

By: Kirby

To: Local and Private;
Finance

SENATE BILL NO. 3318
(As Passed the Senate)

1 AN ACT TO AMEND CHAPTER 977, LOCAL AND PRIVATE LAWS OF 1994,
2 TO PROVIDE THAT A METROPOLITAN SEWER AUTHORITY CREATED UNDER SUCH
3 ACT MAY ACQUIRE, CONSTRUCT AND OPERATE WATERWORKS AND WATER SUPPLY
4 SYSTEMS AS WELL AS SEWERAGE SYSTEMS AND SEWAGE DISPOSAL SYSTEMS;
5 TO AUTHORIZE THE ISSUANCE OF REVENUE BONDS FOR SUCH SYSTEMS; TO
6 REVISE THE PROCEDURE FOR THE ISSUANCE OF SUCH REVENUE BONDS BY
7 REMOVING PUBLIC HEARING AND NOTICE REQUIREMENTS AND BY REMOVING
8 THE REQUIREMENT FOR AN ELECTION REGARDING THE ISSUANCE OF SUCH
9 BONDS UNDER CERTAIN CIRCUMSTANCES; TO PROVIDE THAT A METROPOLITAN
10 SEWER AUTHORITY HERETOFORE CREATED UNDER THIS ACT MAY EXERCISE THE
11 POWERS SPECIFIED IN THIS ACT WITHOUT FURTHER JUDICIAL PROCEEDINGS,
12 OTHER THAN JUDICIAL PROCEEDINGS TO EXPAND OR ENLARGE THE
13 METROPOLITAN AREA OF SUCH AUTHORITY; AND FOR RELATED PURPOSES.

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

15 SECTION 1. Chapter 977, Laws of 1994, is amended as follows:

16 Section 1. This act is for the purpose of authorizing a
17 cooperative effort by the Cities of Brandon, Flowood, Pearl,
18 Richland and other eligible municipalities, public agencies and
19 political subdivisions for the acquisition, construction and
20 operation of one or more systems for the collection,
21 transportation, treatment and disposal of waste, and for the
22 collection, transportation, treatment and distribution of water,
23 including sewerage systems, sewage treatment facilities, sewage
24 disposal systems, waterworks and water supply systems, in order to
25 ensure an adequate supply of water for domestic, commercial and
26 industrial use and to prevent and control the pollution of the
27 waters in this state by the creation of a West Rankin Metropolitan
28 Water Supply and Sewer Authority. This act may be cited as the
29 "West Rankin Metropolitan Water Supply and Sewer Authority Act."

30 Section 2. Words and phrases used in this act shall have
31 meanings as follows:

32 (a) "Act" means the West Rankin Metropolitan Water
33 Supply and Sewer Authority Act, as originally enacted or as
34 hereafter amended.

35 (b) "Board of directors" means the board of directors
36 of the West Rankin Metropolitan Water Supply and Sewer Authority.

37 (c) "Bonds" means revenue bonds, interim notes having a
38 maturity of three (3) years or less, and other certificates of
39 indebtedness of the metropolitan authority issued under the
40 provisions of this act.

41 (d) "Member agency" means the City of Brandon, the City
42 of Flowood, the City of Pearl and the City of Richland and any
43 public agency which elects to become a constituent member of the
44 West Rankin Metropolitan Water and Sewer Authority upon its
45 organization or which subsequently elects to become a member of
46 the West Rankin Metropolitan Water and Sewer Authority and which
47 is admitted to the metropolitan * * * authority by affirmative
48 vote of the board of directors of such authority, in accordance
49 with the provisions of Section 3(5) of this act.

50 (e) "Metropolitan area" means all of the area or
51 territory lying within Rankin County, Mississippi, and lying
52 within five (5) miles from any portion of the corporate limits of
53 the City of Brandon, the City of Flowood, the City of Pearl or the
54 City of Richland; provided, however, that the metropolitan area
55 shall not include any area located within the corporate limits of
56 a municipality which is not a member agency.

57 (f) "Metropolitan area plan" means a comprehensive plan
58 for a sewage disposal system within the metropolitan area,
59 consistent with standards established pursuant to applicable
60 federal and state law.

61 (g) "Metropolitan * * * authority" means an authority
62 created pursuant to this act to serve the metropolitan area or a
63 designated portion thereof, as set forth in the decree creating or
64 expanding the metropolitan sewer authority.

65 (h) "Municipality" means any incorporated city or town
66 of the State of Mississippi, whether operating under general law
67 or under special charter, lying wholly or partly within the
68 metropolitan area.

69 (i) "Person" means and includes the State of
70 Mississippi, a municipality as defined herein, any public agency
71 as defined herein or any other city, town or political subdivision
72 or governmental agency of the State of Mississippi or of the
73 United States of America, or any private utility, individual,
74 copartnership, association, firm, trust, estate or any other
75 entity whatsoever.

76 (j) The terms "pollution," * * * and "waters of the
77 state" shall have meanings as set forth in the Mississippi Air and
78 Water Pollution Control Law, as now or hereafter amended,
79 appearing as Section 49-17-1 through Section 49-17-70, Mississippi
80 Code of 1972.

81 (k) "Public agency" means any county, municipality
82 (including the City of Brandon, the City of Flowood and the City
83 of Pearl), lying wholly or partially within the metropolitan area,
84 any state board or commission owning or operating properties
85 within a metropolitan area, a district created pursuant to
86 Sections 51-9-101 through 51-9-163 or Sections 19-5-151 through
87 19-5-257, Mississippi Code of 1972, or any other political
88 subdivision of the State of Mississippi lying wholly or partially
89 within a metropolitan area and having the power to own and operate
90 waterworks, water supply systems, sewerage systems, treatment
91 facilities or sewage disposal systems, or other facilities or
92 systems for the collection, transportation, treatment and disposal
93 of waste.

94 (l) "Sewage disposal system" means a system for
95 disposing of waste, including, but not limited to, sewerage
96 systems and sewage treatment facilities, as such terms are defined
97 herein.

98 (m) "Sewerage system" means pipelines or conduits,
99 canals, pumping stations and force mains, and all other
100 structures, devices, facilities and appliances appurtenant
101 thereto, used for collecting or conducting waste to an ultimate
102 point for treatment or disposal.

103 (n) "Sewage treatment facilities" means any plant,
104 disposal field, lagoon, pumping station, constructing drainage
105 ditch or surface water intercepting ditch, canal, incinerator,
106 area devoted to sanitary landfills or other works not specifically
107 mentioned herein, installed for the purpose of treating,
108 neutralizing, stabilizing or disposing of waste or facilities to
109 provide cooling water to collect, control and dispose of waste
110 heat.

111 (o) "Waste" means sewage, industrial waste, municipal
112 waste, recreational waste and agricultural waste, waste heat and
113 any other waste that may cause impairment of the quality of the
114 waters in the state.

115 (p) "Water supply system" means pipelines, conduits,
116 pumping stations and all other structures, devices and appliances
117 appurtenant thereto, including land and right-of-way thereto, for
118 use for transporting water to a point of ultimate use.

119 (q) "Waterworks" means all works, plants or other
120 facilities necessary for the purpose of collecting, storing,
121 treating and transporting water for domestic, municipal,
122 commercial, industrial, agricultural and manufacturing purposes,
123 including open channels.

124 Section 3. (1) The City of Brandon, the City of Flowood,
125 the City of Pearl, and the City of Richland are authorized to file
126 a joint petition, which may be joined in by any public agency
127 lying wholly or partly within the metropolitan area, for the
128 organization of a metropolitan * * * authority in this state under
129 the provisions of this act in the manner hereinafter provided;
130 and, when so organized, the metropolitan * * * authority shall be

131 a political subdivision of the State of Mississippi, and a body
132 politic and corporate, and shall have the powers granted to a
133 metropolitan * * * authority under the act.

134 (2) A petition for the organization of a metropolitan * * *
135 authority shall be filed in the Chancery Court of Rankin County,
136 which petition shall show the proposed metropolitan area, the
137 proposed member public agencies and the necessity and desirability
138 of the proposed metropolitan * * * authority and shall be signed
139 by duly authorized elected public officials of the municipalities
140 within the proposed metropolitan area joining in filing the
141 petition and the authorized officers of any other public agency
142 joining in the petition. Upon the filing of said petition the
143 chancery clerk shall promptly give written notice of the same to a
144 chancellor of said chancery court who shall enter an order setting
145 a date not less than thirty (30) days from the date of the order
146 for a hearing on the organization of such metropolitan * * *
147 authority. Any public agency not a petitioner and any private
148 utility within the proposed metropolitan area shall be served with
149 process as a party defendant to said petition. The chancery clerk
150 shall cause a notice of such hearing addressed to the taxpayers
151 and qualified electors of the proposed metropolitan area and all
152 other persons interested to be published once a week for at least
153 three (3) successive weeks in a newspaper or newspapers published
154 in Rankin County having a general circulation within the proposed
155 metropolitan area, which notice shall state the date, place and
156 time of such hearing, that a petition has been filed to organize a
157 metropolitan * * * authority under the provisions of this act,
158 describe the proposed metropolitan area, and command that all such
159 persons appear before the chancery court or the chancellor in
160 vacation on the date and hour of the hearing to show cause, if any
161 they can, why the proposed metropolitan * * * authority should not
162 be organized and established as set forth in the said petition.
163 The first publication shall be at least twenty-one (21) days

164 before the date of such hearing and the last publication shall be
165 not more than seven (7) days before the date of such hearing.

166 (3) The chancery court may hear the petition at any term
167 thereof, or the chancellor of said court may fix a time to hear
168 such petition at any time in vacation, and may determine all
169 matters pertaining thereto, may adjourn the hearing from time to
170 time, and may continue the case for want of sufficient notice or
171 other good cause. If said petition shall prove defective in any
172 manner, the petitioners, upon motion, shall be permitted to amend
173 the same. At such hearing, or a day to which the same may be
174 continued, the chancellor shall take evidence and all interested
175 persons objecting to the creation of such metropolitan * * *
176 authority may appear and contest the same. If the chancellor
177 shall find that a sound plan exists for the creation of a
178 metropolitan * * * authority to accomplish the purposes set forth
179 in this act and the same would meet a public necessity, he shall
180 render a decree creating such metropolitan * * * authority under
181 the provisions of this act, specifying in the decree the
182 metropolitan area to be served thereby, which may be less than the
183 area set out in the petition. The chancellor shall not include
184 within the metropolitan area of a proposed metropolitan * * *
185 authority any area lying within the corporate limits of a
186 municipality unless such municipality shall have either joined in
187 the petition or filed a written consent to such inclusion adopted
188 by its governing body. If the chancellor finds that the proposed
189 metropolitan * * * authority should not be organized, then he
190 shall dismiss the proceedings.

191 (4) When so organized, the metropolitan * * * authority
192 shall have the power to sue and be sued, provided that the
193 metropolitan * * * authority shall not be liable and shall be
194 immune from suit at law or in * * * equity on account of any
195 wrongful or tortious act or omission, including libel, slander or
196 defamation, by it, or any such act or omission by any employee of

197 any such metropolitan * * * authority, subject to and in
198 accordance with the provisions of Sections 11-46-1 through
199 11-46-19, Mississippi Code of 1972.

200 (5) If at any time any public agency within the metropolitan
201 area of the duly organized metropolitan * * * authority shall
202 elect to become a member agency of the metropolitan * * *
203 authority by a majority vote of the governing body of such public
204 agency, such public agency may be admitted as a member agency of
205 such metropolitan * * * authority, upon the approval by a
206 three-fifths (3/5) affirmative vote of the total membership of the
207 board of directors of the metropolitan * * * authority and by a
208 concurrent affirmative vote of directors representing sixty
209 percent (60%) of the total payments for use of the sewerage system
210 of the metropolitan * * * authority during the preceding fiscal
211 year.

212 (6) The metropolitan area of the metropolitan * * *
213 authority may be expanded or enlarged at any time by decree of the
214 Chancery Court of Rankin County, if the chancellor shall render a
215 decree finding that the public necessity requires such expansion
216 after timely publication of notice and a hearing held before the
217 chancellor in the manner provided in this section.

218 Section 4. All powers of the metropolitan * * * authority
219 shall be exercised by a board of directors to be selected and
220 composed as follows: The governing body of each member agency
221 shall appoint one (1) person to serve on the board of directors of
222 the metropolitan * * * authority, each such director to serve at
223 the pleasure of the respective governing body.

224 The board of directors of the metropolitan * * * authority
225 shall annually elect from its number a president and vice
226 president of the metropolitan authority and such other officers
227 as, in the judgment of the board, are necessary. The president
228 shall be the chief executive officer of the metropolitan * * *
229 authority and the presiding officer of the board, and shall have

230 the same right to vote as any other director. The vice president
231 shall perform all duties and exercise all powers conferred by this
232 act upon the president when the president is absent or fails or
233 declines to act, except the president's right to vote. The board
234 shall also appoint a secretary and a treasurer who may or may not
235 be members of the board, and it may combine those officers. The
236 treasurer shall give bond in the sum of not less than Fifty
237 Thousand Dollars (\$50,000.00) as set by the board of directors,
238 and each director may be required to give bond in the sum of not
239 less than Ten Thousand Dollars (\$10,000.00), with sureties
240 qualified to do business in this state, and the premiums on said
241 bonds shall be an expense of such metropolitan * * * authority.
242 Each such bond shall be payable to the State of Mississippi; the
243 condition of each such bond shall be that the treasurer or
244 director will faithfully perform all duties of his office and
245 account for all money or other assets which shall come into his
246 custody as treasurer or director of such metropolitan * * *
247 authority.

248 Except for the election or appointment of officers, all
249 business of the metropolitan * * * authority shall be transacted
250 by a three-fifths (3/5) affirmative vote of the total membership
251 of the board of directors and, if the authority shall own or
252 operate a sewerage system, by a concurrent vote of directors
253 representing sixty percent (60%) of the total payments for use of
254 the sewerage system of the metropolitan * * * authority during the
255 preceding fiscal year. The quorum for any meeting of the board of
256 directors shall be three-fifths (3/5) of the total membership of
257 the board of directors and, if the authority shall own or operate
258 a sewerage system, the presence of directors representing more
259 than sixty percent (60%) of the total payments for use of the
260 sewerage system of the metropolitan * * * authority during the
261 preceding fiscal year.

262 Section 5. The metropolitan * * * authority is authorized

263 and empowered to acquire * * * , construct, improve, enlarge,
264 extend, repair, operate and maintain one or more waterworks, water
265 supply systems, sewerage systems or sewage disposal systems and to
266 make contracts with any person in furtherance thereof; and to make
267 contracts with any public agency, under the terms of which the
268 metropolitan * * * authority will, within its designated
269 metropolitan area, provide water to or accept, transport, treat or
270 dispose of waste for such public agency. A metropolitan
271 authority may also enter into contracts with any person to design
272 and construct any water supply system, waterworks or any waste
273 collection, transportation, treatment or sewage disposal
274 facilities or systems and thereafter * * * purchase, lease or
275 sell, by installments over such terms as may be deemed desirable,
276 or otherwise, any such system. The metropolitan * * * authority
277 is also authorized to enter into operating agreements with any
278 person, for such terms and upon such conditions as may be deemed
279 desirable, for the operation of any water supply system,
280 waterworks, or any waste collection, transportation, treatment or
281 sewage disposal facilities or systems; and the metropolitan * * *
282 authority may lease to or from any person, for such term and upon
283 such conditions as may be deemed desirable, any waterworks, water
284 supply systems or any waste collection, transportation, treatment
285 or sewage disposal facilities or systems. Any such contract may
286 contain provisions requiring any public agency or other person to
287 regulate the quality and strength of waste to be handled by the
288 sewage disposal system and may also provide that a
289 metropolitan * * * authority shall have the right to use any
290 streets, alleys and public ways and places within the jurisdiction
291 of a public agency * * * during the term of the contract. Any
292 provision of this act to the contrary notwithstanding, the
293 metropolitan * * * authority shall not become the owner of any
294 existing sewage disposal system unless all municipalities or other
295 public agencies currently utilizing such system or any portion

296 thereof, including the City of Richland, are offered access to
297 such sewage disposal system on terms not less favorable than the
298 terms contained in contracts with the City of Jackson in existence
299 prior to acquisition of such ownership. The City of Richland
300 shall have access to such system on terms not less favorable than
301 the terms contained in the contract between the Richland Water and
302 Sewer District (now the City of Richland) and the City of Jackson
303 dated the 21st day of February, 1975, as interpreted by the
304 Circuit Court of Rankin County in Cause No. 14,141; provided,
305 however, that the City of Richland will also pay its
306 proportionate share of the operation, maintenance and debt service
307 of the West Rankin Pumping Station, beginning at such time as such
308 system is acquired by the metropolitan * * * authority.

309 Section 6. The metropolitan * * * authority, through its
310 board of directors, in addition to any and all powers now or
311 hereafter granted to it, is hereby empowered:

312 (a) To develop and maintain long-range planning for
313 collection treatment and distribution of water and for the
314 collection, transportation, treatment and disposal or waste and
315 for pollution abatement.

316 (b) To acquire * * * and to own, maintain, use, operate
317 and convey or otherwise dispose of any and all property of any
318 kind, real, personal or mixed, or any interest therein within or
319 without the boundaries of its designated metropolitan area
320 necessary or convenient to the exercise of the purposes of and the
321 powers granted by Section 21-27-7 and Sections 21-27-161 through
322 21-27-191 unless any of the foregoing is otherwise prohibited
323 under the Constitution or this act. * * * The amount and
324 character of interest in land, other property, and easements thus
325 to be acquired shall be determined by the board of directors, and
326 their determination shall be conclusive and shall not be subject
327 to attack in the absence of manifold abuse of discretion or fraud
328 on the part of such board in making such determination. However,

329 (i) In acquiring lands, * * * a metropolitan * * *
330 authority shall not acquire minerals or royalties; provided that
331 sand and gravel shall not be considered as minerals within the
332 meaning of this section; and

333 (ii) No person or persons owning the drilling
334 rights or the right to share in production shall be prevented from
335 exploring, developing or producing oil or gas with necessary
336 rights-of-way for ingress and egress, pipelines and other means of
337 transporting interests on any land or interest thereon of any
338 metropolitan * * * authority held or used for the purposes of this
339 act; but any such activities shall be under such reasonable
340 regulations by the board of directors as will adequately protect
341 the waterworks, water supply system and sewage disposal system of
342 any such metropolitan * * * authority contemplated by this act.

343 (c) To require the necessary relocation or re-routing
344 of roads and highways, railroad, telephone and telegraph lines and
345 properties, electric power lines, gas pipe lines and related
346 facilities, or to require the anchoring or other protection of any
347 of these, provided due compensation is first paid to the owners
348 thereof or agreement is had with such owners regarding the payment
349 of the cost of such relocation, and to acquire easements or
350 rights-of-way for such relocation or re-routing and to convey the
351 same to the owners of the property being relocated or re-routed in
352 connection with the purpose of this act.

353 (d) To enter into contracts with any * * * public
354 agency, including, but not limited to, contracts authorized by
355 Section 7 of this act, in furtherance of any of the purposes
356 authorized by this act upon such consideration as the board of
357 directors and such person may agree. Any such contract may extend
358 over any period of time, notwithstanding any provision or rule of
359 law to the contrary, may be upon such terms as the parties thereto
360 shall agree, and may provide that it shall continue in effect
361 until bonds specified therein, refunding bonds issued in lieu of

362 such bonds, and all other obligations specified therein are paid
363 or terminated. Any such contract shall be binding upon the
364 parties thereto according to its terms.

365 (e) To make and enforce, and from time to time amend
366 and repeal, bylaws and rules and regulations for the management of
367 its business and affairs and for the construction, use,
368 maintenance and operation of any waterworks, water supply systems
369 and sewage disposal systems under its management and control and
370 any other of its properties.

371 (f) To employ staff and other personnel, including
372 attorneys, engineers and consultants. The board of directors may,
373 in its discretion, employ a general manager having the authority
374 to employ and fire employees of the metropolitan * * * authority.

375 (g) To accept and utilize grants and other funds from
376 any source for waterworks, water supply systems and sewage
377 disposal systems.

378 (h) To establish and maintain rates and charges for the
379 use of the services of such waterworks, water supply systems,
380 sewerage systems, * * * treatment facilities and sewage disposal
381 systems * * *, and from time to time to adjust such rates, to the
382 end that the revenues therefrom will be sufficient at all times to
383 pay the expenses of operating and maintaining such works,
384 facilities and systems and all of the metropolitan authority's
385 obligations under any contract or bond resolution with respect
386 thereto.

387 (i) To adopt rules and regulations necessary to carry
388 out the implementation of the metropolitan area plan and to assure
389 the payment by each participating * * * public agency of its
390 proportionate share of treatment costs.

391 (j) To refuse to receive waste from any public agency
392 or subdivision thereof not currently using any sewerage system
393 which may be acquired by the metropolitan * * * authority or any
394 other person that does not comply with the provisions of the

395 metropolitan area plan applicable to the particular area within
396 which such public agency or subdivision thereof or any other
397 person is located.

398 (k) To accept industrial waste for treatment and to
399 require the pretreatment of same when within the opinion of such
400 metropolitan * * * authority such pretreatment is necessary.

401 (l) To adopt all necessary and reasonable rules and
402 regulations to carry out and effectuate any water supply, waste
403 treatment or waste disposal plan adopted for the metropolitan
404 area, as contractually authorized.

405 (m) So long as any indebtedness on any sewerage system,
406 treatment facilities and sewage disposal of the metropolitan * * *
407 authority remains outstanding, to require by contract with a
408 public agency or other person that all waste within the
409 metropolitan area be disposed of through sewerage systems,
410 treatment facilities and sewage disposal systems which comprise a
411 part of the metropolitan area plan, to the extent that the same
412 may be available, but no public agency shall be precluded from
413 constructing, operating and maintaining its own sewerage system
414 after the current indebtedness owing on the system as of the
415 effective date of this act is paid in full.

416 Section 7. Any public agency may, pursuant to a duly adopted
417 resolution of the governing authority of such public agency, enter
418 into contracts with the metropolitan * * * authority under the
419 terms of which the metropolitan * * * authority will collect,
420 within its designated metropolitan area, * * * and transport,
421 treat or dispose of waste for such * * * public agency. Any
422 public agency may also, pursuant to a duly adopted resolution of
423 the governing authority of such public agency, enter into
424 contracts with the metropolitan * * * authority under the terms of
425 which the metropolitan authority will collect, store, treat and
426 distribute water for such public agency. Any public agency may
427 also enter into contracts with the metropolitan authority for the

428 metropolitan authority to purchase or sell, by installments over
429 such terms as may be deemed desirable, or otherwise, * * * any
430 waterworks, water supply systems, waste collection,
431 transportation, treatment or sewage disposal facilities or
432 systems. Any public agency is also authorized to enter into
433 operating agreements with the metropolitan * * * authority, for
434 such terms and upon such conditions as may be deemed desirable,
435 for the operation of waterworks, water supply systems, waste
436 collection, transportation, treatment or sewage disposal
437 facilities or systems * * * by such metropolitan * * * authority
438 or by any person contracting with the metropolitan * * * authority
439 to operate such systems; and any public agency may lease to or
440 from the metropolitan * * * authority, for such term and upon such
441 conditions as may be deemed desirable, any waterworks, water
442 supply systems, waste collection, transportation, treatment or
443 sewage disposal facilities or systems. Any such contract may
444 contain provisions requiring any public agency * * * to regulate
445 the quality and strength of waste to be handled by the sewage
446 disposal system and may also provide that such metropolitan * * *
447 authority shall have the right to use any streets, alleys and
448 public ways and places within the jurisdiction of a public
449 agency * * * during the term of the contract for its water supply
450 or sewerage system. Such contracts may obligate the public agency
451 to make payments to such metropolitan * * * authority or to a
452 trustee in amounts which shall be sufficient to enable such
453 metropolitan * * * authority to defray the expenses of
454 administering, operating and maintaining its waterworks, water
455 supply system and sewage disposal system, to pay interest and
456 principal (whether at maturity upon redemption or otherwise) on
457 bonds of such metropolitan * * * authority issued pursuant to this
458 act and to fund reserves for debt service, for operation and
459 maintenance and for renewals and replacements, and to fulfill the
460 requirements of any rate covenant with respect to debt service

461 coverage contained in any resolution, trust indenture or other
462 security agreement relating to the bonds of such
463 metropolitan * * * authority issued pursuant to this act. Any
464 public agency shall have the power to enter into such contracts
465 with the metropolitan * * * authority as in the discretion of the
466 governing authorities thereof would be in the best interest of
467 such public agency. Such contracts may include a pledge of the
468 full faith and credit of such public agency and/or the avails of
469 any special assessments made by such public agency against
470 property receiving benefits, as now or hereafter provided by law.
471 Any such contract may provide for the sale or lease to or use of
472 by such metropolitan * * * authority of any waterworks, water
473 supply system or sewage disposal system or any part thereof of the
474 public agency; may provide that such metropolitan * * * authority
475 shall operate any waterworks, water supply system or sewage
476 disposal system or any part thereof of the public agency; may
477 provide that any public agency shall have the right to continued
478 use and/or priority use of its waterworks, water supply system or
479 sewage disposal system or any part thereof during the useful life
480 thereof upon payment of reasonable charges therefor; may contain
481 provisions to assure equitable treatment of * * * public agencies
482 who contract with such metropolitan * * * authority pursuant to
483 this act; and may contain such other provisions and requirements
484 as the parties thereto may determine to be appropriate or
485 necessary. Such contracts may extend over any period of time,
486 notwithstanding any provisions of law to the contrary, and may
487 extend beyond the life of the waterworks, water supply system or
488 sewage disposal system or any part thereof or the term of any
489 bonds sold with respect to such facilities or improvements
490 thereto.

491 (2) The obligations of a public agency arising under the
492 terms of any contract referred to in this act, whether or not
493 payable solely from a pledge of revenues, shall not be included

494 within the indebtedness limitations of the public agency for
495 purposes of any constitutional or statutory limitation or
496 provision. To the extent provided in such contract and to the
497 extent such obligations of the public agency are payable wholly or
498 in part from the revenues and other monies derived by the public
499 agency from the operation of its waterworks, water supply system,
500 sewerage system or sewage disposal system or of its combined
501 waterworks, water supply and sewage system or any part thereof,
502 such obligations shall be treated as expenses of operating such
503 systems.

504 (3) Contracts referred to in this section may also provide
505 for payments in the form of contributions to defray the cost of
506 any purpose set forth in the contracts and as advances for the
507 waterworks, water supply system, sewerage system or sewage
508 disposal system or any part thereof subject to repayment by a
509 metropolitan * * * authority. A public agency may make such
510 contributions or advances from its general fund or surplus fund or
511 from special assessments or from any monies legally available
512 therefor.

513 (4) Payments made or to be made to any metropolitan * * *
514 authority by a public agency * * * pursuant to a contract for any
515 waterworks, water supply system or sewage disposal system or any
516 part thereof shall not be subject to approval or review by the
517 Mississippi Public Service Commission.

518 (5) Subject to the terms of a contract or contracts referred
519 to in this act, any metropolitan * * * authority is hereby
520 authorized to do and perform any and all acts or things necessary,
521 convenient or desirable to carry out the purposes of such
522 contracts, including the fixing, charging, collecting, maintaining
523 and revising of rates, fees and other charges for the services
524 rendered to any public agency using any waterworks, water supply
525 system or sewage disposal system operated or maintained by a
526 metropolitan * * * authority, whether or not such systems are

527 owned by such metropolitan * * * authority.

528 (6) No provision of this act shall be construed to prohibit
529 any public agency, otherwise permitted by law to issue bonds, from
530 issuing bonds in the manner provided by law for the construction,
531 renovation, repair or development of a waterworks, water supply
532 system or a sewage disposal system or any part thereof owned or
533 operated by such public agency.

534 Section 8. Whenever a public agency shall have executed a
535 contract pursuant to this act and the payments thereunder are to
536 be made either wholly or partly from the revenues of the public
537 agency's * * * waterworks, water supply system, sewage disposal
538 system or any part thereof or a combination of such systems, the
539 duty is hereby imposed on the public agency to establish and
540 maintain and from time to time to adjust the rates charged by the
541 public agency for the services of such system or systems, such
542 that the revenues therefrom together with any taxes and special
543 assessments levied in support thereof will be sufficient at all
544 times to pay: (a) the expense of operating and maintaining such
545 system or systems including all of the public agency's obligations
546 to such metropolitan * * * authority, its successors or assigns
547 under such contract; and (b) all of the public agency's
548 obligations under and in connection with revenue bonds theretofore
549 issued, or which may be issued thereafter and secured by the
550 revenues of such system or systems. Any such contract may require
551 the use of consulting engineers and financial experts to advise
552 the public agency whether and when such rates are to be adjusted.

553 Section 9. (1) The metropolitan * * * authority shall have
554 the power and is hereby authorized, from time to time, to borrow
555 money and to issue revenue bonds without an election on the
556 question of the issuance thereof in such principal amounts as such
557 metropolitan * * * authority may determine to be necessary to
558 provide sufficient funds for achieving one or more of the purposes
559 of this act, including, without limiting the generality of the

560 foregoing, to defray the cost of the acquisition * * *,
561 construction, improvement, repair or extension of a waterworks,
562 water supply system or sewage disposal system * * *, or any part
563 thereof, whether or not such facilities are owned by such
564 metropolitan * * * authority, the payment of interest during
565 construction on bonds of such metropolitan * * * authority issued
566 pursuant to this act, establishment of reserves to secure such
567 bonds and payment of the interest thereon, expenses incident to
568 the issuance of such bonds and to the implementation of such
569 metropolitan * * * authority's waterworks, water supply system or
570 sewage disposal system, and all other expenditures of the
571 metropolitan * * * authority incident to or necessary or
572 convenient to carry out the purposes of this act.

573 * * *

574 (2) Bonds of any metropolitan * * * authority issued
575 pursuant to this act shall be payable from and secured by a pledge
576 of all or any part of the revenues under one or more entered into
577 pursuant to this act between the metropolitan authority and one or
578 more of its member public agencies and from all or any part of the
579 revenues derived from the operation of any designated waterworks,
580 water supply system or sewage disposal system or any part or parts
581 thereof and any other monies legally available and designated
582 therefor, as may be determined by such metropolitan * * *
583 authority, subject only to any agreement with the purchasers of
584 the bonds. Such bonds may be further secured by a trust indenture
585 between such metropolitan * * * authority and a corporate trustee,
586 which may be any trust company or bank having powers of a trust
587 company without or within the state.

588 (3) Bonds of the metropolitan * * * authority issued
589 pursuant to this act shall be authorized by a resolution or
590 resolutions adopted by a three-fifths (3/5) affirmative vote of
591 the total membership of the board of directors of the
592 metropolitan * * * authority and (if the authority shall own or

593 operate a sewerage system) by a concurrent affirmative vote of
594 directors representing sixty percent (60%) of the total payments
595 for use of the sewerage system of the metropolitan * * * authority
596 during the preceding fiscal year. Such bonds may be issued in
597 series, and each series of such bonds shall bear such date or
598 dates, mature at such time or times, bear interest at such rate or
599 rates (not exceeding the maximum rate set out in Section
600 75-17-103, Mississippi Code of 1972, as amended), be in such
601 denomination or denominations, be in such form, carry such
602 conversion privileges, have such rank or priority, be executed in
603 such manner and by such officers, be payable from such sources in
604 such medium of payment at such place or places within or without
605 the state, provided that one (1) such place shall be within the
606 state, and be subject to such terms of redemption prior to
607 maturity, all as may be provided by resolution or resolutions of
608 the board of directors.

609 (4) Bonds of the metropolitan * * * authority issued
610 pursuant to this act may be sold at such price or prices, at
611 public or private sale, in such manner and at such times as may be
612 determined by such metropolitan * * * authority to be in the
613 public interest, and such metropolitan * * * authority may pay all
614 expenses, premiums, fees and commissions which it may deem
615 necessary and advantageous in connection with the issuance and
616 sale thereof.

617 (5) Any pledge of earnings, revenues or other monies made by
618 the metropolitan * * * authority shall be valid and binding from
619 the time the pledge is made. The earnings, revenues or other
620 monies so pledged and thereafter received by such
621 metropolitan * * * authority shall immediately be subject to the
622 lien of such pledge without any physical delivery thereof or
623 further act, and the lien of any such pledge shall be valid and
624 binding as against all parties having claims of any kind in tort,
625 contract or otherwise against such metropolitan * * * authority

626 irrespective of whether such parties have notice thereof. Neither
627 the resolution nor any other instrument by which a pledge is
628 created need be recorded.

629 (6) Neither the members of the board of directors nor any
630 person executing the bonds shall be personally liable on the bonds
631 or be subject to any personal liability or accountability by
632 reason of the issuance thereof.

633 (7) Proceeds from the sale of bonds of the
634 metropolitan * * * authority may be invested, pending their use,
635 in such securities as may be specified in the resolution
636 authorizing the issuance of the bonds or the trust indenture
637 securing them, and the earnings on such investments applied as
638 provided in such resolution or trust indenture.

639 (8) Whenever any bonds shall have been signed by the
640 officer(s) designated by the resolution of the board of directors
641 to sign the bonds who were in office at the time of such signing
642 but who may have ceased to be such officer(s) prior to the sale
643 and delivery of such bonds, or who may not have been in office on
644 the date such bonds may bear, the manual or facsimile signatures
645 of such officer(s) upon such bonds shall nevertheless be valid and
646 sufficient for all purposes and have the same effect as if the
647 person so officially executing such bonds had remained in office
648 until the delivery of the same to the purchaser or had been in
649 office on the date such bonds may bear.

650 Section 10. The metropolitan * * * authority may by
651 resolution adopted by its board of directors issue refunding bonds
652 for the purpose of paying any of its bonds at or prior to maturity
653 or upon acceleration or redemption. Refunding bonds may be issued
654 at such time prior to the maturity or redemption of the refunded
655 bonds as the board of directors deems to be in the public
656 interest, without an election on the question of the issuance
657 thereof. The refunding bonds may be issued in sufficient amounts
658 to pay or provide the principal of the bonds being refunded,

659 together with any redemption premium thereon, any interest accrued
660 or to accrue to the date of payment of such bonds, the expenses of
661 issue of the refunding bonds, the expenses of redeeming the bonds
662 being refunded, and such reserves for debt service or other
663 capital or current expenses from the proceeds of such refunding
664 bonds as may be required by the resolution, trust indenture or
665 other security instruments. The issue of refunding bonds, the
666 maturities and other details thereof, the security therefor, the
667 rights of the holders and the rights, duties and obligations of a
668 metropolitan * * * authority in respect of the same shall be
669 governed by the provisions of this act relating to the issue of
670 bonds other than refunding bonds insofar as the same may be
671 applicable. Any such refunding may be effected, whether the
672 obligations to be refunded shall have then matured or shall
673 thereafter mature, either by the exchange of the refunding bonds
674 for the obligations to be refunded thereby with the consent of the
675 holders of the obligations so to be refunded, or by sale of the
676 refunding bonds and the application of the proceeds thereof to the
677 payment of the obligations proposed to be refunded thereby, and
678 regardless of whether the obligations proposed to be refunded
679 shall be payable on the same date or different dates or shall be
680 due serially or otherwise.

681 Section 11. All bonds (other than refunding bonds, interim
682 notes and certificates of indebtedness, which may be validated)
683 issued pursuant to this act shall be validated as now provided by
684 law in Sections 31-13-1 through 31-13-11, Mississippi Code of
685 1972; provided, however, that notice of such validation
686 proceedings shall be addressed to the citizens of the State of
687 Mississippi and the citizens of the respective member agencies (a)
688 which have contracted with the metropolitan * * * authority
689 pursuant to this act, and (b) whose contracts and the payments to
690 be made by the public agencies thereunder constitute security for
691 the bonds of such metropolitan * * * authority proposed to be

692 issued, and that such notice shall be published at least once in a
693 newspaper or newspapers having a general circulation within the
694 geographical boundaries of each of the member agencies to whose
695 citizens the notice is addressed and within the State of
696 Mississippi. Such validation proceedings shall be instituted in
697 the Chancery Court of Rankin County. The validity of the bonds so
698 validated and of the contracts and payments to be made by the
699 public agencies thereunder constituting security for the bonds
700 shall be forever conclusive against such metropolitan * * *
701 authority and the public agencies which are parties to said
702 contracts; and the validity of said bonds and said contracts and
703 the payments to be made thereunder shall never be called in
704 question in any court in this state.

705 Section 12. Bonds issued under the provisions of this act
706 shall not be deemed to constitute, within the meaning of any
707 constitutional or statutory limitation, an indebtedness of the
708 metropolitan authority or any member agency thereof. Such bonds
709 shall not be secured by a pledge of the full faith and credit of
710 the State of Mississippi, the metropolitan authority or any member
711 agency thereof, but shall be payable solely from the revenues or
712 assets of the metropolitan * * * authority pledged therefor. Each
713 bond issued under this act shall contain on the face thereof a
714 statement to the effect that such metropolitan * * * authority
715 shall not be obligated to pay the same nor the interest thereon
716 except from the revenues or assets pledged therefor.

717 Section 13. The metropolitan * * * authority shall have
718 power in connection with the issuance of its bonds to:

719 (a) Covenant as to the use of any or all of its
720 property, real or personal.

721 (b) Redeem the bonds, to covenant for their redemption
722 and to provide the terms and conditions thereof.

723 (c) Covenant to charge rates, fees and charges
724 sufficient to meet operating and maintenance expenses, renewals

725 and replacements, principal and debt service on bonds, creation
726 and maintenance of any reserves required by a bond resolution,
727 trust indenture or other security instrument and to provide for
728 any margins or coverages over and above debt service on the bonds
729 deemed desirable for the marketability of the bonds.

730 (d) Covenant and prescribe as to events of default and
731 terms and conditions upon which any or all of its bonds shall
732 become or may be declared due before maturity, as to the terms and
733 conditions upon which such declaration and its consequences may be
734 waived and as to the consequences of default and the remedies of
735 the registered owners of the bonds.

736 (e) Covenant as to the mortgage or pledge of or the
737 grant of a security interest in any real or personal property and
738 all or any part of the revenues from any designated waterworks,
739 water supply system or sewage disposal systems or any part thereof
740 or any revenue-producing contract or contracts made by such
741 metropolitan * * * authority with any person to secure the payment
742 of bonds, subject to such agreements with the registered owners of
743 bonds as may then exist.

744 (f) Covenant as to the custody, collection, securing,
745 investment and payment of any revenues, assets, monies, funds or
746 property with respect to which such metropolitan * * * authority
747 may have any rights or interest.

748 (g) Covenant as to the purposes to which the proceeds
749 from the sale of any bonds then or thereafter to be issued may be
750 applied, and the pledge of such proceeds to secure the payment of
751 the bonds.

752 (h) Covenant as to the limitations on the issuance of
753 any additional bonds, the terms upon which additional bonds may be
754 issued and secured, and the refunding of outstanding bonds.

755 (i) Covenant as to the rank or priority of any bonds
756 with respect to any lien or security.

757 (j) Covenant as to the procedure by which the terms of

758 any contract with or for the benefit of the registered owners of
759 bonds may be amended or abrogated, the amount of bonds the
760 registered owners of which must consent thereto, and the manner in
761 which such consent may be given.

762 (k) Covenant as to the custody of any of its properties
763 or investments, the safekeeping thereof, the insurance to be
764 carried thereon, and the use and disposition of insurance
765 proceeds.

766 (l) Covenant as to the vesting in a trustee or
767 trustees, within or outside the state, of such properties, rights,
768 powers and duties in trust as such metropolitan * * * authority
769 may determine.

770 (m) Covenant as to the appointing and providing for the
771 duties and obligations of a paying agent or paying agents or other
772 fiduciaries within or outside the state.

773 (n) Make all other covenants and to do any and all such
774 acts and things as may be necessary or convenient or desirable in
775 order to secure its bonds, or in the absolute discretion of the
776 metropolitan authority tend to make the bonds more marketable,
777 notwithstanding that such covenants, acts or things may not be
778 enumerated herein; it being the intention hereof to give any
779 metropolitan * * * authority power to do all things in the
780 issuance of bonds and in the provisions for security thereof which
781 are not inconsistent with the Constitution of the state.

782 (o) Execute all instruments necessary or convenient in
783 the exercise of the powers herein granted or in the performance of
784 covenants or duties, which may contain such covenants and
785 provisions, as any purchaser of the bonds of such
786 metropolitan * * * authority may reasonably require.

787 Section 14. The metropolitan * * * authority may, in any
788 authorizing resolution of the board of directors, trust indenture
789 or other security instrument relating to its bonds, provide for
790 the appointment of a trustee who shall have such powers as are

791 provided therein to represent the registered owners of any issue
792 of bonds in the enforcement or protection of their rights under
793 any such resolution, trust indenture or security instrument. The
794 metropolitan * * * authority may also provide in such resolution,
795 trust indenture or other security instrument that the trustee, or
796 in the event that the trustee so appointed shall fail or decline
797 to so protect and enforce such registered owners' rights then such
798 percentage of registered owners as shall be set forth in, and
799 subject to the provisions of, such resolution, trust indenture or
800 other security interest, may petition the court of proper
801 jurisdiction for the appointment of a receiver of the waterworks,
802 water supply system or sewage disposal system * * * the revenues
803 of which are pledged to the payment of the principal of and
804 interest on the bonds of such registered owners. Such receiver
805 may exercise any power as may be granted in any such resolution,
806 trust indenture or security instrument to enter upon and take
807 possession of, acquire, construct or reconstruct or operate and
808 maintain such waterworks, water supply system or sewage disposal
809 system * * *, fix, charge, collect, enforce and receive all
810 revenues derived from such sewage disposal system or facilities
811 and perform the public duties and carry out the contracts and
812 obligations of such metropolitan * * * authority in the same
813 manner as such metropolitan * * * authority itself might do, all
814 under the direction of such court.

815 Section 15. (1) The exercise of the powers granted by this
816 act will be in all respects for the benefit of the people of the
817 state, for their well-being and prosperity and for the improvement
818 of their social and economic conditions, and the
819 metropolitan * * * authority shall be required to pay any tax or
820 assessment on any property owned by the metropolitan * * *
821 authority under the provisions of this act or upon the income
822 therefrom; nor shall any metropolitan * * * authority be required
823 to pay any recording fee or transfer tax of any kind on account of

824 instruments recorded by it or on its behalf.

825 (2) Any bonds issued by the metropolitan * * * authority
826 under the provisions of this act, their transfer and the income
827 therefrom shall at all times be free from taxation by the state or
828 any local unit or political subdivision or other instrumentality
829 of the state, excepting inheritance and gift taxes.

830 Section 16. All bonds issued under the provisions of this
831 act shall be legal investments for trustees, other fiduciaries,
832 savings banks, trust companies and insurance companies organized
833 under the laws of the State of Mississippi; and such bonds shall
834 be legal securities which may be deposited with and shall be
835 received by all public officers and bodies of the state and all
836 municipalities and other political subdivisions thereof for the
837 purpose of securing the deposit of public funds.

838 Section 17. The state hereby covenants with the registered
839 owners of any bonds of any metropolitan * * * authority that so
840 long as the bonds are outstanding and unpaid the state will not
841 limit or alter the rights and powers of any metropolitan * * *
842 authority under this act to conduct the activities referred to
843 herein in any way pertinent to the interests of the bondholders
844 including without limitation such metropolitan * * * authority's
845 right to charge and collect rates, fees and charges and to
846 fulfill the terms of any covenants made with the registered owners
847 of the bonds, or in any other way impair the rights and remedies
848 of the registered owners of the bonds, unless provision for full
849 payment of such bonds, by escrow or otherwise, has been made
850 pursuant to the terms of the bonds or the resolution, trust
851 indenture or security interest securing the bonds.

852 Section 18. The provisions of this act are cumulative of
853 other statutes now or hereafter enacted relating to the issuance
854 of bonds; to waterworks, water supply system, sewerage systems and
855 sewage disposal systems; and to the design, construction,
856 acquisition or approval of facilities for such purposes, and any

857 public agency may exercise all presently held powers in the
858 furtherance of this act; provided that the metropolitan authority
859 may issue bonds only under the provisions of this act.

860 Section 19. If any clause, sentence, paragraph, section or
861 part of the provisions of this act shall be adjudged by any court
862 of competent jurisdiction to be invalid, such judgment shall not
863 affect, impair or invalidate the remainder thereof directly
864 involved in the controversy in which such judgment shall have been
865 rendered.

866 Section 20. This act shall take effect and be in force from
867 and after its passage.

868 SECTION 2. A metropolitan sewer authority heretofore created
869 pursuant to Chapter 977, Local and Private Laws of 1994, may,
870 through its board of directors, exercise the powers conferred by
871 this act in accordance with the procedures specified in this act
872 without any further proceedings in the Chancery Court of Rankin
873 County, except that the metropolitan areas of such metropolitan
874 authority may be expanded or enlarged only by judicial decree of
875 the Chancery Court of Rankin County after notice and hearing as
876 provided in Section 3(6) of Chapter 977, Local and Private Laws of
877 1994, as amended by this act.

878 SECTION 3. The governing authority of the West Rankin
879 Metropolitan Sewer Authority shall submit this act, immediately
880 upon approval by the Governor, or upon approval by the Legislature
881 subsequent to a veto, to the Attorney General of the United States
882 or to the United States District Court for the District of
883 Columbia in accordance with the provisions of the Voting Rights
884 Act of 1965, as amended and extended.

885 SECTION 4. This act shall take effect and be in force from
886 and after the date it is effectuated under Section 5 of the Voting
887 Rights Act of 1965, as amended and extended.