

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

To: Ways and Means

HOUSE BILL NO. 1035
(As Passed the House)

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; TO REQUIRE THAT A MUNICIPAL DRAINAGE DISTRICT MAY NOT
10 LEVY ANY TAX OR ASSESSMENT WITHOUT APPROVAL OF THE ELECTORS IN THE
11 MUNICIPALITY BY MEANS OF A REFERENDUM; AND FOR RELATED PURPOSES.

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

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

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

25 (2) For the purposes of this act, the following terms shall

26 have the meanings ascribed in this section unless the context
27 clearly requires otherwise:

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

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

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

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

54 over the land of others, or over the lands to be acquired by the
55 drainage district for that purpose, such levees as may be
56 necessary to protect or reclaim any lands from overflow from any
57 source. A municipality may create only one (1) such district.

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

62 SECTION 5. In every municipality in this state in which a
63 drainage district is created under this act, the governing
64 authorities of such municipality shall select three (3) municipal
65 drainage commissioners for such drainage district. The initial
66 terms of office for the commissioners shall be one (1), two (2)
67 and three (3) years, respectively. After the expiration of the
68 initial terms, successive appointments shall be for terms of four
69 (4) years. Any vacancy in the office of a municipal drainage
70 commissioner in a municipality may be filled by the governing
71 authorities at any regular meeting of such governing authorities,
72 which governing authorities are given the authority to fill all
73 unexpired terms of any commissioner in the municipality.

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

79 If any commissioner shall refuse or neglect to discharge the
80 duties imposed upon him by virtue of this act, or shall neglect or
81 refuse to qualify as such commissioner after being selected for

82 such office, the other two (2) commissioners shall proceed to
83 exercise the duties of their office and the business of the
84 drainage district until the next meeting of the governing
85 authorities, when the office of the party refusing to perform or
86 qualify shall be filled by the selection of another party in his
87 stead.

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

96 SECTION 7. The commissioners each shall receive per diem
97 compensation as provided by Section 25-3-69 for each day's actual
98 service, not exceeding four (4) days in any one (1) calendar
99 month, to be allowed on an itemized account rendered to the
100 drainage district commissioners and approved by the governing
101 authorities.

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

106 SECTION 9. After the creation of a drainage district, the
107 commissioners shall elect a secretary and treasurer, who may be a
108 member of the board or may be any person qualified to fill the
109 position. He shall give bond in such sum as the commissioners,

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

132 It shall be the duty of the treasurer to keep proper books to
133 be furnished him by the commissioners, in which he shall keep an
134 accurate account of all moneys received by him and of all
135 disbursements of such moneys. He shall pay out no money except
136 upon the order of a majority of the commissioners, shall carefully
137 preserve on file all orders for the payment of money given him by

138 the commissioners. He shall turn over all books, papers,
139 vouchers, moneys and other property belonging to such district, in
140 his hands as such treasurer, to his successor in office.

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

147 SECTION 11. Whenever a majority of the owners of lands
148 within a municipality proposed to be organized into a drainage
149 district, who shall have arrived at lawful age and who represent
150 at least one-third (1/3) in area of the lands in such proposed
151 district, or whenever one-third (1/3) of the land owners in such
152 proposed district owning more than one-half (1/2) of the lands in
153 such district desire to organize a drainage district for the
154 construction of drains or ditches across the lands of others for
155 agricultural and sanitary purposes, or to maintain and keep in
156 repair any such drains and ditches heretofore constructed, or to
157 establish in such district a combined system of drainage or
158 protection from wash or overflow for agricultural and sanitary
159 purposes, and to construct and maintain the same by special
160 assessment upon the property benefited thereby, such owners may
161 file with the clerk of the municipality a petition signed by a
162 majority of the owners of such land who own at least one-third
163 (1/3) of the lands proposed to be included in such district, or by
164 one-third (1/3) of the owners of such lands who own more than
165 one-half (1/2) of the lands in the proposed drainage district to

166 be organized, setting forth the proposed name of the drainage
167 district, the necessity for the drainage district, and the
168 description of the lands to be included in the drainage district,
169 and may request the organization of a drainage district by a name
170 to be given to the same.

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

186 SECTION 13. Upon the petition provided for in Section 10 of
187 this act, or the resolution provided for in Section 11 of this
188 act, or both, being filed in the office of the clerk of the
189 municipality, the clerk shall establish a date for the calling of
190 a referendum to be held on the question of creating the drainage
191 district. Notice of the election shall be signed by the clerk of
192 the municipality and shall be published once each week for at
193 least three (3) consecutive weeks in at least one (1) newspaper

194 published or having a general circulation in such municipality.
195 The first publication of such notice shall be made not less than
196 twenty-one (21) days before the date fixed for the election, and
197 the last publication shall be made not more than seven (7) days
198 before the date fixed for the election. At the election, all
199 qualified electors of the municipality may vote, and the ballots
200 used in such election shall have printed thereon a brief statement
201 setting forth the proposed name of the drainage district, the
202 necessity for the drainage district, and the description of the
203 lands to be included in the drainage district, and the words "FOR
204 THE CREATION OF (NAME OF DRAINAGE DISTRICT)" and "AGAINST THE
205 CREATION (NAME OF DRAINAGE DISTRICT)," and the voters shall vote
206 by placing a cross (X) or check (V) opposite their choice on the
207 proposition. When the results of the election shall have been
208 canvassed by the election commissioners of the municipality and
209 certified, the drainage district may be created if at least
210 three-fifths (3/5) of the qualified electors who voted in the
211 election voted in favor of creation of the drainage district. If
212 at least three-fifths (3/5) of the qualified electors who voted in
213 the election voted in favor of creation of the drainage district,
214 the governing authorities may create the drainage district by duly
215 adopting and entering on their minutes a resolution to that
216 effect, and may appoint drainage district commissioners as
217 provided in this act.

218 SECTION 14. The commissioners shall meet and go upon lands
219 in the drainage district and examine such lands, and the lands
220 over which the work is proposed to be constructed, and determine:
221 first, the starting point, route, and termini of the proposed

222 work, the location and size of the main ditch to be constructed in
223 the drainage district, which in their opinion will successfully
224 drain such lands, and whether the drainage of the lands in the
225 proposed drainage district is possible or not, provided that any
226 ditch already constructed in the proposed drainage district may be
227 used as a "main", or part of a main ditch, if found expedient and
228 sufficient for the purposes of the district; second, the probable
229 cost of same, including expenses and court costs; third, what land
230 will be injured or damaged by the proposed work and the probable
231 aggregate amount of damages such lands will sustain by reason of
232 the laying out and construction of such ditch or ditches; fourth,
233 what lands will be benefited by the construction of the proposed
234 work, and whether the aggregate amount of benefits will equal or
235 exceed the cost of the construction of such work. In the
236 examination of such district and determination of the questions
237 for the commissioners to determine, the commissioners are
238 authorized to employ an engineer to go with them upon the lands of
239 the district and examine such lands, make a map and profile
240 thereof, and an estimate of the size and depth of the ditch or
241 ditches required for main outlets for the drains of the lands, and
242 the probable cost, and a profile thereof.

243 SECTION 15. Upon a resolution being duly adopted and entered
244 on the minutes of the governing authorities creating a drainage
245 district under this act, such drainage district is declared by law
246 to be created as a drainage district, by the name mentioned in the
247 resolution and is declared to be a body politic and corporate by
248 the name mentioned in the resolution, with the right to have
249 perpetual succession and to adopt and use a corporate seal. The

250 commissioners and their successors in office shall, from the entry
251 of such resolution, constitute the corporate authorities of the
252 district and shall exercise the functions conferred upon them by
253 this act.

254 SECTION 16. If a district is created, all moneys that have
255 been advanced or expended in good faith in the organization of any
256 district, necessary for the preliminary work in organization, such
257 as surveys, attorneys' fees, and incidentals thereto, may be
258 repaid by the drainage commissioners. The commissioners are
259 authorized to issue certificates of the district to raise funds to
260 have all necessary surveys made and to pay all necessary expenses
261 and costs incurred in the preliminary work prior to the creation
262 of the district, which certificates shall bear interest at the
263 rate of six percent (6%) from their dates, but no certificate
264 shall be made payable for a longer period than two (2) years from
265 its date. These certificates shall be paid as soon as sufficient
266 funds come into the hands of the commissioners to pay same.

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

278 the district, apportioned to each tract of land; and shall make
279 and file a schedule or assessment roll of such land, which shall
280 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	\$_____	\$_____	\$_____	\$_____

287 Provided that, for the purpose of providing funds with which
288 to clean out, restore, repair and rehabilitate the whole or any
289 part of the drainage system of such district or for the purpose of
290 cooperating with the United States or any agency thereof in such
291 works, there may be imposed a uniform assessment on each acre of
292 unsubdivided land lying within the district, and a uniform
293 assessment by lot on an acreage basis on subdivided land lying
294 within the district, and the records required in this act shall
295 show the amount of the assessment in lieu of the amount of
296 benefits to accrue to each tract. Taxes levied hereunder are
297 taxes for maintenance purposes and shall not diminish in any
298 manner the amount of assessed benefits in any such district which
299 is otherwise available for the payment of any outstanding bonds of
300 such district.

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

305 SECTION 18. When the commissioners have completed their

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

321 SECTION 19. The commissioners shall appear at the time and
322 place set for hearing objections to the assessment roll and hear
323 all objections that may be made by landowners, or other interested
324 persons, to the amount of benefit assessed or damage allowed to
325 any tract or tracts of land on the assessment roll or to the
326 assessments as a whole. After hearing all evidence offered, the
327 commissioners may make such alterations as they deem just and
328 equitable, by raising or lowering all or any assessment as the
329 commissioners deem proper for the accomplishment of the work, and
330 any changes so made by the commissioners shall be final unless
331 appeal be taken. Any person aggrieved at the action of the
332 commissioners shall have the right to appeal to the circuit court
333 as provided in Section 27-35-119. No appeal or appeals shall stop

334 the proceedings with reference to the organization and doing the
335 work of the district, but the work and proceedings shall proceed
336 the same as if no appeal or appeals had been had.

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

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

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

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

390 directed in Section 22 of this act.

391 SECTION 22. When the commissioners have made their
392 appraisalment of the land taken or to be taken, they shall certify
393 the same and file it with the clerk of the municipality. The
394 clerk shall thereupon set down and fix a time for the hearing of
395 objections to such appraisalment, at the request of the
396 commissioners.

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

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

418 municipality as provided in this section. The clerk shall receipt
419 for same on the order, and such order with receipt thereon shall
420 be recorded.

421 SECTION 24. Upon the creation of a district under this act,
422 and as soon as the drainage commissioners have proceeded to
423 procure the rights-of-way, either by agreement or condemnation,
424 for ditches or canals, both main and lateral, or for the erection
425 of levees, and the right-of-way to enter upon, alter, deepen, or
426 improve natural drains or watercourses, they shall make an
427 estimate of the cost, including commissioner's fees and expenses
428 of such proposed work, or if such estimate has been made it shall
429 be revised and approved. The commissioners shall file a levy
430 certifying the amount required by them for the construction of
431 such proposed work, and may in such levy order that so much of the
432 benefits or betterments assessed against the lands in the district
433 as will be necessary to defray the costs of said work, to be paid
434 in cash; or the commissioners may in such levy order that the same
435 be paid in not more than forty (40) installments, with interest on
436 each installment at a rate of interest not to exceed six percent
437 (6%) per annum. The commissioners may also order in such levy
438 that bonds of the district shall be issued and sold for any amount
439 not exceeding eighty percent (80%) of the assessed value of the
440 benefits or betterments. Such bonds shall be payable in from one
441 (1) to forty (40) years from the date issued, with interest from
442 the date issued at an overall maximum interest rate to maturity
443 not greater than that allowed in Section 75-17-101, Mississippi
444 Code of 1972, payable annually or semiannually, as the
445 commissioners may direct; and it shall be lawful to attach coupons

446 for any part of a year to the bonds maturing the first year. If
447 bonds are issued and sold for an amount not exceeding eighty
448 percent (80%) of the value of such betterments, the commissioners
449 may order the remaining twenty percent (20%), or any part thereof,
450 to be paid in cash at its discretion. If the amounts levied are
451 not sufficient to complete the work done or hereafter to be done,
452 or if bonds are issued and sold for an amount less than eighty
453 percent (80%) of the value of the assessed benefits and additional
454 funds are required to complete the work or pay for work
455 theretofore done, an additional levy may be made or an additional
456 issue of bonds may be made, provided the additional levy, when
457 added to the original levy, shall not exceed the amount of
458 betterments assessed, or that the additional bond issue shall not
459 be for an amount which, added to the original bond issue, shall
460 exceed eighty percent (80%) of the assessed value of the
461 betterment. Such additional levy shall be made payable in cash or
462 in not more than fifteen (15) installments, each installment
463 bearing interest at a rate not exceeding six percent (6%) per
464 annum.

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

469 SECTION 25. On or before the first Monday of September of
470 each year, the drainage commissioners shall levy a tax on the
471 amount of the original or supplemental assessment of benefits,
472 which shall be in the same proportion as the installment
473 authorized and directed by the commissioners to become due that

474 year, and shall certify their levy to the governing authorities of
475 the municipality in which the land lies. It shall thereupon
476 become and be the duty of the governing authorities to make a levy
477 in accordance with such assessment sufficient to meet the bond
478 obligations issued by the drainage commissioners and the interest
479 accruing thereon, with ten percent (10%) of the amount of such
480 annual payment added for contingent expenses and liabilities. The
481 ten percent (10%) additional levy herein provided may be omitted
482 in any one (1) year when it shall appear that the contingent
483 expense fund on hand exceeds twenty percent (20%) of the total
484 amount of bond and interest obligations falling due during the
485 fiscal year. The levy shall be apportioned and levied on each
486 tract of land or other property in the district in proportion to
487 the benefits assessed, and not in excess thereof. As soon as such
488 levy is made, the secretary of the commissioners, at the expense
489 of the district, shall prepare an assessment record of the
490 district. It shall be a copy of the "assessment roll" provided
491 for in Section 17 of this act, and may contain any number of
492 columns therein in which may be inscribed the levy made each year.
493 He shall place therein the amount of the levy for the year,
494 including interest accruing on the unpaid installments, and the
495 record shall be certified by the board of drainage commissioners,
496 attested by the seal of the district, and filed with the tax
497 collector of the municipality, or such other taxing district which
498 the municipality may be a part of. The secretary shall make a
499 copy of the assessment roll for the municipality.

500 SECTION 26. It shall be the duty of the governing
501 authorities, on the recommendation of the drainage commissioners,

502 to make a levy each year on the lands lying in the municipality in
503 accordance with such assessments and levies sufficient to meet
504 bond obligations of any district issued by authority of law.

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

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

524 SECTION 29. After the creation of any drainage district
525 under this act, and after the confirmation of the assessment as is
526 provided in this act, and after laying out a system of main drains
527 for the drainage district, the commissioners shall advertise for
528 bids for the construction of ditches by publishing a notice for
529 three (3) weeks in some newspaper in the municipality, stating the

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

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

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

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

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

614 the district upon such land.

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

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

633 SECTION 33. At the end of the fiscal year after the creation
634 of the drainage district and annually thereafter, the
635 commissioners shall make a report showing the amount of money
636 levied for main district purposes, the amount of orders issued,
637 the purposes for which issued, to whom payable, the amount of
638 money on hand, and the amounts levied and expended for each and
639 every subdistrict or lateral drain laid out and established by
640 them. If at any time it appears that there are not sufficient
641 funds to pay for any work done or contemplated, the commissioners

642 may make a levy for the amount required to finish paying for the
643 work already done or to perform the contemplated work. Any person
644 aggrieved at the action of the commissioners shall have the right
645 to appeal to the circuit court as provided in Section 27-35-119.

646 SECTION 34. The commissioners shall have the right and
647 authority to go upon any and all of the lands lying within the
648 district for the purpose of examining such lands and making plans,
649 surveys, profiles, and estimates of the kind, character, and cost
650 of the proposed system of drains, and may go upon such lands at
651 any time for the purpose of removing obstructions, cleaning out,
652 and keeping in repair the ditches. No landowner shall have any
653 power or authority to prevent, hinder, or delay the commissioners
654 in the discharge of their lawful duties in that behalf. If such
655 landowner or any other person shall undertake to interfere with,
656 hinder, obstruct, or delay the commissioners in the discharge of
657 their duties, the commissioners or either of them may file his or
658 their complaint in the chancery court or before the chancellor in
659 vacation. Thereupon such court or chancellor shall cite the party
660 to appear and show cause, if any he has, why he should not be
661 fined for the hindrance or obstruction, and the court or
662 chancellor may fine such party not more than Twenty-five Dollars
663 (\$25.00) per day for every day's hindrance caused by him to the
664 commissioners, as for a contempt of the chancery court.

665 SECTION 35. In laying out such proposed work and drains and
666 ditches, the commissioners shall have the right to take and use
667 any ditches heretofore constructed in any part of the district by
668 any landowner owning the same. If any such ditches existing prior
669 to the creation of such district shall be of any value to the

670 district, the commissioners shall have the power to allow the
671 landowner reasonable compensation for the value thereof, which
672 shall be put down on the assessment roll as a credit for ditches
673 already constructed.

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

694 SECTION 37. If in the creation of any drainage district and
695 thereafter in the construction of ditches, drains, or other
696 improvements, it shall be necessary to cross under or through any
697 railroad or the right-of-way thereof, the same may be accomplished

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

724 SECTION 38. When it shall become necessary, in the course of
725 the construction of the work being done by the drainage

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

754 provided in this chapter.

755 SECTION 39. If, in the organization of any drainage district
756 under this act, it shall appear that any railroad company will be
757 benefited by the construction of the proposed work, the drainage
758 commissioners shall have the right to assess such railroad such
759 amount as they may deem the railroad or railroad company
760 benefited. Such assessment shall be made at the time of assessing
761 the lands of the district, and such railroads shall have the right
762 to appear and make objections as landowners in the district at the
763 time of hearing objections to such assessments.

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

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

782 such work.

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

787 SECTION 41. If, after the first assessment of benefits,
788 which it is estimated will result from the proposed drainage
789 scheme, has been made it develops that on account of additional
790 work done or to be done the benefits to the whole or any part of
791 the district is or will be greater than was originally assessed,
792 the commissioners may proceed to reassess and apportion the
793 benefits so as to correct the same to conform to the benefits to
794 be received. However, the aggregate value of benefits so assessed
795 shall in no event be less than the original assessment. Such
796 additional assessment shall be made in the same manner, under the
797 same requirements, and upon the same notice as is provided for
798 making the original assessment.

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

807 SECTION 43. Where a county farm owned by any county lies
808 within any drainage district and would be benefited thereby, the
809 board of supervisors are authorized in their discretion to pay out

810 of the general county fund the pro rata of tax for which such
811 county lands should be taxed if owned by individuals.

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

816 SECTION 45. The drainage commissioners of any municipality
817 in which a drainage district has been created and who have sold
818 bonds for eighty percent (80%) of the assessment on the lands in
819 such district, and who have provided for the collection of the
820 remaining twenty percent (20%) of the assessment on the lands in
821 such district in cash within not less than four (4) months, are
822 authorized to issue and sell the bonds, notes, or other objects of
823 indebtedness of the drainage district for the twenty percent
824 (20%), or any part thereof, which was provided to have been paid
825 in cash and which has not yet been paid.

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

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

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

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

858 SECTION 50. When lands are offered for sale for unpaid
859 drainage district taxes and no person will bid therefor the amount
860 of taxes, damages, and costs due, such lands shall be struck off
861 to the drainage district, and otherwise dealt with as lands which
862 are sold to the state for delinquent ad valorem taxes. The
863 drainage commissioners shall be authorized to pay the ad valorem
864 taxes on lands thus acquired by it, to redeem the same from ad
865 valorem tax sales, and to collect the money thus paid with the

866 same damage and interest allowed individuals in similar cases
867 under the general revenue laws of the state therein from the date
868 of such payment, upon the redemption of lands from the drainage
869 district sale.

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

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

889 SECTION 53. After two (2) years' time for redemption has
890 expired, the drainage district commissioners may take possession
891 of land sold to the district for such district, and lease or sell
892 any lands which it has acquired at tax sale to any person in the
893 manner that the commissioners think is to the best interests of

894 the district.

895 SECTION 54. Before any tax or assessment authorized under
896 this act may be imposed, the commissioners of the district shall
897 adopt a resolution declaring its intention to levy the tax or
898 assessment, setting forth the amount of such tax or assessment to
899 be imposed, the date upon which such tax or assessment shall
900 become effective and calling for a referendum to be held on the
901 question. The date of the election shall be the next municipal
902 election occurring after the adoption of the resolution. Notice
903 of such intention shall be published once each week for at least
904 three (3) consecutive weeks in a newspaper published or having a
905 general circulation in the municipality, with the first
906 publication of such notice to be made not less than twenty-one
907 (21) days before the date fixed in the resolution for the election
908 and the last publication to be made not more than seven (7) days
909 before the election. At the election, all qualified electors of
910 the municipality may vote, and the ballots used in such election
911 shall have printed thereon a brief statement of the amount and
912 purposes of the proposed tax levy or assessment and the words "FOR
913 THE DRAINAGE DISTRICT TAX OR ASSESSMENT" and, on a separate line,
914 "AGAINST THE DRAINAGE DISTRICT TAX OR ASSESSMENT," and the voters
915 shall vote by placing a cross (X) opposite their choice on the
916 proposition. When the results of any such election shall have
917 been canvassed by the municipal election commission and certified,
918 the drainage district commissioners may levy the tax or
919 assessment, if a majority of the qualified electors who vote in
920 the election vote in favor of the tax.

921 SECTION 55. The Attorney General of the State of Mississippi

922 shall submit this act, immediately upon approval by the Governor,
923 or upon approval by the Legislature subsequent to a veto, to the
924 Attorney General of the United States or to the United States
925 District Court for the District of Columbia in accordance with the
926 provisions of the Voting Rights Act of 1965, as amended and
927 extended.

928 SECTION 56. This act shall take effect and be in force from
929 and after the date it is effectuated under Section 5 of the Voting
930 Rights Act of 1965, as amended and extended.