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Chapter No. 933

13/HR07/R2135

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# *HOUSE BILL NO. 1706*

Originated in House



Clerk

HOUSE BILL NO. 1706

AN ACT TO AUTHORIZE THE BOARD OF ALDERMEN OF THE CITY OF OXFORD, MISSISSIPPI, TO PROVIDE FOR SPECIAL ASSESSMENT BONDS OF THE CITY TO FINANCE CERTAIN IMPROVEMENTS AND TO PURCHASE LAND; TO PROVIDE FOR THE SECURITY OF SUCH BONDS; AND FOR RELATED PURPOSES.

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

**SECTION 1.** For the purposes of this act, the following terms shall have the meanings given them in this section unless a different meaning is clearly indicated by the context:

(a) "Governing body" means the Board of Aldermen of the City of Oxford, Mississippi.

(b) "County" means Lafayette County, Mississippi.

(c) "City" means the City of Oxford, Mississippi.

**SECTION 2.** (1) The city is hereby authorized to issue special assessment bonds to finance all or a part of the improvements designated in subsection (2) of this section by levying and collecting special assessments against the property benefited thereby. The amount borrowed may include that portion of the cost of such improvements to be paid by the city.

(2) The following improvements may be constructed and land purchased therefor: (a) streets, highways, boulevards, avenues, squares, lanes, alleys and parks or any part thereof, may be opened, reopened, widened, graded, regraded, paved, repaved, surfaced and resurfaced and curbs and gutters may be constructed or reconstructed therein; (b) sidewalks may be graded, regraded and levied, laid, relaid, paved, repaved, surfaced or resurfaced, and (c) water mains, water connections, sanitary disposal systems, sanitary sewers, storm covers and other surface drains or drainage systems may be laid, relaid and constructed or reconstructed.

(3) When the governing body shall determine to make any special improvement, the cost of which or any part thereof is to be assessed against the property benefited, it shall adopt a resolution declaring necessary the proposed improvement, describing the nature and extent of the work, the general character of the material to be used, and the location and terminal points of the improvements or clearly define the boundary of areas in which such improvements are to be made. In publishing such resolution declaring the work necessary, the plans and specifications of such work need not be published but may be referred to as being on file in the office of the clerk. Such resolution shall fix a date when the governing body shall meet, which shall be not less than fifteen (15) days after the date of the first publication of the notice herein provided for, to hear any objections or remonstrances that may be made to such

improvements. The notice herein provided for shall be published once each week for three (3) successive weeks in a public newspaper having a general circulation in the city. The clerk shall also send a copy of the notice, by certified mail, postage prepaid, within five (5) days after the first publication of the notice herein provided for, to the owners of property affected by the resolution at the address shown on the land rolls approved by the city. However, failure of the clerk to mail such notice, or failure of the owner to receive such notice, shall not invalidate any proceedings in this section where such notice has been published as provided herein. Notice declaring the work necessary shall be notice to the property owners that the work has been declared necessary.

(4) At the meeting provided for by subsection (3) of this section, or at a time and place to which the meeting may be adjourned, any person aggrieved may appear in person, by attorney or by petition, and may object to or protest against the improvement or any part thereof. The governing body shall consider the objections and protests, if any, and may confirm, amend, modify or rescind the resolution of necessity, and shall determine whether such improvement will be made and how the cost thereof shall be paid. The determination of such governing body shall be final and conclusive unless a majority of the property owners owning more than fifty percent (50%) of the property involved and determined to be benefited by the contemplated

improvement file a protest, in which case such improvement shall not be made.

(5) The resolution determining to proceed with the improvements may direct that the cost and expense of the improvements authorized, or such part as the governing body may fix, shall be a charge upon the property benefited. In such resolution the governing body shall direct that the whole, or such part of the cost and expense thereof as it may fix, shall be assessed against the benefited property, without regard to the front footage of such improvements. The resolution shall define the entire area to be benefited by the improvement and shall direct that the cost be assessed against each lot or parcel of land as the amount of special tax for the owner's part of the cost of the entire improvement.

(6) The full faith, credit and resources of the city shall be pledged for the payment of the principal and interest on such obligations, and the governing body shall annually levy a tax on all taxable property in the city sufficient for such purposes, after taking into account any other monies available for such purposes. In addition, the special assessments levied against the property benefiting from the special improvements to be made hereunder shall also be pledged for the payment of such obligations. The funds derived from the taxes levied to pay such obligations shall be kept in a special fund to be known as the "Special Assessment Bond Fund" and shall be used only for the

purpose of paying principal and interest on such obligations. All funds derived from special assessments levied against the property benefiting from the special improvements shall likewise be placed into such Special Assessment Bond Fund and shall be used only for the purpose of paying principal and interest on such obligations. Any surplus funds may be invested as provided by law and may be used to pay such obligations at or before maturity.

(7) The obligations authorized to be issued by this section may be issued at any time after the estimated cost of the special improvements have been ascertained by the governing body and the amount of indebtedness thereby incurred shall not exceed the estimated cost of such special improvements. Actual engineering and inspection costs, property chargeable to any improvement, and all costs for the issuance of bonds or notes issued under this act, shall be deemed to be part of the cost of the improvements.

(8) All obligations issued pursuant to this section shall mature not longer than twenty (20) years from the date thereof.

(9) All special assessments levied under the provisions of this section, unless otherwise provided by the governing body, shall become due and shall be paid to the city in full within ninety (90) days from the date of confirmation thereof. However, the governing body may, by resolution, confer upon the property owners who admit the legality of the assessment the privilege of paying the assessment in not exceeding twenty (20) installments with interest from the date of the special assessment bonds at the

same rate as that fixed in the bonds issued to raise money to pay the cost of the improvements, which is to be paid, in whole or in part, by the owners of the property benefited thereby. Any property owner who does not take an appeal from the assessment shall, upon failure to pay the assessment in full within ninety (90) days from the date of confirmation, be deemed to have elected to pay the assessment in installments as herein provided and shall be deemed to have admitted the legality of the assessment and shall thereby waive all right to contest the validity thereof. 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 tax levy which is payable after the issuance of special assessment bonds of such levying authority.

(10) The governing body shall annually certify to the tax collector, or other officer charged with the duty of collecting taxes, the annual installment of assessment due from each tract of land against which an assessment has been levied, together with the amount of the interest upon all unpaid installments at the same interest rate of the bonds issued to raise money to pay the cost of the improvements, which is to be paid, in whole or in part, by the owners of property benefited by the proposed improvements. Any property owner who has elected to pay his assessment in installments shall have the right at any time to pay the balance of the assessment against his property in full, but in

so doing he shall be required to pay all interest which would have accrued thereon had same not been paid until its maturity. The collector shall thereupon enter upon the annual tax roll of the city, in a separate column, the amount of the installment and interest to be collected from each tract of land assessed, and the collector shall collect the installment, together with the interest upon all unpaid installments, at the same time he collects the annual tax.

(11) (a) If after the original assessment has been made, the owner of the entire lot or parcel of land so assessed in solido desires that a change or division of the assessment, be made, then such owner, or other party interested therein, may apply to the tax assessor of the city for a change or division of such assessment.

(b) If after the original assessment shall have been made, a portion of any lot or parcel of land so assessed in solido has changed ownership so that no one (1) person is the owner of the entire lot or parcel of land so assessed in solido, then such owner or other party interested therein may apply to the city for a change or division of the assessment. Such application shall be in writing, filed with the tax assessor of the city under the same notice as provided in Section 21-41-31, Mississippi Code of 1972.

(c) If the tax assessor is satisfied that the land in each instance will be adequate security for the assessment placed thereon and that the rights of the city will not be adversely

affected, he may order the change or divide the assessments as requested. The decision of the tax assessor as to the right to change or divide assessments may be appealed to the governing body of the city, whose decision shall be final. Any aggrieved party shall have the right to appeal the decision of the governing body as in other cases.

(12) The provisions of Sections 21-41-7, 21-41-11, 21-41-13, 21-41-15, 21-41-21, 21-41-25, 21-41-27, 21-41-29, 21-41-31, 21-41-33, 21-41-35, 21-41-37, 21-41-39 and 21-41-47, Mississippi Code of 1972, are hereby incorporated by reference for purposes of implementing the authority granted by this section, except that if such provisions conflict with the provisions of this act, the provisions of this act shall prevail. Any authority granted by any reference in such sections to Chapter 41, Title 21, Mississippi Code of 1972, or any section thereof, shall be effective in granting such authority pursuant to this section. Where appropriate, references to the municipality or any board or official thereof shall be deemed to refer to the city, its governing body or any official thereof.

**SECTION 3.** Special assessment bonds issued under this act may be issued as registered bonds pursuant to the provisions of Chapter 22, Title 31, Mississippi Code of 1972, and may contain such covenants and provisions, may be issued as term or serial bonds, in one or more series, may be executed and delivered at any time, and from time to time, may be in such form and denomination,

may be of such tenor, may be payable in such installments and at such time or times, may be payable at such place or places and evidenced in such manner, may be callable with or without premium, may bear such rate or rates of interest and may contain such other provisions not inconsistent herewith, all as shall be provided in the proceedings of the governing body whereunder such bonds shall be directed to be issued. The governing body is authorized to contract for and pay the premiums on insurance or other form of payment guarantee on such bonds, which may be sold either at public sale in the manner provided by Section 31-19-25, Mississippi Code of 1972, or at private sale, in the discretion of the governing body.

**SECTION 4.** No special assessment bond under this act shall bear a greater overall maximum interest rate to maturity than that allowed in Section 75-17-101, Mississippi Code of 1972, and no such bond may bear more than one (1) rate of interest; each bond shall bear interest from its date to its stated maturity date at the interest rate specified in such bonds; and all bonds of the same maturity shall bear the same rate of interest from date of maturity. All interest accruing on special assessment bonds issued under this act shall be payable semiannually or annually, except that the first interest payment for any bond may be for any period not exceeding one (1) year. No interest payment shall be evidenced by more than one (1) coupon and neither cancelled nor supplemental coupons shall be permitted.

**SECTION 5.** Special assessment bonds issued under this act shall be executed by the manual or facsimile signature of the mayor and clerk of the city with the manual or facsimile seal of the city affixed or imprinted thereon. If the officers whose signatures or countersignatures appear on the bonds or interest coupons shall cease to be such officers before delivery, such signatures or countersignatures shall nevertheless be valid and sufficient for all purposes the same as if they had remained in office until such delivery. Principal of and interest on bonds issued hereunder shall be payable at such place within or without the State of Mississippi as may be designated by the governing body at the time of authentication thereof.

**SECTION 6.** (1) The governing body may obtain interim financing in anticipation of issuance of special assessment bonds at any time after the estimated cost of each such improvement has been ascertained. Such interim financing may be upon such terms and conditions and may bear interest at such rate or rates as are agreed between the governing body and the party advancing the interim funds or the purchaser of the obligations evidencing such indebtedness; however, the maximum rate of interest thereon shall not exceed that established in Section 75-17-101, Mississippi Code of 1972.

(2) Such interim financing shall be secured by and repaid from the proceeds of the permanent financing issued under this act

and may be further secured by any earnings on the investment of the proceeds of the interim financing.

(3) The final maturity of such interim financing shall not exceed three (3) years after the completion date of the improvement being financed, as certified to the governing body by the project engineer. However, if the governing body, after a good faith effort, determines by resolution that permanent financing cannot be obtained, the interim financing may be renewed for additional periods of not more than six (6) months each until such permanent financing can be obtained. The governing body may enter into agreements with one or more lenders at any time obligating such lenders to provide renewal interim financing upon such terms and conditions as may be agreed by the governing body and the lenders.

(4) Borrowing under this section shall be authorized by resolution of the governing body and may be evidenced by a note or notes in negotiable form with coupons or fully registered form without coupons. The indebtedness incurred under this section shall not be considered when computing any limitation of indebtedness imposed by law.

(5) Such borrowing, whether or not evidenced by a negotiable note or notes, may be placed or sold at public or private sale for such price, in such manner and at such time or times as may be determined by the governing body. All interest, expenses, premiums and commissions deemed necessary or advantageous in

connection with the issuance thereof may be paid by the governing body and shall be deemed to be a cost of the improvements.

**SECTION 7.** (1) Special assessment bonds issued under this act may be refunded at any time and from time to time pursuant to an authorizing resolution of the governing body, directing issuance of refunding bonds in accordance with the "Mississippi Bond Refinancing Act," Section 31-27-1 et seq., Mississippi Code of 1972, or as otherwise may be permitted under Mississippi law, if provision is made therefor in the proceedings directing the issuance of the bonds being refunded. Obligations to pay special assessments shall not be affected by any such refunding.

(2) Any governing body shall have authority to enter into an investment agreement with a financial institution incorporated under the laws of the United States, or the laws of any state in the United States, providing assurances with respect to the return on investment of funds received in connection with the issuance of refunding bonds.

**SECTION 8.** (1) Special assessment bonds issued under this act and the income therefrom shall be exempt from all taxation in the State of Mississippi, excepting inheritance and gift taxes.

(2) Special assessment bonds under this act shall be legal investments for commercial banks, savings and loan associations and insurance companies organized under the laws of this state.

(3) Special assessment bonds issued under this act and all interest coupons applicable thereto shall be constructed to be

negotiable instruments, despite the fact that they are payable solely from a specified source, and shall be securities within the meaning of Article 8 of the Mississippi Uniform Commercial Code.

**SECTION 9.** Special assessment bonds under this act shall be submitted to validation as provided by Chapter 13, Title 31, Mississippi Code of 1972, and to that end the clerk shall be directed to compile a transcript of all legal papers and proceedings relating to the bonds and to certify and forward the same to the state's bond attorney for the institution of validation proceedings.

**SECTION 10.** This act without reference to any other statute, shall be deemed to be full and complete authority for the issuance of bonds under this act and shall be construed as an additional and alternative method therefor and none of the present restrictions, requirements, conditions or limitations of law applicable to the issuance or sale of bonds, notes or other obligations shall apply to the issuance and sale of bonds under this act, and no proceedings shall be required for the issuance of such bonds other than provided for and required herein. All other powers and authority provided for or granted in this act, other than the levy of taxes authorized under this act, may be exercised whether or not bonds are issued pursuant to this act. All powers necessary to be exercised in order to carry out the provisions of this act are hereby conferred.

**SECTION 11.** This act shall take effect and be in force from and after its passage.

PASSED BY THE HOUSE OF REPRESENTATIVES  
April 1, 2013

  
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SPEAKER OF THE HOUSE OF REPRESENTATIVES

PASSED BY THE SENATE  
April 2, 2013

  
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PRESIDENT OF THE SENATE

APPROVED BY THE GOVERNOR

  
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GOVERNOR

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