

By: Dearing

To: Environment Prot,
Cons and Water Res

COMMITTEE SUBSTITUTE
FOR
SENATE BILL NO. 3053

1 AN ACT TO CREATE THE "MISSISSIPPI STORM WATER MANAGEMENT
2 DISTRICT ACT"; TO STATE THE FINDINGS OF THE LEGISLATURE; TO DEFINE
3 CERTAIN TERMS; TO PROVIDE FOR THE CREATION OF A STORM WATER
4 MANAGEMENT DISTRICT BY A SINGLE COUNTY OR MUNICIPALITY OR ANY
5 COMBINATION OF COUNTIES AND/OR MUNICIPALITIES; TO PROVIDE FOR
6 ADOPTION OF A RESOLUTION CREATING A DISTRICT; TO REQUIRE
7 PUBLICATION OF THAT RESOLUTION; TO AUTHORIZE A REFERENDUM ON THE
8 CREATION OF THE DISTRICT UPON FILING OF A PROTEST; TO AUTHORIZE
9 THE PAYMENT OF COSTS FOR THE CREATION OF A DISTRICT; TO PROVIDE
10 FOR AN APPEAL OF A RESOLUTION OR ORDINANCE CREATING A DISTRICT; TO
11 AUTHORIZE THE INCORPORATION OF A DISTRICT; TO PROVIDE FOR
12 PUBLICATION OF THE INCORPORATION AGREEMENT; TO AUTHORIZE
13 AMENDMENTS OF THE INCORPORATION AGREEMENT AND THE WITHDRAWAL OF A
14 MEMBER OF THE DISTRICT; TO PROVIDE FOR THE APPOINTMENT OF A BOARD
15 OF COMMISSIONERS OF THE DISTRICT AND FOR THEIR TERMS OF OFFICE AND
16 COMPENSATION; TO AUTHORIZE THE BOARD OF COMMISSIONERS TO EXERCISE
17 CERTAIN POWERS AND DUTIES; TO ALLOW PUBLIC AGENCIES TO CONTRACT
18 WITH THE DISTRICT FOR FACILITIES AND SERVICES; TO AUTHORIZE THE
19 GOVERNING BODY OF A COUNTY AND/OR A MUNICIPALITY TO EXERCISE THE
20 POWER OF EMINENT DOMAIN UPON REQUEST OF THE BOARD OF
21 COMMISSIONERS; TO REQUIRE DISTRICTS TO FILE CERTAIN FINANCIAL
22 REPORTS; AND FOR RELATED PURPOSES.

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

24 SECTION 1. Sections 1 through 21 of this act shall be known
25 and cited as the "Mississippi Storm Water Management District
26 Act."

27 SECTION 2. The Legislature hereby finds and declares that:

28 (a) Storm water may contain contaminants which can
29 degrade surface water quality;

30 (b) Due to the volume of water and the rate of flow,
31 storm water runoff can pose a flood hazard to public and private
32 property;

33 (c) The proper management of storm water is of concern
34 to all citizens and is an activity thoroughly affected with the
35 public interest;

36 (d) In certain areas of the state, the health, safety

37 and welfare of the people of this state require efficient
38 management of storm water;

39 (e) Federal regulations require portions of some local
40 governments to develop and implement storm water management
41 programs;

42 (f) There is a need for proper planning, design,
43 construction, operation and maintenance of appropriate measures
44 for the management of storm water; and

45 (g) There is a need to foster cooperation among local
46 governments in addressing concerns resulting from storm water
47 management, therefore it is necessary and desirable to authorize
48 the creation of storm water management districts by counties and
49 municipalities to plan for, design, acquire, construct, operate
50 maintain appropriate measures for management of storm water.

51 SECTION 3. Whenever used in Sections 1 through 21 of this
52 act, the following words and phrases shall have the meanings
53 ascribed in this section unless the context clearly indicates
54 otherwise:

55 (a) "Board" means the board of commissioners of a
56 district.

57 (b) "Cost of project" means:

58 (i) All costs of site preparation and other
59 start-up costs;

60 (ii) All costs of construction;

61 (iii) All costs of real and personal property
62 required for the purposes of the project and facilities related
63 thereto, including land and any rights or undivided interest
64 therein, easements, franchises, fees, utility charges, permits,
65 approvals, licenses, and certificates and the securing of any
66 permits, approvals, licenses, and certificates and all machinery
67 and equipment, including motor vehicles which are used for project
68 functions;

69 (iv) All costs of engineering, geotechnical,

70 architectural and legal services;

71 (v) All costs of plans and specifications and all
72 expenses necessary or incident to determining the feasibility or
73 practicability of the project;

74 (vi) Administrative expenses; and

75 (vii) Any other expenses as may be necessary or
76 incidental to the financing authorized in Sections 1 through 21 of
77 this act.

78 (c) "County" means any county of this state.

79 (d) "Designated representative" or "incorporator" means
80 the person named by resolution of the governing body of a county
81 or municipality as the representative of that unit of local
82 government for the purpose of acting on their behalf as an
83 incorporator in concert with other similarly named persons in the
84 creation and incorporation of a storm water management district
85 created under Sections 1 through 21 of this act.

86 (e) "District" means a storm water management district
87 created under Sections 1 through 21 of this act.

88 (f) "Ditch" means any branch or lateral drain, tile
89 drain, levee, sluiceway, water course, floodgate, and any other
90 construction work found necessary for the reclamation of wet and
91 overflowed lands.

92 (g) "Facilities" mean any structure, building, ditch,
93 pipe, channel, improvement, land, or other real or personal
94 property used or useful in storm water management system under
95 Sections 1 through 21 of this act.

96 (h) "Governing body" means the elected or duly
97 appointed officials constituting the governing body of a
98 municipality or county.

99 (i) "Incorporation agreement" means that agreement
100 between the designated representatives of various units of local
101 government setting forth the formal creation of a storm water
102 management district created under Sections 1 through 21 of this

103 act.

104 (j) "Member" means a unit of local government
105 participating in a district.

106 (k) "Municipality" means any incorporated city, town or
107 village in this state.

108 (l) "Project" means the collection, conveyance,
109 retention, detention and any other portion of a storm water
110 management system and any property, real or personal, used as or
111 in connection with those purposes.

112 (m) "Public agency" means any municipality, county,
113 political subdivision, governmental district or unit, public
114 institution of higher learning, community college district,
115 planning and development district, or any body politic and
116 corporate or governmental agency created under the laws of the
117 state.

118 (n) "State" means the State of Mississippi.

119 (o) "Storm water" means any flow occurring during or
120 following any form of natural precipitation and resulting from
121 that precipitation.

122 (p) "Storm water management system" means a system
123 which is designed and constructed, implemented or operated to
124 control storm water discharges to prevent or reduce flooding, over
125 drainage or water pollution or to otherwise affect the quantity or
126 quality of discharges from the system. The storm water management
127 system includes all pipes, channels, ditches, streams, wetlands,
128 detention or retention basins, ponds or other storm water
129 conveyance or treatment facilities.

130 (q) "Unit of local government" means any county or
131 municipality of the state.

132 SECTION 4. (1) (a) Any single unit of local government or
133 any combination of units of local government may create a
134 district.

135 (b) If any unit of local government is located within

136 an existing district, then the unit of local government shall
137 petition the district to provide a service or function needed by
138 the petitioning unit, if the service or function is one which the
139 district has the power and authority to perform. Upon receipt of
140 the petition, the district shall have ninety (90) days within
141 which to respond affirmatively to the petition, setting forth its
142 intent to meet the need or perform the service or function and its
143 plan to meet the need or perform the service or function. If the
144 existing district does not affirmatively respond in a timely
145 fashion, then the petitioning unit of local government may form a
146 district as provided in Sections 1 through 21 of this act.

147 (c) The district may include any geographic area within
148 the boundaries of any interested unit of local government.

149 (d) A district may be formed although adequate water
150 supply, flood control, drainage or other water or wastewater
151 management activities are being undertaken by one or more of the
152 units of local government interested in creating a district or by
153 another public agency existing and operating within the
154 geographical area of the district.

155 (2) Creation of a district shall be initiated by ordinance
156 or resolution duly adopted by the governing body of each unit of
157 local government. The ordinance or resolution shall state: (a)
158 the necessity for the proposed district; (b) the primary function
159 of the proposed district; (c) the geographic boundaries of the
160 proposed district within the jurisdiction of the unit of local
161 government; (d) the names and geographic boundaries of any other
162 units of local government proposing to be in the district; (e) the
163 date upon which the governing body intends to create the district;
164 (f) the estimated cost of projects to be conducted and maintained
165 by the district; however the estimate shall not serve as a
166 limitation upon the financing of any project or to invalidate any
167 ordinance or resolution adopted under this section; (g) the name
168 of a designated representative of the unit of local government to

169 enter into an incorporation agreement with the other units of
170 local government, if applicable; and (h) any other information
171 reasonably necessary to inform the constituency of the unit of
172 local government of the purpose and proposed obligations of the
173 unit of local government and other units of local government, if
174 applicable, proposing to create the district.

175 (3) The governing body of the unit of local government may
176 hold a public meeting or public hearing on the necessity for
177 creation of the district. The governing body shall provide notice
178 in the manner provided under Section 5 of this act of any public
179 meeting or public hearing.

180 SECTION 5. (1) A certified copy of the adopted resolution
181 or ordinance shall be published in a newspaper having a general
182 circulation within the proposed district once a week for at least
183 three (3) consecutive weeks before the date specified in the
184 resolution or ordinance as the date upon which the governing body
185 intends to create the district. The first publication of the
186 notice shall be made not less than twenty-one (21) days before the
187 date specified, and the last publication shall be made not more
188 than seven (7) days before the date.

189 (2) If twenty percent (20%) or fifteen hundred (1500),
190 whichever is less, of the qualified electors within the geographic
191 boundaries of the proposed district file a written petition with
192 the governing body before the date specified in the resolution or
193 ordinance under Section 4(2) of this act protesting the creation
194 of the district, the governing body shall call an election on the
195 question of the creation of the district. The election shall be
196 held and conducted by the election commissioners of the county or
197 municipality as nearly as may be in accordance with the general
198 laws governing elections. The election commissioners shall
199 determine which of the qualified electors of the county or
200 municipality reside within geographic boundaries of the proposed
201 district, and only those qualified electors as reside within the

202 geographic boundaries of the proposed district shall be entitled
203 to vote in the election. Notice of the election setting forth the
204 time, place or places, and purpose of the election shall be
205 published by the clerk of the board of supervisors or the
206 municipal clerk, as the case may be. The notice shall be
207 published for the time and in the manner provided in subsection
208 (1) of this section. The ballot to be prepared for and used at
209 the election shall be in substantially the following form:

210 "FOR CREATION OF _____ DISTRICT: ()
211 AGAINST CREATION OF _____ DISTRICT: ()"

212 Voters shall vote by placing a cross mark (x) or check mark (U)
213 opposite their choice.

214 SECTION 6. If no petition requiring an election is filed or
215 if three-fifths (3/5) of those voting in the election provided in
216 Section 5 of this act vote in favor of the creation of the
217 district, the governing body shall adopt a resolution or ordinance
218 authorizing the creation of the district.

219 SECTION 7. All costs incident to the publication of the
220 notices, election and all other costs of meeting the requirements
221 of this act shall be paid by the governing body.

222 SECTION 8. Any party having an interest in the subject
223 matter and aggrieved or prejudiced by the findings and
224 adjudication of the governing body may appeal to the circuit court
225 of the county in the manner provided by law for appeals from
226 orders of the board of supervisors or municipal authorities in
227 Section 11-51-75. However, if no appeal is taken within fifteen
228 (15) days after the date of the adoption of the resolution or
229 ordinance in Section 6 of this act, the creation of the district
230 within the jurisdiction of that unit of local government shall be
231 final and shall not be subject to attack in any court after that
232 time.

233 SECTION 9. (1) Within thirty (30) days following the
234 adoption of the final authorizing resolution or ordinances, the

235 designated representatives shall proceed to incorporate a district
236 by filing for record in the office of the chancery clerk of the
237 participating counties and/or the clerk of participating
238 municipalities, as the case may be, and the Secretary of State an
239 incorporation agreement approved by each member. The agreement
240 shall comply in form and substance with the requirements of this
241 section and shall be executed in the manner provided in Sections 1
242 through 21 of this act.

243 (2) The incorporation agreement of a district shall state:

244 (a) The name of each participating unit of local
245 government and the date on which the governing bodies thereof
246 adopted an authorizing resolution or ordinance;

247 (b) The name of the district which must include the
248 words "_____ Storm Water Management District," the blank
249 spaces to be filled in with the name of one or more of the members
250 or other geographically descriptive term. If the Secretary of
251 State determines that the name is identical to the name of any
252 other corporation organized under the laws of the state or so
253 nearly similar as to lead to confusion and uncertainty, the
254 incorporators may insert additional identifying words so as to
255 eliminate any duplication or similarity;

256 (c) The period for the duration of the district;

257 (d) The location of the principal office of the
258 district which shall be within the geographic boundaries of the
259 district;

260 (e) That the district is organized under Sections 1
261 through 21 of this act;

262 (f) The board setting forth the number of
263 commissioners, terms of office and the vote of each commissioner;

264 (g) If the exercise by the district of any of its
265 powers is to be in any way prohibited, limited or conditioned, a
266 statement of the terms of that prohibition, limitation or
267 condition;

268 (h) Any provisions relating to the vesting of title to
269 its properties upon its dissolution which shall be vested in any
270 member; and

271 (i) Any other related matters relating to the district
272 that the incorporators may choose to insert and that are not
273 inconsistent with Sections 1 through 21 of this act or with the
274 laws of the state.

275 (3) The incorporation agreement shall be signed and
276 acknowledged by the incorporators before an officer authorized by
277 the laws of the state to take acknowledgements. When the
278 incorporation agreement is filed for record, there shall be
279 attached to it a certified copy of the authorizing resolution or
280 ordinance adopted by the governing body of each member.

281 (4) The incorporators shall publish a notice of
282 incorporation once a week for three (3) consecutive weeks in a
283 daily newspaper or newspapers having general circulation
284 throughout the area to be served.

285 (5) If the district is composed of a single county or single
286 municipality, the governing body of that county or municipality
287 may serve as the board of commissioners of the district and may
288 exercise those powers and duties granted to the board under
289 Sections 1 through 21 of this act.

290 (6) Upon the filing for record of the agreement and the
291 required documents, the district shall come into existence and
292 shall constitute a public corporation under the name set forth in
293 the incorporation agreement. The Secretary of State shall issue a
294 certificate of incorporation to the district.

295 (7) Upon issuance of the certificate of incorporation, the
296 district shall be a public body corporate and politic constituting
297 a political subdivision of the state with the power of perpetual
298 succession and shall be deemed to be acting in all respects for
299 the benefit of the people of the state in the performance of
300 essential public functions. The district shall be empowered in

301 accordance with Sections 1 through 21 of this act to promote the
302 health, welfare and prosperity of the general public.

303 SECTION 10. (1) The incorporation agreement of any district
304 may be amended in the manner provided in this section. The board
305 of the district shall first adopt a resolution proposing an
306 amendment to the incorporation agreement. The amendment shall be
307 set forth in full in the resolution and may include any matters
308 which might have been included in the original incorporation
309 agreement.

310 (2) After the adoption of the resolution by the board, the
311 chairman of the board and the secretary of the district shall file
312 a certified copy of the resolution and a signed written
313 application in the name of and on behalf of the district, under
314 its seal, with the governing body of each member, requesting the
315 governing body to adopt a resolution approving the proposed
316 amendment. As promptly as may be practicable after the filing of
317 the application with the governing body, that governing body shall
318 review the application and shall adopt a resolution or ordinance
319 either denying the application or authorizing the proposed
320 amendment. Any resolution or ordinance shall be published in a
321 newspaper or newspapers as provided in Section 5 of this act. The
322 governing body shall cause a copy of the application and all
323 accompanying documents to be spread upon or otherwise made a part
324 of the minutes of the meeting of the governing body at which final
325 action upon the application is taken. The incorporation agreement
326 may be amended only after the adoption of a resolution or
327 ordinance by two-thirds (2/3) of the governing bodies of the
328 members.

329 (3) Within thirty (30) days following the adoption of the
330 last adopted resolution approving the proposed amendment, the
331 chairman of the board and the secretary of the district shall
332 sign, and file for record in the office of the chancery clerk
333 and/or municipal clerk with which the incorporation agreement of

334 the district was originally filed and the Secretary of State, a
335 certificate in the name of and in behalf of the district, under
336 its seal, reciting the adoption of the respective resolutions or
337 ordinance by the board and by the governing body of each member
338 and setting forth the amendment. The chancery clerk for the
339 county and/or municipal clerk for the municipality shall record
340 the certificate in an appropriate book in the clerk's office.
341 When the certificate has been so filed and recorded, the amendment
342 shall become effective. No incorporation agreement of a district
343 shall be amended except in the manner provided in this section.

344 (4) Any member of a district may withdraw from the district
345 by submitting a resolution to the board requesting an amendment to
346 the incorporation agreement under subsection (1) of this section.

347 Upon compliance with the requirements of subsections (1) through
348 (3) of this section and payment of its pro rata share of any
349 indebtedness, costs, expenses or obligations of the district
350 outstanding at the time of withdrawal, the amendment may become
351 effective upon adoption of a resolution by the board. The
352 withdrawal of a member shall not operate to impair, invalidate,
353 release or abrogate any contract, lien, bond, permit, indebtedness
354 or obligation of the district, except to relieve the withdrawing
355 member from further financial obligation to the district.

356 (5) Any party having an interest in the subject matter and
357 aggrieved by an action of a governing body under subsections (2)
358 and (4) of this section, may appeal that action in the manner and
359 within the time limitations provided in Section 8 of this act.

360 SECTION 11. (1) All powers of the district shall be vested
361 in the board of commissioners. Each member of the district shall
362 have at least one (1) commissioner on the board. The
363 incorporators shall by duly adopted resolution or bylaws designate
364 the vote of each commissioner based upon pro rata population or
365 any other criteria as they may determine. In the alternative, the
366 incorporators by duly adopted resolution, may authorize

367 appointments to the board by the members to reflect population, or
368 any other criteria as the incorporators may determine. In
369 addition, the incorporators shall designate a term for each
370 commissioner at the time of incorporation so as to establish
371 staggered terms of office. No commissioner shall serve for a term
372 to exceed four (4) years unless duly reappointed. Any resolutions
373 for the composition of the board and the vote of its commissioners
374 shall be filed with the incorporation agreement.

375 (a) Initially, the board shall be composed as follows:

376 (i) Within thirty (30) days of the effective date
377 of the incorporation agreement, the governing body of each
378 participating county and/or municipality shall appoint at least
379 one (1) person to the board as determined by the resolution of the
380 incorporators.

381 (ii) The governing body of each county or
382 municipality shall appoint only individuals who are residents
383 within the geographic boundaries of the district within the
384 respective county or municipality or an employee thereof.

385 (iii) The number of commissioners of the board
386 shall be increased by at least one (1) each time a county or
387 municipality enters into membership. The board shall establish
388 the vote or number of commissioners based upon the same terms as
389 the original resolution of the incorporators. Within fifteen (15)
390 days after becoming a member, the governing body of the county or
391 municipality, shall appoint at least one (1) person to the board.

392 Any commissioner appointed under this provision shall serve for a
393 term of four (4) years.

394 (iv) After the initial term, the commissioners
395 shall serve a term of four (4) years, and for any period
396 thereafter until a successor is duly appointed and qualified.

397 (b) Each commissioner of the board shall be eligible
398 for reappointment. All vacancies shall be filled by appointment
399 in the same manner. Any person appointed to fill a vacancy shall

400 serve only for the unexpired term. Any commissioner may be
401 removed at any time before the expiration of the member's term of
402 office for misfeasance, malfeasance or willful neglect of duty, as
403 determined by the appointing governing body. Before assuming
404 office, each commissioner shall take and subscribe to the
405 constitutional oath of office before a chancery clerk or municipal
406 clerk, and a record of that oath shall be filed with the Secretary
407 of State. The board of commissioners shall annually select a
408 chairman and a vice chairman.

409 (2) The board may appoint an executive committee to be
410 composed of not less than three (3) commissioners. No member
411 shall have more than one (1) representative on the executive
412 committee. The chairman of the board shall serve as chairman of
413 the executive committee. The executive committee may execute all
414 powers vested in the full board between meetings of the board. A
415 majority plus one (1) member of the executive committee shall
416 constitute a quorum for the transaction of business. The board
417 shall authorize the executive committee to take any actions under
418 any conditions that the board may prescribe. All actions of the
419 executive committee shall be considered an action of the board and
420 shall take effect upon action by the executive committee.

421 (3) (a) The board may employ a general manager and a
422 secretary of the district.

423 (b) The general manager may also serve as secretary and
424 shall be a person of good moral character and of proven ability as
425 an administrator with a minimum of five (5) years' experience in
426 the management and administration of a public works operation or
427 comparable experience which may include, but is not limited to,
428 supervision, public financing, regulatory codes and related
429 functions as minimum qualifications to administer the programs and
430 duties of the district. The general manager shall administer,
431 manage and direct the affairs and business of the district,
432 subject to the policies, control and direction of the board.

433 (c) The general manager and any commissioner not bonded
434 in another capacity shall give bond executed by a surety company
435 or companies authorized to do business in this state in the penal
436 sum of Fifty Thousand Dollars (\$50,000.00) payable to the district
437 conditioned upon the faithful performance of that person's duties
438 and the proper accounting for all funds.

439 (d) The board may require any of its employees to be
440 bonded. The cost of any bond required by this section or by the
441 board shall be paid from funds of the district.

442 (e) The secretary shall keep a record of the
443 proceedings of the district and shall be custodian of all books,
444 documents and papers filed with the district, the minute book or
445 journal, and the official seal. The secretary may make copies of
446 all minutes and other records and documents of the district and
447 certify under the seal of the district that the copies are true
448 and accurate copies. All persons dealing with the district may
449 rely upon those certificates.

450 (4) Regular meetings of the board shall be held as set forth
451 in its bylaws, rules or regulations. Additional meetings of the
452 board shall be held at the call of the chairman or whenever a
453 majority of commissioners so request.

454 (5) Upon express and prior authorization of the board, each
455 commissioner may receive compensation in an amount not to exceed
456 Forty Dollars (\$40.00) per day for attending each day's meeting of
457 the board and for each day spent in attending to the business of
458 the district. In addition, each commissioner may receive
459 reimbursement for actual and necessary expenses incurred as
460 provided by Section 25-3-41, Mississippi Code of 1972. Each
461 commissioner shall not be entitled to any additional compensation
462 other than that specifically provided for in this subsection.

463 (6) The board shall prepare a budget for the district for
464 each fiscal year at least ninety (90) days before the beginning of
465 each fiscal year, which shall be from July 1 to June 30 of each

466 year. The board shall submit the budget to the governing body of
467 each member.

468 SECTION 12. The board may contract with any member to
469 provide support services. Any member may contract with or as part
470 of their service contract with the district to provide any staff
471 support, administrative and operational services as it deems
472 advisable and on any terms as may be mutually agreed.

473 SECTION 13. The district shall have all the rights and
474 powers necessary or convenient to carry out the purposes of
475 Sections 1 through 21 of this act, including, but not limited to,
476 the following:

477 (a) To sue and be sued in its own name;

478 (b) To adopt an official seal and alter the seal at its
479 pleasure;

480 (c) To maintain an office or offices at any place or
481 places within the geographic boundaries of its members as it may
482 determine;

483 (d) To acquire, construct, improve, or modify, to
484 operate or cause to be operated and maintained, either as owner of
485 all or of any part in common with others, a storm water management
486 system within the counties or municipalities in the district. The
487 district may pay all or part of the cost of any storm water
488 management system from any contribution by persons, firms, public
489 agencies or corporations. The district may receive, accept, and
490 use all funds, public or private and pay all cost of development,
491 implementation and maintenance as may be determined as necessary
492 for any project;

493 (e) To acquire, in its own name, by purchase on any
494 terms and conditions and in any manner as it may deem proper,
495 except by eminent domain, property for public use, or by gift,
496 grant, lease, or otherwise, real property or easements therein,
497 franchises and personal property necessary or convenient for its
498 corporate purposes. These purposes shall include, but are not

499 limited to, the constructing or acquiring of a storm water
500 management system; the improving, extending, reconstructing,
501 renovating, or remodeling of any existing storm water management
502 system or part thereof; or the demolition to make room for any
503 project or any part thereof. The district may insure the storm
504 water management system against all risks as any insurance may,
505 from time to time, be available. The district may also use any
506 property and rent or lease any property to or from others,
507 including public agencies, or make contracts for the use of the
508 property. The district may sell, lease, exchange, transfer,
509 assign, pledge, mortgage or grant a security interest for any
510 property. The powers to acquire, use, and dispose of property as
511 set forth in this paragraph shall include the power to acquire,
512 use, and dispose of any interest in that property, whether divided
513 or undivided. Title to any property of the district shall be held
514 by the district exclusively for the benefit of the public;

515 (f) To adopt, modify, repeal and promulgate rules and
516 regulations implementing or effectuating the powers and duties of
517 the district under any statute within the district's jurisdiction,
518 and where otherwise not prohibited by federal or state law, to
519 make exceptions to an grant variances and exemptions from, and to
520 enforce those rules and regulations. Those rules and regulations
521 may include, but shall not be limited to, Rules and regulations
522 for (i) the management of the district's business and affairs;
523 (ii) the use, operation, maintenance or implementation of the
524 district's storm water management system or any portion of that
525 system, facility or any other property owned or operated by the
526 district; and (iii) specifications and standards relating to the
527 planning, design or construction of the storm water management
528 system or any facility owned or operated by the district;

529 (g) To enter into contracts or leases with any person
530 or public agency and to execute all instruments necessary or
531 convenient for construction, operation, and maintenance of the

532 storm water management system and leases of projects. Without
533 limiting the generality of the above, authority is specifically
534 granted to units of local government and to the district to enter
535 into contracts, lease agreements, or other undertaking relative to
536 the furnishing of storm water management system services or
537 facilities or both by the district to a unit of local government
538 and by a unit of local government to the district;

539 (h) To exercise any powers, rights, or privileges
540 conferred by Sections 1 through 21 of this act either alone or
541 jointly or in common with any other public or private parties. In
542 any exercise of any powers, rights, and privileges jointly or in
543 common with others for the construction, operation, and
544 maintenance of facilities, the district may own an undivided
545 interest in any facilities with any other party with which it may
546 jointly or in common exercise the rights and privileges conferred
547 by Sections 1 through 21 of this act and may enter into any
548 agreement with respect to any facility with any other party
549 participating in those facilities. An agreement may contain any
550 terms, conditions, and provisions, consistent with this section,
551 as the parties to the agreement shall deem to be in their best
552 interest, including, but not limited to, provisions for the
553 planning, design, construction, operation, implementation and
554 maintenance of any facility by any party to an agreement. Any
555 party or parties shall be designated in or under any agreement as
556 agent or agents on behalf of itself and one or more of the other
557 parties to the agreement, or by any other means as may be
558 determined by the parties. The agreement shall include a method
559 or methods of determining and allocating, among the parties, costs
560 of planning, design, construction, operation, maintenance,
561 renewals, replacements, improvements, and disposal related to any
562 facility. In carrying out its functions and activities as an
563 agent with respect to planning, design, construction, operation,
564 and maintenance of any facility, the agent shall be governed by

565 the laws and regulations applicable to that agent as a separate
566 legal entity and not by any laws or regulations which may be
567 applicable to any of the other participating parties. The agent
568 shall act for the benefit of the public. In any agreement, the
569 district may delegate its powers and duties related to the
570 planning, design, construction, operation, and maintenance of any
571 facility to the party acting as agent and all actions taken by
572 that agent in accordance with the agreement may be binding upon
573 the district without further action or approval of the district;

574 (i) To apply, contract for, accept, receive and
575 administer gifts, grants, appropriations, and donations of money,
576 materials, and property of any kind, including loans and grants
577 from the United States, the state, a unit of local government, or
578 any agency, department, authority, or instrumentality of any of
579 the foregoing, upon any terms and conditions as the United States,
580 the state, a unit of local government, or any agency, department,
581 authority, or instrumentality shall impose. The district may
582 administer trusts. The district may sell, lease, transfer,
583 convey, appropriate and pledge any and all of its property and
584 assets;

585 (j) To employ professional and administrative staff and
586 personnel and to retain legal, engineering, fiscal, accounting and
587 other professional services;

588 (k) To assume or continue any contractual or other
589 business relationships entered into by the municipalities or
590 counties who are members of the district, including the rights to
591 receive and acquire transferred rights under option to purchase
592 agreements;

593 (l) To enter on public or private lands, waters, or
594 premises for the purpose of making surveys, borings or soundings,
595 or conducting tests, examinations or inspections for the purposes
596 of the district, subject to responsibility for any damage done to
597 property entered;

598 (m) To do and perform any acts and things authorized by
599 Sections 1 through 21 of this act under, through or by means of
600 its officers, agents and employees, or by contracts with any
601 person; and

602 (n) To do and perform any and all acts or things
603 necessary, convenient or desirable for the purposes of the
604 district, or to carry out any power expressly granted in Sections
605 1 through 21 of this act.

606 SECTION 14. (1) Any regulations or best management
607 practices adopted by the board under this act, shall be no more
608 stringent or extensive in scope, coverage or effect than the
609 regulations and best management practices promulgated or
610 recommended by the United States Environmental Protection Agency.

611 (2) If federal regulations or recommended best management
612 practices do not address any matter relating to a storm water
613 management system, the board may adopt or promulgate appropriate
614 regulations or best management practices to address those matters.

615 SECTION 15. The governing body of a member may exercise the
616 power of eminent domain, upon written request of the board of
617 commissioners, for the particular purpose of the acquisition of
618 property for the district's storm water management system. The
619 power of eminent domain shall be exercised as provided in Chapter
620 27, Title 11, Mississippi Code of 1972.

621 SECTION 16. (1) Any public agency may, in accordance with a
622 duly adopted resolution or ordinance, contract with the district
623 for the district to acquire, construct or provide facilities and
624 projects to be owned by the district for furnishing storm water
625 management and related services to the public agency or to users
626 within the boundaries of the public agency. The public agency
627 shall be obligated to make payments which shall be sufficient to
628 enable the district to meet its expenses, and payments into funds
629 for operation, maintenance and renewals and replacements. The
630 contracts may also contain other terms and conditions as the

631 district and the public agency may determine. Any contract may be
632 for a term covering the life of the facilities or for any other
633 term or for an indefinite period.

634 (2) Contracts may provide for payments in the form of
635 contributions to defray the cost of any purpose set forth in the
636 contracts and as advances for any facilities subject to repayment
637 by the district. A public agency may make those contributions or
638 advances from its general fund, general obligation bond proceeds,
639 or surplus fund or from any monies legally available therefor.
640 The entering into of any contract under this section shall not
641 constitute the incurring of a debt by a public agency within the
642 meaning of any constitutional or statutory limitations on debts of
643 the state or units of local government.

644 SECTION 17. The district may at the direction of the
645 governing bodies of the participating units of local government
646 submit a storm water management plan as required state or federal
647 environmental rules and regulations. The district may also
648 provide services and facilities for implementation of the storm
649 water management plan.

650 SECTION 18. For the purpose of attaining the objectives of
651 Sections 1 through 21 of this act, any public agency may, upon any
652 terms as it may determine, do any of the following:

653 (1) Lend, contribute, or donate money to any district
654 or perform services for the benefit of the district;

655 (2) Donate, sell, convey, transfer, lease or grant to
656 any district, without the necessity of authorization at any
657 election of qualified voters, any property of any kind, where
658 otherwise not prohibited by law; and

659 (3) Do any thing, whether or not specifically
660 authorized in this section, not otherwise prohibited by law, that
661 is necessary or convenient to aid and cooperate with any district
662 in attaining the objectives of Sections 1 through 21 of this act.

663 SECTION 19. The property and revenue of the district shall

664 be exempt from all state, county and municipal taxation.

665 SECTION 20. Within ninety (90) days after the close of each
666 fiscal year, the board of commissioners shall publish in a
667 newspaper of general circulation in the county a sworn statement
668 showing the financial condition of the district. The statement
669 shall also be filed with the governing body of each member of the
670 district.

671 SECTION 21. Sections 1 through 21 of this act, without
672 reference to any other statute, shall be deemed to be full and
673 complete authority for the creation of a district. No proceedings
674 shall be required for the creation of a district other than those
675 provided for and required in this act. All the necessary powers
676 to be exercised by the governing body of a county or municipality
677 and by the board of commissioners of any district, in order to
678 carry out this act, are hereby conferred.

679 SECTION 22. Sections 1 through 21 of this act shall be
680 codified as a new chapter in Title 51, Mississippi Code of 1972.

681 SECTION 23. The Attorney General of the State of Mississippi
682 shall submit this act, immediately upon approval by the Governor,
683 or upon approval by the Legislature subsequent to a veto, to the
684 Attorney General of the United States or to the United States
685 District Court for the District of Columbia in accordance with the
686 provisions of the Voting Rights Act of 1965, as amended and
687 extended.

688 SECTION 24. This act shall take effect and be in force from
689 and after it is effectuated under Section 5 of the Voting Rights
690 Act of 1965, as amended and extended.