

By: Senator(s) Gollott, Woodfield, Hewes,  
Cuevas

To: Local and Private

COMMITTEE SUBSTITUTE  
FOR  
SENATE BILL NO. 3239

1 AN ACT TO AMEND CHAPTER 977, LOCAL AND PRIVATE LAWS OF 1998,  
2 TO EXPAND THE TYPES OF IMPROVEMENTS THAT MAY BE CONSTRUCTED BY THE  
3 BOARD OF SUPERVISORS OF HARRISON COUNTY, MISSISSIPPI, IN THE  
4 SPECIAL ASSESSMENT AREAS THEY CREATE; AND FOR RELATED PURPOSES.

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

6 SECTION 1. Chapter 977, Local and Private Laws of 1998, is  
7 amended as follows:

8 Section 1. For the purposes of this act, the following words  
9 and phrases shall have the meanings ascribed to them in this  
10 section unless the context clearly indicates otherwise:

11 (a) "Board" means the Board of Supervisors of Harrison  
12 County, Mississippi.

13 (b) "County" means Harrison County, Mississippi.

14 (c) "Area" means a special assessment area within the  
15 county created pursuant to this act.

16 Section 2. The Legislature finds that certain locations  
17 within Harrison County have inadequate water supply facilities,  
18 sewer facilities, gas utility facilities, seawalls, fire  
19 protection facilities, storm drainage systems and roadways and  
20 streets, including curbing, gutters, street lights, irrigation,  
21 landscaping and sidewalks that serve those locations for the  
22 purposes of casino, resort, theme park, residential, recreation,  
23 marinas or other commercial development. The purpose of this act  
24 is to authorize the board to designate certain locations within  
25 the county in need of utilities and improvements in accordance  
26 with the provisions of this act.

27 Section 3. (1) A petition for the designation of an area

28 may be submitted to the board. The petition must be signed by the  
29 owners of no less than seventy-five percent (75%) of the land  
30 within the boundaries of the proposed area on a square footage  
31 basis. The petition shall include: (a) a statement for the  
32 necessity for the service or services to be supplied by the  
33 county; (b) an estimate of the cost of the acquisition or  
34 construction of the facilities \* \* \* by the county; and (c) an  
35 estimate by the petitioner or petitioners of the cost of  
36 development within the area, which estimate shall include an  
37 itemized breakdown of the type or nature of each project, the cost  
38 of each project and a projected timetable for completion of each  
39 project. The petition shall be signed in person by the  
40 petitioners and accompanied by a sworn statement of the person or  
41 persons circulating the petition, who shall state under oath that  
42 he witnessed the signature of each petitioner, that each signature  
43 is the signature of the person it purports to be, and that to the  
44 best of his knowledge, each petitioner, at the time of signing,  
45 was an owner of real property within the proposed area. A  
46 petitioner may be a corporation.

47 (2) If the board determines that the designation of the  
48 proposed area is in the best interest of the county, the board,  
49 upon the filing of the petition, shall fix a time and place for a  
50 public hearing upon the question of the public convenience and  
51 necessity of the designation of the proposed area. If the board  
52 elects to fix a time and place for a hearing, the date fixed for  
53 the hearing shall be not more than sixty (60) days after the  
54 filing of the petition. The date, place and notice of the hearing  
55 shall be set forth in a notice to be signed by the clerk of the  
56 board. The notice shall be published in a newspaper having a  
57 general circulation within the county once a week for at least  
58 three (3) consecutive weeks before the date of the hearing. The  
59 first publication shall be made not less than twenty-one (21) days  
60 before the date of the hearing, and the last publication shall be

61 made not more than seven (7) days before the date of the hearing.  
62 If, following the public hearing, the board finds that public  
63 convenience and necessity require the designation of the proposed  
64 area, the board shall adopt a resolution making those findings and  
65 designating the area. If the area is within the corporate limits  
66 of any municipality, town or city, then the county shall submit  
67 its resolution designating the area under this subsection (2) to  
68 such municipality, town or city and request that such  
69 municipality, town or city adopt a resolution declaring a need  
70 therefor. The county shall not proceed to issue any bonds under  
71 this act until it has received this resolution from the  
72 municipality, town or city.

73 (3) As an alternative to the procedure prescribed in  
74 subsection (1) of this section, a petition for the designation of  
75 an area may be submitted to the board. The petition must be  
76 signed by one or more owners of land within an area who  
77 unanimously agree that only their property within the area will be  
78 assessed for the proposed project within the area. The petition  
79 shall include: (a) a statement for the necessity for the service  
80 or services to be supplied by the county; (b) an estimate of the  
81 cost of the acquisition or construction of the facilities \* \* \* by  
82 the county; and (c) an estimate by the petitioner or petitioners  
83 of the cost of development within the area, which estimate shall  
84 include an itemized breakdown of the type or nature of each  
85 project, the cost of each project and a projected timetable for  
86 completion of each project. The petition shall be signed in  
87 person by the petitioner and accompanied by a sworn statement of  
88 the person or persons circulating the petition, who shall state  
89 under oath that he witnessed the signature of each petitioner,  
90 that each signature is the signature of the person it purports to  
91 be, and that to the best of his knowledge, each petitioner, at the  
92 time of signing, was an owner of real property within the proposed  
93 area. A petitioner may be a corporation. Benefited owners of

land within the designated area who do not petition for designation under this subsection (3) shall not be subject to assessment for projects within the respective designated area. If the board determines that the designation of the proposed area under this subsection (3) is in the best interest of the county, the board shall then proceed under subsection (2) of this section.

Section 4. The board shall have the powers enumerated in the resolution of the board designating the area, which shall be limited to constructing, acquiring, reconstructing, improving, bettering or extending roadways and streets, including curbing, gutters, street lights, irrigation, landscaping, sidewalks, seawalls, marinas, recreation, and facilities for a water, sewer, gas utility, fire protection or storm drainage system, or any combination thereof, and to conducting and operating the facilities and to contracting with any municipality, county or other governmental entity, or with any person, firm or corporation to operate such facilities or for a supply of water, gas or other services required incident to the operation and maintenance of the system.

Section 5. (1) The county may issue bonds to provide funds for constructing, acquiring, reconstructing, improving, bettering or extending water supply facilities, sewer facilities, gas utility facilities, fire protection facilities, storm drainage systems and roadways and streets, including curbing, gutters, street lights, irrigation, landscaping, sidewalks, marinas and seawalls that serve the area for the purposes of casino, resort, theme park, residential, recreation, marinas or other commercial and industrial development. The bonds shall be payable primarily from the revenues of the facilities and, if so provided for in the proceedings authorizing the bonds, the bonds shall be payable also from special assessments levied pursuant to Section 9 of this act.

In addition, if so provided for in the proceedings authorizing the bonds and agreed to by resolution of the board, the bonds

shall be payable also from the avails of the ad valorem tax levy as provided for in subsection (2) of this section, or from any combination of monies from the revenues, special assessments and tax levies on property of the area designated under subsection (1) or (2) of Section 3 of this act. The bonds may be issued without an election being held upon the question of their issuance and without the publication of any notice of intention to issue the bonds. The board shall issue bonds of the county by resolution spread upon the minutes of the board. The bonds shall contain those covenants and provisions, be executed, bear interest at the rate or rates not to exceed fourteen percent (14%) per annum, be in the denomination or denominations, be payable, both as to principal and interest, at the place or places, and mature at the time or times not exceeding twenty-five (25) years from their date, as determined by the board and set forth in the resolution pursuant to which the bonds are issued; however, any such bonds which are secured by a pledge of special assessments in addition to a pledge of revenues shall mature at such time or times not exceeding the time period over which such special assessments are payable, as determined by the board pursuant to Section 12 of this act. Notwithstanding any provision of the general law to the contrary, any bonds and interest coupons issued pursuant to the authority of this act shall possess all of the qualities of negotiable instruments, and the bonds, premium, if any, and interest thereon shall be exempt from all state, county, municipal and other taxation under the laws of the State of Mississippi. Any bonds issued pursuant to the authority of this act may be refunded in the manner provided in this act upon a finding by the board that such refunding is in the public interest. Bonds for the betterment, improvement or extension of roadways, streets or other facilities of the area may be included with the refunding bonds. The bonds may be sold without the necessity of advertising for bids therefor, and may be sold by negotiated private sale and

on those terms, conditions and covenants agreed to by and between the issuing authority and the purchasers of the bonds. The total amount of bonds issued under this act shall not exceed Fifty Million Dollars (\$50,000,000.00).

(2) If provided in the proceedings authorizing the issuance of the bonds and agreed to by resolution of the board to make the pledge, then when there are insufficient revenues received from special assessments authorized under this act, according to the provisions made in the proceedings authorizing the issuance of such bonds, to meet the interest or principal payments, or both, when due on any bonds issued under the authority of this act, then, the board shall levy an ad valorem tax on (a) all taxable property within the geographical limits of the area or (b) all taxable property within the geographical limits of the area which is designated pursuant to a petition under subsection (3) of Section 3 of this act, which tax, together with any other monies available for such purpose, shall be sufficient to provide for the payment of the principal of and interest on such bonds as the same falls due, and, if so provided in the proceedings for the issuance of such bonds, to replenish any reserve fund established for such bonds.

Section 6. The county is vested with all the powers necessary and requisite that are capable of being delegated by the Legislature for the accomplishment of the purposes of this act. No enumeration of powers in this act shall be construed to impair or limit any general grant of power contained in this act or to limit any grant of power or powers of the same class or classes as those enumerated. The county may do all acts necessary, proper or convenient in the exercise of the powers granted under this act.

Section 7. The county, acting by and through the board, shall have the following, among other, powers:

(a) To acquire by purchase, gift, devise or lease and to hold and dispose of real and personal property of every kind

193 within or without the area, including franchise rights; however,  
194 the sale, assignment, lease or transfer of any certificate of  
195 public convenience and necessity or utility property shall be  
196 subject to Section 77-3-23, Mississippi Code of 1972;

197           (b) To make and enter into contracts, conveyances,  
198 mortgages, deeds of trust, bonds, leases or contracts for  
199 financial advisory services;

200           (c) To incur debts, to borrow money, to issue  
201 negotiable bonds, and to provide for the rights of the holders  
202 thereof;

203           (d) To fix, maintain, collect and revise rates and  
204 charges for the services rendered by or through the facilities of  
205 the county to the area, which rates and charges shall not be  
206 subject to review or regulation by the Mississippi Public Service  
207 Commission except in those instances where a city operating  
208 similar services would be subject to regulation and review;  
209 however, the county shall obtain a certificate of convenience and  
210 necessity from the Mississippi Public Service Commission for  
211 operating utility systems under the commission's jurisdiction;

212           (e) To pledge all or any part of the revenues from  
213 special assessments and tax revenues on real and personal property  
214 in the area;

215           (f) To make such covenants in connection with the  
216 issuance of bonds or to secure the payment of bonds that a private  
217 business corporation can make under the general laws of the state;

218           (g) To use any right-of-way, easement or other similar  
219 property rights or any material or equipment necessary or  
220 convenient in connection with the acquisition, improvement,  
221 operation or maintenance of the facilities in the area held by the  
222 state or any political subdivision thereof; however, the governing  
223 body of the political subdivision shall consent to the use;

224           (h) To enter into agreements with state and federal  
225 agencies for loans, grants and aid, and other forms of assistance,

including, but not limited to, participation of the sale and purchase of bonds, and to enter into agreements with state agencies, federal agencies and political subdivisions of the State of Mississippi pertaining to matters relating to the operation of any services of the area authorized under this act, and such state agencies and political subdivisions of the State of Mississippi may so contract with the county;

(i) To sell to any municipality or district in the county, under those terms, conditions and covenants that may be imposed or required by the county, part or all of the utility system or systems within the area; however, in the event of a sale of all of the system or systems, the municipality or district shall assume all obligations of the county relating thereto as a condition precedent to the sale;

(j) To contract with the United States of America, or any agency of the United States of America, the State of Mississippi, or any political subdivision of the State of Mississippi, or any agency, commission, authority, board or other entity thereof, or any municipality or municipalities, for any of the additional purposes authorized by Section 8 of this act;

(k) To contract with any municipality, district, person, partnership, corporation or other entity for the operation and maintenance, including billing services, of any property or facilities of the area, upon those terms, conditions and covenants that may be agreed upon by the contracting parties;

(l) To contract with a developer under which the developer may construct all or any part of a project with private funds and may be reimbursed by the county for actual costs incurred by the developer upon issuance and delivery of the bonds and receipt of the proceeds, conditioned upon dedication of the project by the developer to the county to assure public use and access; and

(m) To enter into an interlocal cooperation agreement



between any political subdivision of the State of Mississippi, or any agency, commission, authority, board or other entity thereof, or any municipality or municipalities, whereby both agree that either party to said contract may be responsible for constructing, operating and/or maintaining improvements or other facilities included within an area.

Section 8. In addition to the purposes specified under Section 5(1) of this act, the county may issue bonds of the county in the manner provided in Section 5 of this act for any or all of the following purposes:

(a) To refund the outstanding bonds of the county secured by special assessments and tax revenues of the area upon a finding by the board that such refunding is in the public interest;

(b) To improve, better or extend roadways and streets, including curbing, gutters, street lights, irrigation, landscaping, sidewalks, seawalls, marinas and the water, sewer or gas utility system or systems and fire protection system or storm drainage systems of the area in connection with any casino, resort, theme park, residential, recreation, marina, industrial or commercial development;

(c) To purchase or acquire part or all of the utility system or systems and fire protection system of any district or municipality located in whole or in part in the area, including part or all of the system or systems within the corporate boundaries of any municipality;

(d) To provide for the payment of the principal, premium and interest on the outstanding bonds of any district or municipality in connection with the purchase of any facilities located in the area;

(e) To purchase or acquire part or all of any privately owned utility system or systems in an area;

(f) To enter into cooperative agreements with the state

or federal government, or both (reference to the state or federal government as used in this paragraph shall include any agency of the state or federal government); to obtain financial assistance in the form of loans or grants as may be available from the state or federal government, or both; and to execute and deliver at private sale notes or bonds as evidence of the indebtedness in the form and subject to the terms and conditions as may be imposed by the state or federal government, or both; and to pledge the income and revenues of the area, or the income and revenues from any part of the land embraced in the area (which revenues in either instance shall include, but not be limited to, revenues from special assessments and tax revenues) in payment thereof; and the state may enter into such agreements with the county;

(g) To purchase or acquire part or all of any utility system or systems located in whole or in part in the area owned by the United States of America, or any agency of the United States of America, or the State of Mississippi, or any political subdivision of the State of Mississippi, or any agency, commission, authority, board or other entity thereof; and

(h) To enter into an interlocal cooperation agreement for the purposes set forth in Section 7(m) of this act.

Section 9. The board, in its discretion, may exercise the powers set forth in this act at the cost of the property owners in the area. The board may levy and collect special assessments on properties located in the area and may either issue negotiable special improvement bonds of the county or pledge the receipts from the special assessments to secure the payment of the principal of premium, if any, and interest on any bonds authorized pursuant to this act. Any special assessments shall be levied and collected in the manner authorized in Sections 21-41-1 through 21-41-53, Mississippi Code of 1972, except to the extent otherwise provided for in this act. The board may secure bonds of the county solely from the receipts from special assessments, or may

pledge such receipts in addition to the pledge of revenues of the county or the receipts from any tax levy authorized in this act, or from any combination of monies from the special assessments, revenues and tax levies.

Section 10. Bonds issued pursuant to this act shall be payable as to principal and interest solely from the sources authorized by this act. Any bonds secured by a pledge of the special assessments authorized in Section 9 of this act shall mature at any time or times, not exceeding twenty-five (25) years from the date of the bonds, and may be in fully registered form or in bearer form as determined by the board.

Section 11. All special assessments levied under this act shall be payable in approximately equal annual installments over a period not in excess of twenty-five (25) years, as determined by the board, with interest from the date of the confirmation of the assessment at a rate, to be fixed by the board, which will produce sufficient funds for the payment of all or a specified portion of the principal and interest on the bonds as they mature and accrue and for fees and expenses for a paying agent or trustee, or both, for the bonds. The amount to be paid pursuant to such special assessments may be limited by the board to the amounts needed for the purposes specified in this section. Any property owner who shall not have taken an appeal from the assessment, upon failure to pay the assessment in full within thirty (30) days from the date of confirmation, shall be deemed to have elected to pay the assessment in installments as provided in this section, and he shall be deemed to have admitted the legality of the assessment, and the right to contest the validity of the assessment shall be waived. The installments of the assessment shall be due and payable at the same time that the annual real property tax becomes due and payable, commencing with the first county tax levy which is payable after the expiration of thirty (30) days from the date of confirmation of the assessment.

Section 12. The resolution declaring the intent of the board to proceed with the special improvements authorized by this act may direct that all of the expenses of the property or facilities of the area, or such part of the expenses that the board shall charge upon the properties in the area, shall be assessed according to the frontage rule or area rule, as outlined in this section. Bonds may be issued for one or more projects and the area and method of assessment for each project shall be specified in the resolution declaring the intent of the board to proceed with that project. The resolution declaring the intent of the board to proceed with the special improvements shall:

(a) Define the properties in the area to be benefited by each improvement, with each improvement being designated as a project;

(b) Fix the amount or percentage of the charge to be levied upon the property benefited;

(c) Designate the minimum and maximum number of years between the date of the bonds and the maturity of those bonds;

(d) Delineate the method of determining the amount of special assessments to be levied on each lot or parcel of land;

(e) Designate the minimum and maximum number of approximately equal annual installments that the board may later allow for the payment of assessments with interest on those assessments.

If the board determines that the front foot rule is the most equitable method of distributing the cost among the properties, then the resolution shall direct that the cost to be assessed against each lot or parcel of land shall be determined by dividing the entire cost to be assessed by the total number of front feet of real property abutting upon the utility easement, street, railroad or public or private right-of-way on which the project is located and which will be subject to such special assessment, and multiplying the quotient by the total number of front feet in any

particular lot or parcel of land fronting on the utility easement, street, railroad or public or private right-of-way on which the project is located. The result of this formula shall be assessed against each lot or parcel of land for the owner's part of the cost of the entire improvement to be paid through special assessments.

If the board determines that the area rule is the most equitable method of distributing the cost among the properties, then the resolution shall direct that the cost to be assessed against each lot or parcel of land shall be determined by dividing the entire cost to be assessed by the total number of acres or square feet in the area being benefited and which is subject to such special assessment, and multiplying the quotient by the total number of acres or square feet in any particular lot or parcel of land. The result of this formula shall be assessed against each lot or parcel of land for the owner's part of the cost of the entire improvement to be paid through special assessments.

As provided in subsection (3) of Section 3 of this act, the property subject to assessment may be limited to property owned by landowners within an area who have petitioned the county pursuant to subsection (3) of Section 3 of this act.

Section 13. If the owners of a majority of the front footage of the property to be assessed under the front foot rule, or if the owners of a majority of the area of the property to be assessed under the area rule, as described in Section 12 of this act, file a written protest objecting to the assessments authorized under this act and in Section 21-41-7, Mississippi Code of 1972, then the board shall not proceed with the special assessment.

Section 14. If owners of the front footage of the property to be assessed under the front foot rule, or if the owners of the property to be assessed under the area rule enter into a written agreement with the county \* \* \* agreeing to pay the total

assessments authorized under this act and in Section 21-41-7, Mississippi Code of 1972, then the owners of property not a party to said written agreement shall not be obligated to pay the assessments.

Section 15. This act, without reference to any other statute, shall be deemed to be full and complete authority for the designation of the area by the county, and this act, including the provisions of Sections 21-41-1 through 21-41-53, Mississippi Code of 1972, which are not in direct conflict with the provisions of this act, shall be deemed to be full and complete authority for the issuance of bonds by the county and shall be construed as additional and alternative methods therefor. All powers necessary to be exercised in order to carry out the provisions of this act are hereby conferred. No proceedings shall be required for the designation of the area by the county or for the issuance of the bonds other than those provided for and required in this act. Any municipality, district or other entity located in whole or in part in the area is authorized to sell part or all of its water, sewer or gas or storm drainage system to the county. All the necessary powers to be exercised by the board and the governing authorities of any municipality or district that determines to sell part or all of its water, sewer or gas system to the county in order to carry out this act are hereby conferred.

Section 16. Any bonds issued under this act may be submitted to validation under the provisions of Chapter 13, Title 31, Mississippi Code of 1972.

Section 17. This act shall be liberally construed for the purposes set out in the act, the powers hereby granted being additional, cumulative and supplemental to any power granted to Harrison County, Mississippi, or any municipality therein by any general law or any local and private act of the Legislature.

Section 18. If any provision of this act is held to be invalid by any court of competent jurisdiction, the remainder of

457 this act shall not be affected by that determination.

458       Section 19. This act shall be repealed from and after  
459 December 31, 2003.

460       Section 20. This act shall take effect and be in force from  
461 and after its passage.

462       SECTION 2. This act shall take effect and be in force from  
463 and after its passage.