

By: Representative Baker

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.

