

By: Senator(s) Ross

To: Municipalities; County
Affairs

SENATE BILL NO. 2662

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
182 boundaries * * * by adding * * * adjacent unincorporated territory
183 or 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.