

By: Senator(s) Michel

To: Municipalities

SENATE BILL NO. 2839

1 AN ACT TO AMEND SECTIONS 19-31-9, 19-31-11, 19-31-17,
2 19-31-19, 19-31-25, 19-31-39, AND 19-31-41, MISSISSIPPI CODE OF
3 1972, TO AUTHORIZE THE GOVERNING AUTHORITIES OF THE MUNICIPALITY
4 IN WHICH A PUBLIC IMPROVEMENT DISTRICT IS CONTAINED TO PERFORM THE
5 DUTIES AND EXERCISE THE POWERS OF THE BOARD OF THE DISTRICT IN
6 CERTAIN CIRCUMSTANCES; AND FOR RELATED PURPOSES.

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

8 **SECTION 1.** It is the intent of the Mississippi Legislature
9 that, when the board of a public improvement district is unable or
10 unwilling to perform its statutory duties or exercise its
11 statutory powers, the governing authorities of the municipality in
12 which the district is contained shall be authorized to perform
13 such duties or exercise such powers in the place of the board.

14 **SECTION 2.** Section 19-31-9, Mississippi Code of 1972, is
15 amended as follows:

16 19-31-9. (1) The board of the district, or if necessary,
17 the governing authorities of the municipality in which the
18 district is contained, shall exercise the powers granted to the
19 district pursuant to this chapter. The board shall consist of
20 five (5) members as otherwise provided in this section. Each



21 member shall hold office for an initial term of six (6) years and
22 until a successor is chosen and qualifies. The initial members of
23 the board shall be residents of the state, and at least one (1) of
24 the initial members shall be either a qualified voter within the
25 district or an individual resident of the area immediately
26 adjacent to the district. Upon appointment or election, the board
27 members shall elect a chair who shall conduct board meetings.

28 (2) (a) Beginning six (6) years after the initial
29 appointment of members, the position of each member whose term has
30 expired shall be filled by a qualified voter of the district,
31 elected by the qualified voters of the district. There shall be
32 an election of members every six (6) years from the date of the
33 ordinance establishing the district. The district manager shall
34 determine the date and time of the election, which election must
35 be held at least twenty (20) days before the anniversary date of
36 the ordinance establishing the district. If a contribution
37 agreement exists, then the governing body of the public entity
38 that is a party to the contribution agreement may appoint one (1)
39 of the five (5) members to the board of the district at the time
40 of the election in lieu of electing that member.

41 (b) Candidates must qualify in writing by submitting a
42 "Statement of Intent," as prescribed in this paragraph, to the
43 district manager thirty (30) days before the election. The
44 district manager shall prepare a ballot of all candidates



45 qualified to run for office twenty-eight (28) days before the
46 election.

47 **Statement of Intent**

48 Candidate for (insert name of district) Public Improvement
49 District

50 I, (name of candidate as it will appear on the ballot),
51 (mailing address, street address, city, state, zip code, telephone
52 number of the candidate), certify that I am a qualified voter, as
53 defined in Section 19-31-5, Mississippi Code of 1972, of the
54 (insert name of public improvement district) Public Improvement
55 District in the State of Mississippi; and I do hereby declare my
56 candidacy for Board of the (insert name of public improvement
57 district) Public Improvement District at the election to be held
58 on (insert date of election).

59 _____

60 (Signature of candidate) (Date)

61 Received by _____

62 (Signature) (Title) (Date)

63 (c) Notice of the election shall be announced at a
64 public meeting of the board at least ninety (90) days before the
65 date of the election and shall be published once a week for two
66 (2) consecutive weeks in a newspaper which is in general
67 circulation in the area of the district, the last day of such
68 publication to be not fewer than fourteen (14) days nor more than
69 twenty-eight (28) days before the election. In addition, notice



70 of the election shall be sent by United States first-class mail,
71 not fewer than fourteen (14) days before the election, to all
72 qualified voters at their last-known address as shown on the tax
73 rolls. Instructions on how all qualified voters may participate
74 in the election, along with sample proxies, shall be provided as
75 part of the notice required by this paragraph, and the location,
76 date and time of the election shall be included on all
77 instructions and notices.

78 (d) Each qualified voter shall be entitled to cast only
79 one (1) ballot to elect each of the board members, regardless of
80 the number of parcels owned by that voter within the district.
81 Parcels may not be aggregated for determining the number of
82 ballots allowed to be cast by a qualified voter. A list of
83 qualified voters in the form of a voter roll must be kept current
84 by the district manager and deemed final thirty (30) days before
85 the election.

86 (e) A qualified voter may vote in person or by proxy in
87 writing. A vote cast by proxy must be submitted at or within
88 fourteen (14) days before the election and must be submitted in
89 the form prescribed in this section. Each proxy must be signed
90 by the qualified voter for which the vote is cast and must contain
91 the typed or printed name of the individual who signed the proxy
92 and the street address, legal description of the property or the
93 property's tax parcel identification number. The signature on a



94 proxy need not be notarized. All votes cast by proxy must be
95 reflected in the voter roll.

96 **Proxy for Election**

97 (Insert name of district) Public Improvement District

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

99 _____ (street address);

100 _____ (legal description);

101 _____ (tax parcel identification number).

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

105 1. Do constitute and appoint _____

106 _____ (name), attorney and agent for me, and in my
107 name, place and stead, to vote as my proxy for the election of
108 members of the Board of Directors of the (name of district) Public
109 Improvement District on (insert date), at the (insert voting
110 location/facility name with street address); **OR (only choose one)**

111 2. Do hereby cast my vote for:

112 _____ [print or type name of
113 person being voted for - PLEASE NOTE THAT YOUR VOTE MUST BE FOR A
114 QUALIFIED VOTER (AS DEFINED IN MISSISSIPPI CODE SECTION 19-31-5)
115 OF THE DISTRICT. A QUALIFIED VOTER MEANS ANY LANDOWNER OF THE
116 DISTRICT WHO IS AT LEAST EIGHTEEN (18) YEARS OF AGE OR AN
117 AUTHORIZED REPRESENTATIVE OF THE LANDOWNER WHO IS ALSO AT LEAST
118 EIGHTEEN (18) YEARS OF AGE.] to be elected as a member of the



119 Board of Directors of the (name of district) Public Improvement
120 District for a term beginning (date of term) and ending six (6)
121 years from that date or until a successor is chosen.

122 I understand that I have the right to revoke this proxy at
123 any time before the election. I understand that I have the right
124 to be present in person at the election.

125 I have executed this proxy on (insert date).

126

(Printed Name of Qualified Voter)

128

(Signature of Qualified Voter)

129

130 (f) A qualified voter may cast only one (1) vote for
131 each of the five (5) board member positions. When a qualified
132 voter casts a vote for the same person more than once, only one
133 (1) of the votes cast for that person will be counted. When a
134 qualified voter casts more votes to elect board members than he or
135 she is entitled to cast, all votes are invalid, and the qualified
136 voter is deemed to have voted for none of them. When a qualified
137 voter casts fewer votes to elect board members than he or she is
138 entitled to cast, all votes cast by the qualified voter must be
139 counted, but no votes shall be counted more than once.

140 (g) If a board member dies, resigns or otherwise is
141 prevented from serving as a board member, the board of the
142 district shall appoint a member to fill the remainder of the board
143 member's term. If no qualified voter is willing to serve on the



144 board of the district, the governing body that established the
145 district shall appoint members as necessary to fill any vacancy
146 for the remainder of the term.

147 (3) Members of the board shall be known as directors and,
148 upon entering into office, shall take an oath of office. They
149 shall hold office for the terms for which they were elected or
150 appointed and until their successors are chosen and qualified. If
151 during the term of office, a vacancy occurs, the remaining members
152 of the board shall fill the vacancy by an appointment for the
153 remainder of the unexpired term.

154 (4) A majority of the members of the board constitutes a
155 quorum for the purposes of conducting its business and exercising
156 its powers and for all other purposes. Action taken by the
157 district shall be upon a vote of a majority of the members present
158 unless general law or a rule of the district requires a greater
159 number. If a quorum cannot be obtained in a board meeting, the
160 governing body that established the district shall appoint members
161 as necessary to replace any board member missing three (3)
162 consecutive meetings.

163 (5) As soon as practicable after each election or
164 appointment, the board shall organize by electing one (1) of its
165 members as chair and by electing a secretary, who need not be a
166 member of the board, and such other officers as the board may deem
167 necessary.



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

171 (7) Members of the board may receive per diem compensation
172 for services in an amount as provided under Section 25-3-69, and
173 shall be entitled to expenses necessarily incurred in the
174 discharge of their duties in accordance with Section 25-3-41. Any
175 payments for compensation and expenses shall be paid from funds of
176 the district.

177 **SECTION 3.** Section 19-31-11, Mississippi Code of 1972, is
178 amended as follows:

179 19-31-11. (1) The board, or if necessary, the governing
180 authorities of the municipality in which the district is
181 contained, shall employ and fix the compensation of a district
182 manager. The district manager shall have charge and supervision
183 of the works of the district and shall be responsible for (a)
184 preserving and maintaining any improvement or facility constructed
185 or erected pursuant to the provisions of this chapter, (b)
186 maintaining and operating the equipment owned by the district, and
187 (c) for performing such other duties as may be prescribed by the
188 board. The district manager may hire or otherwise employ and
189 terminate the employment of such other persons including, without
190 limitation, professional, supervisory and clerical employees, as
191 may be necessary as authorized by the board. The compensation and
192 other conditions of employment of the officers and employees of



193 the district shall be as provided by the board. The district
194 manager, a board member or district employee may be a stockholder,
195 officer or employee of a landowner.

196 (2) The board, or if necessary, the governing authorities of
197 the municipality in which the district is contained, shall
198 designate a person who is a resident of the state as treasurer of
199 the district, who shall have charge of the funds of the district.
200 Such funds shall be disbursed only upon the order or pursuant to
201 the resolution of the board or municipality by warrant or check
202 countersigned by the treasurer and by such other person as may be
203 authorized by the board. The board or municipality may give the
204 treasurer such other or additional powers and duties as the board
205 may deem appropriate and may fix his or her compensation. The
206 board or municipality may require the treasurer to give a bond in
207 such amount on such terms, and with such sureties as may be deemed
208 satisfactory to the board to secure the performance by the
209 treasurer of his or her powers and duties. The financial records
210 of the district shall be audited by an independent certified
211 public accountant at least once a year.

212 (3) The board or municipality may select as a depository for
213 its funds any qualified public depository as provided for under
214 Sections 27-105-301 through 27-105-371.

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



217 19-31-17. (1) The district shall have, and the board may
218 exercise, the power:

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

220 (b) To adopt and use a seal and authorize the use of a
221 facsimile thereof.

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

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

227 (i) Nonprofit entities that have been issued a
228 certificate of public convenience and necessity by the Public
229 Service Commission; or

230 (ii) Governmental entities.

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

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

236 (g) To borrow money and accept gifts; to apply for and
237 use grants or loans of money or other property from the United
238 States, the state, a unit of local government or any person or any
239 organization for any district purposes and enter into agreements
240 required in connection therewith; and to hold, use and dispose of
241 such monies or property for any district purposes in accordance



242 with the terms of the gift, grant, loan or agreement relating
243 thereto.

244 (h) To adopt bylaws prescribing the powers, duties and
245 functions of the officers of the district, the conduct of the
246 business of the district and the maintenance of records.

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

252 (j) To hold, control and acquire by donation, or
253 purchase or dispose of, any public servitudes or dedications to
254 public use and to make use of such servitudes or dedications for
255 any of the purposes authorized by this chapter.

256 (k) To lease as lessor or lessee to or from any person,
257 firm, corporation, association, or body public or private, any
258 projects of the type that the district is authorized to undertake
259 and facilities or property of any nature for the use of the
260 district to carry out any of the purposes authorized by this
261 chapter.

262 (l) To borrow money and issue bonds, certificates,
263 warrants, notes or other evidence of indebtedness as provided in
264 this chapter; to levy such special assessments as may be
265 authorized; and to charge, collect and enforce fees and other user
266 charges.



267 (m) To acquire property within the boundaries of the
268 district for public use through condemnation, exercised pursuant
269 to Sections 11-27-1 through 11-27-51, subject to the approval of
270 the governing body of the county and/or the municipality that
271 enacted the ordinance establishing the district.

272 (n) To raise, by user charges or fees authorized by
273 resolution of the board, amounts of money which are necessary for
274 the conduct of the district activities and services; to finance
275 projects and to pledge user charges and fees for the payment of
276 any bond or other indebtedness of the district; and to enforce the
277 receipt and collection of user charges and fees in the manner
278 prescribed by resolution not inconsistent with law.

279 (o) To cooperate, contract, or enter into contribution
280 agreements with other governmental agencies, including the
281 governing bodies of counties and/or municipalities, as may be
282 necessary, convenient, incidental or proper in connection with any
283 of the powers, duties or purposes authorized by this chapter.

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

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

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



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

295 (2) In the event that the board is unable or unwilling to
296 perform its duties or exercise its powers under this chapter, the
297 governing authorities of the municipality in which the district is
298 contained shall be authorized to exercise all of the powers
299 enumerated in subsection (1)(a) through (s) of this section in
300 addition to all of the powers necessary and proper in connection
301 with any of the powers, duties or purposes authorized by this
302 chapter.

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

305 19-31-19. The district shall have, and the board, or if
306 necessary, the governing authorities of the municipality in which
307 the district is contained, may exercise, any or all of the special
308 powers relating to public improvements and community facilities
309 authorized by this chapter. The district or municipality shall
310 have the power to finance, fund, establish, acquire, construct or
311 reconstruct, enlarge or extend, equip, operate and maintain
312 systems, facilities, projects and basic infrastructures that are
313 within the district, or which benefit or serve the district, for
314 the following:



315 (a) Water management and control for the lands within
316 the district and connection of some or any of such facilities with
317 roads and bridges;

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

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

324 (d) District roads equal to or exceeding the
325 specifications of the county in which such district roads are
326 located, including street lights and the location of underground
327 utilities;

328 (e) Parks and facilities for indoor and outdoor
329 recreational, cultural and educational uses, and other tourism
330 related infrastructure and facilities;

331 (f) Fire prevention and control, including fire
332 stations, water mains and plugs, fire trucks, and other vehicles
333 and equipment;

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

338 (h) Waste collection and disposal;

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



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

341 **SECTION 6.** Section 19-31-25, Mississippi Code of 1972, is
342 amended as follows:

343 19-31-25. Any pledge made by the district or the governing
344 authorities of the municipality in which the district is
345 contained, when such governing authority is acting in the place of
346 the district, shall be valid and binding from time to time when
347 the pledge is made without the need for physical delivery of any
348 pledged property. The money, assets or revenues of the district
349 so pledged and thereafter received by the district shall be
350 immediately subject to the lien of such pledge and shall be valid
351 and binding as against all parties having claims of any kind in
352 tort, contract or otherwise against the district, irrespective of
353 whether such parties have notice thereof. Neither the resolution
354 nor any other instrument by which a pledge is created need be
355 recorded or filed in order to establish and perfect a lien or
356 security interest in the property so pledged by the district.

357 **SECTION 7.** Section 19-31-39, Mississippi Code of 1972, is
358 amended as follows:

359 19-31-39. (1) The district, or if necessary, the governing
360 authorities of the municipality in which the district is
361 contained, may prescribe, fix, establish and collect rates, fees,
362 rentals or other charges for the facilities and services furnished
363 by the district, within the limits of the district, including, but
364 not limited to, recreational facilities, water management and



365 control facilities and water and sewer systems. The district may
366 also recover the costs of making connection with any district
367 facility or system and provide for reasonable penalties against
368 any user or property for any such rates, fees, rentals or other
369 charges that are delinquent.

370 (2) No such rates, fees, rentals or other charges for any of
371 the facilities or services of the district may be fixed until
372 after a public hearing at which all the users of the proposed
373 facility or services shall have an opportunity to be heard
374 concerning the proposed rates, fees, rentals or other charges.
375 Notice of such public hearing setting forth the proposed schedule
376 of rates, fees, rentals and other charges shall be published in a
377 newspaper having general circulation in each county where the
378 district is located once at least ten (10) days before such public
379 hearing.

380 **SECTION 8.** Section 19-31-41, Mississippi Code of 1972, is
381 amended as follows:

382 19-31-41. The district, or if necessary, the governing
383 authorities of the municipality in which the district is
384 contained, shall provide by ordinance with respect to nonpayment,
385 delinquency charges and discontinuance of service for water and
386 sewer services provided by the district.

387 **SECTION 9.** This act shall take effect and be in force from
388 and after July 1, 2023.

