

By: Representatives Wallace, Bozeman,
Robinson (63rd), Thornton

To: Ways and Means

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 1035

1 AN ACT TO AUTHORIZE MUNICIPALITIES TO CREATE DRAINAGE
2 DISTRICTS; TO REQUIRE A REFERENDUM ON THE QUESTION OF CREATING A
3 MUNICIPAL DRAINAGE DISTRICT BEFORE SUCH A DISTRICT MAY BE CREATED;
4 TO PROVIDE THAT THE GOVERNING AUTHORITIES OF A MUNICIPALITY
5 CREATING SUCH A DRAINAGE DISTRICT SHALL APPOINT THREE
6 COMMISSIONERS TO MANAGE THE DRAINAGE DISTRICT; TO PROVIDE THE
7 POWERS AND DUTIES OF SUCH DRAINAGE DISTRICTS; TO AUTHORIZE
8 MUNICIPAL DRAINAGE DISTRICTS TO LEVY ASSESSMENTS ON PROPERTY IN A
9 DISTRICT; AND FOR RELATED PURPOSES.

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

11 SECTION 1. Each drainage district created under this act
12 shall be a body corporate, shall have authority to sue in its own
13 corporate name and be sued therein, may contract and be contracted
14 with, may plead and be impleaded, and where organized or operating
15 under the provisions of this act in its name may do and perform
16 any and all things necessary and authorized by this act. All such
17 acts may be done by its commissioners in the name of the district.

18 SECTION 2. (1) The terms "benefits" and "betterments," as
19 used in this act are interchangeable and shall be construed as
20 synonymous. The terms "ditches" and "drains" shall be construed
21 to also include levees and closed drains, such as tiling, as well
22 as open ditches.

23 (2) For the purposes of this act, the following terms shall
24 have the meanings ascribed in this section unless the context
25 clearly requires otherwise:

26 (a) "Drainage commissioners" or "commissioners" means
27 commissioners of a municipal drainage district created under this
28 act. (b) "Drainage district" or "district" means a municipal
29 drainage district created under this act.

30 (c) "Governing authorities" means the governing
31 authorities of any municipality creating or proposing to create a
32 municipal drainage district under this act.

33 (d) "Municipality" means any municipality creating or
34 proposing to create a municipal drainage district under this act.

35 SECTION 3. A municipality may create a drainage district
36 under this act for the purpose of reclaiming wet, swamp, or
37 overflowed lands for agricultural and sanitary purposes conducive
38 to public health in the manner provided in this act, and when so
39 created, shall consist of a system of artificial main drains,
40 lateral drains or ditches, natural drains and water courses, or
41 levees. To the end that the purposes of the creation of such
42 districts according to this system may be attained, they shall
43 have and are given full power and authority to construct or to
44 cause to be constructed such artificial main drains and ditches,
45 lateral drains and ditches, and tile drains over the lands of
46 others or over or on lands which may be acquired by such district,
47 and to alter, deepen, or improve any and all natural drains and
48 water courses as it may be necessary to alter, deepen, or improve
49 so that a complete system of such drains may exist in the district
50 for agricultural and sanitary purposes. Such districts may also,
51 in addition to the construction of such drains, construct or erect
52 over the land of others, or over the lands to be acquired by the
53 drainage district for that purpose, such levees as may be
54 necessary to protect or reclaim any lands from overflow from any
55 source. A municipality may create only one (1) such district.

56 SECTION 4. All drainage districts created under this act
57 shall severally exercise their respective powers and be managed by
58 three (3) municipal drainage commissioners of the municipality in
59 which the district is organized.

60 SECTION 5. In every municipality in this state in which a
61 drainage district is created under this act, the governing
62 authorities of such municipality shall select three (3) municipal

63 drainage commissioners for such drainage district. The initial
64 terms of office for the commissioners shall be one (1), two (2)
65 and three (3) years, respectively. After the expiration of the
66 initial terms, successive appointments shall be for terms of four
67 (4) years. Any vacancy in the office of a municipal drainage
68 commissioner in a municipality may be filled by the governing
69 authorities at any regular meeting of such governing authorities,
70 which governing authorities are given the authority to fill all
71 unexpired terms of any commissioner in the municipality.

72 Every resident citizen of any municipality, being the owner
73 of land in such municipality and over twenty-five (25) years of
74 age, of good reputation, and of sound mind and judgment shall be
75 eligible to hold the office of municipal drainage commissioner in
76 the municipality of his residence.

77 If any commissioner shall refuse or neglect to discharge the
78 duties imposed upon him by virtue of this act, or shall neglect or
79 refuse to qualify as such commissioner after being selected for
80 such office, the other two (2) commissioners shall proceed to
81 exercise the duties of their office and the business of the
82 drainage district until the next meeting of the governing
83 authorities, when the office of the party refusing to perform or
84 qualify shall be filled by the selection of another party in his
85 stead.

86 SECTION 6. Each person selected municipal drainage district
87 commissioner shall, before entering upon the discharge of the
88 duties of the office, give bond, with sufficient surety, to be
89 payable, conditioned and approved as provided by law, in a penalty
90 equal to Ten Thousand Dollars (\$10,000.00). Such commissioner
91 shall take and subscribe to an oath of office before the clerk of
92 the municipality that he will faithfully discharge the duties of
93 the office, which oath shall also be filed with such clerk.

94 SECTION 7. The commissioners each shall receive per diem
95 compensation as provided by Section 25-3-69 for each day's actual

96 service, not exceeding four (4) days in any one (1) calendar
97 month, to be allowed on an itemized account rendered to the
98 drainage district commissioners and approved by the governing
99 authorities.

100 SECTION 8. A majority of the commissioners shall constitute
101 a quorum, and the concurrence of a majority of their number in any
102 matter within their duties and authority under this act shall be
103 sufficient to bind the board.

104 SECTION 9. After the creation of a drainage district, the
105 commissioners shall elect a secretary and treasurer, who may be a
106 member of the board or may be any person qualified to fill the
107 position. He shall give bond in such sum as the commissioners,
108 with the approval of the governing authorities, may determine and
109 shall receive such compensation as the commissioners may allow,
110 subject to approval by the governing authorities. The secretary
111 and treasurer shall receive from the tax collector of the
112 municipality, or such other taxing district which the municipality
113 may be a part of, whose duty it shall be to collect, all monies
114 levied by the drainage commissioners. The commissioners, with the
115 approval of the governing authorities, may designate a qualified
116 municipal depository as the depository for such funds; and upon
117 their failure so to do, the funds shall be deposited as provided
118 by law for funds belonging to the treasury of the municipality.
119 The drainage commissioners of a district that has no bonds
120 outstanding or which has a surplus fund in the treasury, by and
121 with the approval of the governing authorities, may place the
122 surplus funds in a qualified municipal depository on savings
123 account for six (6) months or more, at a rate of interest of not
124 less than two percent (2%), or may loan such surplus funds on land
125 in the municipality, at a rate of interest of not less than six
126 percent (6%) and on such terms and for such time as the governing
127 authorities may direct. Any such depository shall be eligible to
128 hold funds of the district to the extent that it is qualified as a

129 depository for municipal funds.

130 It shall be the duty of the treasurer to keep proper books to
131 be furnished him by the commissioners, in which he shall keep an
132 accurate account of all moneys received by him and of all
133 disbursements of such moneys. He shall pay out no money except
134 upon the order of a majority of the commissioners, shall carefully
135 preserve on file all orders for the payment of money given him by
136 the commissioners. He shall turn over all books, papers,
137 vouchers, moneys and other property belonging to such district, in
138 his hands as such treasurer, to his successor in office.

139 SECTION 10. The drainage commissioners may employ an
140 attorney to assist in the formation and administration of the
141 drainage district, and to represent the district in all matters of
142 a legal nature, at a fixed or agreed compensation, subject to the
143 confirmation of the governing authorities who may decrease but not
144 increase such compensation.

145 SECTION 11. Whenever a majority of the owners of lands
146 within a municipality proposed to be organized into a drainage
147 district, who shall have arrived at lawful age and who represent
148 at least one-third (1/3) in area of the lands in such proposed
149 district, or whenever one-third (1/3) of the land owners in such
150 proposed district owning more than one-half (1/2) of the lands in
151 such district desire to organize a drainage district for the
152 construction of drains or ditches across the lands of others for
153 agricultural and sanitary purposes, or to maintain and keep in
154 repair any such drains and ditches heretofore constructed, or to
155 establish in such district a combined system of drainage or
156 protection from wash or overflow for agricultural and sanitary
157 purposes, and to construct and maintain the same by special
158 assessment upon the property benefited thereby, such owners may
159 file with the clerk of the municipality a petition signed by a
160 majority of the owners of such land who own at least one-third
161 (1/3) of the lands proposed to be included in such district, or by

162 one-third (1/3) of the owners of such lands who own more than
163 one-half (1/2) of the lands in the proposed drainage district to
164 be organized, setting forth the proposed name of the drainage
165 district, the necessity for the drainage district, and the
166 description of the lands to be included in the drainage district,
167 and may request the organization of a drainage district by a name
168 to be given to the same.

169 SECTION 12. Whenever the governing authorities of a
170 municipality desire to create a drainage district for the
171 construction of drains or ditches across the lands of others for
172 agricultural and sanitary purposes, or to maintain and keep in
173 repair any such drains and ditches heretofore constructed, or to
174 establish in such district a combined system of drainage or
175 protection from wash or overflow for agricultural and sanitary
176 purposes, and to construct and maintain the same by special
177 assessment upon the property benefited thereby, such governing
178 authorities shall adopt a resolution declaring its desire so to
179 do, setting forth the proposed name of the drainage district, the
180 necessity for the drainage district, and the description of the
181 lands to be included in the drainage district. The governing
182 authorities shall file such resolution with the clerk of the
183 municipality.

184 SECTION 13. Upon the petition provided for in Section 10 of
185 this act, or the resolution provided for in Section 11 of this
186 act, or both, being filed in the office of the clerk of the
187 municipality, the clerk shall establish a date for the calling of
188 a referendum to be held on the question of creating the drainage
189 district. Notice of the election shall be signed by the clerk of
190 the municipality and shall be published once each week for at
191 least three (3) consecutive weeks in at least one (1) newspaper
192 published or having a general circulation in such municipality.
193 The first publication of such notice shall be made not less than
194 twenty-one (21) days before the date fixed for the election, and

195 the last publication shall be made not more than seven (7) days
196 before the date fixed for the election. At the election, all
197 qualified electors of the municipality may vote, and the ballots
198 used in such election shall have printed thereon a brief statement
199 setting forth the proposed name of the drainage district, the
200 necessity for the drainage district, and the description of the
201 lands to be included in the drainage district, and the words "FOR
202 THE CREATION OF (NAME OF DRAINAGE DISTRICT)" and "AGAINST THE
203 CREATION (NAME OF DRAINAGE DISTRICT)," and the voters shall vote
204 by placing a cross (X) or check (V) opposite their choice on the
205 proposition. When the results of the election shall have been
206 canvassed by the election commissioners of the municipality and
207 certified, the drainage district may be created if at least
208 three-fifths (3/5) of the qualified electors who voted in the
209 election voted in favor of creation of the drainage district. If
210 at least three-fifths (3/5) of the qualified electors who voted in
211 the election voted in favor of creation of the drainage district,
212 the governing authorities may create the drainage district by duly
213 adopting and entering on their minutes a resolution to that
214 effect, and may appoint drainage district commissioners as
215 provided in this act.

216 SECTION 14. The commissioners shall meet and go upon lands
217 in the drainage district and examine such lands, and the lands
218 over which the work is proposed to be constructed, and determine:
219 first, the starting point, route, and termini of the proposed
220 work, the location and size of the main ditch to be constructed in
221 the drainage district, which in their opinion will successfully
222 drain such lands, and whether the drainage of the lands in the
223 proposed drainage district is possible or not, provided that any
224 ditch already constructed in the proposed drainage district may be
225 used as a "main", or part of a main ditch, if found expedient and
226 sufficient for the purposes of the district; second, the probable
227 cost of same, including expenses and court costs; third, what land

228 will be injured or damaged by the proposed work and the probable
229 aggregate amount of damages such lands will sustain by reason of
230 the laying out and construction of such ditch or ditches; fourth,
231 what lands will be benefited by the construction of the proposed
232 work, and whether the aggregate amount of benefits will equal or
233 exceed the cost of the construction of such work. In the
234 examination of such district and determination of the questions
235 for the commissioners to determine, the commissioners are
236 authorized to employ an engineer to go with them upon the lands of
237 the district and examine such lands, make a map and profile
238 thereof, and an estimate of the size and depth of the ditch or
239 ditches required for main outlets for the drains of the lands, and
240 the probable cost, and a profile thereof.

241 SECTION 15. Upon a resolution being duly adopted and entered
242 on the minutes of the governing authorities creating a drainage
243 district under this act, such drainage district is declared by law
244 to be created as a drainage district, by the name mentioned in the
245 resolution and is declared to be a body politic and corporate by
246 the name mentioned in the resolution, with the right to have
247 perpetual succession and to adopt and use a corporate seal. The
248 commissioners and their successors in office shall, from the entry
249 of such resolution, constitute the corporate authorities of the
250 district and shall exercise the functions conferred upon them by
251 this act.

252 SECTION 16. If a district is created, all moneys that have
253 been advanced or expended in good faith in the organization of any
254 district, necessary for the preliminary work in organization, such
255 as surveys, attorneys' fees, and incidentals thereto, may be
256 repaid by the drainage commissioners. The commissioners are
257 authorized to issue certificates of the district to raise funds to
258 have all necessary surveys made and to pay all necessary expenses
259 and costs incurred in the preliminary work prior to the creation
260 of the district, which certificates shall bear interest at the

261 rate of six percent (6%) from their dates, but no certificate
 262 shall be made payable for a longer period than two (2) years from
 263 its date. These certificates shall be paid as soon as sufficient
 264 funds come into the hands of the commissioners to pay same.

265 SECTION 17. As soon as practicable after the entry of the
 266 resolution of the governing authorities creating a drainage
 267 district, the drainage commissioners shall go upon the lands of
 268 the district, examine the lands, and assess the benefits to be
 269 derived by each separate tract of land for the proposed work,
 270 putting down in dollars and cents the amount of such benefits to
 271 be derived by such tract. They shall also estimate and put down
 272 in another column the amount of damages, if any, that any of the
 273 owners of such land may, in the opinion of the commissioners,
 274 sustain by reason of the construction of such work over their land
 275 in the district; shall make an estimate of the costs of draining
 276 the district, apportioned to each tract of land; and shall make
 277 and file a schedule or assessment roll of such land, which shall
 278 be substantially in the following form:

				Estimated	
Name of	Description	Amount of	Amount of	Cost	Assessment
Owner	of Land	Benefits	Damages	of Work	
	Sub Div.				
	Sec. T.R.				
_____	and acres	\$_____	\$_____	\$_____	\$_____

285 Provided that, for the purpose of providing funds with which
 286 to clean out, restore, repair and rehabilitate the whole or any
 287 part of the drainage system of such district or for the purpose of
 288 cooperating with the United States or any agency thereof in such
 289 works, there may be imposed a uniform assessment on each acre of
 290 unsubdivided land lying within the district, and a uniform
 291 assessment by lot on an acreage basis on subdivided land lying
 292 within the district, and the records required in this act shall
 293 show the amount of the assessment in lieu of the amount of

294 benefits to accrue to each tract. Taxes levied hereunder are
295 taxes for maintenance purposes and shall not diminish in any
296 manner the amount of assessed benefits in any such district which
297 is otherwise available for the payment of any outstanding bonds of
298 such district.

299 The assessments provided for in this section may be made even
300 though evidences of indebtedness have been issued or validated, or
301 both, prior thereto, but the lien of the holders of any such
302 indebtedness shall not be impaired thereby.

303 SECTION 18. When the commissioners have completed their
304 assessments of damages and benefits, they shall file the same with
305 the clerk of the municipality, and the clerk is authorized to set
306 down and fix a time for the hearing of objections to such
307 assessments. The clerk of the municipality shall cause a notice
308 to be published at least once a week for two (2) successive weeks,
309 of the time set for hearing objections to the assessments, which
310 time for hearing shall not be less than fifteen (15) days nor
311 longer than thirty (30) days from the time of filing the notice,
312 unless a longer time is requested by the commissioners. The
313 publication shall be made in any newspaper published in the
314 municipality, if there be one published in the municipality;
315 otherwise, by posting written notices in ten (10) public places in
316 the district, and shall be sufficient, and the only notice
317 required of the filing of the assessment roll and the time set for
318 hearing objections thereto.

319 SECTION 19. The commissioners shall appear at the time and
320 place set for hearing objections to the assessment roll and hear
321 all objections that may be made by landowners, or other interested
322 persons, to the amount of benefit assessed or damage allowed to
323 any tract or tracts of land on the assessment roll or to the
324 assessments as a whole. After hearing all evidence offered, the
325 commissioners may make such alterations as they deem just and
326 equitable, by raising or lowering all or any assessment as the

327 commissioners deem proper for the accomplishment of the work, and
328 any changes so made by the commissioners shall be final unless
329 appeal be taken. Any person aggrieved at the action of the
330 commissioners shall have the right to appeal to the circuit court
331 as provided in Section 27-35-119. No appeal or appeals shall stop
332 the proceedings with reference to the organization and doing the
333 work of the district, but the work and proceedings shall proceed
334 the same as if no appeal or appeals had been had.

335 SECTION 20. At the time of confirming the assessments of
336 benefits and damages and the estimated costs of the work proposed,
337 the commissioners may order the assessments to be paid in
338 installments, in such amounts and at such times as may be
339 convenient for the accomplishment of the work proposed or the
340 payment of bonds issued therefor; otherwise, the whole amount of
341 such assessments shall be payable on the confirmation of such
342 assessments. The assessments and installments thereof shall draw
343 interest at a rate not exceeding six percent (6%) per annum,
344 payable annually, from the date of the confirmation. However, if
345 any owner elects, he may pay the whole amount of the assessment
346 and interest against any part of his property, or all of it,
347 before it becomes due and within thirty (30) days from the date of
348 the confirmation of the assessments and benefits and before the
349 issuance of bonds for the district, and all such property paid on
350 shall not be liable for the payment of such bonds and assessments
351 further. All assessments for benefit and assessments for doing
352 the work of the district shall be a lien upon the lands of the
353 district, assessed specifically against such lands which have not
354 had their assessments paid, and shall continue until such
355 assessments are levied and paid. If any assessment and accrued
356 interest is not paid when due, the specific land against which
357 such assessment is made shall be advertised and sold by the tax
358 collector of the municipality, or such other taxing district which
359 the municipality may be a part of, as he is required to sell lands

360 for delinquent ad valorem taxes, and all the provisions of the
361 laws of this state in reference to the sale of lands to enforce
362 the payment of ad valorem taxes are made a part of this act to
363 enforce the payment of the assessments herein authorized to be
364 made. All drainage assessments shall be collected by the tax
365 collector of the municipality, or such other taxing district of
366 which the municipality may be a part of, at the same time and in
367 the same manner as are ad valorem taxes, and the same penalties
368 shall accrue for the nonpayment of drainage assessments as for
369 nonpayment of ad valorem taxes.

370 At the time of confirming such assessments, the commissioners
371 may authorize the levying of such portions of such assessments as
372 may be necessary to pay the principal and interest on the bonds
373 authorized to be issued, and to carry out the purposes for which
374 the district was formed and organized.

375 SECTION 21. The commissioners shall also proceed to procure
376 the right-of-way for the main ditch or ditches of the district, as
377 well as the right-of-way for any laterals, drains, or levees that
378 may be decided upon, by agreements with the landowners over or
379 through whose lands the same is to be constructed. They shall
380 take releases of rights-of-way for the construction of such ditch
381 or ditches from the landowners and file same with the chancery
382 clerk of the county in which the municipality is located, who
383 shall record them. If the commissioners are not able to agree
384 with any landowner as to the amount of damages such owner should
385 receive for the right-of-way over which such ditch or other
386 improvements or work shall be constructed, the commissioners shall
387 appraise the lands needed for such purposes and proceed as
388 directed in Section 22 of this act.

389 SECTION 22. When the commissioners have made their
390 appraisal of the land taken or to be taken, they shall certify
391 the same and file it with the clerk of the municipality. The
392 clerk shall thereupon set down and fix a time for the hearing of

393 objections to such appraisalment, at the request of the
394 commissioners.

395 SECTION 23. If at the hearing by the commissioners, no
396 written objections are filed, the commissioners may adopt an order
397 confirming the appraisalment. Upon payment of such amount to the
398 clerk of the municipality for the party entitled thereto, the
399 district may enter upon and take possession of such property and
400 appropriate it to the use of the district, and the title to the
401 easement thereof and thereover shall thereupon vest in the
402 district. The clerk shall receipt upon such order for the money
403 paid, and such decree with the receipt of the clerk thereon shall
404 be recorded in the records of deeds of the county in which the
405 municipality is located. If written objections are filed on or
406 before the time set for the hearing, the commissioners shall
407 proceed to hear the objections filed.

408 The commissioners may, at such hearing, hear all objections
409 in entirety or in severalty, may adopt an order confirming the
410 entire report of the commissioners, or may adopt any number of
411 orders confirming the report as to any land taken. At such
412 hearing, the commissioners may make such alterations in the
413 appraisalment as may be deemed just and equitable, by raising or
414 lowering any appraisalment; and payment of such amount fixed by
415 order of the commissioners shall be made to the clerk of the
416 municipality as provided in this section. The clerk shall receipt
417 for same on the order, and such order with receipt thereon shall
418 be recorded.

419 SECTION 24. Upon the creation of a district under this act,
420 and as soon as the drainage commissioners have proceeded to
421 procure the rights-of-way, either by agreement or condemnation,
422 for ditches or canals, both main and lateral, or for the erection
423 of levees, and the right-of-way to enter upon, alter, deepen, or
424 improve natural drains or watercourses, they shall make an
425 estimate of the cost, including commissioner's fees and expenses

426 of such proposed work, or if such estimate has been made it shall
427 be revised and approved. The commissioners shall file a levy
428 certifying the amount required by them for the construction of
429 such proposed work, and may in such levy order that so much of the
430 benefits or betterments assessed against the lands in the district
431 as will be necessary to defray the costs of said work, to be paid
432 in cash; or the commissioners may in such levy order that the same
433 be paid in not more than forty (40) installments, with interest on
434 each installment at a rate of interest not to exceed six percent
435 (6%) per annum. The commissioners may also order in such levy
436 that bonds of the district shall be issued and sold for any amount
437 not exceeding eighty percent (80%) of the assessed value of the
438 benefits or betterments. Such bonds shall be payable in from one
439 (1) to forty (40) years from the date issued, with interest from
440 the date issued at an overall maximum interest rate to maturity
441 not greater than that allowed in Section 75-17-101, Mississippi
442 Code of 1972, payable annually or semiannually, as the
443 commissioners may direct; and it shall be lawful to attach coupons
444 for any part of a year to the bonds maturing the first year. If
445 bonds are issued and sold for an amount not exceeding eighty
446 percent (80%) of the value of such betterments, the commissioners
447 may order the remaining twenty percent (20%), or any part thereof,
448 to be paid in cash at its discretion. If the amounts levied are
449 not sufficient to complete the work done or hereafter to be done,
450 or if bonds are issued and sold for an amount less than eighty
451 percent (80%) of the value of the assessed benefits and additional
452 funds are required to complete the work or pay for work
453 theretofore done, an additional levy may be made or an additional
454 issue of bonds may be made, provided the additional levy, when
455 added to the original levy, shall not exceed the amount of
456 betterments assessed, or that the additional bond issue shall not
457 be for an amount which, added to the original bond issue, shall
458 exceed eighty percent (80%) of the assessed value of the

459 betterment. Such additional levy shall be made payable in cash or
460 in not more than fifteen (15) installments, each installment
461 bearing interest at a rate not exceeding six percent (6%) per
462 annum.

463 Notwithstanding the foregoing provisions of this section,
464 bonds referred to in this section may be issued pursuant to the
465 supplemental powers and authorizations conferred by the provisions
466 of the Registered Bond Act of the State of Mississippi.

467 SECTION 25. On or before the first Monday of September of
468 each year, the drainage commissioners shall levy a tax on the
469 amount of the original or supplemental assessment of benefits,
470 which shall be in the same proportion as the installment
471 authorized and directed by the commissioners to become due that
472 year, and shall certify their levy to the governing authorities of
473 the municipality in which the land lies. It shall thereupon
474 become and be the duty of the governing authorities to make a levy
475 in accordance with such assessment sufficient to meet the bond
476 obligations issued by the drainage commissioners and the interest
477 accruing thereon, with ten percent (10%) of the amount of such
478 annual payment added for contingent expenses and liabilities. The
479 ten percent (10%) additional levy herein provided may be omitted
480 in any one (1) year when it shall appear that the contingent
481 expense fund on hand exceeds twenty percent (20%) of the total
482 amount of bond and interest obligations falling due during the
483 fiscal year. The levy shall be apportioned and levied on each
484 tract of land or other property in the district in proportion to
485 the benefits assessed, and not in excess thereof. As soon as such
486 levy is made, the secretary of the commissioners, at the expense
487 of the district, shall prepare an assessment record of the
488 district. It shall be a copy of the "assessment roll" provided
489 for in Section 17 of this act, and may contain any number of
490 columns therein in which may be inscribed the levy made each year.
491 He shall place therein the amount of the levy for the year,

492 including interest accruing on the unpaid installments, and the
493 record shall be certified by the board of drainage commissioners,
494 attested by the seal of the district, and filed with the tax
495 collector of the municipality, or such other taxing district which
496 the municipality may be a part of. The secretary shall make a
497 copy of the assessment roll for the municipality.

498 SECTION 26. It shall be the duty of the governing
499 authorities, on the recommendation of the drainage commissioners,
500 to make a levy each year on the lands lying in the municipality in
501 accordance with such assessments and levies sufficient to meet
502 bond obligations of any district issued by authority of law.

503 SECTION 27. If the drainage commissioners have
504 underestimated the amount or the costs of work necessary for any
505 district, the commissioners may order such additional work done or
506 such additional costs paid and may reassess the properties of the
507 district in proportion to the benefits to accrue to such
508 respective properties. In such case the commissioners shall
509 report the facts as they are required to report the benefits and
510 assessments in the first instance, and shall hear all objections
511 thereto on the same notice to the parties interested as in the
512 first instance of approving assessments and benefits. Any person
513 aggrieved at the action of the commissioners shall have the right
514 to appeal to the circuit court as provided in Section 27-35-119.

515 SECTION 28. If the drainage district shall issue bonds for
516 any part of the money levied for the purpose of the district as
517 authorized in this act, such bonds may be sold upon the market to
518 the best advantage but shall not be sold for less than par value,
519 unless a sale below par be approved by the commissioners and the
520 governing authorities. The whole amount realized from the sale of
521 such bonds shall be deposited in the treasury of the district.

522 SECTION 29. After the creation of any drainage district
523 under this act, and after the confirmation of the assessment as is
524 provided in this act, and after laying out a system of main drains

525 for the drainage district, the commissioners shall advertise for
526 bids for the construction of ditches by publishing a notice for
527 three (3) weeks in some newspaper in the municipality, stating the
528 time when and place where they will receive bids for the
529 construction of such work. The time fixed for receiving and
530 opening the bids shall not be less than twenty-two (22) days from
531 the time of the first publication. Such notice shall specify the
532 kind and nature of the work to be done, the amount thereof as
533 estimated by the engineer, and in what manner payment thereof will
534 be made. The commissioners shall meet at the time and place
535 designated in the notice and open the bids, and such contracts
536 shall be let to the lowest responsible bidder. The commissioners
537 shall have the right to reject any and all bids if they deem that
538 the bids are too high, and may adjourn such letting to a future
539 time and continue the advertisement until that time.

540 The commissioners shall take and file a certificate of
541 publication of such notice with the clerk of the municipality.
542 Upon the acceptance of any bid for the construction of any work,
543 they shall require such bidder to enter into contract with them
544 for the faithful performance of such work according to the plans,
545 specifications, profile, and estimates of the engineer, and
546 require such contractor to enter into bonds for the faithful
547 performance of such work within the time and in the manner
548 specified in such contract.

549 SECTION 30. The commissioners may, after the creation of the
550 district, do any and all acts that may be necessary in and about
551 the surveying, laying out, constructing, repairing, altering,
552 enlarging, cleaning, protecting, and maintaining any drain or
553 ditch or other work for which they have been appointed. They and
554 their successors shall have charge of such ditch or other work in
555 perpetuity, and shall annually see that the same is cleaned out
556 and all obstructions, brush, willow, or other growth removed
557 therefrom, to the end that such ditches or other work shall be

558 kept thoroughly cleaned and in good repair so as to perfectly
559 drain the lands in the district. For those purposes, the
560 commissioners may borrow money in anticipation of the collection
561 of already levied taxes not to exceed in any one (1) fiscal year
562 one percent (1%) of the amount of the benefits assessed against
563 all of the real property in the district, at an overall maximum
564 interest rate to maturity not greater than that allowed in Section
565 75-17-105, Mississippi Code of 1972. The commissioners may issue
566 in evidence thereof tax anticipation warrants, which warrants
567 shall be paid solely and only out of the first funds collected
568 from taxes levied prior to the borrowing of such funds and
569 issuance of such warrants. The commissioners may make additional
570 assessments from time to time, as necessity may require, to pay
571 for the expense of maintaining, cleaning out, and keeping in
572 repair the ditches of the district and meeting the legal
573 obligations of such district. The additional assessment for
574 maintaining, cleaning out, and keeping in repair the ditches of
575 the district and meeting the legal obligations of such district
576 shall be made by the commissioners as provided in this section.
577 On or before the first Monday in September of each year the
578 drainage commissioners shall assess on each tract of land or other
579 property in the district, in proportion to the original and
580 supplemental benefits assessed for construction, such an amount as
581 is necessary to pay the expense of maintaining, cleaning out, and
582 keeping in repair the ditches of the district and meeting the
583 legal obligations of such district, and shall certify their
584 assessment to the governing authorities; and it shall thereupon
585 become and be the duty of the governing authorities to levy a tax
586 in accordance with such assessment sufficient to meet such
587 expense of maintaining, clearing out, and keeping in repair the
588 ditches of the district. The tax levied shall be apportioned to
589 and levied on each tract of land or other property in the district
590 in proportion to the original and supplemental benefits assessed

591 for construction, or as otherwise provided by law. As soon as the
592 tax levy is made, the secretary of the commission, at the expense
593 of the district, shall prepare an assessment record of the
594 district, which may contain any number of columns therein, in
595 which may be inscribed the tax levied each year. He shall place
596 therein the amount of the levy for the year, and the record shall
597 be certified by the commissioners, attested by the seal of the
598 district, and filed with the tax collector of the municipality, or
599 such other taxing district which the municipality may be a part
600 of. The secretary shall make a copy of the assessment record for
601 the municipality. Any person aggrieved at the action of the
602 governing authorities in levying the tax herein provided shall
603 have the right to appeal to the circuit court as provided in
604 Section 27-35-119. All taxes hereunder assessed and levied shall
605 be collected at the same time and in the same manner as ad valorem
606 taxes, and the same penalties shall accrue for the nonpayment
607 thereof as for nonpayment of ad valorem taxes. If a drainage
608 ditch is totally destroyed by the construction of public levees,
609 the drainage district commissioners shall strike the land affected
610 by such destruction from the assessment rolls of the district, but
611 such action shall in no way affect the lien of the bondholders of
612 the district upon such land.

613 SECTION 31. After the construction of such system of main
614 ditches for the drainage district, all landowners in such district
615 may construct branch or lateral drains, either open or tile,
616 leading into such ditches and thereby drain their respective lands
617 into such main outlet. If any two (2) or more landowners desiring
618 to construct a branch or lateral ditch or drain to drain their
619 lands cannot agree upon the just proportion to be borne by each,
620 any one (1) of them may petition the commissioners to lay out a
621 branch ditch leading to and draining their lands. The
622 commissioners may proceed to lay out such branch ditch by giving
623 notice and making assessments on the land in such subdistrict in

624 the same manner in which they are required to give notice for the
625 assessment of the property benefited by the district.

626 SECTION 32. If any damages shall be allowed to any landowner
627 for the construction of ditches across his lands, actual damages
628 shall be allowed. Such damages shall be paid in cash by giving to
629 the party entitled thereto an order for the amount thereof on the
630 district treasurer, who shall pay the same on presentation.

631 SECTION 33. At the end of the fiscal year after the creation
632 of the drainage district and annually thereafter, the
633 commissioners shall make a report showing the amount of money
634 levied for main district purposes, the amount of orders issued,
635 the purposes for which issued, to whom payable, the amount of
636 money on hand, and the amounts levied and expended for each and
637 every subdistrict or lateral drain laid out and established by
638 them. If at any time it appears that there are not sufficient
639 funds to pay for any work done or contemplated, the commissioners
640 may make a levy for the amount required to finish paying for the
641 work already done or to perform the contemplated work. Any person
642 aggrieved at the action of the commissioners shall have the right
643 to appeal to the circuit court as provided in Section 27-35-119.

644 SECTION 34. The commissioners shall have the right and
645 authority to go upon any and all of the lands lying within the
646 district for the purpose of examining such lands and making plans,
647 surveys, profiles, and estimates of the kind, character, and cost
648 of the proposed system of drains, and may go upon such lands at
649 any time for the purpose of removing obstructions, cleaning out,
650 and keeping in repair the ditches. No landowner shall have any
651 power or authority to prevent, hinder, or delay the commissioners
652 in the discharge of their lawful duties in that behalf. If such
653 landowner or any other person shall undertake to interfere with,
654 hinder, obstruct, or delay the commissioners in the discharge of
655 their duties, the commissioners or either of them may file his or
656 their complaint in the chancery court or before the chancellor in

657 vacation. Thereupon such court or chancellor shall cite the party
658 to appear and show cause, if any he has, why he should not be
659 fined for the hindrance or obstruction, and the court or
660 chancellor may fine such party not more than Twenty-five Dollars
661 (\$25.00) per day for every day's hindrance caused by him to the
662 commissioners, as for a contempt of the chancery court.

663 SECTION 35. In laying out such proposed work and drains and
664 ditches, the commissioners shall have the right to take and use
665 any ditches heretofore constructed in any part of the district by
666 any landowner owning the same. If any such ditches existing prior
667 to the creation of such district shall be of any value to the
668 district, the commissioners shall have the power to allow the
669 landowner reasonable compensation for the value thereof, which
670 shall be put down on the assessment roll as a credit for ditches
671 already constructed.

672 SECTION 36. After the creation of any drainage district
673 under this act, if any other or different drainage district lying
674 adjacent to or above such drainage district, or any district not
675 heretofore organized shall be organized and drain the water from
676 their ditches into the ditches or drains of such lower drainage
677 district from the lands lying above or adjacent and draining into
678 such drainage district so organized, the commissioners of such
679 lower district shall ask, demand, and receive from the upper
680 district or adjacent district just compensation for an outlet for
681 the waters of such upper or adjacent district. If the
682 commissioners of the two (2) districts cannot agree upon the
683 amount to be paid by such district, then the same shall be
684 submitted by petition to the chancery court or chancellor in
685 vacation having jurisdiction of the lower district. Such court or
686 chancellor shall hear the petition on proper notice and shall
687 apportion the cost or amount to be paid, if any, by such upper or
688 adjacent district. This section shall apply to all natural drains
689 which may have been heretofore or which shall hereafter be

690 improved, cleaned out, dredged, and used as a drainage canal or
691 main outlet for any drainage district.

692 SECTION 37. If in the creation of any drainage district and
693 thereafter in the construction of ditches, drains, or other
694 improvements, it shall be necessary to cross under or through any
695 railroad or the right-of-way thereof, the same may be accomplished
696 as provided in this section. Upon filing of the report of the
697 commissioners as to assessments and benefits and damages, they
698 shall make a special report showing the proposed plans, manner,
699 and character of the work as proposed in passing through such
700 right-of-way, together with an estimate of the costs of same,
701 including all damages that will be sustained by the railroad by
702 virtue of the construction of the proposed work. Upon the hearing
703 of the commissioners' report, it shall be the duty of such
704 railroad company to appear and show cause why such report should
705 not be confirmed, as other interested parties are required to
706 appear. In such showing it shall be the duty of the railroad
707 company to file with the commissioners, on or before the time set
708 for the hearing, its estimate of the costs of the proposed work,
709 including all damage that will be sustained by it by doing the
710 proposed work. After hearing all evidence offered, the
711 commissioners may make such alterations to the costs and damages
712 to the railroad. Any railroad aggrieved at the action of the
713 commissioners shall have the right to appeal to the circuit court
714 as provided in Section 23-35-119. An appeal shall not prevent the
715 drainage commissioners constructing the work as proposed through
716 the railroad right-of-way, whenever in their discretion it is
717 necessary to do said work. Before beginning the construction of
718 such work through such right-of-way, the drainage commissioners
719 shall pay to the railroad company, or the municipal clerk for it,
720 the amount of damages determined by the district to be paid the
721 railroad.

722 SECTION 38. When it shall become necessary, in the course of

723 the construction of the work being done by the drainage
724 commissioners, to pass through any railroad right-of-way in the
725 manner and according to plans theretofore filed as provided in
726 this act, it shall be the duty of the drainage commissioners to
727 give notice in writing to such railroad company of its desire to
728 cross such right-of-way with its construction work on some
729 approximate date, which shall not be less than sixty (60) days
730 from the date of such notice. Such notice shall be served upon
731 any agent or employee of the railroad company upon whom, under the
732 laws of the state, service of process may be had; and the
733 commissioners shall at the same time pay or tender to such
734 railroad company such costs and damages as may have been
735 determined should be paid by the drainage district to the
736 railroad, as provided in this act. It shall thereupon be the duty
737 of the railroad company within a reasonable time to complete such
738 construction work across its right-of-way, according to the
739 aforesaid plans and specifications under the supervision of the
740 engineer employed by the drainage commissioners, or to permit same
741 to be done by the drainage commissioners. Should the railroad
742 company fail, neglect, or refuse to do and perform in good faith
743 such work within the time fixed by the drainage commissioners for
744 the performance thereof, or to permit same to be done, it shall be
745 liable to the drainage district and all persons for any damage it
746 or they may sustain by reason of such failure, and such railroad
747 company may be compelled to perform such work by mandatory
748 injunction issued at the instance of the drainage commissioners.
749 This section shall not be so construed as to prohibit the drainage
750 commissioners from acquiring such right-of-way by the regular
751 eminent domain proceeding if they so elect, or as otherwise
752 provided in this chapter.

753 SECTION 39. If, in the organization of any drainage district
754 under this act, it shall appear that any railroad company will be
755 benefited by the construction of the proposed work, the drainage

756 commissioners shall have the right to assess such railroad such
757 amount as they may deem the railroad or railroad company
758 benefited. Such assessment shall be made at the time of assessing
759 the lands of the district, and such railroads shall have the right
760 to appear and make objections as landowners in the district at the
761 time of hearing objections to such assessments.

762 In determining the amount of such benefits, the commissioners
763 may take into consideration the improvements that might be made by
764 the railroad of a permanent character, and the increased revenue
765 to be gained by the improvement of the lands in the district for
766 agriculture and sanitation, if any can be shown by the
767 construction of such proposed work.

768 SECTION 40. If in the construction of ditches the same shall
769 cross any public road, it shall be the duty of the drainage
770 commissioners to notify the governing authorities at some regular
771 meeting of such governing authorities held prior to a day which is
772 thirty (30) days next before the time fixed in such notice for the
773 time at which the proposed work shall be constructed across such
774 public road, stating in such notice the width and depth of such
775 proposed work. It shall be the duty of the governing authorities
776 to cause to be removed and constructed, at the expense of the
777 municipality, all bridges necessary to be removed or constructed,
778 at such time as is reasonable, with a view to the convenience of
779 the public and without unreasonable delay to the prosecution of
780 such work.

781 Contracts may be made by the governing authorities for such
782 removal and construction of such bridge or bridges, without first
783 advertising for bids where the cost of any one (1) bridge does not
784 exceed One Hundred Dollars (\$100.00).

785 SECTION 41. If, after the first assessment of benefits,
786 which it is estimated will result from the proposed drainage
787 scheme, has been made it develops that on account of additional
788 work done or to be done the benefits to the whole or any part of

789 the district is or will be greater than was originally assessed,
790 the commissioners may proceed to reassess and apportion the
791 benefits so as to correct the same to conform to the benefits to
792 be received. However, the aggregate value of benefits so assessed
793 shall in no event be less than the original assessment. Such
794 additional assessment shall be made in the same manner, under the
795 same requirements, and upon the same notice as is provided for
796 making the original assessment.

797 SECTION 42. Any person who shall wrongfully or purposely
798 fill up, cut, injure, destroy, or in any manner injure or impair
799 the usefulness of any drain, ditch, or other work constructed
800 under drainage laws shall be guilty of a misdemeanor, may be fined
801 in any sum not exceeding One Hundred Dollars (\$100.00), and shall
802 be liable for double the expense occasioned by repairing the same
803 or removing such obstruction, to be recovered at the suit of the
804 proper drainage district.

805 SECTION 43. Where a county farm owned by any county lies
806 within any drainage district and would be benefited thereby, the
807 board of supervisors are authorized in their discretion to pay out
808 of the general county fund the pro rata of tax for which such
809 county lands should be taxed if owned by individuals.

810 SECTION 44. The proper chancery court of the county in which
811 a municipality is located shall have jurisdiction of all suits
812 brought against a drainage district, by a drainage district and
813 between drainage districts suing unless otherwise provided.

814 SECTION 45. The drainage commissioners of any municipality
815 in which a drainage district has been created and who have sold
816 bonds for eighty percent (80%) of the assessment on the lands in
817 such district, and who have provided for the collection of the
818 remaining twenty percent (20%) of the assessment on the lands in
819 such district in cash within not less than four (4) months, are
820 authorized to issue and sell the bonds, notes, or other objects of
821 indebtedness of the drainage district for the twenty percent

822 (20%), or any part thereof, which was provided to have been paid
823 in cash and which has not yet been paid.

824 SECTION 46. The bonds, notes, or other objects of
825 indebtedness issued under Section 45 of this act shall bear
826 interest not exceeding six percent (6%) per annum and shall be
827 nontaxable.

828 SECTION 47. Before the sale of any such bonds, notes, or
829 other objects of indebtedness provided for in Sections 45 and 46
830 of this act, the drainage commissioners shall publish notice to
831 all parties interested for at least ten (10) days of their
832 intention to issue such additional bonds. Any bonds, notes, or
833 other evidences of indebtedness issued and sold by the
834 commissioners shall be a lien on the lands assessed in the
835 drainage district and shall be noncontestable.

836 SECTION 48. All proceedings under this act are declared to
837 be proceedings in rem. The notices for the organization of a
838 drainage district hereunder and all subsequent notices herein
839 provided for shall be sufficient as notices for the purposes
840 stated, the organization of a district, and the issuance of
841 district bonds as herein provided.

842 SECTION 49. All taxes levied under this act shall be payable
843 at the same time ad valorem taxes are payable, and if any taxes so
844 levied under this act are not paid at maturity, the tax collector
845 of the municipality, or such other taxing district which the
846 municipality may be a part of, where the land is situated shall,
847 after having advertised such lands for sale for the same length of
848 time and in the same manner as land delinquent for ad valorem
849 taxes are now required to be advertised, sell the lands so
850 delinquent for taxes thereon, together with all costs and five
851 percent (5%) damages on the amount of taxes for which the land was
852 sold. Such sale shall be separate and distinct from all other
853 sales for ad valorem taxes, but shall be held at the same place
854 and time where sales of lands delinquent for ad valorem taxes are

855 held.

856 SECTION 50. When lands are offered for sale for unpaid
857 drainage district taxes and no person will bid therefor the amount
858 of taxes, damages, and costs due, such lands shall be struck off
859 to the drainage district, and otherwise dealt with as lands which
860 are sold to the state for delinquent ad valorem taxes. The
861 drainage commissioners shall be authorized to pay the ad valorem
862 taxes on lands thus acquired by it, to redeem the same from ad
863 valorem tax sales, and to collect the money thus paid with the
864 same damage and interest allowed individuals in similar cases
865 under the general revenue laws of the state therein from the date
866 of such payment, upon the redemption of lands from the drainage
867 district sale.

868 SECTION 51. The lists of lands sold by the tax collector of
869 the municipality, or such other taxing district which the
870 municipality may be a part of, to individuals and to the drainage
871 district shall be made as required to be made by the state and
872 county collector for lands sold for ad valorem taxes, and shall be
873 filed with the clerk of the chancery court within ten (10) days
874 after the tax sale. Each list shall have the same force and
875 effect, confer the same rights, and be entitled to the same
876 remedies for redemption and otherwise as lists made for delinquent
877 taxes by the state and county collector for state and county
878 lands. But such title shall be subject to a title acquired under
879 a sale for ad valorem taxes.

880 SECTION 52. A list of conveyances of lands sold to drainage
881 districts for drainage district taxes or to individuals shall be
882 recorded in a well-bound and indexed book, which shall be kept in
883 the office of the chancery clerk of the county in which the
884 municipality district is located. It shall be the same book in
885 which other tax sales to individuals are recorded, and shall have
886 the same effect as notice.

887 SECTION 53. After two (2) years' time for redemption has

888 expired, the drainage district commissioners may take possession
889 of land sold to the district for such district, and lease or sell
890 any lands which it has acquired at tax sale to any person in the
891 manner that the commissioners think is to the best interests of
892 the district.

893 SECTION 54. The Attorney General of the State of Mississippi
894 shall submit this act, immediately upon approval by the Governor,
895 or upon approval by the Legislature subsequent to a veto, to the
896 Attorney General of the United States or to the United States
897 District Court for the District of Columbia in accordance with the
898 provisions of the Voting Rights Act of 1965, as amended and
899 extended.

900 SECTION 55. This act shall take effect and be in force from
901 and after the date it is effectuated under Section 5 of the Voting
902 Rights Act of 1965, as amended and extended.