

By: Dearing

To: Environment Prot,
Cons and Water Res

SENATE BILL NO. 3053
(As Sent to Governor)

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 22 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 and maintain appropriate measures for management of storm water.

51 SECTION 3. Whenever used in Sections 1 through 22 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 project financing.

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

78 (d) "Designated representative" or "incorporator" means
79 the person named by resolution of the governing body of a county
80 or municipality as the representative of that unit of local
81 government for the purpose of acting on their behalf as an
82 incorporator in concert with other similarly named persons in the
83 creation and incorporation of a storm water management district
84 under Sections 1 through 22 of this act.

85 (e) "District" means a storm water management district
86 created under Sections 1 through 22 of this act.

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

91 (g) "Facilities" mean any structure, building, ditch,
92 pipe, channel, improvement, land, or other real or personal
93 property used or useful in storm water management system under
94 Sections 1 through 22 of this act.

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

98 (i) "Incorporation agreement" means that agreement
99 between the designated representatives of various units of local
100 government setting forth the formal creation of a storm water
101 management district created under Sections 1 through 22 of this
102 act.

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

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

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

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

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

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

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

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

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

134 (b) If any unit of local government is located within
135 an existing district, then the unit of local government shall

136 petition the district to provide a service or function needed by
137 the petitioning unit, if the service or function is one which the
138 district has the power and authority to perform. Upon receipt of
139 the petition, the district shall have ninety (90) days within
140 which to respond affirmatively to the petition, setting forth its
141 intent to meet the need or perform the service or function and its
142 plan to meet the need or perform the service or function. If the
143 existing district does not affirmatively respond in a timely
144 fashion, then the petitioning unit of local government may form a
145 district as provided in Sections 1 through 22 of this act.

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

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

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

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

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

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

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

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

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

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

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

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

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

232 SECTION 9. (1) Within thirty (30) days following the
233 adoption of the final authorizing resolution or ordinances, the
234 designated representatives shall proceed to incorporate a district

235 by filing for record in the office of the chancery clerk of the
236 participating counties and/or the clerk of participating
237 municipalities, as the case may be, and the Secretary of State an
238 incorporation agreement approved by each member. The agreement
239 shall comply in form and substance with the requirements of this
240 section and shall be executed in the manner provided in Sections 1
241 through 22 of this act.

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

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

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

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

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

259 (e) That the district is organized under Sections 1
260 through 22 of this act;

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

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

267 (h) Any provisions relating to the vesting of title to

268 its properties upon its dissolution which shall be vested in any
269 member; and

270 (i) Any other related matters relating to the district
271 that the incorporators may choose to insert and that are not
272 inconsistent with Sections 1 through 22 of this act or with the
273 laws of the state.

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

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

284 (5) Upon the filing for record of the agreement and the
285 required documents, the district shall come into existence and
286 shall constitute a public corporation under the name set forth in
287 the incorporation agreement. The Secretary of State shall issue a
288 certificate of incorporation to the district.

289 (6) Upon issuance of the certificate of incorporation, the
290 district shall be a public body corporate and politic constituting
291 a political subdivision of the state with the power of perpetual
292 succession and shall be deemed to be acting in all respects for
293 the benefit of the people of the state in the performance of
294 essential public functions. The district shall be empowered in
295 accordance with Sections 1 through 22 of this act to promote the
296 health, welfare and prosperity of the general public.

297 SECTION 10. (1) The incorporation agreement of any district
298 may be amended in the manner provided in this section. The board
299 of the district shall first adopt a resolution proposing an
300 amendment to the incorporation agreement. The amendment shall be

301 set forth in full in the resolution and may include any matters
302 which might have been included in the original incorporation
303 agreement.

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

323 (3) Within thirty (30) days following the adoption of the
324 last adopted resolution approving the proposed amendment, the
325 chairman of the board and the secretary of the district shall
326 sign, and file for record in the office of the chancery clerk
327 and/or municipal clerk with which the incorporation agreement of
328 the district was originally filed and the Secretary of State, a
329 certificate in the name of and in behalf of the district, under
330 its seal, reciting the adoption of the respective resolutions or
331 ordinance by the board and by the governing body of each member
332 and setting forth the amendment. The chancery clerk for the
333 county and/or municipal clerk for the municipality shall record

334 the certificate in an appropriate book in the clerk's office.
335 When the certificate has been so filed and recorded, the amendment
336 shall become effective. No incorporation agreement of a district
337 shall be amended except in the manner provided in this section.

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

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

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

354 SECTION 11. (1) All powers of the district shall be vested
355 in the board of commissioners.

356 (2) If the district is composed of a single member, the
357 governing body of that county or municipality shall serve as the
358 board of commissioners of the district and shall exercise those
359 powers and duties granted to the board under Sections 1 through 22
360 of this act.

361 (3) If the district is composed of two (2) or more members,
362 each member of the district shall have at least one (1)
363 commissioner on the board. The board shall contain an odd number
364 of commissioners:

365 (a) The incorporators shall, in the incorporation
366 agreement, designate the vote of each commissioner based upon pro

367 rata population or any other criteria as the incorporators may
368 determine. In the alternative, the incorporators, in the
369 incorporation agreement, may authorize appointments to the board
370 by the members to reflect population, or any other criteria as the
371 incorporators may determine. Within thirty (30) days after the
372 effective date of the incorporation agreement, the governing body
373 of each member shall appoint a commissioner or commissioners to
374 the board as determined by the incorporation agreement. All
375 vacancies shall be filled by appointment in the same manner as the
376 original appointment.

377 (b) Each commissioner shall serve at the will and
378 pleasure of the appointing governing body and for any term
379 established by the appointing governing body.

380 (c) The governing body of each member shall appoint a
381 commissioner or commissioners from among the elected officials
382 serving on the governing body of the respective county or
383 municipality.

384 (4) The board of commissioners shall annually elect a
385 chairman and a vice chairman. The chairman shall preside at all
386 meetings of the board and act as the chief executive officer of
387 the board and of the district, unless otherwise determined by the
388 board. The vice chairman shall act in the absence or disability
389 of the chairman. A majority of the membership of the board shall
390 constitute a quorum. Except as otherwise provided by law, all
391 official acts of the board shall require an affirmative vote by a
392 majority of those commissioners present and voting.

393 (5) The number of commissioners on the board shall be
394 increased by at least one (1), as provided in an amended
395 incorporation agreement, each time a county or municipality enters
396 into membership. The board shall establish the vote or number of
397 commissioners based upon the same terms as the original
398 incorporation agreement. Within fifteen (15) days after becoming
399 a member, the governing body of the new member shall appoint a

400 commissioner or commissioners to the board.

401 (6) If the district is composed of three (3) or more
402 members, the board may appoint an executive committee to be
403 composed of not less than three (3) persons. No member shall have
404 more than one (1) representative on the executive committee. The
405 chairman of the board shall serve as chairman of the executive
406 committee. The executive committee may execute all powers vested
407 in the full board between meetings of the board. A majority shall
408 constitute a quorum for the transaction of business. All actions
409 of the executive committee must be ratified by a majority of the
410 board at a regular or called meeting of the board.

411 (7) (a) The board may employ any personnel and appoint and
412 prescribe the duties of any officers as the board deems necessary
413 or advisable, including a general manager and a secretary of the
414 district. The board may require any of its employees to be
415 bonded. The cost of any bond required by this section or by the
416 board shall be paid from funds of the district.

417 (b) The general manager may also serve as secretary and
418 shall be a person of good moral character and of proven ability as
419 an administrator with a minimum of five (5) years' experience in
420 the management and administration of a public works operation or
421 comparable experience which may include, but is not limited to,
422 supervision, public financing, regulatory codes and related
423 functions as minimum qualifications to administer the programs and
424 duties of the district. The general manager shall administer,
425 manage and direct the affairs and business of the district,
426 subject to the policies, control and direction of the board. The
427 general manager shall give bond executed by a surety company or
428 companies authorized to do business in this state in the penal sum
429 of Fifty Thousand Dollars (\$50,000.00) payable to the district
430 conditioned upon the faithful performance of that person's duties
431 and the proper accounting for all funds.

432 (c) The secretary shall keep a record of the

433 proceedings of the board and the district and shall be custodian
434 of all books, documents and papers filed with the district, the
435 minute book or journal and the official seal. The secretary may
436 make copies of all minutes and other records and documents of the
437 district and to certify under the seal of the district that the
438 copies are true and accurate copies, and all persons dealing with
439 the district may rely upon those certificates.

440 (8) Regular meetings of the board shall be held as set forth
441 in its rules or regulations for management of the district's
442 business and affairs. Additional meetings of the board shall be
443 held at the call of the chairman or whenever a majority of
444 commissioners so request.

445 (9) Upon express and prior authorization by the board, each
446 commissioner may receive reimbursement for actual and necessary
447 expenses incurred for attending each day's meeting of the board
448 and for each day spent in attending to the business of the
449 district as provided by Section 25-3-41. Each commissioner shall
450 not be entitled to per diem or any additional compensation other
451 than that specifically provided for in this subsection.

452 (10) The board shall prepare a budget for the district for
453 each fiscal year at least ninety (90) days before the beginning of
454 that fiscal year. The fiscal year shall be from July 1 to June 30
455 of each year. The board shall submit the budget to the governing
456 body of each member.

457 SECTION 12. The board may contract with any member to
458 provide support services. Any member may contract with or as part
459 of their service contract with the district to provide any staff
460 support, administrative and operational services as it deems
461 advisable and on any terms as may be mutually agreed.

462 SECTION 13. The district shall have all the rights and
463 powers necessary or convenient to carry out the purposes of
464 Sections 1 through 22 of this act, including, but not limited to,
465 the following:

- 466 (a) To sue and be sued in its own name;
- 467 (b) To adopt an official seal and alter the seal at its
468 pleasure;
- 469 (c) To maintain an office or offices at any place or
470 places within the geographic boundaries of its members as it may
471 determine;
- 472 (d) To acquire, construct, improve, or modify, to
473 operate or cause to be operated and maintained, either as owner of
474 all or of any part in common with others, a storm water management
475 system within the counties or municipalities in the district. The
476 district may pay all or part of the cost of any storm water
477 management system from any contribution by persons, firms, public
478 agencies or corporations. The district may receive, accept, and
479 use all funds, public or private and pay all cost of development,
480 implementation and maintenance as may be determined as necessary
481 for any project;
- 482 (e) To acquire, in its own name, by purchase on any
483 terms and conditions and in any manner as it may deem proper,
484 except by eminent domain, property for public use, or by gift,
485 grant, lease, or otherwise, real property or easements therein,
486 franchises and personal property necessary or convenient for its
487 corporate purposes. These purposes shall include, but are not
488 limited to, the constructing or acquiring of a storm water
489 management system; the improving, extending, reconstructing,
490 renovating, or remodeling of any existing storm water management
491 system or part thereof; or the demolition to make room for any
492 project or any part thereof. The district may insure the storm
493 water management system against all risks as any insurance may,
494 from time to time, be available. The district may also use any
495 property and rent or lease any property to or from others,
496 including public agencies, or make contracts for the use of the
497 property. The district may sell, lease, exchange, transfer,
498 assign, pledge, mortgage or grant a security interest for any

499 property. The powers to acquire, use, and dispose of property as
500 set forth in this paragraph shall include the power to acquire,
501 use, and dispose of any interest in that property, whether divided
502 or undivided. Title to any property of the district shall be held
503 by the district exclusively for the benefit of the public;

504 (f) To adopt, modify, repeal and promulgate rules and
505 regulations implementing or effectuating the powers and duties of
506 the district under any statute within the district's jurisdiction,
507 and where otherwise not prohibited by federal or state law, to
508 make exceptions to and grant variances and exemptions from, and to
509 enforce those rules and regulations. Those rules and regulations
510 may include, but shall not be limited to, rules and regulations
511 for (i) the management of the district's business and affairs;
512 (ii) the use, operation, maintenance or implementation of the
513 district's storm water management system or any portion of that
514 system, facility or any other property owned or operated by the
515 district; and (iii) specifications and standards relating to the
516 planning, design or construction of the storm water management
517 system or any facility owned or operated by the district;

518 (g) To enter into contracts or leases with any person
519 or public agency and to execute all instruments necessary or
520 convenient for construction, operation, and maintenance of the
521 storm water management system and leases of projects. Without
522 limiting the generality of the above, authority is specifically
523 granted to units of local government and to the district to enter
524 into contracts, lease agreements, or other undertaking relative to
525 the furnishing of storm water management system services or
526 facilities or both by the district to a unit of local government
527 and by a unit of local government to the district;

528 (h) To exercise any powers, rights, or privileges
529 conferred by Sections 1 through 22 of this act either alone or
530 jointly or in common with any other public or private parties. In
531 any exercise of any powers, rights, and privileges jointly or in

532 common with others for the construction, operation, and
533 maintenance of facilities, the district may own an undivided
534 interest in any facilities with any other party with which it may
535 jointly or in common exercise the rights and privileges conferred
536 by Sections 1 through 22 of this act and may enter into any
537 agreement with respect to any facility with any other party
538 participating in those facilities. An agreement may contain any
539 terms, conditions, and provisions, consistent with this section,
540 as the parties to the agreement shall deem to be in their best
541 interest, including, but not limited to, provisions for the
542 planning, design, construction, operation, implementation and
543 maintenance of any facility by any party to an agreement. Any
544 party or parties shall be designated in or under any agreement as
545 agent or agents on behalf of itself and one or more of the other
546 parties to the agreement, or by any other means as may be
547 determined by the parties. The agreement shall include a method
548 or methods of determining and allocating, among the parties, costs
549 of planning, design, construction, operation, maintenance,
550 renewals, replacements, improvements, and disposal related to any
551 facility. In carrying out its functions and activities as an
552 agent with respect to planning, design, construction, operation,
553 and maintenance of any facility, the agent shall be governed by
554 the laws and regulations applicable to that agent as a separate
555 legal entity and not by any laws or regulations which may be
556 applicable to any of the other participating parties. The agent
557 shall act for the benefit of the public. In any agreement, the
558 district may delegate its powers and duties related to the
559 planning, design, construction, operation, and maintenance of any
560 facility to the party acting as agent and all actions taken by
561 that agent in accordance with the agreement may be binding upon
562 the district without further action or approval of the district;

563 (i) To apply, contract for, accept, receive and
564 administer gifts, grants, appropriations, and donations of money,

565 materials, and property of any kind, including loans and grants
566 from the United States, the state, a unit of local government, or
567 any agency, department, authority, or instrumentality of any of
568 the foregoing, upon any terms and conditions as the United States,
569 the state, a unit of local government, or any agency, department,
570 authority, or instrumentality shall impose. The district may
571 administer trusts. The district may sell, lease, transfer,
572 convey, appropriate and pledge any and all of its property and
573 assets;

574 (j) To employ professional and administrative staff and
575 personnel and to retain legal, engineering, fiscal, accounting and
576 other professional services;

577 (k) To assume or continue any contractual or other
578 business relationships entered into by the municipalities or
579 counties who are members of the district, including the rights to
580 receive and acquire transferred rights under option to purchase
581 agreements;

582 (l) To enter on public or private lands, waters, or
583 premises for the purpose of making surveys, borings or soundings,
584 or conducting tests, examinations or inspections for the purposes
585 of the district, subject to responsibility for any damage done to
586 property entered;

587 (m) To do and perform any acts and things authorized by
588 Sections 1 through 22 of this act under, through or by means of
589 its officers, agents and employees, or by contracts with any
590 person; and

591 (n) To do and perform any and all acts or things
592 necessary, convenient or desirable for the purposes of the
593 district, or to carry out any power expressly granted in Sections
594 1 through 22 of this act.

595 SECTION 14. (1) Any regulations or best management
596 practices adopted by the board under this act, shall be no more
597 stringent or extensive in scope, coverage or effect than the

598 regulations and best management practices promulgated or
599 recommended by the United States Environmental Protection Agency.

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

604 SECTION 15. The governing body of a member may exercise the
605 power of eminent domain, upon written request of the board of
606 commissioners, for the particular purpose of the acquisition of
607 property for the district's storm water management system. The
608 power of eminent domain shall be exercised as provided in Chapter
609 27, Title 11, Mississippi Code of 1972.

610 SECTION 16. (1) Any public agency may, in accordance with a
611 duly adopted resolution or ordinance, contract with the district
612 for the district to acquire, construct or provide facilities and
613 projects to be owned by the district for furnishing storm water
614 management and related services to the public agency or to users
615 within the boundaries of the public agency. The public agency
616 shall be obligated to make payments which shall be sufficient to
617 enable the district to meet its expenses, and payments into funds
618 for operation, maintenance and renewals and replacements. The
619 contracts may also contain other terms and conditions as the
620 district and the public agency may determine. Any contract may be
621 for a term covering the life of the facilities or for any other
622 term or for an indefinite period.

623 (2) Contracts may provide for payments in the form of
624 contributions to defray the cost of any purpose set forth in the
625 contracts and as advances for any facilities subject to repayment
626 by the district. A public agency may make those contributions or
627 advances from its general fund, general obligation bond proceeds,
628 or surplus fund or from any monies legally available therefor.
629 The entering into of any contract under this section shall not
630 constitute the incurring of a debt by a public agency within the

631 meaning of any constitutional or statutory limitations on debts of
632 the state or units of local government.

633 SECTION 17. The district may at the direction of the
634 governing bodies of the participating units of local government
635 submit a storm water management plan as required state or federal
636 environmental rules and regulations. The district may also
637 provide services and facilities for implementation of the storm
638 water management plan.

639 SECTION 18. For the purpose of attaining the objectives of
640 Sections 1 through 22 of this act, any public agency may, upon any
641 terms as it may determine, do any of the following:

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

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

648 (3) Do any thing, whether or not specifically
649 authorized in this section, not otherwise prohibited by law, that
650 is necessary or convenient to aid and cooperate with any district
651 in attaining the objectives of Sections 1 through 22 of this act.

652 SECTION 19. The property and revenue of the district shall
653 be exempt from all state, county and municipal taxation.

654 SECTION 20. Within ninety (90) days after the close of each
655 fiscal year, the board of commissioners shall publish in a
656 newspaper of general circulation in the county a sworn statement
657 showing the financial condition of the district. The statement
658 shall also be filed with the governing body of each member of the
659 district.

660 SECTION 21. This act shall not be construed to authorize a
661 district to deny access to the storm water management system or
662 any portion of that system to any person holding a valid water
663 pollution control permit or coverage under a general permit from

664 the Environmental Quality Permit Board.

665 SECTION 22. Sections 1 through 22 of this act, without
666 reference to any other statute, shall be deemed to be full and
667 complete authority for the creation of a district. No proceedings
668 shall be required for the creation of a district other than those
669 provided for and required in this act. All the necessary powers
670 to be exercised by the governing body of a county or municipality
671 and by the board of commissioners of any district, in order to
672 carry out this act, are hereby conferred.

673 SECTION 23. Sections 1 through 22 of this act shall be
674 codified as a new chapter in Title 51, Mississippi Code of 1972.

675 SECTION 24. The Attorney General of the State of Mississippi
676 shall submit this act, immediately upon approval by the Governor,
677 or upon approval by the Legislature subsequent to a veto, to the
678 Attorney General of the United States or to the United States
679 District Court for the District of Columbia in accordance with the
680 provisions of the Voting Rights Act of 1965, as amended and
681 extended.

682 SECTION 25. This act shall take effect and be in force from
683 and after it is effectuated under Section 5 of the Voting Rights
684 Act of 1965, as amended and extended.