

By: Representatives Baker, Denny

To: Ways and Means

HOUSE BILL NO. 1612
(As Sent to Governor)

1 AN ACT TO AUTHORIZE MUNICIPALITIES TO CREATE SPECIAL LOCAL
2 IMPROVEMENT ASSESSMENT DISTRICTS; TO PROVIDE THE NOTICE AND
3 ELECTION PROCEDURES FOR THE ESTABLISHMENT OF SUCH DISTRICTS; TO
4 AUTHORIZE THE LEVY OF AN ASSESSMENT OF UP TO SIX MILLS ON TAXABLE
5 REAL PROPERTY LOCATED WITHIN SUCH ASSESSMENT DISTRICTS; TO PROVIDE
6 FOR THE DUTIES AND POWERS OF SUCH ASSESSMENT DISTRICTS; TO REQUIRE
7 THE DISSOLUTION OF SUCH ASSESSMENT DISTRICTS UNDER CERTAIN
8 CIRCUMSTANCES; TO SPECIFY THE USE FOR THE PROCEEDS OF THE SPECIAL
9 ASSESSMENT; AND FOR RELATED PURPOSES.

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

11 **SECTION 1.** For the purposes of this act, the following words
12 and phrases shall have the meanings ascribed herein unless the
13 context clearly indicates otherwise:

14 (a) "Homeowners' Association" means a homeowners'
15 association duly organized as a nonprofit organization with
16 tax-exempt status under Section 501(c)(3) of the Internal Revenue
17 Code.

18 (b) "Local improvements" means (i) any improvements
19 constructed within a special local improvement assessment district
20 or services established under this act to improve the appearance
21 or functioning of property located within the district including,



22 but not limited to, parks and related facilities, sidewalks,
23 streets, street curbing, street medians, planting areas, walls,
24 lighting equipment, fountains and flagpoles; (ii) trees, shrubs,
25 flowers and other vegetation; (iii) security enhancements
26 including, but not limited to, cameras, radios, monitors and
27 related equipment; (iv) private patrol services; (v) the
28 acquisition, rehabilitation and sale of property in a special
29 local improvement assessment district; and (vi) any expenditures
30 made in conjunction with the improvements set forth above such as
31 the removal and relocation of utility service or purchase and
32 removal of signs.

33 (c) "Municipality" means any municipality incorporated
34 under the laws of the state with a population of one hundred fifty
35 thousand (150,000) or more according to the 2010 federal decennial
36 census.

37 (d) "Special local improvement assessment district" or
38 "district" means a district established pursuant to Section 2 of
39 this act and may be comprised of either residential or
40 nonresidential real property. Nonresidential real property
41 located within or immediately adjacent to a special local
42 improvement assessment district comprised of residential real
43 property may be included within such special local improvement
44 assessment district by a request submitted in writing by the owner
45 of such nonresidential property to the governing authorities of
46 the municipality. Residential real estate property located within



47 or immediately adjacent to a special local improvement assessment
48 district comprised of nonresidential real property may be included
49 within such special local improvement assessment district by a
50 request submitted in writing by the owner of such residential
51 property to the governing authorities of the municipality.

52 (e) "State" means the State of Mississippi.

53 **SECTION 2.** (1) A special local improvement assessment
54 district may be created under this section if the boundaries of
55 the proposed special local improvement assessment district are
56 within the boundaries of the homeowners' association representing
57 that area. Upon delivery of a petition to the clerk of the
58 municipality in which the proposed district is located, signed by
59 the owners of at least sixty percent (60%) of the taxable real
60 property in the homeowners' association representing the area in
61 the proposed district, the municipality shall begin efforts to
62 establish the district; however, if the boundaries of the proposed
63 special local improvement assessment district are located, in
64 whole or in part, within the boundaries of the Capitol Complex
65 Improvement District, or a portion of the proposed district
66 adjoins the boundaries of the Capitol Complex Improvement
67 District, the petition may be delivered to the Capitol Complex
68 Improvement District Project Advisory Committee, and the committee
69 shall deliver the petition to the clerk of the municipality.

70 (2) The homeowners' association representing the property
71 owners in the proposed special local improvement assessment



72 district shall submit a strategic plan to the municipality
73 specifying the local improvements proposed for the district during
74 the municipality's upcoming fiscal year and the total amount
75 proposed to be expended for the improvements. Based on the
76 strategic plan, the governing authorities of the municipality
77 shall determine the additional millage to be levied upon all
78 taxable real property in the district, not to exceed six (6)
79 mills, needed in order to provide funds for the local improvements
80 as proposed in the strategic plan.

81 (3) Within ninety (90) days of receipt of the strategic
82 plan, the municipality shall prepare a notice calling for an
83 election to be held in the proposed district on the question of
84 whether to establish the special local improvement assessment
85 district. The date and time of the election and the voting
86 location shall be fixed in the notice. The municipality shall
87 publish the notice of the election once each week for at least
88 three (3) consecutive weeks in a newspaper published or having a
89 general circulation in the town, with the first publication of the
90 notice to be made not less than twenty-one (21) days before the
91 date fixed in the notice of the election and the last publication
92 to be made not more than seven (7) days before the election. At
93 the election, all qualified electors of the proposed special local
94 improvement assessment district may vote, which qualified electors
95 shall be determined by use of the voter rolls of all municipal



96 voting precincts containing any property in the proposed special
97 local improvement assessment district.

98 The ballots prepared by the municipality and used in the
99 election shall have printed thereon the additional millage to be
100 assessed, a brief statement of the purposes of the proposed
101 special local improvement assessment district and the words "FOR
102 THE SPECIAL IMPROVEMENT ASSESSMENT DISTRICT" and, on a separate
103 line, "AGAINST THE SPECIAL IMPROVEMENT ASSESSMENT DISTRICT," and
104 the voters shall vote by placing a cross (X) or check (✓)
105 opposite their choice on the proposition.

106 (4) When the results of the election shall have been
107 canvassed and certified by the municipality, the governing
108 authorities of the municipality shall adopt a resolution creating
109 the special local improvement assessment district if at least
110 sixty percent (60%) of the qualified electors in the proposed
111 special local improvement assessment district who vote in the
112 election vote in favor of creating the district. The resolution
113 shall contain a description of the boundaries of the district and
114 shall specify the millage rate to be levied upon taxable real
115 property in the district for the municipality's fiscal year. At
116 least thirty (30) days before the effective date of the tax, the
117 governing authorities shall furnish to the Department of Revenue a
118 certified copy of the resolution evidencing the tax.



119 (5) The procedures required in this section for the
120 establishment of a district shall be used for the modification of
121 the boundaries of a district.

122 **SECTION 3.** (1) Upon the adoption of a resolution
123 establishing a special local improvement assessment district as
124 set forth under Section 2 of this act, the homeowners' association
125 representing the property area in the district shall be authorized
126 to exercise the following powers within the special local
127 improvement assessment district:

128 (a) To provide for the planning and design of
129 local improvements and the coordination of landscape design on
130 different parcels of property, including the preparation of
131 working drawings for the construction, acquisition and
132 installation of local improvements;

133 (b) To purchase, acquire, install and construct
134 local improvements;

135 (c) To purchase and acquire easements, air
136 rights, scenic rights-of-way and other interests in land on which
137 local improvements can be placed and which are necessary or
138 desirable in connection with any local improvements;

139 (d) To provide for the management of local
140 improvements, including, but not limited to, providing maintenance
141 and services within the district; and



142 (e) To contract with a nonprofit local association duly
143 incorporated under the laws of the State of Mississippi to
144 undertake all or a portion of the activities within the district.

145 (2) A special local improvement assessment district
146 established under Section 2 of this act shall be dissolved upon
147 completion of all improvements in the district's strategic plan
148 and satisfaction of all indebtedness incurred in connection with
149 the district's activities. However, the district may be continued
150 in effect by following the petition and ballot procedures provided
151 for the establishment of the district in Section 2 of this act.

152 **SECTION 4.** (1) The proceeds of any special assessment
153 levied on real property located within a special local improvement
154 assessment district under Section 2 of this act may be used to pay
155 costs including administrative costs of and relating to exercising
156 the powers set forth in Section 3 of this act. The municipality
157 shall hold the proceeds of the special assessment until disbursing
158 the proceeds to the homeowners' association representing the area
159 in a district created under Section 2 of this act. A homeowners'
160 association shall keep the proceeds of such assessment separate
161 and apart from other funds of the association. Accounting for
162 receipts and expenditures of proceeds from the assessment shall be
163 made separately and apart from the accounting of receipts and
164 expenditures of the homeowners' association for other funds of the
165 district. The homeowners' association shall have its books and
166 records audited annually by an independent certified public



167 accountant and shall file a written report of the audit with the
168 clerk of the municipality. The clerk of the municipality shall
169 make the report of the audit available for public review. A
170 special local improvement assessment district shall operate on the
171 same fiscal year as the municipality.

172 (2) Any homeowners' association whose area of coverage is an
173 operating special assessment local improvement assessment district
174 shall post online notice of its annual meeting. At each annual
175 meeting, the homeowners' association shall provide an update
176 regarding the status and use of the monies collected under the
177 special assessment imposed pursuant to this act and shall hold
178 elections for officers and board members. Upon dissolution of the
179 special local improvement assessment district under Section 3(2)
180 of this act, the term of service of the homeowners' association
181 officers and board members shall resume the length specified in
182 the bylaws of the homeowners' association.

183 (3) Nothing in this section shall prevent the use of such
184 special assessment for the purpose of planning and design of local
185 improvements for any property located within a district and the
186 coordination of landscape design on different parcels of property.

187 **SECTION 5.** Any homeowners' association representing the area
188 in a district established under Section 2 of this act may accept
189 and expend contributions from any other sources and apply such
190 contributions to any of the purposes set forth in this act.



191 **SECTION 6.** In the event any parcel of taxable property falls
192 under the purview of more than one homeowners' association, each
193 of whose property owners petition to create a special local
194 improvement assessment district under Section 2 of this act, such
195 parcel may not be assessed pursuant to this act more than once at
196 any given time. The parcel shall be assessed by the special local
197 improvement assessment district first approved by the electors
198 pursuant to Section 2 of this act. Following the dissolution of
199 the taxing special local improvement assessment district under
200 Section 3(2) of this act, the next special local improvement
201 assessment district to have been approved by the electors pursuant
202 to Section 2 of this act shall become the taxing district.

203 **SECTION 7.** This act shall take effect and be in force from
204 and after July 1, 2019.

