MISSISSIPPI LEGISLATURE REGULAR SESSION 2021

By: Senator(s) Blackwell, Parker, McLendon

To: Accountability, Efficiency, Transparency; Appropriations

SENATE BILL NO. 2339

AN ACT TO AMEND SECTIONS 1-3-69, 7-7-221, 11-33-37, 13-3-31, 17-17-107, 17-17-227, 17-17-309, 17-17-348, 19-3-11, 19-3-33, 19-3-35, 19-5-9, 19-5-21, 19-5-81, 19-5-155, 19-5-157, 19-5-189, 19-5-207, 19-7-3, 19-9-11, 19-9-111, 19-29-18, 21-13-11, 21-17-1, 21-17-19, 21-19-51, 21-33-47, 21-33-207, 21-33-307, 21-35-5, 21-35-31, 21-39-3, 21-41-51, 21-45-11, 23-15-315, 23-15-857, 25-1-63, 27-31-50, 27-33-33, 27-35-83, 27-39-329, 27-43-3, 27-65-3, 29-3-29, 29-3-81, 31-7-13, 31-8-11, 31-25-28, 37-5-1, 37-5-18, 37-7-104, 37-7-105, 37-7-203, 37-7-207, 37-9-12, 37-57-104, 37-57-105, 37-59-13, 37-61-9, 39-13-11, 41-13-15, 47-4-3, 49-17-121, 49-28-5, 49-28-7, 49-28-43, 51-7-11, 51-8-61, 51-9-111, 51-9-115, 51-11-65, 51-15-109, 51-15-113, 51-29-5, 51-29-31, 51-31-47, 51-33-5, 51-35-309, 51-35-325, 51-39-17, 51-39-39, 51-41-21, 57-3-11, 57-3-13, 57-61-37, 57-75-17, 59-3-7, 59-3-9, 59-7-17, 59-7-113, 59-7-115, 59-13-5, 65-7-4, 65-7-121, 65-19-3, 65-21-17, 65-33-49, 65-33-51, 65-33-53, 77-3-16 AND 77-5-407, MISSISSIPPI CODE OF 1972, TO AUTHORIZE LOCAL GOVERNMENTAL ENTITIES TO PUBLISH PUBLIC NOTICES BY USING A FREE, PUBLICLY ACCESSIBLE, OFFICIAL GOVERNMENT WEBSITE; AND FOR RELATED PURPOSES.

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

SECTION 1. Section 1-3-69, Mississippi Code of 1972, is amended as follows:

1-3-69. When publication shall be *** * *** made in some newspaper "for three (3) weeks," such publication shall be made once each week for three (3) successive weeks, and the time within which the noticed party is required to act or within which the

noticing party may proceed shall be computed from the first date of publication. When publication is made using an official government website, the website must be free and publicly accessible, and such publication shall be available for viewing for three (3) consecutive weeks. This rule shall furnish a guide for any similar case, whether the time required be more or less than three (3) weeks.

SECTION 2. Section 7-7-221, Mississippi Code of 1972, is amended as follows:

7-7-221. (1) As soon as possible after an annual audit of the fiscal and financial affairs of a county by the State Auditor, as the head of the State Department of Audit, has been made and a copy of such report of audit or examination has been filed with the board of supervisors of such county and the clerk thereof, as required in Section 7-7-215, the clerk of the board of supervisors shall publish a synopsis of such report in a form prescribed by the State Auditor.

(2) The clerk of the board of supervisors shall either publish the aforesaid synopsis on a free, publicly accessible, official government website or deliver a copy of the aforesaid synopsis to some newspaper published in the county, and, if no newspaper is published in the county, then to a newspaper having a general circulation therein, to be published.

(3) The cost of publishing the aforesaid synopsis by some newspaper in a county or by some newspaper having a general

circulation therein, as hereinbefore provided, shall be paid for out of the general fund of the county upon a detailed itemized statement thereof being furnished to the clerk of the board of supervisors of such county by the publisher of the newspaper, accompanied by one (1) copy of the proof of publication thereof. The cost of such publication shall be based on the rate now fixed by law for publishing legal notices, and it shall be mandatory upon the board of supervisors of the county and the clerk thereof to pay such costs out of the county general fund.

(4) The clerk shall forward a copy of the published synopsis to the State Auditor within sixty (60) days of its publication. If the synopsis does not substantially satisfy the requirements of this section, the State Auditor is authorized to prepare the synopsis and have it published in accordance with this section at cost to the county.

SECTION 3. Section 11-33-37, Mississippi Code of 1972, is amended as follows:

11-33-37. When any writ of attachment shall be executed and returned, if the defendant be not summoned, the clerk of the court shall either on a free, publicly accessible, official government website for three (3) successive weeks, or cause a notice to be published once a week for three (3) weeks in some newspaper published within the county, or in some convenient county, and having a circulation in the county in which the suit is pending, stating the issuance of such attachment, at whose suit, against

whose estate, for what sum, and in what court the same is pending and that unless the defendant appear on the first day of the next succeeding term of court and plead to said action, judgment will be entered, and the estate attached will be sold. Such publication may be made before or after the return term of court, but in cases of attachment against persons residing out of this state, the creditor, his or her agent or attorney, shall file with the clerk his or her affidavit, if the affidavit for the attachment *** * *** does not contain such statement showing the post office of the defendant, or that he or she has made diligent inquiry to ascertain it without success; and if the post office shall be stated, the clerk shall send by mail to such defendant, at his or her post office, a copy of such notice, and shall make it appear to the court that he or she has done so, before judgment shall be rendered on publication of notice; and for a failure of duty in this respect, the clerk may be punished as for contempt.

SECTION 4. Section 13-3-31, Mississippi Code of 1972, is amended as follows:

13-3-31. (1) Any municipality, county, school district, or other local government entity required by statute to make publication notice for any reason, may choose to use a free, publicly accessible, official government website to make such publication instead of any other means of publication allowed or required by statute.

(* * *2) Whenever it is required by law that any summons, order, citation, advertisement or other legal notice shall be published in a newspaper in this state, and the governing entity chooses to use this method rather than subsection (1), it shall mean, * * * publication in some newspaper which:

(a) Maintains a general circulation predominantly to bona fide paying subscribers within the political subdivision within which publication of such legal notice is required. The term "general circulation" means numerically substantial, geographically widespread, demographically diversified circulation to bona fide paying subscribers. In no event shall the term "general circulation" be interpreted to require that legal notices be published in a newspaper having the greatest circulation. The term "bona fide paying subscribers" means persons who have subscribed at a subscription rate which is not nominal, whether by mail subscriptions, purchases through dealers and carriers, street vendors and counter sellers, or any combination thereof, but shall not include free circulation, sales at a token or nominal subscription price and sales in bulk for purposes other than for resale for individual subscribers.

(b) Maintains a legitimate list of its bona fide paying subscribers by the following categories where applicable:

(i) Mail subscribers;

(ii) Dealers and carriers; and

(iii) Street vendors and counter sellers.

(c) Is not published primarily for advertising purposes and has not contained more than seventy-five percent (75%) advertising in more than one-half (1/2) of its issues during the period of twelve (12) months next prior to the first publication of any legal notice therein, excluding separate advertising supplements inserted into but separately identifiable from any regular issue or issues.

(d) Has been established and published continuously for at least twelve (12) months next prior to the first publication of such matter to be published, is regularly issued at stated intervals no less frequently than once a week, bears a date of issue, and is numbered consecutively; provided, however, that publication on legal holidays of this state or of the United States and on Saturdays and Sundays shall not be required, and failure to publish not more than two (2) regular issues in any calendar year shall not disqualify a paper otherwise qualified.

(e) Is issued from a known office of publication, which shall be the principal public business office of the newspaper and need not be the place at which the newspaper's printing presses are physically located. A newspaper shall be deemed to be "published" at the place where its known office of publication is located.

(f) Is formed of printed sheets. However, the word "printed" does not include reproduction by the stencil, mimeograph or hectograph process.

(g) Is originated and published for the dissemination of current news and intelligence of varied, broad and general public interest, announcements and notices, opinions as editorials on a regular or irregular basis, and advertising and miscellaneous reading matter.

(h) Is not designed primarily for free circulation or for circulation at nominal rates.

(2) "Newspaper," as used in this section, shall not include a newspaper, publication, or periodical which is published, sponsored by, is directly supported financially by, or is published to further the interests of, or is directed to, or has a circulation restricted in whole or in part to any particular sect, denomination, labor or fraternal organization or other special group or class of citizens, or which primarily contains information of a specialized nature rather than information of varied, broad and general interest to the general public, or which is directed to any particular geographical portion of any given political subdivision within which publication of such legal notice is required, rather than to such political subdivision as a whole. No newspaper otherwise qualified under this section shall be disqualified from publishing legal notices for the sole reason that such newspaper does not have as great a circulation as some other newspaper publishing in the same political subdivision.

(3) In the event of the discontinuance of the publication of all newspapers in any county qualified under this section to

publish legal notices, any other such newspaper published in the same county, regardless of the length of time it has been published, shall be deemed qualified to publish such legal notices, provided such newspaper meets all requirements of this section other than the requirements of subsection (1)(d) of this section.

(4) A newspaper otherwise qualified under this section which is published in a municipality whose corporate limits encompass territory in more than one (1) county shall be qualified to publish legal notices, including foreclosure sale notices as described in Section 89-1-55, for any county a portion of whose territory is included within the municipality, irrespective of the actual physical location within the municipality of the principal public business office of the newspaper.

SECTION 5. Section 17-17-107, Mississippi Code of 1972, is amended as follows:

17-17-107. Before issuing any revenue bonds hereunder, the governing body of any municipality shall adopt a resolution declaring its intention to so issue, stating the amount of bonds proposed to be issued, the purpose for which the bonds are to be issued, and the date upon which the governing body proposes to direct the issuance of such bonds. Such resolution shall be published <u>either on a free, publicly accessible, official government website for three (3) consecutive weeks, or</u> once a week for at least three (3) consecutive weeks in at least one (1)

newspaper published in the county in which such municipality is located. The first publication of such resolution shall be made not less than twenty-one (21) days prior to the date fixed in such resolution for the issuance of the bonds and the last publication shall be made not more than seven (7) days prior to such date. If no newspaper be published in such county, then such notice shall be given by publishing the resolution for the required time in some newspaper having a general circulation in such county, and, in addition, by posting a copy of such resolution for at least twenty-one (21) days next preceding the date fixed therein at three (3) public places in such county. If twenty percent (20%) or fifteen hundred (1500), whichever is less, of the qualified electors of the municipality shall file a written protest against the issuance of such bonds on or before the date specified in such resolution, then an election on the question of the issuance of such bonds shall be called and held as herein provided. If no such protest be filed, then such bonds may be issued without an election at any time within a period of two (2) years after the date specified in the above-mentioned resolution. However, the governing body of such municipality, in its discretion, may nevertheless call an election on the question of the issuance of the bonds, in which event it shall not be necessary to publish the resolution declaring its intention to issue bonds as herein provided.

SECTION 6. Section 17-17-227, Mississippi Code of 1972, is amended as follows:

17-17-227. (1) Each county, in cooperation with municipalities within the county, shall prepare, adopt and submit to the commission for review and approval a local nonhazardous solid waste management plan for the county. Each local nonhazardous solid waste management plan shall include, at a minimum, the following:

(a) An inventory of the sources, composition and quantities by weight or volume of municipal solid waste annually generated within the county, and the source, composition and quantity by weight or volume of municipal solid waste currently transported into the county for management;

(b) An inventory of all existing facilities where municipal solid waste is currently being managed, including the environmental suitability and operational history of each facility, and the remaining available permitted capacity for each facility;

(c) An inventory of existing solid waste collection systems and transfer stations within the county. The inventory shall identify the entities engaging in municipal solid waste collection within the county;

(d) A strategy for achieving a twenty-five percent (25%) waste reduction goal through source reduction, recycling or other waste reduction technologies;

(e) A projection, using acceptable averaging methods, of municipal solid waste generated within the boundaries of the county over the next twenty (20) years;

(f) An identification of the additional municipal solid waste management facilities, including an evaluation of alternative management technologies, and the amount of additional capacity needed to manage the quantities projected in paragraph (e);

(g) An estimation of development, construction, operational, closure and post-closure costs, including a proposed method for financing those costs;

(h) A plan for meeting any projected capacity shortfall, including a schedule and methodology for attaining the required capacity;

(i) A determination of need by the county, municipality, authority or district that is submitting the plan, for any new or expanded facilities. A determination of need shall include, at a minimum, the following:

(i) Verification that the proposed facility meets needs identified in the approved local nonhazardous solid waste management plan which shall take into account the quantities of municipal solid waste generated and the design capacities of existing facilities;

(ii) Certification that the proposed facility complies with local land use and zoning requirements, if any;

(iii) Demonstration, to the extent possible, that operation of the proposed facility will not negatively impact the waste reduction strategy of the county, municipality, authority or district that is submitting the plan;

(iv) Certification that the proposed service area of the proposed facility is consistent with the local nonhazardous solid waste management plan; and

(v) A description of the extent to which the proposed facility is needed to replace other facilities; and

(j) Any other information the commission may require.

(2) Each local nonhazardous solid waste management plan may include:

(a) The preferred site or alternative sites for the construction of any additional municipal solid waste management facilities needed to properly manage the quantities of municipal solid waste projected for the service areas covered by the plan, including the factors which provided the basis for identifying the preferred or alternative sites; and

(b) The method of implementation of the plan with regard to the person who will apply for and acquire the permit for any planned additional facilities and the person who will own or operate any of the facilities.

(3) Each municipality shall cooperate with the county in planning for the management of municipal solid waste generated within its boundaries or the area served by that municipality.

The governing authority of any municipality which does not desire to be included in the local nonhazardous solid waste management plan shall adopt a resolution stating its intent not to be included in the county plan. The resolution shall be provided to the board of supervisors and the commission. Any municipality resolving not to be included in a county waste plan shall prepare a local nonhazardous solid waste management plan in accordance with this section.

(4) The board of supervisors of any county may enter into interlocal agreements with one or more counties as provided by law to form a regional solid waste management authority or other district to provide for the management of municipal solid waste for all participating counties. For purposes of Section 17-17-221 through Section 17-17-227, a local nonhazardous solid waste management plan prepared, adopted, submitted and implemented by the regional solid waste management authority or other district is sufficient to satisfy the planning requirements for the counties and municipalities within the boundaries of the authority or district.

(5) (a) Upon completion of its local nonhazardous solid waste management plan, the board of supervisors of the county shall publish <u>either on a free, publicly accessible, official government website, or</u> in at least one (1) newspaper as defined in Section 13-3-31, having general circulation within the county a public notice that describes the plan, specifies the location

where it is available for review, and establishes a period of thirty (30) days for comments concerning the plan and a mechanism for submitting those comments. The board of supervisors shall also notify the board of supervisors of adjacent counties of the plan and shall make it available for review by the board of supervisors of each adjacent county. During the comment period, the board of supervisors of the county shall conduct at least one (1) public hearing concerning the plan. The board of supervisors of the county shall publish either on a free, publicly accessible, official government website, or twice in at least one (1) newspaper as defined in Section 13-3-31, having general circulation within the county, a notice conspicuously displayed containing the time and place of the hearing and the location where the plan is available for review.

(b) After the public hearing, the board of supervisors of the county may modify the plan based upon the public's comments. Within ninety (90) days after the public hearing, each board of supervisors shall approve a local nonhazardous solid waste management plan by resolution.

(c) A regional solid waste management authority or other district shall declare the plan to be approved as the authority's or district's solid waste management plan upon written notification, including a copy of the resolution, that the board of supervisors of each county forming the authority or district has approved the plan.

(6) Upon ratification of the plan, the governing body of the county, authority or district shall submit it to the commission for review and approval in accordance with Section 17-17-225. The commission shall, by order, approve or disapprove the plan within one hundred eighty (180) days after its submission. The commission shall include with an order disapproving a plan a statement outlining the deficiencies in the plan and directing the governing body of the county, authority or district to submit, within one hundred twenty (120) days after issuance of the order, a revised plan that remedies those deficiencies. If the governing body of the county, authority or district, by resolution, requests an extension of the time for submission of a revised plan, the commission may, for good cause shown, grant one (1) extension for a period of not more than sixty (60) additional days.

(7) After approval of the plan or revised plan by the commission, the governing body of the county, authority or district shall implement the plan in compliance with the implementation schedule contained in the approved plan.

(8) The governing body of the county, authority or district shall annually review implementation of the approved plan. The commission may require the governing body of each local government or authority to revise the local nonhazardous solid waste management plan as necessary, but not more than once every five (5) years.

(9) If the commission finds that the governing body of a county, authority or district has failed to submit a local nonhazardous solid waste management plan, obtain approval of its local nonhazardous solid waste management plan or materially fails to implement its local nonhazardous solid waste management plan, the commission shall issue an order in accordance with Section 17-17-29, to the governing body of the county, authority or district.

(10) The commission may, by regulation, adopt an alternative procedure to the procedure described in this section for the preparation, adoption, submission, review and approval of minor modifications of an approved local nonhazardous solid waste management plan. For purposes of this section, minor modifications may include administrative changes or the addition of any noncommercial nonhazardous solid waste management facility.

(11) The executive director of the department shall maintain a copy of all local nonhazardous solid waste management plans that the commission has approved and any orders issued by the commission.

(12) If a public notice required in subsection (5) was published *** * *** <u>according to</u> Section 13-3-31, having general circulation within the county but was not published in a daily newspaper of general circulation as required by subsection (5) before April 20, 1993, the commission shall not disapprove the plan for failure to publish the notice in a daily newspaper. Any

plan disapproved for that reason by the commission shall be deemed approved after remedying any other deficiencies in the plan.

SECTION 7. Section 17-17-309, Mississippi Code of 1972, is amended as follows:

17-17-309. (1) Within forty (40) days following the adoption of the final authorizing resolution, the designated representatives shall proceed to incorporate an authority by filing for record in the office of the chancery clerk of the participating counties and the Secretary of State an incorporation agreement approved by each member. The agreement shall comply in form and substance with the requirements of this section and shall be executed in the manner provided in Sections 17-17-301 through 17-17-349.

(2) The incorporation agreement of an authority shall state:

(a) The name of each participating unit of local government and the date on which the governing bodies thereof adopted an authorizing resolution;

(b) The name of the authority which must include the words "_____ Solid Waste Management Authority," or "The Solid Waste Management Authority of _____," the blank spaces to be filled in with the name of one or more of the members or other geographically descriptive term. If the Secretary of State determines that the name is identical to the name of any other corporation organized under the laws of the state or so nearly similar as to lead to confusion and uncertainty, the incorporators

may insert additional identifying words so as to eliminate any duplication or similarity;

(c) The period for the duration of the authority;

(d) The location of the principal office of the authority which shall be within the boundaries of the members;

(e) That the authority is organized pursuant to Sections 17-17-301 through 17-17-349;

(f) The board setting forth the number of commissioners, terms of office and the vote of each commissioner;

(g) If the exercise by the authority of any of its powers is to be in any way prohibited, limited or conditioned, a statement of the terms of such prohibition, limitation or condition;

(h) Any provisions relating to the vesting of title to its properties upon its dissolution which shall be vested in any member; and

(i) Any other related matters relating to the authority that the incorporators may choose to insert and that are not inconsistent with Sections 17-17-301 through 17-17-349 or with the laws of the state.

(3) The incorporation agreement shall be signed and acknowledged by the incorporators before an officer authorized by the laws of the state to take acknowledgements. When the incorporation agreement is filed for record, there shall be

attached to it a certified copy of the authorizing resolution adopted by the governing body of each member.

(4) The incorporators shall publish a notice of incorporation either for two (2) successive weeks on a free, publicly accessible, official government website, or once a week for two (2) successive weeks in a daily newspaper or newspapers having general circulation throughout the region to be served.

(5) Upon the filing for record of the agreement and the required documents, the authority shall come into existence and shall constitute a public corporation under the name set forth in the incorporation agreement. The Secretary of State shall thereupon issue a certificate of incorporation to the authority.

SECTION 8. Section 17-17-348, Mississippi Code of 1972, is amended as follows:

17-17-348. (1) In addition to any notice requirements otherwise provided by law, the board of supervisors of each county and the governing authorities of each municipality, before the first day of the fiscal year, shall publish either on a free, publicly accessible, official government website, or in a newspaper having a general circulation in the county, a detailed, itemized report of all revenues, costs and expenses incurred by the county or municipality during the immediately preceding county or municipal fiscal year in operating the garbage or rubbish collection or disposal system. The report shall disclose:

(a) The total dollar amount of revenues received or dedicated by the county or municipality during the immediately preceding fiscal year for operation of the garbage or rubbish collection or disposal system;

(b) The identity of each source of funding and the dollar amount received from each source of funding during the immediately preceding fiscal year for operation of the garbage or rubbish collection or disposal system, including ad valorem taxes, fees and other sources; and

(c) The total dollar amount expended by the county or municipality to operate the garbage or rubbish collection or disposal system, along with the names and addresses of all businesses and persons with whom the county or municipality has contracted to perform or provide garbage or rubbish collection or disposal, the dollar amount of expenditures made under each contract and an itemized list of all other expenditures of county or municipal funds to operate and administer the garbage or rubbish collection or disposal system.

(2) The notice required under subsection (1) of this section<u>, when published in a newspaper,</u> shall be no less than one-eighth (1/8) page in size and the type used shall be no smaller than ten (10) point and surrounded by a one-fourth-inch (1/4) solid black border. The notice may not be placed in that portion of the newspaper where legal notices and classified advertisements appear. The notice must appear in a newspaper that

is published at least five (5) days a week, unless the only newspaper in the county is published less than five (5) days a week. The newspaper selected must be one of general interest and readership in the community, and not one of limited subject matter. The notice must be published at least once.

SECTION 9. Section 19-3-11, Mississippi Code of 1972, is amended as follows:

19-3-11. In counties having only one (1) court district, the board of supervisors shall hold regular meetings at the courthouse or in the chancery clerk's office in those counties where the chancery clerk's office is in a building separate from the courthouse. However, the board of supervisors may meet in any other county-owned building if such building is located within one (1) mile of the courthouse and if, more than thirty (30) days prior to changing the meeting place, the board posts a conspicuous, permanent notice to that effect in the chancery clerk's office and in one (1) other place in the courthouse, publishes notice thereof <u>either on a free, publicly accessible, official government website for three (3) consecutive weeks, or</u> in a newspaper published in the county, or if there be no newspaper published in the county, then in a newspaper having general circulation in the county, once each week, for at least three (3) consecutive weeks, and enters an order upon its minutes designating and describing in full the building and room to be used as the meeting room of the board of supervisors. The board

of supervisors shall meet on the first Monday of each month. However, when such meeting date falls on a legal holiday, then the said meeting shall be held on the succeeding day.

SECTION 10. Section 19-3-33, Mississippi Code of 1972, is amended as follows:

19-3-33. The board of supervisors may have its proceedings published either on a free, publicly accessible, official government website, or in some newspaper published in the county, and cause the same to be paid for out of the county treasury, but the costs of such publication shall not exceed the sum fixed by law for publishing legal notices. If there be more than one (1) newspaper published in the county, the contract for publishing the proceedings, if made, shall be let to the lowest bidder among them.

SECTION 11. Section 19-3-35, Mississippi Code of 1972, is amended as follows:

19-3-35. The board of supervisors after each meeting shall have an itemized statement made of allowances, to whom, for what, and the amounts; a list of all contracts providing for the expenditure of money and the terms of payment thereof; a statement of all loans from sixteenth section funds, lieu land funds, and sinking, and other trust funds, setting forth to whom made, the amount, and the kind of security approved; a statement or list of all sales of timber, of all leases upon, including all leases for oil, gas and minerals upon, sixteenth section or lieu lands

situated in the county or belonging to the county, showing to whom sold or made, description of land involved, the length of the term of any such lease, and the consideration therefor; and it shall also publish a recapitulation of all expenditures according to districts and also the county as a whole, and in such recapitulation the total expenses for each item shall be listed for each district, and in the total county recapitulation the total expended from each item shall be listed and same shall be published within fifteen (15) days after adjournment either on a free, publicly accessible, official government website, or in some newspaper of general circulation published in the county, and if no such newspaper is published in the county, then in a newspaper published elsewhere in the state and having a general circulation in such county. When published in a newspaper, the cost of publishing the same shall be paid for out of the general fund of the county. The cost of such publication shall not exceed one-half (1/2) of the rate now fixed by law for publishing legal notices, and in no event shall the cost of such publication exceed One Hundred Dollars ($100.00) in any one (1) month, save, however, in counties of classes 1 and 2 the board of supervisors may expend an amount not to exceed One Hundred Seventy-five Dollars ($175.00) per month for the publication of said cumulative digest of its proceedings as provided for above. If there be more than one (1) newspaper published in the county, the board of supervisors shall advertise, as provided by law, for contracts for publishing such

proceedings, and shall award the contract to the lowest bidder for a period of two (2) years. If no bid be made for the price above mentioned, then the proceedings shall be posted at the courthouse door as hereinafter provided. If there be no newspaper published in such county, then such proceedings shall be posted at the front courthouse door.

If any member of a board of supervisors or the chancery clerk shall fail, refuse or neglect to comply with the provisions of this section, he shall, upon conviction, be guilty of a misdemeanor and shall be fined not more than Five Hundred Dollars ($500.00) for such failure, refusal or neglect for each offense and, in addition thereto, shall be liable to a penalty of Five Hundred Dollars ($500.00), recoverable on his official bond by suit filed by any county or district attorney or any interested citizen, upon his official bond.

This shall not be construed to repeal Section 19-3-33, and where the verbatim proceedings are published as therein provided, this section shall not apply, it being intended hereby to provide a method of publishing the proceedings of the board of supervisors in addition to that now provided for by Section 19-3-33. Where publication is made under Section 19-3-33, this section shall not be construed so as to require any other and additional publication, or notice.

SECTION 12. Section 19-5-9, Mississippi Code of 1972, is amended as follows:

19-5-9. The construction codes published by a nationally recognized code group which sets minimum standards and has the proper provisions to maintain up-to-date amendments are adopted as minimum standard guides for building, plumbing, electrical, gas, sanitary, and other related codes in Mississippi. Any county within the State of Mississippi, in the discretion of the board of supervisors, may adopt building codes, plumbing codes, electrical codes, sanitary codes, or other related codes dealing with general public health, safety or welfare, or a combination of the same, within but not exceeding the provisions of the construction codes published by nationally recognized code groups, by order or resolution in the manner prescribed in this section, but those codes so adopted shall apply only to the unincorporated areas of the county. However, those codes shall not apply to the erection, maintenance, repair or extension of farm buildings or farm structures, except as may be required under the terms of the "Flood Disaster Protection Act of 1973," and shall apply to a master planned community as defined in Section 19-5-10 only to the extent allowed in Section 19-5-10. The provisions of this section shall not be construed to authorize the adoption of any code which applies to the installation, repair or maintenance of electric wires, pipelines, apparatus, equipment or devices by or for a utility rendering public utility services, required by it to be utilized in the rendition of its duly authorized service to the public. Before any such code shall be adopted, it shall be either

printed or typewritten and shall be presented in pamphlet form to the board of supervisors at a regular meeting. The order or resolution adopting the code shall not set out the code in full, but shall merely identify the same. The vote or passage of the order or resolution shall be the same as on any other order or resolution. After its adoption, the code or codes shall be certified to by the president and clerk of the board of supervisors and shall be filed as a permanent record in the office of the clerk who shall not be required to transcribe and record the same in the minute book as other orders and resolutions.

If the board of supervisors of any county adopts or has adopted construction codes which do not have proper provisions to maintain up-to-date amendments, specifications in such codes for cements used in portland cement concrete shall be superseded by nationally recognized specifications referenced in any code adopted by the Mississippi Building Code Council.

All provisions of this section shall apply to amendments and revisions of the codes mentioned in this section. The provisions of this section shall be in addition and supplemental to any existing laws authorizing the adoption, amendment or revision of county orders, resolutions or codes.

Any code adopted under the provisions of this section shall not be in operation or force until sixty (60) days have elapsed from the adoption of same; however, any code adopted for the immediate preservation of the public health, safety and general

welfare may be effective from and after its adoption by a unanimous vote of the members of the board. Within five (5) days after the adoption or passage of an order or resolution adopting that code or codes the clerk of the board of supervisors shall publish either on a free, publicly accessible, official government website, or in a legal newspaper published in the county the full text of the order or resolution adopting and approving the code, and the publication shall be inserted at least three (3) times, and shall be completed within thirty (30) days after the passage of the order or resolution.

Any person or persons objecting to the code or codes may object in writing to the provisions of the code or codes within sixty (60) days after the passage of the order or resolution approving same, and if the board of supervisors adjudicates that ten percent (10%) or more of the qualified electors residing in the affected unincorporated areas of the county have objected in writing to the code or codes, then in such event the code shall be inoperative and not in effect unless adopted for the immediate preservation of the public health, safety and general welfare until approved by a special election called by the board of supervisors as other special elections are called and conducted by the election commissioners of the county as other special elections are conducted, the special election to be participated in by all the qualified electors of the county residing in the unincorporated areas of the county. If the voters approve the

code or codes in the special election it shall be in force and in operation thereafter until amended or modified as provided in this section. If the majority of the qualified electors voting in the special election vote against the code or codes, then, in such event, the code or codes shall be void and of no force and effect, and no other code or codes dealing with that subject shall be adopted under the provisions of this section until at least two (2) years thereafter.

After any such code shall take effect the board of supervisors is authorized to employ such directors and other personnel as the board, in its discretion, deems necessary and to expend general county funds or any other funds available to the board to fulfill the purposes of this section.

For the purpose of promoting health, safety, morals or the general welfare of the community, the governing authority of any municipality, and, with respect to the unincorporated part of any county, the governing authority of any county, in its discretion, is empowered to regulate the height, number of stories and size of building and other structures, the percentage of lot that may be occupied, the size of the yards, courts and other open spaces, the density or population, and the location and use of buildings, structures and land for trade, industry, residence or other purposes, but no permits shall be required except as may be required under the terms of the "Flood Disaster Protection Act of 1973" for the erection, maintenance, repair or extension of farm

buildings or farm structures outside the corporate limits of municipalities.

The authority granted in this section is cumulative and supplemental to any other authority granted by law.

Notwithstanding any provision of this section to the contrary, any code adopted by a county before or after April 12, 2001, is subject to the provisions of Section 41-26-14(10).

Notwithstanding any provision of this section to the contrary, the Boards of Supervisors of Jackson, Harrison, Hancock, Stone and Pearl River Counties shall enforce the requirements imposed under Section 17-2-1 as provided in such section.

SECTION 13. Section 19-5-21, Mississippi Code of 1972, is amended as follows:

19-5-21. (1) (a) Except as provided in paragraphs (b), (c), (d) and (g) of this subsection, the board of supervisors, to defray the cost of establishing and operating the system provided for in Section 19-5-17, may levy an ad valorem tax not to exceed four (4) mills on all taxable property within the area served by the county garbage or rubbish collection or disposal system. The service area may be comprised of unincorporated or incorporated areas of the county or both; however, no property shall be subject to this levy unless that property is within an area served by a county's garbage or rubbish collection or disposal system.

(b) The board of supervisors of any county wherein Mississippi Highways 35 and 16 intersect and having a land area of

five hundred eighty-six (586) square miles may levy, in its discretion, for the purposes of establishing, operating and maintaining a garbage or rubbish collection or disposal system, an ad valorem tax not to exceed six (6) mills on all taxable property within the area served by the system as set out in paragraph (a) of this subsection.

(c) The board of supervisors of any county bordering on the Mississippi River and traversed by U.S. Highway 61, and which is intersected by Mississippi Highway 4, having a population of eleven thousand eight hundred fifty-four (11,854) according to the 1970 federal census, and having an assessed valuation of Fourteen Million Eight Hundred Seventy-two Thousand One Hundred Forty-four Dollars ($14,872,144.00) in 1970, may levy, in its discretion, for the purposes of establishing, operating and maintaining a garbage or rubbish collection or disposal system, an ad valorem tax not to exceed six (6) mills on all taxable property within the area served by the system as set out in paragraph (a) of this subsection.

(d) The board of supervisors of any county having a population in excess of two hundred fifty thousand (250,000), according to the latest federal decennial census, and in which Interstate Highway 55 and Interstate Highway 20 intersect, may levy, in its discretion, for the purposes of establishing, operating and maintaining a garbage or rubbish collection or disposal system, an ad valorem tax not to exceed seven (7) mills

on all taxable property within the area served by the system as set out in paragraph (a) of this subsection.

(e) The proceeds derived from any additional millage levied pursuant to paragraphs (a) through (d) of this subsection in excess of two (2) mills shall be excluded from the ten percent (10%) increase limitation under Section 27-39-321 for the first year of such additional levy and shall be included within such limitation in any year thereafter. The proceeds from any millage levied pursuant to paragraph (g) shall be excluded from the ten percent (10%) increase limitation under Section 27-39-321 for the first year of the levy and shall be included within the limitation in any year thereafter.

(f) The rate of the ad valorem tax levied under this section shall be shown as a line item on the notice of ad valorem taxes on taxable property owed by the taxpayer.

(g) In lieu of the ad valorem tax authorized in paragraphs (a), (b), (c) and (d) of this subsection, the fees authorized in subsection (2) of this subsection and in Section 19-5-17 or any combination thereof, the board of supervisors may levy an ad valorem tax not to exceed six (6) mills to defray the cost of establishing and operating the system provided for in Section 19-5-17 on all taxable property within the area served by the system as provided in paragraph (a) of this subsection.

Any board of supervisors levying the ad valorem tax authorized in this paragraph (g) is prohibited from assessing or collecting fees for the services provided under the system.

(2) In addition to the ad valorem taxes authorized in paragraphs (a), (b) and (c) of subsection (1) or in lieu of any other method authorized to defray the cost of establishing and operating the system provided for in Section 19-5-17, the board of supervisors of any county with a garbage or rubbish collection or disposal system may assess and collect fees to defray the costs of the services. The board of supervisors may assess and collect the fees from each single family residential generator of garbage or rubbish. The board of supervisors also may assess and collect the fees from each industrial, commercial and multifamily residential generator of garbage or rubbish for any time period that the generator has not contracted for the collection of garbage and rubbish that is ultimately disposed of at a permitted or authorized nonhazardous solid waste management facility. The fees assessed and collected under this subsection may not exceed, when added to the proceeds derived from any ad valorem tax imposed under this section and any special funds authorized under subsection (7), the actual costs estimated to be incurred by the county in operating the county garbage and rubbish collection and disposal system. In addition to such fees, an additional amount not to exceed up to One Dollar ($1.00) or ten percent (10%) per month, whichever is greater, on the current monthly bill may be

assessed and collected on the balance of any delinquent monthly fees.

(3) (a) Before the adoption of any order to increase the ad valorem tax assessment or fees authorized by this section, the board of supervisors shall publish a notice advertising their intent to adopt an order to increase the ad valorem tax assessment or fees authorized by this section. The notice shall specify the purpose of the proposed increase, the proposed percentage increase and the proposed percentage increase in total revenues for garbage or rubbish collection or disposal services or shall contain a copy of the resolution by the board stating their intent to increase the ad valorem tax assessment or fees. The notice shall be published either on a free, publicly accessible, official government website for three (3) consecutive weeks before the adoption of the order, or in a newspaper published or having general circulation in the county for no less than three (3) consecutive weeks before the adoption of the order. When published in a newspaper, the notice shall be in print no less than the size of eighteen (18) point and shall be surrounded by a one-fourth (1/4) inch black border. The notice shall not be placed in the legal section notice of the newspaper. There shall be no language in the notice stating or implying a mandate from the Legislature.

(b) In addition to the requirement for publication of notice, the board of supervisors shall notify each person

furnished garbage or rubbish collection or disposal service of any increase in the ad valorem tax assessment or fees. In the case of an increase of the ad valorem tax assessment, a notice shall be conspicuously placed on or attached to the first ad valorem tax bill on which the increased assessment is effective. In the case of an increase in fees, a notice shall be conspicuously placed on or attached to the first bill for fees on which the increased fees or charges are assessed. There shall be no language in any notice stating or implying a mandate from the Legislature.

(4) The board of supervisors of each county shall adopt an order determining whether or not to grant exemptions, either full or partial, from the fees for certain classes of generators of garbage or rubbish. If a board of supervisors grants any exemption, it shall do so in accordance with policies and procedures, duly adopted and entered on its minutes, that clearly define those classes of generators to whom the exemptions are applicable. The order granting exemptions shall be interpreted consistently by the board when determining whether to grant or withhold requested exemptions.

(5) (a) The board of supervisors in any county with a garbage or rubbish collection or disposal system only for residents in unincorporated areas may adopt an order authorizing any single family generator to elect not to use the county garbage or rubbish collection or disposal system. If the board of supervisors adopts an order, the head of any single family

residential generator may elect not to use the county garbage or rubbish collection or disposal service by filing with the chancery clerk the form provided for in this subsection before December 1 of each year. The board of supervisors shall develop a form that shall be available in the office of the chancery clerk for the head of household to elect not to use the service and to accept full responsibility for the disposal of his garbage or rubbish in accordance with state and federal laws and regulations. The board of supervisors, following consultation with the Department of Environmental Quality, shall develop and the chancery clerk shall provide a form to each person electing not to use the service describing penalties under state and federal law and regulations for improper or unauthorized management of garbage. Notice that the election may be made not to use the county service by filing the form with the chancery clerk's office shall be published either on a free, publicly accessible, official government website for three (3) consecutive weeks, or in a newspaper published or having general circulation in the county for no less than three (3) consecutive weeks, with the first publication being made no sooner than five (5) weeks before the first day of December. The notice shall state that any single family residential generator may elect not to use the county garbage or rubbish collection or disposal service by the completion and filing of the form for that purpose with the chancery clerk's office before December 1 of that year. The notice shall also include a statement that any single

family residential generator who does not timely file the form shall be assessed any fees levied to cover the cost of the county garbage or rubbish collection or disposal service. The chancery clerk shall maintain a list showing the name and address of each person who has filed a notice of intent not to use the county garbage or rubbish collection or disposal service.

(b) If the homestead property of a person lies partially within the unincorporated service area of a county and partially within the incorporated service area of a municipality and both the municipality and the county provide garbage collection and disposal service to that person, then the person may elect to use either garbage collection and disposal service. The person shall notify the clerk of the governing authority of the local government whose garbage collection and disposal service he elects not to use of his decision not to use such services by certified mail, return receipt requested. The person shall not be liable for any fees or charges from the service he elects not to use.

(6) The board may borrow money for the purposes of defraying the expenses of the system in anticipation of:

(a) The tax levy authorized under this section;

(b) Revenues resulting from the assessment of any fees for garbage or rubbish collection or disposal; or

(c) Any combination thereof.

(7) In addition to the fees or ad valorem millage authorized under this section, a board of supervisors may use monies from any special funds of the county that are not otherwise required by law to be dedicated for use for a particular purpose in order to defray the costs of the county garbage or rubbish collection or disposal system.

SECTION 14. Section 19-5-81, Mississippi Code of 1972, is amended as follows:

19-5-81. Before issuing the bonds, notes or loan warrants, authorized by Section 19-5-79 the board of supervisors shall publish notice of its intention to borrow such funds and to issue loan warrants, notes or bonds, and the clerk of said board shall publish either on a free, publicly accessible official government website, or in three (3) weekly issues of some newspaper having a general circulation in the county, a copy of such order. If, within twenty-one (21) days after the first publication of a copy of such order, twenty percent (20%) of the qualified electors of the county petition the board of supervisors for an election to determine whether or not the adoption of such order should be annulled, such election shall be ordered by said board of supervisors in which the qualified electors of the county shall be eligible to participate. If at such election a majority of those voting vote in favor of the adoption of such order the same shall be valid and effective, but if a majority shall vote against such order it shall be annulled and shall be ineffective. Such

election shall be held and conducted and the returns thereof made as provided by law for other county elections. If no such petition be presented within twenty-one (21) days after the first publication of a copy of such order, the order shall be valid and effective and said board may thereupon proceed to issue said loan warrants hereunder without an election on the question of the issuance thereof.

SECTION 15. Section 19-5-155, Mississippi Code of 1972, is amended as follows:

19-5-155. Upon the filing of such petition, or upon the adoption of a resolution declaring the intent of the board of supervisors to incorporate such district, it shall then be the duty of the board of supervisors of such county to fix a time and place for a public hearing upon the question of the public convenience and necessity of the incorporation of the proposed district. The date fixed for such hearing shall be not more than thirty (30) days after the filing of the petition, and the date of the hearing, the place at which it shall be held, the proposed boundaries of said district, and the purpose of the hearing, shall be set forth in a notice to be signed by the clerk of the board of supervisors of such county. Such notice shall be published either on a free, publicly accessible, official government website for at least three (3) consecutive weeks prior to the date of such hearing, or in a newspaper having general circulation within such proposed district once a week for at least three (3) consecutive

weeks prior to the date of such hearing. The first such publication shall be made not less than twenty-one (21) days prior to the date of such hearing and the last such publication shall be made not more than fourteen (14) days prior to the date of such hearing.

If, at such public hearing, the board of supervisors finds (1) that the public convenience and necessity require the creation of the district, and (2) that the creation of the district is economically sound and desirable, the board of supervisors shall adopt a resolution making the aforesaid findings and declaring its intention to create the district on a date to be specified in such resolution. Such resolution shall also designate the name of the proposed district, define its territorial limits which shall be fixed by said board pursuant to such hearing, and state whether or not the board of supervisors shall levy the tax authorized in Section 19-5-189, Mississippi Code of 1972, and whether or not the board of supervisors proposes to assess benefited properties as outlined in Section 19-5-191, Mississippi Code of 1972.

SECTION 16. Section 19-5-157, Mississippi Code of 1972, is amended as follows:

19-5-157. A certified copy of the resolution so adopted shall be published <u>either on a free, publicly accessible, official government website for three (3) consecutive weeks, or</u> in a newspaper having a general circulation within such proposed district once a week for at least three (3) consecutive weeks

prior to the date specified in such resolution as the date upon which such board intends to create such district. The first such publication shall be made not less than twenty-one (21) days prior to the date specified, and the last such publication shall be made not more than fourteen (14) days prior to such date.

If twenty percent (20%) or one hundred fifty (150), whichever is the lesser, of the qualified electors of such proposed district file written petition with such board of supervisors on or before the date specified aforesaid, protesting against the creation of such district, the board of supervisors shall call an election on the question of the creation of such district. Such election shall be held and conducted by the election commissioners of the county as nearly as may be in accordance with the general laws governing elections, and such election commissioners shall determine which of the qualified electors of such county reside within the proposed district, and only such qualified electors as reside within such proposed district shall be entitled to vote in such election. Notice of such election setting forth the time, place or places, and purpose of such election shall be published by the clerk of the board of supervisors, and such notice shall be published for the time and the manner provided in Section 19-5-155 for the publication of the resolution of intention. The ballots to be prepared for and used at said election shall be in substantially the following form:

"FOR CREATION OF _____ DISTRICT ( )

AGAINST CREATION OF _____ DISTRICT ( )"

and voters shall vote by placing a cross mark (x) or check mark (√) opposite their choice.

SECTION 17. Section 19-5-189, Mississippi Code of 1972, is amended as follows:

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

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

(2) (a) In respect to fire protection purposes, the board of supervisors of the county in which any such district exists on

July 1, 1987, may levy a special tax annually, not to exceed the tax levied for such purposes for the 1987 fiscal year on all of the taxable real property in such district, the avails of which shall be paid over to the board of commissioners of the district to be used either for the operation, support and maintenance of the fire protection district or for the retirement of any bonds issued by the district for fire protection purposes, or for both. Any such district for which no taxes have been levied for the 1987 fiscal year may be treated as having been created after July 1, 1987, for the purposes of this subsection.

(b) In respect to fire protection purposes, the board of supervisors of the county in which any such district is created after July 1, 1987, may, according to the terms of the resolution of intent to incorporate the district, levy a special tax not to exceed two (2) mills annually on all of the taxable real property in such district, the avails of which shall be paid over to the board of commissioners of the district to be used either for the operation, support and maintenance of the fire protection district or for the retirement of any bonds issued by the district for fire protection purposes, or for both; however, the board of supervisors may increase the tax levy under this subsection as provided for in paragraph (c) of this subsection.

(c) The tax levy under this subsection may be increased only when the board of supervisors has determined the need for additional revenues. Prior to levying a tax increase under this

paragraph, the board of supervisors shall adopt a resolution declaring its intention to levy the tax. The resolution shall describe the amount of the increase in the tax levy and the purposes for which the proceeds of the additional tax will be used. The board of supervisors shall have a copy of the resolution published either on a free, publicly accessible, official government website for three (3) consecutive weeks, or once a week for three (3) consecutive weeks in at least one (1) newspaper published in the county and having a general circulation therein. If no newspaper is published in the county, then notice shall be given by publishing the resolution for the required time in some newspaper having a general circulation in the county. A copy of the resolution shall also be posted at three (3) public places in the county for a period of at least twenty-one (21) days during the time of its publication in a newspaper. If more than twenty percent (20%) of the qualified electors of the district shall file with the clerk of the board of supervisors, within twenty-one (21) days after adoption of the resolution of intent to increase the tax levy, a petition requesting an election on the question of the increase in tax levy, then and in that event such increase shall not be made unless authorized by a majority of the votes cast at an election to be called and held for that purpose within the district. Notice of such election shall be given, the election shall be held and the result thereof determined, as far as is practicable, in the same manner as other elections are held

in the county. If an election results in favor of the increase in the tax levy or if no election is required, the board of supervisors may increase the tax levy. The board of supervisors, in its discretion, may call an election on such question, in which event it shall not be necessary to publish the resolution declaring its intention to have the tax imposed.

(d) Notwithstanding any provisions of this subsection to the contrary, in any county bordering on the Gulf of Mexico and the State of Louisiana, the board of supervisors may levy not to exceed four (4) mills annually on all the taxable real property within any fire protection district, the avails of which shall be paid over to the board of commissioners of the district to be used either for the operation, support and maintenance of the fire protection district or for the retirement of any bonds issued by the district for fire protection purposes, or for both. Prior to levying the tax under this paragraph, the board of supervisors shall adopt a resolution declaring its intention to levy the tax. The resolution shall describe the amount of the tax levy and the purposes for which the proceeds of the tax will be used. The board of supervisors shall have a copy of the resolution published either on a free, publicly accessible, official government website for three (3) consecutive weeks, or once a week for three (3) consecutive weeks in at least one (1) newspaper published in the county and having a general circulation therein. When published in a newspaper, if no newspaper is published in the county, then

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

(e) Notwithstanding any provisions of this subsection to the contrary, in any county bordering on the Mississippi River in which legal gaming is conducted and in which U.S. Highway 61 intersects with Highway 4, the board of supervisors may levy a

special tax not to exceed five (5) mills annually on all the taxable real and personal property within any fire protection district, except for utilities as defined in Section 77-3-3(d)(i) and (iii), the avails of which shall be paid over to the board of commissioners of the district to be used either for the operation, support and maintenance of the fire protection district or for the retirement of any bonds issued by the district for fire protection purposes, or for both. Before levying the tax under this paragraph, the board of supervisors shall adopt a resolution declaring its intention to levy the tax. The resolution shall describe the amount of the tax levy and the purposes for which the proceeds of the tax will be used. The board of supervisors shall have a copy of the resolution published either on a free, publicly accessible, official government website for three (3) consecutive weeks, or once a week for three (3) consecutive weeks in at least one (1) newspaper published in the county and having a general circulation therein. When published in a newspaper, if no newspaper is published in the county, then notice shall be given by publishing the resolution for the required time in some newspaper having general circulation in the county. A copy of the resolution shall also be posted at three (3) public places in the county for a period of at least twenty-one (21) days during the time of its publication in a newspaper. If more than twenty percent (20%) of the qualified electors of the district shall file with the clerk of the board of supervisors, within twenty-one (21)

days after adoption of the resolution of intent to levy the tax, a petition requesting an election of the questions of the levy of such tax, then and in that event such tax levy shall not be made unless authorized by a majority of the votes cast at an election to be called and held for that purpose within the district. Notice of such election shall be given, the election shall be held and the result thereof determined, as far as is practicable, in the same manner as other elections are held in the county. If an election results in favor of the tax levy or if no election is required, the board of supervisors may levy such tax. The board of supervisors, in its discretion, may call an election on such question, in which event it shall not be necessary to publish the resolution declaring its intention to have the tax imposed.

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

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

SECTION 18. Section 19-5-207, Mississippi Code of 1972, is amended as follows:

19-5-207. Within ninety (90) days after the close of each fiscal year, the board of commissioners shall publish <u>either on a free, publicly accessible, official government website, or</u> in a newspaper of general circulation in the county a sworn statement

showing the financial condition of the district, the earnings for the fiscal year just ended, a statement of the water and sewer rates being charged, and a brief statement of the method used in arriving at such rates. Such statement shall also be filed with the board of supervisors creating the district.

SECTION 19. Section 19-7-3, Mississippi Code of 1972, is amended as follows:

19-7-3. (1) In case any of the real estate belonging to the county shall cease to be used for county purposes, the board of supervisors may sell, convey or lease the same on such terms as the board may elect and may, in addition, exchange the same for real estate belonging to any other political subdivision located within the county. In case of a sale on a credit, the county shall have a lien on the same for the purchase money, as against all persons, until paid and may enforce the lien as in such cases provided by law. The deed of conveyance in such cases shall be executed in the name of the county by the president of the board of supervisors, pursuant to an order of the board entered on its minutes.

(2) (a) Before any lease, deed or conveyance is executed, the board shall publish <u>either on a free, publicly accessible, official government website for three (3) consecutive weeks, or</u> at least once each week for three (3) consecutive weeks, in a public newspaper of the county in which the land is located, or if no newspaper be published in said county then in a newspaper having

general circulation therein, the intention to lease or sell, as the case may be, the county-owned land and to accept sealed competitive bids for the leasing or sale. The board shall thereafter accept bids for the lease or sale and shall award the lease to the highest bidder in the manner provided by law.

(b) The board of supervisors of any county may contract for the professional services of a Mississippi-licensed real estate broker to assist in the marketing and sale or lease of the property for a reasonable commission, consistent with or lower than the market rate, for services rendered to be paid from the sale or lease proceeds.

(3) Whenever the board of supervisors shall find and determine, by resolution duly and lawfully adopted and spread upon its minutes (a) that any county-owned property is no longer needed for county or related purposes and is not to be used in the operation of the county, (b) that the sale of the property in the manner otherwise provided by law is not necessary or desirable for the financial welfare of the county, and (c) that the use of the county property for the purpose for which it is to be sold, conveyed or leased will promote and foster the development and improvement of the community in which it is located and the civic, social, educational, cultural, moral, economic or industrial welfare thereof, the board of supervisors of such county shall be authorized and empowered, in its discretion, to sell, convey,

lease, or otherwise dispose of same for any of the purposes set forth herein.

(4) (a) In addition to such authority as is otherwise granted under this section, the board of supervisors, in its discretion, may sell, lease, or otherwise convey property to any person or legal entity without public notice, without having to advertise for and accept competitive bids and without appraisal, with or without consideration, and on such terms and conditions as the parties may agree if the board of supervisors finds and determines, by resolution duly and lawfully adopted and spread upon its official minutes:

(i) That the subject property is real property acquired by the county:

1. By reason of a tax sale;

2. Because the property was abandoned or blighted; or

3. In a proceeding to satisfy a county lien against the property;

(ii) That the subject property is blighted and is located in a blighted area;

(iii) That the subject property is not needed for governmental or related purposes and is not to be used in the operation of the county;

(iv) That the sale of the property in the manner otherwise provided by law is not necessary or desirable for the financial welfare of the county; and

(v) That the use of the property for the purpose for which it is to be conveyed will promote and foster the development and improvement of the community in which it is located or the civic, social, educational, cultural, moral, economic or industrial welfare thereof; the purpose for which the property is conveyed shall be stated.

(b) All costs associated with a conveyance under this subsection shall be paid by the person or entity to whom the conveyance is made.

(c) Any deed or instrument of conveyance executed pursuant to the authority granted under this subsection shall contain a clause of reverter providing that title to the property will revert to the county if the person or entity to whom the property is conveyed does not fulfill the purpose for which the property was conveyed and satisfy all conditions imposed on the conveyance within two (2) years of the date of the conveyance.

(d) In any such deed or instrument of conveyance, the county shall retain all mineral rights that it owns, together with the right of ingress and egress to remove same.

(5) Nothing contained in this section shall be construed to prohibit, restrict or to prescribe conditions with regard to the authority granted under Section 17-25-3 or Section 57-75-37.

SECTION 20. Section 19-9-11, Mississippi Code of 1972, is amended as follows:

19-9-11. Before issuing any bonds for any of the purposes enumerated in Sections 19-9-1 *** * *** and 19-9-3, the board of supervisors shall adopt a resolution declaring its intention so to do, stating the amount of bonds proposed to be issued and the purpose for which the bonds are to be issued, and the date upon which the board proposes to direct the issuance of such bonds. Such resolution shall be published either on a free, publicly accessible, official government website for three (3) consecutive weeks, or once a week for at least three (3) consecutive weeks in at least one (1) newspaper published in such county. The first publication of such resolution shall be made not less than twenty-one (21) days prior to the date fixed in such resolution for the issuance of the bonds, and the last publication shall be made not more than seven (7) days prior to such date. When published in a newspaper, if no newspaper be published in such county, then such notice shall be given by publishing the resolution for the required time in some newspaper having a general circulation in such county and, in addition, by posting a copy of such resolution for at least twenty-one (21) days next preceding the date fixed therein at three (3) public places in such county. If twenty percent (20%), or fifteen hundred (1500), whichever is less, of the qualified electors of the county, supervisors district, or road district, as the case may be, shall

file a written protest against the issuance of such bonds on or before the date specified in such resolution, then an election on the question of the issuance of such bonds shall be called and held as is provided in Sections 19-9-13 *** * *** and 19-9-15. If no such protest be filed, then such bonds may be issued without an election on the question of the issuance thereof, at any time within a period of two (2) years after the date specified in the above-mentioned resolution. However, the board of supervisors, in its discretion, may nevertheless call an election on such question, in which event it shall not be necessary to publish the resolution declaring its intention to issue such bonds as herein provided.

SECTION 21. Section 19-9-111, Mississippi Code of 1972, is amended as follows:

19-9-111. The board of supervisors of any county authorized to establish or cooperate in the establishment of economic development districts pursuant to Section 19-5-99 may, in its discretion, levy a tax of not more than two (2) mills against the taxable property in the county or the portion thereof comprising an economic development district, to be used to support and maintain such district. The levy so made shall be in addition to all other levies provided by law.

Before any such levy is made, the board of supervisors shall signify its intention to make such a levy and publish same either on a free, publicly accessible, official government website, or in

a newspaper published in said county for thirty (30) days prior to making said levy. In the event more than twenty percent (20%) or fifteen hundred (1500), whichever is less, of the qualified electors of said economic development district protest in writing to the board of supervisors against the imposition of such tax levy within thirty (30) days from the date such notice is published, then such proposed tax levy shall not be made unless same is approved by a special election called for said purpose. Said special election shall be conducted and had as provided by law.

The governing authorities of any municipality in a county, which has established an economic development district or which is included in an economic development district, may contribute to the support of such economic development district from its general fund.

SECTION 22. Section 19-29-18, Mississippi Code of 1972, is amended as follows:

19-29-18. (1) The governing body of a county railroad authority or regional railroad authority, as the case may be, may file a petition with the board of supervisors of any county included in the railroad authority, specifying for each such county, the rate of the ad valorem tax, not to exceed two (2) mills, to be levied by such county on the taxable property therein, for acquisition and maintenance of railroad properties and facilities, and to defray operating expenses of the railroad

authority and any other expenses authorized to be incurred by the railroad authority. Prior to levying the tax specified by the railroad authority, the board of supervisors of each such county shall publish notice of its intention to levy same. The notice shall be published either on a free, publicly accessible, official government website for three (3) consecutive weeks, or once each week for three (3) weeks in some newspaper having a general circulation in the county, but not less than twenty-one (21) days, nor more than sixty (60) days, intervening between the time of the first notice and the meeting at which said board proposes to levy the tax. If, within the time of giving notice, twenty percent (20%) or one thousand five hundred (1,500) of the qualified electors of the county, whichever is less, shall file a written protest against the levy of the tax, then the tax shall not be levied unless authorized by three-fifths (3/5) of the qualified electors of such county, voting at an election to be called and held for that purpose. If the tax levy fails to be authorized at an election held in a county included in the regional authority, then such tax levy shall not be made in any of the counties included in such regional authority.

(2) The avails of the ad valorem tax levied under authority of this section shall be paid by the county board of supervisors to the governing body of the railroad authority to be used as herein authorized.

(3) For any fiscal year after the initial levy of the tax, the board of supervisors levying same shall levy such tax at a millage rate which will produce an amount of revenue which approximates, but does not exceed, the amount of revenue produced from the levy for the preceding fiscal year. The county board of supervisors shall not increase the millage rate for the purposes authorized herein unless notice thereof is published and an election held, if required, in the manner set forth in subsection (1) of this section.

(4) Each railroad authority shall be subject to examination by the State Auditor.

(5) The tax levy authorized in this section shall not be included in the ten percent (10%) limitation on increases under Sections 27-39-320 or 27-39-321.

(6) The tax levy authorized in this section shall not be reimbursable under the provisions of the Homestead Exemption Law.

(7) A railroad authority created under Section 19-29-7(2) must receive the approval of the governing authorities of the municipality and the county creating such authority before levying any tax under this section.

SECTION 23. Section 21-13-11, Mississippi Code of 1972, is amended as follows:

21-13-11. Every ordinance passed by the governing body of a municipality, except as is otherwise provided by law, shall be certified by a municipal clerk, signed by the mayor or a majority

of all the members of the governing body, recorded in the ordinance book, and published at least one (1) time either on a free, publicly accessible, official government website, or in some newspaper published in such municipality, or, if there be no such newspaper, then in a newspaper within the county having general circulation in said municipality, or, if there be no newspaper published in or having general circulation in same, then in any newspaper published in the State of Mississippi having general circulation in said county; and all of same shall be done before such ordinance shall be effective. The publication of the ordinance may be made as provided in Section 21-17-19. No ordinance shall be in force for one (1) month after its passage; however, any ordinance for the immediate and temporary preservation of the public peace, health or safety or for other good cause, which is adopted by unanimous vote of all members of the governing body, may be made effective from and after its passage by a unanimous vote of all members of the governing body. However, in such cases, such ordinance shall contain a statement of reason why it is necessary that same become immediately effective. All such ordinances shall be published and recorded in the ordinance book in the same manner as other ordinances, but shall become effective immediately upon the adoption thereof, and prior to being so recorded and published. Nothing in this section shall apply to ordinances appropriating money for the payment of

the current expenses of the municipality or the payment of sums due on any contract previously made.

SECTION 24. Section 21-17-1, Mississippi Code of 1972, is amended as follows:

21-17-1. (1) Every municipality of this state shall be a municipal corporation and shall have power to sue and be sued; to purchase and hold real estate, either within or without the corporate limits, for all proper municipal purposes, including parks, cemeteries, hospitals, schoolhouses, houses of correction, waterworks, electric lights, sewers and other proper municipal purposes; to purchase and hold personal property for all proper municipal purposes; to sell or dispose of personal property or real property owned by it consistent with Section 17-25-25; to acquire equipment and machinery by lease-purchase agreement and to pay interest thereon, if contracted, when needed for proper municipal purposes; and to sell and convey any real property owned by it, and make such order respecting the same as may be deemed conducive to the best interest of the municipality, and exercise jurisdiction over the same.

(2) (a) In case any of the real property belonging to a municipality shall cease to be used for municipal purposes, the governing authority of the municipality may sell, convey or lease the same on such terms as the municipal authority may elect. In case of a sale on a credit, the municipality shall charge appropriate interest as contracted and shall have a lien on the

same for the purchase money, as against all persons, until paid and may enforce the lien as in such cases provided by law. The deed of conveyance in such cases shall be executed in the name of the municipality by the governing authority of the municipality pursuant to an order entered on the minutes. In any sale or conveyance of real property, the municipality shall retain all mineral rights that it owns, together with the right of ingress and egress to remove same. Except as otherwise provided in this section, before any such lease, deed or conveyance is executed, the governing authority of the municipality shall publish either on a free, publicly accessible, official government website for three (3) consecutive weeks, or at least once each week for three (3) consecutive weeks, in a public newspaper of the municipality in which the real property is located, or if no newspaper be published as such, then in a newspaper having general circulation therein, the intention to lease or sell, as the case may be, the municipally owned real property and to accept sealed competitive bids for the leasing or sale. The governing authority of the municipality shall thereafter accept bids for the lease or sale and shall award the lease or sale to the highest bidder in the manner provided by law. However, whenever the governing authority of the municipality shall find and determine, by resolution duly and lawfully adopted and spread upon its minutes (i) that any municipally owned real property is no longer needed for municipal or related purposes and is not to be used in the operation of the

municipality, (ii) that the sale of such property in the manner otherwise provided by law is not necessary or desirable for the financial welfare of the municipality, and (iii) that the use of such property for the purpose for which it is to be sold, conveyed or leased will promote and foster the development and improvement of the community in which it is located and the civic, social, educational, cultural, moral, economic or industrial welfare thereof, the governing authority of the municipality shall be authorized and empowered, in its discretion, to sell, convey or lease same for any of the purposes set forth herein without having to advertise for and accept competitive bids.

(b) In any case in which a municipality proposes to sell, convey or lease real property under the provisions of this subsection (2) without advertising for and accepting competitive bids, the governing authority may sell, convey or lease the property as follows:

(i) Consideration for the purchase, conveyance or lease of the property shall be not less than the average of the fair market price for such property as determined by at least two (2) professional property appraisers selected by the municipality and approved by the purchaser or lessee. Appraisal fees shall be shared equally by the municipality and the purchaser or lessee;

(ii) The governing authority of a municipality may contract for the professional services of a Mississippi licensed real estate broker to assist the municipality in the marketing and

sale or lease of the property, and may provide the broker reasonable compensation for services rendered to be paid from the sale or lease proceeds. The reasonable compensation shall not exceed the usual and customary compensation for similar services within the municipality; or

(iii) The governing authority of a municipality may lease property of less than one thousand five hundred (1,500) square feet to any person or legal entity by having two (2) appraisals establish the fair market value of the lease, and on such other terms and conditions as the parties may agree, such lease being lawfully adopted and spread upon its official minutes.

(3) Whenever the governing authority of the municipality shall find and determine by resolution duly and lawfully adopted and spread upon the minutes that municipally owned real property is not used for municipal purposes and therefore surplus as set forth in subsection (2) of this section:

(a) (i) Except as otherwise provided in subparagraph (ii) of this paragraph (a), the governing authority may donate such lands to a bona fide not-for-profit civic or eleemosynary corporation organized and existing under the laws of the State of Mississippi and granted tax-exempt status by the Internal Revenue Service and may donate such lands and necessary funds related thereto to the public school district in which the land is situated for the purposes set forth herein. Any deed or conveyance executed pursuant hereto shall contain a clause of

reverter providing that the bona fide not-for-profit corporation or public school district may hold title to such lands only so long as they are continued to be used for the civic, social, educational, cultural, moral, economic or industrial welfare of the community, and that title shall revert to the municipality in the event of the cessation of such use for a period of two (2) years. In any such deed or conveyance, the municipality shall retain all mineral rights that it owns, together with the right of ingress and egress to remove same;

(ii) If the governing authority of a municipality with a total population of greater than forty thousand (40,000) but not more than forty-two thousand five hundred (42,500) according to the 2010 federal decennial census, donates real property to a bona fide not-for-profit civic or eleemosynary corporation and such civic or eleemosynary corporation commits Two Million Dollars ($2,000,000.00) to renovate or make capital improvements to the property by an agreement between a certain state institution of higher learning and the civic or eleemosynary corporation, then the clause of reverter required by this paragraph shall provide that title of such real property shall revert 1. to the bona fide not-for-profit civic or eleemosynary corporation, if a certain state institution of higher learning ceases to use the property for the purposes required by this paragraph (a) for donated lands, or 2. to the municipality, if a certain state institution of higher learning ceases to use the

property for the purposes required by this paragraph (a) and the not-for-profit civic or eleemosynary corporation or its successor ceases to exist;

(b) (i) The governing authority may donate such lands to a bona fide not-for-profit corporation (such as Habitat for Humanity) which is primarily engaged in the construction of housing for persons who otherwise can afford to live only in substandard housing. In any such deed or conveyance, the municipality shall retain all mineral rights that it owns, together with the right of ingress and egress to remove same;

(ii) In the event the governing authority does not wish to donate title to such lands to the bona fide not-for-profit civic or eleemosynary corporation, but wishes to retain title to the lands, the governing authority may lease the lands to a bona fide not-for-profit corporation described in paragraph (a) or this paragraph (b) for less than fair market value;

(c) The governing authority may donate any municipally owned lot measuring twenty-five (25) feet or less along the frontage line as follows: the governing authority may cause the lot to be divided in half along a line running generally perpendicular to the frontage line and may convey each one-half (1/2) of that lot to the owners of the parcels laterally adjoining the municipally owned lot. All costs associated with a conveyance under this paragraph (c) shall be paid by the person or entity to whom the conveyance is made. In any such deed or instrument of

conveyance, the municipality shall retain all mineral rights that it owns, together with the right of ingress and egress to remove same;

(d) Nothing contained in this subsection (3) shall be construed to prohibit, restrict or to prescribe conditions with regard to the authority granted under Section 17-25-3.

(4) Every municipality shall also be authorized and empowered to loan to private persons or entities, whether organized for profit or nonprofit, funds received from the United States Department of Housing and Urban Development (HUD) under an urban development action grant or a community development block grant under the Housing and Community Development Act of 1974 (Public Law 93-383), as amended, and to charge interest thereon if contracted, provided that no such loan shall include any funds from any revenues other than the funds from the United States Department of Housing and Urban Development; to make all contracts and do all other acts in relation to the property and affairs of the municipality necessary to the exercise of its governmental, corporate and administrative powers; and to exercise such other or further powers as are otherwise conferred by law.

(5) (a) The governing authority of any municipality may establish an employer-assisted housing program to provide funds to eligible employees to be used toward the purchase of a home. This assistance may be applied toward the down payment, closing costs or any other fees or costs associated with the purchase of a home.

The housing assistance may be in the form of a grant, forgivable loan or repayable loan. The governing authority of a municipality may contract with one or more public or private entities to provide assistance in implementing and administering the program and shall adopt rules and regulations regarding the eligibility of a municipality for the program and for the implementation and administration of the program. However, no general funds of a municipality may be used for a grant or loan under the program.

(b) Participation in the program established under this subsection (5) shall be available to any eligible municipal employee as determined by the governing authority of the municipality. Any person who receives financial assistance under the program must purchase a house and reside within certain geographic boundaries as determined by the governing authority of the municipality.

(c) If the assistance authorized under this subsection (5) is structured as a forgivable loan, the participating employee must remain as an employee of the municipality for an agreed upon period of time, as determined by the rules and regulations adopted by the governing authority of the municipality, in order to have the loan forgiven. The forgiveness structure, amount of assistance and repayment terms shall be determined by the governing authority of the municipality.

(6) The governing authority of any municipality may contract with a private attorney or private collection agent or agency to

collect any type of delinquent payment owed to the municipality, including, but not limited to, past-due fees, fines and other assessments, or with the district attorney of the circuit court district in which the municipality is located to collect any delinquent fees, fines and other assessments. Any such contract debt may provide for payment contingent upon successful collection efforts or payment based upon a percentage of the delinquent amount collected; however, the entire amount of all delinquent payments collected shall be remitted to the municipality and shall not be reduced by any collection costs or fees. Any private attorney or private collection agent or agency contracting with the municipality under the provisions of this subsection shall give bond or other surety payable to the municipality in such amount as the governing authority of the municipality deems sufficient. Any private attorney with whom the municipality contracts under the provisions of this subsection must be a member in good standing of The Mississippi Bar. Any private collection agent or agency with whom the municipality contracts under the provisions of this subsection must meet all licensing requirements for doing business in the State of Mississippi. Neither the municipality nor any officer or employee of the municipality shall be liable, civilly or criminally, for any wrongful or unlawful act or omission of any person or business with whom the municipality has contracted under the provisions of this subsection. The Mississippi Department of Audit shall establish rules and

regulations for use by municipalities in contracting with persons or businesses under the provisions of this subsection. If a municipality uses its own employees to collect any type of delinquent payment owed to the municipality, then from and after July 1, 2000, the municipality may charge an additional fee for collection of the delinquent payment provided the payment has been delinquent for ninety (90) days. The collection fee may not exceed twenty-five percent (25%) of the delinquent payment if the collection is made within this state and may not exceed fifty percent (50%) of the delinquent payment if the collection is made outside this state. In conducting collection of delinquent payments, the municipality may utilize credit cards or electronic fund transfers. The municipality may pay any service fees for the use of such methods of collection from the collection fee, but not from the delinquent payment. There shall be due to the municipality from any person whose delinquent payment is collected under a contract executed as provided in this subsection an amount, in addition to the delinquent payment, *** * *** not to exceed twenty-five percent (25%) of the delinquent payment for collections made within this state, and not to exceed fifty percent (50%) of the delinquent payment for collections made outside of this state.

(7) In addition to such authority as is otherwise granted under this section, the governing authority of any municipality may expend funds necessary to maintain and repair, and to purchase

liability insurance, tags and decals for, any personal property acquired under the Federal Excess Personal Property Program that is used by the local volunteer fire department.

(8) In addition to the authority to expend matching funds under Section 21-19-65, the governing authority of any municipality, in its discretion, may expend municipal funds to match any state, federal or private funding for any program administered by the State of Mississippi, the United States government or any nonprofit organization that is exempt under 26 USCS Section 501(c)(3) from paying federal income tax.

(9) The governing authority of any municipality that owns and operates a gas distribution system, as defined in Section 21-27-11(b), and the governing authority of any public natural gas district are authorized to contract for the purchase of the supply of natural gas for a term of up to ten (10) years with any public nonprofit corporation which is organized under the laws of this state or any other state.

(10) The governing authority of any municipality may perform and exercise any duty, responsibility or function, may enter into agreements and contracts, may provide and deliver any services or assistance, and may receive, expend and administer any grants, gifts, matching funds, loans or other monies, in accordance with and as may be authorized by any federal law, rule or regulation creating, establishing or providing for any program, activity or service. The provisions of this subsection shall not be construed

as authorizing any municipality or the governing authority of such municipality to perform any function or activity that is specifically prohibited under the laws of this state or as granting any authority in addition to or in conflict with the provisions of any federal law, rule or regulation.

(11) (a) In addition to such authority as is otherwise granted under this section, the governing authority of a municipality, in its discretion, may sell, lease, donate or otherwise convey property to any person or legal entity without public notice, without having to advertise for and accept competitive bids and without appraisal, with or without consideration, and on such terms and conditions as the parties may agree if the governing authority finds and determines, by resolution duly and lawfully adopted and spread upon its official minutes:

(i) The subject property is real property acquired by the municipality:

1. By reason of a tax sale;

2. Because the property was abandoned or blighted; or

3. In a proceeding to satisfy a municipal lien against the property;

(ii) The subject property is blighted and is located in a blighted area;

(iii) The subject property is not needed for governmental or related purposes and is not to be used in the operation of the municipality;

(iv) That the sale of the property in the manner otherwise provided by law is not necessary or desirable for the financial welfare of the municipality; and

(v) That the use of the property for the purpose for which it is to be conveyed will promote and foster the development and improvement of the community in which it is located or the civic, social, educational, cultural, moral, economic or industrial welfare thereof; the purpose for which the property is conveyed shall be stated.

(b) Any deed or instrument of conveyance executed pursuant to the authority granted under this subsection shall contain a clause of reverter providing that title to the property will revert to the municipality if the person or entity to whom the property is conveyed does not fulfill the purpose for which the property was conveyed and satisfy all conditions imposed on the conveyance within two (2) years of the date of the conveyance.

(c) In any such deed or instrument of conveyance, the municipality shall retain all mineral rights that it owns, together with the right of ingress and egress to remove same.

(12) The governing authority of any municipality may enter into agreements and contracts with any housing authority, as defined in Section 43-33-1, to provide extra police protection in

exchange for the payment of compensation or a fee to the municipality.

(13) The governing authority of any municipality may reimburse the cost of an insured's deductible for an automobile insurance coverage claim if the claim has been paid for damages to the insured's property arising from the negligence of a duly authorized officer, agent, servant, attorney or employee of the municipality in the performance of his or her official duties, and the officer, agent, servant, attorney or employee owning or operating the motor vehicle is protected by immunity under the Mississippi Tort Claims Act, Section 11-46-1 et seq.

(14) The powers conferred by this section shall be in addition and supplemental to the powers conferred by any other law, and nothing contained in this section shall be construed to prohibit, or to prescribe conditions concerning, any practice or practices authorized under any other law.

SECTION 25. Section 21-17-19, Mississippi Code of 1972, is amended as follows:

21-17-19. (1) Whenever a municipality is required by law to publish <u>either on a free, publicly accessible, official government website, or</u> in a newspaper any public measure or amendment thereto, the substance of the public measure or amendment thereto may be printed in lieu of the full text of the public measure or amendment thereto, as provided in this section. Such a public measure shall include, but shall not be limited to, an ordinance,

resolution, amendment to a municipal charter or annual audit. The provisions of this section shall not apply to publication of the annual budget or amendments thereto; such publication shall be made as provided in Chapter 35, Title 21, Mississippi Code of 1972.

(2) The substance of the public measure or amendment thereto shall be an explanatory statement summarizing the full text of the public measure or amendment thereto, in which the chief purpose of the measure is explained in clear and unambiguous language. Such statement shall be prepared by the governing authorities of the municipality, and shall not exceed three hundred (300) words in length to the extent practicable.

(3) During the entire time of the publication of the explanatory statement in a newspaper, a copy of the full text of the public measure or amendment thereto shall be posted by the clerk of the municipality (a) at the city hall, (b) at the main public library in the municipality, or at the courthouse in the judicial district or county in which the municipality is located; and in addition, the clerk shall post such copy at least at one (1) other public place in the municipality. The clerk shall furnish any resident of the municipality a copy of the full text of the public measure or amendment thereto upon request, and this shall be stated in the publication of the explanatory statement.

SECTION 26. Section 21-19-51, Mississippi Code of 1972, is amended as follows:

21-19-51. The governing authorities of municipalities shall have the power and authority, in their discretion, to contribute, appropriate or donate to fair associations, domiciled in their respective county, a sum of money not to exceed Ten Thousand Dollars ($10,000.00) per annum for the purpose of advertising, displaying, exhibiting or promoting the agricultural or industrial resources of such municipality or its respective county. The expenditure of such money, when contributed, appropriated or donated, shall be under the control of the municipality, and such governing authorities are hereby authorized and empowered to appoint one (1) or as many as three (3) individuals, in their discretion, to represent the municipal authorities in the proper expenditure of such money for said purpose in conjunction with the fair association. Before contributing, appropriating or donating any money to any fair association, such governing authorities shall publish notice of their intention to contribute, appropriate or donate money to said fair association, giving the amount of, and the date of making said contribution, appropriation or donation, either on a free, publicly accessible, official government website for three (3) consecutive weeks, or in some newspaper published in the municipality, or having a general circulation therein if none be there published, for three (3) weeks ending not less than ten (10) days prior to the making of any contribution, appropriation or donation. If, before the making of said contribution, appropriation or donation, twenty per

centum (20%) of the adult taxpayers of the municipality shall petition against such contribution, appropriation or donation, then the said contribution, appropriation or donation shall not be made, unless authorized by a majority of the electors voting in an election to be ordered for that purpose. All of the expenses of publishing the notice herein provided for and of holding any election hereunder shall be paid out of the municipal treasury.

SECTION 27. Section 21-33-47, Mississippi Code of 1972, is amended as follows:

21-33-47. (1) When the governing authorities of any municipality shall have made the levy of municipal taxes by resolution, or for any other taxing district of which the municipality is a part by resolution, the clerk of the municipality shall thereupon immediately certify the same to the tax collector of the municipality, or such other taxing district of which the municipality may be a part.

(2) When a resolution levying ad valorem taxes has been finally adopted by the governing authorities of any municipality embracing, in whole or in part, any other taxing district of which such municipality is a part, the clerk of such municipality shall immediately certify a copy of such resolution to the * * * Department of Revenue, as the law directs and shall cause the resolution to be published either on a free, publicly accessible, official government website or in a newspaper. The clerk shall have the resolution of the governing authorities making the levy

printed within two (2) weeks after it is entered on the minutes of such governing authorities, and he shall furnish any taxpayer with a copy thereof, upon request. If a newspaper is published within such municipality, then such resolution shall be published in its entirety, at least one, within ten (10) days after its adoption. Instead of publishing the resolution in its entirety, the publication of the resolution may be made as provided in Section 21-17-19. If no newspaper be published within such municipality, then a copy of such resolution, in its entirety, shall be posted by such municipal clerk in at least three (3) public places in such municipality and on the municipality's website, within ten (10) days after its adoption.

(3) The clerk shall be liable on his bond for any damages sustained by his failure to comply with the requirements of this section. However, failure to thus publish or post the same shall not affect the validity of the levy.

SECTION 28. Section 21-33-207, Mississippi Code of 1972, is amended as follows:

21-33-207. (a) The mayor and board of aldermen or other governing authority of any municipality desiring to avail itself of the provisions of the City Utility Tax Law shall adopt an ordinance declaring its intention to have the utility tax imposed at the specified rate for the benefit of such municipality effective on and after a date fixed in the ordinance which must be at least thirty (30) days later and on the first day of a month. A

certified copy of this ordinance shall be immediately forwarded to the Chairman of the * * * Department of Revenue. The municipal authorities shall have a copy of the ordinance published either on a free, publicly accessible, official government website for three (3) consecutive weeks, or once a week for three (3) consecutive weeks in at least one (1) newspaper published in the municipality and having a general circulation therein. The first publication shall be not less than twenty-eight (28) days prior to the levying date fixed in such ordinance, and the last publication shall be made not less than seven (7) days prior to such date. When published in a newspaper, if no newspaper is published in the municipality, then notice shall be given by publishing the ordinance for the required time in some newspaper published in the same or an adjoining county having a general circulation in the municipality. A copy of the ordinance shall also be posted at three (3) public places in the municipality for a period of at least twenty-one (21) days during the time of its publication in a newspaper, or on a free, publicly accessible, official government website. The publication of the ordinance may be made as provided in Section 21-17-19. Proof of publication must also be furnished to the Chairman of the * * * Department of Revenue.

(b) If more than twenty percent (20%) of the qualified electors of the municipality having no city utility tax shall file with the clerk of the municipality within twenty-one (21) days after adoption of the ordinance of intent to qualify for the

collection of the tax, a petition requesting an election on the question of the levy of such tax, then and in that event such tax levy shall not be made unless authorized by a majority of the votes cast at an election to be called and held for that purpose. Notice of such election shall be given, the election shall be held and the result thereof determined in the manner provided in Title 21, Chapter 11, of the Mississippi Code of 1972. In the event of an election resulting in favor of the levy or where no election is required, the governing authorities shall adopt another ordinance qualifying for the collection of the tax provided in the City Utility Tax Law, and shall set the first of a month following the date of such adoption as the effective date of the tax levy. A certified copy of this ordinance together with the result of the election, if any, shall be immediately furnished the Chairman of the *** * *** Department of Revenue. Upon receipt of the certified ordinance and other official notice from the municipality, the chairman shall notify the utilities in such municipality which are affected by the City Utility Tax Law, and take the necessary action to collect the tax. The first payment of the tax after its adoption shall be on all receipts of the utility derived from all billings made fifteen (15) days after the effective date of said adoption.

SECTION 29. Section 21-33-307, Mississippi Code of 1972, is amended as follows:

21-33-307. Before issuing any bonds for any of the purposes enumerated in Section 21-33-301, the governing authority of the issuing municipality shall adopt a resolution declaring its intention so to do, stating the amount of bonds proposed to be issued and the purpose for which the bonds are to be issued, and the date upon which the aforesaid authority proposes to direct the issuance of such bonds. Such resolution shall be published either on a free, publicly accessible, official government website for three (3) consecutive weeks, or once a week for at least three (3) consecutive weeks in at least one (1) newspaper published in such municipality. The first publication of such resolution shall be made not less than twenty-one (21) days prior to the date fixed in such resolution for the issuance of the bonds, and the last publication shall be made not more than seven (7) days prior to such date. When published in a newspaper, if no newspaper be published in such municipality, then such notice shall be given by publishing the resolution for the required time in some newspaper having a general circulation in such municipality and, in addition, by posting a copy of such resolution for at least twenty-one (21) days next preceding the date fixed therein at three (3) public places in such municipality. The publication of the resolution may be made as provided in Section 21-17-19. If ten percent (10%) of the qualified electors of the municipality, or fifteen hundred (1500), whichever is the lesser, shall file a written protest against the issuance of such bonds on or before

the date specified in such resolution, then an election on the question of the bonds shall be called and held as is provided in Section 21-33-309. Notice of such election shall be signed by the clerk of the municipality and shall be published either on a free, publicly accessible, official government website for three (3) consecutive weeks, or once a week for at least three (3) consecutive weeks in at least one (1) newspaper published in such municipality. The first publication of such notice shall be made not less than twenty-one (21) days prior to the date fixed for such election, and the last publication shall be made not more than seven (7) days prior to such date. When published in a newspaper, if no newspaper is published in such municipality, then such notice shall be given by publishing the same for the required time in some newspaper having a general circulation in such municipality and published in the same or an adjoining county and, in addition, by posting a copy of such notice for at least twenty-one (21) days next preceding such election at three (3) public places in such municipality. If no protest be filed, then such bonds may be issued without an election on the question of the issuance thereof, at any time within a period of two (2) years after the date specified in the above-mentioned resolution. However, the governing authority of any municipality in its discretion may nevertheless call an election on such question, in which event it shall not be necessary to publish the resolution declaring its intention to issue such bonds as herein provided.

Under no circumstances shall any municipality exceed the bond limit as set by statute for municipalities.

SECTION 30. Section 21-35-5, Mississippi Code of 1972, is amended as follows:

21-35-5. The governing authorities of each municipality of the State of Mississippi shall, not later than September 15 each year, prepare a complete budget of the municipal revenues, expenses and working cash balances estimated for the next fiscal year, and shall prepare a statement showing the aggregate revenues collected during the current year in said municipality for municipal purposes. Such statement shall show every source of revenue along with the amount derived from each source. Said budget of any municipality of one thousand five hundred (1,500) inhabitants or more, according to the last preceding federal census, with said statement of revenue and expenses, shall be published at least one (1) time during September of said year either on a free, publicly accessible, official government website, or in a newspaper published in such municipality or, if no newspaper be published in such municipality, in any newspaper published in the county wherein the municipality is located. In municipalities of less than one thousand five hundred (1,500) inhabitants, according to the last preceding federal census, as many as three (3) prepared statements of said budget shall be posted in three (3) public places in said municipalities.

Prior to the adoption of a budget pursuant to this section, the governing authority of each municipality shall hold at least one (1) public hearing to provide the general public with an opportunity to comment on the taxing and spending plan incorporated in the proposed budget. The public hearing shall be held at least one (1) week prior to the adoption of the budget with advance notice and held outside normal working hours. The advance notice shall include an announcement published or posted in the same manner as required for the final adopted budget.

SECTION 31. Section 21-35-31, Mississippi Code of 1972, is amended as follows:

21-35-31. (1) The governing authority of every municipality in the state shall have the municipal books audited annually, before the close of the next succeeding fiscal year, in accordance with procedures and reporting requirements prescribed by the State Auditor. The municipality shall pay for the audit or report out of its general fund. No advertisement shall be necessary before entering into the contract, and it shall be entered into as a private contract. The audit or report shall be made upon a uniform formula set up and promulgated by the State Auditor, as the head of the State Department of Audit, or the director thereof, appointed by him, as designated and defined in Title 7, Chapter 7, Mississippi Code of 1972, or any office or officers hereafter designated to replace or perform the duties imposed by said chapter. Two (2) copies of the audit or report shall be

mailed to the said State Auditor within thirty (30) days after completion. The State Auditor, at the end of each fiscal year, shall submit to the Legislature a composite report showing any information concerning municipalities in this state that the Auditor deems pertinent and necessary to the Legislature for use in its deliberations. A synopsis of the audit or report, in a format prescribed by the State Auditor, shall be published within thirty (30) days by the governing authority of each municipality either on a free, publicly accessible, official government website, or in a newspaper published in the municipality or, when published in a newspaper, if no newspaper is published in a municipality, in any newspaper having a general circulation published in the county wherein the municipality is located. The publication of the audit or report may be made as provided in Section 21-17-19. Publication shall be made one (1) time, and the governing authority of each municipality shall be authorized to pay only one-half (1/2) of the legal rate prescribed by law for such legal publication.

(2) It shall be the duty of the State Auditor to determine whether each municipality has complied with the requirements of subsection (1) of this section. If upon examination the State Auditor determines that a municipality has not initiated efforts to comply with the requirements of subsection (1), the State Auditor shall file a certified written notice with the clerk of the municipality notifying the governing authority of the

municipality that a certificate of noncompliance will be issued to the * * * Department of Revenue and to the Attorney General thirty (30) days immediately following the date of the filing of the notice unless within that period the municipality substantially complies with the requirements of subsection (1). If, after thirty (30) days from the giving of the notice, the municipality, in the opinion of the State Auditor, has not substantially initiated efforts to comply with the requirements of subsection (1), the State Auditor shall issue a certificate of noncompliance to the clerk of the municipality, * * * Department of Revenue and the Attorney General. Thereafter, the * * * Department of Revenue shall withhold from all allocations and payments to the municipality that would otherwise be payable the amount necessary to pay one hundred fifty percent (150%) of the cost of preparing the required audit or report as contracted for by the State Auditor. The cost shall be determined by the State Auditor after receiving proposals for the audit or report required in subsection (1) of this section. The State Auditor shall notify the * * * Department of Revenue of the amount in writing, and the * * * Department of Revenue shall transfer that amount to the State Auditor. The State Auditor is authorized to escalate, budget and expend these funds in accordance with rules and regulations of the Department of Finance and Administration consistent with the escalation of federal funds. All remaining funds shall be retained by the State Auditor to offset the costs of administering

these contracts. The State Auditor shall not unreasonably delay the issuance of a written notice of cancellation of a certificate of noncompliance but shall promptly issue a written notice of cancellation of certificate of noncompliance upon an affirmative showing by the municipality that it has come into substantial compliance.

SECTION 32. Section 21-39-3, Mississippi Code of 1972, is amended as follows:

21-39-3. If a municipality chooses to use a newspaper to publish its notices instead of posting them on the official government website, in municipalities in which there is more than one (1) newspaper qualified to publish legal notices, the governing authorities of such municipality shall enter into a contract for the publication of its proceedings, ordinances, resolutions, and other notices required to be published only after inviting competitive bids from such newspapers. Such contracts shall be let to the lowest bidder among them for a period of not more than twelve (12) months from the date of such contract. It shall not be necessary, however, that the governing authorities of such municipality advertise its intention to accept such competitive bids but it shall be sufficient if notice thereof in writing be given to all of such newspapers by mail or delivery at least five (5) days prior to the date on which said bids will be received, which said notice shall specify the date on which such bids will be received.

SECTION 33. Section 21-41-51, Mississippi Code of 1972, is amended as follows:

21-41-51. Except as may be otherwise provided, where, by any provision of this chapter, notice is required to be given by publication, such publication made shall be either on a free, publicly accessible, official government website, or in a newspaper published in the municipality, if there be one (1). If there be no newspaper published in the municipality, then such notice shall be posted for the prescribed period of time on the official government website, and in at least five (5) public places in the municipality, one (1) of which shall be the city or town hall, or the place of meeting of the governing authorities, if there be no city or town hall.

SECTION 34. Section 21-45-11, Mississippi Code of 1972, is amended as follows:

21-45-11. Any tax increment financing plan, at a minimum, shall contain:

(a) A statement of the objectives of a municipality with regard to the plan;

(b) A statement indicating the need and proposed use of the tax increment financing plan in relationship to the redevelopment plan;

(c) A statement containing the cost estimates of the redevelopment project and the projected sources of revenue (ad valorem taxes, sales taxes, and the proceeds of any other

financial assistance) to be used to meet the costs including estimates of tax increments and the total amount of indebtedness to be incurred;

(d) A list of all real property to be included in the tax increment financing plan;

(e) The duration of the tax increment financing plan's existence;

(f) A statement of the estimated impact of the tax increment financing plan upon the revenues of all taxing jurisdictions in which a redevelopment project is located; and

(g) A statement requiring that a separate fund be established to receive ad valorem taxes and the proceeds of any other financial assistance.

Before approving any tax increment financing plan, the governing body shall hold a public hearing thereon after published notice either on a free, publicly accessible, official government website, or in a newspaper in which the municipality is authorized to publish legal notices at least once and not less than ten (10) days and not more than twenty (20) days prior to the hearing.

SECTION 35. Section 23-15-315, Mississippi Code of 1972, is amended as follows:

23-15-315. The county executive committee chairman shall publish a copy of his call for a meeting either on a free, publicly accessible, official government website for three (3) consecutive weeks, or in some newspaper published at least once

per week in the municipality affected for three (3) weeks preceding the date set for the mass convention, or if there be no newspaper published in the municipality, then in some newspaper having general circulation in the municipality and by posting notices continuously in three (3) public places in the municipality, one (1) of which shall be city hall or be the regular location where the municipal governing authority meets to conduct business not less than three (3) weeks before the date for the mass convention.

SECTION 36. Section 23-15-857, Mississippi Code of 1972, is amended as follows:

23-15-857. (1) When there is a vacancy in an elective office in a city, town or village, the unexpired term of which shall not exceed six (6) months, the same shall be filled by appointment by the governing authority or remainder of the governing authority of the city, town or village. The municipal clerk shall certify the appointment to the Secretary of State and the appointed person or persons shall be commissioned by the Governor.

(2) When there is a vacancy in an elective office in a city, town or village, the unexpired term of which shall exceed six (6) months, the governing authority or remainder of the governing authority of the city, town or village shall make and enter on the minutes an order for an election to be held in the city, town or village to fill the vacancy and fix a date upon which the election

shall be held. The order shall be made and entered upon the minutes at the next regular meeting of the governing authority after the vacancy occurs, or at a special meeting to be held not later than ten (10) days after the vacancy occurs, Saturdays, Sundays and legal holidays excluded, whichever shall occur first. The election shall be held on a date not less than thirty (30) days nor more than forty-five (45) days after the date upon which the order is adopted.

Notice of the election shall be given by the municipal clerk by notice published in a newspaper published <u>either on a free, publicly accessible, official government website for three (3) consecutive weeks, or</u> in the municipality. The notice shall be published once each week for three (3) successive weeks preceding the date of the election. The first notice shall be published at least thirty (30) days before the date of the election. Notice shall also be given by posting a copy of the notice at three (3) public places in the municipality not less than twenty-one (21) days before the date of the election. One (1) of the notices shall be posted at the city, town or village hall. In the event that there is no newspaper published in the municipality, such notice shall be published as provided for above in a newspaper that has a general circulation within the municipality and by posting as provided for above. Additionally, the governing authority may publish the notice in that newspaper for as many

additional times as may be deemed necessary by the governing authority.

Each candidate shall qualify by petition filed with the municipal clerk by 5:00 p.m. at least twenty (20) days before the date of the election. If the twentieth day to file the petition before the election falls on a Sunday or legal holiday, the petition filed on the business day immediately following the Sunday or legal holiday shall be accepted. The petition shall be signed by not less than the following number of qualified electors:

(a) For an office of a city, town, village or municipal district having a population of one thousand (1,000) or more, not less than fifty (50) qualified electors.

(b) For an office of a city, town, village or municipal district having a population of less than one thousand (1,000), not less than fifteen (15) qualified electors.

No qualifying fee shall be required of any candidate, and the election shall be held as far as practicable in the same manner as municipal general elections.

The candidate receiving a majority of the votes cast in the election shall be elected. If no candidate receives a majority vote at the election, the two (2) candidates receiving the highest number of votes shall have their names placed on the ballot for the election to be held three (3) weeks thereafter. The candidate receiving a majority of the votes cast in the election shall be

elected. However, if no candidate receives a majority and there is a tie in the election of those receiving the next highest vote, those receiving the next highest vote and the candidate receiving the highest vote shall have their names placed on the ballot for the election to be held three (3) weeks thereafter, and whoever receives the most votes cast in the election shall be elected.

Should the election held three (3) weeks thereafter result in a tie vote, the prevailing candidate shall be decided by a toss of a coin or by lot fairly and publicly drawn under the supervision of the election commission.

The clerk of the election commission shall then give a certificate of election to the person elected, and return to the Secretary of State a copy of the order of holding the election and runoff election results, certified by the clerk of the governing authority. The person elected shall be commissioned by the Governor.

However, if nineteen (19) days before the date of the election only one (1) person shall have qualified as a candidate, the governing authority, or remainder of the governing authority, shall dispense with the election and appoint that one (1) candidate in lieu of an election. In the event no person shall have qualified by 5:00 p.m. at least twenty (20) days before the date of the election, the governing authority or remainder of the governing authority shall dispense with the election and fill the vacancy by appointment. The clerk of the governing authority

shall certify the appointment to the Secretary of State, and the appointed person shall be commissioned by the Governor.

SECTION 37. Section 25-1-63, Mississippi Code of 1972, is amended as follows:

25-1-63. If any state, state district, county, county district, or other public officer who is required by law to make any report to or settlement with another officer, or in any manner to account with such officer, shall fail to make the report or settlement or to account within ten (10) days after the date on which such report, settlement, or accounting should be made or had or within such reasonable extended time, not exceeding thirty (30) days, as such other officer in a proper case may allow, the fact of such default shall be published by the officer to or with whom the report, settlement, or accounting should be made or had either on a free, publicly accessible, official government website for three (3) consecutive weeks, or in a newspaper published in the county of the defaulter's residence, if there be one so published willing to make the publication, and, if not, then in one published at the capital. If any officer to or with whom any such defaulter should report, settle, or account shall fail to make such publication within fifty (50) days after the date of the original default, any citizen who is not a surety of the defaulter may bring an action against the officer so failing to publish the defaulter, personally or on his bond, and shall recover all damages to such citizen and a penalty of Five Hundred Dollars

($500.00); and, to recover the penalty, it shall not be necessary to show any damages, provided that only one (1) penalty shall be recovered. Two Hundred Fifty Dollars ($250.00) of the penalty, in the case of a state or state district officer, shall be paid into the State Treasury, and in case of a county or county district officer, into the county treasury, and the other half to the person suing. It shall be the duty of the district attorney to bring all such suits.

SECTION 38. Section 27-31-50, Mississippi Code of 1972, is amended as follows:

27-31-50. (1) The governing authority of any incorporated municipality may adopt an ordinance providing for the partial exemption from municipal ad valorem taxation of real property on which any structure or other improvement that is not less than twenty-five (25) years of age has undergone substantial rehabilitation, renovation or replacement for residential use, subject to such conditions and other restrictions authorized in this section. The ordinance may restrict such exemption to real property located within certain areas as may be determined by the governing authority and prescribed by the ordinance. The governing authority of a municipality shall establish criteria for determining whether real property qualifies for the partial exemption provided for in this section, shall require the structures or improvements to be older than twenty-five (25) years of age and may place such other restrictions and conditions on

such property as may be prescribed by ordinance. The ordinance may also provide for the partial exemption from municipal ad valorem taxation of multifamily residential units which have been substantially rehabilitated by replacement for multifamily use. Any replacement structure shall not exceed the total square footage of the replaced structures by more than thirty percent (30%).

(2) The partial exemption provided by an ordinance adopted pursuant to this section may be (a) in an amount equal to the increase in the assessed value of the property resulting from the rehabilitation, renovation or replacement of the structure as determined by the tax assessor, or (b) an amount of not more than fifty percent (50%) of the cost of the rehabilitation, renovation or replacement. The exemption may commence upon completion of the rehabilitation, renovation or replacement or on January 1 of the year following completion of the rehabilitation, renovation or replacement and shall last for a period of time not to exceed ten (10) years. The ordinance may prescribe a shorter time period for the length of the exemption, or reduce the amount of the exemption in annual steps over the length of the exemption or a portion thereof.

(3) The governing authority of a municipality may assess a fee not to exceed Fifty Dollars ($50.00) for processing an application requesting the exemption provided for in this section. No property shall be eligible for the exemption unless the

appropriate building permits have been acquired and the tax assessor has verified that the rehabilitation, renovation or replacement indicated on the application has been completed.

(4) If the governing authority of a municipality desires to grant a partial exemption after July 1, 2000, the governing authority must adopt an ordinance declaring its intention to grant the exemption and finding that such exemption will promote the economic, cultural or educational advancement of the municipality. The governing authority of the municipality shall publish either on a free, publicly accessible, official government website, or in a newspaper, notice of its intention to grant the exemption at least ten (10) days before the actual granting of the exemption.

SECTION 39. Section 27-33-33, Mississippi Code of 1972, is amended as follows:

27-33-33. (1) The county tax assessor shall perform such duties as are generally required by him by this article and with respect to exempt homesteads, and the application therefor, and his duties are specifically defined as follows:

(a) He shall, in each year the land roll is made, require that all lands and buildings which have been or are claimed for homestead exemption be separately assessed on the land roll; and he shall, in the case of homestead lands not already separately assessed on the land roll, prepare proper notice to the board of supervisors requesting that the land assessment roll be changed so that all homestead property shall be separately

assessed; and in the case of newly constructed dwellings, he shall carefully inspect the same and recommend to the board the value at which such dwellings should be assessed; and when rural lands are divided and a part included in the homestead exemption, he shall assess the respective tracts at the value used for cultivable lands and for uncultivable lands, and fairly assess homesteads and nonhomesteads at the same proportion to true value.

(b) He shall keep available a supply of the prescribed blank homestead exemption applications, and he shall require each applicant to properly execute the application in entire conformity with the requirements of Section 27-33-31.

(c) He shall aid the applicant in executing the application.

(d) He shall notify the applicant if an application for homestead exemption is incorrect or incomplete in any substantial particular, and require that it be properly and completely executed before accepting it for delivery to the clerk.

(e) He shall, when an application is accepted by him, retain the original, the duplicate and the triplicate. He shall endorse "filed" on the quadruplicate with the date and his official signature and return it to the applicant as evidence of the application and that it was filed.

(f) He shall promptly give to the board of supervisors any knowledge or information he may have, or any fact he may have knowledge of, bearing on the eligibility of the applying person or

property and not revealed in the application; and note on the application any condition requiring special consideration.

(g) He shall, on the first day of each month, deliver to the clerk of the board of supervisors all originals and duplicates of applications for homestead exemption received and accepted by him during the preceding month.

(h) He shall attend all meetings of the board when any matter with respect to homestead exemptions is being considered by it and shall render such assistance and perform such services as the board may direct from time to time.

(i) He shall, at least ten (10) days but not more than thirty (30) days prior to April 1 of each year, publish notice either on a free, publicly accessible, official government website, or in a newspaper having general circulation in the county in which he serves as tax assessor informing persons who are receiving homestead exemption that the tax assessor must be notified if changes have occurred in the status of the homestead in the property description, ownership, use or occupancy since January 1 of the preceding year and that, in the event such persons are still eligible for homestead exemption, a new application for homestead exemption must be filed.

(2) (a) If the tax assessor discovers a change in ownership in a portion of the homestead property that may result in the homestead exemption being applied to ineligible property and the owner of the homestead property fails to file a new application

during the preceding year as required by Section 27-33-31, the tax assessor may amend the application to reflect such change on or before June 1 of that roll year.

(b) If parcel number changes occur due to reappraisal, mapping maintenance or updates, the tax assessor may amend the homestead application to reflect such changes on behalf of the owner of the homestead on or before June 1 of that roll year.

(c) If a change in ownership occurs because of the death of an owner and the surviving spouse of the owner is still eligible for homestead exemption and not required to file a new application, the tax assessor may amend the application by removing the name of the deceased spouse and adding the surviving spouse's birth date for the purpose of correcting the land roll and the supplemental roll.

(d) Should eligible property on an initial or renewed application fail to be listed due to a clerical error, such application may be amended by the tax assessor on behalf of the applicant to list such eligible property prior to the last Monday in August.

(e) Amendments made to applications under this subsection may be allowed by the board of supervisors and certified to the commission.

SECTION 40. Section 27-35-83, Mississippi Code of 1972, is amended as follows:

27-35-83. The board of supervisors shall immediately at the July meeting proceed to equalize such rolls and shall complete such equalization at least ten (10) days before the August meeting, and shall immediately by either on a free, publicly accessible, official government website, or newspaper publication notify the public that such rolls so equalized are ready for inspection and examination. In counties having two (2) judicial districts, the board shall by order designate on what days during August it will begin in each of the two (2) districts upon its hearing of objections, and these days shall be named in the said notice, and the board shall be authorized to hold its sessions in the two (2) districts respectively as designated in the order aforesaid. The foregoing provision with reference to counties with two (2) judicial districts shall apply to any subsequent meetings whereof notice to taxpayers is necessary to be given.

SECTION 41. Section 27-39-329, Mississippi Code of 1972, is amended as follows:

27-39-329. (1) Each county shall, in addition to all other taxes authorized by any statute and notwithstanding any limitation provided in this article, levy ad valorem taxes pursuant to subsection (2) of this section.

(2) (a) Any county which has, prior to October 1, 1982, under the provisions of Section 27-39-3, or any other statute authorizing the retention of any state millage or the levying of any county millage, retained a net amount of revenue produced by

the state ad valorem tax collected in such county or levied any tax, the proceeds of which have been committed for any purpose authorized by Section 27-39-7 or any other statute authorizing the retention of any state millage or the levying of any county millage, or for the support of a water management district, development district or other district or authority created by law for the improvement and development or operation of a port or harbor or for the payment of any bonds, notes or other indebtedness, or for any other purpose authorized by any statute authorizing the retention of any state millage or the levying of any county millage, shall, for the fiscal year 1983 and annually thereafter, levy a tax sufficient to produce the amount of revenue necessary to fulfill such commitment or pay all such bonds, notes or other indebtedness together with the interest thereon as the same shall become due and payable, to continue at the same level the support and operation of such authority or district created by law, as long as the county remains a member, and to fulfill any other purpose authorized by any statute authorizing the retention of any state millage or the levying of any county millage. Any county which has, pursuant to a contract between the Mississippi Board of Economic Development or its predecessor and a city located therein, retained a net amount of revenue, produced by two (2) mills of the state ad valorem tax collected in such county, the proceeds of which have been committed for the improvement, development, operation and expansion of a state port or for the

payment of any indebtedness incurred for such purposes, shall, for the fiscal year 1983 and annually thereafter until the completion of property reappraisal as certified by the * * * Department of Revenue, levy a tax of two (2) mills to fulfill such commitment consistent with the terms of said contract; however, for the fiscal year after property reappraisal as certified by the * * * Department of Revenue and annually thereafter, such county shall levy an ad valorem tax sufficient to generate revenue equal to the avails of the two-mill levy imposed for the fiscal year next preceding the initial use of such reappraised property values, to fulfill such commitment consistent with the terms of said contract.

Any county which is a member of the Tombigbee River Valley Water Management District may at such time as the district, by determination of the U.S. Army Corps of Engineers, has completely fulfilled all its obligations as local sponsor for the Tennessee-Tombigbee Waterway Project pursuant to Public Law 79-525, 60 Stat. 634 (1946), and has completely fulfilled its obligations for any other lawful project where the district serves as local sponsor, elect to withdraw from or terminate its membership in said district. Upon completion as determined by the U.S. Corps of Engineers, and in order to withdraw from or terminate its membership in the district, the board of supervisors of any county so desiring shall declare its intention by adopting a resolution so stipulating and spreading such executed resolution

upon its minutes and publish such resolution either on a free, publicly accessible, official government website for three (3) consecutive weeks, or once each week for three (3) consecutive weeks in some newspaper published in the county or in a newspaper having a general circulation therein. If, within the time of giving notice, twenty percent (20%) or fifteen hundred (1500), whichever is less, of the qualified electors of the county shall protest or file a petition against the county's withdrawal from or termination of its membership in the district, then such withdrawal or termination of membership shall not occur unless authorized by a majority of the qualified electors of such county voting at an election to be called and held for that purpose. If the county's withdrawal from or termination of its membership in the district is authorized in the manner set forth herein, the board of supervisors shall mail by regular United States Mail a certified copy of its executed resolution to the general office of the Tombigbee River Valley Water Management District. Upon full compliance as heretofore and hereafter directed, the Tombigbee River Valley Water Management District shall enter its order on its minutes terminating or withdrawing the membership of the county as of September 30 following, thereby approving the termination or withdrawal of the county and suspending the levy or levies of ad valorem taxes used to support the district. Provided, however, that the board of supervisors shall not suspend the levy or levies of any millage pledged to support the issuance

of any bonds or notes in the name of the district during the period of time that such county was a member of the district and which levies were outstanding at the time of the withdrawal and/or termination; and it is further provided, said county shall be liable and responsible for its pro rata share of any present and/or subsequent judgments or liens filed against the district until the statute of limitations shall have run against the district. "Pro rata share" shall be determined by dividing the total ad valorem tax contribution of such withdrawing county by the total of all ad valorem tax contributions of all member counties in the district multiplied by the total of the outstanding bonded indebtedness and other indebtedness funded by such ad valorem levy or levies, as of the date such indebtedness was incurred.

After the commitment has been fulfilled and is certified by the *** * *** Department of Revenue as having been fulfilled, the board of supervisors may continue to levy a millage for each fiscal year necessary to produce that same dollar amount as the previous fiscal year for the same purpose or for any other purpose for which any portion of the former state ad valorem tax levy could heretofore have been retained, or for general county purposes. After such commitment has been fulfilled, any county which chooses to continue a levy for the same purpose for which such levy was being made may do so in its discretion. Any county which wishes to continue a levy for any other purpose for which

the state ad valorem tax could have been retained or for general county purposes may do so only after an election has been held as follows: such tax shall not be levied until the board shall have published notice of its intention to levy same; said notice to be published either on a free, publicly accessible, official government website for three (3) consecutive weeks, or once each week for three (3) weeks in some newspaper having a general circulation in the county, but not less than twenty-one (21) days, nor more than sixty (60) days, intervening between the time of the first notice and the meeting at which said board proposes to levy such tax. If, within the time of giving notice, twenty percent (20%) or three thousand (3,000) of the qualified electors of the county, whichever is less, shall protest or file a petition against the levy of such tax, then such tax shall not be levied unless authorized by a three-fifths (3/5) majority of the qualified electors of such county, voting at an election to be called and held for that purpose.

In all cases where a county which is a member of the Pat Harrison Waterway District levied an ad valorem tax for the 1996 calendar year for any purpose authorized in this paragraph (a), such levy is hereby ratified, confirmed and validated.

(b) Beginning with taxes levied for the fiscal year 1983, each county shall levy each year an ad valorem tax of one (1) mill upon all taxable property of the county which may be used for any purpose for which counties are authorized by law to levy

an ad valorem tax, but the avails of such tax levy shall not be expended unless and until the * * * Department of Revenue has certified that the county has a method of maintaining assessment records in accordance with * * * department rules and regulations, has an ownership mapping system as provided in Section 27-35-53 in conformity with * * * department specifications, maintains certified appraisers as provided in Section 27-3-52, and complies with requests by the * * * department for sales data under Section 27-3-51.

In the event the * * * department enters its order directing that the avails of this levy be paid to the * * * department pursuant to Section 27-35-113, then the county shall comply with the * * * department's directions and the monies paid shall remain in escrow until the county is in compliance with acceptable performance standards for the appraisal of property in accordance with Section 27-35-113.

The * * * department, prior to October 1 of each year, shall notify each county whether or not it is certified as being in compliance with the requirements of subsection (2)(b). A copy of the notice shall be forwarded to the State Auditor. Any county not certified as being in compliance with any requirements of this subsection (2)(b), except where the * * * department has entered its order requiring the escrowing of these funds pursuant to Section 27-35-113, shall deposit the avails of the levy described herein in an interest-bearing special account and such avails,

including interest earned thereon, shall not be expended until such county has been certified by the * * * department, for each fiscal year, to be in compliance with this subsection (2)(b).

(c) The tax levies required in this section shall not be exempt under the provisions of Section 27-31-101.

SECTION 42. Section 27-43-3, Mississippi Code of 1972, is amended as follows:

27-43-3. The clerk shall issue the notice to the sheriff of the county of the reputed owner's residence, if he is a resident of the State of Mississippi, and the sheriff shall be required to serve notice as follows:

(a) Upon the reputed owner personally, if he can be found in the county after diligent search and inquiry, by handing him a true copy of the notice;

(b) If the reputed owner cannot be found in the county after diligent search and inquiry, then by leaving a true copy of the notice at his usual place of abode with the spouse of the reputed owner or some other person who lives at his usual place of abode above the age of sixteen (16) years, and willing to receive the copy of the notice; or

(c) If the reputed owner cannot be found after diligent search and inquiry, and if no person above the age of sixteen (16) years who lives at his usual place of abode can be found at his usual place of abode who is willing to receive the copy of the

notice, then by posting a true copy of the notice on a door of the reputed owner's usual place of abode.

The sheriff shall make his return to the chancery clerk issuing the notice. The clerk shall also mail a copy of the notice to the reputed owner at his usual street address, if it can be ascertained after diligent search and inquiry, or to his post-office address if only that can be ascertained, and he shall note such action on the tax sales record. The clerk shall also be required to publish the name and address of the reputed owner of the property and the legal description of the property either on a free, publicly accessible, official government website for three (3) consecutive weeks, or in a public newspaper of the county in which the land is located, or if no newspaper is published as such, then in a newspaper having a general circulation in the county. The publication shall be made at least forty-five (45) days prior to the expiration of the redemption period.

If the reputed owner is a nonresident of the State of Mississippi, then the clerk shall mail a copy of the notice to the reputed owner in the same manner as set out in this section for notice to a resident of the State of Mississippi, except that notice served by the sheriff shall not be required.

Notice by mail shall be by registered or certified mail. In the event the notice by mail is returned undelivered and the notice as required in this section to be served by the sheriff is returned not found, then the clerk shall make further search and

inquiry to ascertain the reputed owner's street and post-office address. If the reputed owner's street or post-office address is ascertained after the additional search and inquiry, the clerk shall again issue notice as set out in this section. If notice is again issued and it is again returned not found and if notice by mail is again returned undelivered, then the clerk shall file an affidavit to that effect and shall specify in the affidavit the acts of search and inquiry made by him in an effort to ascertain the reputed owner's street and post-office address and the affidavit shall be retained as a permanent record in the office of the clerk and that action shall be noted on the tax sales record. If the clerk is still unable to ascertain the reputed owner's street or post-office address after making search and inquiry for the second time, then it shall not be necessary to issue any additional notice but the clerk shall file an affidavit specifying the acts of search and inquiry made by him in an effort to ascertain the reputed owner's street and post-office address and the affidavit shall be retained as a permanent record in the office of the clerk and that action shall be noted on the tax sale record.

For examining the records to ascertain the record owner of the property, the clerk shall be allowed a fee of Fifty Dollars ($50.00); for issuing the notice the clerk shall be allowed a fee of Two Dollars ($2.00) and, for mailing the notice and noting that action on the tax sales record, a fee of One Dollar ($1.00); and

for serving the notice, the sheriff shall be allowed a fee of Thirty-five Dollars ($35.00). For issuing a second notice, the clerk shall be allowed a fee of Five Dollars ($5.00) and, for mailing the notice and noting that action on the tax sales record, a fee of Two Dollars and Fifty Cents ($2.50), and for serving the second notice, the sheriff shall be allowed a fee of Thirty-five Dollars ($35.00). The clerk shall also be allowed the actual cost of publication. The fees and cost shall be taxed against the owner of the land if the land is redeemed, and if not redeemed, then the fees are to be taxed as part of the cost against the purchaser. The failure of the landowner to actually receive the notice herein required shall not render the title void, provided the clerk and sheriff have complied with the duties prescribed for them in this section.

Should the clerk inadvertently fail to send notice as prescribed in this section, then the sale shall be void and the clerk shall not be liable to the purchaser or owner upon refund of all purchase money paid.

SECTION 43. Section 27-65-3, Mississippi Code of 1972, is amended as follows:

27-65-3. The words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them herein.

(a) "Tax Commission" or "department" means the Department of Revenue of the State of Mississippi.

(b) "Commissioner" means the Commissioner of Revenue of the Department of Revenue.

(c) "Person" means and includes any individual, firm, copartnership, joint venture, association, corporation, promoter of a temporary event, estate, trust or other group or combination acting as a unit, and includes the plural as well as the singular in number. "Person" shall include husband or wife, or both, where joint benefits are derived from the operation of a business taxed hereunder. "Person" shall also include any state, county, municipal or other agency or association engaging in a business taxable under this chapter.

(d) "Tax year" or "taxable year" means either the calendar year or the taxpayer's fiscal year.

(e) "Taxpayer" means any person liable for or having paid any tax to the State of Mississippi under the provisions of this chapter. A taxpayer is required to obtain a sales tax permit under Section 27-65-27 before engaging in business in this state. If a taxpayer fails to obtain a sales tax permit before engaging in business in this state, the taxpayer shall pay the retail rate on all purchases of tangible personal property and/or services in this state, even if purchased for resale. Upon obtaining a sales tax permit, a previously unregistered taxpayer shall file sales tax returns for all tax periods during which he engaged in business in this state without a sales tax permit, and report and pay the sales tax accruing from his operation during this period

and any applicable penalties and interest. On such return, the taxpayer may take a credit for any sales taxes paid during the period he operated without a sales tax permit on a purchase that would have constituted a wholesale sale if the taxpayer had a sales tax permit at the time of the purchase and if proper documentation exists to substantiate a wholesale sale. This credit may also be allowed in any audit of the taxpayer. Any penalties and interest owed by the taxpayer on the return or in an audit for a period during which he operated without a sales tax permit may be determined based on the sales tax accruing from the taxpayer's operation for that period after the taking of this credit.

(f) "Sale" or "sales" includes the barter or exchange of property as well as the sale thereof for money or other consideration, and every closed transaction by which the title to taxable property passes shall constitute a taxable event.

"Sale" shall also include the passing of title to property for a consideration of coupons, trading stamps or by any other means when redemption is subsequent to the original sale by which the coupon, stamp or other obligation was created.

The situs of a sale for the purpose of distributing taxes to municipalities shall be the same as the location of the business from which the sale is made except that:

(i) Retail sales along a route from a vehicle or otherwise by a transient vendor shall take the situs of delivery to the customer.

(ii) The situs of wholesale sales of tangible personal property taxed at wholesale rates, the amount of which is allowed as a credit against the sales tax liability of the retailer, shall be the same as the location of the business of the retailer receiving the credit.

(iii) The situs of wholesale sales of tangible personal property taxed at wholesale rates, the amount of which is not allowed as a credit against the sales tax liability of the retailer, shall have a rural situs.

(iv) Income received from the renting or leasing of property used for transportation purposes between cities or counties shall have a rural situs.

(g) "Delivery charges" shall mean and include any expenses incurred by a seller in acquiring merchandise for sale in the regular course of business commonly known as "freight-in" or "transportation costs-in." "Delivery charges" also include any charges made by the seller for delivery of property sold to the purchaser.

(h) "Gross proceeds of sales" means the value proceeding or accruing from the full sale price of tangible personal property, including installation charges, without any deduction for delivery charges, cost of property sold, other

expenses or losses, or taxes of any kind except those expressly exempt by this chapter.

"Gross proceeds of sales" includes consideration received by the seller from third parties if:

(i) The seller actually received consideration from a party other than the purchaser and the consideration is directly related to a price reduction or discount on the sale;

(ii) The seller has an obligation to pass the price reduction or discount through to the purchaser;

(iii) The amount of the consideration attributable to the sale is fixed and determinable by the seller at the time of the sale of the item to the purchaser; and

(iv) One (1) of the following criteria is met:

1. The purchaser presents a coupon, certificate or other documentation to the seller to claim a price reduction or discount where the coupon, certificate or documentation is authorized, distributed or granted by a third party with the understanding that the third party will reimburse any seller to whom the coupon, certificate or documentation is presented;

2. The purchaser identified himself or herself to the seller as a member of a group or organization entitled to a price reduction or discount (a "preferred customer" card that is available to any patron does not constitute membership in such a group); or

3. The price reduction or discount is identified as a third-party price reduction or discount on the invoice received by the purchaser or on a coupon, certificate or other documentation presented by the purchaser.

Where a trade-in is taken as part payment on tangible personal property sold, "gross proceeds of sales" shall include only the difference received between the selling price of the tangible personal property and the amount allowed for a trade-in of property of the same kind. When the trade-in is subsequently sold, the selling price thereof shall be included in "gross proceeds of sales."

"Gross proceeds of sales" shall include the value of any goods, wares, merchandise or property purchased at wholesale or manufactured, and any mineral or natural resources produced, which are withdrawn or used from an established business or from the stock in trade for consumption or any other use in the business or by the owner. However, "gross proceeds of sales" does not include meals prepared by a restaurant and provided at no charge to employees of the restaurant or donated to a charitable organization that regularly provides food to the needy and the indigent and which has been granted exemption from the federal income tax as an organization described in Section 501(c)(3) of the Internal Revenue Code of 1986.

"Gross proceeds of sales" shall not include bad check or draft service charges as provided for in Section 97-19-57.

"Gross proceeds of sales" does not include finance charges, carrying charges or any other addition to the selling price as a result of deferred payments by the purchaser.

(i) "Gross income" means the total charges for service or the total receipts (actual or accrued) derived from trades, business or commerce by reason of the investment of capital in the business engaged in, including the sale or rental of tangible personal property, compensation for labor and services performed, and including the receipts from the sales of property retained as toll, without any deduction for rebates, cost of property sold, cost of materials used, labor costs, interest paid, losses or any expense whatever.

"Gross income" shall also include the cost of property given as compensation when the property is consumed by a person performing a taxable service for the donor.

However, "gross income" or "gross proceeds of sales" shall not be construed to include the value of goods returned by customers when the total sale price is refunded either in cash or by credit, or cash discounts allowed and taken on sales. Cash discounts shall not include the value of trading stamps given with a sale of property.

(j) "Tangible personal property" means personal property perceptible to the human senses or by chemical analysis as opposed to real property or intangibles and shall include

property sold on an installed basis which may become a part of real or personal property.

(k) "Installation charges" shall mean and include the charge for the application of tangible personal property to real or personal property without regard to whether or not it becomes a part of the real property or retains its personal property classification. It shall include, but not be limited to, sales in place of roofing, tile, glass, carpets, drapes, fences, awnings, window air-conditioning units, gasoline pumps, window guards, floor coverings, carports, store fixtures, aluminum and plastic siding, tombstones and similar personal property.

(l) "Newspaper" means a periodical which:

(i) Is not published primarily for advertising purposes and has not contained more than seventy-five percent (75%) advertising in more than one-half (1/2) of its issues during any consecutive twelve-month period excluding separate advertising supplements inserted into but separately identifiable from any regular issue or issues;

(ii) Has been established and published continuously for at least twelve (12) months;

(iii) Is regularly issued at stated intervals no less frequently than once a week, bears a date of issue, and is numbered consecutively; provided, however, that publication on legal holidays of this state or of the United States and on Saturdays and Sundays shall not be required, and failure to

publish not more than two (2) regular issues in any calendar year shall not exclude a periodical from this definition;

(iv) Is issued from a known office of publication, which shall be the principal public business office of the newspaper and need not be the place at which the periodical is printed and a newspaper shall be deemed to be "published" at the place where its known office of publication is located;

(v) Is formed of printed sheets; provided, however, that a periodical that is reproduced by the stencil, mimeograph or hectograph process shall not be considered to be a "newspaper"; and

(vi) Is originated and published for the dissemination of current news and intelligence of varied, broad and general public interest, announcements and notices, opinions as editorials on a regular or irregular basis, and advertising and miscellaneous reading matter.

The term "newspaper" shall include periodicals which are designed primarily for free circulation or for circulation at nominal rates as well as those which are designed for circulation at more than a nominal rate.

The term "newspaper" shall not include a publication or periodical which is published, sponsored by, is directly supported financially by, or is published to further the interests of, or is directed to, or has a circulation restricted, in whole or in part,

to any particular sect, denomination, labor or fraternal organization or other special group or class or citizens.

For purposes of this paragraph, a periodical designed primarily for free circulation or circulation at nominal rates shall not be considered to be a newspaper unless such periodical has made an application for such status to the department in the manner prescribed by the department and has provided to the department documentation satisfactory to the department showing that such periodical meets the requirements of the definition of the term "newspaper." However, if such periodical has been determined to be a newspaper under action taken by the department on or before April 11, 1996, such periodical shall be considered to be a newspaper without the necessity of applying for such status. A determination by the Department of Revenue that a publication is a newspaper shall be limited to the application of this chapter and shall not establish that the publication is a newspaper for any other purpose.

(m) "MPC" or "Material Purchase Certificate" means a certificate for which a person that is liable for the tax levy under Section 27-65-21 can apply and obtain from the commissioner, and when issued, entitles the holder to purchase materials and services that are to become a component part of a structure to be erected or repaired with no tax due. Any person taxable under Section 27-65-21 who obtains an MPC for a project and purchases materials and services in this state that are to become a

component part of a structure being erected or repaired in the project and at any time pays sales tax on these purchases may, after obtaining the MPC for the project, take a credit against his sales taxes for the sales tax paid on these purchases if proper documentation exists to substantiate the payment of the sales tax on the purchase of component materials and services. This credit may also be allowed in any audit of the taxpayer. Any penalties and interest owed by the taxpayer on the return or in the audit where this credit is taken may be determined based on the sales tax due after the taking of this credit.

(n) "Free, publicly accessible, official government website" shall mean either the official website of the government entity required to make publication or a state-level government website specifically designed for such publication notices.

SECTION 44. Section 29-3-29, Mississippi Code of 1972, is amended as follows:

29-3-29. Before any sixteenth section school land or land granted in lieu thereof may be sold or leased for industrial development thereon, therein or thereunder under the provisions of this chapter, the board of education controlling such land shall first determine that such sale or lease will be fair market value. In the determination of the fair market value of said land the comparative sales method shall be used, and the highest and best use of said sixteenth section lands shall be determined on the basis of finding that said land shall be susceptible to any use

that comparative land in private ownership may be used, that there will be prompt and substantial industrial development on, in, or under said land after the sale or lease, that the acreage to be sold or leased is not in excess of the amount of land reasonably required for immediate use and for such future expansion as may be reasonably anticipated, and that such sale or lease will be beneficial to and in the best interest of the schools of the district for which said land is held. All of said findings, including the amount of the sale price or gross rental for said land, shall be spread on the minutes of the board of education. Also, if the board of education proposes to sell said land, said board shall first enter into a contract or obtain a legal option to purchase, for a specified price not in excess of fair market value, other land in the county of acreage of equivalent fair market value, and such contract or option shall be spread on the minutes of said board. However, not more than one hundred (100) acres in any one (1) sixteenth section school lands in any county may be sold under this chapter for the purpose of being made an industrial park or a part of such industrial park, provided the provisions of this section and Sections 57-5-1 and 57-5-23 are fully complied with.

A certified copy of the resolution or order of the board of education, setting out the foregoing findings, together with a certified copy of the order approving and setting out the terms of the contract or option to purchase other lands where a sale of

land is proposed and an application to the Mississippi Agricultural and Industrial Board for the certificate authorizing said sale or lease, shall be forwarded to the county board of supervisors, which board shall make an independent investigation of the proposed sale or lease and of the proposed purchase of other land.

If said county board of supervisors shall concur in the finding of fact of the board of education, and shall find that it is to the best interests of the schools of the district to enter into such sale or lease, it may enter on its minutes a resolution or order approving the action of the board of education.

If the said county board of supervisors shall not concur in the findings of the board of education, or shall find that the proposed sale or lease will not be in the best interest of the schools of the district, then it may, by resolution or order, disapprove the proposed sale or lease, and such action shall be final.

Except as otherwise permitted by Section 57-75-37(4)(f), there shall be reserved all minerals in, on, and under any lands conveyed under the provisions hereof. Provided, however, that in any county bordering on the State of Alabama, traversed by the Tombigbee River, in which U.S. Highway 82 intersects U.S. Highway 45 and in which is situated a state supported institution of higher learning, upon the sale of any sixteenth section lands for industrial purposes as provided by law, the board of education,

the superintendent of education and the Mississippi Agricultural and Industrial Board, may sell and convey all minerals except oil, gas, sulphur and casinghead gas on, in and under the said sixteenth section lands so sold for industrial purposes. Said oil, gas, sulphur and casinghead gas shall be reserved together with such rights of use, ingress and egress as shall not unreasonably interfere with the use of the lands by the purchaser. Prior written approval for such use, ingress and egress, shall be obtained from the surface owner or, if such approval is unreasonably withheld, may be obtained from the chancery court of the county in which said land is located.

Certified copies of the resolutions or orders of the board of supervisors and of the board of education and of the application to the Mississippi Agricultural and Industrial Board shall be transmitted to the county superintendent of education, if there be one in the county, who, if he approves the proposed sale or lease, shall so certify and forward same to the Mississippi Agricultural and Industrial Board. If there be no county superintendent of education in the county, then the board of education whose district embraces the entire county shall so certify and transmit said copies to the Mississippi Agricultural and Industrial Board for further action.

Upon receipt of the aforesaid application and certified copies of the said resolution and orders, the Mississippi Agricultural and Industrial Board shall make investigation to

determine whether or not the proposed sale or lease of said land will promote prompt and substantial industrial development thereon, therein, or thereunder. If the board finds that such sale or lease will promote prompt and substantial industrial development thereon, therein or thereunder, and further finds that the person, firm or corporation who proposes to establish said industry is financially responsible, and that the acreage to be sold or leased is not in excess of the amount of land reasonably required for immediate use and for such future expansion as may be reasonably anticipated, then the board, in its discretion, may issue a certificate to the board of education of said district so certifying, and said certificate shall be the authority for the board of education to enter into the proposed sale or lease. If the Mississippi Agricultural and Industrial Board does not so find, then it shall decline to issue said certificate which action shall be final.

The Mississippi Agricultural and Industrial Board, when issuing a certificate to the county board of education certifying its findings and authorizing said sale or lease, may, nevertheless, in its discretion, make such sale or lease conditioned on and subject to the vote of the qualified electors of said district. Upon receipt of a certificate so conditioned upon an election, or upon a petition as hereinafter provided for, the board of education, by resolution spread upon its minutes, shall forward a copy of the certificate to the board of

supervisors who by resolution upon its minutes, shall call an election to be held in the manner now provided by law for holding county elections, and shall fix in such resolution a date upon which such an election shall be held, of which not less than three (3) weeks notice shall be given by the clerk of said board of supervisors by publishing a notice either on a free, publicly accessible, official government website for three (3) consecutive weeks, or in a newspaper published in said county once each week for three (3) consecutive weeks preceding the same, or if no newspaper is published in said county, then in a newspaper having a general circulation therein, and by posting a notice for three (3) weeks preceding said election at three (3) public places in said county. At such election, all qualified voters of the county may vote, and the ballots used shall have printed thereon a brief statement of the proposed sale or lease of said land, including the description and price, together with the words "For the proposed sale or lease" and the words "Against the proposed sale or lease," and the voter shall vote by placing a cross (x) or check (√) opposite his choice of the proposition. Should the election provided for herein result in favor of the proposed sale or lease by at least two-thirds (2/3) of the votes cast being in favor of the said proposition, the board of supervisors shall notify the board of education who may proceed forthwith to sell or lease said land in accordance with the proposition so submitted to the electors. If less than two-thirds (2/3) of those voting in

such special election vote in favor of the said sale or lease, then said land shall not be sold or leased.

The board of education shall further be required, prior to passing of a resolution expressing its intent to sell said land, to publish a notice of intent to sell said land for three (3) consecutive weeks either on a free, publicly accessible, official government website, or in a newspaper published in said county or, if there be none, in a newspaper having a general circulation in said county, and to post three (3) notices thereof in three (3) public places in said county, one (1) of which shall be at the courthouse, for said time. If within the period of three (3) weeks following the first publication of said intent, a petition signed by twenty percent (20%) of the qualified electors of said county shall be filed with the board of supervisors requesting an election concerning the sale, then an election shall be called as hereinabove provided.

SECTION 45. Section 29-3-81, Mississippi Code of 1972, is amended as follows:

29-3-81. (1) Sixteenth section lands, or any lands granted in lieu of sixteenth section lands, classified as agricultural may be leased for the cultivation of rice, or pasturage, for a term not to exceed ten (10) years. All other sixteenth section or lieu lands classified as agricultural may be leased for a term not exceeding five (5) years. All leases of land classified as agricultural shall be for a term to expire on December 31. Except

in those cases when the holder of an existing lease on agricultural land elects to re-lease such land, as authorized under this subsection, it shall be the duty of the board of education to lease the sixteenth section or lieu lands at public contract after having advertised such lands for rent either on a free, publicly accessible, official government website for two (2) weeks, or in a newspaper published in the county or, if no newspaper is published in the county, then in a newspaper having a general circulation therein, for two (2) successive weeks, the first being at least ten (10) days before the public contract. The lease form and the terms so prescribed shall be on file and available for inspection in the office of the superintendent from and after the public notice by advertisement and until finally accepted by the board. However, before the expiration of an existing lease of land classified as agricultural land, except as otherwise provided in subsection (2) for lands intended to be reclassified, the board of education, in its discretion and subject to the prior approval of the Secretary of State, may authorize the holder of the existing lease to re-lease the land, on no more than one (1) occasion, for a term not to exceed five (5) years and for a rental amount that is no less than one hundred twenty percent (120%) of the total rental value of the existing lease. If the holder of the existing lease elects not to re-lease the land, the board of education shall publish an advertisement of agricultural land for rent which publication shall be not more

than four (4) months before the expiration of the term of an existing lease of the land. An election by the holder of the existing lease not to re-lease the land shall not preclude his participation in the bidding process established under this section. Subject to the classification of the land, the board of education shall enter into a new lease on agricultural land before the expiration of an existing lease on the same land, and the new lease shall take effect on the day immediately following the day on which the existing lease expires. The board of education may require bidders to furnish bond or submit evidence of financial ability.

Bids received by the board of education in response to the advertisement shall be opened at a regular or special meeting of the board. The board of education, at its option, may reject all bids or accept the highest and best bid received in response to the advertisement, or the board of education may hold an auction among those who submitted bids in response to the advertisement. If the board of education elects to hold an auction, no bidder shall be granted any preference. The opening bid at the auction shall be highest bid received in response to the advertisement.

(2) If, during the final year of an existing lease, the board of education notifies the holder of the existing lease that the board of education intends to reclassify the land under Section 29-3-39, the holder of the existing lease may re-lease the land for a term of five (5) years and for a rental amount that is

equal to one hundred twenty percent (120%) of the total rental value of the then existing lease. Thereafter, the board of education shall have the option to proceed with the reclassification of the land or may re-lease the land for one (1) additional term of five (5) years after advertising for bids or holding an auction in the same manner as provided in subsection (1) of this section, and the new classification will be implemented upon the expiration of the then existing lease. This subsection does not apply if the board of education intends to reclassify the land under the "commercial" or "industrial" land classification based on a valid business proposal presented to and approved by the board of education.

(3) (a) If the board of education receives an acceptable bid in response to the advertisement and elects not to hold an auction among those submitting bids, then the holder of the existing lease may submit a second bid in an amount not less than one hundred five percent (105%) of the highest acceptable bid received if the holder of the existing lease: (i) submitted a bid in response to the advertisement; and (ii) constructed or made improvements on the leasehold premises after receiving approval of the board of education during the term of the existing lease. For purposes of this subsection, the term "improvements" shall not include any work or items that are done customarily on an annual basis in the preparing, planting, growing, cultivating or harvesting of crops or other farm products.

(b) If the holder of the existing lease elects to submit a second bid, the board of education shall hold an auction among those who submitted bids in response to the advertisement. The opening bid at the auction shall be the second bid of the holder of the existing lease. However, no leaseholder may submit a second bid if: (i) any rent, taxes or other payment required under his lease are past due; or (ii) he is otherwise in default of any term or provision of the lease and such default has not been corrected or cured to the satisfaction of the board of education after more than thirty (30) days' notice to the leaseholder of the default.

(c) If an auction is held, the auction may be conducted at the meeting at which bids are opened or at a subsequent regular or special meeting. The board shall announce the time and place of the auction at the meeting at which bids are opened, and no further notice of the auction is required.

(d) If no bid acceptable to the board of education is received after the advertisement or at auction, the board of education may lease, within ninety (90) days, the lands by private contract for an amount greater than the highest bid previously rejected in order to acquire a fair rental value for the lands. If no bids are received in response to the advertisement, the board of education may negotiate a private contract for a fair rental value, and the term of such contract shall expire on December 31 of the same calendar year in which the contract is

made. The board of education may take the notes for the rent and attend to their collection. The board has the right and remedies for the security and collection of such rents given by law to the agricultural landlords.

(e) If an existing lease is terminated before the expiration of the term originally set therein, upon finding that immediate action is necessary to prevent damage or loss to growing crops or to prevent loss of opportunity to lease the land for the current growing season, the board of education may negotiate a private contract for a fair rental value, and the term of such lease shall expire on December 31 of the same calendar year in which the contract is made.

(4) Any holder of a lease on agricultural land that: (a) was granted before July 1, 1997; and (b) has an expiration date on or after April 1 but before December 31 during the final year of the lease term, may extend the term of such lease to December 31 next following the expiration date originally provided for in the lease. If such lease is extended, the rent for the period from the original expiration date in the lease to December 31 next following the original expiration date shall be one hundred five percent (105%) of the annual rent provided in the existing lease prorated over the period of the lease extension. At the expiration of the extended lease term or at the expiration of the original lease term if the lease holder does not extend such

lease, the land shall be offered for lease as provided in subsections (1) and (2) of this section.

SECTION 46. Section 31-7-13, Mississippi Code of 1972, is amended as follows:

31-7-13. All agencies and governing authorities shall purchase their commodities and printing; contract for garbage collection or disposal; contract for solid waste collection or disposal; contract for sewage collection or disposal; contract for public construction; and contract for rentals as herein provided.

(a) **Bidding procedure for purchases not over $5,000.00.** Purchases which do not involve an expenditure of more than Five Thousand Dollars ($5,000.00), exclusive of freight or shipping charges, may be made without advertising or otherwise requesting competitive bids. However, nothing contained in this paragraph (a) shall be construed to prohibit any agency or governing authority from establishing procedures which require competitive bids on purchases of Five Thousand Dollars ($5,000.00) or less.

(b) **Bidding procedure for purchases over $5,000.00 but not over $50,000.00.** Purchases which involve an expenditure of more than Five Thousand Dollars ($5,000.00) but not more than Fifty Thousand Dollars ($50,000.00), exclusive of freight and shipping charges, may be made from the lowest and best bidder without publishing or posting advertisement for bids, provided at least two (2) competitive written bids have been obtained. Any state agency or community/junior college purchasing commodities or

procuring construction pursuant to this paragraph (b) may authorize its purchasing agent, or his designee, to accept the lowest competitive written bid under Fifty Thousand Dollars ($50,000.00). Any governing authority purchasing commodities pursuant to this paragraph (b) may authorize its purchasing agent, or his designee, with regard to governing authorities other than counties, or its purchase clerk, or his designee, with regard to counties, to accept the lowest and best competitive written bid. Such authorization shall be made in writing by the governing authority and shall be maintained on file in the primary office of the agency and recorded in the official minutes of the governing authority, as appropriate. The purchasing agent or the purchase clerk, or their designee, as the case may be, and not the governing authority, shall be liable for any penalties and/or damages as may be imposed by law for any act or omission of the purchasing agent or purchase clerk, or their designee, constituting a violation of law in accepting any bid without approval by the governing authority. The term "competitive written bid" shall mean a bid submitted on a bid form furnished by the buying agency or governing authority and signed by authorized personnel representing the vendor, or a bid submitted on a vendor's letterhead or identifiable bid form and signed by authorized personnel representing the vendor. "Competitive" shall mean that the bids are developed based upon comparable identification of the needs and are developed independently and

without knowledge of other bids or prospective bids. Any bid item for construction in excess of Five Thousand Dollars ($5,000.00) shall be broken down by components to provide detail of component description and pricing. These details shall be submitted with the written bids and become part of the bid evaluation criteria. Bids may be submitted by facsimile, electronic mail or other generally accepted method of information distribution. Bids submitted by electronic transmission shall not require the signature of the vendor's representative unless required by agencies or governing authorities.

(c) **Bidding procedure for purchases over $50,000.00.**

(i) **Publication requirement.**

1. Purchases which involve an expenditure of more than Fifty Thousand Dollars ($50,000.00), exclusive of freight and shipping charges, may be made from the lowest and best bidder after advertising for competitive bids <u>either on a free, publicly accessible, official government website for two (2) weeks, or</u> once each week for two (2) consecutive weeks in a regular newspaper published in the county or municipality in which such agency or governing authority is located. However, all American Recovery and Reinvestment Act projects in excess of Twenty-five Thousand Dollars ($25,000.00) shall be bid. All references to American Recovery and Reinvestment Act projects in this section shall not apply to programs identified in Division B of the American Recovery and Reinvestment Act.

2. Reverse auctions shall be the primary method for receiving bids during the bidding process. If a purchasing entity determines that a reverse auction is not in the best interest of the state, then that determination must be approved by the Public Procurement Review Board. The purchasing entity shall submit a detailed explanation of why a reverse auction would not be in the best interest of the state and present an alternative process to be approved by the Public Procurement Review Board. If the Public Procurement Review Board authorizes the purchasing entity to solicit bids with a method other than reverse auction, then the purchasing entity may designate the other methods by which the bids will be received, including, but not limited to, bids sealed in an envelope, bids received electronically in a secure system, or bids received by any other method that promotes open competition and has been approved by the Office of Purchasing and Travel. However, reverse auction shall not be used for any public contract for design or construction of public facilities, including buildings, roads and bridges. The Public Procurement Review Board must approve any contract entered into by alternative process. The provisions of this item 2 shall not apply to the individual state institutions of higher learning.

3. The date as published for the bid opening shall not be less than seven (7) working days after the last published notice; however, if the purchase involves a construction project in which the estimated cost is in excess of Fifty Thousand

Dollars ($50,000.00), such bids shall not be opened in less than fifteen (15) working days after the last notice is published and the notice for the purchase of such construction shall be published once each week for two (2) consecutive weeks. However, all American Recovery and Reinvestment Act projects in excess of Twenty-five Thousand Dollars ($25,000.00) shall be bid. For any projects in excess of Twenty-five Thousand Dollars ($25,000.00) under the American Recovery and Reinvestment Act, publication shall be made one (1) time and the bid opening for construction projects shall not be less than ten (10) working days after the date of the published notice. The notice of intention to let contracts or purchase equipment shall state the time and place at which bids shall be received, list the contracts to be made or types of equipment or supplies to be purchased, and, if all plans and/or specifications are not published, refer to the plans and/or specifications on file. If the governing authority chooses to use a newspaper for publication instead of its official government website, and there is no newspaper published in the county or municipality, then such notice shall be given by posting same at the courthouse, or for municipalities at the city hall, and at two (2) other public places in the county or municipality, and also by publication once each week for two (2) consecutive weeks in some newspaper having a general circulation in the county or municipality in the above-provided manner. On the same date that the notice is posted to the free, publicly accessible, official

government website, or submitted to the newspaper for publication, the agency or governing authority involved shall mail written notice to, or provide electronic notification to the main office of the Mississippi Procurement Technical Assistance Program under the Mississippi Development Authority that contains the same information as that in the published notice. Submissions received by the Mississippi Procurement Technical Assistance Program for projects funded by the American Recovery and Reinvestment Act shall be displayed on a separate and unique internet web page accessible to the public and maintained by the Mississippi Development Authority for the Mississippi Procurement Technical Assistance Program. Those American Recovery and Reinvestment Act related submissions shall be publicly posted within twenty-four (24) hours of receipt by the Mississippi Development Authority and the bid opening shall not occur until the submission has been posted for ten (10) consecutive days. The Department of Finance and Administration shall maintain information regarding contracts and other expenditures from the American Recovery and Reinvestment Act, on a unique internet web page accessible to the public. The Department of Finance and Administration shall promulgate rules regarding format, content and deadlines, unless otherwise specified by law, of the posting of award notices, contract execution and subsequent amendments, links to the contract documents, expenditures against the awarded contracts and general expenditures of funds from the American Recovery and Reinvestment

Act. Within one (1) working day of the contract award, the agency or governing authority shall post to the designated web page maintained by the Department of Finance and Administration, notice of the award, including the award recipient, the contract amount, and a brief summary of the contract in accordance with rules promulgated by the department. Within one (1) working day of the contract execution, the agency or governing authority shall post to the designated web page maintained by the Department of Finance and Administration a summary of the executed contract and make a copy of the appropriately redacted contract documents available for linking to the designated web page in accordance with the rules promulgated by the department. The information provided by the agency or governing authority shall be posted to the web page for the duration of the American Recovery and Reinvestment Act funding or until the project is completed, whichever is longer.

(ii) **Bidding process amendment procedure.** If all plans and/or specifications are published in the notification, then the plans and/or specifications may not be amended. If all plans and/or specifications are not published in the notification, then amendments to the plans/specifications, bid opening date, bid opening time and place may be made, provided that the agency or governing authority maintains a list of all prospective bidders who are known to have received a copy of the bid documents and all such prospective bidders are sent copies of all amendments. This notification of amendments may be made via mail, facsimile,

electronic mail or other generally accepted method of information distribution. No addendum to bid specifications may be issued within two (2) working days of the time established for the receipt of bids unless such addendum also amends the bid opening to a date not less than five (5) working days after the date of the addendum.

(iii) **Filing requirement.** In all cases involving governing authorities, before the notice shall be published or posted, the plans or specifications for the construction or equipment being sought shall be filed with the clerk of the board of the governing authority. In addition to these requirements, a bid file shall be established which shall indicate those vendors to whom such solicitations and specifications were issued, and such file shall also contain such information as is pertinent to the bid.

(iv) **Specification restrictions.**

1. Specifications pertinent to such bidding shall be written so as not to exclude comparable equipment of domestic manufacture. However, if valid justification is presented, the Department of Finance and Administration or the board of a governing authority may approve a request for specific equipment necessary to perform a specific job. Further, such justification, when placed on the minutes of the board of a governing authority, may serve as authority for that governing authority to write specifications to require a specific item of

equipment needed to perform a specific job. In addition to these requirements, from and after July 1, 1990, vendors of relocatable classrooms and the specifications for the purchase of such relocatable classrooms published by local school boards shall meet all pertinent regulations of the State Board of Education, including prior approval of such bid by the State Department of Education.

2. Specifications for construction projects may include an allowance for commodities, equipment, furniture, construction materials or systems in which prospective bidders are instructed to include in their bids specified amounts for such items so long as the allowance items are acquired by the vendor in a commercially reasonable manner and approved by the agency/governing authority. Such acquisitions shall not be made to circumvent the public purchasing laws.

(v) **Electronic bids.** Agencies and governing authorities shall provide a secure electronic interactive system for the submittal of bids requiring competitive bidding that shall be an additional bidding option for those bidders who choose to submit their bids electronically. The Department of Finance and Administration shall provide, by regulation, the standards that agencies must follow when receiving electronic bids. Agencies and governing authorities shall make the appropriate provisions necessary to accept electronic bids from those bidders who choose to submit their bids electronically for all purchases requiring

competitive bidding under this section. Any special condition or requirement for the electronic bid submission shall be specified in the advertisement for bids required by this section. Agencies or governing authorities that are currently without available high speed internet access shall be exempt from the requirement of this subparagraph (v) until such time that high speed internet access becomes available. Any county having a population of less than twenty thousand (20,000) shall be exempt from the provisions of this subparagraph (v). Any municipality having a population of less than ten thousand (10,000) shall be exempt from the provisions of this subparagraph (v). The provisions of this subparagraph (v) shall not require any bidder to submit bids electronically. When construction bids are submitted electronically, the requirement for including a certificate of responsibility, or a statement that the bid enclosed does not exceed Fifty Thousand Dollars ($50,000.00), on the exterior of the bid envelope as indicated in Section 31-3-21(1) and (2) shall be deemed in compliance with by including same as an attachment with the electronic bid submittal.

(d) **Lowest and best bid decision procedure.**

(i) **Decision procedure.** Purchases may be made from the lowest and best bidder. In determining the lowest and best bid, freight and shipping charges shall be included. Life-cycle costing, total cost bids, warranties, guaranteed buy-back provisions and other relevant provisions may be included

in the best bid calculation. All best bid procedures for state agencies must be in compliance with regulations established by the Department of Finance and Administration. If any governing authority accepts a bid other than the lowest bid actually submitted, it shall place on its minutes detailed calculations and narrative summary showing that the accepted bid was determined to be the lowest and best bid, including the dollar amount of the accepted bid and the dollar amount of the lowest bid. No agency or governing authority shall accept a bid based on items not included in the specifications.

(ii) **Decision procedure for Certified Purchasing Offices.** In addition to the decision procedure set forth in subparagraph (i) of this paragraph (d), Certified Purchasing Offices may also use the following procedure: Purchases may be made from the bidder offering the best value. In determining the best value bid, freight and shipping charges shall be included. Life-cycle costing, total cost bids, warranties, guaranteed buy-back provisions, documented previous experience, training costs and other relevant provisions, including, but not limited to, a bidder having a local office and inventory located within the jurisdiction of the governing authority, may be included in the best value calculation. This provision shall authorize Certified Purchasing Offices to utilize a Request For Proposals (RFP) process when purchasing commodities. All best value procedures for state agencies must be in compliance with

regulations established by the Department of Finance and Administration. No agency or governing authority shall accept a bid based on items or criteria not included in the specifications.

(iii) **Decision procedure for Mississippi Landmarks.** In addition to the decision procedure set forth in subparagraph (i) of this paragraph (d), where purchase involves renovation, restoration, or both, of the State Capitol Building or any other historical building designated for at least five (5) years as a Mississippi Landmark by the Board of Trustees of the Department of Archives and History under the authority of Sections 39-7-7 and 39-7-11, the agency or governing authority may use the following procedure: Purchases may be made from the lowest and best prequalified bidder. Prequalification of bidders shall be determined not less than fifteen (15) working days before the first published notice of bid opening. Prequalification criteria shall be limited to bidder's knowledge and experience in historical restoration, preservation and renovation. In determining the lowest and best bid, freight and shipping charges shall be included. Life-cycle costing, total cost bids, warranties, guaranteed buy-back provisions and other relevant provisions may be included in the best bid calculation. All best bid and prequalification procedures for state agencies must be in compliance with regulations established by the Department of Finance and Administration. If any governing authority accepts a bid other than the lowest bid actually submitted, it shall place

on its minutes detailed calculations and narrative summary showing that the accepted bid was determined to be the lowest and best bid, including the dollar amount of the accepted bid and the dollar amount of the lowest bid. No agency or governing authority shall accept a bid based on items not included in the specifications.

(iv) **Construction project negotiations authority.** If the lowest and best bid is not more than ten percent (10%) above the amount of funds allocated for a public construction or renovation project, then the agency or governing authority shall be permitted to negotiate with the lowest bidder in order to enter into a contract for an amount not to exceed the funds allocated.

(e) **Lease-purchase authorization.** For the purposes of this section, the term "equipment" shall mean equipment, furniture and, if applicable, associated software and other applicable direct costs associated with the acquisition. Any lease-purchase of equipment which an agency is not required to lease-purchase under the master lease-purchase program pursuant to Section 31-7-10 and any lease-purchase of equipment which a governing authority elects to lease-purchase may be acquired by a lease-purchase agreement under this paragraph (e). Lease-purchase financing may also be obtained from the vendor or from a third-party source after having solicited and obtained at least two (2) written competitive bids, as defined in paragraph (b) of this section, for such financing without advertising for such

bids. Solicitation for the bids for financing may occur before or after acceptance of bids for the purchase of such equipment or, where no such bids for purchase are required, at any time before the purchase thereof. No such lease-purchase agreement shall be for an annual rate of interest which is greater than the overall maximum interest rate to maturity on general obligation indebtedness permitted under Section 75-17-101, and the term of such lease-purchase agreement shall not exceed the useful life of equipment covered thereby as determined according to the upper limit of the asset depreciation range (ADR) guidelines for the Class Life Asset Depreciation Range System established by the Internal Revenue Service pursuant to the United States Internal Revenue Code and regulations thereunder as in effect on December 31, 1980, or comparable depreciation guidelines with respect to any equipment not covered by ADR guidelines. Any lease-purchase agreement entered into pursuant to this paragraph (e) may contain any of the terms and conditions which a master lease-purchase agreement may contain under the provisions of Section 31-7-10(5), and shall contain an annual allocation dependency clause substantially similar to that set forth in Section 31-7-10(8). Each agency or governing authority entering into a lease-purchase transaction pursuant to this paragraph (e) shall maintain with respect to each such lease-purchase transaction the same information as required to be maintained by the Department of Finance and Administration pursuant to Section 31-7-10(13).

However, nothing contained in this section shall be construed to permit agencies to acquire items of equipment with a total acquisition cost in the aggregate of less than Ten Thousand Dollars ($10,000.00) by a single lease-purchase transaction. All equipment, and the purchase thereof by any lessor, acquired by lease-purchase under this paragraph and all lease-purchase payments with respect thereto shall be exempt from all Mississippi sales, use and ad valorem taxes. Interest paid on any lease-purchase agreement under this section shall be exempt from State of Mississippi income taxation.

(f) **Alternate bid authorization.** When necessary to ensure ready availability of commodities for public works and the timely completion of public projects, no more than two (2) alternate bids may be accepted by a governing authority for commodities. No purchases may be made through use of such alternate bids procedure unless the lowest and best bidder cannot deliver the commodities contained in his bid. In that event, purchases of such commodities may be made from one (1) of the bidders whose bid was accepted as an alternate.

(g) **Construction contract change authorization.** In the event a determination is made by an agency or governing authority after a construction contract is let that changes or modifications to the original contract are necessary or would better serve the purpose of the agency or the governing authority, such agency or governing authority may, in its discretion, order such changes

pertaining to the construction that are necessary under the circumstances without the necessity of further public bids; provided that such change shall be made in a commercially reasonable manner and shall not be made to circumvent the public purchasing statutes. In addition to any other authorized person, the architect or engineer hired by an agency or governing authority with respect to any public construction contract shall have the authority, when granted by an agency or governing authority, to authorize changes or modifications to the original contract without the necessity of prior approval of the agency or governing authority when any such change or modification is less than one percent (1%) of the total contract amount. The agency or governing authority may limit the number, manner or frequency of such emergency changes or modifications.

(h) **Petroleum purchase alternative.** In addition to other methods of purchasing authorized in this chapter, when any agency or governing authority shall have a need for gas, diesel fuel, oils and/or other petroleum products in excess of the amount set forth in paragraph (a) of this section, such agency or governing authority may purchase the commodity after having solicited and obtained at least two (2) competitive written bids, as defined in paragraph (b) of this section. If two (2) competitive written bids are not obtained, the entity shall comply with the procedures set forth in paragraph (c) of this section. In the event any agency or governing authority shall have

advertised for bids for the purchase of gas, diesel fuel, oils and other petroleum products and coal and no acceptable bids can be obtained, such agency or governing authority is authorized and directed to enter into any negotiations necessary to secure the lowest and best contract available for the purchase of such commodities.

(i) **Road construction petroleum products price adjustment clause authorization.** Any agency or governing authority authorized to enter into contracts for the construction, maintenance, surfacing or repair of highways, roads or streets, may include in its bid proposal and contract documents a price adjustment clause with relation to the cost to the contractor, including taxes, based upon an industry-wide cost index, of petroleum products including asphalt used in the performance or execution of the contract or in the production or manufacture of materials for use in such performance. Such industry-wide index shall be established and published monthly by the Mississippi Department of Transportation with a copy thereof to be mailed, upon request, to the clerks of the governing authority of each municipality and the clerks of each board of supervisors throughout the state. The price adjustment clause shall be based on the cost of such petroleum products only and shall not include any additional profit or overhead as part of the adjustment. The bid proposals or document contract shall contain the basis and

methods of adjusting unit prices for the change in the cost of such petroleum products.

(j) **State agency emergency purchase procedure.** If the governing board or the executive head, or his designees, of any agency of the state shall determine that an emergency exists in regard to the purchase of any commodities or repair contracts, so that the delay incident to giving opportunity for competitive bidding would be detrimental to the interests of the state, then the head of such agency, or his designees, shall file with the Department of Finance and Administration (i) a statement explaining the conditions and circumstances of the emergency, which shall include a detailed description of the events leading up to the situation and the negative impact to the entity if the purchase is made following the statutory requirements set forth in paragraph (a), (b) or (c) of this section, and (ii) a certified copy of the appropriate minutes of the board of such agency requesting the emergency purchase, if applicable. Upon receipt of the statement and applicable board certification, the State Fiscal Officer, or his designees, may, in writing, authorize the purchase or repair without having to comply with competitive bidding requirements.

If the governing board or the executive head, or his designees, of any agency determines that an emergency exists in regard to the purchase of any commodities or repair contracts, so that the delay incident to giving opportunity for competitive

bidding would threaten the health or safety of any person, or the preservation or protection of property, then the provisions in this section for competitive bidding shall not apply, and any officer or agent of the agency having general or specific authority for making the purchase or repair contract shall approve the bill presented for payment, and he shall certify in writing from whom the purchase was made, or with whom the repair contract was made.

Total purchases made under this paragraph (j) shall only be for the purpose of meeting needs created by the emergency situation. Following the emergency purchase, documentation of the purchase, including a description of the commodity purchased, the purchase price thereof and the nature of the emergency shall be filed with the Department of Finance and Administration. Any contract awarded pursuant to this paragraph (j) shall not exceed a term of one (1) year.

Purchases under the grant program established under Section 37-68-7 in response to COVID-19 and the directive that school districts create a distance learning plan and fulfill technology needs expeditiously shall be deemed an emergency purchase for purposes of this paragraph (j).

(k) **Governing authority emergency purchase procedure.** If the governing authority, or the governing authority acting through its designee, shall determine that an emergency exists in regard to the purchase of any commodities or repair contracts, so

that the delay incident to giving opportunity for competitive bidding would be detrimental to the interest of the governing authority, then the provisions herein for competitive bidding shall not apply and any officer or agent of such governing authority having general or special authority therefor in making such purchase or repair shall approve the bill presented therefor, and he shall certify in writing thereon from whom such purchase was made, or with whom such a repair contract was made. At the board meeting next following the emergency purchase or repair contract, documentation of the purchase or repair contract, including a description of the commodity purchased, the price thereof and the nature of the emergency shall be presented to the board and shall be placed on the minutes of the board of such governing authority. Purchases under the grant program established under Section 37-68-7 in response to COVID-19 and the directive that school districts create a distance learning plan and fulfill technology needs expeditiously shall be deemed an emergency purchase for purposes of this paragraph (k).

(l) **Hospital purchase, lease-purchase and lease authorization.**

(i) The commissioners or board of trustees of any public hospital may contract with such lowest and best bidder for the purchase or lease-purchase of any commodity under a contract of purchase or lease-purchase agreement whose obligatory payment terms do not exceed five (5) years.

(ii) In addition to the authority granted in subparagraph (i) of this paragraph (l), the commissioners or board of trustees is authorized to enter into contracts for the lease of equipment or services, or both, which it considers necessary for the proper care of patients if, in its opinion, it is not financially feasible to purchase the necessary equipment or services. Any such contract for the lease of equipment or services executed by the commissioners or board shall not exceed a maximum of five (5) years' duration and shall include a cancellation clause based on unavailability of funds. If such cancellation clause is exercised, there shall be no further liability on the part of the lessee. Any such contract for the lease of equipment or services executed on behalf of the commissioners or board that complies with the provisions of this subparagraph (ii) shall be excepted from the bid requirements set forth in this section.

(m) **Exceptions from bidding requirements.** Excepted from bid requirements are:

(i) **Purchasing agreements approved by department.** Purchasing agreements, contracts and maximum price regulations executed or approved by the Department of Finance and Administration.

(ii) **Outside equipment repairs.** Repairs to equipment, when such repairs are made by repair facilities in the private sector; however, engines, transmissions, rear axles and/or

other such components shall not be included in this exemption when replaced as a complete unit instead of being repaired and the need for such total component replacement is known before disassembly of the component; however, invoices identifying the equipment, specific repairs made, parts identified by number and name, supplies used in such repairs, and the number of hours of labor and costs therefor shall be required for the payment for such repairs.

(iii) **In-house equipment repairs.** Purchases of parts for repairs to equipment, when such repairs are made by personnel of the agency or governing authority; however, entire assemblies, such as engines or transmissions, shall not be included in this exemption when the entire assembly is being replaced instead of being repaired.

(iv) **Raw gravel or dirt.** Raw unprocessed deposits of gravel or fill dirt which are to be removed and transported by the purchaser.

(v) **Governmental equipment auctions.** Motor vehicles or other equipment purchased from a federal agency or authority, another governing authority or state agency of the State of Mississippi, or any governing authority or state agency of another state at a public auction held for the purpose of disposing of such vehicles or other equipment. Any purchase by a governing authority under the exemption authorized by this subparagraph (v) shall require advance authorization spread upon

the minutes of the governing authority to include the listing of the item or items authorized to be purchased and the maximum bid authorized to be paid for each item or items.

(vi) **Intergovernmental sales and transfers.** Purchases, sales, transfers or trades by governing authorities or state agencies when such purchases, sales, transfers or trades are made by a private treaty agreement or through means of negotiation, from any federal agency or authority, another governing authority or state agency of the State of Mississippi, or any state agency or governing authority of another state. Nothing in this section shall permit such purchases through public auction except as provided for in subparagraph (v) of this paragraph (m). It is the intent of this section to allow governmental entities to dispose of and/or purchase commodities from other governmental entities at a price that is agreed to by both parties. This shall allow for purchases and/or sales at prices which may be determined to be below the market value if the selling entity determines that the sale at below market value is in the best interest of the taxpayers of the state. Governing authorities shall place the terms of the agreement and any justification on the minutes, and state agencies shall obtain approval from the Department of Finance and Administration, prior to releasing or taking possession of the commodities.

(vii) **Perishable supplies or food.** Perishable supplies or food purchased for use in connection with hospitals,

the school lunch programs, homemaking programs and for the feeding of county or municipal prisoners.

(viii) **Single source items.** Noncompetitive items available from one (1) source only. In connection with the purchase of noncompetitive items only available from one (1) source, a certification of the conditions and circumstances requiring the purchase shall be filed by the agency with the Department of Finance and Administration and by the governing authority with the board of the governing authority. Upon receipt of that certification the Department of Finance and Administration or the board of the governing authority, as the case may be, may, in writing, authorize the purchase, which authority shall be noted on the minutes of the body at the next regular meeting thereafter. In those situations, a governing authority is not required to obtain the approval of the Department of Finance and Administration. Following the purchase, the executive head of the state agency, or his designees, shall file with the Department of Finance and Administration, documentation of the purchase, including a description of the commodity purchased, the purchase price thereof and the source from whom it was purchased.

(ix) **Waste disposal facility construction contracts.** Construction of incinerators and other facilities for disposal of solid wastes in which products either generated therein, such as steam, or recovered therefrom, such as materials for recycling, are to be sold or otherwise disposed of; however,

in constructing such facilities, a governing authority or agency shall publicly issue requests for proposals, advertised for in the same manner as provided herein for seeking bids for public construction projects, concerning the design, construction, ownership, operation and/or maintenance of such facilities, wherein such requests for proposals when issued shall contain terms and conditions relating to price, financial responsibility, technology, environmental compatibility, legal responsibilities and such other matters as are determined by the governing authority or agency to be appropriate for inclusion; and after responses to the request for proposals have been duly received, the governing authority or agency may select the most qualified proposal or proposals on the basis of price, technology and other relevant factors and from such proposals, but not limited to the terms thereof, negotiate and enter contracts with one or more of the persons or firms submitting proposals.

(x) **Hospital group purchase contracts.** Supplies, commodities and equipment purchased by hospitals through group purchase programs pursuant to Section 31-7-38.

(xi) **Information technology products.** Purchases of information technology products made by governing authorities under the provisions of purchase schedules, or contracts executed or approved by the Mississippi Department of Information Technology Services and designated for use by governing authorities.

(xii) **Energy efficiency services and equipment.** Energy efficiency services and equipment acquired by school districts, community and junior colleges, institutions of higher learning and state agencies or other applicable governmental entities on a shared-savings, lease or lease-purchase basis pursuant to Section 31-7-14.

(xiii) **Municipal electrical utility system fuel.** Purchases of coal and/or natural gas by municipally owned electric power generating systems that have the capacity to use both coal and natural gas for the generation of electric power.

(xiv) **Library books and other reference materials.** Purchases by libraries or for libraries of books and periodicals; processed film, videocassette tapes, filmstrips and slides; recorded audiotapes, cassettes and diskettes; and any such items as would be used for teaching, research or other information distribution; however, equipment such as projectors, recorders, audio or video equipment, and monitor televisions are not exempt under this subparagraph.

(xv) **Unmarked vehicles.** Purchases of unmarked vehicles when such purchases are made in accordance with purchasing regulations adopted by the Department of Finance and Administration pursuant to Section 31-7-9(2).

(xvi) **Election ballots.** Purchases of ballots printed pursuant to Section 23-15-351.

(xvii) **Multichannel interactive video systems.** From and after July 1, 1990, contracts by Mississippi Authority for Educational Television with any private educational institution or private nonprofit organization whose purposes are educational in regard to the construction, purchase, lease or lease-purchase of facilities and equipment and the employment of personnel for providing multichannel interactive video systems (ITSF) in the school districts of this state.

(xviii) **Purchases of prison industry products by the Department of Corrections, regional correctional facilities or privately owned prisons.** Purchases made by the Mississippi Department of Corrections, regional correctional facilities or privately owned prisons involving any item that is manufactured, processed, grown or produced from the state's prison industries.

(xix) **Undercover operations equipment.** Purchases of surveillance equipment or any other high-tech equipment to be used by law enforcement agents in undercover operations, provided that any such purchase shall be in compliance with regulations established by the Department of Finance and Administration.

(xx) **Junior college books for rent.** Purchases by community or junior colleges of textbooks which are obtained for the purpose of renting such books to students as part of a book service system.

(xxi) **Certain school district purchases.** Purchases of commodities made by school districts from vendors

with which any levying authority of the school district, as defined in Section 37-57-1, has contracted through competitive bidding procedures for purchases of the same commodities.

(xxii) **Garbage, solid waste and sewage contracts.** Contracts for garbage collection or disposal, contracts for solid waste collection or disposal and contracts for sewage collection or disposal.

(xxiii) **Municipal water tank maintenance contracts.** Professional maintenance program contracts for the repair or maintenance of municipal water tanks, which provide professional services needed to maintain municipal water storage tanks for a fixed annual fee for a duration of two (2) or more years.

(xxiv) **Purchases of Mississippi Industries for the Blind products.** Purchases made by state agencies or governing authorities involving any item that is manufactured, processed or produced by the Mississippi Industries for the Blind.

(xxv) **Purchases of state-adopted textbooks.** Purchases of state-adopted textbooks by public school districts.

(xxvi) **Certain purchases under the Mississippi Major Economic Impact Act.** Contracts entered into pursuant to the provisions of Section 57-75-9(2), (3) and (4).

(xxvii) **Used heavy or specialized machinery or equipment for installation of soil and water conservation practices purchased at auction.** Used heavy or specialized

machinery or equipment used for the installation and implementation of soil and water conservation practices or measures purchased subject to the restrictions provided in Sections 69-27-331 through 69-27-341. Any purchase by the State Soil and Water Conservation Commission under the exemption authorized by this subparagraph shall require advance authorization spread upon the minutes of the commission to include the listing of the item or items authorized to be purchased and the maximum bid authorized to be paid for each item or items.

(xxviii) **Hospital lease of equipment or services.** Leases by hospitals of equipment or services if the leases are in compliance with paragraph (l)(ii).

(xxix) **Purchases made pursuant to qualified cooperative purchasing agreements.** Purchases made by certified purchasing offices of state agencies or governing authorities under cooperative purchasing agreements previously approved by the Office of Purchasing and Travel and established by or for any municipality, county, parish or state government or the federal government, provided that the notification to potential contractors includes a clause that sets forth the availability of the cooperative purchasing agreement to other governmental entities. Such purchases shall only be made if the use of the cooperative purchasing agreements is determined to be in the best interest of the governmental entity.

(xxx) **School yearbooks.** Purchases of school yearbooks by state agencies or governing authorities; provided, however, that state agencies and governing authorities shall use for these purchases the RFP process as set forth in the Mississippi Procurement Manual adopted by the Office of Purchasing and Travel.

(xxxi) **Design-build method and dual-phase design-build method of contracting.** Contracts entered into under the provisions of Section 31-7-13.1, 37-101-44 or 65-1-85.

(xxxii) **Toll roads and bridge construction projects.** Contracts entered into under the provisions of Section 65-43-1 or 65-43-3.

(xxxiii) **Certain purchases under Section 57-1-221.** Contracts entered into pursuant to the provisions of Section 57-1-221.

(xxxiv) **Certain transfers made pursuant to the provisions of Section 57-105-1(7).** Transfers of public property or facilities under Section 57-105-1(7) and construction related to such public property or facilities.

(xxxv) **Certain purchases or transfers entered into with local electrical power associations.** Contracts or agreements entered into under the provisions of Section 55-3-33.

(xxxvi) **Certain purchases by an academic medical center or health sciences school.** Purchases by an academic medical center or health sciences school, as defined in Section

37-115-50, of commodities that are used for clinical purposes and 1. intended for use in the diagnosis of disease or other conditions or in the cure, mitigation, treatment or prevention of disease, and 2. medical devices, biological, drugs and radiation-emitting devices as defined by the United States Food and Drug Administration.

(xxxvii) **Certain purchases made under the Alyce G. Clarke Mississippi Lottery Law.** Contracts made by the Mississippi Lottery Corporation pursuant to the Alyce G. Clarke Mississippi Lottery Law.

(n) **Term contract authorization.** All contracts for the purchase of:

(i) All contracts for the purchase of commodities, equipment and public construction (including, but not limited to, repair and maintenance), may be let for periods of not more than sixty (60) months in advance, subject to applicable statutory provisions prohibiting the letting of contracts during specified periods near the end of terms of office. Term contracts for a period exceeding twenty-four (24) months shall also be subject to ratification or cancellation by governing authority boards taking office subsequent to the governing authority board entering the contract.

(ii) Bid proposals and contracts may include price adjustment clauses with relation to the cost to the contractor based upon a nationally published industry-wide or nationally

published and recognized cost index. The cost index used in a price adjustment clause shall be determined by the Department of Finance and Administration for the state agencies and by the governing board for governing authorities. The bid proposal and contract documents utilizing a price adjustment clause shall contain the basis and method of adjusting unit prices for the change in the cost of such commodities, equipment and public construction.

(o) **Purchase law violation prohibition and vendor penalty.** No contract or purchase as herein authorized shall be made for the purpose of circumventing the provisions of this section requiring competitive bids, nor shall it be lawful for any person or concern to submit individual invoices for amounts within those authorized for a contract or purchase where the actual value of the contract or commodity purchased exceeds the authorized amount and the invoices therefor are split so as to appear to be authorized as purchases for which competitive bids are not required. Submission of such invoices shall constitute a misdemeanor punishable by a fine of not less than Five Hundred Dollars ($500.00) nor more than One Thousand Dollars ($1,000.00), or by imprisonment for thirty (30) days in the county jail, or both such fine and imprisonment. In addition, the claim or claims submitted shall be forfeited.

(p) **Electrical utility petroleum-based equipment purchase procedure.** When in response to a proper advertisement

therefor, no bid firm as to price is submitted to an electric utility for power transformers, distribution transformers, power breakers, reclosers or other articles containing a petroleum product, the electric utility may accept the lowest and best bid therefor although the price is not firm.

(q) **Fuel management system bidding procedure.** Any governing authority or agency of the state shall, before contracting for the services and products of a fuel management or fuel access system, enter into negotiations with not fewer than two (2) sellers of fuel management or fuel access systems for competitive written bids to provide the services and products for the systems. In the event that the governing authority or agency cannot locate two (2) sellers of such systems or cannot obtain bids from two (2) sellers of such systems, it shall show proof that it made a diligent, good-faith effort to locate and negotiate with two (2) sellers of such systems. Such proof shall include, but not be limited to, publications of a request for proposals and letters soliciting negotiations and bids. For purposes of this paragraph (q), a fuel management or fuel access system is an automated system of acquiring fuel for vehicles as well as management reports detailing fuel use by vehicles and drivers, and the term "competitive written bid" shall have the meaning as defined in paragraph (b) of this section. Governing authorities and agencies shall be exempt from this process when contracting for the services and products of fuel management or fuel access

systems under the terms of a state contract established by the Office of Purchasing and Travel.

(r) **Solid waste contract proposal procedure.** Before entering into any contract for garbage collection or disposal, contract for solid waste collection or disposal or contract for sewage collection or disposal, which involves an expenditure of more than Fifty Thousand Dollars ($50,000.00), a governing authority or agency shall issue publicly a request for proposals concerning the specifications for such services which shall be advertised for in the same manner as provided in this section for seeking bids for purchases which involve an expenditure of more than the amount provided in paragraph (c) of this section. Any request for proposals when issued shall contain terms and conditions relating to price, financial responsibility, technology, legal responsibilities and other relevant factors as are determined by the governing authority or agency to be appropriate for inclusion; all factors determined relevant by the governing authority or agency or required by this paragraph (r) shall be duly included in the advertisement to elicit proposals. After responses to the request for proposals have been duly received, the governing authority or agency shall select the most qualified proposal or proposals on the basis of price, technology and other relevant factors and from such proposals, but not limited to the terms thereof, negotiate and enter into contracts with one or more of the persons or firms submitting proposals. If

the governing authority or agency deems none of the proposals to be qualified or otherwise acceptable, the request for proposals process may be reinitiated. Notwithstanding any other provisions of this paragraph, where a county with at least thirty-five thousand (35,000) nor more than forty thousand (40,000) population, according to the 1990 federal decennial census, owns or operates a solid waste landfill, the governing authorities of any other county or municipality may contract with the governing authorities of the county owning or operating the landfill, pursuant to a resolution duly adopted and spread upon the minutes of each governing authority involved, for garbage or solid waste collection or disposal services through contract negotiations.

(s) **Minority set-aside authorization.** Notwithstanding any provision of this section to the contrary, any agency or governing authority, by order placed on its minutes, may, in its discretion, set aside not more than twenty percent (20%) of its anticipated annual expenditures for the purchase of commodities from minority businesses; however, all such set-aside purchases shall comply with all purchasing regulations promulgated by the Department of Finance and Administration and shall be subject to bid requirements under this section. Set-aside purchases for which competitive bids are required shall be made from the lowest and best minority business bidder. For the purposes of this paragraph, the term "minority business" means a business which is owned by a majority of persons who are United States citizens or

permanent resident aliens (as defined by the Immigration and Naturalization Service) of the United States, and who are Asian, Black, Hispanic or Native American, according to the following definitions:

(i) "Asian" means persons having origins in any of the original people of the Far East, Southeast Asia, the Indian subcontinent, or the Pacific Islands.

(ii) "Black" means persons having origins in any black racial group of Africa.

(iii) "Hispanic" means persons of Spanish or Portuguese culture with origins in Mexico, South or Central America, or the Caribbean Islands, regardless of race.

(iv) "Native American" means persons having origins in any of the original people of North America, including American Indians, Eskimos and Aleuts.

(t) **Construction punch list restriction.** The architect, engineer or other representative designated by the agency or governing authority that is contracting for public construction or renovation may prepare and submit to the contractor only one (1) preliminary punch list of items that do not meet the contract requirements at the time of substantial completion and one (1) final list immediately before final completion and final payment.

(u) **Procurement of construction services by state institutions of higher learning.** Contracts for privately financed

construction of auxiliary facilities on the campus of a state institution of higher learning may be awarded by the Board of Trustees of State Institutions of Higher Learning to the lowest and best bidder, where sealed bids are solicited, or to the offeror whose proposal is determined to represent the best value to the citizens of the State of Mississippi, where requests for proposals are solicited.

(v) **Insurability of bidders for public construction or other public contracts.** In any solicitation for bids to perform public construction or other public contracts to which this section applies, including, but not limited to, contracts for repair and maintenance, for which the contract will require insurance coverage in an amount of not less than One Million Dollars ($1,000,000.00), bidders shall be permitted to either submit proof of current insurance coverage in the specified amount or demonstrate ability to obtain the required coverage amount of insurance if the contract is awarded to the bidder. Proof of insurance coverage shall be submitted within five (5) business days from bid acceptance.

(w) **Purchase authorization clarification.** Nothing in this section shall be construed as authorizing any purchase not authorized by law.

SECTION 47. Section 31-8-11, Mississippi Code of 1972, is amended as follows:

31-8-11. Before entering into any lease agreement pursuant to this chapter secured by a pledge of its full faith and credit, the governing authorities of any county or municipality shall publish notice of their intention to receive suitable proposals for the leasing of such buildings, facilities or equipment. Such notice shall specify the nature of the proposed building, facility or equipment, the general geographic area in which the same is to be located, the term of the proposed lease agreement, that the obligation to pay rentals during the primary term is to be a continuing obligation of and a charge against the general credit and leasing power of the county or municipality, and the date and hour on or before which such proposals may be received. Such notice shall be published by municipalities and counties in the same manner as required for publishing notice of intention to issue general obligation bonds of the county or municipality, as appropriate. If at least twenty percent (20%), or fifteen hundred (1500), of the qualified electors of a county, whichever is less, or at least ten percent (10%), or fifteen hundred (1500), of the qualified electors of a municipality, whichever is less, file a written protest with the appropriate governing authorities, then an election shall be called by the county in the same manner as provided for the issuance of county general obligation bonds in Sections 19-9-11 through 19-9-17, Mississippi Code of 1972, or by a municipality in the same manner as provided for the issuance of municipal general obligation bonds in Sections 21-33-307 through

21-33-311, Mississippi Code of 1972, to determine whether or not the proposed lease agreement may be executed by the county or municipality. The lease agreement shall be advertised for competitive sealed proposals either on a free, publicly accessible, official government website for two (2) weeks, or once each week for two (2) consecutive weeks in a regular newspaper published or having a general circulation in the county or municipality of the governing authority. The date as published for the proposal opening shall be not less than five (5) working days after the last published notice. The lease shall be awarded to the person submitting the lowest and best proposal; however, all proposals may be rejected.

SECTION 48. Section 31-25-28, Mississippi Code of 1972, is amended as follows:

31-25-28. (1) Local governmental units may borrow money or receive grants from the bank for any of the purposes set forth in this section or Section 31-25-20(g) and pay to the bank such fees and charges for services as the bank may prescribe. Whenever any such loan is made to a local governmental unit, such local governmental unit may use available revenues for the repayment of the principal of, premium, if any, and interest on such loan, and pledge such available revenues or monies for the repayment of the principal of, premium, if any, and interest on such loan. It is the intention of the Legislature that any such pledge of revenues or other monies shall be valid and binding from the date the

pledge is made; that such revenues or other monies so pledged and thereafter received by the local governmental unit shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act, and that the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the local governmental unit irrespective of whether such parties have notice thereof; and neither the resolutions, contracts or any other instrument by which a pledge is created need be recorded.

(2) Local governmental units may contract with the bank with respect to any such loan and such contract shall contain such terms and conditions as may be prescribed by the bank.

(3) Local governmental units may in connection with any such loan enter into any covenants and agreements with respect to such local governmental unit's operations, revenues, assets, monies, funds or property, or such loan, as may be prescribed by the bank.

(4) Upon the making of any such loan by the bank to any local governmental unit, such local governmental unit shall be held and be deemed to have agreed that if such governmental unit fails to pay the principal of, premium, if any, and interest on any such loan as when due and payable, such governmental unit shall have waived any and all defenses to such nonpayment, and the bank, upon such nonpayment, shall thereupon avail itself of all remedies, rights and provisions of law applicable in such circumstance, including, without limitation, any remedies or

rights theretofore agreed to by the local governmental unit, and that such loan shall for all of the purposes of this section, be held and be deemed to have become due and payable and to be unpaid. The bank may carry out the provisions of this section and exercise all of the rights and remedies and provisions of law provided or referred to in this section and of all other applicable laws of the state.

(5) Any local governmental unit that borrows from the bank under this section may agree in writing with the bank that, as provided in this subsection, the Department of Revenue or any state agency, department or commission created pursuant to state law shall (a) withhold all or any part (as agreed by the local governmental unit) of any monies that such local governmental unit is entitled to receive from time to time pursuant to any law and that is in the possession of the Department of Revenue or any state agency, department or commission created pursuant to state law and (b) pay the same over to the bank to satisfy any delinquent payments on any such loan made to such local governmental unit under the provisions of this section and any other delinquent payments due and owing the bank by such local governmental unit, all as the same shall occur. If the bank files a copy of such written agreement, together with a statement of delinquency, with the Department of Revenue or any state agency, department or commission created pursuant to state law, then the Department of Revenue or any state agency, department or

commission created pursuant to state law shall immediately make the withholdings provided in such agreement from the amounts due the local governmental unit and shall continue to pay the same over to the bank until all such delinquencies are satisfied.

(6) Before authorizing any loan for any of the purposes enumerated in Section 31-25-20(e), the governing authority of the local governmental unit shall adopt a resolution declaring its intention so to do, stating the amount of the loan proposed to be authorized and the purpose for which the loan is to be authorized, and the date upon which the loan will be authorized. Such resolution shall be published either on a free, publicly accessible, official government website for three (3) consecutive weeks, or once a week for at least three (3) consecutive weeks in at least one (1) newspaper published in such local governmental unit. The first publication of such resolution shall be made not less than twenty-one (21) days before the date fixed in such resolution for the authorization of the loan and the last publication shall be made not more than seven (7) days before such date. When published in a newspaper, if no newspaper is published in such local governmental unit, then such notice shall be given by publishing the resolution for the required time in some newspaper having a general circulation in such local governmental unit and, in addition, by posting a copy of such resolution for at least twenty-one (21) days next preceding the date fixed therein at three (3) public places in such local governmental unit. If

fifteen percent (15%) of the qualified electors of the local governmental unit or fifteen hundred (1500), whichever is the lesser, file a written protest against the authorization of such loan on or before the date specified in such resolution, then an election on the question of the authorization of such loan shall be called and held as otherwise provided for in connection with the issuance of general obligation indebtedness of such local governmental unit. Notice of such election shall be given as otherwise required in connection with the issuance of general obligation indebtedness of such local governmental unit. If three-fifths (3/5) of the qualified electors voting in the election vote in favor of authorizing the loan, then the governing authority of the local governmental unit shall proceed with the loan; however, if less than three-fifths (3/5) of the qualified electors voting in the election vote in favor of authorizing the loan, then the loan shall not be incurred. If no protest be filed, then such loan may be entered into by the local governmental unit without an election on the question of the authorization of such loan, at any time within a period of two (2) years after the date specified in the resolution. However, the governing authority of any local governmental unit in its discretion may nevertheless call an election on such question, in which event it shall not be necessary to publish the resolution declaring its intention to authorize such loan as provided in this subsection.

(7) [Repealed]

(8) (a) In connection with any refunding of the Ten Million Five Hundred Seventy Thousand Dollars ($10,570,000.00), State of Mississippi, Department of Rehabilitation Services, Certificates of Participation (State of Mississippi, Department of Rehabilitation Services Project) dated August 1, 1993, the bank may issue its bonds to provide for such refunding and the Department of Rehabilitation Services may borrow money from the bank for the purpose of providing for the refunding of such Certificates of Participation. The Department of Rehabilitation Services may contract with the bank with respect to any loan from the bank under this paragraph (a), to provide for the refunding of such Certificates of Participation and such loan from the bank may include any terms and conditions as provided for in this section. In connection with the refunding of the Certificates of Participation pursuant to this paragraph (a), such refunding shall result in an overall net present value savings to maturity of not less than two percent (2%) of the Certificates of Participation being refunded.

(b) The Department of Rehabilitation Services may borrow money from the bank in an amount not to exceed Seven Million Dollars ($7,000,000.00) for the purpose of construction at, and repair and renovation, furnishing and equipping of, the department's office building located in Madison, Mississippi.

(c) In connection with any loan under this subsection (8), the Department of Rehabilitation Services shall not be required to meet the requirements of Section 31-25-27(14).

(9) [Repealed]

(10) This section shall be deemed to provide an additional, alternative and complete method for the doing of the things authorized by this section and shall be deemed and construed to be supplemental to any power conferred by other laws on local governmental units and not in derogation of any such powers. Any loan made pursuant to the provisions of this section shall not constitute an indebtedness of the local governmental unit within the meaning of any constitutional or statutory limitation or restriction. In connection with a loan under this chapter, a local governmental unit shall not be required to comply with the provisions of any other law except as provided in this section.

SECTION 49. Section 37-5-1, Mississippi Code of 1972, is amended as follows:

37-5-1. (1) There is hereby established a county board of education in each county of the State of Mississippi. Said county board of education shall consist of five (5) members, one (1) of which, subject to the further provisions of this chapter and except as is otherwise provided in Section 37-5-1(2), shall be elected by the qualified electors of each board of education district of the county. Except as is otherwise provided in

Section 37-5-3, each member so elected shall be a resident and qualified elector of the district from which he is elected.

(2) The county board of education shall apportion the county school district into five (5) single member board of education districts. The county board of education shall place upon its minutes the boundaries determined for the new five (5) board of education districts. The board of education of said county shall thereafter publish the same either on a free, publicly accessible, official government website for three (3) consecutive weeks, or in some newspaper of general circulation within said county for at least three (3) consecutive weeks and after having given notice of publication and recording the same upon the minutes of the board of education of said county, said new district lines will thereafter be effective. The board of education of said county shall reapportion the board of education districts in accordance with the procedure described herein for the original apportionment of districts as soon as practicable after the results of the 2000 decennial census are published and as soon as practicable after every decennial census thereafter.

(3) In counties where the office of "administrative superintendent" as defined in Section 37-6-3, Mississippi Code of 1972, has been abolished, there shall be no county board of education.

SECTION 50. Section 37-5-18, Mississippi Code of 1972, is amended as follows:

37-5-18. In any county bordering on the Mississippi Sound and having therein at least four (4) municipal separate school districts, each member of the county board of education established by Section 37-5-1 for such county shall be elected from and shall be a resident and qualified elector in a special district determined in the following manner:

The board of education of such a county shall apportion the county into five (5) board of education districts in the territory outside the municipal separate school districts and these board of education districts shall be divided as nearly equal as possible according to population, incumbency and other factors heretofore pronounced by the courts. The board of education shall place upon its minutes the boundaries determined for the new five (5) board of education districts. The board of education of said county shall thereafter publish the same either on a free, publicly accessible, official government website for three (3) consecutive weeks, or in some newspaper of general circulation within said county for at least three (3) consecutive weeks and after having given notice of publication and recording the same upon the minutes of the board of education of said county, said new district lines will thereafter be effective.

All incumbents now holding office within the district as presently constituted shall continue holding their respective offices provided they reside within the new district for the remainder of the term of office to which they have heretofore been

elected and all members from the respective district shall be elected from the new board of education district constituted as herein provided in the same manner provided by law for the election of members of the county board of education. Any vacancies in the office, whether occasioned by redistricting or by other cause, shall be filled in the manner presently provided by law for the filling of vacancies.

SECTION 51. Section 37-7-104, Mississippi Code of 1972, is amended as follows:

37-7-104. (1) In any Mississippi county in which are located, as of February 8, 2012, three (3) school districts and only three (3) school districts, all of which are under conservatorship as defined by the Mississippi Department of Education as of February 8, 2012, there shall be an administrative consolidation of all of the school districts in the county into one (1) countywide school district with one (1) county board of education. The State Board of Education shall determine the school district(s) applicable to the provisions of this section and spread this finding on the minutes of its August 2012 meeting. On or before September 1, 2012, the State Board of Education shall serve the local school boards applicable to the provisions of this section, or the Mississippi Department of Education Conservator for each of the three (3) school districts, with notice and instruction regarding the action to be taken to comply with this section. In such county, there shall be a new county board of

education elected in a November 2013 special election which shall be called for that purpose and the new county board members shall be elected as provided in Section 37-5-7, Mississippi Code of 1972. No previous board member shall be eligible to serve on the newly elected board. Provided, however, that it shall be the responsibility of the board of supervisors of such county to apportion the countywide school district into five (5) new single member board of education districts which shall be consistent with the supervisors district lines in said county. The board of supervisors of said county shall thereafter publish the same either on a free, publicly accessible, official government website for three (3) consecutive weeks, or in some newspaper of general circulation within said county for at least three (3) consecutive weeks and after having given notice of publication and recording the same upon the minutes of the board of supervisors of said county, said new district lines will thereafter be effective for the November 2013 special election. If necessary, the county board of education of said county shall reapportion the board of education districts in accordance with applicable law as soon as practicable after the results of the 2020 decennial census are published and as soon as practicable after every decennial census thereafter. The new county board of education, with the written approval of the Mississippi Department of Education Conservator and the State Board of Education, shall provide for the administrative consolidation of all school districts in the county

into one (1) countywide school district on or before July 1 next following the November 2013 election. The new county board of education shall serve as the school board for the county. Any school district affected by the required administrative consolidation that does not voluntarily consolidate with the new school district ordered by the county board of education shall be administratively consolidated by the State Board of Education with the countywide school district, to be effective on July 1 following the election of the new county board of education. The State Board of Education shall promptly move on its own motion to administratively consolidate any school district which does not voluntarily consolidate in order to enable the affected school districts to reasonably accomplish the resulting administrative consolidation into one (1) countywide district by July 1 following the election of the new county board of education. All affected school districts shall comply with any consolidation order issued by the county board of education or the State Board of Education, as the case may be, on or before July 1 following the election of the new county board of education.

(2) On July 1 following the election of the new county board of education, the former county board of education and the former board of trustees of any municipal separate, or special municipal separate school district located in such county shall be abolished. All real and personal property which is owned or titled in the name of a school district located in such county

shall be transferred to the new reorganized school district of the county in which such school district is located. The Mississippi Department of Education Conservator and the State Board of Education shall be responsible for establishing the contracts for teachers and principals for the next school year following the required administrative consolidation with the consultation of the newly elected successor county board of education. The successor county board of education shall appoint the new county superintendent of education for the reorganized school district. The county superintendent of education of said reorganized school district shall not be elected but shall thereafter be appointed by the successor county board of education in the manner provided in Section 37-9-25. The superintendents of the former under-performing school districts located in the county shall not be eligible for appointment as the new superintendent. The selection of the appointed county superintendent of education and the assistant superintendent of education in the central administration office of the successor countywide school district shall be the responsibility of the successor county board of education with the approval of the Mississippi Department of Education Conservator and the State Board of Education. No such administratively consolidated school district shall have more than one (1) assistant superintendent of education. It shall be the responsibility of the successor county board of education, with approval of the Mississippi Department of Education Conservator

and the State Board of Education, to prepare and approve the budget of the new reorganized districts, and the county board of education may use staff from the former school districts to prepare the budget. Any proposed order of the successor county board of education directing the transfer of the assets, real or personal property of an affected school district in the county, shall be submitted and approved by the State Board of Education. The finding of the State Board of Education shall be final and conclusive for the purposes of the transfer of property required by such administrative consolidation. Any person or school district aggrieved by an order of the successor county school board of education pursuant to the required administrative consolidation may appeal therefrom to the State Board of Education within ten (10) days from the date of the adjournment of the meeting at which such order is entered. Such appeal shall be de novo, and the finding of the State Board of Education upon such question shall be final and conclusive for the purpose of the approval or disapproval of the action by said county board of education.

(3) When any school district in such county is abolished under the provisions of this section, the abolition thereof shall not impair or release the property of such former school district from liability for the payment of the bonds or other indebtedness of such district and it shall be the duty of the board of supervisors of said county to levy taxes on the property of said

district so abolished from year to year according to the terms of such indebtedness until same shall be fully paid.

(4) In the administratively consolidated countywide school district created under this section, the ad valorem tax rate shall be determined as set forth under Section 37-57-1 et seq.

(5) Nothing in this section shall be construed to require or restrict the closing of any school or school facility, unless such facility is an unneeded administrative office located within a school district which has been abolished under the provisions of this section. All administrative consolidations under this section shall be accomplished so as not to delay or in any manner negatively affect the desegregation of another school district in the county pursuant to court order.

(6) The State Board of Education shall promulgate rules and regulations to facilitate the administrative consolidation of the school districts in a county pursuant to this section. When the orders of the successor county board of education adopting the boundaries of the successor countywide school district have been entered and are final, as approved by the State Board of Education, the new district lines shall be submitted by the State Board of Education with the assistance of the Attorney General to the Attorney General of the United States for preclearance or to the United States District Court for the District of Columbia for a declaratory judgment in accordance with the provisions of the Voting Rights Act of 1965, as amended and extended. In the event

the change in the school district lines are precleared or approved, the State Board of Education shall formally declare the new lines as the new boundaries of the consolidated countywide school district.

SECTION 52. Section 37-7-105, Mississippi Code of 1972, is amended as follows:

37-7-105. (1) In cases where two (2) or more school boards determine that it is appropriate that their existing boundaries be altered to provide better service to students, each school board shall enter on its minutes the legal description of new district lines and shall publish the order altering such districts either on a free, publicly accessible, official government website for three (3) consecutive weeks, or in some newspaper published and having a general circulation in such district(s) once each week for three (3) consecutive weeks, which said order shall be duly certified by the president of said school board. When published in a newspaper, if no newspaper be published in said school district, then such order shall be published for the required time in some newspaper having a general circulation therein, and, in addition, a copy of said order shall be posted for the required time at three (3) public places in the school district. The order so published shall contain a provision giving notice that said order shall become final thirty (30) days after the first publication of said notice unless a petition is filed protesting against same within such time. In the event no such petition be

filed, the said order shall become final at said time. However, in the event twenty percent (20%) or fifteen hundred (1500), whichever is less, of the qualified electors of any school district altered by such order shall file a petition with the school board, within thirty (30) days after the first publication of said notice, protesting against the alteration of such district, then an election shall be called and held, on order of the school board, by the county election commission(s), after publication of legal notice of such election, which said election shall be held within thirty (30) days after the first publication of the notice of such election. At such election the question shall be submitted to the qualified electors of the district or districts in which a petition is filed as to whether or not such district or districts shall be altered as provided in the said order of the school board. If a majority of those voting in said election in each district affected and from which a petition is filed shall vote in favor of the order of the school board then such order shall become final. If a majority of those voting in said election in any district from which a petition is filed shall vote against the order of the school board then such order shall be void and of no effect and no further attempt to make the proposed change in such district shall be made for a period of at least two (2) years after the date of said election.

(2) When the orders of all boards adopting the new lines have been entered and are final, all orders shall be submitted to

and considered by the State Board of Education as prescribed in Section 37-7-113, Mississippi Code of 1972. If the new lines are approved by the State Board of Education, the new district lines shall be submitted to the Attorney General of the United States for preclearance or to the United States District Court for the District of Columbia for a declaratory judgment in accordance with the provisions of the Voting Rights Act of 1965, as amended and extended. In the event the change in the school district lines are either precleared by the United States Department of Justice, or approved by the United States District Court, the State Board of Education shall formally declare the new lines as the new boundaries of the school districts.

(3) Should two (2) or more school districts determine that they wish to consolidate, the following actions shall be taken by the districts to perfect this consolidation: (a) Each board shall state its intent to consolidate with the other district or districts by passing a resolution of the board to that effect and spreading it on the minutes of the districts; and (b) each school board shall publish the order consolidating such districts either on a free, publicly accessible, official government website for three (3) consecutive weeks, or in some newspaper having a general circulation in such district(s) once each week for three (3) consecutive weeks, which said order shall be duly certified by the president of said school board. The order so published shall contain a provision giving notice that said order shall become

final thirty (30) days after the first publication of said notice unless a petition is filed protesting against same within such time. In the event no such petition be filed, the said order shall become final on said date. However, in the event twenty percent (20%) or fifteen hundred (1500), whichever is less, of the qualified electors of any one (1) of the school districts affected by the proposed consolidation shall file a petition with the applicable school board, within thirty (30) days after the first publication of said notice, protesting against the consolidation of such district or districts, then an election shall be called and held in such school districts where petitions were filed, on order of the school board, by the county election commission(s), after publication of legal notice of such election, which said election shall be held within thirty (30) days after the first publication of the notice of such election. At such election the question shall be submitted to the qualified electors of any district or districts in which petitions were filed as to whether or not such district or districts shall be consolidated as provided in the said order of the school boards. If a majority of those voting in said election shall vote in favor of the order of the school boards then such order shall become final. Should less than a majority of the electors of any single school district vote in favor of the adoption of the proposed consolidation, such school district shall not participate in any voluntary

consolidation as authorized in this subsection, and the proposed consolidation plan adopted by such districts shall be void.

After the order of the local school boards becomes final, it shall be submitted to and considered by the State Board of Education. If approved by the State Board of Education, the consolidation shall be submitted by the local school boards to the appropriate federal agencies for approval. After all preclearance has been received, the State Board of Education shall declare the new boundaries of the consolidated school district and all action shall proceed as outlined under law using the new boundaries.

Upon preclearance of such consolidation, all school boards shall approve a joint resolution for the election of five (5) new board members from single member districts as provided by law. These elections shall be scheduled prior to May 1 of the year in which the consolidation is to become effective. The new consolidated district shall become effective on July 1 of that same year. The superintendent of any district created through consolidation shall be appointed if all of the school districts which are consolidating had previously appointed their superintendents. The superintendent of any district created through consolidation shall be elected if all of the school districts which are consolidating had previously elected their superintendents. In the event two (2) or more school districts consolidating under the provisions of this section shall have previously appointed one or more superintendents and elected the

remainder, the superintendent shall be elected or appointed in accordance with the method utilized by the consolidating school district or districts with the larger or largest student populations. The superintendent shall begin work as the superintendent on July 1 of such year when the consolidation becomes effective. The order to consolidate shall invalidate the contracts of the superintendents of the preceding districts and shall terminate the term of the superintendent if that person was elected. The order to consolidate shall invalidate the term of any school board member beyond July 1 of that year whether they are elected or appointed. Any school board member from any school district may be eligible to run for election to the new consolidated school board.

Each school board shall be responsible for establishing the contracts for teachers and principals for the next school year with the consultation of the successor school board if they have been selected at the time such decisions are to be made. The selection of administrator in the central administration office shall be the responsibility of the successor school board. No existing dates for renewal of contracts shall invalidate the responsibility of the successor school board in taking such action. The successor school board may enter into these contracts at any time following their election, but no later than July 1 of that year. It shall also be the responsibility of the successor school board to prepare and approve the budget of the new

district. The successor school board may use staff from the existing districts to prepare the budget. The school board shall have authority to approve the budget prior to the July 1 date and shall follow the time line established for budget preparation under the law. Should either district at the time of consolidation have more liabilities than assets, then the successor school board shall be authorized to levy an ad valorem tax upon the taxable property in the territory of the district where the deficit exists, a tax not to exceed five percent (5%) of the existing tax levy for the sole purpose of reducing the deficit. When the deficit is eliminated, then such tax levy shall be terminated. Any taxes levied to bring about the equalization of funding, to equalize pay scales or levied in the territory of a newly created district where a deficit exists, shall constitute a "new program" for the purposes of ad valorem tax limitations as prescribed in Sections 27-39-321 and 37-57-107, Mississippi Code of 1972.

SECTION 53. Section 37-7-203, Mississippi Code of 1972, is amended as follows:

37-7-203. (1) Except as otherwise provided in subsections (3) and (4) of this section, the boards of trustees of all municipal separate school districts created under this chapter, either with or without added territory, shall consist of five (5) members, each to be chosen for a term of five (5) years, but so chosen that the term of office of one (1) member shall expire each

year. In the event the added territory of a municipal separate school district furnishes fifteen percent (15%) or more of the pupils enrolled in the schools of such district, then at least one (1) member of the board of trustees of such school district shall be a resident of the added territory outside the corporate limits. In the event the added territory of a municipal separate school district furnishes thirty percent (30%) or more of the pupils enrolled in the schools of such district, then not more than two (2) members of the board of trustees of such school district shall be residents of the added territory outside the corporate limits. In the event the added territory of a municipal separate school district in a county in which Mississippi Highways 8 and 15 intersect furnishes thirty percent (30%) or more of the pupils enrolled in the schools of such district, then the five (5) members of the board of trustees of such school district shall be elected at large from such school district for a term of five (5) years each except that the two (2) elected trustees presently serving on such board shall continue to serve for their respective terms of office. The three (3) appointed trustees presently serving on such board shall continue to serve until their successors are elected in March of 1975 in the manner provided for in Section 37-7-215. At such election, one (1) trustee shall be elected for a term of two (2) years, one (1) for a term of three (3) years and one (1) for a term of five (5) years. Subsequent terms for each successor trustee shall be for five (5) years. In

the event one (1) of two (2) municipal separate school districts located in any county with two (2) judicial districts, District 1 being comprised of Supervisors Districts 1, 2, 4 and 5, and District 2 being comprised of Supervisors District 3, with added territory embraces three (3) full supervisors districts of a county, one (1) trustee shall be elected from each of the three (3) supervisors districts outside the corporate limits of the municipality. In the further event that the territory of a municipal separate school district located in any county with two (2) judicial districts, District 1 being comprised of Supervisors Districts 1, 2, 4 and 5, and District 2 being comprised of Supervisors District 3, with added territory embraces four (4) full supervisors districts in the county, and in any county in which a municipal separate school district embraces the entire county in which Highways 14 and 15 intersect, one (1) trustee shall be elected from each supervisors district.

Except as otherwise provided herein, the trustees of such a municipal separate school district shall be elected by a majority of the governing authorities of the municipality at the first meeting of the governing authorities held in the month of February of each year, and the term of office of the member so elected shall commence on the first Saturday of March following. In the case of a member of the board of trustees who is required to come from the added territory outside the corporate limits as is above provided, such member of the board of trustees shall be elected by

the qualified electors of the school district residing in such added territory outside the corporate limits at the same time and in the same manner as is otherwise provided in this article for the election of trustees of school districts other than municipal separate school districts.

In the event that a portion of a county school district is reconstituted, in the manner provided by law, into a municipal separate school district with added territory and in the event that the trustees to be elected from the added territory are requested to be elected from separate election districts within the added territory, instead of elected at large, by the Attorney General of the United States as a result of and pursuant to preclearance under Section 5 of the Voting Rights Act of 1965, as amended and extended, and in the event the added territory of a municipal separate school district of a municipality furnishes thirty percent (30%) or more of the pupils enrolled in the schools of such district, then two (2) members of the board of trustees shall be residents of the added territory outside the corporate limits of such municipality and shall be elected from special trustee election districts by the qualified electors thereof as herein provided. The board of trustees of the school district shall apportion the added territory into two (2) special trustee election districts as nearly as possible according to population and other factors heretofore pronounced by the courts. The board of trustees of the school district shall thereafter publish the

same either on a free, publicly accessible, official government website for two (2) weeks, or in a newspaper of general circulation within that school district for at least two (2) consecutive weeks; and after having given notice of publication and recording the same upon the minutes of the board of trustees of the school district, the new district lines shall thereafter be effective. Any person elected from the new trustee election districts constituted herein shall be elected in the manner provided for in Section 37-7-215 for a term of five (5) years. Any vacancy in the office of a trustee elected from such trustee election district, whether occasioned by redistricting or by other cause, shall be filled by appointment of the governing authorities of the municipality, provided that the person so appointed shall serve only until the next general election following his appointment, at which time a person shall be elected for the remainder of the unexpired term in the manner provided in Section 37-7-215.

In any county organizing a countywide municipal separate school district after January 1, 1965, the trustees thereof to be elected from outside the municipality, such trustees shall be elected by the board of supervisors of such county, and the superintendent of such school district shall have authority to pay out and distribute the funds of the district. In the event a municipal separate school district should occupy territory in a county other than that in which the municipality is located and

fifteen percent (15%) or more of the pupils enrolled in the schools of such district shall come from the territory of the district in the county other than that in which the municipality is located, the territory of such county in which the municipality is not located shall be entitled to one (1) member on the board of trustees of such school district. The trustee shall be a resident of the territory of that part of the district lying in the county in which the municipality is not located and shall be elected by the qualified electors of the territory of such county at the same time and in the same manner as is provided for the election of trustees of school districts other than municipal separate school districts having territory in two (2) or more counties.

All vacancies shall be filled for the unexpired terms by appointment of the governing authorities of the municipality; except that in the case of the trustees coming from the added territory outside the corporate limits, the person so appointed shall serve only until the next general election following his appointment, at which time a person shall be elected for the remainder of the unexpired term in the manner otherwise provided herein.

No person who is a member of such governing body, or who is an employee of the municipality, or who is a member of the county board of education, or who is a trustee of any public, private or sectarian school or college located in the county, inclusive of the municipal separate school district, or who is a teacher in or

a trustee of the school district, shall be eligible for appointment to the board of trustees.

(2) In counties of less than fifteen thousand (15,000) people having a municipal separate school district with added territory which embraces all the territory of a county, one or more trustees of the school district shall be nominated from each supervisors district upon petition of fifty (50) qualified electors of that supervisors district, or twenty percent (20%) of the qualified electors of such district, whichever number shall be smaller. One (1) trustee must be elected from each supervisors district of the county. In such counties embraced entirely by a municipal separate school district, there shall be no county board of education after the formation of such district, and the county superintendent of education shall act as superintendent of schools of the district and shall be appointed by the board of trustees of that district, and the provisions of subsection (1) of this section and the first paragraph of Section 37-7-211 shall not apply to such districts.

(3) In municipalities designated as having a mayor-council form of government under Chapter 8, Title 21, Mississippi Code of 1972, and having a population in excess of one hundred thousand (100,000) according to the 2000 federal decennial census, the boards of trustees of the municipal separate school district located in the municipality may, if authorized by ordinance of the municipal governing authority, consist of seven (7) members

residing in each of the seven (7) wards in the municipality, to be appointed by the mayor and confirmed by the city council as follows: (a) each board member shall reside in the ward from which he is appointed; (b) members serving on March 31, 2010, shall continue to serve until a new term commences and new members shall be selected from wards not currently represented on the board; (c) one (1) of the two (2) additional appointments shall serve a term of five (5) years and one (1) for a term of four (4) years, with all subsequent appointments for a five-year term; and (d) each new appointment shall be made by the mayor and confirmed by the city council of the municipality at the first meeting of the governing authorities held in the month of June following March 31, 2010, and thereafter each year, and the term of office of each member so selected shall commence on the first Saturday of July following.

(4) (a) Beginning in 2017, in any municipal separate school district that is traversed by the Escatawpa River and in which Interstate Highway 10 and Mississippi Highway 63 intersect, the board of trustees of the municipal separate school district shall consist of five (5) members, each to be elected for a term of four (4) years in the manner provided in this subsection. Within forty-five (45) days after July 1, 2017, the municipal governing authority shall apportion the municipal separate school district, including any added territory outside the corporate limits, into five (5) special trustee election districts as nearly equal as

possible according to population, incumbency and other factors pronounced by the courts before August 8, 2017. The municipal governing authority shall place upon its minutes the boundaries determined for the new five (5) trustee election districts and shall publish the same either on a free, publicly accessible, official government website for three (3) consecutive weeks, or in a newspaper of general circulation within the school district for at least three (3) consecutive weeks. After having given notice of publication and recording the same upon the minutes of the municipal governing authority, the new district lines shall be effective.

(b) On the first Tuesday after the first Monday in November 2017, and every four (4) years thereafter, an election shall be held in the municipal separate school district for local school board members from trustee election districts 1, 3 and 5 in the same manner and at the same time as the general municipal election is held and conducted, for the purpose of electing the board of trustees of the municipal separate school district. All members of the board of trustees elected pursuant to this paragraph (b) shall take office on the first Monday of January immediately following the date of their election. However, in order to provide for an orderly transition, the term of each member of the board of trustees serving on July 1, 2017, which otherwise would expire after the first Monday in July 2018, shall expire on the first Monday of January 2018. If no individual

qualifies for the elective office of school district trustee, the trustee for that specific trustee district shall be filled by appointment of the municipal governing authority; however, the person so appointed to fill the vacancy may serve only until the first Monday in January 2019, at which time the trustee elected pursuant to this subsection shall take office for the remainder of the unexpired initial term.

From and after January 1, 2018, any vacancy on the board of trustees shall be filled by appointment by the remaining members of the board of trustees within sixty (60) days after the vacancy occurs. The appointee must be selected from the qualified electors of the trustee election district in which the vacancy occurs. The appointee shall serve until the first Monday of January succeeding the next general municipal election, at which election a member from that trustee election district shall be elected for a full term.

(c) On the first Tuesday after the first Monday in November 2018, and every four (4) years thereafter, an election shall be held in the municipal separate school district for local school board members from trustee election districts 2 and 4 in the same manner and at the same time as the Congressional mid-term election is held and conducted, for the purpose of electing the board of trustees of the municipal separate school district. All members of the board of trustees elected pursuant to this paragraph (c) shall take office on the first Monday of January

immediately following the date of their election. However, in order to provide for an orderly transition, the term of each member of the board of trustees serving on July 1, 2018, which otherwise would expire after the first Monday in July 2018, shall expire on the first Monday of January 2019. If no individual qualifies for the elective office of school district trustee, the trustee for that specific trustee district shall be filled by appointment of the municipal governing authority; however, the person so appointed to fill the vacancy may serve only until the first Monday in January 2020, at which time the trustee elected pursuant to this subsection shall take office for the remainder of the unexpired initial term.

From and after July 1, 2020, any vacancy on the board of trustees shall be filled by appointment by the remaining members of the board of trustees within sixty (60) days after the vacancy occurs. The appointee must be selected from the qualified electors of the trustee election district in which the vacancy occurs. The appointee shall serve until the first Monday of July succeeding the next general municipal election, at which election a member from that trustee election district shall be elected for a full term.

SECTION 54. Section 37-7-207, Mississippi Code of 1972, is amended as follows:

37-7-207. (1) All school districts reconstituted or created under the provisions of Article 1 of this chapter, and which lie

wholly within one (1) county, but not including municipal separate and countywide districts, shall be governed by a board of five (5) trustees. The first board of trustees of such districts shall be appointed by the county board of education, and the original appointments shall be so made that one (1) trustee shall be appointed to serve until the first Saturday of March following such appointments, one (1) for one (1) year longer, one (1) for two (2) years longer, one (1) for three (3) years longer, and one (1) for four (4) years longer. After such original appointments, the trustees of such school districts shall be elected by the qualified electors of such school districts in the manner provided for in Sections 37-7-223 through 37-7-229, with each trustee to be elected for a term of five (5) years. The five (5) members of the board of trustees of such consolidated school district shall be elected from special trustee election districts by the qualified electors thereof, as herein provided. The board of trustees of any such consolidated school district shall apportion the consolidated school district into five (5) special trustee election districts. The board of trustees of such school district shall place upon its minutes the boundaries determined for the new five (5) trustee election districts. The board of trustees shall thereafter publish the same <u>either on a free, publicly accessible, official government website for three (3) consecutive weeks, or</u> in a newspaper of general circulation within said school district for at least three (3) consecutive weeks; and after having given

notice of publication and recording the same upon the minutes of the board of trustees, said new district lines shall thereafter be effective.

On the first Tuesday after the first Monday in November, in any year in which any consolidated school district shall elect to utilize the authority to create single member election districts, an election shall be held in each such district in this state for the purpose of electing the board of trustees of such district. At said election the member of the said board from District One shall be elected for a term of one (1) year, the member from District Two shall be elected for a term of two (2) years, the member from District Three shall be elected for a term of three (3) years, the member from District Four shall be elected for a term of four (4) years, and the member from District Five shall be elected for a term of five (5) years. Thereafter, members shall be elected at general elections as vacancies occur for terms of five (5) years each. Trustees elected from single member election districts as provided above shall otherwise be elected as provided for in Sections 37-7-223 through 37-7-229. All members of the said board of trustees shall take office on the first Monday of January following the date of their election. All vacancies which may occur during a term shall be filled by appointment of the consolidated school district trustees, but the person so appointed shall serve only until the next general election following such appointment, at which time a person shall be elected for the

remainder of the unexpired term at the same time and in the same manner as a trustee is elected for the full term then expiring. The person so elected to the unexpired term shall take office immediately. Said appointee shall be selected from the qualified electors of the district in which the vacancy occurs. In the event the school district is under conservatorship and no members of the board of trustees remain in office, the Governor shall call a special election to fill the vacancies and the said election will be conducted by the county election commission.

(2) All school districts reconstituted and created under the provisions of Article 1 of this chapter, which embrace territory in two (2) or more counties, but not including municipal separate school districts, shall be governed by a board of five (5) trustees. In making the original appointments, the several county boards of education shall appoint the trustee or trustees to which the territory in such county is entitled, and, by agreement between the county boards concerned, one (1) person shall be appointed to serve until the first Saturday of March following, one (1) for one (1) year longer, one (1) for two (2) years longer, one (1) for three (3) years longer and one (1) for four (4) years longer. Thereafter, such trustees shall be elected as is provided for in Sections 37-7-223 through 37-7-229, for a term of five (5) years. The five (5) members of the board of trustees of such line consolidated school district shall be elected from special trustee election districts by the qualified electors thereof, as herein

provided. The existing board of trustees of such line consolidated school district shall apportion the line consolidated school district into five (5) special trustee election districts. The board of trustees shall place upon its minutes the boundaries determined for the new five (5) trustee election districts. The board of trustees shall thereafter publish the same either on a free, publicly accessible, official government website for three (3) consecutive weeks, or in a newspaper of general circulation within said school district for at least three (3) consecutive weeks; and after having given notice of publication and recording the same upon the minutes of the board of trustees, said new district lines shall thereafter be effective. Provided, however, that in any line consolidated school district encompassing two (2) or more counties created pursuant to Laws, 1953, Extraordinary Session, Chapter 12, Section 8, in which, as a condition precedent to the creation of said district, each county belonging thereto was contractually guaranteed to always have at least one (1) representative on said board, in order that said condition precedent may be honored and guaranteed, in any year in which the board of trustees of such line consolidated school district does not have at least one (1) member from each county or part thereof forming such district, the board of trustees in such district shall be governed by a board of a sufficient number of trustees to fulfill this guarantee, five (5) of whom shall be elected from the five (5) special trustee election districts which shall be as

nearly equal as possible and one (1) member trustee appointed at large from each county not having representation on the elected board. In such cases, the board of supervisors of each county shall make written agreement to guarantee the manner of appointment of at least one (1) representative from each county in the district, placing such written agreement on the minutes of each board of supervisors in each county.

On the first Tuesday after the first Monday in November, in any year in which any line consolidated school district shall elect to utilize the authority to create single member election districts, an election shall be held in each such district in this state for the purpose of electing the board of trustees of such district. At said election the member of the said board from District One shall be elected for a term of one (1) year, the member from District Two shall be elected for a term of two (2) years, the member from District Three shall be elected for a term of three (3) years, the member from District Four shall be elected for a term of four (4) years, and the member from District Five shall be elected for a term of five (5) years. Thereafter, members shall be elected at general elections as vacancies occur for terms of five (5) years each. Trustees elected from single member election districts as provided above shall otherwise be elected as provided for in Sections 37-7-223 through 37-7-229. All members of the said board of trustees shall take office on the first Monday of January following the date of their election. In

all elections, the trustee elected shall be a resident and qualified elector of the district entitled to the representation upon the board, and he shall be elected only by the qualified electors of such district. All vacancies which may occur during a term of office shall be filled by appointment of the consolidated line school district trustees, but the person so appointed shall serve only until the next general election following such appointment, at which time a person shall be elected for the remainder of the unexpired term at the same time and in the same manner as the trustee is elected for the full term then expiring. The person so elected to the unexpired term shall take office immediately. In the event the school district is under conservatorship and no members of the board of trustees remain in office, the Governor shall call a special election to fill the vacancies and the said election will be conducted by the county election commission.

SECTION 55. Section 37-9-12, Mississippi Code of 1972, is amended as follows:

37-9-12. The qualified electors of any county having an elected county superintendent of education on July 1, 1986, shall decide at the November 1988 general election whether (a) to continue to have such office elected, or (b) to abolish such office of county superintendent of education in the county. Provided, however, that no such referendum shall be held on the office of administrative superintendent in a county having an

administrative superintendent as defined in Section 37-6-3, Mississippi Code of 1972. The county board of supervisors of such counties shall publish notice of said election either on a free, publicly accessible, official government website for three (3) consecutive weeks, or once a week for at least three (3) consecutive weeks prior to the November 1988 general election in at least one (1) newspaper published or circulated in such county. The proposition shall be submitted to a vote of all qualified electors residing outside the territory of any municipal separate or special municipal separate school district located within such county. Such election shall be held in the same manner as other elections are held in the county. If a majority of the qualified electors who voted in such election vote in favor of the abolition of such office, such abolishment shall be effective at the end of any regular term of office or whenever a vacancy shall occur in said office. In counties where the office of elected county superintendent of education has been abolished, it shall not be reinstated.

SECTION 56. Section 37-57-104, Mississippi Code of 1972, is amended as follows:

37-57-104. (1) Each school board shall submit to the levying authority for the school district a certified copy of an order adopted by the school board requesting an ad valorem tax effort in dollars for the support of the school district. The copy of the order shall be submitted by the school board when the

copies of the school district's budget are filed with the levying authority pursuant to Section 37-61-9. Upon receipt of the school board's order requesting the ad valorem tax effort in dollars, the levying authority shall determine the millage rate necessary to generate funds equal to the dollar amount requested by the school board. For the purpose of calculating this millage rate, any additional amount that is levied pursuant to Section 37-57-105(1) to cover anticipated delinquencies and costs of collection or any amount that may be levied for the payment of the principal and interest on school bonds or notes shall be excluded from the limitation of fifty-five (55) mills provided for in subsection (2) of this section.

(2) (a) Except as otherwise provided under paragraph (b) or (c) of this subsection, if the millage rate necessary to generate funds equal to the dollar amount requested by the school board is greater than fifty-five (55) mills, and if this millage rate is higher than the millage then being levied pursuant to the school board's order requesting the ad valorem tax effort for the currently existing fiscal year, then the levying authority shall call a referendum on the question of exceeding, during the next fiscal year, the then existing millage rate being levied for school district purposes. The referendum shall be scheduled for not more than six (6) weeks after the date on which the levying authority receives the school board's order requesting the ad valorem tax effort.

When a referendum has been called, notice of the referendum shall be published either on a free, publicly accessible, official government website for three (3) consecutive weeks, or at least five (5) days per week, unless the only newspaper published in the school district is published less than five (5) days per week, for at least three (3) consecutive weeks, in at least one (1) newspaper published in the school district. If publishing the notice in a newspaper, it shall be no less than one-fourth (1/4) page in size, and the type used shall be no smaller than eighteen (18) point and surrounded by a one-fourth-inch solid black border. The notice may not be placed in that portion of the newspaper where legal notices and classified advertisements appear. The first publication of the notice shall be made not less than twenty-one (21) days before the date fixed for the referendum, and the last publication shall be made not more than seven (7) days before that date. If no newspaper is published in the school district, then the notice shall be published in a newspaper having a general circulation in the school district. The referendum shall be held, as far as is practicable, in the same manner as other referendums and elections are held in the county or municipality. At the referendum, all registered, qualified electors of the school district may vote. The ballots used at the referendum shall have printed thereon a brief statement of the amount and purpose of the increased tax levy and the words "FOR INCREASING THE MILLAGE LEVIED FOR SCHOOL DISTRICT PURPOSES FROM

(MILLAGE RATE CURRENTLY LEVIED) MILLS TO (MILLAGE RATE REQUIRED UNDER SCHOOL BOARD'S ORDER) MILLS," and "AGAINST INCREASING THE MILLAGE LEVIED FOR SCHOOL DISTRICT PURPOSES FROM (MILLAGE RATE CURRENTLY LEVIED) MILLS TO (MILLAGE RATE REQUIRED UNDER SCHOOL BOARD'S ORDER) MILLS." The voter shall vote by placing a cross (X) or checkmark (✓) opposite his choice on the proposition.

If a majority of the registered, qualified electors of the school district who vote in the referendum vote in favor of the question, then the ad valorem tax effort in dollars requested by the school board shall be approved. However, if a majority of the registered, qualified electors who vote in the referendum vote against the question, the millage rate levied by the levying authority shall not exceed the millage then being levied pursuant to the school board's order requesting the ad valorem tax effort for the then currently existing fiscal year.

Nothing in this subsection shall be construed to require any school district that is levying more than fifty-five (55) mills pursuant to Sections 37-57-1 and 37-57-105 to decrease its millage rate to fifty-five (55) mills or less. Further, nothing in this subsection shall be construed to require a referendum in a school district where the requested ad valorem tax effort in dollars requires a millage rate of greater than fifty-five (55) mills but the requested dollar amount does not require any increase in the then existing millage rate. Further, nothing in this subsection shall be construed to require a referendum in a school district

where, because of a decrease in the assessed valuation of the district, a millage rate of greater than fifty-five (55) mills is necessary to generate funds equal to the dollar amount generated by the ad valorem tax effort for the currently existing fiscal year.

(b) Provided, however, that if a levying authority is levying in excess of fifty-five (55) mills on July 1, 1997, the levying authority may levy an additional amount not exceeding three (3) mills in the aggregate for the period beginning July 1, 1997, and ending June 30, 2003, subject to the limitation on increased receipts from ad valorem taxes prescribed in Sections 37-57-105 and 37-57-107.

(c) If the levying authority for any school district lawfully has decreased the millage levied for school district purposes, but subsequently determines that there is a need to increase the millage rate due to a disaster in which the Governor has declared a disaster emergency or the President of the United States has declared an emergency or major disaster, then the levying authority may increase the millage levied for school district purposes up to an amount that does not exceed the millage rate in any one (1) of the immediately preceding ten (10) fiscal years without any referendum that otherwise would be required under this subsection.

(3) If the millage rate necessary to generate funds equal to the dollar amount requested by the school board is equal to

fifty-five (55) mills or less, but the dollar amount requested by the school board exceeds the next preceding fiscal year's ad valorem tax effort in dollars by more than four percent (4%), but not more than seven percent (7%) (as provided for under subsection (4) of this section), then the school board shall publish notice thereof either on a free, publicly accessible, official government website for three (3) consecutive weeks, or at least five (5) days per week, unless the only newspaper published in the school district is published less than five (5) days per week, for at least three (3) consecutive weeks in a newspaper published in the school district. If publishing the notice in a newspaper, it shall be no less than one-fourth (1/4) page in size, and the type used shall be no smaller than eighteen (18) point and surrounded by a one-fourth-inch solid black border. The notice may not be placed in that portion of the newspaper where legal notices and classified advertisements appear. The first publication shall be made not less than fifteen (15) days before the final adoption of the budget by the school board. If no newspaper is published in the school district, then the notice shall be published in a newspaper having a general circulation in the school district. If at any time before the adoption of the budget a petition signed by not less than twenty percent (20%) or fifteen hundred (1500), whichever is less, of the registered, qualified electors of the school district is filed with the school board requesting that a referendum be called on the question of exceeding the next

preceding fiscal year's ad valorem tax effort in dollars by more than four percent (4%), then the school board shall adopt, not later than the next regular meeting, a resolution calling a referendum to be held within the school district upon the question. The referendum shall be called and held, and notice thereof shall be given, in the same manner provided for in subsection (2) of this section. The ballot shall contain the language "FOR THE SCHOOL TAX INCREASE OVER FOUR PERCENT (4%)" and "AGAINST THE SCHOOL TAX INCREASE OVER FOUR PERCENT (4%)." If a majority of the registered, qualified electors of the school district who vote in the referendum vote in favor of the question, then the increase requested by the school board shall be approved. For the purposes of this subsection, the revenue sources excluded from the increase limitation under Section 37-57-107 also shall be excluded from the limitation described in this subsection in the same manner as they are excluded under Section 37-57-107. Provided, however, that any increases requested by the school board as a result of the required local contribution to the Mississippi Adequate Education Program, as certified to the local school district by the State Board of Education under Section 37-151-7(2), Mississippi Code of 1972, shall not be subject to the four percent (4%) and/or seven percent (7%) tax increase limitations provided in this section.

(4) If the millage rate necessary to generate funds equal to the dollar amount requested by the school board is equal to

fifty-five (55) mills or less, but the dollar amount requested by the school board exceeds the seven percent (7%) increase limitation provided for in Section 37-57-107, the school board may exceed the seven percent (7%) increase limitation only after the school board has determined the need for additional revenues and three-fifths (3/5) of the registered, qualified electors voting in a referendum called by the levying authority have voted in favor of the increase. The notice and manner of holding the referendum shall be as prescribed in subsection (2) of this section for a referendum on the question of increasing the millage rate in school districts levying more than fifty-five (55) mills for school district purposes.

(5) The aggregate receipts from ad valorem taxes levied for school district purposes pursuant to Sections 37-57-1 and 37-57-105, excluding collection fees, additional revenue from the ad valorem tax on any newly constructed properties or any existing properties added to the tax rolls or any properties previously exempt which were not assessed in the next preceding year, and amounts received by school districts from the School Ad Valorem Tax Reduction Fund pursuant to Section 37-61-35, shall be subject to the increase limitation under this section and Section 37-57-107.

(6) The school board shall pay to the levying authority all costs that are incurred by the levying authority in the calling and holding of any election under this section.

(7) The provisions of this section shall not be construed to affect in any manner the authority of school boards to levy millage for the following purposes:

(a) The issuance of bonds, notes and certificates of indebtedness, as authorized in Sections 37-59-1 through 37-59-45 and Sections 37-59-101 through 37-59-115;

(b) The lease of property for school purposes, as authorized under the Emergency School Leasing Authority Act of 1986 (Sections 37-7-351 through 37-7-359);

(c) The lease or lease-purchase of school buildings, as authorized under Section 37-7-301;

(d) The issuance of promissory notes in the event of a shortfall of ad valorem taxes and/or revenue from local sources, as authorized under Section 27-39-333; and

(e) The construction of school buildings outside the school district, as authorized under Section 37-7-401.

Any millage levied for the purposes specified in this subsection shall be excluded from the millage limitations established under this section.

SECTION 57. Section 37-57-105, Mississippi Code of 1972, is amended as follows:

37-57-105. (1) In addition to the taxes levied under Section 37-57-1, the levying authority for the school district, as defined in Section 37-57-1, upon receipt of a certified copy of an order adopted by the school board of the school district

requesting an ad valorem tax effort in dollars for the support of the school district, shall, at the same time and in the same manner as other ad valorem taxes are levied, levy an annual ad valorem tax in the amount fixed in such order upon all of the taxable property of such school district, which shall not be less than the millage rate certified by the State Board of Education as the uniform minimum school district ad valorem tax levy for the support of the adequate education program in such school district under Section 37-57-1. Provided, however, that any school district levying less than the uniform minimum school district ad valorem tax levy on July 1, 1997, shall only be required to increase its local district maintenance levy in four (4) mill annual increments in order to attain such millage requirements. In making such levy, the levying authority shall levy an additional amount sufficient to cover anticipated delinquencies and costs of collection so that the net amount of money to be produced by such levy shall be equal to the amount which is requested by said school board. The proceeds of such tax levy, excluding levies for the payment of the principal of and interest on school bonds or notes and excluding levies for costs of collection, shall be placed in the school depository to the credit of the school district and shall be expended in the manner provided by law for the purpose of supplementing teachers' salaries, extending school terms, purchasing furniture, supplies and materials, and for all other lawful operating and incidental

expenses of such school district, funds for which are not provided by adequate education program fund allotments.

The monies authorized to be received by school districts from the School Ad Valorem Tax Reduction Fund pursuant to Section 37-61-35 shall be included as ad valorem tax receipts. The levying authority for the school district, as defined in Section 37-57-1, shall reduce the ad valorem tax levy for such school district in an amount equal to the amount distributed to such school district from the School Ad Valorem Tax Reduction Fund each calendar year pursuant to said Section 37-61-35. Such reduction shall not be less than the millage rate necessary to generate a reduction in ad valorem tax receipts equal to the funds distributed to such school district from the School Ad Valorem Tax Reduction Fund pursuant to Section 37-61-35. Such reduction shall not be deemed to be a reduction in the aggregate amount of support from ad valorem taxation for purposes of Section 37-19-11. The millage levy certified by the State Board of Education as the uniform minimum ad valorem tax levy or the millage levy that would generate funds in an amount equal to a school district's district entitlement, as defined in Section 37-22-1(2)(e), shall be subject to the provisions of this paragraph.

In any county where there is located a nuclear generating power plant on which a tax is assessed under Section 27-35-309(3), such required levy and revenue produced thereby may be reduced by the levying authority in an amount in proportion to a reduction in

the base revenue of any such county from the previous year. Such reduction shall be allowed only if the reduction in base revenue equals or exceeds five percent (5%). "Base revenue" shall mean the revenue received by the county from the ad valorem tax levy plus the revenue received by the county from the tax assessed under Section 27-35-309(3) and authorized to be used for any purposes for which a county is authorized by law to levy an ad valorem tax. For purposes of determining if the reduction equals or exceeds five percent (5%), a levy of millage equal to the prior year's millage shall be hypothetically applied to the current year's ad valorem tax base to determine the amount of revenue to be generated from the ad valorem tax levy. For the purposes of this section and Section 37-57-107, the portion of the base revenue used for the support of any school district shall be deemed to be the aggregate receipts from ad valorem taxes for the support of any school district. This paragraph shall apply to taxes levied for the 1987 fiscal year and for each fiscal year thereafter. If the Mississippi Supreme Court or another court finally adjudicates that the tax levied under Section 27-35-309(3) is unconstitutional, then this paragraph shall stand repealed.

(2) When the tax is levied upon the territory of any school district located in two (2) or more counties, the order of the school board requesting the levying of such tax shall be certified to the levying authority of each of the counties involved, and each of the levying authorities shall levy the tax in the manner

specified herein. The taxes so levied shall be collected by the tax collector of the levying authority involved and remitted by the tax collector to the school depository of the home county to the credit of the school district involved as provided above, except that taxes for collection fees may be retained by the levying authority for deposit into its general fund.

(3) The aggregate receipts from ad valorem taxes levied for school district purposes, excluding collection fees, pursuant to this section and Section 37-57-1 shall be subject to the increased limitation under Section 37-57-107; however, if the ad valorem tax effort in dollars requested by the school district for the fiscal year exceeds the next preceding fiscal year's ad valorem tax effort in dollars by more than four percent (4%) but not more than seven percent (7%), then the school board shall publish notice thereof either on a free, publicly accessible, official government website for three (3) consecutive weeks, or once each week for at least three (3) consecutive weeks in a newspaper having general circulation in the school district involved, with the first publication thereof to be made not less than fifteen (15) days prior to the final adoption of the budget by the school board. If at any time prior to said adoption a petition signed by not less than twenty percent (20%) or fifteen hundred (1500), whichever is less, of the qualified electors of the school district involved shall be filed with the school board requesting that an election be called on the question of exceeding the next preceding fiscal

year's ad valorem tax effort in dollars by more than four percent (4%) but not more than seven percent (7%), then the school board shall, not later than the next regular meeting, adopt a resolution calling an election to be held within such school district upon such question. The election shall be called and held, and notice thereof shall be given, in the same manner for elections upon the questions of the issuance of the bonds of school districts, and the results thereof shall be certified to the school board. The ballot shall contain the language "For the School Tax Increase Over Four Percent (4%)" and "Against the School Tax Increase Over Four Percent (4%)." If a majority of the qualified electors of the school district who voted in such election shall vote in favor of the question, then the stated increase requested by the school board shall be approved. For the purposes of this paragraph, the revenue sources excluded from the increased limitation under Section 37-57-107 shall also be excluded from the limitation described herein in the same manner as they are excluded under Section 37-57-107.

SECTION 58. Section 37-59-13, Mississippi Code of 1972, is amended as follows:

37-59-13. Where an election has been called, as provided in Section 37-59-11, notice of such election shall be signed by the president of the school board and shall be published either on a free, publicly accessible, official government website for three (3) consecutive weeks, or once a week for at least three (3)

consecutive weeks, in at least one (1) newspaper published in such school district. The first publication of such notice shall be made not less than twenty-one (21) days prior to the date fixed for such election, and the last publication shall be made not more than seven (7) days prior to such date. When published in a newspaper, if no newspaper is published in such school district, then such notice shall be given by publishing the same for the required time in some newspaper having a general circulation in such school district.

SECTION 59. Section 37-61-9, Mississippi Code of 1972, is amended as follows:

37-61-9. (1) On or before the fifteenth day of August of each year, the local school board of each school district, with the assistance of the superintendent of schools, shall prepare and file with the levying authority for the school district, as defined in Section 37-57-1, at least two (2) copies of a budget of estimated expenditures for the support, maintenance and operation of the public schools of the school district for the fiscal year commencing on July 1 of such year. Such budget shall be prepared on forms prescribed and provided by the State Auditor and shall contain such information as the State Auditor may require.

(2) In addition, on or before the fifteenth day of August of each year, the local school board of each school district, with the assistance of the superintendent of schools, shall prepare and file with the State Department of Education such budgetary

information as the State Board of Education may require. The State Board of Education shall prescribe and provide forms to each school district for this purpose.

(3) Prior to the adoption of a budget pursuant to this section, the school board of each school district shall hold at least one (1) public hearing to provide the general public with an opportunity to comment on the taxing and spending plan incorporated in the proposed budget. The public hearing shall be held at least one (1) week prior to the adoption of the budget with advance notice. After final adoption of the budget, a synopsis of such budget in a form prescribed by the State Department of Audit shall be published either on a free, publicly accessible, official government website, or in a newspaper having general circulation in the school district on a date different from the date on which the county or any municipality therein may publish its budget.

(4) There shall be imposed limitations on budgeted expenditures for certain administration costs, as defined hereinafter, in an amount not greater than One Hundred Fifty Thousand Dollars ($150,000.00) plus four percent (4%) of the expenditures of all school districts each year. For purposes of this subsection, "administration costs" shall be defined as expenditures for salaries and fringe benefits paid for central administration costs from all sources of revenue in the following

expenditure functions as defined in the MISSISSIPPI PUBLIC SCHOOL DISTRICT FINANCIAL ACCOUNTING MANUAL:

2300 = Support Services - General Administration

2310 = Board of Education Services

2320 = Executive Administration Services

2330 = Special Area Administration Services

2500 = Business Services

2510 = Fiscal Services

2520 = Purchasing Services

2530 = Warehousing and Distributing Services

2540 = Printing, Publishing and Duplicating Services

2590 = Other Support Services - Business

Any costs classified as "administration costs" for purposes of this subsection which can be demonstrated by the local school district to be an expenditure that results in a net cost savings to the district that may otherwise require budget expenditures for functions not covered under the definition of administration costs herein may be excluded from the limitations imposed herein. The local school board shall make a specific finding of such costs and spread such finding upon its minutes, which shall be subject to the approval of the Office of Educational Accountability of the State Department of Education. Any school district required to make expenditure cuts, as a result of application of this subsection, shall not be required to reduce such expenditures more

than twenty-five percent (25%) in any year in order to comply with this mandate.

The State Auditor shall ensure that functions in all expenditure categories to which this administrative limitation applies shall be properly classified.

This section shall not apply to central administration with five (5) or less full-time employees, or to those school districts which can substantiate that comparable reductions have occurred in administrative costs for the five-year period immediately prior to school year 1993-1994. In the event the application of this section may jeopardize the fiscal integrity or operations of the school district, have an adverse impact on the ability of the district to deliver educational services, or otherwise restrict the district from achieving or maintaining a quality education program, the State Board of Education shall be authorized to exempt the application of this section to such school district pursuant to rules and regulations of the State Board of Education consistent with the intent of this section.

SECTION 60. Section 39-13-11, Mississippi Code of 1972, is amended as follows:

39-13-11. A governing authority may provide by local ordinance the procedures to be followed to designate historic districts, landmarks and landmark sites. Such an ordinance may provide that a governing authority may designate such properties

upon the recommendation of a local historic preservation commission.

A potential historic district or landmark or landmark site may be proposed for designation by either a majority of the members of a local historic preservation commission or an owner of a potential landmark or landmark site or an organization which has as one of its central purposes the promotion of historic preservation objectives. If in private ownership, a landmark site must include significant surviving landscape features to qualify for designation unless its primary significance is archeological, and new construction after review and approval, shall be built to fit into such landscape features rather than replace them or shall be designed to avoid insofar as possible an archeological resource rather than replace it. If in public ownership, a local historic preservation commission shall discourage new construction on a site of great significance to the entire community unless the new construction can be located on a portion of the site which will permit a continuing understanding of its historical character and will avoid damage to surviving landscape features or an archeological resource.

Once a nomination has been filed with an existing historic preservation commission or the governing authority of a municipality or county proposing to create such a commission and designate one or more local properties, a decision on whether to proceed with the designation must be made within six (6) months.

When a historic preservation commission already exists within a community, a majority of the commission's members must vote in favor of any proposed designation in order for the file supporting the designation to be sent forward to the local governing authority for its consideration. No file purporting to justify a proposed designation may be forwarded to a governing authority unless the commission's recommendation includes a map that clearly delineates boundaries for the proposed designation, a verbal description and justification of the proposed boundaries and a written statement of significance for the historic district or landmark or landmark site proposed for designation. Unless justification is contained in a designating ordinance, the boundary for any historic landmark shall include an entire tax parcel and may include adjoining tax parcels that were historically linked to the primary parcel during the period of greatest historic significance for the landmark structure.

The local governing authority must conduct at least one (1) public hearing on the proposed designation and notice of the public hearing must be published either on a free, publicly accessible, official government website for three (3) consecutive weeks, or weekly for at least three (3) consecutive weeks in a local newspaper authorized to publish legal notices.

The local governing authority must take action on the proposed designation within sixty (60) days of the public hearing,

either to adopt a designating ordinance or to reject the proposed designation.

As quickly as would be reasonably possible, a local historic preservation commission must notify other municipal agencies and any appropriate county or state agencies of the designation of a historic district, landmark or landmark site. The commission must maintain in its official files an updated list and map of local designations and provide copies of such a map to other governmental agencies within one (1) week of the preparation of a new version of the map.

SECTION 61. Section 41-13-15, Mississippi Code of 1972, is amended as follows:

41-13-15. (1) Any county and/or any political or judicial subdivision of a county and/or any municipality of the State of Mississippi, acting individually or jointly, may acquire and hold real estate for a community hospital either recognized and/or licensed as such by either the State of Mississippi or the United States Government, and may, after complying with applicable health planning and licensure statutes, construct a community hospital thereon and/or appropriate funds according to the provisions of this chapter for the construction, remodeling, maintaining, equipping, furnishing and expansion of such facilities by the board of trustees upon such real estate.

(2) Where joint ownership of a community hospital is involved, the owners are hereby authorized to contract with each

other for determining the pro rata ownership of such community hospital, the proportionate cost of maintenance and operation, and the proportionate financing that each will contribute to the community hospital.

(3) The owners may likewise contract with each other, or on behalf of any subordinate political or judicial subdivision, or with the board of trustees of a community hospital, and/or any agency of the State of Mississippi or the United States Government, for necessary purposes related to the establishment, operation or maintenance of community hospitals and related programs wherever located, and may either accept from, sell or contribute to the other entities, monies, personal property or existing health facilities. The owners or the board of trustees may also receive monies, property or any other valuables of any kind through gifts, donations, devises or other recognized means from any source for the purpose of hospital use.

(4) Owners and boards of trustees, acting jointly or severally, may acquire and hold real estate for offices for physicians and other health care practitioners and related health care or support facilities, provided that any contract for the purchase of real property must be ratified by the owner, and may thereon construct and equip, maintain and remodel or expand such offices and related facilities, and the board of trustees may lease same to members of the hospital staff or others at a rate deemed to be in the best interest of the community hospital.

(5) If any political or judicial subdivision of a county is obligated hereunder, the boundaries of such district shall not be altered in such a manner as to relieve any portion thereof of its obligation hereunder.

(6) Owners may convey to any other owner any or all property, real or personal, comprising any existing community hospital, including related facilities, wherever located, owned by such conveying owner. Such conveyance shall be upon such terms and conditions as may be agreed upon and may make such provisions for transfers of operating funds and/or for the assumption of liabilities of the community hospital as may be deemed appropriate by the respective owners.

(7) (a) Except as provided for in subsection (11) of this section, owners may lease all or part of the property, real or personal, comprising a community hospital, including any related facilities, wherever located, and/or assets of such community hospital, to any individual, partnership or corporation, whether operating on a nonprofit basis or on a profit basis, or to the board of trustees of such community hospital or any other owner or board of trustees, subject to the applicable provisions of subsections (8), (9) and (10) of this section. The term of such lease shall not exceed fifty (50) years. Such lease shall be conditioned upon (i) the leased facility continuing to operate in a manner safeguarding community health interests; (ii) the proceeds from the lease being first applied against such bonds,

notes or other evidence of indebtedness as are issued pursuant to Section 41-13-19 as and when they are due, provided that the terms of the lease shall cover any indebtedness pursuant to Section 41-13-19; and (iii) any surplus proceeds from the lease being deposited in the general fund of the owner, which proceeds may be used for any lawful purpose. Such lease shall be subject to the express approval of the board of trustees of the community hospital, except in the case where the board of trustees of the community hospital will be the lessee. However, owners may not lease any community hospital to the University of Mississippi Medical Center unless first the University of Mississippi Medical Center has obtained authority to lease such hospital under specific terms and conditions from the Board of Trustees of State Institutions of Higher Learning.

If the owner wishes to lease a community hospital without an option to sell it and the approval of the board of trustees of the community hospital is required but is not given within thirty (30) days of the request for its approval by the owner, then the owner may enter such lease as described herein on the following conditions: A resolution by the owner describing its intention to enter such lease shall be published <u>either on a free, publicly accessible, official government website for three (3) consecutive weeks, or</u> once a week for at least three (3) consecutive weeks in at least one (1) newspaper published in the county or city, as the case may be, or if none be so published, in a newspaper having a

general circulation therein. The first publication of such notice shall be made not less than twenty-one (21) days prior to the date fixed in such resolution for the lease of the community hospital and the last publication shall be made not more than seven (7) days prior to such date. If, on or prior to the date fixed in such resolution for the lease of the community hospital, there shall be filed with the clerk of the owner a petition signed by twenty percent (20%) or fifteen hundred (1500), whichever is less, of the qualified voters of such owner, requesting that an election be called and held on the question of the lease of the community hospital, then it shall be the duty of the owner to call and provide for the holding of an election as petitioned for. In such case, no such lease shall be entered into unless authorized by the affirmative vote of the majority of the qualified voters of such owner who vote on the proposition at such election. Notice of such election shall be given by publication in like manner as hereinabove provided for the publication of the initial resolution. Such election shall be conducted and the return thereof made, canvassed and declared as nearly as may be in like manner as is now or may hereafter be provided by law in the case of general elections in such owner. If, on or prior to the date fixed in the owner's resolution for the lease of the community hospital, no such petition as described above is filed with the clerk of the owner, then the owner may proceed with the lease subject to the other requirements of this section. Subject to the

above conditions, the lease agreement shall be upon such terms and conditions as may be agreed upon and may make such provision for transfers of tangible and intangible personal property and operating funds and/or for the assumption of liabilities of the community hospital and for such lease payments, all as may be deemed appropriate by the owners.

(b) Owners may sell and convey all or part of the property, real or personal, comprising a community hospital, including any related facilities, wherever located, and/or assets of such community hospital, to any individual, partnership or corporation, whether operating on a nonprofit basis or on a profit basis, or to the board of trustees of such community hospital or any other owner or board of trustees, subject to the applicable provisions of subsections (8) and (10) of this section. Such sale and conveyance shall be upon such terms and conditions as may be agreed upon by the owner and the purchaser that are consistent with the requirements of this section, and the parties may make such provisions for the transfer of operating funds or for the assumption of liabilities of the facility, or both, as they deem appropriate. However, such sale and conveyance shall be conditioned upon (i) the facility continuing to operate in a manner safeguarding community health interests; (ii) the proceeds from such sale being first applied against such bonds, notes or other evidence of indebtedness as are issued pursuant to Section 41-13-19 as and when they are due, provided that the terms of the

sale shall cover any indebtedness pursuant to Section 41-13-19; and (iii) any surplus proceeds from the sale being deposited in the general fund of the owner, which proceeds may be used for any lawful purpose. However, owners may not sell or convey any community hospital to the University of Mississippi Medical Center unless first the University of Mississippi Medical Center has obtained authority to purchase such hospital under specific terms and conditions from the Board of Trustees of State Institutions of Higher Learning.

(8) Whenever any owner decides that it may be in its best interests to sell or lease a community hospital as provided for under subsection (7) of this section, the owner shall first contract with a certified public accounting firm, a law firm or competent professional health care or management consultants to review the current operating condition of the community hospital. The review shall consist of, at minimum, the following:

(a) A review of the community's inpatient facility needs based on current workload, historical trends and projections, based on demographic data, of future needs.

(b) A review of the competitive market for services, including other hospitals which serve the same area, the services provided and the market perception of the competitive hospitals.

(c) A review of the hospital's strengths relative to the competition and its capacity to compete in light of projected trends and competition.

(d) An analysis of the hospital's options, including service mix and pricing strategies. If the study concludes that a sale or lease should occur, the study shall include an analysis of which option would be best for the community and how much revenues should be derived from the lease or sale.

(9) After the review and analysis under subsection (8) of this section, an owner may choose to sell or lease the community hospital. If an owner chooses to sell such hospital or lease the hospital with an option to sell it, the owner shall follow the procedure specified in subsection (10) of this section. If an owner chooses to lease the hospital without an option to sell it, it shall first spread upon its minutes why such a lease is in the best interests of the persons living in the area served by the facility to be leased, and it shall make public any and all findings and recommendations made in the review required under proposals for the lease, which shall state clearly the minimum required terms of all respondents and the evaluation process that will be used when the owner reviews the proposals. The owner shall lease to the respondent submitting the highest and best proposal. In no case may the owner deviate from the process provided for in the request for proposals.

(10) If an owner wishes to sell such community hospital or lease the hospital with an option to sell it, the owner first shall conduct a public hearing on the issue of the proposed sale or lease with an option to sell the hospital. Notice of the date,

time, location and purpose of the public hearing shall be published either on a free, publicly accessible, official government website for three (3) consecutive weeks, or once a week for at least three (3) consecutive weeks in at least one (1) newspaper published in the county or city, as the case may be, or if none be so published, in a newspaper having a general circulation therein. The first publication of the notice shall be made not less than twenty-one (21) days before the date of the public hearing and the last publication shall be made not more than seven (7) days before that date. If there is filed with the clerk of the owner not more than twenty-one (21) days after the date of the public hearing, a petition signed by twenty percent (20%) or fifteen hundred (1500), whichever is less, of the qualified voters of the owner, requesting that an election be called and held on the question of whether the owner should proceed with the process of seeking proposals for the sale or lease with an option to sell the hospital, then it shall be the duty of the owner to call and provide for the holding of an election as petitioned for. Notice of the election shall be given by publication in the same manner as provided for the publication of the notice of the public hearing. The election shall be conducted and the return thereof made, canvassed and declared in the same manner as provided by law in the case of general elections in the owner. If less than a majority of the qualified voters of the owner who vote on the proposition at such election

vote in favor of the owner proceeding with the process of seeking proposals for the sale or lease with an option to sell the hospital, then the owner is not authorized to sell or lease the hospital. If a majority of the qualified voters of the owner who vote on the proposition at such election vote in favor of the owner proceeding with the process of seeking proposals for the sale or lease with an option to sell the hospital, then the owner may seek proposals for the sale or lease of the hospital. If no such petition is timely filed with the clerk of the owner, then the owner may proceed with the process of seeking proposals for the sale or lease with an option to sell the hospital. The owner shall adopt a resolution describing its intention to sell or lease with an option to sell the hospital, which shall include the owner's reasons why such a sale or lease is in the best interests of the persons living in the area served by the facility to be sold or leased. The owner then shall publish a copy of the resolution; the requirements for proposals for the sale or lease with an option to sell the hospital, which shall state clearly the minimum required terms of all respondents and the evaluation process that will be used when the owner reviews the proposals; and the date proposed by the owner for the sale or lease with an option to sell the hospital. Such publication shall be made either on a free, publicly accessible, official government website for three (3) consecutive weeks, or once a week for at least three (3) consecutive weeks in at least one (1) newspaper published in

the county or city, as the case may be, or if none be so published, in a newspaper having a general circulation therein. The first publication of the notice shall be made not less than twenty-one (21) days before the date proposed for the sale or lease with an option to sell the hospital and the last publication shall be made not more than seven (7) days before that date. After receiving proposals, such sale or lease shall be made to the respondent submitting the highest and best proposal. In no case may the owner deviate from the process provided for in the request for proposals.

(11) A lessee of a community hospital, under a lease entered into under the authority of Section 41-13-15, in effect prior to July 15, 1993, or an affiliate thereof, may extend or renew such lease whether or not an option to renew or extend the lease is contained in the lease, for a term not to exceed fifteen (15) years, conditioned upon (a) the leased facility continuing to operate in a manner safeguarding community health interest; (b) proceeds from the lease being first applied against such bonds, notes or other evidence of indebtedness as are issued pursuant to Section 41-13-19; (c) surplus proceeds from the lease being used for health related purposes; (d) subject to the express approval of the board of trustees of the community hospital; and (e) subject to the express approval of the owner. If no board of trustees is then existing, the owner shall have the right to enter into a lease upon such terms and conditions as agreed upon by the

parties. Any lease entered into under this subsection (11) may contain an option to purchase the hospital, on such terms as the parties shall agree.

SECTION 62. Section 47-4-3, Mississippi Code of 1972, is amended as follows:

47-4-3. (1) Before a private correctional facility may be located in the county, the board of supervisors shall by resolution duly adopted and entered on its minutes specify the location of the facility, the nature and size of the facility, the type of inmates to be incarcerated and the identity of the private entity which will operate the facility. The board shall publish a notice as hereinafter set forth either on a free, publicly accessible, official government website for three (3) consecutive weeks, or in a newspaper having general circulation in such county. Such notice shall include location of the facility, the nature and size of the facility, the type of inmates to be incarcerated and the identity of the entity which will operate the facility. Such notice shall include a brief summary of the provisions of this section pertaining to the petition for an election on the question of the location of the private correctional facility in such county. Such notice shall be published either on a free, publicly accessible, official government website for three (3) consecutive weeks, or not less than one (1) time each week for at least three (3) consecutive

weeks in at least one (1) newspaper having general circulation in the county.

(2) If a petition signed by twenty percent (20%), or fifteen hundred (1500), whichever is less, of the qualified electors of the county is filed within sixty (60) days of the date of the last publication of the notice with the board of supervisors requesting that an election be called on the question of locating such facility, then the board of supervisors shall adopt a resolution calling an election to be held within such county upon the question of the location of such facility. Such election shall be held, as far as practicable, in the same manner as other elections are held in counties. At such election, all qualified electors of the county may vote, and the ballots used at such election shall have printed thereon a brief statement of the facility to be constructed and the words "For the construction of the private correctional facility in (here insert county name) County" and "Against the construction of the private correctional facility in (here insert county name) County." The voter shall vote by placing a cross (X) or check mark (√) opposite his choice on the proposition. When the results of the election on the question of the construction of the facility shall have been canvassed by the election commissioners of the county and certified by them to the board of supervisors, it shall be the duty of the board of supervisors to determine and adjudicate whether or not a majority of the qualified electors who voted thereon in such election voted

in favor of the construction of the facility in such county. If a majority of the qualified electors who voted in such election vote against the construction of the facility, then the facility shall not be constructed in the county.

(3) If no petition as prescribed in subsection (2) of this section is filed with the board of supervisors within sixty (60) days of the date of the last publication of the notice, the board of supervisors shall by a resolution duly adopted and entered on its minutes, state that no petition was timely filed and the board may give final approval to the location of the facility.

SECTION 63. Section 49-17-121, Mississippi Code of 1972, is amended as follows:

49-17-121. No bonds shall be issued pursuant to the provisions of Sections 49-17-101 through 49-17-123 until the proposal of the governing board to issue the bonds shall receive the approval of the board. Whenever the governing board shall propose to issue bonds pursuant to the provisions of said sections, it shall file its petition to the board setting forth: (a) a brief description of the pollution control facilities proposed to be undertaken; (b) a statement setting forth the action taken by the pollution control authority in connection with the pollution control facilities; (c) a reasonable estimate of the cost of the pollution control facilities; (d) a general summary of the terms and conditions of the lease/sale; and (e) financial statements on lessee company. Upon the filing of the petition the

board shall, as soon as practicable, make such investigation as it deems advisable, and if it finds that the proposed pollution control facilities are intended to promote the purposes of Sections 49-17-101 through 49-17-123 and may be reasonably anticipated to effect such result, it shall be authorized to approve the pollution control facilities, and at any time not exceeding six (6) years following such approval, the governing board may proceed with the issuance of bonds for the pollution control facilities. Notice of the approval by the board shall be published at least once by the governing board either on a free, publicly accessible, official government website, or in a newspaper having general circulation in the county where the pollution control facilities are to be located. The governing board shall thereupon adopt and publish as required by law a resolution declaring its intention to issue said bonds.

Any qualified elector may challenge the validity of such approval by intervention in the bond validation proceedings.

Authority hereby vested in any governing board to issue, and the board to approve, revenue bonds pursuant to and in accordance with Sections 49-17-101 through 49-17-123 is supplemental to, and may be exercised irrespective of Sections 27-39-15, 57-1-1 to 57-1-51, 57-1-71 to 57-1-83, 57-1-101 to 57-1-107, and 57-3-1 to 57-3-33, Mississippi Code of 1972.

SECTION 64. Section 49-28-5, Mississippi Code of 1972, is amended as follows:

49-28-5. (1) Upon the filing of a petition, the board of supervisors shall fix a time and place for a public hearing upon the question of the public convenience and necessity of the incorporation of the proposed district. The date fixed for the hearing shall be not more than thirty (30) days after the filing of the petition. The time, date and location of the hearing, the proposed boundaries of the district, and the purpose of the hearing shall be set forth in a notice to be signed by the clerk of the board of supervisors. The notice shall be published either on a free, publicly accessible, official government website for three (3) consecutive weeks, or in a newspaper having general circulation within the proposed district once a week for at least three (3) consecutive weeks before the date of the hearing. The first publication of the notice shall be made not less than twenty-one (21) days before the date of the hearing and the last publication shall be made not more than seven (7) days before the date of the hearing.

(2) If, at the public hearing, the board of supervisors finds (a) that the public convenience and necessity require the creation of the district and (b) that the creation of the district is economically sound and desirable, then the board of supervisors shall adopt a resolution making those findings and declaring its intention to create the district on a date to be specified in the resolution. The resolution shall also designate the name of the proposed district, define its territorial limits which shall be

fixed by the board of supervisors pursuant to the hearing, and state whether or not the board of supervisors shall levy the ad valorem tax authorized in Section 49-28-27 and whether or not the board of supervisors proposes to make special assessments against benefited properties as outlined in Section 49-28-29.

SECTION 65. Section 49-28-7, Mississippi Code of 1972, is amended as follows:

49-28-7. (1) A certified copy of the adopted resolution shall be published <u>either on a free, publicly accessible, official government website for three (3) consecutive weeks, or</u> in a newspaper having a general circulation within the proposed district once a week for at least three (3) consecutive weeks before the date specified in the resolution as the date upon which the board of supervisors intends to create the district. The first publication of the notice shall be made not less than twenty-one (21) days before the date specified, and the last publication shall be made not more than seven (7) days before the date.

(2) If twenty percent (20%) or one hundred fifty (150), whichever is less, of the qualified electors of the county residing within the proposed district file a written petition with the board of supervisors on or before the date specified in the resolution under subsection (1) of this section protesting the creation of the district, the board of supervisors shall call an election on the question of the creation of the district. The

election shall be held and conducted by the election commissioners of the county, as far as is practicable in accordance with the general laws governing elections. The election commissioners shall determine which of the qualified electors of the county reside within the proposed district, and only those qualified electors as reside within the proposed district shall be entitled to vote in the election. Notice of the election setting forth the time, place or places, and purpose of the election shall be published by the clerk of the board of supervisors. The notice shall be published for the time and in the manner provided in Section 49-28-5 for the publication of the resolution of intent. The ballot to be prepared for and used at the election shall be in substantially the following form:

"FOR CREATION OF _____ DISTRICT: ( )

AGAINST CREATION OF _____ DISTRICT: ( )."

Voters shall vote by placing a cross mark (X) or check mark (✓) opposite their choice.

SECTION 66. Section 49-28-43, Mississippi Code of 1972, is amended as follows:

49-28-43. Within ninety (90) days after the close of each fiscal year, the board of commissioners shall publish either on a free, publicly accessible, official government website, or in a newspaper of general circulation in the county in which the district is located a sworn statement showing the financial condition of the district, including the revenues and

expenses of the district for the fiscal year just ended. The statement shall also be furnished to the board of supervisors of the county in which the district lies.

SECTION 67. Section 51-7-11, Mississippi Code of 1972, is amended as follows:

51-7-11. Upon the filing of a petition for creation of a master water management district, and after fixing of the time, date, and place of hearing by the chancellor, the chancery clerk of the county wherein such petition is filed shall immediately publish a notice directed to the owners of land to be embraced in the proposed district, giving notice of the said petition and designating a date, not less than ten (10) days nor more than twenty (20) days after the last publication of notice, at which a hearing will be had on the petition. Said notice shall be published either on a free, publicly accessible, official government website for three (3) consecutive weeks, or in a newspaper in each county wherein a part of such district is situated, such paper to have a general circulation in the area in said county wherein such portion of such district may be located, and said notice shall be published for three (3) weeks in such newspaper. If there be no newspaper published in such county, then the notice provided herein shall be posted for not less than fifteen (15) days, with one (1) copy being posted on the bulletin board at the county courthouse and two (2) copies posted at public places in the area proposed to be included in said master water

management district. Said notice shall call upon landowners in such proposed district to show cause, if any, against establishment of such district, and such notice shall be in substantially the following form, to wit: "To all persons owning any interest in the following described lands, to wit: (with a description of the lands to be in subdivisions no smaller than quarter sections)."

Upon the date designated in the notice, or upon a subsequent day to which the matter may be continued, the chancery court shall hear all objections, if any are offered, to the organization of said district. Unless at the hearing at least one-third (1/3) of the landowners owning at least one-half (1/2) of the land proposed to be included in the district or at least one-half (1/2) of the landowners owning at least one-third (1/3) of the land proposed to be included in the district shall object to the organization, further proceedings shall be had as hereinafter provided; but the district shall not be organized in the event of such objection by at least one-third (1/3) of the landowners owning at least one-half (1/2) the land or by at least one-half (1/2) of the landowners owning at least one-third (1/3) of the land, excluding state-owned lands.

SECTION 68. Section 51-8-61, Mississippi Code of 1972, is amended as follows:

51-8-61. Within ninety (90) days after the close of each fiscal year, the board of commissioners shall publish either on a

free, publicly accessible, official government website, or in a newspaper of general circulation in the county a sworn statement showing the financial condition of the district, the earnings for the fiscal year just ended, a statement of the water and sewer rates being charged and a brief statement of the method used in arriving at such rates. Such statement shall also be filed with the local governmental units creating the district.

SECTION 69. Section 51-9-111, Mississippi Code of 1972, is amended as follows:

51-9-111. The board of water commissioners shall make a written report on the preliminary study or plans furnished them and shall, within thirty (30) days after receipt of the said study, file such report with the chancery court setting forth their recommendations concerning the proposed water supply district. After the filing of the report of the board of water commissioners, and upon motion of the petitioners, the chancellor shall enter an order fixing the date for a hearing of the cause on the original petition, the exhibit, the report and recommendations of the board of water commissioners, and any answers filed or other pleadings. The chancery clerk shall give notice of such hearing to all persons interested by posting notices thereof at the door of the courthouse of the county or counties in which the district is situated and in at least ten (10) public places in said proposed district, and also by publishing said notice either on a free, publicly accessible, official government website for

three (3) consecutive weeks, or at least once a week for three (3) consecutive weeks in a newspaper published in Hinds County and in a newspaper published in each of the other counties proposed to be included in such water supply district. When published in a newspaper, if there is no newspaper published in any such county, then it shall be sufficient to publish said notice in a newspaper having a general circulation in such county. Such notice shall be addressed to the property owners and qualified electors of such proposed district and all other persons interested, shall state when and in what court said petition was and is filed, shall state the counties included in such district, and shall command all such persons to appear before the chancery court, or the chancellor in vacation, at the Chancery Court Building in the First Judicial District of Hinds County, upon the date fixed by the chancellor to show cause, if any they can, why the proposed water supply district should not be organized and established as prayed for in said petition. The date of such hearing shall not be less than twenty-one (21) days nor more than forty (40) days after the last publication of such notice. It shall be sufficient in describing the lands to be included in the water supply district to name the counties to be included therein in the publication or notice hereinbefore mentioned.

If the court or chancellor finds that the notice or publication was not given as provided for in this article, it shall not thereby lose jurisdiction, but the court or chancellor

shall order due publication or notice to be given and shall continue the hearing until such publication or notice shall be properly given, and the court or chancellor shall thereupon proceed as though publication or notice had been properly given in the first instance.

SECTION 70. Section 51-9-115, Mississippi Code of 1972, is amended as follows:

51-9-115. If the court or chancellor thereof finds that the proposed water supply district should be organized, the chancellor shall then order an election in each county in the proposed district, which election shall be held not less than twenty-one (21) nor more than forty-five (45) days from the date of such order, whereby the qualified electors within such counties may determine if such county shall be a part of such proposed district; and such order for an election shall be interlocutory and not appealable. A substantial copy of the court order shall be published either on a free, publicly accessible, official government website for three (3) consecutive weeks, or once a week for at least three (3) consecutive weeks in at least one (1) newspaper published in each county in such district. If there is no newspaper published in any such county, then it shall be sufficient to publish said notice in a newspaper having a general circulation in such county and, in addition, by posting a copy of such notice for at least twenty-one (21) days following the issuance of such order at three (3) public places in such county.

Notice of the election shall be given by publishing a substantial copy of the court order providing for the election either on a free, publicly accessible, official government website for three (3) consecutive weeks, or once a week for at least three (3) consecutive weeks, in at least one (1) newspaper published in each county in which an election is to be held. The first publication of such notice shall be made not less than twenty-one (21) days prior to the date fixed for such election. When published in a newspaper, if no newspaper is published in any such county, then such notice shall be given by publishing the same for the required time in some newspaper having a general circulation in such county and, in addition, by posting a copy of such notice for at least twenty-one (21) days next preceding such election at three (3) public places in such county.

SECTION 71. Section 51-11-65, Mississippi Code of 1972, is amended as follows:

51-11-65. Before issuing bonds for any of the purposes authorized in Sections 51-11-53 through 51-11-85, the board of directors of the district shall declare its intention to issue the bonds by resolution spread upon its minutes, fixing in the resolution the maximum amount of bonds, the purpose for which they are to be issued, the date upon which an election shall be held in the district, and the place or places at which the election shall be held. A certified copy of the resolution shall be furnished to the county election commissioners of each county having lands

lying in the district, and the county election commissioners shall conduct such elections. Notice of the election shall be signed by the secretary of the board of directors of the district and shall be published either on a free, publicly accessible, official government website for three (3) consecutive weeks, or once a week for at least three (3) consecutive weeks in at least one (1) newspaper published in each county in which any part of the district lies, and in each municipality lying within the district. The first publication of the notice shall be made not less than twenty-one (21) days before the date fixed for that election, and the last publication shall be made not more than seven (7) days before that date. When published in a newspaper, if no newspaper is published in any municipality, then the notice shall be given by publishing the notice for the required time in some newspaper having a general circulation in the municipality and published in the same or an adjoining county and, in addition, by posting a copy of the notice for at least twenty-one (21) days before the election in at least three (3) public places in the municipality.

SECTION 72. Section 51-15-109, Mississippi Code of 1972, is amended as follows:

51-15-109. The board of water commissioners shall file a written answer to the petition within thirty (30) days after such service. After the filing of the answer of the board of water commissioners, and upon motion of the petitioners, the chancellor shall enter an order fixing the date for a hearing of the cause on

the original petition, the exhibits, the answer of the board of water commissioners, and any other answers filed or other pleadings. The chancery clerk shall give notice of such hearing to all persons interested by posting notices thereof at the door of the courthouse of the county or counties in which the district is situated and in at least ten (10) public places in said proposed district, and also by publishing said notice either on a free, publicly accessible, official government website for at least three (3) consecutive weeks, or at least once a week for three (3) consecutive weeks in a newspaper published in each of the counties proposed to be included in such waterway district. When published in a newspaper, if there is no newspaper published in any such county, then it shall be sufficient to publish said notice in a newspaper having a general circulation in such county. Such notice shall be addressed to the property owners and qualified electors of such proposed district and all other persons interested, shall state when and in what court said petition was and is filed, shall state the counties included in such district, and shall command all such persons to appear before the chancery court, or the chancellor in vacation, at the chancery court building of Forrest County upon the date fixed by the chancellor to show cause, if any they can, why the proposed waterway district should not be organized and established as prayed for in said petition. The date for such hearing shall not be less than twenty-one (21) days nor more than forty (40) days after the last

publication of such notice. It shall be sufficient in describing the lands to be included in the waterway district to name the counties to be included therein in the publication or notice hereinbefore mentioned.

If the court or chancellor finds that the notice or publication was not given as provided for in this article, it shall not thereby lose jurisdiction, but the court or chancellor shall order due publication or notice to be given and shall continue the hearing until such publication or notice shall be properly given; and the court or chancellor shall thereupon proceed as though publication or notice had been properly given in the first instance.

SECTION 73. Section 51-15-113, Mississippi Code of 1972, is amended as follows:

51-15-113. If the court or chancellor thereof finds that the proposed waterway district should be organized, a decree shall be so entered by the court which shall become final unless an election is called as hereinafter provided. A notice as provided by the decree of the court creating such district shall be published either on a free, publicly accessible, official government website for at least three (3) consecutive weeks, or once each week for at least three (3) consecutive weeks in at least one (1) newspaper having general circulation or published in each county of the district as specified in such decree, stating that the decree shall become final forty-five (45) days after its

entry unless twenty percent (20%) of the qualified electors of any county or counties shall petition the court for an election on the question of the inclusion of such county in the district. When published in a newspaper, if there be no newspaper published in any such county, then it shall be sufficient to publish such notice in a newspaper having general circulation in said county and, in addition, to post a copy of such notice for at least twenty-one (21) days next preceding the decree becoming final at three (3) public places in such county. The first publication of such notice shall be made in each county within ten (10) days after entry of said decree. In the event such petition is filed by twenty percent (20%) of the qualified electors of any county, an election shall be held in such county as hereinafter provided. The election shall be held not less than twenty-one (21) nor more than forty-five (45) days from the final date of such order, whereby the qualified electors within such county may determine if such county shall be a part of such proposed district. The election shall be called by the board of supervisors of the county, and notice of the election shall be given by publishing a substantial copy of the order of the board of supervisors providing for the election either on a free, publicly accessible, official government website for at least three (3) consecutive weeks, or once a week for at least three (3) consecutive weeks, in at least one (1) newspaper published in each county in which an election is to be held. The first publication of such notice

shall be made not less than twenty-one days prior to the date fixed for such election. When published in a newspaper, if no newspaper is published in any such county, then such notice shall be given by publishing the same for the required time in some newspaper having a general circulation in such county and, in addition, by posting a copy of such notice for at least twenty-one (21) days next preceding such election at three (3) public places in such county.

SECTION 74. Section 51-29-5, Mississippi Code of 1972, is amended as follows:

51-29-5. When one-fourth (1/4) or more of the owners of real property within a proposed drainage district shall file a petition in the chancery court of the county to establish a drainage district to embrace their property, describing generally the region which it is intended shall be embraced within the district, it shall be the duty of the chancery clerk to immediately publish a notice either on a free, publicly accessible, official government website for at least two (2) consecutive weeks, or in a newspaper having a circulation in the proposed district for two (2) successive insertions, directed to the owners of the land to be embraced in the proposed district, giving notice of the said petition and designating a date, not less than ten (10) days after the last publication of notice, at which a hearing may be had on said petition. Upon the date designated in the notice, or upon a subsequent day to which the matter may be continued, the chancery

court or the chancellor in vacation shall hear all objections, if any are offered, to the organization of said district, and unless at the hearing a majority of the landowners owning half or more of the land proposed to be included in the proposed district shall object to the organization, further proceedings shall be had as hereinafter provided; but if such a majority shall protest, the court or chancellor shall not proceed with the organization of said district. If in either event it be determined by the court or chancellor to proceed with the organization of the proposed district, the court or chancellor shall enter an order appointing as temporary commissioners three (3) landowners of the territory proposed to be drained, who shall take the oath required by Section 268 of Article 14 of the Constitution of the state and give bond in the penalty of not less than One Thousand Dollars ($1,000.00) payable to the county, and whose term of office shall expire upon the permanent organization of the district. Said temporary commissioners shall immediately organize and select a competent engineer, who shall give bond payable to the county in a sum of not less than One Thousand Dollars ($1,000.00), to be fixed by said commissioners for the faithful discharge of his duties, and who shall be liable upon such bond for negligence or incompetency causing loss to the county or district.

The engineer shall proceed forthwith to make a survey and ascertain the region which will be benefited by the proposed improvement, giving a general idea of its character and the cost

of drainage, and making such suggestions as to the size of the drainage ditches and the location as he may deem advisable.

All expenses incident to the survey, legal expenses, and the cost of publication shall be paid by the county as the work progresses upon a proper showing; but all expenses incurred by the county shall be paid out of the proceeds of the first assessment levied under this chapter.

Said temporary commissioners may, by and with the consent of the court or chancellor, for the purpose of prosecuting the preliminary work, paying the expenses incident to the survey, attorney's fees, legal expenses, costs of publication, and other necessary expenses, borrow money at a rate of interest not exceeding that allowed in Section 75-17-105, and issue negotiable notes, certificates or other evidences of indebtedness therefor signed by the said three (3) temporary commissioners and payable either within or without the state to the person or persons from whom such money is borrowed, or bearer, or bearer simply, as said commissioners may elect. The said temporary commissioners may also issue to the engineer, or other persons who do the said preliminary work, negotiable evidences of debt signed by the three (3) said temporary commissioners, bearing interest at a rate not to exceed that allowed in Section 75-17-105. None of the said evidences of indebtedness so issued shall run for more than two (2) years, they shall be nontaxable, and said commissioners may pledge all assessments on the land proposed to be drained for the

payment of said evidences of indebtedness. Said evidences of indebtedness may be paid off either out of any general fund of the drainage district if organized, or out of the proceeds of the first assessments levied under this chapter; but in the event the said district is not organized after said indebtedness has been incurred, then the board of supervisors may levy an acreage or an ad valorem tax against the lands embraced in said proposed drainage district in the manner hereinafter provided.

Notwithstanding the foregoing provisions of this section, bonds referred to hereinabove may be issued pursuant to the supplemental powers and authorizations conferred by the provisions of the Registered Bond Act, being Sections 31-21-1 through 31-21-7.

SECTION 75. Section 51-29-31, Mississippi Code of 1972, is amended as follows:

51-29-31. Upon the filing of such assessment, the chancery court, or the chancellor in vacation, shall enter an order directing the clerk of the chancery court to give notice by publication <u>either on a free, publicly accessible, official government website for at least two (2) consecutive weeks, or</u> for two (2) weeks by two (2) insertions in some newspaper published and having a general circulation in each of the counties within which the lands of the district may lie, stating that the owners of lands assessed for drainage purposes in said district, if they desire, may appear before the chancery court, or chancellor in

vacation, on the date and time and place fixed by said order, which date shall be not less than ten (10) days after the last publication of said notice, and present complaints, if any they have, against the assessment of land in the district.

The clerk of the chancery court shall publish said notice as directed by said order. The said notice shall give description of the lands assessed in as large tracts as the description will permit and shall state that said lands have been assessed for drainage purposes in said district; that any owner of real property, or the improvements thereon, within the district who conceives himself or herself to be aggrieved by the assessment of benefits or damages or deems that the assessment of other lands in the district is inadequate shall file his or her written complaint or objection, in specific terms, with the clerk of said court prior to the time designated for said hearing.

SECTION 76. Section 51-31-47, Mississippi Code of 1972, is amended as follows:

51-31-47. When the commissioners shall have completed their assessments of damages and benefits, they shall file the same with the clerk of the chancery court; and the clerk is authorized to set down and fix a time for the hearing of objections to such assessments, at the request of said commissioners, at any time that the court or chancellor in vacation may be able to hear the same as herein provided. The clerk shall cause a notice to be published either on a free, publicly accessible, official

government website for at least two (2) consecutive weeks, or at least once a week for two (2) successive weeks, of the time set for hearing objections to such assessments, which time for hearing shall not be less than fifteen (15) days nor longer than thirty (30) days from the time of filing the same, unless a longer time shall be ordered by the court or chancellor or requested by the commissioners. If publication in a newspaper is chosen, said publication shall be made in any newspaper published in the county, if there be one published in the county where the cause is pending; otherwise, by posting written notices in ten (10) public places in the district, and shall be sufficient, and the only notice required of the filing of said assessment roll and the time set for hearing objections thereto.

SECTION 77. Section 51-33-5, Mississippi Code of 1972, is amended as follows:

51-33-5. Before the additional powers granted by Sections 51-33-1 through 51-33-9 shall become applicable to any drainage district in this state, the commissioners of such district shall file a petition in the chancery court requesting such additional powers as set forth herein, whereupon the chancery clerk shall immediately publish a notice either on a free, publicly accessible, official government website for at least two (2) consecutive weeks, or in a newspaper having general circulation in the said drainage district for two (2) successive insertions, giving notice of said petition and designating a date, not less

than ten (10) days after the last publication of notice, at which a hearing may be had on said petition; and proceedings shall be conducted in so far as possible in accordance with procedures set forth for determining whether or not the district shall be created in the first instance, and the chancellor shall render his or her decree accordingly.

SECTION 78. Section 51-35-309, Mississippi Code of 1972, is amended as follows:

51-35-309. After the filing of the petition, the chancellor shall enter an order fixing the date, either in term time or in vacation, place, and time for a hearing of the cause on the original petition, exhibits, and any answers or other pleadings filed. The chancery clerk shall give notice of such hearing to all persons interested by posting notices thereof at the door of the courthouse of the county or counties in which the district is situated and in at least ten (10) public places in said proposed district, and also by publishing said notice either on a free, publicly accessible, official government website for three (3) consecutive weeks, or at least once a week for three (3) consecutive weeks in a newspaper published in each of the counties and municipalities proposed to be included in such flood and drainage control district. When published in a newspaper, if there is no newspaper published in any such county or municipality, then it shall be sufficient to publish said notice in a newspaper having a general circulation in such county and

municipality. Such notice shall be addressed to the property owners, qualified electors of said proposed district, and all other persons interested, shall state when and in what court said petition was and is filed, shall state the general area included in such district, and shall command all such persons to appear before the chancery court, or the chancellor in vacation, of the county in which said petition was filed and, upon the date fixed by the chancellor, to show cause, if any they can, why the proposed flood and drainage control district should not be organized and established as prayed for in said petition. The date for such hearing shall not be less than five (5) days nor more than forty (40) days after the last publication of such notice. For the purposes of the publication or notice hereinabove mentioned and for the purposes of describing the lands to be included in the district, it shall be sufficient in describing the said lands as all or parts of townships, all or parts of sections, and all or parts of lands lying within the corporate limits of any city, town, or village, and it shall be sufficient to describe the regions and lands proposed to be included in such flood and drainage control district in general terms with a generally accurate description of such regions and lands.

If the court or chancellor finds that the notice or publication was not given as provided in this article, it shall not thereby lose jurisdiction, but the court or chancellor shall order due publication or notice to be given and shall continue the

hearing until such publication or notice shall be properly given; and the court or chancellor shall thereupon proceed as though publication or notice had been properly given in the first instance.

Upon the entry of said order fixing the date for said hearing, the chancery clerk of said court shall issue a citation to any county or municipality not joining in said petition and in which may lie any part of the proposed district to show cause, if any they can, why the proposed district should not be created as prayed for in said petition, which said citation shall be forthwith served by the sheriff according to law.

SECTION 79. Section 51-35-325, Mississippi Code of 1972, is amended as follows:

51-35-325. Before issuing any revenue bonds hereunder, the board of directors of the district shall adopt a resolution declaring its intention to so issue, stating the amount of bonds proposed to be issued, the purpose for which the bonds are to be issued, and the date upon which the governing body proposes to direct the issuance of such bonds. Such resolution shall be published <u>either on a free, publicly accessible, official government website for three (3) consecutive weeks, or</u> once a week for at least three (3) consecutive weeks in at least one (1) newspaper published in the district. The first publication of such resolution shall be made not less than twenty-one (21) days prior to the date fixed in such resolution for the issuance of the

bonds and the last publication shall be made not more than seven (7) days prior to such date. When published in a newspaper, if no newspaper is published in such district, then such notice shall be given by publishing the resolution for the required time in some newspaper having a general circulation in the district, and, in addition, by posting a copy of such resolution for at least twenty-one (21) days next preceding the date fixed therein at three (3) public places in the district. If twenty percent (20%) or fifteen hundred (1500), whichever is less, of the qualified electors living or owning property in the district shall file a written protest against the issuance of such bonds on or before the date specified in such resolution, then an election on the question of the issuance of such bonds shall be called and held as herein provided. If no such protest be filed, then such bonds may be issued without an election at any time within a period of two (2) years after the date specified in the above-mentioned resolution. However, the board of directors of the district, in its discretion, may nevertheless call an election on the question of the issuance of the bonds, in which event it shall not be necessary to publish the resolution declaring its intention to issue bonds as herein provided.

SECTION 80. Section 51-39-17, Mississippi Code of 1972, is amended as follows:

51-39-17. (1) Within thirty (30) days following the adoption of the final authorizing resolution or ordinance, the

designated representatives shall proceed to incorporate a district by filing for record in the office of the chancery clerk of the participating counties and/or the clerk of participating municipalities, as the case may be, and the Secretary of State an incorporation agreement approved by each member. The agreement shall comply in form and substance with the requirements of this section and shall be executed in the manner provided in this chapter.

(2) The incorporation agreement of a district shall state:

(a) The name of each participating unit of local government and the date on which the governing bodies thereof adopted an authorizing resolution or ordinance;

(b) The name of the district which must include the words "_____ Storm Water Management District," the blank spaces to be filled in with the name of one or more of the members or other geographically descriptive term. If the Secretary of State determines that the name is identical to the name of any other corporation organized under the laws of the state or so nearly similar as to lead to confusion and uncertainty, the incorporators may insert additional identifying words so as to eliminate any duplication or similarity;

(c) The period for the duration of the district;

(d) The location of the principal office of the district which shall be within the geographic boundaries of the district;

(e) That the district is organized under this chapter;

(f) The board setting forth the number of commissioners, terms of office and the vote of each commissioner;

(g) If the exercise by the district of any of its powers is to be in any way prohibited, limited or conditioned, a statement of the terms of that prohibition, limitation or condition;

(h) Any provisions relating to the vesting of title to its properties upon its dissolution which shall be vested in any member; and

(i) Any other related matters relating to the district that the incorporators may choose to insert and that are not inconsistent with this chapter or with the laws of the state.

(3) The incorporation agreement shall be signed and acknowledged by the incorporators before an officer authorized by the laws of the state to take acknowledgements. When the incorporation agreement is filed for record, there shall be attached to it a certified copy of the authorizing resolution or ordinance adopted by the governing body of each member.

(4) The incorporators shall publish a notice of incorporation <u>either on a free, publicly accessible, official government website for three (3) consecutive weeks, or</u> once a week for three (3) consecutive weeks in a daily newspaper or newspapers having general circulation throughout the area to be served.

(5) Upon the filing for record of the agreement and the required documents, the district shall come into existence and shall constitute a public corporation under the name set forth in the incorporation agreement. The Secretary of State shall issue a certificate of incorporation to the district.

(6) Upon issuance of the certificate of incorporation, the district shall be a public body corporate and politic constituting a political subdivision of the state with the power of perpetual succession and shall be deemed to be acting in all respects for the benefit of the people of the state in the performance of essential public functions. The district shall be empowered in accordance with this chapter to promote the health, welfare and prosperity of the general public.

SECTION 81. Section 51-39-39, Mississippi Code of 1972, is amended as follows:

51-39-39. Within ninety (90) days after the close of each fiscal year, the board of commissioners shall publish <u>either on a free, publicly accessible, official government website, or</u> in a newspaper of general circulation in the county a sworn statement showing the financial condition of the district. The statement shall also be filed with the governing body of each member of the district.

SECTION 82. Section 51-41-21, Mississippi Code of 1972, is amended as follows:

51-41-21. (1) The water authority is authorized at any time, and from time to time, to issue its bonds for the purpose of acquiring, constructing, improving, enlarging, completing and equipping one or more projects.

(2) Before the water authority's proposed issuance of bonds, the water authority shall publish either on a free, publicly accessible, official government website, or one (1) time in a newspaper of general circulation in the affected county or counties, notice of the proposed issuance of bonds, the approximate principal amount of bonds contemplated to be sold, a general description of the project contemplated to be constructed with bond proceeds and the date of a public meeting at which members of the public may obtain further information regarding the sale of the bonds and the development of the project. The notice shall be published at least ten (10) days before the date of the hearing. The water authority chairman, or his or her designee, shall be responsible for conducting the hearing and shall require all public comments that might pertain to the proposed issuance of bonds by the water authority. Upon compliance with the provisions of this section, no other notice, hearing or approval by any other entity or governmental unit shall be required as a condition to the issuance by the water authority of its contemplated bonds.

(3) The principal of, and the interest, if any, on any bonds shall be payable out of the revenues derived from the projects

with respect to which the bonds are issued, or from any other source available to the water authority.

(4) None of the bonds of the water authority shall ever constitute an obligation or debt of the state, the municipality or county in which the water authority operates, the Secretary of State, or any officer or director of the water authority, or a charge against the credit or taxing powers of the state.

(5) As the water authority determines, bonds of the water authority may:

(a) Be issued at any time and from time to time;

(b) Be in such form and denominations;

(c) Have such date or dates;

(d) Mature at such time or times and in such amount or amounts, provided that no bonds may mature more than forty (40) years after the date of issuance;

(e) Bear interest, if applicable, payable at such times and such rate or rates as may be established by the board;

(f) Be payable at such place or places within or without the State of Mississippi;

(g) Be subject to such terms of redemption in advance of maturity at such prices, including such premiums; and

(h) Contain such other terms and provisions as may be appropriate or necessary in the discretion of the water authority.

(6) Bonds of the water authority may be sold at either public or private sale in such manner, and from time to time, as

may be determined by the board to be most advantageous. The water authority may pay all expenses, premiums and commissions that the board may deem necessary or advantageous in connection with the authorization, sale and issuance of its bonds.

(7) All bonds shall contain a recital that they are issued under the provisions of this chapter, which recital shall be conclusive that they have been duly authorized under the provisions of this chapter.

(8) All bonds issued under the provisions of this chapter shall be and are declared to be negotiable instruments within the meaning of the negotiable instruments law of the state and shall be in registered form.

(9) All bonds issued by a water authority may be validated upon the direction of the board under Sections 31-13-1 through 31-13-11. The validation hearing shall be held in the county in which the principal office of the water authority is located.

SECTION 83. Section 57-3-11, Mississippi Code of 1972, is amended as follows:

57-3-11. Before issuing any bonds hereunder the governing body, as hereinbefore defined, of any municipality, as hereinbefore defined, shall adopt a resolution declaring its intention so to do stating the amount of bonds proposed to be issued, the purpose for which the bonds are to be issued, and the date upon which the governing body proposes to direct the issuance of such bonds. Such resolution shall be published either on a

free, publicly accessible, official government website for three (3) consecutive weeks, or once a week for at least three (3) consecutive weeks in at least one (1) newspaper published in the county in which such municipality is located. The first publication of such resolution shall be made not less than twenty-one (21) days prior to the date fixed in such resolution for the issuance of the bonds and the last publication shall be made not more than seven (7) days prior to such date. When published in a newspaper, if no newspaper be published in such county, then such notice shall be given by publishing the resolution for the required time in some newspaper having a general circulation in such county, and, in addition, by posting a copy of such resolution for at least twenty-one (21) days next preceding the date fixed therein at three (3) public places in such county. If twenty per centum (20%) of the qualified electors of the municipality shall file a written protest against the issuance of such bonds on or before the date specified in such resolution, then an election on the question of the issuance of such bonds shall be called and held as herein provided. If no such protest be filed, then such bonds may be issued without an election on the question of the issuance thereof, at any time within a period of two (2) years after the date specified in the above-mentioned resolution. However, the governing body of such municipality, in its discretion, may nevertheless call an election on such question, in which event it shall not be necessary to

publish the resolution declaring its intention to issue bonds as herein provided.

SECTION 84. Section 57-3-13, Mississippi Code of 1972, is amended as follows:

57-3-13. Where an election is to be called as provided in Section 57-3-11, notice of such election shall be signed by the clerk of the governing body of any municipality, and shall be published either on a free, publicly accessible, official government website for three (3) consecutive weeks, or once a week for at least three (3) consecutive weeks, in at least one (1) newspaper published in such county. The first publication of such notice shall be made not less than twenty-one (21) days prior to the date fixed for such election and the last publication shall be made not more than seven (7) days prior to such date. When published in a newspaper, if no newspaper is published in such county, then such notice shall be given by publishing the same for the required time in some newspaper having a general circulation in such county, and, in addition, by posting a copy of such notice for at least twenty-one (21) days next preceding such election at three (3) public places in such county.

SECTION 85. Section 57-61-37, Mississippi Code of 1972, is amended as follows:

57-61-37. (1) Each municipality is hereby authorized and empowered to borrow money from the board pursuant to the terms and provisions of this chapter. Each municipality is further

authorized and empowered to pay to the board such fees and charges for services hereunder as the board may prescribe.

(2) Each municipality is hereby authorized to evidence the borrowing of money from the board pursuant to this chapter by the issuance of evidences of indebtedness under the provisions of this section and to sell such evidences of indebtedness to the board to raise money for any purpose or purposes for which the board is authorized to loan money to such municipality under the terms of this chapter. Except as specifically provided in this chapter, such evidences of indebtedness shall be issued in accordance with the provisions of Sections 21-33-307, 21-33-309, 21-33-311, 21-33-313, 21-33-315, 21-33-317, 21-33-319, 21-33-321 and 21-33-323 in the case of cities or incorporated towns, and in accordance with the provisions of Sections 19-9-7, 19-9-9, 19-9-11, 19-9-13, 19-9-15, 19-9-17, 19-9-19, 19-9-21, 19-9-23, 19-9-25 and 19-9-29 in the case of counties. Bonds or other evidences of indebtedness which are issued either pursuant to this chapter, or pursuant to any other law as evidence of loans made pursuant to this chapter, shall not be deemed indebtedness within the meaning specified in Section 21-33-303 with regard to cities or incorporated towns, and in Section 19-9-5 with regard to counties. The preceding sentence shall apply to all such bonds and evidences of indebtedness outstanding as of the effective date of this provision and to all such bonds and evidences of indebtedness hereafter issued.

(3) In connection with the issuance of evidences of indebtedness under the provisions of this chapter by cities, incorporated towns and counties, the following provisions shall specifically apply:

(a) When publishing notice of intent to issue bonds as required under the terms of Section 21-33-307 or Section 19-9-11, as the case may be, the municipality shall publish such notice either on a free, publicly accessible, official government website for three (3) consecutive weeks, or once a week for three (3) consecutive weeks, the first publication to be not less than twenty-one (21) days prior to the date set for authorizing such issuance and the last publication to be not more than seven (7) days prior to such date.

(b) Such evidences of indebtedness shall be secured: (i) by the revenues derived by the municipality from the ownership, operation or lease of the project or improvements funded with proceeds of the loan from the board to such municipality under the terms of this chapter or by loan repayments from the private company derived by the municipality from the loan to the private company of the proceeds of the loan from the board to such municipality under the terms of this chapter, but only to the extent, in whole or in part, pledged by the municipality, which pledge may be on a basis subordinate to other obligations or agreements of the municipality; (ii) by the sources of repayment provided for under the terms of subsections (7) and (8) of Section

57-61-15 of this chapter; (iii) and as provided by Chapter 33, Title 21, Mississippi Code of 1972, in the case of cities and incorporated towns, and Chapter 9, Title 19, Mississippi Code of 1972, in the case of counties but only in the event that the sources provided by items (i) and (ii) hereof are insufficient therefor. For the purposes of Section 27-39-321, the evidences of indebtedness issued hereunder shall be deemed to be "general obligation bonds."

(c) Such evidences of indebtedness may be sold only to the board at private sale and may be sold at such price or prices, in such manner and at such times as may be agreed to by the municipality and the board, and the municipality may pay all expenses, premiums, fees and commissions which it may deem necessary and advantageous in connection with the issuance and sale thereof and such evidences of indebtedness shall mature at such time or times not exceeding thirty (30) years and in such amounts and shall bear interest at such rate or rates as required for loans made under the provisions of this chapter and as may be agreed upon by the board and the municipality; provided, that in connection with financing a Navy home port, the municipality may obtain a letter of credit and pledge to the repayment thereof the same sources pledged to such evidences of indebtedness or negotiate and enter into a credit agreement, trust indenture or other agreement with any bank, trust company or other lending institution for the purpose of making or receiving any payments

required to be made to the United States Navy to accommodate a Navy home port.

(d) The proceeds of such evidences of indebtedness shall be applied to the following: (i) the purpose for which such evidences of indebtedness were issued; (ii) the payment of all costs of issuance of such evidences of indebtedness; (iii) the payment of any fees and charges established by the board; (iv) the payment of interest on such evidences of indebtedness for a period of time not greater than the period of time estimated to be required to complete the purpose for which the evidences of indebtedness were issued or to the extent provided by resolution of the municipality and approved by the board; (v) the payment of any costs relating to obtaining or entering into a credit agreement, loan disbursement agreement, trust indenture or other agreement with any bank, trust company or other lending institution for the purpose of securing, making or receiving any payments required to be made to the United States Navy to accommodate a Navy home port.

(e) Evidences of indebtedness issued under this section may be validated in the manner and with the force and effect provided in Section 31-13-1 et seq.

(f) This section shall be deemed to provide an additional, alternate and complete method for the doing of the things authorized hereby and shall be deemed and construed to be supplemental to any provisions of any other laws and not in

derogation of any such provisions. In connection with the issuance of evidences of indebtedness, a municipality shall not be required to comply with the provisions of any other law except as provided herein.

SECTION 86. Section 57-75-17, Mississippi Code of 1972, is amended as follows:

57-75-17. (1) For the purpose of aiding in the planning, design, undertaking and carrying out of the project or any facility related to the project, any public agency is authorized and empowered upon such terms, with or without consideration, as it may determine:

(a) To enter into agreements, which may extend over any period, with the authority respecting action to be taken by such public agency with respect to the acquisition, planning, construction, improvement, operation, maintenance or funding of the project or any such facility, and which agreements may include:

(i) The appropriation or payment of funds to the authority or to a trustee in amounts which shall be sufficient to enable the authority to defray any designated portion or percentage of the expenses of administering, planning, designing, constructing, acquiring, improving, operating, and maintaining the project or any facility related to the project,

(ii) The appropriation or payment of funds to the authority or to a trustee to pay interest and principal (whether

at maturity or upon sinking fund redemption) on bonds of the authority issued pursuant to this act and to fund reserves for debt service, for operation and maintenance and for renewals and replacements, and to fulfill requirements of any covenant with respect to debt service contained in any resolution, trust indenture or other security agreement relating to the bonds of the authority issued pursuant to this act,

(iii) The furnishing of other assistance in connection with the project or facility related to the project, and

(iv) The borrowing of money from the authority in connection with a project defined in Section 57-75-5(f)(ii);

(b) To dedicate, sell, donate, convey or lease any property or interest in property to the authority or grant easements, licenses or other rights or privileges therein to the authority;

(c) To incur the expense of any public improvements made or to be made by such public agency in exercising the powers granted in this section;

(d) To lend, grant or contribute funds to the authority;

(e) To cause public buildings and public facilities, including parks, playgrounds, recreational areas, community meeting facilities, water, sewer or drainage facilities, or any other works which it is otherwise empowered to undertake, to be

furnished to or with respect to the project or any such facility;

(f) To furnish, dedicate, close, vacate, pave, install, upgrade or improve highways, streets, roads, sidewalks, airports, railroads, or ports;

(g) To plan or replan, zone or rezone any parcel of land within the public agency or make exceptions from land use, building and zoning regulations;

(h) To cause administrative and other services to be furnished to the authority, including services pertaining to the acquisition of real property and the furnishing of relocation assistance; and

(i) To loan to the owner, lessee or operator of any project defined in Section 57-75-5(f)(ii) the proceeds of any loan from the authority to the public entity under the provisions of this act.

(2) Any contract between a public agency entered into with the authority pursuant to any of the powers granted by this act shall be binding upon said public agency according to its terms, and such public agency shall have the power to enter into such contracts as in the discretion of the governing authorities thereof would be to the best interest of the people of such public agency. Such contracts may include within the discretion of such governing authorities of public agencies defined under Section 57-75-5(h)(ii) a pledge of the full faith and credit of such public agency or any other lawfully available funds for the

performance thereof. If at any time title to or possession of the project or any such facility is held by any public body or governmental agency other than the authority, including any agency or instrumentality of the United States of America, the agreements referred to in this section shall inure to the benefit of and may be enforced by such public body or governmental agency.

(3) Notwithstanding any provisions of this act to the contrary, any contract entered into between the authority and any public agency for the appropriation or payment of funds to the authority under item (a)(ii) or (a)(iv) of this section shall contain a provision therein requiring periodic payments by the public agency as required by the authority to pay its indebtedness and, if the public agency is not a county or municipality, such contract shall include as an additional party to the contract the county or municipality (referred to in this paragraph as "levying authority") that levies and collects taxes for the contracting public agency. If the public agency fails to pay its indebtedness for any month, the authority shall certify to the Department of Revenue, or other appropriate agency, the amount of the delinquency, and the Department of Revenue shall deduct such amount from the public agency's or levying authority's, as the case may be, next allocation of sales taxes, petroleum taxes, highway privilege taxes, severance taxes, Tennessee Valley Authority payments in lieu of taxes and homestead exemption reimbursements in that order of priority. The Department of

Revenue, or other appropriate agency, shall pay the sums so deducted to the authority to be applied to the discharge of the contractual obligation.

(4) Notwithstanding any provision of this act to the contrary, all loans made pursuant to Section 57-75-11(hh) and this section shall be for a term not to exceed twenty (20) years as may be determined by the authority, shall bear interest at such rates as may be determined by the authority, shall, in the sole discretion of the authority, be secured in an amount and a manner as may be determined by the authority.

(5) (a) Before authorizing any loan to a public agency defined in Section 57-75-5(h)(ii), a local governmental unit, the governing authority of such local governmental unit in connection with a project defined in Section 57-75-5(f)(ii), shall adopt a resolution declaring its intention so to do, stating the amount of the loan proposed to be authorized and the purpose for which the loan is to be authorized, and the date upon which the loan will be authorized. Such resolution shall be published either on a free, publicly accessible, official government website for three (3) consecutive weeks, or once a week for at least three (3) consecutive weeks in at least one (1) newspaper published in such local governmental unit. The first publication of such resolution shall be made not less than twenty-one (21) days before the date fixed in such resolution for the authorization of the loan and the last publication shall be made not more than seven (7) days before

such date. When published in a newspaper, if no newspaper is published in such local governmental unit, then such notice shall be given by publishing the resolution for the required time in some newspaper having a general circulation in such local governmental unit and, in addition, by posting a copy of such resolution for at least twenty-one (21) days next preceding the date fixed therein at three (3) public places in such local governmental unit. If fifteen percent (15%) of the qualified electors of the local governmental unit or fifteen hundred (1500), whichever is the lesser, file a written protest against the authorization of such loan on or before the date specified in such resolution, then an election on the question of the authorization of such loan shall be called and held as otherwise provided for in connection with the issuance of general obligation indebtedness of such local governmental unit. Notice of such election shall be given as otherwise required in connection with the issuance of general obligation indebtedness of such local governmental unit. If three-fifths (3/5) of the qualified electors voting in the election vote in favor of authorizing the loan, then the governing authority of the local governmental unit shall proceed with the loan; however, if less than three-fifths (3/5) of the qualified electors voting in the election vote in favor of authorizing the loan, then the loan shall not be incurred. If no protest be filed, then such loan may be entered into by the local governmental unit without an election on the question of the

authorization of such loan, at any time within a period of two (2) years after the date specified in the resolution. However, the governing authority of any local governmental unit, in its discretion, may nevertheless call an election on such question, in which event it shall not be necessary to publish the resolution declaring its intention to authorize such loan as provided in this subsection.

(b) Local governmental units may, in connection with any such loan, enter into any covenants and agreements with respect to such local governmental unit's operations, revenues, assets, monies, funds or property, or such loan, as may be prescribed by the authority.

(c) Upon the making of any such loan by the authority to any local governmental unit, such local governmental unit shall be held and be deemed to have agreed that if such governmental unit fails to pay the principal of, premium, if any, and interest on any such loan as when due and payable, such governmental unit shall have waived any and all defenses to such nonpayment, and the authority, upon such nonpayment, shall thereupon avail itself of all remedies, rights and provisions of law applicable in such circumstance, including, without limitation, any remedies or rights theretofore agreed to by the local governmental unit, and that such loan shall for all of the purposes of this section, be held and be deemed to have become due and payable and to be unpaid. The authority may carry out the provisions of this

section and exercise all of the rights and other applicable laws of this state.

(d) This section shall be deemed to provide an additional, alternative and complete method for the doing of the things authorized by this section and shall be deemed and construed to be supplemental to any power conferred by other laws on public agencies and not in derogation of any such powers. Any obligation incurred pursuant to the provisions of this section shall not constitute an indebtedness of the public agency within the meaning of any constitutional or statutory limitation or restriction. For purposes of this act, a public agency shall not be required to comply with the provisions of any other law except as provided in this section.

(6) Any public agency providing any utility service or services, to any project defined in Section 57-75-5(f)(iv)1 may enter into leases or subleases for any period of time not to exceed thirty (30) years, in the capacity as lessor or lessee or sublessor or sublessee of lands alone, or lands and facilities located thereon, whether the facilities are owned by the owner of the land, a lessee, sublessee or a third party, and whether the public agency is a lessor, lessee or owner of the land. Any such public agency may also enter into operating agreements and/or lease-purchase agreements with respect to land or utility facilities as owner, operator, lessor or lessee for any period of time not to exceed thirty (30) years. Any such public agency may

also enter into contracts for the provision of utilities for any period of time not to exceed thirty (30) years and may set a special rate structure for such utilities.

(7) (a) No well shall be permitted by any public agency responsible for the conservation of oil and gas in the State of Mississippi to be drilled on or under a tract of land which is a part of a project owned or operated by an enterprise as defined in Section 57-75-5(f)(xxix) and which enterprise is a nonconsenting owner as defined in Section 53-3-7(1), which owns both the surface estate of said tract of land and also owns one hundred percent (100%) of the drilling rights in said tract of land.

(b) No mining activities on or under land which is part of a project as defined in Section 57-75-5(f)(xxix) shall be permitted by any public agency responsible for mining in the state without the consent of the enterprise owning or operating such project.

SECTION 87. Section 59-3-7, Mississippi Code of 1972, is amended as follows:

59-3-7. Before issuing bonds authorized by Section 59-3-3 the corporate authorities shall by resolution spread upon their minutes, declare their intention of issuing said bonds, fixing in such resolution the maximum amount thereof, and the purpose for which they are to be issued, and where an election is required shall fix in such resolution a date upon which an election shall be held in said municipality, of which not less than three (3)

weeks' notice shall be given by the clerk by a notice published either on a free, publicly accessible, official government website for three (3) consecutive weeks, or in a newspaper published in said municipality once a week for three (3) weeks preceding said election at three (3) public places in said municipality. Such election shall be held, as far as practicable, as other elections are held in municipalities.

SECTION 88. Section 59-3-9, Mississippi Code of 1972, is amended as follows:

59-3-9. At such election as is provided for by Section 59-3-7, all qualified electors may vote and the ballots used shall have printed thereon a brief statement of the amount and purpose of the proposed bond issue and the words, "For the bond issue," and the words, "Against the bond issue," and the voter shall vote by placing a cross (X) opposite his or her choice of the proposition. In cities of less than twelve thousand (12,000) inhabitants, when the amount to be issued is not more than Thirty Thousand Dollars ($30,000.00) the corporate authorities shall publish the resolution as herein provided either on a free, publicly accessible, official government website for three (3) consecutive weeks, or declaring their intention to issue said bonds for three (3) weeks, giving the day and date upon which said bonds are to be issued; and if twenty percent (20%) of the qualified electors of the municipality file a written protest against the issuance of said bonds, on or before said date, then

an election shall be had as herein provided, and if no protest shall be filed, said bonds shall be issued without an election.

SECTION 89. Section 59-7-17, Mississippi Code of 1972, is amended as follows:

59-7-17. At an election required by Section 59-7-15, all qualified electors of said municipality may vote, and the ballots used shall have printed thereon a brief statement of the amount and purpose of the proposed bond issue and the words, "For the bond issue," *** * *** and the words, "Against the bond issue," *** * *** and the voter shall vote by placing a cross (X) opposite his or her choice of the proposition. In cities of less than twelve thousand (12,000) inhabitants, when the amount to be issued is not more than Thirty Thousand Dollars ($30,000.00) the corporate authorities shall publish the resolution either on a free, publicly accessible, official government website for three (3) consecutive weeks, or in some newspaper published in the county for three (3) full consecutive weeks as herein provided, declaring their intention to issue said bonds, giving the day and date upon which said bonds are to be issued and if twenty percent (20%) of the qualified electors of the municipality file a written protest against the issuance of said bonds, on or before said date, then an election shall be had as herein provided, and if no protest shall be filed, said bonds shall be issued without an election.

SECTION 90. Section 59-7-113, Mississippi Code of 1972, is amended as follows:

59-7-113. Before issuing any bonds for any of the purposes herein enumerated, the board of supervisors shall adopt a resolution declaring its intention so to do, stating the amount of bonds proposed to be issued and the purpose for which the bonds are to be issued, and the date upon which the board proposes to direct the issuance of such bonds. Such resolution shall be published either on a free, publicly accessible, official government website for three (3) consecutive weeks, or once a week for at least three (3) consecutive weeks in at least one (1) newspaper published in such county. The first publication of such resolution shall be made not less than twenty-one (21) days prior to the date fixed in such resolution for the issuance of the bonds, and the last publication shall be made not more than seven (7) days prior to such date. When published in a newspaper, if no newspaper be published in such county, then such notice shall be given by publishing the resolution for the required time in some newspaper having a general circulation in such county and, in addition, by posting a copy of such resolution for at least twenty-one (21) days next preceding the date fixed therein at three (3) public places in such county. If twenty percent (20%) of the qualified electors of the county shall file a written protest against the issuance of such bonds on or before the date specified in such resolution, then an election on the question of the issuance of such bonds shall be called and held as is herein provided. If no such protest be filed, then such bonds may be

issued without an election on the question of the issuance thereof, at any time within a period of two (2) years after the date specified in the above-mentioned resolution. However, the board of supervisors, in its discretion, may nevertheless call an election on such question, in which event it shall not be necessary to publish the resolution declaring its intention to issue such bonds as herein provided.

SECTION 91. Section 59-7-115, Mississippi Code of 1972, is amended as follows:

59-7-115. Where an election is to be called, as provided in Section 59-7-113, notice of such election shall be signed by the clerk of the board of supervisors and shall be published either on a free, publicly accessible, official government website for three (3) consecutive weeks, or once a week for at least three (3) consecutive weeks, in at least one (1) newspaper published in such county. The first publication of such notice shall be made not less than twenty-one (21) days prior to the date fixed for such election and the last publication shall be made not more than seven (7) days prior to such date. When published in a newspaper, if no newspaper is published in such county, then such notice shall be given by publishing the same for the required time in some newspaper having a general circulation in such county, and, in addition, by posting a copy of such notice for at least twenty-one (21) days next preceding such election at three (3) public places in such county.

SECTION 92. Section 59-13-5, Mississippi Code of 1972, is amended as follows:

59-13-5. Upon the adoption of such order by the board of supervisors, as provided for in Section 59-13-3, the clerk of such board shall publish either on a free, publicly accessible, official government website for two (2) weeks, or in two (2) weekly issues of some newspaper having a general circulation in the county, a notice of intention to issue bonds for said purposes; if, within fifteen (15) days after the first publication of a copy of such notice twenty-five percent (25%) of the qualified electors of the county if the bonds to be issued are to be county-wide bonds, or twenty-five percent (25%) of the qualified electors of the supervisor's district if the bonds to be issued are to be district bonds, petition the board of supervisors for an election to determine whether or not such bonds shall be issued, such election shall be ordered by said board of supervisors in which the qualified electors of the county, if the bonds to be issued are county-wide bonds, or of the supervisor's district, if the bonds to be issued are district bonds, shall be eligible to participate, and if at such election a majority of those voting vote in favor of the issuance of such bonds the same shall be issued, but if a majority shall vote against the issuance of such bonds the same shall not be issued. Such election shall be held and conducted and the returns thereof made as provided by law for other county or district elections. If no such petition

be presented within fifteen (15) days after the first publication of such notice, the bonds shall be issued in the manner provided by law. However, in any case where an election has heretofore been held in any county or supervisors district, pursuant to the provisions of this chapter on the question of issuing bonds of such county or supervisors district for the purpose of providing and constructing public harbor improvements, harbor developments, breakwaters, wharves and docks, recreational centers and all buildings in connection therewith, and providing necessary rights-of-way, and a majority of those who participated in such election voted in favor of the issuance of such bonds, and such bonds have not for any reason been issued, the board of supervisors of such county in which such supervisors district is situated, as the case may be, may, by resolution of such board, adopted at any time within twelve (12) months from and after the passage of this chapter, authorize and direct the issuance of bonds of such county or district under the provisions of this chapter, in an amount not exceeding the amount set forth in the proposition submitted at such election, and for the purposes authorized by this chapter, without the giving of any notice required in this section and without any further election on the issuance thereof.

SECTION 93. Section 65-7-4, Mississippi Code of 1972, is amended as follows:

65-7-4. (1) On or before July 1, 2000, the board of supervisors of each county shall prepare and adopt an official map designating and delineating all public roads on the county road system. Changes to the county road system shall be recorded on this map as soon as is reasonably possible. The map, as it is periodically revised, shall be kept on file in the office of the clerk of the board of supervisors where it shall be available for public inspection.

(2) On or before July 1, 2000, the board of supervisors of each county shall prepare and adopt a county road system register in which shall be entered:

(a) The number and name of each public road on the county road system.

(b) A general reference to the terminal points and course of each such road.

(c) A memorandum of every proceeding in reference to each such road, with the date of such proceeding, and the page and volume of the minute book of the board of supervisors where it is recorded; however, reference to proceedings before July 1, 2000, shall not be required.

(3) Before the initial adoption of the official map and the county road system register, the board of supervisors shall hold a public hearing on the content of the official map and the county road system registry and shall publish notice of the hearing either on a free, publicly accessible, official government website

for not less than two (2) weeks, or at least one (1) time, not less than two (2) weeks before the date of the hearing, in a newspaper having general circulation in the county.

(4) All subsequent proceedings and changes to the county road system shall be recorded in the county road system register as soon as is reasonably possible. The county road system register, as it is periodically revised, shall be kept on file in the office of the clerk of the board of supervisors where it shall be available for public inspection.

(5) From and after July 1, 2000, the official record of the county road system shall consist of an official map, as provided for in subsection (1) of this section, and the county road system register, as provided for in subsection (2) of this section. The county road system register shall have priority in case of conflict between the register and the official map. The minutes of the board of supervisors containing proceedings with respect to county roads and the county road system shall serve as the official record until such proceedings are recorded on the official map and in the county road system register. The official record of the county road system, at a minimum, shall be revised and updated on or before July 1 of each year.

(6) It is the intention of the Legislature that the initial official record of the county road system prepared and adopted in accordance with this section shall include all public roads that the board of supervisors determines, consistent with fact, as of

July 1, 2000, or such date the initial official record is adopted, are laid out and open according to law. From and after July 1, 2000, no road shall be added or deleted from the county road system or otherwise changed except by order or other appropriate action of the board of supervisors and such action shall be recorded in the minutes of the board. All additions, deletions or changes to the county road system shall be recorded in the official record of the county road system as provided for in this section.

SECTION 94. Section 65-7-121, Mississippi Code of 1972, is amended as follows:

65-7-121. (1) The board of supervisors of any county may, upon its own motion or upon the petition of any interested resident of the county, by resolution spread upon its minutes, declare any section of the county road system abandoned upon its finding that one or more of the following circumstances are applicable to the section in question:

(a) The section does not provide primary access to occupied properties;

(b) Traffic on the section has for a period of at least ten (10) consecutive years been intermittent and of such low volume that no substantial public purpose is being served thereby;

(c) The board of supervisors has, for a period of at least the previous five (5) consecutive years, not maintained such section as part of the county road system; or

(d) For any reason, the public interest or convenience does not require the section to remain open to the public or that it is in the public interest or convenience to close, vacate and abandon the section.

(2) Except as provided in subsection (3) of this section, before any section of the county road system may be abandoned as provided in this section, the board of supervisors shall hold a public hearing on the question of such abandonment and shall publish notice of such hearing either on a free, publicly accessible, official government website for not less than two (2) weeks, or at least two (2) times, not less than two (2) weeks prior to the date of the hearing, in a newspaper having general circulation in the county.

(3) [Repealed]

(4) The resolution of the board of supervisors abandoning any section of the county road system will abrogate the easement theretofore owned, held, claimed or used by or on behalf of the general public but will not affect any private easements.

(5) Upon the abandonment of any section of the county road system, the board of supervisors shall post clearly visible signs at any intersection of the abandoned roadway with the county road system indicating that the abandoned section is no longer part of the county road system and is not maintained by the county. Once the required signs are posted, the county shall not be liable for the death of or injury to a vehicle owner, operator or passenger,

or for damage to a vehicle or its contents, resulting from a dangerous condition on the abandoned section. If there exists a public railroad grade crossing or railroad bridge on the section of county road so abandoned, the county shall furnish the railroad or individual owning such railroad trackage with a copy of the resolution authorizing the abandonment and thereupon, the railroad company or individual owning such trackage may barricade the crossing or remove the bridge.

(6) From and after July 1, 2000, any proceedings under this section shall be documented in the official record of the county road system in accordance with the requirements of Section 65-7-4.

SECTION 95. Section 65-19-3, Mississippi Code of 1972, is amended as follows:

65-19-3. Whenever the proceeding has been initiated or proposed by either of the methods above provided, the said board shall cause notice to be published of the said proposal, which notice shall be sufficiently full to fairly apprise all persons in interest of the character and objects of said proposal. The notice shall fix a time and place when and where the board of supervisors will hear objections to the creation of said district and to the bringing of any of the defined territory within said district. Said notice shall be published <u>either on a free, publicly accessible, official government website for three (3) consecutive weeks, or</u> in a newspaper of general circulation published in the county once a week for three (3) weeks prior to

the date of the hearing fixed in said notice; the first publication shall be not less than eighteen (18) nor more than forty (40) days prior to said date. When published in a newspaper, if there be no newspaper published in the county in which the territory is located, the notice shall be published in some newspaper having a general circulation therein.

SECTION 96. Section 65-21-17, Mississippi Code of 1972, is amended as follows:

65-21-17. For the purpose of carrying out the provisions of Section 65-21-15, the board or boards of supervisors may, in the same manner as set forth in said section, declare it to be their intention to issue bonds not earlier than thirty (30) days and publish the same, stating the amount of contemplated bond issue, either on a free, publicly accessible, official government website, or in any legal newspaper in the county or counties involved as provided by law. If twenty percent (20%) of the qualified electors petition the board or boards of supervisors for an election to determine said bond issue, the board or boards of supervisors shall order an election not later than thirty (30) days from the date the petition was presented, and a majority of the qualified electors voting shall decide the bond issue. If one or more of the counties voting should, by a majority vote of the qualified electors voting, decide against said bond issue, the part voting against the bond issue shall not issue said bonds; but if one or more of the counties voting at the same time or some

other time vote favorably by a majority of the qualified electors voting for a bond issue, as provided in this section, then the board or boards of supervisors of the county or counties so voting may issue the designated bonds for the purpose of purchasing only the designated bridge or bridges.

SECTION 97. Section 65-33-49, Mississippi Code of 1972, is amended as follows:

65-33-49. In those counties operating under this chapter, the board of supervisors may borrow funds not in excess of Three Hundred Fifty Thousand Dollars ($350,000.00) at a rate of interest not exceeding six percent (6%) *** * *** per annum, in addition to such sums as may have heretofore been borrowed, for the purpose of extending, constructing, repairing, or maintaining the road protection of the county or to protect by sea wall or road protection any street, highway, road, or avenue connected therewith extending to or along the side of a harbor or to a boat landing or dock, which, in the judgment of the board of supervisors of such county, should be so protected either for an existing or a contemplated road, street, highway, or avenue. Such board of supervisors shall have authority to acquire by purchase or otherwise a dredge boat and use and operate the same for the purpose of pumping a sand beach adjacent to such sea wall or road protection structure, and to pay for same out of any funds provided under this section or any funds collected under Section 65-33-47. The funds or amount borrowed for the purpose provided

for in this section shall be paid within a period of ten (10) years from the date borrowed, and shall be paid out of the funds collected under this chapter. All bonds, notes, or certificates of indebtedness maturing each year and the interest thereon, however, shall be first provided for and paid out of said funds. The loans authorized herein shall not be subject to other limitations, restrictions, or provisions of the general laws governing the borrowing of money, amounts of indebtedness, budget, and election; and said loans may be made by the board of supervisors of such county either by issuance of county bonds, notes, or certificates of indebtedness which shall be full faith and credit obligations of the county issuing the same and shall be payable, both as to principal and interest, from the same sources of revenue and taxes made available for the payment of road protection bonds under the provisions of this chapter. The money herein authorized to be borrowed may be borrowed by such board of supervisors from any person, firm, corporation, governmental lending agency, or from any sinking funds of such county, provided that if the money be borrowed from any sinking fund, it shall be repaid before the sinking fund from which it is borrowed, when supplemented by funds paid into same, is needed. Before the board of supervisors shall borrow money under this section, it shall spread on its minutes an order reciting such intention and shall thereafter publish a copy of such order, either on a free, publicly accessible, official government website for two (2)

consecutive weeks, or in two (2) weekly issues of some newspaper having a general circulation in the county. If, within fifteen (15) days after the first publication of a copy of such order, twenty-five percent (25%) of the qualified electors of the county petition the board of supervisors for an election to determine whether or not the adoption of such order should be annulled, such election shall be ordered by such board of supervisors. If at such election a majority of those voting vote in favor of the adoption of such order, the same shall be valid and effective; but if a majority shall vote against such order, it shall be annulled and shall be ineffective, and no further effort shall be made to borrow funds under this section by such board for a period of six (6) months from the date of such election. If no such petition be presented within fifteen (15) days after the first publication of a copy of such order, such order shall be valid and effective. The amount authorized to be borrowed under this section may be borrowed at any time and in any amount, but the total borrowed shall not exceed Three Hundred Fifty Thousand Dollars ($350,000.00) in addition to such sums as may heretofore have been borrowed for the purposes herein enumerated, or either of them.

SECTION 98. Section 65-33-51, Mississippi Code of 1972, is amended as follows:

65-33-51. (1) In any county maintaining a seawall or road protection structure under the provisions of this chapter, the board of supervisors may borrow funds not in excess of One Million

Five Hundred Thousand Dollars ($1,500,000.00), at a rate of interest not exceeding four percent (4%) per annum, in addition to such sums as have heretofore been borrowed for the purpose of constructing, repairing, strengthening or maintaining the road protection structure or seawall of the county. Such board of supervisors shall have the authority to acquire by purchase or otherwise a dredge boat and to use and operate it for the purpose of pumping a sand beach adjacent to such seawall or road protection structure or for the maintenance thereof, and to pay for same out of any funds provided under this section. The funds or amount borrowed for the purposes provided for in this section shall be repaid within a period of fifteen (15) years from the date borrowed, and shall be paid out of the funds collected under this chapter. All bonds, notes, or certificates of indebtedness maturing each year and the interest thereon, however, shall be first provided for and paid out of said funds. The loans authorized herein shall not be subject to other limitations, restrictions, or provisions of the general laws governing the borrowing of money, amounts of indebtedness, budget, and election; and said loans may be made by the board of supervisors of such county either by issuance of county bonds, notes, or certificates of indebtedness which shall be full faith and credit obligations of the county issuing same and shall be payable, both as to principal and interest, from the same sources of revenue and taxes made available for the payment of road protection bonds under the

provisions of this chapter. The money herein authorized to be borrowed by such board of supervisors may be borrowed from any person, firm, corporation, governmental lending agency, or from any sinking funds of such county; if the money be borrowed from any sinking fund, it shall be repaid before the sinking fund from which it is borrowed, when supplemented by funds paid into same, is needed. Before the board of supervisors shall borrow money under this section, it shall spread on its minutes an order reciting such intention, and shall thereafter publish a copy of such order either on a free, publicly accessible, official government website for three (3) consecutive weeks, or in three (3) weekly issues of some newspaper having a general circulation in the county. If, within fifteen (15) days after the first publication of a copy of such order, fifteen percent (15%) of the qualified electors of the county shall file with such board of supervisors a petition in writing requesting an election on the question of borrowing money in the amount and for the purpose as set forth in such order, then such money shall not be borrowed unless authorized by a majority of the qualified voters of such county voting in an election to be ordered by such board of supervisors for that purpose. Notice of such election shall be given and such election shall be held and conducted as provided by law in connection with elections for the submission of bond issues in such county. If such proposition shall fail to receive such majority vote at such election, then no further proceedings for

the borrowing of such money shall be had or taken within a period of six (6) months from and after the date of such election. If, however, no such petition shall be so filed, or if at such election such petition shall be assented to by a majority vote, then such board of supervisors shall be authorized to borrow such money in the amount and for the purpose as set forth in such order as published. The amount authorized to be borrowed under this section may be borrowed at any time and in any amount, but the total borrowed shall not exceed One Million Five Hundred Thousand Dollars ($1,500,000.00) in addition to such sums as may heretofore have been borrowed for the purposes herein enumerated, or either of them.

(2) The board of supervisors is hereby given full power and authority to meet and do and grant any request of the United States Beach Erosion Board of the United States Army Corps of Engineers by and under Public Law 727, 79th Congress, Chapter 960, 2nd Session, and to assure either or both the following:

(a) Assure maintenance of the seawall and drainage facilities, and of the beach by artificial replenishment, during the useful life of these works, as may be required to serve their intended purpose;

(b) Provide, at the county's own expense, all necessary land, easements, and rights-of-way;

(c) To hold and save the United States free from all claims for damages that may arise either before, during, or after prosecution of the work;

(d) To prevent, by ordinance, any water pollution that would endanger the health of the bathers;

(e) To assume perpetual ownership of any beach construction and its administration for public use only, and that the board of supervisors is given full power and authority to do any and all things necessary in and about the repair and reconstruction, or construction or maintenance of the seawall and sloping beach adjacent thereto; and it is given such power to cooperate with the requirements of the United States government to receive any grant or grants of money from Congress or to contribute any grant or grants to the United States Army Corps of Engineers in and about this construction and maintenance and it is further given full power and authority to employ engineers, lawyers, or any other professional or technical help in and about the completion of this project. In the event the county engineer is selected to do any or all of said work, the board of supervisors is hereby authorized to pay and allow him such reasonable fees or salary which, in its opinion, is necessary, just, and commensurate to the work done by him.

It is further given full power and authority to let, by competitive bids, any contract for the repair of said wall, or for the installation and drainage, and for the construction of any

additional section of wall, together with any artificial beach adjacent to said wall; or it may, in its discretion, negotiate a contract for any and all construction or any part thereof for the construction, repair, reconstruction, or additions thereto; or it may do any or all of said work under the direction of the county engineer or engineers employed by it and for which purpose it may employ all necessary labor and equipment and purchase necessary materials.

The intent and purpose of this section is to give unto the respective boards of supervisors the full power and authority to carry out all the provisions herein, and to act independently, jointly, or severally with the United States government by and under Public Law 727, 79th Congress.

(3) The provisions of this section shall not apply to any county with an assessed valuation of less than Ten Million Dollars ($10,000,000.00).

SECTION 99. Section 65-33-53, Mississippi Code of 1972, is amended as follows:

65-33-53. (1) In any county maintaining a seawall or road protection structure under the provisions of this chapter, the board of supervisors may borrow funds not in excess of Five Hundred Thousand Dollars ($500,000.00) in addition to the One Million Five Hundred Thousand Dollars ($1,500,000.00) authorized under Section 65-33-51, at the rate of interest not exceeding four percent (4%) per annum, in addition to such sums as have

heretofore been borrowed for the purpose of constructing, repairing, strengthening, or maintaining the road protection structure or seawall of the county, including the raising of the roadbed as recommended and approved by the Mississippi * * * Transportation Commission, and to construct retaining walls for such raised roadbeds and to pump by hydraulic fill, or otherwise, a sand beach adjacent to such retaining wall or seawall structure. Such board of supervisors shall have the authority to acquire by purchase or otherwise a dredge boat and to use and operate it for the purpose of pumping a sand beach adjacent to such seawall or road protection structure or for the maintenance thereof; however, said board of supervisors shall not pay for same out of any funds provided under this section. The funds or amount borrowed for the purposes provided in this section shall be repaid within a period of fifteen (15) years from the date borrowed, and shall be paid out of the funds collected under this chapter. All bonds, notes, or certificates of indebtedness maturing each year and the interest thereon, however, shall be first provided for and paid out of said funds. The loans authorized herein shall not be subject to other limitations, restrictions, or provisions of the general laws governing the borrowing of money, amounts of indebtedness, budget, and election, and said loans may be made by the board of supervisors of such county either by issuance of county bonds, notes, or certificates of indebtedness which shall be full faith and credit obligations of the county issuing same

and shall be payable, both as to principal and interest, from the same sources of revenue and taxes made available for the payment of road protection bonds under the provisions of this chapter, which sources of revenue and taxes are irrevocably pledged toward the repayment of any monies borrowed or any bonds issued under the provisions of this section. The money herein authorized to be borrowed by such board of supervisors may be borrowed from any person, firm, corporation, governmental lending agency, or from any sinking funds of such county; if the money is borrowed from any sinking fund, it shall be repaid before the sinking fund from which it is borrowed, when supplemented by funds paid into same, is needed. Before the board of supervisors shall borrow money under this section, it shall spread on its minutes an order reciting such intention and shall thereafter publish a copy of such order either on a free, publicly accessible, official government website for three (3) consecutive weeks, or in three (3) weekly issues of some newspaper having a general circulation in the county. If, within fifteen (15) days after the first publication of a copy of such order, fifteen percent (15%) of the qualified electors of the county shall file with such board of supervisors a petition in writing requesting an election on the question of borrowing money in the amount and for the purpose as set forth in such order, then such money shall not be borrowed unless authorized by a majority of the qualified voters of such county voting in an election to be ordered by such board of

supervisors for that purpose. Notice of such election shall be given and such election shall be held and conducted as provided by law in connection with elections for the submission of bond issues in such county. If such proposition shall fail to receive such majority vote at such election, then no further proceedings for the borrowing of such money shall be had or taken within a period of six (6) months from and after the date of such election. If, however, no such petition shall be so filed, or if at such election such petition shall be assented to by a majority vote, then such board of supervisors shall be authorized to borrow such money in the amount and for the purpose as set forth in such order as published. The amount authorized to be borrowed under this section may be borrowed at any time and in any amount, but the total borrowed shall not exceed Five Hundred Thousand Dollars ($500,000.00) in addition to such sums as may heretofore have been borrowed for the purposes herein enumerated, or either of them, and especially in addition to any sums that may have heretofore been borrowed or in addition to any bonds that may have heretofore been issued under authority of Section 65-33-51. Any attorneys' fees paid for the issuance of said bonds shall be paid out of the general fund of said county.

(2) The board of supervisors is hereby given full power and authority to meet and do and grant any request of the United States Beach Erosion Board of the United States Army Corps of

Engineers by and under Public Law 727, 79th Congress, Chapter 960, 2nd Session, and to assure either or both the following:

(a) Assure maintenance of the seawall and drainage facilities, and of the beach by artificial replenishment, during the useful life of these works, as may be required to serve their intended purpose;

(b) Provide, at the county's own expense, all necessary land, easements, and rights-of-way;

(c) To hold and save the United States free from all claims for damages that may arise either before, during, or after prosecution of the work;

(d) To prevent, by ordinance, any water pollution that would endanger the health of the bathers;

(e) To assume perpetual ownership of any beach construction and its administration for public use only, and that the board of supervisors is given full power and authority to do any and all things necessary in and about the repair and reconstruction, or construction or maintenance of the seawall and sloping beach adjacent thereto, built under the authority of this section, and it is given such power to cooperate with the requirements of the United States government to receive any grant or grants of money from Congress or to contribute any grant or grants to the United States Army Corps of Engineers in and about this construction and maintenance, and it is further given full power and authority to employ engineers, lawyers, or any other

professional or technical help in and about the completion of this project. In the event the county engineer is selected to do any or all of said work, the board of supervisors is hereby authorized to pay and allow him such reasonable fees or salary which, in its opinion, is necessary, just, and commensurate to work done by him.

It is further given full power and authority to let, by competitive bids, any contract for the repair of said wall, or for the installation and drainage, and for the construction of any additional section of wall, together with any artificial beach adjacent to said wall, and for the raising of any roadbeds and the construction of any such retaining wall.

The intent and purpose of this section is to give unto the respective boards the full power and authority to carry out all the provisions herein, and to act independently, jointly, or severally with the United States government by and under Public Law 727, 79th Congress.

(3) The provisions of this section shall not apply to any county with an assessed valuation of less than Ten Million Dollars ($10,000,000.00).

SECTION 100. Section 77-3-16, Mississippi Code of 1972, is amended as follows:

77-3-16. (1) All contracts for construction, extension and/or repair of facilities in excess of Two Hundred Thousand Dollars ($200,000.00) by or on the behalf of any public utility subject to rate regulations by the Mississippi Public Service

Commission, shall be governed by this section. The public utility shall maintain a list of contractors and suppliers qualified to perform contracts within the scope of proposed utility projects. The public utility shall, upon written request of any qualified prospective bidder, add his or its name to such list. At least every six (6) months, the public utility shall publish either on a free, publicly accessible, official government website, or in a newspaper, having general circulation in the area in which the utility operates, a notice requesting names of qualified contractors and suppliers. Upon written request by qualified contractors and suppliers, those names shall be added to such list. The public utility shall give to each contractor or supplier on said list who is qualified with respect to a project under consideration written invitation to bid those projects subject to this section. Contracts subject to this section shall be awarded to the lowest and best bidder. Provided, however, nothing contained herein shall prohibit any public utility from performing services covered by this section with its own regularly employed workforce.

(2) The public utility may enter into a master contract with the lowest and best contractor to cover all construction work to be performed in a specified geographic area.

(3) If the chief executive officer of a public utility determines that an emergency exists which affects the public health, safety or welfare, the provisions of this section shall

not apply. As used in this section, an emergency is any occurrence in which service is interrupted.

(4) The provisions of this section shall not apply to contracts which by their nature are not adapted to competitive bidding, including, but not limited to:

(a) Items which may be acquired from a sole source;

(b) Contracts for professional services;

(c) Equipment and systems which, by reason of the training of personnel or of any inventory replacement of parts maintained by the utility, are or should be compatible with existing equipment;

(d) Contracts for interstate or intrastate carriage of persons or property with a common carrier or contract carrier at the rates set forth in the officially approved tariff of that carrier; and

(e) Such contracts as the commission may define by regulation.

(5) The Public Service Commission shall have the authority to monitor all conditions contained in this section.

SECTION 101. Section 77-5-407, Mississippi Code of 1972, is amended as follows:

77-5-407. Before any bonds are issued under this article an election shall be held in the manner herein provided. The governing body of the municipality shall adopt a resolution

(herein called the "election resolution") which shall state in substance:

(a) The amount or maximum amount of bonds to be issued;

(b) The purpose or purposes for which such bonds are to be issued;

(c) The rate or maximum rate of interest which such bonds are to bear;

(d) A brief concise statement (which need not go into any detail other than the mere statement of fact) showing whether such bonds will be payable (* * *i) exclusively from revenues, (* * *ii) exclusively from taxes, (* * *iii) primarily from revenues and, to the extent of any deficiency in such revenues, from taxes, or (* * *iv) from taxes and additionally secured by a pledge of revenues;

(e) The date on which such election will be held; and

(f) The place or places where votes may be cast.

Such election resolution shall be published in full at least once, not less than fifteen (15) days prior to the date fixed for such election, either on a free, publicly accessible, official government website, or in a newspaper published and circulating in the municipality, or, if there be no such newspaper, then such election resolution shall be so published in a newspaper circulating in the municipality. Such election resolution shall also be posted not less than fifteen (15) days prior to the date

fixed for such election in five (5) public places in the municipality.

At such election the ballot shall contain a brief statement of the maximum amount of bonds to be authorized and the purposes for which such bonds are to be issued, and shall contain the words "for the issuance of electric plant bonds" and "against the issuance of electric plant bonds," so arranged that the voter can intelligently vote his or her preference by making a cross (x) mark opposite the words indicating his or her preference. It shall not be necessary for the ballot to be of any particular size, color or quality, nor need sample ballots be printed, posted, or distributed.

At or before the regular meeting of the governing body of the municipality next succeeding the date of such election, such governing body shall canvass the returns and determine and declare the results of the election, and it shall be the duty of the governing body of such municipality to enter upon its minutes the results and the returns in such election. Except as otherwise provided in this article, such election shall be conducted by the election authorities prescribed by the general law of the State of Mississippi and according to the provisions of the general election laws of the State of Mississippi.

SECTION 102. This act shall take effect and be in force from and after July 1, 2021.