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Chapter No. 468
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HOUSE BILL NO. 1261

Originated in House _____ Clerk

HOUSE BILL NO. 1261

AN ACT TO REVISE CERTAIN PROVISIONS OF THE PUBLIC IMPROVEMENT DISTRICT ACT; TO AMEND SECTION 19-31-5, MISSISSIPPI CODE OF 1972, TO DEFINE ADDITIONAL TERMS USED UNDER THE ACT; TO AMEND SECTION 19-31-7, MISSISSIPPI CODE OF 1972, TO EXTEND THE TIMEFRAME DURING WHICH A PUBLIC HEARING MUST BE HELD ON A PETITION FOR THE ESTABLISHMENT OF A PUBLIC IMPROVEMENT DISTRICT; TO AMEND SECTION 19-31-9, MISSISSIPPI CODE OF 1972, TO INCREASE THE TERM OF OFFICE OF MEMBERS OF A PUBLIC IMPROVEMENT DISTRICT'S BOARD OF DIRECTORS, TO REQUIRE CANDIDATES FOR THE BOARD OF DIRECTORS TO QUALIFY FOR THE OFFICE BY FILING A PRESCRIBED STATEMENT OF INTENT, TO PROVIDE A FORM FOR VOTING BY PROXY, AND TO REQUIRE THE APPOINTMENT OF A BOARD MEMBER IF A MEMBER DOES NOT COMPLETE HIS TERM OF OFFICE; TO AMEND SECTION 19-31-17, MISSISSIPPI CODE OF 1972, TO AUTHORIZE PUBLIC IMPROVEMENT DISTRICTS TO PLEDGE USER CHARGES AND FEES FOR THE PAYMENT OF INDEBTEDNESS OF THE DISTRICT AND TO COVENANT WITH BOND HOLDERS TO COLLECT ASSESSMENTS, CHARGES AND FEES; TO AMEND SECTION 19-31-19, MISSISSIPPI CODE OF 1972, TO REVISE CERTAIN SPECIAL POWERS OF PUBLIC UTILITY DISTRICTS RELATING TO PUBLIC IMPROVEMENTS AND COMMUNITY FACILITIES; TO AMEND SECTION 19-31-23, MISSISSIPPI CODE OF 1972, TO REQUIRE A DISTRICT TO HOLD A PUBLIC HEARING BEFORE ISSUING BONDS OR ENTERING INTO A CONTRIBUTION AGREEMENT WITH A PUBLIC UTILITY, TO SPECIFY CERTAIN INFORMATION THAT MUST BE GIVEN IN NOTICE OF THE PUBLIC HEARING ON A PROPOSED CONTRIBUTION AGREEMENT, TO REQUIRE APPRAISALS OF PROPERTY IN THE DISTRICT BEFORE ISSUING BONDS, AND TO AUTHORIZE THE DISTRICT TO INVEST MONIES NOT NEEDED FOR IMMEDIATE USE IN THE MANNER PRESCRIBED; TO AMEND SECTION 19-31-29, MISSISSIPPI CODE OF 1972, IN CONFORMITY TO THE PROVISIONS OF THIS ACT; TO AMEND SECTION 19-31-33, MISSISSIPPI CODE OF 1972, TO AUTHORIZE THE PREPAYMENT OF BENEFIT SPECIAL ASSESSMENTS; TO AMEND SECTION 19-31-35, MISSISSIPPI CODE OF 1972, TO DELETE THE TIMEFRAME IN WHICH PROCEEDINGS MAY BE INSTITUTED FOR THE ENFORCEMENT OF LIENS IN FAVOR OF A DISTRICT; TO AMEND SECTION 19-31-39, MISSISSIPPI CODE OF 1972, TO REQUIRE NOTICE OF A PUBLIC HEARING ON PROPOSED FEES AND OTHER CHARGES TO BE PUBLISHED IN A NEWSPAPER HAVING GENERAL CIRCULATION IN EACH COUNTY IN WHICH THE DISTRICT IS LOCATED; TO AMEND SECTION 19-31-43, MISSISSIPPI CODE OF 1972, TO REQUIRE ALL LANDOWNERS IN AN AREA PROPOSED TO BE ADDED TO OR TAKEN FROM A DISTRICT TO CONSENT TO THE CHANGE, AND TO PROHIBIT THE DISSOLUTION OF A DISTRICT IF BONDS OR OTHER SECURITY INSTRUMENTS ISSUED BY THE DISTRICT ARE OUTSTANDING; TO AMEND SECTION 19-31-45, MISSISSIPPI CODE OF 1972, TO REQUIRE CERTAIN LANGUAGE TO BE INCLUDED IN INSTRUMENTS OF CONVEYANCE FOR REAL PROPERTY WITHIN A DISTRICT; TO AMEND SECTION 19-31-47, MISSISSIPPI CODE OF 1972, TO SPECIFY THAT A NOTICE OF ESTABLISHMENT OF A PUBLIC IMPROVEMENT DISTRICT MUST BE

RECORDED IN THE SECTIONAL OR SUBDIVISIONAL INDEX IN EACH INVOLVED COUNTY'S LAND RECORDS; AND FOR RELATED PURPOSES.

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

SECTION 1. Section 19-31-5, Mississippi Code of 1972, is amended as follows:

19-31-5. As used in this chapter the following terms shall have the meanings ascribed to them in this section unless the context clearly requires otherwise:

(a) "Assessable improvements" means any public improvements and community facilities that the district is empowered to provide in accordance with this chapter.

(b) "Assessment bonds" means special obligations of the district that are payable solely from proceeds of the special assessments levied for an assessable project.

(c) "Board" or "board of directors" means the governing board of the district or, if such board has been abolished, the board, body or commission succeeding to the principal functions thereof or to whom the powers given to the board by this chapter have been given by law.

(d) "Bond" includes certificate, and the provisions that are applicable to bonds are equally applicable to certificates. The term "bond" includes any assessment bond, refunding bond, revenue bond and other such obligation in the nature of a bond as is provided for in this chapter.

(e) "Public improvement district" or "district" means a special district that is created pursuant to this chapter and limited to the performance of those specialized functions authorized by this chapter, the boundaries of which are contained wholly within a single county or two (2) or more contiguous counties; the governing head of which is a body created, organized and constituted and authorized to function specifically as prescribed in this chapter for the delivery of public improvement services; and the formation powers, governing body, operation,

duration accountability, requirements for disclosure and termination of which are as required by general law.

(f) "Contribution agreement" means an agreement between a district and a public entity under which the public entity agrees to provide financial or credit support in the form of cash, pledge, guaranty or other enhancement, which agreement must be approved in accordance with Sections 17-13-1 through 17-13-17.

(g) "Cost," when used with reference to any project, includes, but is not limited to:

(i) The expenses of determining the feasibility or practicability of acquisition, construction or reconstruction.

(ii) The cost of surveys, estimates, plans and specifications.

(iii) The cost of improvements.

(iv) Engineering, fiscal and legal expenses and charges.

(v) The cost of all labor, materials, machinery and equipment.

(vi) The cost of all lands, rights, servitudes and franchises acquired.

(vii) Financing charges.

(viii) The creation of initial reserve and debt service funds.

(ix) Working capital.

(x) Interest charges incurred or estimated to be incurred on money borrowed before and during construction and acquisition and for such reasonable period of time after completion of construction or acquisition as the board may determine.

(xi) The cost of issuance of bonds pursuant to this chapter, including advertisements and printing.

(xii) The cost of any election held pursuant to this chapter and all other expenses of issuance of bonds.

(xiii) The discount, if any, on the sale or exchange of bonds.

(xiv) Administrative expenses.

(xv) Such other expenses as may be necessary or incidental to the acquisition, construction or reconstruction of any project or to the financing thereof, or to the development of any lands within the district.

(h) "District manager" means the manager of the district.

(i) "District roads" means highways, streets, roads, alleys, sidewalks, landscaping, storm drains, bridges and thoroughfares of all kinds and descriptions.

(j) "Landowner" means the owner of land, including real property as it appears in the official records of the county, including a trustee, a private corporation or other entity, and an owner of a condominium unit.

(k) "Market value" means the amount in cash, or on terms reasonably equivalent to cash, for which in all probability the property would have sold on the effective date of the appraisal, after a reasonable exposure time on the open competitive market, from a willing and reasonably knowledgeable seller to a willing and reasonably knowledgeable buyer, with neither acting under any compulsion to buy or sell, giving due consideration to all available economic uses of the property at the time of the appraisal. Market value must be determined in accordance with Section 27-35-50 and must conform to the Uniform Standards of Professional Appraisers Practice.

(l) "Project" means any development, improvement, property, utility, facility, works, enterprise or service undertaken after April 1, 2002, or established under the provisions of this chapter, including, but not limited to, the following:

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

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

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

(iv) District roads equal to or exceeding the specifications of the county in which the district roads are located, including street lights and the location of underground utilities;

(v) Parks and facilities for indoor and outdoor recreational, cultural and educational uses, and other tourism related infrastructure and facilities;

(vi) Fire prevention and control, including fire stations, water mains and plugs, fire trucks, and other vehicles and equipment;

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

(viii) Waste collection and disposal;

(ix) Acquisition, construction, repair, renovation, demolition or removal of:

1. Buildings and site improvements (including fixtures);

2. Potable and nonpotable water supply systems;

3. Sewage and waste disposal systems;

4. Storm water drainage and other drainage

systems;

5. Airport facilities;

6. Rail lines and rail spurs;

7. Port facilities;

8. Highways, streets and other roadways;

9. Fire suppression and prevention systems;

10. Utility distribution systems, including, but not limited to, water, electricity, natural gas, telephone and other information and telecommunications facilities, whether by wire, fiber or wireless means; however, electrical, natural gas, telephone and telecommunication systems may be constructed, repaired or renovated only for the purpose of completing the project and connecting to existing utility systems. This provision may not be construed to prevent a city, county or natural gas district from supplying utility service that it is authorized to supply in the service area that it is authorized to serve; and

11. Business, industrial and technology parks and the acquisition of land and acquisition or construction of improvements to land connected with any of the preceding purposes;

(x) County purposes authorized by or defined in Sections 17-5-3 and 19-9-1, except Section 19-9-1(f); and

(xi) Municipal purposes authorized by or defined in Sections 17-5-3, 17-17-301 through 17-17-349, 21-27-23 and 21-33-301.

(m) "Public entity" means any governmental agency, county or municipality, which enters into a contribution agreement with a district in accordance with this chapter.

(n) "Qualified voter" means any landowner within the district who is at least eighteen (18) years of age, or the landowner's authorized representative who is at least eighteen (18) years of age. If the landowner of a parcel consists of more than one (1) person or is a corporation, partnership, limited

liability company or any association or legal entity organized to conduct business, the majority interest of the landowners of the parcel shall select one (1) person who is at least eighteen (18) years of age to serve as the "qualified voter" for the group.

(o) "Revenue bonds" means obligations of the district that are payable from revenues derived from sources other than ad valorem taxes on real or personal property and that do not pledge the property, credit or general tax revenue of the district.

(p) "Sewer system" means any plant, system, facility or property, and additions, extensions and improvements thereto, useful or necessary in connection with the collection, treatment or disposal of sewage.

(q) "Water management and control facilities" means any lakes, canals, ditches, reservoirs, dams, levees, floodways, pumping stations or any other works, structures or facilities for the conservation, control, development, utilization and disposal of water, and any purposes incidental thereto.

(r) "Water system" means any plant system, facility or property, and additions, extensions, and improvements thereto, useful or necessary in connection with the development of sources, treatment or purification and distribution of water.

SECTION 2. Section 19-31-7, Mississippi Code of 1972, is amended as follows:

19-31-7. (1) The method for the establishment of a public improvement district shall be pursuant to an ordinance adopted by the governing body of each county in which the land is located granting a petition for the establishment of a public improvement district. The petition for the establishment of a public improvement district shall be filed by the petitioner with the governing body of the county or counties. The petition shall contain:

(a) A description of the boundaries of the district;

(b) The written consent to the establishment of the district by all landowners in the district;

(c) A designation of five (5) persons to be the initial members of the board of directors, who shall serve in that office until replaced by elected members as provided in Section 19-31-9;

(d) The proposed name of the district;

(e) A map of the proposed district showing existing infrastructure, if any; and

(f) Based upon available data, the proposed timetable for construction of the district services and the estimated cost of constructing the proposed services.

(2) A public hearing on the petition shall be conducted by the governing body of each county of the proposed district within sixty (60) days after the petition is filed unless an extension of time is requested by the petitioners and granted by the governing body of each county. The hearing shall be held at an accessible location in each county in which the public improvement district is to be located. The petitioner shall cause a notice of the hearing to be published in a newspaper having general circulation in each county at least once a week for the four (4) successive weeks immediately prior to the hearing. Such notice shall give the time and place for the hearing, a description of the area to be included in the district, and any other relevant information which the establishing governing bodies may require. The advertisement shall be published in the official minutes of the local governing body.

(3) The governing body of each county shall consider the record of the public hearing and any other relevant factors in making its determination to grant or deny a petition for the establishment of a public improvement district.

(4) An ordinance establishing a public improvement district shall include the boundaries of the district, the names of the

five (5) persons designated to be the initial members of the board of directors of the district and the name of the district.

(5) If all of the land in the area for the proposed district is within the territorial jurisdiction of a municipality, then the petition requesting establishment of a public improvement district under this chapter shall be filed by the petitioner with that particular municipality. In such event, the duties of the county with regard to the petition shall be the duties of the municipality. If any of the land area of a proposed district is within the land area of a municipality, the governing body of the county may not create the district without the approval of the municipality.

(6) The governing body of any governmental agency, county and/or municipality may enter into contribution agreements with the district.

SECTION 3. Section 19-31-9, Mississippi Code of 1972, is amended as follows:

19-31-9. (1) The board of the district shall exercise the powers granted to the district pursuant to this chapter. The board shall consist of five (5) members as otherwise provided in this section. Each member shall hold office for an initial term of six (6) years and until a successor is chosen and qualifies. The initial members of the board shall be residents of the state, and at least one (1) of the initial members shall be either a qualified voter within the district or an individual resident of the area immediately adjacent to the district. Upon appointment or election, the board members shall elect a chair who shall conduct board meetings.

(2) (a) Beginning six (6) years after the initial appointment of members, the position of each member whose term has expired shall be filled by a qualified voter of the district, elected by the qualified voters of the district. There shall be an election of members every six (6) years from the date of the

ordinance establishing the district. The district manager shall determine the date and time of the election, which election must be held at least twenty (20) days before the anniversary date of the ordinance establishing the district. If a contribution agreement exists, then the governing body of the public entity that is a party to the contribution agreement may appoint one (1) of the five (5) members to the board of the district at the time of the election in lieu of electing that member.

(b) Candidates must qualify in writing by submitting a "Statement of Intent," as prescribed in this paragraph, to the district manager thirty (30) days before the election. The district manager shall prepare a ballot of all candidates qualified to run for office twenty-eight (28) days before the election.

Statement of Intent

Candidate for (insert name of district) Public Improvement District

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

_____

(Signature of candidate) (Date)

Received by _____

(Signature) (Title) (Date)

(c) Notice of the election shall be announced at a public meeting of the board at least ninety (90) days before the date of the election and shall be published once a week for two

(2) consecutive weeks in a newspaper which is in general circulation in the area of the district, the last day of such publication to be not fewer than fourteen (14) days nor more than twenty-eight (28) days before the election. In addition, notice of the election shall be sent by United States first-class mail, not fewer than fourteen (14) days before the election, to all qualified voters at their last known address as shown on the tax rolls. Instructions on how all qualified voters may participate in the election, along with sample proxies, shall be provided as part of the notice required by this paragraph, and the location, date and time of the election shall be included on all instructions and notices.

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

(e) A qualified voter may vote in person or by proxy in writing. A vote cast by proxy must be submitted at or within fourteen (14) days before the election and must be submitted in the form prescribed in this section. Each proxy must be signed by * * * the qualified voter for which the vote is cast and must contain the typed or printed name of the individual who signed the proxy and the street address, legal description of the property or the property's tax parcel identification number * * *. The signature on a proxy need not be notarized. All votes cast by proxy must be reflected in the voter roll.

Proxy for Election

(Insert name of district) Public Improvement District

I, _____, (name of qualified voter);

_____ (street address);

_____ (legal description);

_____ (tax parcel identification number).

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

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

2. Do hereby cast my vote for: _____ [print or type name of person being voted for - PLEASE NOTE THAT YOUR VOTE MUST BE FOR A QUALIFIED VOTER (AS DEFINED IN MISSISSIPPI CODE SECTION 19-31-5) OF THE DISTRICT. A QUALIFIED VOTER MEANS ANY LANDOWNER OF THE DISTRICT WHO IS AT LEAST EIGHTEEN (18) YEARS OF AGE OR AN AUTHORIZED REPRESENTATIVE OF THE LANDOWNER WHO IS ALSO AT LEAST EIGHTEEN (18) YEARS OF AGE.] to be elected as a member of the Board of Directors of the (name of district) Public Improvement District for a term beginning (date of term) and ending six (6) years from that date or until a successor is chosen.

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

I have executed this proxy on (insert date).

_____

(Printed Name of Qualified Voter)

_____

(Signature of Qualified Voter)

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

(g) If a board member dies, resigns or otherwise is prevented from serving as a board member, the board of the district shall appoint a member to fill the remainder of the board member's term. If no qualified voter is willing to serve on the board of the district, the governing body that established the district shall appoint members as necessary to fill any vacancy for the remainder of the term.

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

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

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

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

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

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

19-31-17. The district shall have, and the board may exercise, the power:

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

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

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

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

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

(ii) Governmental entities.

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

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

(g) To borrow money and accept gifts; to apply for and use grants or loans of money or other property from the United States, the state, a unit of local government or any person or any organization for any district purposes and enter into agreements required in connection therewith; and to hold, use and dispose of such monies or property for any district purposes in accordance with the terms of the gift, grant, loan or agreement relating thereto.

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

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

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

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

(l) To borrow money and issue bonds, certificates, warrants, notes or other evidence of indebtedness as provided in this chapter; to levy such special assessments as may be

authorized; and to charge, collect and enforce fees and other user charges.

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

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

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

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

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

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

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

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

19-31-19. The district shall have, and the board may exercise, any or all of the special powers relating to public improvements and community facilities authorized by this chapter. The district shall have the power to finance, fund, establish, acquire, construct or reconstruct, enlarge or extend, equip, operate and maintain systems, facilities, projects and basic infrastructures that are within the district, or which benefit or serve the district, for the following:

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

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

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

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

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

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

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

(h) Waste collection and disposal;

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

(j) Projects, as defined in this chapter.

SECTION 6. Section 19-31-23, Mississippi Code of 1972, is amended as follows:

19-31-23. (1) The district may issue and sell from time to time bonds, notes, negotiable notes, tax anticipation notes, bond anticipation notes, other fund anticipation notes, renewal notes, refunding bonds, interim certificates, certificates of indebtedness, certificates of participation, debentures, warrants, commercial paper or other obligations or evidences of indebtedness to provide funds for and to fulfill and achieve its public purpose or corporate purposes, as set forth in this chapter, including, but not limited to, the payment of all or a portion of the costs of a project, to provide amounts necessary for any corporate purposes, including incidental expenses in connection with the issuance of the obligations, the payment of principal and interest on the obligations of the district, the establishment of reserves to secure such obligations, and all other purposes and expenditures of the district incident to and necessary or convenient to carry out its public functions or corporate purposes, and any credit enhancement for such obligations.

(2) Before the issuance of any bonds as authorized under this chapter, the district shall hold a public hearing on the advisability of the indebtedness. Notice of the hearing must be published twice in a newspaper having general circulation in each county where the district is located. The final publication of notice must be at least ten (10) days before the public hearing. The district shall give, by United States first-class mail, written notice of the public hearing to all qualified voters in the district. The notice must be addressed to "Property Owner" and mailed by United States first-class mail to the current address of the owner, as reflected on tax rolls of property located in the district.

(3) (a) If a district proposes to enter into a contribution agreement with a public entity for any bond issue, the public entity shall hold a public hearing on the advisability of the contribution agreement for any bonds the district proposes to enter.

(b) Notice of the hearing must be published twice in a newspaper having general circulation in each county where the public entity is located. The final publication of notice must be at least ten (10) days before the public hearing.

(c) The notice must state the following:

(i) Time and place of the hearing;

(ii) General nature of the proposed improvement;

(iii) Estimated cost of the improvement;

(iv) Boundaries of the public improvement district;

(v) Proposed method of assessment;

(vi) Proposed amount and term of indebtedness;

(vii) Name of the public entity entering into the contribution agreement; and

(viii) Proposed amount of contribution by the public entity.

(d) The hearing may be adjourned from time to time until the governing body of the public entity makes findings by resolution as to the following:

(i) Advisability of the improvement;

(ii) Nature of the improvement;

(iii) Estimated cost of the improvement;

(iv) Boundaries of the public improvement district;

(v) Method of assessment;

(vi) Market value of real property within the district determined in accordance with paragraph (c) of this subsection; and

(vii) Terms of the contribution agreement.

(e) As provided in subsection (3)(d)(vi) of this section, the governing body of the public entity shall obtain an appraisal in accordance with the Uniform Standards of Professional Appraisal Practice, with special consideration given to the Income Approach to Value using a discounted cash flow analysis of the entire commercial, residential or industrial subdivision. The appraisal must satisfy all parties to the contribution agreement that the value of the property in the district will be sufficient to ensure payment of any obligation to which a public entity is subject.

(4) Except as may otherwise be provided by the district, all obligations issued by the district shall be negotiable instruments and payable solely from the levy of any special assessment by the district or from any other sources whatsoever that may be available to the district but shall not be secured by the full faith and credit of the state or the county or municipality that created the district.

(5) Obligations shall be authorized, issued and sold by a resolution or resolutions of the district adopted as provided in this chapter. Such bonds or obligations may be of such series, bear such date or dates, mature at such time or times, bear interest at such rate or rates, including variable, adjustable, or zero interest rates, be payable at such time or times, be in such denominations, be sold at such price or prices, at public or private negotiated sale, after advertisement as is provided for in Section 17-21-53(2) for and in connection with any public sale, be in such form, carry such registration and exchangeability privileges, be payable at such place or places, be subject to such terms of redemption and be entitled to such priorities on the income, revenue and receipts of, or available to, the district as may be provided by the district in the resolution or resolutions

providing for the issuance and sale of the bonds or obligations of the district.

(6) The obligations of the district shall be signed by such directors or officers of the district by either manual or facsimile signatures as shall be determined by resolution or resolutions of the district, and shall have impressed or imprinted thereon the seal of the district or a facsimile thereof.

(7) Any obligations of the district may be validly issued, sold and delivered notwithstanding that one or more of the directors or officers of the district signing such obligations or whose facsimile signature or signatures may be on the obligations shall have ceased to be such director or officer of the district at the time such obligations shall actually have been delivered.

(8) Obligations of the district may be sold in such manner and from time to time as may be determined by the district to be most beneficial, and the district may pay all expenses, premiums, fees or commissions that it deems necessary or advantageous in connection with the issuance and sale thereof, subject to the provisions of this chapter.

(9) The district may authorize the establishment of a fund or funds for the creation of a debt service reserve, a renewal and replacement reserve or such other funds or reserves as the district may approve with respect to the financing and operation of any project and as may be authorized by any bond resolution, trust agreement, indenture of trust or similar instrument or agreement pursuant to the provisions of which the issuance of bonds or other obligations of the district may be authorized.

(10) Notwithstanding any other law to the contrary, but subject to any agreement with bondholders or noteholders, monies of the district not required for immediate use, including proceeds from the sale of any bonds, notes or other obligations, may be invested in the following:

(a) Obligations of any municipality, the State of Mississippi or the United States of America;

(b) Obligations of which the principal and interest are guaranteed by the State of Mississippi or the United States of America;

(c) Obligations of any corporation wholly owned by the United States of America;

(d) Obligations of any corporation sponsored by the United States of America which are, or may become, eligible as collateral for advances to member banks as determined by the Board of Governors of the Federal Reserve System;

(e) Obligations of insurance firms or other corporations whose investments are rated "A" or better by recognized rating companies;

(f) Certificates of deposit or time deposits of qualified depositories of the State of Mississippi as approved by the State Depository Commission, secured in such manner, if any, as the commission determines appropriate;

(g) Contracts for the purchase and sale of obligations of the type described in paragraphs (a) through (e) of this subsection;

(h) Repurchase agreements secured by obligations described in paragraphs (a) through (e) of this subsection; and

(i) Money market funds, the assets of which are required to be invested in obligations described in paragraphs (a) through (f) of this subsection.

(11) Any cost, obligation or expense incurred for any of the purposes specified in this chapter shall be a part of the project costs and may be paid or reimbursed as such out of the proceeds of bonds or other obligations issued by the district.

(12) Neither the directors of the board nor any person executing the bonds shall be personally liable for the bonds or be subject to any personal liability by reason of the issuance

thereof. No earnings or assets of the district shall accrue to the benefit of any private persons. However, the limitation of liability provided for in this subsection shall not apply to any gross negligence or criminal negligence on the part of any director or person executing the bonds.

(13) The district may avail itself of the provisions of Sections 31-13-1 through 31-13-11.

(14) This chapter constitutes full and complete authority for the issuance of bonds and the exercise of the powers of the district provided herein. No procedures or proceedings, publications, notices, consents, approvals, orders, acts or things by the board or any board, officers, commission, department, agency or instrumentality of the district, other than those required by this chapter, shall be required to perform anything under this chapter, except that the issuance or sale of bonds pursuant to the provisions of this chapter shall comply with the general law requirements applicable to the issuance or sale of bonds by the district. Nothing in this chapter shall be construed to authorize the district to utilize bond proceeds to fund the ongoing operations of the district.

(15) Before incurring any debt as provided in subsection (1) of this section, the district may, but shall not be required to, secure an agreement from one or more developers obligating such developer or developers:

(a) To effect the completion of all or any portion of a project at no cost to the district;

(b) To pay all or any portion of the real property taxes due on the project in a timely manner; and

(c) To maintain and operate all or any portion of the buildings or other facilities or improvements of the project in such a manner as to preserve property values.

No breach of any such agreement shall impose any pecuniary liability upon a district or any charge upon its general credit or against its taxing powers.

Additionally, the district may enter into an agreement with the developer under which the developer may construct all or any part of the project with private funds in advance of issuance of bonds and may be reimbursed by the district for actual costs incurred by the developer upon issuance and delivery of bonds and receipt of the proceeds, conditioned upon dedication of the project by the developer to the district, a governmental agency, a county or a municipality to assure public use and access. This condition shall not apply to the privately owned portion of a project for which the Mississippi Development Authority has issued a certificate of convenience and necessity pursuant to the Regional Economic Development Act.

As used in this section, the term "developer" means any entity or natural person which enters into an agreement with a district whereby the developer agrees to construct, operate and maintain or procure the construction, operation and maintenance of a project or projects, or portions thereof, upon land within the district.

SECTION 7. Section 19-31-29, Mississippi Code of 1972, is amended as follows:

19-31-29. Bonds issued under the provisions of this chapter shall be limited obligations of the district payable solely from the sources pledged for the payment thereof. All such bonds shall contain a statement on their face substantially to the effect that neither the full faith and credit of the state nor the full faith and credit of any governmental unit of the state are pledged to the payment of the principal of or the interest on such bonds. Except as provided in a contribution agreement, the issuance of bonds under the provisions of this chapter shall not directly, indirectly or contingently obligate the state or any governmental

unit of the state to levy any taxes or to make any appropriation for their payment arising out of contracts authorized under this chapter.

SECTION 8. Section 19-31-33, Mississippi Code of 1972, is amended as follows:

19-31-33. (1) The board shall annually determine, order and levy the annual installment of the total benefit special assessments for bonds issued and related expenses to finance district facilities and projects that are levied under this chapter. These assessments may be due and collected during each year that county taxes are due and collected, in which case such annual installment and levy shall be evidenced to and certified to the assessor by the board not later than August 31 of each year. Such assessments shall be entered by the assessor on the county tax rolls and shall be collected and enforced by the tax collector in the same manner and at the same time as county taxes, and the proceeds thereof shall be paid to the district. These benefit special assessments shall be a lien on the property against which assessed until paid and shall be collectible and enforceable in like manner as county property taxes. All statutes regulating the collection and enforcement of county property taxes shall apply to the enforcement and collection of the benefit special assessments levied under this section. The amount of the assessment for the exercise of the district's powers under this chapter shall be determined by the board based upon a report of the district's engineer and assessed by the board upon such lands, which may be part or all of the lands within the district benefited by the improvement, apportioned between benefited lands in proportion to the benefits received by each tract of land.

(2) To maintain and preserve the facilities and projects of the district, the board shall levy a maintenance special assessment. This assessment may be evidenced by and certified to the assessor by the board of directors not later than August 31 of

each year and shall be entered by the assessor on the county tax rolls and shall be collected and enforced by the tax collector in the same manner and at the same time as county taxes, and the proceeds therefrom shall be paid to the district. These maintenance special assessments shall be a lien on the property against which assessed until paid and shall be collectible and enforceable in like manner as county property taxes and all statutes regulating the collection and enforcement of county property taxes shall apply to the enforcement and collection of the benefit special assessments levied under this section. The amount of the maintenance special assessment for the exercise of the district's powers under this chapter shall be determined by the board based upon a report of the district's engineer and assessed by the board upon such lands, which may be all of the lands within the district benefited by the maintenance thereof, apportioned between the benefited lands in proportion to the benefits received by each tract of land.

(3) Benefit special assessments and maintenance special assessments authorized by this section shall be levied and payable in annual installments for each year for which bonds secured by the assessment are outstanding. The tax collector shall collect and enforce benefit special assessments and maintenance special assessments in the same manner and at the same time as ad valorem taxes. Benefit special assessments and maintenance special assessments shall constitute a lien on the property against which assessed until paid and shall be on a parity with the lien of state, county, municipal and school board property taxes.

(4) The tax assessor and tax collector are entitled to reasonable compensation for preparing the rolls and collecting the assessments.

(5) District assessments may be made payable in no more than forty (40) yearly installments. Benefit special assessments are prepayable. Any prepayment of benefit special assessments must be

credited against the payor's pro rata share of principal and interest of the indebtedness.

SECTION 9. Section 19-31-35, Mississippi Code of 1972, is amended as follows:

19-31-35. Any lien in favor of the district arising under this chapter may be enforced by the district in a court of competent jurisdiction as provided by law. * * *

SECTION 10. Section 19-31-39, Mississippi Code of 1972, is amended as follows:

19-31-39. (1) The district may prescribe, fix, establish and collect rates, fees, rentals or other charges for the facilities and services furnished by the district, within the limits of the district, including, but not limited to, recreational facilities, water management and control facilities and water and sewer systems. The district may also recover the costs of making connection with any district facility or system and provide for reasonable penalties against any user or property for any such rates, fees, rentals or other charges that are delinquent.

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

SECTION 11. Section 19-31-43, Mississippi Code of 1972, is amended as follows:

19-31-43. (1) The boundaries of the district may be contracted or expanded in the same manner in which the district

was created pursuant to this chapter; however, the petition must be filed by the board and must contain the written consent of all landowners within only the proposed area of expansion or contraction.

(2) (a) Subject to the limitations of paragraph (b) of this subsection, the district may be terminated or dissolved in one (1) of the following ways:

(i) The district may be terminated or dissolved upon the transfer of all the public improvement services of the district to a unit of local government. The district shall be terminated in accordance with a plan of termination which shall be adopted by the board of directors and filed with the clerk of the court.

(ii) If, within five (5) years after the effective date of the ordinance creating the district, a landowner has not received a development permit on some part or all of the area covered by the district, then the district will be automatically dissolved and a court of competent jurisdiction shall cause a statement to that effect to be filed in the public records.

(iii) If the district has become inactive, the county or municipality that created the district shall be informed and shall take appropriate action.

(b) Following the establishment of the district with no timely appeal challenging the district, a district may not be dissolved or terminated if any bonds issued by the district, or bonds for which the district is obligated, are outstanding or are secured by special assessments or other security instruments to which the district is a party in connection with the bonds.

SECTION 12. Section 19-31-45, Mississippi Code of 1972, is amended as follows:

19-31-45. After the establishment of a district under this chapter, each contract and instrument of conveyance of a parcel of real property * * * within the district shall include, immediately

before the space reserved in the contract and instrument of conveyance for the signature of the purchaser, the following disclosure statement in boldfaced and conspicuous type which is larger than the type in the remaining text of the contract and the instrument of conveyance: "THE (Name of District) PUBLIC IMPROVEMENT DISTRICT MAY IMPOSE AND LEVY ASSESSMENTS ON THIS PROPERTY. THESE ASSESSMENTS PAY THE CONSTRUCTION, OPERATION AND MAINTENANCE COSTS OF CERTAIN PUBLIC FACILITIES AND SERVICES OF THE DISTRICT AND ARE SET ANNUALLY BY THE GOVERNING BOARD OF THE DISTRICT. THESE ASSESSMENTS ARE IN ADDITION TO COUNTY AND OTHER LOCAL GOVERNMENTAL TAXES AND ASSESSMENTS AND ALL OTHER TAXES AND ASSESSMENTS PROVIDED FOR BY LAW."
However, the failure to include the above language does not and may not be deemed to invalidate any assessment levied by the district or the contract or instrument of conveyance of the real property.

SECTION 13. Section 19-31-47, Mississippi Code of 1972, is amended as follows:

19-31-47. Within thirty (30) days after the effective date of the ordinance establishing a public improvement district under this chapter, the district shall cause to be recorded in the sectional index and the subdivisional index, if applicable, in the land records in each county in which it is located a "Notice of Establishment of the _____ Public Improvement District." The notice shall include the legal description of the district and a copy of the disclosure statement specified in this chapter.

SECTION 14. This act shall take effect and be in force from and after its passage.

PASSED BY THE HOUSE OF REPRESENTATIVES
March 12, 2012

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PASSED BY THE SENATE
April 5, 2012

PRESIDENT OF THE SENATE

APPROVED BY THE GOVERNOR

GOVERNOR

3:10 pm