

# The Mississippi Association of Supervisors 2018 Fall October Workshop Legislative Update

*By: Steve A. Gray*





# Sequence of Discussion

- 2018 Special Legislative Session Recap
  - MAS 2019 Legislative Proposals
  - Recent Laws Taking Effect Impacting Counties
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# Persistence & A United Voice

## Bringing the Dialogue Out To The Counties

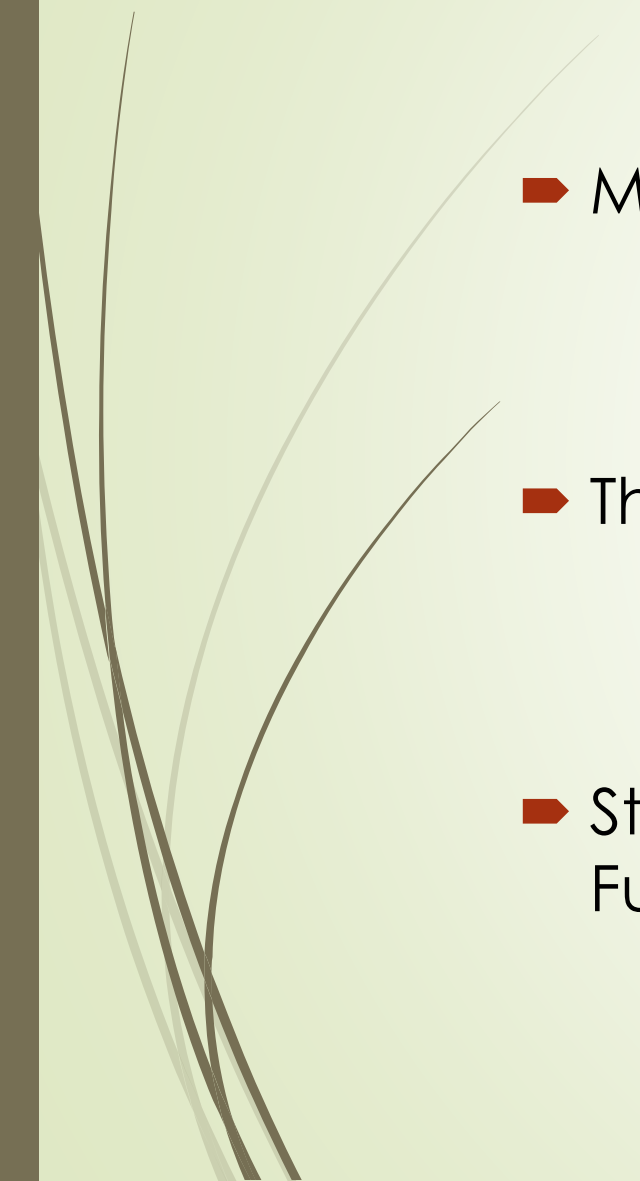
- ▶ Over 7 years ago MAS implemented a grassroots “county visit” structure
- ▶ About 4 years ago MAS structured county visits messaged around infrastructure
  - Media
  - County Engineers
  - Legislators
- ▶ Positioning the Association to be successful
  - MAS’s grassroots structure allowed the Federal bridge closures to be immediately injected into the county visits system. This brought significant attention to the media and the general public due to the duress and hardship of local commuters struggling with travel routes.
- ▶ Squeaky Wheel Gets the Oil
  - Within the mist of a huge public outcry, county officials, along with MAS staff remain constantly in the media regarding this infrastructure crisis, which inevitably lead to the Governor calling a Special Legislative Session.

# 2018 Special Legislative Session





# Governor's Proclamations

- Mississippi Infrastructure Modernization Act (MIMA)
  - The Alyce G Clarke Mississippi Lottery Act
  - State BP Settlement Fund and Gulf Coast Restoration Fund
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# Mississippi Infrastructure Modernization Act (MIMA)

House Bill 1

*(2018 Special Legislative Session)*



# Understanding the Use Tax & Diversions

## What is a Use Tax?

- A USE TAX is a sales tax on **purchases made outside one's state** of residence for taxable items that will be used, stored or consumed in one's state of residence.
- **Example:** John lives in Tupelo, MS and buys boots on Amazon.com. Amazon does not have a physical presence in Mississippi nor does the vendor selling on Amazon have a physical presence in Mississippi. NOTE: Amazon must remit the tax collected to the State of Mississippi. The Mississippi Department of Revenue will collect this tax and put it in a special fund.

## What is a Diversion?

- A change that redirects an enroute action to a point of destination different from the original destination of intent.
- **NOTE:** In this case regarding State revenue, money is being "diverted" away from the State General Fund

# Mississippi's Tax Diversions to Local Government

## *Prior to House Bill 1 from the 2018 Special Legislation Session*

- ▶ Cities
  - ▶ Receives an 18.5% sales tax diversion from retail goods sold in the State of Mississippi.
- ▶ Counties
  - ▶ Receives ZERO from sales taxes
- ▶ **There is NO appropriation process required. Members of the MS Legislature do NOT weight in on this revenue diversion.**

## *After to House Bill 1 from the 2018 Special Legislation Session*

- ▶ Cities
  - ▶ Continue to receive 18.5% diversion
  - ▶ New revenue of 15% diversion (limited to infrastructure)
- ▶ Counties
  - ▶ First ever in history, a 15% diversion (limited to infrastructure)
  - ▶ Local System Bridge Program: 5% diversion (limited to the LSBP Program)
- ▶ **There is NO appropriation process required. Members of the MS Legislature do NOT weight in on this revenue diversion.**



# Mississippi Infrastructure Modernization Act

## Section by Section Analysis

### ➔ Section 1

- Authorizes the total collection of 35% of the use tax. This section of the law breaks down this collection by percentages over a period of four years to reach its maximum percentage capacity. In addition, this section directs the 5% of the 35% to go towards the Local System Bridge Program (LSBP)

#### - Phase in process by the numbers

- 3 <sup>3</sup>/<sub>4</sub>%      **Year 2019** (Collection for the this special fund begins and is deposited)
- 7 <sup>1</sup>/<sub>2</sub>%      **Year 2020** (Counties will be able to access the funds)
- 11 <sup>1</sup>/<sub>4</sub>%      **Year 2021**
- 15%      **Year 2022** (Line 198: August 15, 2022 and each succeeding month thereafter, \$1,666,666.67 or 5% of the total use tax revenue collected during the preceding month under the provisions of this article , whichever is greater amount, shall be deposited into the LSBP Fund.)

$$\$1,666,666.67 \times 12 = \$20,000,000.04 \text{ (LSBP)}$$

# Mississippi Infrastructure Modernization Act

## ➤ Section 2

- Creates a new section of law that defines where the 30% of the 35% will be distributed and how it will be distributed. This section defines how municipalities will receive their portion (15%) and it defines how counties will receive their portion (15%).
- This section also notes that the maximum amount of such funds that may be distributed to the county during that year shall not exceed the amount of county funds expended by the county during the previous county fiscal year for purposes associated with the repair, maintenance and/or reconstruction of roads, streets and bridges in counties.
- **NOTE:** This section also contains the language that mandates that “any unexpended amounts remaining in the fund at the end of a fiscal year shall not lapse into the State General Fund, and any interest earned or investment earnings on amounts in the fund shall be deposited to the credit of the fund.”

# Mississippi Infrastructure Modernization Act

## ➤ Section 3

- This section amends current law by allowing any county with all their deficient bridges with a sufficiency rating of less than fifty (50) replaced or rehabilitated for the Local System Bridge Program (LSBP) to be able to use LSBP money on bridges in the State Aid Road system, or if bridges in the State Aid Road System of that county are in sufficient repair, then such monies may be utilized for the repair of roads on the State Aid Road System or local system roads.

# Mississippi Infrastructure Modernization Act

## ➤ Section 4

- Creates a new section of law that introduces procedures for bridge closures. Failure to close the local bridge means the local government is ineligible to receive funds under this law.

# Mississippi Infrastructure Modernization Act

## ➤ Section 5

- Creates a new section of law as it relates fees on electric vehicles. A fee of \$150 per year will be on each electric vehicle. This fee is to be paid to the county tax collector beginning July 1, 2021. The fee will be adjusted annually by the Consumer Price Index (CPI). The tax collector is to send the money to the Department of Revenue to be distributed the same way as gasoline taxes.

# Mississippi Infrastructure Modernization Act

## ➤ Section 6

- Creates a new section of law as it relates fees on hybrid vehicles. A fee of \$75 per year will be on each hybrid vehicle. This fee is to be paid to the county tax collector beginning July 1, 2021. The fee will be adjusted annually by the Consumer Price Index (CPI). The tax collector is to send the money to the Department of Revenue to be distributed the same way as gasoline taxes.

# Mississippi Infrastructure Modernization Act

## Section 7

- ▶ This section amends current law with language pertaining to revenue bonds. This section issues \$300 million in revenue bonds to be paid one time. The bonds will be paid off with the gaming taxes now going into the Gaming Sinking Fund:
  - ▶ **\$50 million goes into the newly created 2018 Transportation and Infrastructure Improvements Fund.** NOTE: This section was later transferred in to Senate Bill 2002 (*The BP Oil Spill Bill; Section 13 of that bill*) of the 2018 Special Legislative Session.
  - ▶ **\$250 million goes into an Emergency Road and Bridge Repair Fund** administered by the Mississippi Department of Transportation (MDOT). These funds are to be used by MDOT for emergency repairs to roads, streets and highways and bridges for repairs on city streets, county roads and state highways upon a unanimous vote of the Mississippi Highway Commission.

# Mississippi Infrastructure Modernization Act

## Section 8

- Creates a new section of law establishing the Emergency Road and Bridge Repair Fund Advisory Board. NOTE: The Mississippi Association of Supervisors has a seat on this board.
- Before establishing the first meeting the Governor is mandated to appoint a chairman.
- Governor sent MAS official letter acknowledging Farm Bureau President, Mike McCormick as the board chairman.



# Mississippi Infrastructure Modernization Act

## ➤ Section 9

- Creates a new section of law establishing the 2018 Transportation and Infrastructure Improvement Fund. REMINDER: This section was later transferred in to Senate Bill 2002 (*The BP Oil Spill Bill; Section 13 of that bill*) of the 2018 Special Legislative Session.

# Mississippi Infrastructure Modernization Act

## ➤ Section 10

- This section amends current law by making permanent the current 4/10<sup>th</sup> of 1 cent per gallon fee on gasoline and diesel that goes to the Mississippi Groundwater Protection Trust Fund. The fee funds motor fuels tank cleanup. Once the Trust Fund reaches \$10 million, the money is diverted to the State Highway Fund. When the fund drops to \$6 million the fee goes to the clean-up fund until it reaches \$10 million.

# Mississippi Infrastructure Modernization Act

## ➤ Section 11

- This section amends current law by directing revenue from **sports betting** to be deposited into the State Highway Fund to be used solely on repair and maintenance of the state highways and bridges. This diversion continues through July 1, 2028 and after that, the revenue will be placed in the state general fund. This money is to be used first for matching federal highway funds.

# Mississippi Infrastructure Modernization Act

## ➤ Section 12

- This section amends current law by removing a prohibition provision during the final year of the term of a county board of supervisors. Mississippi code 19-11-27 notes that no board of supervisors of any county shall expend from, or contract an obligation against, the budget estimates for roads and bridges construction, maintenance, and equipment, made and published by it during the last year of the term of office of such board, between the first day of October and the first day of the following January. Section 12 of this law waives that prohibition for the 2019 calendar year for the repair of deficient bridges on the State Aid Road and Local System Road program bridges with a sufficiency rating of less than fifty (50).

# Mississippi Infrastructure Modernization Act

## ➤ **Section 13**

- This section requires the State Department of Audit to conduct a performance audit of projects under the Mississippi Department of Transportation. This audit is to be completed by December 31, 2019.

# Mississippi Infrastructure Modernization Act

## ➤ **Section 14**

- This section clarifies that section 5 and 6 of this law shall take effect on Oct. 1, 2018, and the rest of the bill shall take effect upon passage.



Eric J. Shelton, Mississippi Today

**Lawmakers discuss the lottery bill during a committee meeting in a special session at the Capitol in Jackson Friday, August 24, 2018.**

During a celebratory news conference last week at the end of the special session Gov. Phil Bryant called to provide additional money for infrastructure needs on both the state and local levels, House Speaker Philip Gunn, R-Clinton, said cities and counties “will immediately see the results of what we have done.”

While most would agree that in the special session bills were passed to provide local governmental officials their much sought after help with infrastructure needs, for most the aid will not be immediate. It will take at least months, or in some cases years, for most of the money to reach local governments to help, for instance, with the repair of the about 500 bridges that have been closed across the state for safety reasons.



**Derrick Surrette**

“It will take a while for the money to accumulate,” said Derrick Surrette, executive director of the Mississippi Association of Supervisors. “It will not be a quick fix, but it will be a fix to a point.”

During the five day special session, three bills passed and all will provide additional funding for infrastructure needs – an estimated \$200 million annually when fully enacted, plus an additional \$360 million in one-time sources of money. Those bills will:



# Alyce G. Clarke Lottery Law

Senate Bill 2001

(2018 Special Legislative Session)



# Alyce G. Clarke Lottery Law

## Key Section (Infrastructure)

### ▸ Section 43

- Net proceeds of this act that are deposited into the Lottery Proceeds Fund shall be paid into the State Highway Fund upon requisition of the State Transportation Commission as needed to provide funds to repair, renovate and maintain highways and bridges of the state.
- However, funds paid into the State Highway Fund under this section shall be first used for matching federal funds authorized to the state pursuant to any federal highway infrastructure program implemented after September 1, 2018.
- However, all such monies deposited into the Lottery Proceeds Fund over Eighty Million Dollars (\$80,000,000.00) in a fiscal year shall be transferred into the Education Enhancement Fund for the purposes of funding the Early Childhood Learning Collaborative, the Classroom Supply Fund and/or other educational purposes.
- From and after July 1, 2028, the net proceeds shall be deposited into the Lottery Proceeds Fund and shall be transferred to the State General Fund, except for the amount over Eighty Million Dollars (\$80,000,000.00) which shall continue to be deposited in the Education Enhancement fund as provided above.



# BP Oil Spill Settlement Funds

Senate Bill 2002

*(2018 Special Legislative Session)*

# BP Oil Spill Settlement Funds

Establishes a “State BP Settlement Fund” and a “Gulf Coast Restoration Fund”

- ▶ 75% (\$750M) designated to Gulf Coast Restoration Fund to 6 Gulf Counties.
  - Harrison County, Hancock County, Jackson County, Pearl River County, Stone County, and George County.
  - No project may be fully funded by the Gulf Coast Restoration Fund
  - Mississippi Development Authority (MDA) will establish loan/grant programs for assistance toward approved projects, requiring performance reports, financial audits, and annual report with legislative officials.
  - MDA shall review, compile and score applications, and present applications and its recommendation to the Legislature.
  - Attached a 7 member advisory board
    - 3 appointments from the Governor
    - 2 appointments from the Lt. Governor
    - 2 appointments from the Speaker of the House
    - Chairman appointed by the Governor
    - Board shall elect officers from its members
    - Board will not receive compensation, per diem or mileage.

# BP Oil Spill Settlement Funds

Establishes a “State BP Settlement Fund” and a “Gulf Coast Restoration Fund”

- 25% designated to the State BP Settlement Fund with Special Projects Earmark.
  - Statewide special projects totaling \$103 million administered through the 2018 Transportation Infrastructure Improvements Fund established in House Bill 1 (Mississippi Infrastructure Modernization Act of 2018).
  - \$50 million through gaming revenue bonds and \$53 million from the Budget Contingency Fund (BCF).
  - \$7.5 million Mississippi Railroad Improvement Fund Projects
  - \$1 million Mississippi Highway-Railroad Crossing Safety Account

# Special Session Positively Impacts State Credit Rating

- Moody's Investors Service has deemed the recent special session of the Mississippi Legislature a "credit positive," as the Standard & Poor's moves the state's outlook from "negative" to "stable."
- In 2016 and 2017, national credit rating agencies warned that Mississippi's financial outlook was weak. Moody's in 2016 lowered the state's credit outlook to negative and Fitch Ratings downgraded the state's credit rating on \$4 billion in debt.

# MAS 2019 Legislative Proposals



# MAS 2019 Legislative Proposals

## Proposal 1

The Mississippi Association of Supervisors request legislation funding the Local Systems Bridge Program at \$40 million.

## Proposal 2

The Mississippi Association of Supervisors request legislation that fully funds the Homestead Exemption Reimbursement at \$87.5 million.

## Proposal 3

The Mississippi Association of Supervisors request legislation provides for increased revenue for 911 funding.

## Proposal 4

The Mississippi Association of Supervisors request legislation that provides for a salary realignment.

## Proposal 5

The Mississippi Association of Supervisors request legislation that provides for the 2019 round of the Rural Fire Truck Acquisition.

## Proposal 6

The Mississippi Association of Supervisors request legislation that provides funding for the Beaver Control Assistance Program (BCAP).



# **Laws Impacting Counties That Took Effect in 2018**



# MS 2018 Laws In Effect Impacting Counties

- **House Bill 1649** (Omnibus Bond Package)
  - LSBP (\$50 million)
  - Limited Counties Population Grant Fund (\$5 million) MDA
- **Senate Bill 2467** (Rural Fire Truck)
  - \$4.5 million
- **Senate Bill 2418** (Vehicle Weight Limit)
  - increased from 5% to 10% on the vehicle axle tolerance
- **Senate Bill 2963** (Homestead Exemption Reimbursement)
  - \$80,625,992.00

# MS 2018 Laws In Effect Impacting Counties

## ➤ **Senate Bill 2479** (Economic Development)

- This measure reduces from \$100 million to \$60 million the amount that a project by certain new enterprises and certain private companies must total in order to be eligible to enter into a fee-in-lieu agreement.

## ➤ **Senate Bill 1122** (Local Authority)

- Local governing authorities shall not restrict or prohibit any agricultural operation, forestry activity, or traditional farm practices being conducted on land.
- NOTE: Final version was amended to allow local governing authorities to enact or impose ordinances and regulations that would prohibits or restrict agricultural, forestry or traditional farm practices or the erection of any building, structure or improvement upon land with such agricultural, forestry or traditional farm practices.



**Questions?**