

By: Representative Baker (74th)

To: County Affairs; Ways and Means

## HOUSE BILL NO. 852

1 AN ACT TO AMEND SECTION 19-5-189, MISSISSIPPI CODE OF 1972,  
2 TO PROVIDE THAT NO ANNEXED TERRITORY THAT IS ANNEXED BY A  
3 MUNICIPALITY AND INCLUDES A FIRE PROTECTION DISTRICT SHALL BE  
4 TAXED SIMULTANEOUSLY FOR FIRE PROTECTION SERVICES BY THE BOARD OF  
5 SUPERVISORS AND THE GOVERNING AUTHORITIES OF THE MUNICIPALITY; TO  
6 PROVIDE THAT IF THERE IS A LOSS OF AD VALOREM TAX REVENUE IN A  
7 FIRE PROTECTION DISTRICT DUE TO ANNEXATION BY A MUNICIPALITY THEN  
8 SUCH MUNICIPALITY SHALL REIMBURSE SUCH DISTRICT FOR A PERIOD OF  
9 THREE YEARS FOR THE LOSS; TO AMEND SECTIONS 21-1-27, 21-1-61 AND  
10 21-1-29, MISSISSIPPI CODE OF 1972, IN CONFORMITY THERETO; AND FOR  
11 RELATED PURPOSES.

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

13 **SECTION 1.** Section 19-5-189, Mississippi Code of 1972, is  
14 amended as follows:

15 19-5-189. (1) (a) Except as otherwise provided in  
16 subsection (2) of this section for levies for fire protection  
17 purposes and subsection (3) of this section for certain districts  
18 providing water service, the board of supervisors of the county in  
19 which any such district exists may, according to the terms of the  
20 resolution, levy a special tax, not to exceed four (4) mills  
21 annually, on all of the taxable real property in such district,  
22 the avails of which shall be paid over to the board of  
23 commissioners of the district to be used either for the operation,  
24 support and maintenance of the district or for the retirement of  
25 any bonds issued by the district, or for both.

26 (b) The proceeds derived from two (2) mills of the levy  
27 authorized herein shall be included in the ten percent (10%)  
28 increase limitation under Section 27-39-321, and the proceeds  
29 derived from any additional millage levied under this subsection  
30 in excess of two (2) mills shall be excluded from such limitation

31 for the first year of such additional levy and shall be included  
32 within such limitation in any year thereafter.

33 (2) (a) In respect to fire protection purposes, the board  
34 of supervisors of the county in which any such district exists on  
35 July 1, 1987, may levy a special tax annually, not to exceed the  
36 tax levied for such purposes for the 1987 fiscal year on all of  
37 the taxable real property in such district, the avails of which  
38 shall be paid over to the board of commissioners of the district  
39 to be used either for the operation, support and maintenance of  
40 the fire protection district or for the retirement of any bonds  
41 issued by the district for fire protection purposes, or for both.  
42 Any such district for which no taxes have been levied for the 1987  
43 fiscal year may be treated as having been created after July 1,  
44 1987, for the purposes of this subsection.

45 (b) In respect to fire protection purposes, the board  
46 of supervisors of the county in which any such district is created  
47 after July 1, 1987, may, according to the terms of the resolution  
48 of intent to incorporate the district, levy a special tax not to  
49 exceed two (2) mills annually on all of the taxable real property  
50 in such district, the avails of which shall be paid over to the  
51 board of commissioners of the district to be used either for the  
52 operation, support and maintenance of the fire protection district  
53 or for the retirement of any bonds issued by the district for fire  
54 protection purposes, or for both; however, if the district is  
55 created pursuant to a mandatory election called by the board of  
56 supervisors, in lieu of a petitioned election under Section  
57 19-5-157, the board of supervisors may levy a special tax annually  
58 not to exceed an amount to be determined by the board of  
59 supervisors and stated in the notice of such election. The  
60 mandatory election authorized herein shall be conducted in  
61 accordance with paragraph (c) of this subsection. The special tax  
62 may be increased if such increase is authorized by the electorate

63 pursuant to an election conducted in accordance with paragraph (c)  
64 of this subsection.

65 (c) The tax levy under this subsection may be increased  
66 only when the board of supervisors has determined the need for  
67 additional revenues, adopts a resolution declaring its intention  
68 so to do and has held an election on the question of raising the  
69 tax levy prescribed in this subsection. The notice calling for an  
70 election shall state the purposes for which the additional  
71 revenues shall be used and the amount of the tax levy to be  
72 imposed for such purposes. The tax levy may be increased only if  
73 the proposed increase is approved by a majority of those voting  
74 within the district. Subject to specific provisions of this  
75 paragraph to the contrary, the publication of notice and manner of  
76 holding the election within the district shall be as prescribed by  
77 law for the holding of elections for the issuance of bonds by the  
78 board of supervisors. The election shall be held only within the  
79 district.

80 (d) Notwithstanding any provisions of this subsection  
81 to the contrary, in any county bordering on the Gulf of Mexico and  
82 the State of Louisiana, the board of supervisors may levy not to  
83 exceed four (4) mills annually on all the taxable real property  
84 within any fire protection district, the avails of which shall be  
85 paid over to the board of commissioners of the district to be used  
86 either for the operation, support and maintenance of the fire  
87 protection district or for the retirement of any bonds issued by  
88 the district for fire protection purposes, or for both. Prior to  
89 levying the tax under this paragraph, the board of supervisors  
90 shall adopt a resolution declaring its intention to levy the tax.  
91 The resolution shall describe the amount of the tax levy and the  
92 purposes for which the proceeds of the tax will be used. The  
93 board of supervisors shall have a copy of the resolution published  
94 once a week for three (3) consecutive weeks in at least one (1)  
95 newspaper published in the county and having a general circulation

96 therein. If no newspaper is published in the county, then notice  
97 shall be given by publishing the resolution for the required time  
98 in some newspaper having a general circulation in the county. A  
99 copy of the resolution shall also be posted at three (3) public  
100 places in the county for a period of at least twenty-one (21) days  
101 during the time of its publication in a newspaper. If more than  
102 twenty percent (20%) of the qualified electors of the district  
103 shall file with the clerk of the board of supervisors, within  
104 twenty-one (21) days after adoption of the resolution of intent to  
105 levy the tax, a petition requesting an election on the question of  
106 the levy of such tax, then and in that event such tax levy shall  
107 not be made unless authorized by a majority of the votes cast at  
108 an election to be called and held for that purpose within the  
109 district. Notice of such election shall be given, the election  
110 shall be held and the result thereof determined, as far as is  
111 practicable, in the same manner as other elections are held in the  
112 county. If an election results in favor of the tax levy or if no  
113 election is required, the board of supervisors may levy such tax.  
114 The board of supervisors, in its discretion, may call an election  
115 on such question, in which event it shall not be necessary to  
116 publish the resolution declaring its intention to have the tax  
117 imposed.

118 (e) Notwithstanding any provisions of this subsection  
119 to the contrary, in any county bordering on the Mississippi River  
120 in which legal gaming is conducted and in which U.S. Highway 61  
121 intersects with Highway 4, the board of supervisors may levy a  
122 special tax not to exceed five (5) mills annually on all the  
123 taxable real and personal property within any fire protection  
124 district, except for utilities as defined in Section 77-3-3(d)(i)  
125 and (iii), the avails of which shall be paid over to the board of  
126 commissioners of the district to be used either for the operation,  
127 support and maintenance of the fire protection district or for the  
128 retirement of any bonds issued by the district for fire protection

129 purposes, or for both. Before levying the tax under this  
130 paragraph, the board of supervisors shall adopt a resolution  
131 declaring its intention to levy the tax. The resolution shall  
132 describe the amount of the tax levy and the purposes for which the  
133 proceeds of the tax will be used. The board of supervisors shall  
134 have a copy of the resolution published once a week for three (3)  
135 consecutive weeks in at least one (1) newspaper published in the  
136 county and having a general circulation therein. If no newspaper  
137 is published in the county, then notice shall be given by  
138 publishing the resolution for the required time in some newspaper  
139 having general circulation in the county. A copy of the  
140 resolution shall also be posted at three (3) public places in the  
141 county for a period of at least twenty-one (21) days during the  
142 time of its publication in a newspaper. If more than twenty  
143 percent (20%) of the qualified electors of the district shall file  
144 with the clerk of the board of supervisors, within twenty-one (21)  
145 days after adoption of the resolution of intent to levy the tax, a  
146 petition requesting an election of the questions of the levy of  
147 such tax, then and in that event such tax levy shall not be made  
148 unless authorized by a majority of the votes cast at an election  
149 to be called and held for that purpose within the district.  
150 Notice of such election shall be given, the election shall be held  
151 and the result thereof determined, as far as is practicable, in  
152 the same manner as other elections are held in the county. If an  
153 election results in favor of the tax levy or if no election is  
154 required, the board of supervisors may levy such tax. The board  
155 of supervisors, in its discretion, may call an election on such  
156 question, in which event it shall not be necessary to publish the  
157 resolution declaring its intention to have the tax imposed.

158 (f) Any taxes levied under this subsection shall be  
159 excluded from the ten percent (10%) increase limitation under  
160 Section 27-39-321.

161           (g) Notwithstanding any provisions of this subsection,  
162 if taxable real or personal property within a fire protection  
163 district is annexed by a municipality then the board of  
164 supervisors shall not continue to levy a special tax, and the  
165 municipality shall primarily be responsible for fire protection  
166 services. In addition, if a fire protection district sustains a  
167 loss in ad valorem tax revenue because of the annexation, then the  
168 municipality shall reimburse the fire protection district for the  
169 amount of such loss for a period of three (3) years. At no time  
170 shall a tax be levied for fire protection services on the annexed  
171 territory simultaneously by the board of supervisors and the  
172 governing authorities of a municipality.

173           (3) For any district authorized under Section 19-5-151(2),  
174 the board of supervisors shall not levy the special tax authorized  
175 in this section.

176           **SECTION 2.** Section 21-1-27, Mississippi Code of 1972, is  
177 amended as follows:

178           21-1-27. The limits and boundaries of existing cities, towns  
179 and villages shall remain as now established until altered in the  
180 manner \* \* \* provided in this chapter. When any  
181 municipality \* \* \* desires to enlarge or contract its boundaries  
182 \* \* \* by adding \* \* \* adjacent unincorporated territory or  
183 excluding \* \* \* any part of the incorporated territory of such  
184 municipality, the governing authorities of the municipality shall  
185 pass an ordinance defining with certainty the territory proposed  
186 to be included in or excluded from the corporate limits, and also  
187 defining the entire boundary as changed. If the municipality  
188 desires to enlarge its boundaries, the ordinance shall in general  
189 terms describe the proposed improvements to be made in the annexed  
190 territory, the manner and extent of such improvements, and the  
191 approximate time within which such improvements are to be made.  
192 The ordinance shall also contain a statement of the municipal or  
193 public services which the municipality proposes to render in such

194 annexed territory. If the municipality \* \* \* desires to contract  
195 its boundaries, the ordinance shall contain a statement of the  
196 reasons for such contraction and a statement showing that public  
197 convenience and necessity would be served thereby.

198 If a municipality desires to annex territory in a fire  
199 protection district, as created in Section 21-25-21, the ordinance  
200 shall also state that the municipality shall primarily be  
201 responsible for fire protection services within the fire  
202 protection district. The ordinance shall also state that if a  
203 fire protection district sustains a loss in ad valorem tax revenue  
204 because of the annexation, then the municipality shall reimburse  
205 the fire protection district for the amount of such loss for a  
206 period of three (3) years. At no time shall a tax be levied for  
207 fire protection services on the annexed territory simultaneously  
208 by the board of supervisors and the governing authorities of the  
209 municipality.

210 **SECTION 3.** Section 21-1-61, Mississippi Code of 1972, is  
211 amended as follows:

212 21-1-61. In all cases where a municipality is created or the  
213 limits of an existing municipality are enlarged under the  
214 provisions of this chapter, the property included within the  
215 municipal boundaries by such creation or enlargement shall become  
216 liable for and subject to municipal ad valorem taxation on the tax  
217 lien date next succeeding the effective date of the decree  
218 creating or enlarging such municipality.

219 In all cases where the limits of an existing municipality are  
220 enlarged through annexation and the annexation includes a fire  
221 protection district, as created in Section 21-25-21, the  
222 municipality shall primarily be responsible for fire protection  
223 services within the fire protection district. In addition, if a  
224 fire protection district sustains a loss in ad valorem tax revenue  
225 because of the annexation, then the municipality shall reimburse  
226 the fire protection district for the amount of such loss for a

227 period of three (3) years. At no time shall a tax be levied for  
228 fire protection services on the annexed territory simultaneously  
229 by the board of supervisors and the governing authorities of the  
230 municipality.

231 **SECTION 4.** Section 21-1-29, Mississippi Code of 1972, is  
232 amended as follows:

233 21-1-29. When any such ordinance described in Section  
234 21-1-27 is passed by the municipal authorities, the municipal  
235 authorities shall file a petition in the chancery court of the  
236 county in which such municipality is located; however, when a  
237 municipality wishes to annex or extend its boundaries across and  
238 into an adjoining county such municipal authorities shall file a  
239 petition in the chancery court of the county in which the  
240 territory is located. The petition shall recite the fact of the  
241 adoption of such ordinance and shall pray that the enlargement or  
242 contraction of the municipal boundaries, as the case may be, shall  
243 be ratified, approved and confirmed by the court. If a  
244 municipality desires to annex territory in a fire protection  
245 district, as created in Section 21-25-21, the petition shall also  
246 state that the municipality shall primarily be responsible for  
247 fire protection services within the fire protection district. The  
248 petition shall also state that if a fire protection district  
249 sustains a loss in ad valorem tax revenue because of the  
250 annexation, then the municipality shall reimburse the fire  
251 protection district for the amount of such loss for a period of  
252 three (3) years. At no time shall a tax be levied for fire  
253 protection services on the annexed territory simultaneously by the  
254 board of supervisors and the governing authorities of the  
255 municipality. There shall be attached to such petition, as  
256 exhibits \* \* \*, a certified copy of the ordinance adopted by the  
257 municipal authorities and a map or plat of the municipal  
258 boundaries as they will exist in event such enlargement or  
259 contraction becomes effective.



260           **SECTION 5.** This act shall take effect and be in force from  
261 and after July 1, 2007.