

By: Senator(s) White (29th)

To: Environment Prot,
Cons and Water Res

SENATE BILL NO. 2652

1 AN ACT TO AMEND SECTION 51-9-121, MISSISSIPPI CODE OF 1972,
2 TO REQUIRE THE PEARL RIVER VALLEY WATER SUPPLY DISTRICT TO OPERATE
3 THE SPILLWAY AT THE ROSS BARNETT RESERVOIR IN ACCORDANCE WITH
4 REGULATIONS OF THE PEARL RIVER BASIN DEVELOPMENT DISTRICT; TO
5 AMEND SECTION 51-11-5, MISSISSIPPI CODE OF 1972, TO REVISE THE
6 MEMBERSHIP OF THE BOARD OF DIRECTORS OF THE PEARL RIVER BASIN
7 DEVELOPMENT DISTRICT; TO AMEND SECTION 51-11-11, MISSISSIPPI CODE
8 OF 1972, TO AUTHORIZE THE BOARD OF DIRECTORS OF THE PEARL RIVER
9 BASIN DEVELOPMENT DISTRICT TO ADOPT REGULATIONS FOR THE OPERATION
10 OF THE SPILLWAY AT THE ROSS BARNETT RESERVOIR, TO AMEND SECTIONS
11 51-9-103, 51-9-127, 51-9-129, 51-11-1, 51-11-13 AND 51-11-19 TO
12 MAKE TECHNICAL AND CONFORMING AMENDMENTS; AND FOR RELATED
13 PURPOSES.

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

15 SECTION 1. Section 51-9-103, Mississippi Code of 1972, is
16 amended as follows:

17 51-9-103. The Legislature declares that the waterways and
18 surface waters of the state are among its basic resources, that
19 the overflow and surface waters of the state have not * * * been
20 conserved to realize their full beneficial use, that the
21 preservation, conservation, storage, and control of the waters are
22 necessary to insure an adequate, sanitary water supply at all
23 times, to promote the balanced economic development of the state,
24 and to aid in flood control, conservation and development of state
25 forests, irrigation of lands needing irrigation, and pollution
26 abatement. The Legislature further declares that the
27 preservation, conservation, storage, and control of the waters of
28 the Pearl River and its tributaries and its overflow waters for
29 domestic, municipal, commercial, industrial, agricultural and
30 manufacturing purposes, for recreational uses, for flood control,
31 timber development, irrigation and pollution abatement are, as a

32 matter of public policy, for the general welfare of the entire
33 people of the state.

34 The creation of the Pearl River Valley Water Supply District
35 is determined to be necessary and essential to the accomplishment
36 of the * * * purposes stated in this section and this article
37 operates on a subject in which the state at large is interested.
38 All the terms and provisions of this article are to be liberally
39 construed to effectuate the purposes provided in this law, this
40 being a remedial law.

41 SECTION 2. Section 51-9-121, Mississippi Code of 1972, is
42 amended as follows:

43 51-9-121. The Pearl River Valley Water Supply District
44 through its board of directors is hereby empowered:

45 (a) To impound overflow water and the surface water of
46 the Pearl River or its tributaries within the project area, inside
47 or outside this district at the place or places and in the amount
48 as may be approved by the Mississippi Department of Environmental
49 Quality by the construction of a dam or dams, reservoir or
50 reservoirs, works, plants and any other necessary or useful
51 related facilities contemplated and described as a part of the
52 project inside or outside the district, to control, store and
53 preserve these waters, and to use, distribute, and sell the same.

54 Beginning July 1, 1999, the Pearl River Valley Water Supply
55 District shall operate the spillway at the Ross Barnett Reservoir
56 in accordance with rules and regulations adopted by the Pearl
57 River Basin Development District. The Pearl River Valley Water
58 Supply District may construct or otherwise acquire within the
59 project area all works, plants or other facilities necessary or
60 useful to the project for the purpose of processing the water and
61 transporting it to cities and others for domestic, municipal,
62 commercial, industrial, agricultural and manufacturing purposes
63 and may control open channels for water delivery purposes.

64 (b) To acquire and develop any other available water
65 necessary or useful to the project and to construct, acquire, and
66 develop all facilities within the project area deemed necessary or
67 useful with respect thereto.

68 (c) To prevent or aid in the prevention of damage to

69 person or property from the waters of the Pearl River or any of
70 its tributaries.

71 (d) To forest and reforest, and to aid in the foresting
72 and reforesting of the project area, and to prevent and aid in the
73 prevention of soil erosion and floods within this area; to
74 control, store, and preserve within the boundaries of the project
75 area the waters of the Pearl River or any of its tributaries for
76 irrigation of lands and for prevention of water pollution.

77 (e) To acquire by purchase, lease, gift or in any other
78 manner (otherwise than by condemnation) and to maintain, use and
79 operate all property of any kind, real, personal or mixed, or any
80 interest in property within the project area, inside or outside
81 the boundaries of the district, necessary for the project and
82 convenient to the exercise of the powers, rights, privileges and
83 functions conferred upon the district by this article.

84 (f) To acquire by condemnation all property of any
85 kind, real, personal or mixed, or any interest in property within
86 the project area not exceeding one-quarter (1/4) mile from the
87 outside line of the three hundred (300) feet above sea level
88 contour on each side of Pearl River except as provided for
89 rights-of-way under subsection (g) of this section, inside or
90 outside the boundaries of the district, necessary for the project
91 and the exercise of the powers, rights, privileges and functions
92 conferred upon the district by this article, according to the
93 procedure provided by law for the condemnation of lands or other
94 property taken for rights-of-way or other purposes by railroads,
95 telephone or telegraph companies. For the purposes of carrying
96 out this article, the right of eminent domain of the district
97 shall be superior and dominant to the right of eminent domain of
98 railroad, telegraph, telephone, gas, power and other companies or
99 corporations, and shall be sufficient to enable the acquisition of
100 county roads, state highways or other public property in the
101 project area and the acquisition or relocation, of the above

102 mentioned utility property in the project area; however,
103 Mississippi Highway 43 as presently located shall be kept open as
104 part of the state highway system. The cost of right-of-way
105 purchases, rerouting and elevating all other county maintained
106 roads affected by construction of the reservoir shall be borne by
107 the water district, and new construction shall be of equal quality
108 as in roads existing as of May 5, 1958. The amount and character
109 of interest in land, other property and easements thus to be
110 acquired shall be determined by the board of directors, and their
111 determination shall be conclusive and shall not be subject to
112 attack in the absence of manifold abuse of discretion or fraud on
113 the part of that board in making this determination. However,

114 (i) In acquiring lands, either by negotiation or
115 condemnation, the district shall not acquire minerals or royalties
116 within the project area; sand and gravel shall not be considered
117 as minerals within the meaning of this section; and

118 (ii) No person or persons owning the drilling
119 rights or the right to share in production shall be prevented from
120 exploring, developing or producing oil or gas with necessary
121 rights-of-way for ingress and egress, pipe lines and other means
122 of transporting these products by reason of the inclusion of those
123 lands or mineral interests within the project area, whether below
124 or above the water line; but any * * * activities shall be
125 under * * * reasonable regulations by the board of directors to
126 adequately protect the reservoir; and

127 (iii) In drilling and developing, these persons
128 are * * * vested with a special right to have the mineral interest
129 integrated and their lands developed in any drilling unit or units
130 as the State Oil and Gas Board shall establish after due
131 consideration of the rights of all of the owners to be included in
132 the drilling unit.

133 If any site or plot of land is to be rented, leased, or sold to
134 any person, firm or corporation for the purpose of operating

135 recreational facilities on that land for profit, then the board
136 shall, by resolution, specify the terms and conditions of the
137 sale, rental or lease, and shall advertise for public bids on the
138 sale, rental or lease. When bids are received, they shall be
139 publicly opened by the board, and the board shall * * * determine
140 the highest and best bid submitted and shall immediately notify
141 the former owner of the site or plot of the amount, terms and
142 conditions of the highest and best bid. The former owner of the
143 site or plot shall have the exclusive right at the owner's option,
144 for a period of thirty (30) days after the determination of the
145 highest and best bid by the board, to rent, lease or purchase the
146 site or plot of land by meeting the highest and best bid and by
147 complying with all terms and conditions of the renting, leasing or
148 sale as specified by the board. However, the board shall not in
149 any event rent, lease or sell to any former owner more land than
150 was taken from the former owner for the construction of the
151 project, or one-quarter (1/4) mile of shoreline, whichever is the
152 lesser. If this option is not exercised by the former owner
153 within a period of thirty (30) days, then the board shall accept
154 the highest and best bid submitted.

155 Any bona fide, resident householder, actually living or
156 maintaining a residence on land taken by the district by
157 condemnation shall have the right to repurchase not exceeding
158 forty (40) acres of resident householder's former land or other
159 available land from the board of directors for a price not
160 exceeding the price paid for condemning that land.

161 (g) To require the necessary relocation of roads and
162 highways, railroad, telephone and telegraph lines and properties,
163 electric power lines, gas pipelines and mains and facilities in
164 the project area, or to require the anchoring or other protection
165 of any of these, provided due compensation is first paid the
166 owners thereof or agreement is had with the owners regarding the
167 payment of the cost of the relocation. It is further provided

168 that the district may acquire easements or rights-of-way in or
169 outside of the project area for the relocation of the roads,
170 highways, railroad, telephone and telegraph lines and properties,
171 electric power lines, gas pipelines and mains and facilities,
172 and * * * convey those to the owners thereof in connection with
173 the relocation as a part of the construction of the project;
174 however, the directors of the district shall not close any public
175 access road to the reservoir existing before the construction of
176 the reservoir unless the board of supervisors of the county in
177 which the road is located agrees.

178 (h) To overflow and inundate any public lands and
179 public property, including sixteenth section lands and in lieu
180 lands, within the project area.

181 (i) To construct, extend, improve, maintain and
182 reconstruct, to cause to be constructed, extended, improved,
183 maintained and reconstructed, and to use and operate facilities of
184 any kind within the project area necessary or convenient to the
185 project and to the exercise of those powers, rights, privileges
186 and functions.

187 (j) To sue and be sued in its corporate name.

188 (k) To adopt, use, and alter a corporate seal.

189 (l) To make bylaws for the management and regulation of
190 its affairs.

191 (m) To employ engineers, attorneys, and all necessary
192 agents and employees to properly finance, construct, operate and
193 maintain the project and the plants and facilities of the district
194 and carry out * * * this article, and to pay reasonable
195 compensation for the services. For all services in connection
196 with the issuance of bonds as provided in this article, the
197 attorney's fee shall not exceed one-quarter of one percent (1/4 of
198 1%) of the principal amount of those bonds. For any other
199 services, only reasonable compensation shall be paid for these
200 services. The board may employ a general manager, who shall, at

201 the discretion of the board, have the power to employ and
202 discharge employees. Without limiting the generality of the
203 foregoing, the board may employ fiscal agents or advisors in
204 connection with its financing program and in connection with the
205 issuance of its bonds.

206 (n) To make contracts and to execute instruments
207 necessary or convenient to the exercise of the powers, rights,
208 privileges and functions conferred upon it by this article.

209 (o) To make or cause to be made surveys and engineering
210 investigations relating to the project, or related projects, for
211 the information of the district to facilitate the accomplishment
212 of the purposes for which it is created.

213 (p) To apply for and accept grants from the United
214 States of America, or from any corporation or agency created or
215 designated by the United States of America, and to ratify and
216 accept applications * * * made by voluntary associations to these
217 agencies for grants to construct, maintain or operate any project
218 or projects which hereafter may be undertaken or contemplated by
219 the district.

220 (q) To do any other acts or things necessary or
221 convenient to the exercising of the powers, rights, privileges or
222 functions conferred upon it by this article or any other law.

223 (r) To make contracts in the issuance of bonds that may
224 be necessary to insure the marketability thereof.

225 (s) To enter into contracts with municipalities,
226 corporations, districts, public agencies, political subdivisions
227 of any kind and others for any services, facilities or commodities
228 that the project may provide. The district may contract with any
229 municipality, corporation or public agency for the rental,
230 leasing, purchase or operation of the water production, water
231 filtration or purification, water supply and distributing
232 facilities of the municipality, corporation or public agency upon
233 any consideration as the district and that entity may agree.

234 Any * * * contract may be upon any terms and for any time as the
235 parties may agree, and it may provide that it shall continue in
236 effect until bonds specified in the contract and refunding bonds
237 issued in lieu of these bonds are paid. Any contract with any
238 political subdivision shall be binding upon that political
239 subdivision according to its terms, and any municipalities or
240 other political subdivisions shall have the power to enter into
241 those contracts as in the discretion of the governing
242 authorities * * * would be to the best interest of the people of
243 the municipality or other political subdivision. These contracts
244 may include, within the discretion of the governing authorities, a
245 pledge of the full faith and credit of the political subdivisions
246 for the performance of the contracts.

247 (t) To fix and collect charges and rates for any
248 services, facilities or commodities furnished by it in connection
249 with the project, and to impose penalties for failure to pay these
250 charges and rates when due.

251 (u) To operate and maintain within the project area
252 with the consent of the governing body of any city or town located
253 within the district, any works, plants or facilities of any city
254 deemed necessary or convenient to the accomplishment of the
255 purposes for which the district is created.

256 (v) Subject to the provisions of this article, from
257 time to time to lease, sell or otherwise dispose of any property
258 of any kind, real, personal or mixed, or any interest in property
259 within the project area or acquired outside the project area as
260 authorized in this article, for the purpose of furthering the
261 business of the district.

262 (w) When, in the opinion of the board of directors as
263 shown by resolution duly passed, it shall not be necessary to the
264 carrying on of the business of the district that the district own
265 any lands acquired, then the board shall advertise these lands for
266 sale to the highest and best bidder for cash and shall receive and

267 publicly open the bids on the sale of the lands. The board shall,
268 by resolution, determine the highest and best bid submitted for
269 the land and shall * * * notify the former owner, the owner's
270 heirs or devisees, by registered mail of the land to be sold and
271 the highest and best bid received for the land, and the former
272 owner, or the owner's heirs or devisees, shall have the exclusive
273 right at * * * their option for a period of thirty (30) days in
274 which to meet the highest and best bid and to purchase the
275 property.

276 (x) In addition to, or in conjunction with, any other
277 powers and duties of the district arising under this chapter, to
278 exercise those powers, duties and functions of a joint water
279 management district set forth in Sections 51-8-27 through 51-8-55,
280 except the power of eminent domain under Section 51-8-33. Before
281 exercising those powers and duties, the district must comply
282 with * * * Sections 51-8-63 and 51-8-65. In exercising the
283 functions of a joint water management district, the district may
284 apply to the Environmental Quality Permit Board for delegation of
285 those powers and duties as provided by Section 51-3-15, and to
286 apply to the Mississippi Commission on Environmental Quality for
287 delegation of those powers and duties provided by Section 51-3-21.

288 Any transaction regarding any property under the provisions
289 of this section shall be executed in accordance with * * * Section
290 29-1-1.

291 SECTION 3. Section 51-9-127, Mississippi Code of 1972, is
292 amended as follows:

293 51-9-127. (1) The board of directors of the district may
294 adopt and promulgate all reasonable regulations to secure,
295 maintain and preserve the sanitary condition of all water in and
296 to flow into any reservoir owned by the district, except
297 regulations regarding the operation of the spillway at the Ross
298 Barnett Reservoir to prevent waste of water or the unauthorized
299 use of water, and to regulate residence, hunting, fishing,

300 boating, camping, circulation of vehicular traffic on land, the
301 parking of those vehicles and all recreational and business
302 privileges in, along or around any * * * reservoir, any body of
303 land or any easement owned by the district.

304 (2) All * * * regulations prescribed by the board of
305 directors, after publication in a daily newspaper of statewide
306 circulation and in a newspaper of general circulation in each
307 county comprising the area of the district, shall have the full
308 force and effect of law. Violation of those regulations shall be
309 punishable by fine not to exceed One Thousand Dollars (\$1,000.00),
310 as may be prescribed in the regulations, or by imprisonment not to
311 exceed fifteen (15) days, or both the amount of the fine and the
312 term of the imprisonment, within the maximum limit set by this
313 statute and within the maximum limit prescribed in the
314 regulations, to be determined by the court.

315 All * * * regulations * * * prescribed and the penalties
316 fixed under those regulations relating to hunting, fishing and
317 boating shall not conflict with, exceed, alter or suspend any
318 regulations, rules or penalties prescribed by general statute or
319 by the Mississippi Commission on Wildlife, Fisheries and Parks.
320 All fines and penalties levied and collected under this article
321 shall be remitted and accounted for in accordance with the general
322 statutes relating to those fines and penalties.

323 (3) If a violation of any regulation adopted to prevent
324 pollution of the waters in any reservoir owned by the district, or
325 the threat of continuous violation of those regulations, the
326 district may sue for and obtain damages and other appropriate
327 relief, including injunctive relief.

328 SECTION 4. Section 51-9-129, Mississippi Code of 1972, is
329 amended as follows:

330 51-9-129. The district may obtain through appropriate
331 hearings an appropriation permit or permits from the Permit Board
332 as provided * * * in Section 51-3-31.

333 SECTION 5. Section 51-11-1, Mississippi Code of 1972, is
334 amended as follows:

335 51-11-1. The Legislature declares that the soil of the state
336 and the waterways and surface waters of the state are among its
337 basic resources; that the soil and the overflow and surface waters
338 of the state have not * * * been conserved to realize their full
339 beneficial use; that the utilization, development, conservation
340 and regulation of the soil and waters are necessary to insure an
341 adequate flood control program and a sanitary water supply at all
342 times, to promote the balanced economic development of the state,
343 and to aid in conservation and development of the soils and
344 forests of the state, irrigation of lands needing irrigation,
345 navigation and pollution abatement. The Legislature further
346 declares that the preservation, conservation, storage and
347 regulation of the waters of the Pearl River and its tributaries
348 and their overflow waters for domestic, commercial, municipal,
349 industrial, agricultural and manufacturing purposes, for
350 recreational uses, for flood control, timber development,
351 irrigation, navigation and pollution abatement, and for the
352 preservation, conservation and development of the soil of the
353 Pearl River Basin are, as a matter of public policy, for the
354 general welfare of the entire people of the state.

355 * * * The creation of the Pearl River Basin Development
356 District is determined to be necessary and essential to the
357 accomplishment of the * * * purposes stated in this section and
358 that this chapter operates on a subject in which the state at
359 large is interested.

360 SECTION 6. Section 51-11-5, Mississippi Code of 1972, is
361 amended as follows:

362 51-11-5. All powers of the Pearl River Basin Development
363 District, * * * referred to in this chapter as the district, shall
364 be exercised by a board of directors to be selected and composed
365 as follows:

366 (a) The * * * Mississippi Commission on Wildlife,
367 Fisheries and Parks, the Mississippi Forestry Commission and the
368 Mississippi State Board of Health shall each appoint one (1)
369 director to serve on the board of directors of the district.
370 Each * * * director shall serve at the pleasure of the * * *
371 appointing authority, but not to exceed a six-year term.

372 (b) The board of supervisors of each county which
373 elects to become a member of the district shall appoint two (2)
374 directors from that county, each of whom shall serve for a term of
375 six (6) years or until a successor is appointed by the board of
376 supervisors of that county and qualified. In making its initial
377 appointment of directors, the board of supervisors of each member
378 county shall appoint one (1) of its two (2) directors to serve for
379 a term of three (3) years or until a successor is appointed and
380 qualified.

381 (c) The Mayor of the City of Jackson shall appoint two
382 (2) directors, one (1) of whom shall represent the Greater Jackson
383 Industrial Park. Each director shall serve for a term of six (6)
384 years or until a successor is appointed by the mayor and
385 qualified.

386 (d) Each director shall take and subscribe to the
387 general oath of office required by Section 268 of the Constitution
388 of the State of Mississippi before a chancery clerk, that the
389 director will faithfully discharge the duties of the office, which
390 oath shall be filed with and preserved by the * * * clerk * * *.

391 (e) Each director shall receive a per diem in the
392 amount as provided in Section 25-3-69 for attending each day's
393 meeting of the board of directors and for each day spent in
394 attending to the necessary business of the district and, in
395 addition, the director shall receive reimbursement for actual
396 expenses, including travel expenses, as provided in Section
397 25-3-41.

398 (f) The board of directors shall annually elect from

399 its membership a president and vice president of the district and
400 any other officers as, in the judgment of the board of directors,
401 are necessary. The president shall be the chief executive officer
402 of the district and the presiding officer of the board of
403 directors, and shall have the same right to vote as any other
404 director. The vice president shall perform all duties and
405 exercise all powers conferred by this chapter upon the president
406 when the president is absent or fails or declines to act, except
407 the president's right to vote. The board of directors shall also
408 appoint a secretary and a treasurer who shall be members of the
409 board of directors, and it may combine those officers. The
410 treasurer shall give bond in the sum of not less than Fifty
411 Thousand Dollars (\$50,000.00) as set by the board of directors,
412 and each director may be required to give bond in the sum of not
413 less than Ten Thousand Dollars (\$10,000.00), with sureties
414 qualified to do business in this state, and the premiums on the
415 bonds shall be an expense of the district. Each * * * bond shall
416 be payable to the State of Mississippi and a condition of
417 each * * * bond shall be that the treasurer or director will
418 faithfully perform all duties of the office and account for all
419 money or other assets which shall come into their custody as
420 treasurer or director of the district.

421 (g) A majority of the total membership of the board of
422 directors shall constitute a quorum at a regular meeting, or at
423 any special meeting duly called and held for a specific purpose.
424 All business of the district shall be transacted by the
425 affirmative vote of a majority of the total membership of the
426 board of directors.

427 (h) The State Auditor of Public Accounts shall annually
428 audit the books and records of the district and make a report on
429 the audit to the Governor and the Legislature.

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

432 51-11-11. The district, through its board of directors,
433 is * * * empowered:

434 (a) To develop in conjunction with the United States
435 Army Corps of Engineers, United States Secretary of Agriculture,
436 United States Secretary of Interior or with any other federal or
437 state agency as may be involved, including agencies of the State
438 of Louisiana, plans for public works of improvement for the
439 preservation, conservation, development, storage and regulation of
440 soil and waters within the Pearl River Basin, including the
441 impoundage, diversion, flowage and distribution of waters for
442 industrial, irrigational or potable water supplies, the
443 development of waters for navigation and the prevention of
444 floodwater damage; to enter into agreements with the United States
445 of America, as represented by the United States Army Corps of
446 Engineers or by any other federal agency as may be involved, to
447 meet the requirements of local cooperation for flood control and
448 navigation projects or other use of water as set out and
449 authorized by federal law * * *.

450 (b) To adopt regulations for the operation of the
451 spillway at the Ross Barnett Reservoir with the highest priorities
452 of that operation being sanitary water supply and flood control.

453 (c) To sue and be sued in its corporate name.

454 (d) To adopt, use, and alter a corporate seal.

455 (e) To make bylaws for the management and regulation of
456 its affairs.

457 (f) To make or cause to be made or to cooperate in
458 making engineering surveys, feasibility studies and cost-benefit
459 estimates relating to the construction of dams, reservoirs, works,
460 plants or any other necessary related facilities for controlling,
461 storing, using and distributing, including to adjacent basins, the
462 waters within the Pearl River Basin, or for the prevention of
463 floodwater damage, for navigation therein, or for the use of its
464 water resources for recreational purposes.

465 (g) To acquire by purchase, lease, gift or in other
466 manner, other than by condemnation, and to maintain, use and
467 operate any and all property of any kind, real, personal or mixed,
468 or any interest therein within the boundaries of the district
469 necessary for the purposes of the district.

470 (h) To make contracts and to execute instruments
471 necessary to the exercise of the powers, rights, privileges and
472 functions conferred upon the district by this chapter.

473 (i) To apply for and accept grants or loans from the
474 United States of America or from any corporation or agency created
475 or designated by the United States of America, and to ratify and
476 accept applications * * * made by voluntary associations to those
477 agencies for grants to construct, maintain or operate any project
478 or projects which * * * may be undertaken or contemplated by the
479 district.

480 (j) To employ an executive vice president who shall act
481 as general manager of the district and who may, at the discretion
482 of the board of directors, have the power to employ and discharge
483 employees. The board of directors may employ engineers, attorneys
484 and all agents and employees necessary to the exercising of the
485 powers, rights, privileges and functions conferred upon the
486 district by this chapter or any other law, or necessary to
487 properly finance, construct, operate and maintain the projects and
488 plants of the district; and the district may pay reasonable
489 compensation for such services. For all services in connection
490 with the issuance of bonds, the attorney's fee shall be in
491 accordance with the following:

492 1. On issues up to and including One Hundred
493 Thousand Dollars (\$100,000.00), the attorney's fee shall not
494 exceed one percent (1%) of the issue amount.

495 2. On issues over One Hundred Thousand Dollars
496 (\$100,000.00), and including Three Hundred Thousand Dollars
497 (\$300,000.00), the attorney's fee shall not exceed one-half

498 percent (1/2%) of the issue amount.

499 3. On issues over Three Hundred Thousand Dollars
500 (\$300,000.00), the attorney's fee shall not exceed one-fourth
501 percent (1/4%) of the issue amount; but for any issue the attorney
502 shall receive a minimum fee of Two Hundred Fifty Dollars
503 (\$250.00). For any other services, reasonable compensation shall
504 be paid.

505 (k) To do any * * * other acts or things necessary to
506 the exercising of the powers, rights, privileges or functions
507 conferred upon the district by this chapter or any other law.

508 SECTION 8. Section 51-11-13, Mississippi Code of 1972, is
509 amended as follows:

510 51-11-13. The term "project" when used herein shall mean the
511 general plans and purposes of the district, including without
512 limitation physical properties and the location of reservoir or
513 reservoirs, dam or dams and related facilities, as approved by the
514 district. The words "project area" * * * mean any geographic
515 area, as defined by a resolution of the board of directors of the
516 district, located within (i) any county which is a member of the
517 district or (ii) any portion of any other county which lies within
518 the watershed area of the Pearl River and its tributaries. The
519 district, through its board of directors, shall have, in addition
520 to and without limitation upon the powers enumerated in Section
521 51-11-11, the following powers:

522 (a) To impound and appropriate for beneficial use
523 overflow water and the surface water of the Pearl River or its
524 tributaries within the project area at the place or places and in
525 the manner and amount as may be approved by the Department of
526 Environmental Quality, by the construction of a dam or dams,
527 reservoir or reservoirs, work or works, plants and any other
528 necessary related facilities contemplated and described as a part
529 of the project; to construct a dam or dams, reservoir or
530 reservoirs, work or works and any other necessary related

531 facilities contemplated and described as a part of the project to
532 control flooding on the Pearl River and its tributaries; to
533 control, store and preserve these waters and to use, distribute
534 and sell them; to construct or otherwise acquire within the
535 project area all works, plants or other facilities necessary to
536 the project for the purpose of soil conservation or for the
537 purpose of processing water and transporting it to cities and
538 other facilities for domestic, municipal, commercial, industrial,
539 agricultural and manufacturing purposes; and to control open
540 channels for delivery purposes and water transportation; provided,
541 however, a decision by the board of directors to have a dam or
542 reservoir constructed within a county may be vetoed by an
543 affirmative vote of a majority of each of the boards of
544 supervisors of any three (3) or more member counties of the
545 district.

546 (b) To acquire and develop any other available water
547 necessary to the project and to construct, acquire and develop all
548 facilities within the project area deemed necessary with respect
549 thereto, including terminals.

550 (c) To forest and reforest, and to aid in the foresting
551 and reforesting of, the project area and to prevent and aid in the
552 prevention of soil erosion and flood within this area; to control,
553 store and preserve within the boundaries of the project area the
554 waters of the Pearl River or any of its tributaries for irrigation
555 of lands and for prevention of water pollution.

556 (d) To acquire by condemnation all property or interest
557 in property of any kind, real, personal or mixed, within the Pearl
558 River Basin, whether inside or outside the project area, strictly
559 and presently necessary for the projects and the exercise of the
560 powers, rights, privileges and functions conferred upon the
561 district by this chapter, according to the procedure provided by
562 law for the condemnation of lands or other property taken for
563 rights-of-way or other purposes by railroads, telephone or

564 telegraph companies and according to * * * Section 29-1-1. No
565 petition to condemn any property or any interest in any property
566 shall be filed unless accompanied by a certificate by the United
567 States Army Corps of Engineers or other federal agency, or by a
568 competent engineer or engineering firm, stating that the property
569 being acquired is necessary for the purposes of an approved
570 project of the district. For the purposes of this chapter, the
571 right of eminent domain of the district within the project area
572 shall be superior and dominant to the right of eminent domain of
573 railroad, telegraph, telephone, gas, power and other companies or
574 corporations and shall be sufficient to enable the acquisition and
575 relocation of county roads, state highways or other public
576 property within the project area. The cost of right-of-way
577 purchases, rerouting and elevating all other county-maintained
578 roads affected by constructions shall be borne by the district,
579 and new construction shall be of equal quality as in roads
580 existing as of January 1, 1984. The county in which this work is
581 done may assist in these costs if the board of supervisors so
582 desires.

583 The amount and character of interest in land, other property
584 and easements to be acquired shall be determined by the board of
585 directors on the basis of the proven needs of the particular
586 project or projects involved. The board of directors shall make
587 this determination in compliance with * * * Section 29-1-1.

588 However,

589 (i) In acquiring lands, either by negotiation or
590 condemnation, the district shall not acquire minerals or
591 royalties; sand and gravel shall not be considered as minerals
592 within the meaning of this section; however, where land is
593 condemned for easement purposes only, the sand and gravel
594 contained in or under that land shall not be condemned, except to
595 the extent necessary for these easement purposes, but may be
596 acquired in full by negotiation; and

597 (ii) No person or persons owning the drilling
598 rights or the right to share in production or mining shall be
599 prevented from exploring, developing or producing oil or gas or
600 sand and gravel with necessary rights-of-way for ingress and
601 egress, pipelines and other means of transporting these products
602 by reason of the inclusion of the lands or mineral interests or
603 sand and gravel within the project area, whether below or above
604 the waterline, but these activities shall be under reasonable
605 regulations by the board of directors as will adequately protect
606 the project.

607 (e) To require the necessary relocation of roads,
608 highways, railroad, telephone and telegraph lines and properties,
609 electric power lines, gas pipelines and mains and facilities in
610 the project area, or to require the anchoring or other protection
611 of any of these, provided due compensation is first paid the
612 owners thereof or agreement is had with the owners regarding the
613 payment of the cost of such relocation. Further, the district is
614 hereby authorized to acquire easements or rights-of-way in or
615 outside of the project area for the relocation of roads, highways,
616 railroad, telephone and telegraph lines and properties, electric
617 power lines, gas pipelines and mains and facilities, and to convey
618 them to the owners thereof in connection with relocation as a part
619 of the construction of the project.

620 (f) To overflow and inundate any public lands and
621 public property, including sixteenth section lands and lieu lands,
622 within the project area.

623 (g) To construct, extend, improve, maintain and
624 reconstruct, to cause to be constructed, extended, improved,
625 maintained and reconstructed, and to use and operate all
626 facilities of any kind within the project area necessary to the
627 project.

628 (h) To employ engineers, attorneys and all necessary
629 agents and employees to properly finance, construct, operate and

630 maintain the project and the plants, and to pay reasonable
631 compensation for these services.

632 (i) To make contracts in the issuance of bonds as may
633 be necessary to insure the marketability thereof.

634 (j) To enter into contracts with municipalities,
635 corporations, districts, public agencies, political subdivisions
636 of any kind and others for any services, facilities or commodities
637 which the project may provide; to contract with any municipality,
638 corporation or public agency for the rental, leasing, purchase or
639 operation of water production, water filtration or purification,
640 water supply and distributing facilities * * * upon consideration
641 as the district and the entity may agree. Any contract may be
642 upon any terms and for any time as the parties may agree, may
643 provide that it shall continue in effect until bonds specified in
644 the contract, refunding bonds issued in lieu of these bonds, and
645 all obligations are paid. Any contract with any political
646 subdivision shall be binding upon the political subdivisions
647 according to its terms, and the municipalities or other political
648 subdivisions shall have the power to enter into these contracts as
649 in the discretion of the governing authorities thereof would be to
650 the best interest of the people of the municipality or other
651 political subdivision. The contracts may include within the
652 discretion of the governing authorities a pledge of the full faith
653 and credit of the political subdivisions for the performance of
654 the contract.

655 (k) To fix and collect charges and rates for any
656 service, facilities or commodities furnished by it in connection
657 with the project and to impose penalties for failure to pay these
658 charges and rates when due.

659 (l) To operate and maintain within the project area,
660 with the consent of the governing body of any located within the
661 district, any works, plants or facilities deemed necessary to the
662 accomplishment of the purposes for which the district is created.

663 (m) Subject to the provisions of this chapter, from
664 time to time to lease, sell or otherwise lawfully dispose of
665 property of any kind, real, personal or mixed, or any interest in
666 property within the project area or acquired outside the project
667 area as authorized in this chapter, for the purpose of furthering
668 the business of the district.

669 (n) When, in the opinion of the board of directors as
670 shown by resolution duly passed, it shall not be necessary to the
671 carrying on of the business of the district that the district own
672 any lands acquired, the board shall advertise these lands for sale
673 to the highest and best bidder for cash, and shall receive and
674 publicly open the bids on the sale of the lands.

675 (o) In the purchase of or in the entering into of all
676 lease purchase agreements for supplies, equipment, heavy equipment
677 and the like, the directors shall in all instances comply with the
678 provisions of law pertaining to public purchases by public bids on
679 such supplies and equipment.

680 (p) In addition to, or in conjunction with, any other
681 powers and duties of the district arising under this chapter, to
682 exercise those powers, duties and functions of a joint water
683 management district set forth in Sections 51-8-27 through 51-8-55,
684 except the power of eminent domain under Section 51-8-33. Before
685 exercising those powers and duties, the district must comply
686 with * * * Sections 51-8-63 and 51-8-65. In exercising the
687 functions of a joint water management district, the district may
688 apply to the Environmental Quality Permit Board for delegation of
689 those powers and duties as provided by Section 51-3-15, and to
690 apply to the Mississippi Commission on Environmental Quality for
691 delegation of those powers and duties provided by Section 51-3-21.

692 (q) To create a flood control district within the Pearl
693 River Basin Development District as provided under Sections
694 51-11-53 through 51-11-85.

695 SECTION 9. Section 51-11-19, Mississippi Code of 1972, is

696 amended as follows:

697 51-11-19. (1) The board of directors of the district may
698 adopt and promulgate all reasonable regulations * * * to secure,
699 maintain and preserve the sanitary condition of all water in and
700 to flow into any reservoir owned by the district, to prevent waste
701 of water or the unauthorized use of water, to provide for
702 operation of the spillway at the Ross Barnett Reservoir as
703 provided in Section 51-11-11, and to regulate residence, hunting,
704 fishing, boating, camping, circulation of vehicular traffic on
705 land, the parking of those vehicles and all recreational and
706 business privileges in, along or around any * * * reservoir, any
707 body of land or any easement owned by the district.

708 (2) All * * * regulations prescribed by the board of
709 directors, after publication in a daily newspaper of statewide
710 circulation and in a newspaper of general circulation in each
711 county comprising the area of the district, shall have the full
712 force and effect of law, and violation of a regulation shall be
713 punishable by fine, not to exceed One Thousand Dollars
714 (\$1,000.00), as may be prescribed in the regulations, or by
715 imprisonment, not to exceed fifteen (15) days, to be determined by
716 the court, or both.

717 (3) If a violation of any regulation adopted to prevent
718 pollution of the waters in any reservoir owned by the district, or
719 the threat of continuous violation of a regulation, the district
720 may sue for and obtain damages and/or other appropriate relief,
721 including injunctive relief.

722 (4) All * * * regulations so prescribed and the penalties
723 fixed under the regulations, by the authority of this section,
724 shall not conflict with, exceed, alter or suspend any regulations,
725 rules or penalties prescribed by general statute, by the
726 Mississippi Commission on Wildlife, Fisheries and Parks and the
727 Mississippi State Board of Health * * *. All fines and penalties
728 levied and collected under this chapter shall be remitted and

729 accounted for in accordance with the general statutes relating to
730 those fines and penalties.

731 SECTION 10. This act shall take effect and be in force from
732 and after its passage.