsection, "owners" means those persons  
79 possessing a majority of the ownership interest in a piece of  
80 taxable real property.

81 (b) Such special assessment shall be excluded from the  
82 limitations imposed under Section 27-39-321. Before adopting such  
83 resolution, the governing authority shall hold a public hearing  
84 with respect thereto after public notice by publication at least  
85 twice, once a week for two (2) consecutive weeks in a newspaper of  
86 general circulation in the municipality, with the first  
87 publication being not less than fourteen (14) calendar days before  
88 the date specified for such hearing, such notice to include the  
89 date, time and place of such hearing, the proposed boundaries of  
90 such special local improvement assessment district and the maximum  
91 special assessment to be levied on property in such district under  
92 this section.

93 (c) The boundaries of the special local improvement  
94 assessment district shall not be modified and special assessments  
95 shall not be levied in excess of the maximum set forth in such  
96 resolution, unless:

97 (i) The governing authority shall have amended  
98 such resolution to reflect such modifications in the boundaries  
99 and assessment;

100 (ii) The governing authority has received a



101 petition in favor of the levy of the special assessment signed by  
102 owners of at least seventy percent (70%) of the taxable real  
103 property within the modified boundaries of the district; and

104 (iii) A public hearing is held as provided in  
105 paragraph (b) of this subsection (1). Any special local  
106 improvement assessment district established under Sections 1  
107 through 13 of this act may include any real property located  
108 within the corporate boundaries of the municipality.

109 (2) (a) As an alternative to the procedure provided in  
110 subsection (1) of this section, a special local improvement  
111 assessment district may be created under this subsection (2) if  
112 the boundaries of the proposed special local improvement  
113 assessment district are within the boundaries of the homeowners'  
114 association representing that area. Upon delivery of a petition  
115 to the clerk of the municipality in which the proposed district is  
116 located, signed by the owners of at least sixty percent (60%) of  
117 the taxable real property in the homeowners' association  
118 representing the area in the proposed district, the municipality  
119 shall begin efforts to establish the district. Within fifteen  
120 (15) days after receipt of such a petition, the clerk of the  
121 municipality shall mail ballots to all of the property owners in  
122 the proposed special local improvement assessment district  
123 providing for a referendum on the issue of creating the district.  
124 The ballot shall clearly state the issue to be decided and shall  
125 indicate the date by which the ballot must be returned to the



126 clerk of the municipality, which date may not be later than thirty  
127 (30) days after the date the clerk mailed the ballots. The  
128 governing authorities of the municipality shall adopt a resolution  
129 creating the special local improvement assessment district if on  
130 or before the last day fixed for the return of ballots, the owners  
131 of at least sixty percent (60%) of the taxable real property in  
132 the proposed special local improvement assessment district vote in  
133 favor of creating the district. The resolution shall contain a  
134 description of the boundaries of the district and shall specify  
135 the maximum millage rate to be levied upon taxable real property  
136 in the district for the municipality's fiscal year.

137 (b) The homeowners' association representing the  
138 property owners in the special local improvement assessment  
139 district shall submit a plan to the municipality specifying the  
140 local improvements proposed for the district during the  
141 municipality's upcoming fiscal year and the total amount proposed  
142 to be expended for the improvements. The governing authorities of  
143 the municipality may levy a special assessment not to exceed six  
144 (6) mills upon all taxable real property in the district to  
145 provide funds for the local improvements.

146 (c) The procedures required in this subsection (2) for  
147 the establishment of a district shall be used for the modification  
148 of the boundaries of a district.

149 **SECTION 3.** (1) (a) Upon the adoption of a resolution



150 establishing a special local improvement assessment district as  
151 set forth under Section 2(1) of this act, the governing authority  
152 of a municipality shall be authorized to exercise the following  
153 powers within any special local improvement assessment district:

154 (i) To provide for the planning and design of  
155 local improvements and the coordination of landscape design on  
156 different parcels of property, including the preparation of  
157 working drawings for the construction, acquisition and  
158 installation of local improvements;

159 (ii) To purchase, acquire, install and construct  
160 local improvements;

161 (iii) To purchase and acquire easements, air  
162 rights, scenic rights-of-way and other interests in land on which  
163 local improvements can be placed and which are necessary or  
164 desirable in connection with any local improvements;

165 (iv) To provide for the management of local  
166 improvements, including, but not limited to, providing maintenance  
167 and services within the district; and

168 (v) To contract with a nonprofit local association  
169 duly incorporated under the laws of the State of Mississippi to  
170 undertake all or a portion of the activities within the special  
171 local improvement assessment district.

172 (b) A special local improvement assessment district  
173 created under Section 2(1) of this act shall be dissolved by  
174 resolution of the governing authority of the municipality if all



175 activities for which such district was established have been  
176 completed and no debts incurred in connection with such activities  
177 are outstanding.

178 (2) (a) Upon the adoption of a resolution establishing a  
179 special local improvement assessment district as set forth under  
180 Section 2(2) of this act, the homeowners' association representing  
181 the property area in the district shall be authorized to exercise  
182 the following powers within the special local improvement  
183 assessment district:

184 (i) To provide for the planning and design of  
185 local improvements and the coordination of landscape design on  
186 different parcels of property, including the preparation of  
187 working drawings for the construction, acquisition and  
188 installation of local improvements;

189 (ii) To purchase, acquire, install and construct  
190 local improvements;

191 (iii) To purchase and acquire easements, air  
192 rights, scenic rights-of-way and other interests in land on which  
193 local improvements can be placed and which are necessary or  
194 desirable in connection with any local improvements;

195 (iv) To provide for the management of local  
196 improvements, including, but not limited to, providing maintenance  
197 and services within the district; and

198 (v) To contract with a nonprofit local association  
199 duly incorporated under the laws of the State of Mississippi to





200 undertake all or a portion of the activities within the district.

201 (b) A special local improvement assessment district  
202 established under Section 2(2) of this act that has satisfied all  
203 indebtedness incurred in connection with activities of the  
204 district may be dissolved by following the petition and ballot  
205 procedures provided for the establishment of the district in  
206 Section 2(2) of this act.

207 **SECTION 4.** (1) The proceeds of any special assessment  
208 levied on real property located within a special local improvement  
209 assessment district under Section 2(1) of this act may be used to  
210 pay costs including administrative costs of and relating to  
211 exercising the powers set forth in Section 3(1) of this act.  
212 Nothing stated herein shall prevent the use of such special  
213 assessment for the purpose of planning and design of local  
214 improvements for any property located within a district and the  
215 coordination of landscape design on different parcels of property.

216 (2) (a) The proceeds of any special assessment levied  
217 on real property located within a special local improvement  
218 assessment district under Section 2(2) of this act may be used to  
219 pay costs including administrative costs of and relating to  
220 exercising the powers set forth in Section 3(2) of this act. The  
221 municipality shall hold the proceeds of the special assessment  
222 until disbursing the proceeds to the homeowners' association  
223 representing the area in a district created under Section 2(2) of  
224 this act. A homeowners' association shall keep the proceeds of



225 such assessment separate and apart from other funds of the  
226 association. Accounting for receipts and expenditures of proceeds  
227 from the assessment shall be made separately and apart from the  
228 accounting of receipts and expenditures of the homeowners'  
229 association for other funds of the district. The homeowners'  
230 association shall have its books and records audited annually by  
231 an independent certified public accountant and shall file a  
232 written report of the audit with the clerk of the municipality.  
233 The clerk of the municipality shall make the report of the audit  
234 available for public review. A special local improvement  
235 assessment district shall operate on the same fiscal year as the  
236 municipality.

237 (b) Nothing in this subsection (2) shall prevent the  
238 use of such special assessment for the purpose of planning and  
239 design of local improvements for any property located within a  
240 district and the coordination of landscape design on different  
241 parcels of property.

242 **SECTION 5.** (1) (a) The governing authority of a  
243 municipality exercising the authority to levy a special assessment  
244 as set forth in Section 2(1) of this act shall levy such  
245 assessment at the maximum rate specified in the resolution  
246 provided for in Section 2(1) of this act against all property in  
247 such special local improvement assessment district unless a lesser  
248 rate will provide revenues sufficient to pay debt service on all  
249 bonds payable from such assessment and to pay costs of exercising



250 the powers authorized pursuant to Section 3(1) of this act, and if  
251 a municipality has delegated to an urban renewal agency or  
252 redevelopment authority any of its authority under Sections 1  
253 through 13 of this act, the governing authority of such urban  
254 renewal agency or redevelopment authority shall have certified to  
255 the municipality that a lesser assessment rate will be sufficient  
256 to make such payments, in which event the governing authority of  
257 the municipality shall levy such assessment at such lesser rate.

258 (b) The governing authority may also enter into  
259 agreements for the benefit of holders of bonds issued by an urban  
260 renewal agency or redevelopment authority of the municipality  
261 pursuant to Section 6 of this act including, without limitation,  
262 agreements limiting or restricting issuance of bonds by the  
263 municipality which would be payable from such special assessment,  
264 to the extent that such governing authorities shall determine that  
265 such agreements are necessary or desirable in connection with the  
266 issuance of bonds by an urban renewal agency or redevelopment  
267 authority pursuant to Section 6 of this act.

268 (2) The governing authority of a municipality exercising  
269 the authority to levy a special assessment as set forth in Section  
270 2(2) of this act shall levy such assessment at the maximum rate  
271 specified in the resolution provided for in Section 2(2) of this  
272 act against all taxable property in such special local improvement  
273 assessment district unless a lesser rate will provide revenues



274 sufficient to pay the costs of improvements included in the plan  
275 submitted to the municipality under Section 2(2)(b) of this act.

276 **SECTION 6.** The governing authority of a municipality which  
277 has elected to exercise the authority to establish special local  
278 improvement assessment districts as provided in Section 2(1) of  
279 this act and the governing authority of any urban renewal agency  
280 or redevelopment authority to which authority under Sections 1  
281 through 13 of this act shall have been delegated, are authorized,  
282 in their discretion, to issue bonds for the purpose of (a)  
283 defraying any costs described in Section 3 of this act; (b)  
284 refunding outstanding bonds; (c) paying costs relating to the  
285 issuance of such bonds; and (d) establishing any reserve funds  
286 determined to be appropriate. Such bonds may be issued without an  
287 election thereon upon the adoption of a resolution by the  
288 governing authority of the issuing authority. Such bonds shall  
289 not be subject to any limitation as to amount and shall not be  
290 included in computing the statutory limitation of indebtedness of  
291 such issuing authority under any present or future law. Such  
292 bonds shall bear such date or dates, shall be of such denomination  
293 or denominations, shall bear interest at such rate or rates as  
294 shall be approved by the issuing authority, shall be payable at  
295 such place or places within or without the State of Mississippi,  
296 shall mature at such time or times and upon such terms and may be  
297 made redeemable prior to maturity with or without premium, shall  
298 bear such registration privileges and shall be in substantially



299 such form as shall be determined by resolution of the governing  
300 authority of such issuing authority. Any bonds issued under  
301 Sections 1 through 13 of this act may be sold at public or private  
302 sale at such price as may be determined by the governing  
303 authority. Such bonds shall be executed by the manual or  
304 facsimile signature of the official or officials of such issuing  
305 authority which have been designated by the governing authority,  
306 with the seal of the issuing authority affixed thereto or  
307 reproduced thereon. Whenever such bonds shall have been signed by  
308 the officials designated to sign the same who were in office at  
309 the time of such signing but who may have ceased to be such  
310 officials prior to the date of the sale and delivery of such  
311 bonds, or who may not have been in office on the date such bonds  
312 may bear, the signatures of such officials upon such bonds shall  
313 nevertheless be valid and sufficient for all purposes and have the  
314 same effect as if the person so officially signing such bonds had  
315 remained in office until the delivery of the same to the purchaser  
316 or had been in office on the date such bonds may bear.

317 **SECTION 7.** Bonds issued under the provisions of Sections 1  
318 through 13 of this act shall be payable, both as to principal and  
319 interest, solely out of such special assessments levied pursuant  
320 to Section 2 of this act, and any contributions received by the  
321 issuing authority for such purpose, as shall be specified in the  
322 resolution authorizing issuance of such bonds, and the full faith



323 and credit of the issuing authority shall not be pledged therefor,  
324 and such fact shall be recited on the face of each bond.

325       **SECTION 8.** The governing authority of a municipality that  
326 has established a special local improvement assessment district  
327 under Section 2(1) of this act, by resolution or order adopted by  
328 such governing authority, may delegate the other authority granted  
329 under Sections 1 through 13 of this act, including the authority  
330 to plan, construct and maintain local improvements pursuant to  
331 Section 3 of this act and the authority to issue bonds pursuant to  
332 Section 6 of this act, to the urban renewal agency or the  
333 redevelopment authority of the municipality. If such authority  
334 has been so delegated hereunder and thereafter exercised, then any  
335 assessments levied hereunder shall be paid, upon receipt by the  
336 municipality, to the entity to which such authority has been  
337 delegated.

338       **SECTION 9.** Any municipality that has formed a special local  
339 improvement assessment district under the authority of Section  
340 2(1) of this act, any urban renewal agency or redevelopment  
341 authority which has been delegated authority under Sections 1  
342 through 13 of this act, and any homeowners' association  
343 representing the area in a district established under Section 2(2)  
344 of this act, may accept and expend contributions from any other  
345 sources and apply such contributions to any of the purposes set  
346 forth in Sections 1 through 13 of this act.

347       **SECTION 10.** (1) A resolution issuing bonds in compliance



348 with Sections 1 through 13 of this act may include any covenants  
349 which the governing authority deems necessary to make such bonds  
350 secure and marketable, including, but without limitation,  
351 covenants regarding the application of the bond proceeds; the  
352 pledging, application and securing of special assessments; the  
353 creation and maintenance of reserves; covenants to levy special  
354 assessments; covenants to enforce agreements; the investment of  
355 funds; the issuance of additional bonds; the terms and conditions  
356 upon which bondholders may exercise their rights and remedies; the  
357 replacement of lost, destroyed or mutilated bonds; the definition,  
358 consequences and remedies of an event of default; and the  
359 appointment of a receiver in the event of a default.

360 (2) All assessments or other revenues pledged to the payment  
361 of such bonds shall be subject to a lien in favor of the holders  
362 of such bonds, and all such assessments received by the issuing  
363 authority, or the municipality if such bonds shall have been  
364 issued by a redevelopment authority or an urban renewal agency,  
365 shall be immediately subject to such lien without any physical  
366 delivery thereof or further act by the issuing authority, and such  
367 lien shall be effective as against all parties asserting claims  
368 against the issuing authority or municipality, whether by way of  
369 tort, contract or otherwise, whether or not such parties may have  
370 had notice of such lien. Such pledge or trust agreement creating  
371 the same need not be filed or recorded except in the official  
372 minutes of the issuing authority.



373 (3) The state does hereby covenant with the holders of any  
374 such bonds that it will not, while any such bonds shall be  
375 outstanding, limit or diminish the right and power of any  
376 municipality to levy the special assessments authorized by  
377 Sections 1 through 13 of this act, or the right and power of any  
378 municipality, urban renewal agency or redevelopment authority to  
379 fulfill any covenants with or for the benefit of such bondholders.

380 **SECTION 11.** Bonds issued under the provisions of Sections 1  
381 through 13 of this act shall be legal investments for commercial  
382 banks, savings and loan associations and insurance companies  
383 organized under the laws of this state.

384 **SECTION 12.** Sections 1 through 13 of this act, without  
385 reference to any statute not referred to herein, shall be deemed  
386 to be full and complete authority for the issuance of bonds, and  
387 shall be construed as an additional and alternative method  
388 therefor, and none of the present restrictions, requirements,  
389 conditions or limitations of law applicable to the issuance or  
390 sale of bonds, notes or other obligations by issuers in this state  
391 shall apply to the issuance and sale of bonds under Sections 1  
392 through 13 of this act, and no proceedings shall be required for  
393 the issuance of bonds other than those provided for and required  
394 herein, and all powers necessary to be exercised in order to carry  
395 out the provisions of Sections 1 through 13 of this act are hereby  
396 conferred.





397           **SECTION 13.** The bonds authorized by Sections 1 through 13 of  
398 this act and the income therefrom shall be exempt from all  
399 taxation in the State of Mississippi.

400           **SECTION 14.** Section 21-33-303, Mississippi Code of 1972, is  
401 amended as follows:

402           21-33-303. No municipality shall hereafter issue bonds  
403 secured by a pledge of its full faith and credit for the purposes  
404 authorized by law in an amount which, when added to the then  
405 outstanding bonded indebtedness of such municipality, shall exceed  
406 either (a) fifteen percent (15%) of the assessed value of the  
407 taxable property within such municipality, according to the last  
408 completed assessment for taxation, or (b) ten percent (10%) of the  
409 assessment upon which taxes were levied for its fiscal year ending  
410 September 30, 1984, whichever is greater. In computing such  
411 indebtedness, there may be deducted all bonds or other evidences  
412 of indebtedness, heretofore or hereafter issued, for school,  
413 water, sewerage systems, gas, and light and power purposes and for  
414 the construction of special improvements primarily chargeable to  
415 the property benefited, or for the purpose of paying the  
416 municipality's proportion of any betterment program, a portion of  
417 which is primarily chargeable to the property benefited. However,  
418 in no case shall any municipality contract any indebtedness which,  
419 when added to all of the outstanding general obligation  
420 indebtedness, both bonded and floating, shall exceed either (a)  
421 twenty percent (20%) of the assessed value of all taxable property



422 within such municipality according to the last completed  
423 assessment for taxation or (b) fifteen percent (15%) of the  
424 assessment upon which taxes were levied for its fiscal year ending  
425 September 30, 1984, whichever is greater. Nothing herein  
426 contained shall be construed to apply to contract obligations in  
427 any form heretofore or hereafter incurred by any municipality  
428 which are subject to annual appropriations therefor, or to bonds  
429 heretofore issued by any municipality for school purposes, or to  
430 contract obligations in any form heretofore or hereafter incurred  
431 by any municipality which are payable exclusively from the  
432 revenues of any municipally owned utility, or to bonds issued by  
433 any municipality under the provisions of Sections 57-1-1 through  
434 57-1-51, or to any special assessment improvement bonds issued by  
435 any municipality under the provisions of Sections 21-41-1 through  
436 21-41-53, or to any indebtedness incurred under Section 55-23-8,  
437 or to bonds issued by a municipality under Sections 1 through 13  
438 of this act.

439 All bonds issued prior to July 1, 1990, pursuant to this  
440 chapter by any municipality for the purpose of the constructing,  
441 replacing, renovating or improving wastewater collection and  
442 treatment facilities in order to comply with an administrative  
443 order of the Mississippi Department of Natural Resources issued  
444 pursuant to the Federal Water Pollution Control Act and amendments  
445 thereto, are hereby exempt from the limitation imposed by this  
446 section if the governing body of the municipality adopts an order,



447 resolution or ordinance to the effect that the rates paid by the  
448 users of such facilities shall be increased to the extent  
449 necessary to provide sufficient funds for the payment of the  
450 principal of and interest on such bonds as each respectively  
451 becomes due and payable as well as the necessary expenses in  
452 connection with the operation and maintenance of such facilities.

453         **SECTION 15.** This act shall take effect and be in force from  
454 and after July 1, 2019.

