



Lynn Fitch
ATTORNEY GENERAL
OPINIONS AND POLICY

August 4, 2026

Jimmy Colmer, Esq.
Attorney, Jackson County Board of Supervisors
Post Office Box 998
Pascagoula, Mississippi 39568

Re: Public Improvement District's Authority to Impose, Collect, and Pledge
User Charges and Fees

Dear Mr. Colmer:

The Office of the Attorney General has received your request for an official opinion.

Background

According to your request, Jackson County ("County") has been in discussions with a developer ("Developer") concerning a proposed large, master-planned, retail and mixed-use development consisting of commercial retail, entertainment, recreational, and related mixed-use components on real property located within the County ("Development Project"). In connection with the Development Project, the Developer has requested that the County consider creating a public improvement district ("District") pursuant to Mississippi Code Annotated Sections 19-31-1, *et seq.*, ("PID Act" or "Act"). The District is expected to issue bonds or other indebtedness to finance a portion of improvements. The bonds would be payable from and secured by revenues lawfully available to the District, including user charges and fees imposed, collected, and pledged by the District pursuant to the PID Act. The County therefore seeks an opinion concerning the authority of a District created under the PID Act, acting by and through its board of directors ("Board"), to impose, collect, and pledge certain user charges or fees to secure and pay bonds issued by the District for public improvements authorized by the Act.

Questions Presented

1. May a District collect and enforce a user charge or fee on retailers or other business operators located within a District for District facilities and services furnished or made available by the District?

2. May a District calculate the amount of that user charge or fee by reference to taxable retail sales occurring within the District, provided that the legal obligation to pay the fee is imposed on the retailer or business operator located within the District and that the fee is remitted directly to the District?
3. May a District permit retailers to pass the amount of the user charge or fee through to customers as a separately disclosed charge at the point of sale, provided that the retailer remains legally responsible to the District for payment of the fee?

Brief Response

1. If the Board (1) determines that a user charge or fee is necessary for the conduct of District activities and services, (2) authorizes a resolution for the same, and (3) meets the notice requirement of Section 19-31-39(2), the District may collect and enforce a user charge or fee on retailers or other business operators located within the District for District facilities and services furnished or made available by the District.
2. So long as the District meets the requirements of Section 19-31-17(1)(n) and Section 19-31-39(2), the District may calculate the amount of that user charge or fee by reference to taxable retail sales occurring within the District, provided that the legal obligation to pay the fee is imposed on the retailer or business operator located within the District and that the fee is remitted directly to the District.
3. Nothing within the PID Act prohibits a District from allowing retailers to pass user charges or fees through to customers as a separately disclosed charge at the point of sale. Because Section 7-5-25 allows this office to opine upon the authority of the requestor only, whether a retailer has the general authority to pass user charges or fees through to customers as a separately disclosed charge is beyond the scope of this opinion.

Applicable Law and Discussion

The Mississippi legislature created the PID Act, Sections 19-31-1, *et seq.*, to assist with the state's need for capital infrastructure "to service projected growth without overburdening counties and municipalities and their taxpayers." Miss. Code Ann. § 19-31-3(a). It is the legislative intent that the Act provides "a uniform procedure by general law to establish an independent special district as an alternative method to manage and finance basic services for public improvements through the levy and collection of special assessments." Miss. Code Ann. § 19-31-3(b). To effectuate such intent, the Act "shall be liberally construed;" accordingly, your questions are answered through this lens. Miss. Code Ann. § 19-31-49.

You first ask if the District may collect and enforce a user charge or fee on retailers or other business operators located within the District for District facilities and services furnished or made available by the District. It may. Section 19-31-17 sets forth the powers of the District, which includes the power:

to levy such special assessments as may be authorized; and to charge, collect and enforce fees and other user charges.

...

[and t]o raise, by user charges or fees authorized by resolution of the board, amounts of money which are necessary for the conduct of the district activities and services; . . . and to enforce the receipt and collection of user charges and fees in the manner prescribed by resolution not inconsistent with law.

Miss. Code Ann. § 19-31-17(1)(l), (n).

Section 19-31-39(1) also addresses the District's authority to prescribe fees or other charges and provides:

The district . . . may prescribe, fix, establish and collect rates, fees, rentals or other charges for the facilities and services furnished by the district, within the limits of the district, including, but not limited to, recreational facilities, water management and control facilities and water and sewer systems. The district may also . . . provide for reasonable penalties against any user or property for any such rates, fees, rentals or other charges that are delinquent.

And Section 19-31-39(2) requires the District to hold a public hearing concerning the proposed fees or charges with at least 10 days' notice published in the local newspaper(s).

Beyond Section 19-31-39(1), the PID Act does not further specify, or place limitations upon, who may be assessed user charges and fees. And whether a user charge or fee is "necessary for the conduct of the district activities and services" is a factual determination to be made by the Board. *See* Miss. Code Ann. § 7-5-25 (authorizing this office to opine upon prospective questions of state law only). It is therefore the opinion of this office that if the Board (1) determines that a user charge or fee is necessary for the conduct of District activities and services, (2) authorizes a resolution for the same, and (3) meets the notice requirement of Section 19-31-39(2), the District may collect and enforce a user charge or fee on retailers or other business operators located within the District for District facilities and services furnished or made available by the District.

You next ask if the District may calculate the amount of the proposed user charge or fee by reference to taxable retail sales occurring within the District, provided that the legal obligation to pay the fee is imposed on the retailer or business operator located within the District and that the fee is remitted directly to the District. The PID Act does not require user charges or fees to be calculated in a particular manner. It is thus the opinion of this office that so long as the District meets the requirements of Section 19-31-17(1)(n) and Section 19-31-39(2) discussed *supra*, the District may calculate the amount of that user charge or fee by reference to taxable retail sales occurring within the District, provided that the legal obligation to pay the fee is imposed on the retailer or business operator located within the District and that the fee is remitted directly to the District.

Finally, you ask if a District may permit retailers to pass the amount of the proposed user charge or fee through to customers as a separately disclosed charge at the point of sale, provided that the

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retailer remains legally responsible to the District for payment of the fee. Nothing within the PID Act prohibits a District from allowing retailers to pass user charges or fees through to customers as a separately disclosed charge at the point of sale. However, because Section 7-5-25 allows this office to opine upon the authority of the requestor only, whether a retailer has the general authority to pass user charges or fees through to customers as a separately disclosed charge is beyond the scope of this opinion.

If this office may be of any further assistance to you, please do not hesitate to contact us.

Sincerely,

LYNN FITCH, ATTORNEY GENERAL

By: */s/ Maggie Kate Bobo*

Maggie Kate Bobo

Special Assistant Attorney General

OFFICIAL OPINION