

By: Hewes

To: Ports and Marine
Resources; Finance

SENATE BILL NO. 3163

1 AN ACT TO CREATE THE COASTAL STREAMS WATER MANAGEMENT
2 DISTRICT ACT; TO EXPRESS THE FINDINGS OF THE LEGISLATURE; TO
3 DEFINE CERTAIN TERMS; TO SPECIFY THOSE COUNTIES WHICH SHALL BE
4 INCLUDED IN THE DISTRICT; TO PROVIDE FOR A RESOLUTION OF A COUNTY
5 TO BECOME PART OF THE DISTRICT; TO REQUIRE NOTICE AND HEARING ON
6 BEING INCLUDED IN THE DISTRICT; TO AUTHORIZE A REFERENDUM ON BEING
7 INCLUDED IN THE DISTRICT UPON FILING OF A PETITION IN PROTEST; TO
8 AUTHORIZE THE PAYMENT OF COSTS FOR NOTICES AND ELECTIONS; TO
9 PROVIDE FOR AN APPEAL FROM AN ACTION OF THE BOARD OF SUPERVISORS
10 AUTHORIZING A COUNTY TO JOIN THE DISTRICT; TO PROVIDE FOR AN
11 INCORPORATION AGREEMENT AND PUBLICATION OF THAT AGREEMENT; TO
12 AUTHORIZE AMENDMENTS OF THE INCORPORATION AGREEMENT; TO PROVIDE
13 FOR THE APPOINTMENT OF A BOARD OF DIRECTORS OF THE DISTRICT AND
14 FOR THEIR TERMS OR OFFICE AND COMPENSATION; TO AUTHORIZE THE BOARD
15 OF DIRECTORS TO EXERCISE CERTAIN POWERS AND DUTIES; TO REQUIRE
16 SUBMISSION OF PLANS, BUDGETS AND AUDITS; TO PLACE REQUIREMENTS ON
17 CERTAIN CONTRACTS; TO REQUIRE AN AD VALOREM TAX LEVY NOT TO EXCEED
18 ONE (1) MILL IN MOST COUNTIES FOR OPERATIONS OF THE DISTRICT; TO
19 REQUIRE AN AD VALOREM TAX LEVY NOT TO EXCEED ONE-QUARTER (1/4)
20 MILL IN MOST COUNTIES FOR DEBT SERVICE; TO AUTHORIZE THE DISTRICT
21 TO ISSUE BONDS NOT TO EXCEED SEVEN MILLION DOLLARS (\$7,000,000.00)
22 AND TO BORROW FUNDS; TO AUTHORIZE THE DISTRICT TO DESIGNATE
23 DEPOSITORIES; TO AUTHORIZE COUNTIES AND MUNICIPALITIES TO LOAN
24 MONIES TO THE DISTRICT; TO AMEND SECTIONS 51-11-7 AND 51-15-103,
25 IN CONFORMANCE THERETO; AND FOR RELATED PURPOSES.

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

27 SECTION 1. This act shall be known and may be cited as the
28 "Coastal Streams Water Management District Act."

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

30 (a) The waterways and surface waters of the state are
31 among its basic resources;

32 (b) The overflow and surface waters of the state have
33 not been conserved to realize their full beneficial use;

34 (c) The utilization, development, conservation, and
35 regulation of overflow and surface waters are necessary to insure
36 an adequate flood control program and sanitary water supply, to
37 promote the balanced economic development of the state, and to aid

38 in conservation and development of state forests, irrigation of
39 lands needing irrigation, and pollution abatement;

40 (d) The preservation, conservation, storage, and
41 regulation of the waters of the Coastal Streams Water Management
42 District for domestic, municipal, commercial, industrial,
43 agricultural, and manufacturing purposes, for recreational uses,
44 for flood control, timber development, irrigation, and pollution
45 abatement are, as a matter of public policy, for the general
46 welfare of the entire people of the state; and

47 (e) The creation of the Coastal Streams Water
48 Management District is determined to be necessary and essential to
49 the accomplishment of the purposes stated in this section.

50 SECTION 3. Whenever used in Sections 1 through 35 of this
51 act, the following words and phrases shall have the meanings
52 ascribed in this section unless the context clearly indicates
53 otherwise:

54 (a) "Board" means the board of directors of the Coastal
55 Streams Water Management District.

56 (b) "Designated representative" or "incorporator" means
57 the person named by resolution of the board of supervisors of a
58 county as the representative of that county for the purpose of
59 acting on their behalf as an incorporator in concert with other
60 similarly named persons in the creation and incorporation of the
61 Coastal Streams Water Management District.

62 (c) "District" means the Coastal Streams Water
63 Management District.

64 (d) "Facilities" mean any structure, building, channel,
65 improvement, reservoir, works, land, or other real or personal
66 property used or useful in a project.

67 (e) "Incorporation agreement" means that agreement
68 between the designated representatives of the counties setting
69 forth the formal creation of the district.

70 (f) "Member" means a county participating in a
71 district.

72 (g) "Net revenues" mean the revenues after payments of
73 costs and expenses of operation and maintenance of the project and
74 related facilities.

75 (h) "Project" means any activity regarding the
76 preservation, conservation, storage, and regulation of the waters
77 of the Coastal Streams Water Management District for domestic,
78 municipal, commercial, industrial, agricultural, and manufacturing
79 purposes, for recreational uses, for flood control, timber
80 development, irrigation, and pollution abatement.

81 (i) "Revenues" mean all charges, rentals, tolls, rates,
82 gifts, grants, avails of tax levies, monies, and all other funds
83 coming into the possession of the district under Sections 1
84 through 35 of this act, except the proceeds from the sale of bonds
85 issued under Section 20 of this act.

86 (j) "State" means the State of Mississippi.

87 SECTION 4. (1) The Coastal Streams Water Management
88 District shall be organized in this state as provided in Sections
89 1 through 35 of this act.

90 (2) This water management district shall be an agency of the
91 state and a body politic and corporate.

92 (3) The Coastal Streams Water Management District shall be
93 composed of the following counties: George, Hancock, Harrison,
94 Jackson, Pearl River and Stone.

95 SECTION 5. (1) Creation of a the Coastal Streams Water
96 Management District shall be initiated by the adoption of a
97 resolution by the board of supervisors of the counties specified
98 in Section 4 of this act.

99 (2) The resolution shall state: (a) the necessity for the
100 proposed district; (b) the primary function of the proposed
101 district; (c) boundaries of the proposed district; (d) the names
102 of any other counties proposing to be in the district; (e) the
103 date upon which the district is proposed to be created; (f) a
104 general description of any facilities to be constructed or
105 operated and a general plan for the construction and operation of
106 those facilities; (g) the estimated cost of projects to be
107 conducted and maintained by the district; however the estimate

108 shall not serve as a limitation upon the financing of any project;
109 (h) a statement of showing the rate of ad valorem tax which must
110 be levied under Sections 18 and 19 of this act; and (i) the name
111 of designated representative of the county to enter into an
112 incorporation agreement with the other counties.

113 SECTION 6. (1) A certified copy of the adopted resolution
114 shall be published in a newspaper having a general circulation
115 within the county once a week for at least three (3) consecutive
116 weeks before the date of the public hearing. The first
117 publication of the notice shall be made not less than twenty-one
118 (21) days before the date specified, and the last publication
119 shall be made not more than seven (7) days before the date of the
120 public hearing.

121 (2) Following the adoption of a resolution under Section
122 5(2) of this act, the board of supervisors shall fix a time and
123 place for a public hearing upon the question of the whether or not
124 the county should be included in the district. The date fixed for
125 the hearing shall be not more than thirty (30) days after the
126 adoption of the resolution. The time, date and location of the
127 hearing, the proposed boundaries of the district, and the purpose
128 of the hearing shall be set forth in a notice to be signed by the
129 clerk of the board of supervisors of the county. The notice of
130 the public hearing shall be published as provided for publication
131 of the resolution under subsection (1) of this section. The
132 publication of the notice of the public hearing may be made
133 simultaneously with the publication of the resolution under
134 subsection (1) of this section.

135 (3) If, after the public hearing, the board of supervisors
136 finds (a) that the best interest of the county would be served by
137 the county being included in the district, and (b) that the
138 inclusion of the county in the district is economically sound and
139 desirable, then the board of supervisors shall adopt a resolution
140 proposing that the county to become a member of the district

141 effective on a given date. The board of supervisors shall public
142 notice of their adoption of the resolution under this subsection
143 as provided in subsection (1) of this section.

144 (4) If twenty percent (20%) or fifteen hundred (1500),
145 whichever is less, of the qualified electors of the county file a
146 written petition with the board of supervisors before the date
147 specified in the resolution adopted under subsection (3) of this
148 section protesting the inclusion of the county in the district,
149 the board of supervisors shall call an election on the question of
150 the creation of the district. The election shall be held and
151 conducted by the election commissioners of the county as nearly as
152 may be in accordance with the general laws governing elections.
153 All qualified electors of the county may vote in the election.
154 Notice of the election setting forth the time, place or places,
155 and purpose of the election shall be published by the clerk of the
156 board of supervisors. The notice shall be published for the time
157 and in the manner provided in subsection (1) of this section. The
158 ballot to be prepared for and used at the election shall be in
159 substantially the following form:

160 "FOR BEING INCLUDED IN THE COASTAL STREAMS WATER
161 MANAGEMENT DISTRICT: ()

162 AGAINST BEING INCLUDED IN THE COASTAL STREAMS WATER
163 MANAGEMENT DISTRICT: ()."

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

166 SECTION 7. If no petition requiring an election is filed or
167 if three-fifths (3/5) of those voting in the election provided in
168 Section 6 of this act vote in favor of being included in the
169 district, the board of supervisors shall adopt a resolution
170 authorizing the county to become a member of the district.

171 SECTION 8. All costs incident to the publication of the
172 notices, election and all other costs of meeting the requirements
173 of this act shall be paid by the board of supervisors.

174 SECTION 9. Any party having an interest in the subject
175 matter and aggrieved or prejudiced by the findings and
176 adjudication of the board of supervisors may appeal to the circuit
177 court of the county in the manner provided by in Section 11-51-75
178 for appeals from orders of the board of supervisors. However, if
179 no appeal is taken within fifteen (15) days after the date of the
180 adoption of the resolution in Section 7 of this act, the
181 authorization of the county to become a member of the district
182 shall be final and shall not be subject to attack in any court
183 after that time.

184 SECTION 10. (1) The Coastal Streams Water Management
185 District may be created when two-thirds (2/3) of the counties
186 listed in Section 4 of this act have adopted resolutions as
187 provided by Sections 5 through 9 of this act.

188 (2) Within thirty (30) days following the adoption of the
189 final authorizing resolution, the designated representatives shall
190 proceed to incorporate a district by filing for record in the
191 office of the chancery clerk of the participating counties and the
192 Secretary of State an incorporation agreement approved by each
193 member. The agreement shall comply in form and substance with the
194 requirements of this section and shall be executed in the manner
195 provided in Sections 1 through 35 of this act.

196 (3) The incorporation agreement of a district shall state:

197 (a) The name of each participating county and the date
198 on which the boards of supervisors adopted an authorizing
199 resolution;

200 (b) The name of the district which shall be the
201 "Coastal Streams Water Management District;"

202 (c) The location of the principal office of the
203 district which shall be within the boundaries of the members;

204 (d) That the district is organized under Sections 1
205 through 35 of this act;

206 (e) The board setting forth the number of directors and

207 terms of office of each director;

208 (f) If the exercise by the district of any of its
209 powers is to be in any way prohibited, limited or conditioned, a
210 statement of the terms of that prohibition, limitation or
211 condition;

212 (g) Any provisions relating to the vesting of title to
213 its properties upon its dissolution which shall be vested in any
214 member; and

215 (h) Any other related matters relating to the district
216 that the incorporators may choose to insert and that are not
217 inconsistent with Sections 1 through 35 of this act or with the
218 laws of the state.

219 (4) The incorporation agreement shall be signed and
220 acknowledged by the incorporators before an officer authorized by
221 the laws of the state to take acknowledgements. When the
222 incorporation agreement is filed for record, there shall be
223 attached to it a certified copy of the authorizing resolution
224 adopted by the board of supervisors of each member.

225 (5) The incorporators shall publish a notice of
226 incorporation once a week for three (3) consecutive weeks in a
227 daily newspaper or newspapers having general circulation
228 throughout the area to be served.

229 (6) Upon the filing for record of the agreement and the
230 required documents, the district shall come into existence and
231 shall constitute a public corporation under the name set forth in
232 the incorporation agreement. The Secretary of State shall issue a
233 certificate of incorporation to the district.

234 (7) The district shall be a public body corporate and
235 politic constituting a political subdivision of the state and
236 shall be deemed to be acting in all respects for the benefit of
237 the people of the state in the performance of essential public
238 functions and the district shall be empowered in accordance with
239 Sections 1 through 35 of this act to promote the health, welfare

240 and prosperity of the general public.

241 SECTION 11. (1) The incorporation agreement of the district
242 may be amended in the manner provided in this section. The board
243 of the district shall first adopt a resolution proposing an
244 amendment to the incorporation agreement. The amendment shall be
245 set forth in full in the resolution and may include any matters
246 which might have been included in the original incorporation
247 agreement.

248 (2) After the adoption of the resolution by the board, the
249 chairman of the board and the secretary of the district shall file
250 a certified copy of the resolution and a signed written
251 application in the name of and on behalf of the district, under
252 its seal, with the board of supervisors of each member, requesting
253 the board of supervisors to adopt a resolution approving the
254 proposed amendment. As promptly as may be practicable after the
255 filing of the application with the board of supervisors, that
256 board of supervisors shall review the application and shall adopt
257 a resolution either denying the application or authorizing the
258 proposed amendment. Any resolution shall be published in a
259 newspaper or newspapers as provided in Section 6 of this act. The
260 board of supervisors shall cause a copy of the application and all
261 accompanying documents to be spread upon or otherwise made a part
262 of the minutes of the meeting of the board of supervisors at which
263 final action upon the application is taken. The incorporation
264 agreement may be amended only after the adoption of a resolution
265 by two-thirds (2/3) of the boards of supervisors of the members.
266 Publication of the amendment shall be made as provided in Section
267 6 of this act.

268 (3) Within thirty (30) days following the adoption of the
269 last adopted resolution approving the proposed amendment, the
270 chairman of the board and the secretary of the district shall
271 sign, and file for record in the office of the chancery clerk with
272 which the incorporation agreement of the district was originally

273 filed and the Secretary of State, a certificate in the name of and
274 in behalf of the district, under its seal, reciting the adoption
275 of the respective resolutions by the board and by the board of
276 supervisors of each member and setting forth the amendment. The
277 chancery clerk for the county shall record the certificate in an
278 appropriate book in the clerk's office. When the certificate has
279 been so filed and recorded, the amendment shall become effective.

280 No incorporation agreement of an district shall be amended except
281 in the manner provided in this section.

282 SECTION 12. (1) All powers of the district shall be
283 exercised by a board of directors to be composed of the following:

284 (a) Each county in the district shall appoint one (1)
285 board member. The initial term of members shall be as follows:
286 the boards of supervisors of the counties of George and Hancock
287 shall each appoint a member from their respective counties for an
288 initial term of two (2) years; the boards of supervisors of the
289 counties of Harrison and Jackson shall each appoint a member from
290 their respective counties for an initial term of three (3) years;
291 and the boards of supervisors of the counties of Pearl River and
292 Stone shall each appoint a member from their respective counties
293 for an initial term of four (4) years. No person appointed under
294 this paragraph shall be an elected official or a county employee.

295 All appointments made under this paragraph after the initial
296 appointments shall be for terms of four (4) years each or until a
297 successor is appointed and qualified.

298 (b) The Governor shall appoint three (3) board members
299 from the district at large. No more than one (1) appointment may
300 be made by the Governor from any one (1) county in the district.
301 No person appointed under this paragraph shall be an elected
302 official or a county employee. All appointments made under this
303 paragraph shall be for a term of four (4) years each or until a
304 successor is appointed and qualified.

305 (2) Each director shall take and subscribe to the general

306 oath of office required by Section 268 of the Constitution of the
307 State of Mississippi before a chancery clerk, that the person will
308 faithfully discharge the duties of the office. The oath shall be
309 filed with the clerk and preserved by the clerk.

310 (3) Each director shall receive a per diem in the amount
311 established in Section 25-3-69, for attending each day's meeting
312 of the board and for each day spent in attending to the necessary
313 business of the district. In addition, each director may receive
314 reimbursement for actual and necessary expenses incurred as
315 provided in Section 25-3-41, upon express and prior authorization
316 of the board.

317 (4) (a) The board shall annually elect from its number a
318 president and a vice president of the district, and any other
319 officers as the board deems necessary.

320 (b) The president shall be the chief executive officer
321 of the district and the presiding officer of the board, and shall
322 have the same right to vote as any other director.

323 (c) The vice president shall perform all duties and
324 exercise all powers conferred by this article upon the president
325 when the president is absent or fails or declines to act, except
326 the president's right to vote.

327 (d) The board shall also appoint a secretary and a
328 treasurer, who may or may not be members of the board. The board
329 may combine those offices.

330 (e) Except as otherwise provided for in this
331 subsection, the treasurer shall give bond in the sum of not less
332 than Fifty Thousand Dollars (\$50,000.00) as set by the board.
333 Each director may be required to give bond in the sum of not less
334 than Ten Thousand Dollars (\$10,000.00) with sureties qualified to
335 do business in this state. The premium on the surety bonds shall
336 be an expense of the district. The condition of each bond shall
337 be that the treasurer or director will faithfully perform all
338 duties of the office and account for all money or other assets

339 which shall come into his or her custody as treasurer or director
340 of the district. In lieu of the bonds required by this
341 subsection, the board may authorize that the district purchase an
342 equivalent amount of errors and omissions insurance for the
343 treasurer and directors.

344 (5) Each director shall meet with the board of supervisors
345 of the county from which that director is appointed at least twice
346 a year at reasonable times established by the board of
347 supervisors.

348 SECTION 13. (1) The district through its board shall have
349 the following powers and duties:

350 (a) To sue and be sued in its corporate name.

351 (b) To adopt, use and alter an official seal.

352 (c) To make, enforce, amend and repeal bylaws and rules
353 and regulations for the management of its business affairs and for
354 the use, operation and maintenance of any project, facility or
355 property owned or operated by the district.

356 (d) To employ professional and administrative staff and
357 personnel and to retain legal, engineering, financial, accounting
358 and other professional services. The board may employ a general
359 manager or executive director, who shall, at the discretion of the
360 board, have the power to employ and discharge employees.

361 (e) To make contracts and to execute all instruments
362 necessary or convenient to the exercise of the powers, rights,
363 privileges and functions conferred upon the board under Sections 1
364 through 35 of this act, including contracts in the issuance of
365 bonds that may be necessary to ensure the marketability of those
366 bonds. The board may also enter into leases with any person or
367 public agency for any services, facilities or commodities that the
368 project may provide. The district may contract with any person or
369 public agency for the rental, leasing, purchase or operation of
370 the water production, water filtration or purification, water
371 supply and distributing facilities of the person or public agency

372 upon those terms and conditions as the district and the parties
373 may agree. The contract may continue in effect until any bonds
374 specified in the contract and refunding bonds issued in lieu of
375 those bonds and all obligations are paid. Any contract with any
376 public agency shall be binding upon the public agency according to
377 its terms. Any public agency may enter into these contracts, in
378 the discretion of the governing authority of the public agency, to
379 serve the best interest of the public agency. These contracts may
380 include, in the discretion of the governing authority of the
381 public agency, a pledge of the full faith and credit of the public
382 agency for the performance of the contract.

383 (g) To make or cause to be made surveys and engineering
384 investigations relating to the project, or related projects, for
385 the information of the district to facilitate the purposes of this
386 act.

387 (h) To apply for, contract for, accept, receive and
388 administer grants, gifts, appropriations and donations of money,
389 materials and property of any kind, including loans and grants
390 from the United States, the state, a county or municipality or any
391 agency, department, authority or instrumentality of the foregoing,
392 upon those terms and conditions agreed upon between the district
393 and the entity.

394 (i) To develop in conjunction with the U.S. Army Corps
395 of Engineers, U.S. Secretary of Agriculture, or with the head of
396 any other federal or state agency as may be involved, plans for
397 public works of improvement to make navigable or for the
398 prevention of flood water damage, or the conservation,
399 development, recreation, utilization and disposal of water,
400 including the impoundment, diversion, flowage and distribution of
401 waters for beneficial use.

402 (j) To impound overflow water and the surface water of
403 any streams in the district or their tributaries within the
404 project area, inside or outside, the district, at the place or

405 places and in the amount as may be approved by the Department of
406 Environmental Quality, by the construction of a dam or dams,
407 reservoir or reservoirs, work or works, plants and any other
408 necessary or useful related facilities contemplated and described
409 as a part of the project, inside and outside the district, to
410 control, store, and preserve these waters, and to use, distribute,
411 and sell them. The district may construct or otherwise acquire
412 within the project area all works, plants or other facilities
413 necessary or useful to the project for processing the water and
414 transporting it to municipalities and other facilities necessary
415 or useful to the project for the purpose of processing the water
416 and transporting it to municipalities and other facilities for
417 domestic, municipal, commercial, industrial, agricultural and
418 manufacturing purposes. The district is given the power to
419 control open channels for water delivery purposes and water
420 transportation.

421 (k) To acquire and develop any other available water
422 necessary or useful to the project and to construct, acquire, and
423 develop all facilities within the project area deemed necessary or
424 useful with respect to the project.

425 (l) To forest and reforest and to aid in the
426 forestation and reforestation of the project area, and to prevent
427 and aid in the prevention of soil erosion and flooding within the
428 area. The district may control, store and preserve, within the
429 boundaries of the project area, the waters of any streams for
430 irrigation of lands and for prevention of water pollution.

431 (m) (i) To acquire by purchase, lease, gift or in any
432 other manner (otherwise than by condemnation) and to maintain, use
433 and operate all property of any kind, real, personal or mixed, or
434 any interest in that property within the project area, inside or
435 outside the boundaries of the district, necessary for the project
436 and convenient to the exercise of the powers, rights, privileges
437 and functions conferred upon the district by this article.

438 (ii) In the purchase of or in the entering into of
439 all lease purchase agreements for supplies, equipment, heavy
440 equipment and the like, the board shall in all instances comply
441 with laws pertaining to public purchases by public bids on these
442 supplies and equipment.

443 (n) To acquire by condemnation all property of any
444 kind, real, personal or mixed, or any interest therein, inside or
445 outside the boundaries of the district, necessary for the project.

446 The district may exercise of the powers, rights, privileges and
447 functions conferred upon the district by Sections 1 through 35 of
448 this act, according to the procedure provided by law for the
449 condemnation of lands or other property taken for rights-of-way or
450 other purposes by railroad, telephone or telegraph companies and
451 according to the provisions of Section 29-1-1. For the purposes
452 of Sections 1 through 35 of this act, the right of eminent domain
453 of the district shall be superior and dominant to the right of
454 eminent domain of railroad, telegraph, telephone, gas, power and
455 other companies or corporations and shall be sufficient to enable
456 the acquisition of county roads, state highways or other public
457 property in the project area, and the acquisition or relocation of
458 this property in the project area. The cost of right-of-way
459 purchases, rerouting and elevating all other county-maintained
460 roads affected by construction shall be borne by the district.
461 New construction shall be of equal quality as in the existing
462 roads. The county in which the work is done may assist in these
463 costs if the board of supervisors desires.

464 The amount and character of interest in land, other property
465 and easements to be acquired shall be determined by the board.
466 Their determination shall be final and shall not be subject to
467 attack in the absence of manifold abuse of discretion or fraud on
468 the part of the board in making this determination.

469 However,

470 (i) In acquiring lands, either by negotiation or

471 condemnation, the district shall not acquire minerals or royalties
472 within the project area. Sand and gravel shall not be considered
473 as minerals within the meaning of this section.

474 (ii) No person or persons owning the drilling
475 rights or the right to share in production shall be prevented from
476 exploring, developing or producing oil or gas with necessary
477 rights-of-way for ingress and egress, pipelines and other means of
478 transporting these products by reason of the inclusion of the
479 lands or mineral interests within the project area, whether below
480 or above the water line. Any activities shall be under reasonable
481 regulations by the board that will adequately protect the project.

482 (iii) In drilling and developing, these persons
483 are vested with a right to have mineral interests integrated and
484 their lands developed in the drilling unit or units that the state
485 oil and gas board shall establish after due consideration of the
486 rights of all owners to be included in the drilling unit.

487 When any site or plot of land is to be rented, leased or sold
488 to any person for the purpose of operating recreational facilities
489 on that or site for profit, the board shall, by resolution,
490 specify the terms and conditions of the sale, rental or lease, and
491 shall advertise for public bids on the sale, rental or lease.
492 When these bids are received, they shall be publicly opened by the
493 board, and the board shall determine the highest and best bid
494 submitted. The board shall immediately notify the former owner of
495 the site or plot of the amount, terms and conditions of the
496 highest and best bid. The former owner of the site or plot shall
497 have the exclusive right at his or her option, for a period of
498 thirty (30) days after written notice is received by the land
499 owner of the determination of the highest and best bid by the
500 board, to rent, lease or purchase the site or plot of land by
501 meeting the highest and best bid and by complying with all terms
502 and conditions of renting, leasing or sale as specified by the
503 board. The board shall not rent, lease or sell to any former

504 owner more land than was taken from the former owner for the
505 construction of the project, or one-quarter (1/4) mile of shore
506 line, whichever is lesser. If this option is not exercised by the
507 former owner within a period of thirty (30) days, the board shall
508 accept the highest and best bid submitted.

509 Any resident actually living or maintaining a residence on
510 land taken by the district by condemnation shall have the right to
511 repurchase that person's former land from the board for a price
512 not exceeding the price paid for the land, plus any permanent
513 improvements and plus the cost of condemnation.

514 (o) To require the necessary relocation of roads and
515 highways, railroad, telephone and telegraph lines and properties,
516 electric power lines, pipelines, and mains and facilities in the
517 project area. The district may also require the anchoring or
518 other protection of any of these, if due compensation is first
519 paid the owners thereof or agreement is had with the owners
520 regarding the payment of the cost of relocation. The district is
521 hereby may acquire easements or rights-of-way inside or outside of
522 the project area for the relocation of roads, highways, railroad,
523 telephone and telegraph lines and properties, electric power
524 lines, pipelines, and mains and facilities, and convey them to the
525 owners thereof in connection with the relocation as a part of the
526 construction of the project. The board shall not close any public
527 access road to the project existing before the construction of a
528 reservoir unless the board of supervisors of the county in which
529 the road is located agrees.

530 (p) To overflow and inundate any public lands and
531 public property, including sixteenth section lands and in lieu
532 lands, within the project area.

533 (q) To construct, extend, improve, maintain and
534 reconstruct, to cause to be constructed, extended, improved,
535 maintained and reconstructed, and to use and operate all
536 facilities of any kind within the project area necessary or

537 convenient to the project and to the exercise of powers, rights,
538 privileges and functions.

539 (r) To pay for all services in connection with the
540 issuance of bonds as provided in Sections 1 through 35 of this
541 act. The attorney's fee shall not exceed one percent (1%) of the
542 principal amount of these bonds.

543 (s) To fix, charge, collect, maintain and revise rates,
544 fees, tolls and charges for any services, facilities or
545 commodities furnished by the district in connection with the
546 project, and to impose penalties for failure to pay these rates,
547 fees, tolls and charges when due.

548 (t) To operate and maintain within the project area,
549 with the consent of the governing body of public agency located
550 within the district, any works, plants or facilities of any public
551 agency deemed necessary or convenient to the accomplishment of the
552 purposes for which the district is created.

553 (u) To lease, sell or otherwise lawfully dispose of
554 property of any kind, real, personal or mixed, or any interest in
555 that property within the project area or acquired outside the
556 project area as authorized in Sections 1 through 35 of this act,
557 for the purpose of furthering the business of the district,
558 subject to Sections 1 through 35 of this act.

559 (v) When, in the opinion of the board as shown by a
560 resolution duly adopted, it is not necessary for carrying on of
561 the business of the district that the district own any lands
562 acquired, the board shall advertise the lands for sale to the
563 highest and best bidder for cash. The board shall receive and
564 publicly open the bids on the sale of the lands. The board shall,
565 by resolution, determine the highest and best bid submitted for
566 the land and shall after that determination notify the former
567 owner, his or her heirs or devisees, by registered mail of the
568 land to be sold and the highest and best bid received for that
569 sale. The former owner, or his or her heirs or devisees, shall

570 have the exclusive right at their option for a period of thirty
571 (30) days in which to meet the highest and best bid and to
572 purchase the property.

573 (w) To prevent or aid in the prevention of damage to
574 person or property from the any waters of the state as defined in
575 Section 49-17-5 within the district.

576 (x) To do all other acts or things necessary,
577 requisite, or convenient to the exercising of the powers, rights,
578 privileges or functions conferred upon the district under Sections
579 1 through 35 of this act or any other law.

580 (2) The district may establish or otherwise provide for
581 public parks and recreation facilities and for the preservation of
582 fish and wildlife. The district may acquire land by any means,
583 other than by condemnation, except as provided in this section for
584 those purposes, within the project area.

585 SECTION 14. (1) The board shall prepare a five-year plan
586 containing a prioritized list detailing the purposes, goals and
587 projected costs of projects which it intends to implement or is in
588 the process of implementing. The board shall update that plan
589 annually. The board shall file the plan and any updates with the
590 clerk of the board of supervisors of each member and the
591 Department of Environmental Quality before July 15 of each year.

592 (2) (a) Before the fifteenth day of July of each year, the
593 board shall prepare and file with the clerk of the board of
594 supervisors of each member at least two (2) copies of a budget of
595 estimated expenditures for the support, maintenance and operation
596 of the district for the fiscal year commencing on July 1 of the
597 succeeding year. The budget shall be prepared on forms prescribed
598 and provided by the State Auditor and shall contain any
599 information as the State Auditor may require.

600 (b) The board of the district shall notify both the
601 chancery clerk and the president of the board of supervisors of
602 each member in writing of the date and time when any legislative

603 committee will hold any hearing or vote relating to the budget of
604 the district or any other matter affecting the district. The
605 notice shall be served both within ten (10) days of the board's
606 learning of the date and time of any action and not less than five
607 (5) days before the scheduled action.

608 (3) The board shall, after completion of the annual audit of
609 the district and upon receipt of the written report on the audit,
610 file a copy of the report with the clerk of the board of
611 supervisors of each member.

612 SECTION 15. All construction contracts by the district,
613 where the amount of the contract shall exceed Two Thousand Five
614 Hundred Dollars (\$2,500.00), shall be made upon at least three
615 weeks' public notice by advertisement in a newspaper of general
616 circulation in the district. The notice shall state the purpose
617 of the contract and services to be provided under the contract and
618 invite sealed proposals. Before the notice is published, any
619 plans and specifications for the work shall be filed with the
620 secretary of the district. The sealed proposals shall be filed
621 with the secretary of the district. The board shall award the
622 contract to the lowest and best bidder, who will comply with the
623 terms imposed by the board and enter into bond with sufficient
624 sureties, to be approved by the board. Any penalty as shall be
625 fixed by the board, but in no case to be less than the contract
626 price and conditioned for the prompt, proper and efficient
627 performance of the contract.

628 SECTION 16. (1) The board may adopt and promulgate all
629 reasonable regulations to secure, maintain, and preserve the
630 sanitary condition of all water in and to flow into any reservoir
631 owned by the district, to prevent waste of water or the
632 unauthorized use of the water. The board may regulate residence,
633 hunting, fishing, boating, camping, and all recreational and
634 business privileges along or around any reservoir, any body of
635 land, or any easement owned by the district.

636 (2) The district may prescribe reasonable penalties for the
637 violation of any regulation of the district.

638 SECTION 17. The district may obtain through appropriate
639 hearings an appropriation permit or permits from the Environmental
640 Quality Permit Board or a successor agency or board.

641 SECTION 18. (1) In each county of district, so long as
642 funds are found to be necessary for the operation of the district
643 by annual legislative approval of the district budget, the tax
644 collector of the county shall pay into the depository selected by
645 the district an amount to be determined as follows:

646 (a) Each county shall pay a pro rata share, not to
647 exceed the avails of one (1) mill, of the annual district budget
648 (excluding any amount necessary for debt service) based on the
649 proportion that the most recent total assessed valuation of the
650 county bears to the most recent aggregate total assessed valuation
651 of all the counties which comprise the district. However, any
652 county bordering on the Gulf of Mexico which by action of the
653 board of supervisors has created and authorized a port authority
654 and which has been paying into the port authority the avails of a
655 levy of two (2) mills that was established under Section 27-39-3
656 shall pay an amount not to exceed one-tenth of one (1/10) mill of
657 the total assessed valuation of the county to the district under
658 this section. The assessed valuation of that county shall not be
659 considered when calculating each county's pro rata share of the
660 district's budget. The board shall meet in July of each year and
661 upon receipt of the total assessed valuation of the member
662 counties, certified by the Mississippi State Tax Commission,
663 prepare a request to the board of supervisors of member counties
664 to levy a tax using the formula established in this section not to
665 exceed one (1) mill.

666 SECTION 19. The board of supervisors of each county that is
667 a member of the district, shall pay to the district depository a
668 sum not more than is necessary to defray the annual principal and

669 interest due on outstanding indebtedness of the district, not to
670 exceed an amount equal to the avails of one-fourth (1/4) mill of
671 the total assessed valuation of the member county. However, any
672 county bordering on the Gulf of Mexico which by action of the
673 board of supervisors has created and authorized a port authority
674 and which has been paying into the port authority the avails of a
675 levy of two (2) mills that was established under Section 27-39-3
676 shall pay to the district depository an amount not to exceed
677 two-tenths (2/10) mill of the total assessed valuation of the
678 county. The district depository shall place those payments into a
679 special sinking fund out of which monies shall be expended solely
680 to retire bonds and any other indebtedness incurred under Sections
681 1 through 35 of this act. The payments shall be continued as long
682 as there remains unpaid and outstanding any bonded indebtedness
683 created by the district board. Any board of supervisors shall
684 provide the sum required under this section either by
685 appropriation from any available funds of the county or by levy.

686 SECTION 20. The board may borrow money or issue bonds of the
687 district for the purpose of paying the cost of acquiring, owning,
688 constructing, operating, repairing, and maintaining the projects
689 and works specified Sections 1 through 35 of this act, including
690 related facilities and including all financing and financial
691 advisory charges, interest during construction, engineering,
692 architectural, legal, and other expenses incidental to and
693 necessary for the issuance of bonds or for the carrying out of any
694 power conferred by Sections 1 through 35 of this act. The board
695 may borrow money and issue bonds at any times and in any amounts
696 as shall be provided for by resolution of the board, not to exceed
697 the limitation prescribed in Section 26 of this act. All bonds
698 issued by the district shall be secured solely by a pledge of the
699 net revenues which may now or hereafter come to the district, and
700 by the pledge of the avails of the ad valorem tax levy provided
701 for in Section 19 of this act. The bonds shall not constitute

702 general obligations of the state or of the counties comprising the
703 district. The bonds shall not be secured by a pledge of the full
704 faith, credit, and resources of the state or of the counties.
705 Bonds of the district shall not be included in computing any
706 present or future debt limit of any county in the district under
707 any present or future law.

708 SECTION 21. Any bonds provided for under Section 20 of this
709 act shall be negotiable instruments within the meaning of the
710 Uniform Commercial Code of this state, shall be lithographed or
711 engraved and printed in two (2) or more colors to prevent
712 counterfeiting, and shall be in denominations of not less than One
713 Hundred Dollars (\$100.00) nor more than One Thousand Dollars
714 (\$1,000.00). The bonds shall be registered as issued and shall be
715 numbered in a regular series from one (1) upward. Each bond shall
716 specify on its face the purpose for which it was issued and the
717 total amount authorized to be issued. The bond shall be payable
718 to bearer, and the interest to accrue on the bond shall be
719 evidenced by proper coupons to be attached to the bond. The bonds
720 shall not bear a greater overall maximum interest rate to maturity
721 than that allowed in Section 75-17-103. They shall mature
722 annually in any amounts and at any times as shall be provided by
723 the resolution of the board. No bond shall have a longer maturity
724 than twenty-five (25) years. The first maturity date of a bond
725 shall be not more than five (5) years from the date of the bonds.

726 The denomination, form and place or places of payment of the
727 bonds shall be fixed in the resolution of the board. The bonds
728 shall be signed by the president and the secretary of the board
729 with the seal of the district affixed thereto, but the coupons may
730 bear only the facsimile signatures of the president and secretary.

731 All interest accruing on the bonds so issued shall be payable
732 semiannually, except that the first interest coupon attached to
733 any bond may be for a period not exceeding one (1) year.

734 The bonds may be called in, paid and redeemed in inverse

735 numerical order on any interest date before maturity, upon not
736 less than thirty (30) days' notice to the paying agent or agents
737 designated in the bonds, and at any premium as may be designated
738 in the bonds.

739 All bonds shall contain in substance a statement to the
740 effect that they are secured solely by a pledge of the net
741 revenues of the district, including the avails of the tax levy
742 provided for in Section 19 of this act, and that they do not
743 constitute general obligations of the state or of the counties
744 comprising the district. The bonds are not secured by a pledge of
745 the full faith, credit and resources of the state or of any
746 counties.

747 All bonds as provided for in Sections 1 through 35 of this
748 act shall be sold for not less than par value plus accrued
749 interest at public sale in the manner provided by Section
750 31-19-25. No such sale shall be at a price so low as to require
751 the payment of interest on the money received therefor at more
752 than eleven percent (11%) per annum computed with relation to the
753 absolute maturity of the bonds, in accordance with standard tables
754 of bond values, excluding from any computation the amount of any
755 premium to be paid on redemption of any bonds before maturity.

756 Sections 1 through 35 of this act shall be full and complete
757 authority for the issuance of the bonds provided for under those
758 sections, and no restriction or limitation otherwise prescribed by
759 law shall apply to those bonds, except as otherwise provided.

760 Notwithstanding the provisions of this section, bonds issued
761 under Sections 1 through 35 of this act may be issued under the
762 supplemental powers and authorizations conferred by the provisions
763 of the Registered Bond Act, being Sections 31-21-1 through
764 31-21-7.

765 SECTION 22. All bonds issued under Sections 1 through 35 of
766 this act shall be validated as now provided by law of Sections
767 31-13-1 through 31-13-11, Mississippi Code of 1972. The services

768 of the state's bond attorney may be employed in the preparation of
769 any bond resolutions, forms, or proceedings as may be necessary,
770 for which the bond attorney shall be paid a reasonable fee. Any
771 validation proceedings shall be instituted in the chancery court
772 of the county in which the principal office of the district is
773 located, but notice of the validation proceedings shall be
774 published at least two (2) times in a newspaper of general
775 circulation and published in each of the counties comprising the
776 district. The first publication of the notice shall be made at
777 least ten (10) days preceding the date set for the validation.

778 SECTION 23. At the discretion of the board any bonds
779 provided for in Section 20 of this act may be further secured by a
780 trust agreement between the board and a corporate trustee, which
781 may be any trust company or bank having powers of a trust company
782 inside or outside the state. Any trust agreement or any
783 resolution providing for the issuance of the bonds may contain any
784 provisions for protecting and enforcing the rights and remedies of
785 the bondholders as are reasonable and proper and not in violation
786 of law. The trust agreement may contain provision for the
787 issuance of additional bonds for any of the purposes authorized by
788 this article which shall be secured by the revenues pledged under
789 the bonds for the bonds, to the extent provided in the bonds. The
790 trust agreement may include provisions to the effect that if there
791 is any default in the payment of principal or interest on any of
792 the bonds, any court having jurisdiction of the action may appoint
793 a receiver to administer the properties and facilities of the
794 district, including authority to sell or make contracts for the
795 sale of any services, facilities, or commodities of the district
796 or to renew any contracts, subject to the approval of the court
797 appointing the receiver. The receiver may provide for the payment
798 of the bonds outstanding or the payment of operating expenses, and
799 apply the income and revenues to the payment of any bonds and
800 interest on the bonds in accordance with the resolution of the

801 board authorizing the issuance of the bonds and the trust
802 agreement. However, the fee for the services of any corporate
803 trustee shall not exceed the normal charges for acting as paying
804 agent plus any additional amount or amounts allowed by the court
805 as the reasonable value of services rendered by the corporate
806 trustee upon default in the payment of principal and interest on
807 the bonds.

808 SECTION 24. The board may provide by resolution for the
809 issuance of refunding bonds of the district for the purpose of
810 refunding any bonds then outstanding and issued under authority of
811 Sections 1 through 35 of this act, including the payment of any
812 redemption premium on the bonds and any interest accrued or to
813 accrue to the date of redemption of the bonds. The issuance of
814 any refunding bonds, the maturity, and other details thereof, and
815 the rights, duties, and obligations of the board in respect to the
816 bonds shall be governed by Sections 1 through 35 of this act, in
817 so far as they are applicable. In no event shall any bonds mature
818 over a period of time exceeding twenty-five (25) years.

819 SECTION 25. All bonds of the district are declared to be
820 legal and authorized investments for public funds of counties,
821 cities, towns, school districts, banks, savings banks, trust
822 companies, building and loan associations, savings and loan
823 associations, insurance companies, and for funds of the
824 Mississippi Public Employees' Retirement System. The bonds shall
825 be eligible to secure the deposit of all public funds of cities,
826 towns, villages, counties, school districts, or other political
827 corporations or subdivisions of the State of Mississippi. The
828 bonds shall be lawful and sufficient security for any deposits to
829 the extent of their value, when accompanied by all unmatured
830 coupons appurtenant to the bonds.

831 SECTION 26. Bonds and other indebtedness issued or incurred
832 under Sections 1 through 35 of this act shall not exceed Seven
833 Million Dollars (\$7,000,000.00) in principal amount.

834 SECTION 27. The board shall not borrow money or issue bonds
835 of the district unless sixty percent (60%) of the entire
836 membership of the board votes in favor of that action after thirty
837 (30) days' written notice to the chancery clerks and presidents of
838 the boards of supervisors of the members of the date upon which
839 the vote will be taken.

840 SECTION 28. (1) The board shall designate one or more
841 qualified state depositories within the district to serve as
842 depositories for the funds of the district. All funds of the
843 district other than funds required by any trust agreement to be
844 deposited, from time to time, with the trustee or any paying agent
845 for outstanding bonds of the district, shall be deposited in the
846 depository or depositories. Any designated depository shall be
847 eligible to hold funds of the district to the extent that it is
848 qualified as a depository for state funds.

849 (2) Before designating a depository or depositories, the
850 board shall issue a notice stating the time and place the board
851 will meet for the purpose and inviting the qualified state
852 depositories in the district to submit applications to be
853 designated depositories. The term of service for depositories
854 shall be prescribed by the board. A notice shall be published one
855 (1) time in a newspaper or newspapers published in the district
856 and specified by the board.

857 (3) At the time mentioned in the notice, the board shall
858 consider the applications and the management and conditions of the
859 depositories which offer the most favorable terms and conditions
860 for the handling of the funds of the district, and which the board
861 finds have proper management and are in condition to warrant
862 handling of district funds in the manner as provided under the
863 chapter on depositories. Membership on the board of directors of
864 an officer or director of a depository shall not disqualify the
865 depository from being designated as a depository.

866 (4) If no applications acceptable to the board are received

867 by the time stated in the notice, the board shall designate some
868 qualified state depository or depositories within the district
869 upon any terms and conditions as it may find advantageous to the
870 district. Any designated depository shall be eligible to hold
871 funds of the district to the extent that it is qualified as a
872 depository for state funds.

873 SECTION 29. The board may negotiate and contract with the
874 United States of America, or any agency thereof, concerning all
875 lands, easements, and rights of way necessary for the relocation
876 of any federal road, highway, parkway, or for the facilities
877 appurtenant thereto.

878 SECTION 30. The district may act jointly with political
879 subdivisions of the state and agencies, commissions, and
880 instrumentalities thereof, and with the federal government and
881 other agencies thereof in the performance of the purposes and
882 services authorized in Sections 1 through 35 of this act, upon any
883 terms and conditions as may be agreed upon by the directors.

884 SECTION 31. The provisions of any other law, general,
885 special, or local, except as provided in Sections 1 through 35 of
886 this act, shall not limit or restrict the powers granted under
887 Sections 1 through 35 of this act. The district shall not be
888 subject to regulation or control by the public service commission.

889 SECTION 32. The accomplishment of the purposes stated in
890 Sections 1 through 35 of this act are for the benefit of the
891 people of this state and for the improvement of their properties
892 and industries. The district, in carrying out the purposes of
893 Sections 1 through 35 of this act, will be performing an essential
894 public function and shall not be required to pay any tax or
895 assessment on the projects and related facilities or any part
896 thereof. The interest on the bonds issued under Sections 1
897 through 35 of this act shall at all times be free from taxation
898 within this state. The state hereby covenants with the holders of
899 any bonds to be issued under Sections 1 through 35 of this act,

900 that the district shall not be required to pay any taxes or
901 assessments imposed by the state or any of its political
902 subdivisions or taxing districts.

903 SECTION 33. Any municipality or county which is within the
904 territorial limits of the district may advance funds to the
905 district to pay the preliminary expenses, including engineers'
906 reports, organization, or administration expenses, on any terms of
907 repayment as the governing body of the municipality or county
908 shall determine. Notwithstanding the provisions of any law to the
909 contrary, any municipality or county may borrow money for a period
910 not to exceed one (1) year from the date of any borrowing, for the
911 purpose of making any advances. The board may repay any advances
912 from the proceeds of any bonds issued under Sections 1 through 35
913 of this act.

914 SECTION 34. The overflow and inundation of sixteenth section
915 lands or in lieu lands shall not constitute legal waste of those
916 lands. The district shall pay a reasonable rental for the use of
917 any lands to be overflowed. The damages of any overflow shall be
918 determined by the chancery court of the county in which the land
919 is located. Any sixteenth section lands that have been flooded
920 shall be reforested before this project shall ever be abandoned.

921 SECTION 35. Nothing in Sections 1 through 35 of this act
922 shall be construed to violate any provisions of the federal or
923 state constitutions. All acts done under Sections 1 through 35 of
924 this act shall be done in a manner as will conform to the
925 provisions of the federal and state constitutions, whether
926 expressly provided in this act or not. If any procedure under
927 Sections 1 through 35 of this act is held by any court to be
928 violative of either of such constitutions, the district may by
929 resolution provide any alternative procedure conformable with such
930 constitutions. If any provisions of Sections 1 through 35 of this
931 act, shall be invalid, that fact shall not affect the creation of
932 the district or the validity of any other provision of Sections 1

933 through 35 of this act.

934 SECTION 36. Sections 1 through 35 of this act shall be
935 codified as a new chapter in Title 51.

936 SECTION 37. Section 51-11-7, Mississippi Code of 1972, is
937 amended as follows:[CR1]

938 51-11-7. Any county bordering on the Pearl River or any of
939 its tributaries and any county through which the Pearl River or
940 any of its tributaries runs may be included in the district. Each
941 such county shall be considered a part of the Pearl River Basin.
942 The counties within the Pearl River Basin and eligible to become
943 members of the district are as follows: Attala, Copiah, * * *
944 Hinds, Jefferson Davis, Lawrence, Leake, Lincoln, Madison, Marion,
945 Neshoba, * * * Pike, Rankin, Scott, Simpson, Walthall, and
946 Winston.

947 SECTION 38. Section 51-15-103, Mississippi Code of 1972, is
948 amended as follows:[CR2]

949 51-15-103. The Pat Harrison Waterway Commission may
950 hereafter be organized in this state under the provisions of this
951 article, in the manner hereafter provided for. This water
952 management district shall be an agency of the state and a body
953 politic and corporate, and may be composed and is composed of the
954 following counties, to-wit: Clarke, Covington, Forrest, * * *
955 Greene, * * * Jasper, Jones, Lamar, Lauderdale, Newton, Perry,
956 Smith, Stone, and Wayne.

957 SECTION 39. The Attorney General of the State of Mississippi
958 shall submit this act, immediately upon approval by the Governor,
959 or upon approval by the Legislature subsequent to a veto, to the
960 Attorney General of the United States or to the United States
961 District Court for the District of Columbia in accordance with the
962 provisions of the Voting Rights Act of 1965, as amended and
963 extended.

964 SECTION 40. This act shall take effect and be in force from
965 and after it is effectuated under Section 5 of the Voting Rights

966 Act of 1965, as amended and extended.