

By: Representative Ellington

To: Conservation and Water Resources

HOUSE BILL NO. 1301

1 AN ACT TO AMEND SECTION 51-39-25, MISSISSIPPI CODE OF 1972,
2 TO AUTHORIZE STORM WATER MANAGEMENT DISTRICTS TO ASSESS USER FEES;
3 TO AMEND SECTION 51-39-43, MISSISSIPPI CODE OF 1972, TO CONFORM;
4 AND FOR RELATED PURPOSES.

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

6 SECTION 1. Section 51-39-25, Mississippi Code of 1972, is
7 amended as follows:

8 51-39-25. The district shall have all the rights and powers
9 necessary or convenient to carry out the purposes of this chapter,
10 including, but not limited to, the following:

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

12 (b) To adopt an official seal and alter the seal at its
13 pleasure;

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

17 (d) To establish a graduated storm water user fee,
18 which may be assessed and collected from each user of the storm
19 water facilities provided by the district. The fees shall be
20 reasonable in amount and used exclusively by the district for the
21 purposes set forth in this act. The graduated storm water user
22 fee shall be based on actual or estimated use of the storm water
23 facility of the district and each user or user class shall only be
24 required to pay its proportionate share of the construction,
25 administration, operation and maintenance costs of the facilities
26 based on the actual or estimated proportionate contribution to the
27 total storm water runoff from all users or user classes. To

28 insure a proportionate distribution of all costs to each user or
29 user class, the user contribution shall be based on factors such
30 as the amount of impervious area utilized by the user and the
31 volume or rate of storm water runoff.

32 Users whose storm water runoff is not discharged into or
33 through the storm water facilities of the district shall be
34 exempted from payment of any user fees authorized by the district.
35 The fee structure shall provide adjustments for users who
36 construct facilities to retain and control the quantity of storm
37 water runoff. Prior to establishing or amending any user fees,
38 the district shall advertise its intent to do so by publishing a
39 notice in a newspaper of general circulation in the area served by
40 the district at least thirty (30) days in advance of the meeting
41 at which the district shall consider user fee proposals;

42 (e) To acquire, construct, improve, or modify, to
43 operate or cause to be operated and maintained, either as owner of
44 all or of any part in common with others, a storm water management
45 system within the counties or municipalities in the district. The
46 district may pay all or part of the cost of any storm water
47 management system from any contribution by persons, firms, public
48 agencies or corporations. The district may receive, accept, and
49 use all funds, public or private and pay all cost of development,
50 implementation and maintenance as may be determined as necessary
51 for any project;

52 (f) To acquire, in its own name, by purchase on any
53 terms and conditions and in any manner as it may deem proper,
54 except by eminent domain, property for public use, or by gift,
55 grant, lease, or otherwise, real property or easements therein,
56 franchises and personal property necessary or convenient for its
57 corporate purposes. These purposes shall include, but are not
58 limited to, the constructing or acquiring of a storm water
59 management system; the improving, extending, reconstructing,
60 renovating, or remodeling of any existing storm water management

61 system or part thereof; or the demolition to make room for any
62 project or any part thereof. The district may insure the storm
63 water management system against all risks as any insurance may,
64 from time to time, be available. The district may also use any
65 property and rent or lease any property to or from others,
66 including public agencies, or make contracts for the use of the
67 property. The district may sell, lease, exchange, transfer,
68 assign, pledge, mortgage or grant a security interest for any
69 property. The powers to acquire, use, and dispose of property as
70 set forth in this paragraph shall include the power to acquire,
71 use, and dispose of any interest in that property, whether divided
72 or undivided. Title to any property of the district shall be held
73 by the district exclusively for the benefit of the public;

74 (g) To adopt, modify, repeal and promulgate rules and
75 regulations implementing or effectuating the powers and duties of
76 the district under any statute within the district's jurisdiction,
77 and where otherwise not prohibited by federal or state law, to
78 make exceptions to and grant variances and exemptions from, and to
79 enforce those rules and regulations. Those rules and regulations
80 may include, but shall not be limited to, rules and regulations
81 for (i) the management of the district's business and affairs;
82 (ii) the use, operation, maintenance or implementation of the
83 district's storm water management system or any portion of that
84 system, facility or any other property owned or operated by the
85 district; and (iii) specifications and standards relating to the
86 planning, design or construction of the storm water management
87 system or any facility owned or operated by the district;

88 (h) To enter into contracts or leases with any person
89 or public agency and to execute all instruments necessary or
90 convenient for construction, operation, and maintenance of the
91 storm water management system and leases of projects. Without
92 limiting the generality of the above, authority is specifically
93 granted to units of local government and to the district to enter

94 into contracts, lease agreements, or other undertaking relative to
95 the furnishing of storm water management system services or
96 facilities or both by the district to a unit of local government
97 and by a unit of local government to the district;

98 (i) To exercise any powers, rights, or privileges
99 conferred by this chapter either alone or jointly or in common
100 with any other public or private parties. In any exercise of any
101 powers, rights, and privileges jointly or in common with others
102 for the construction, operation, and maintenance of facilities,
103 the district may own an undivided interest in any facilities with
104 any other party with which it may jointly or in common exercise
105 the rights and privileges conferred by this chapter and may enter
106 into any agreement with respect to any facility with any other
107 party participating in those facilities. An agreement may contain
108 any terms, conditions, and provisions, consistent with this
109 section, as the parties to the agreement shall deem to be in their
110 best interest, including, but not limited to, provisions for the
111 planning, design, construction, operation, implementation and
112 maintenance of any facility by any party to an agreement. Any
113 party or parties shall be designated in or under any agreement as
114 agent or agents on behalf of itself and one or more of the other
115 parties to the agreement, or by any other means as may be
116 determined by the parties. The agreement shall include a method
117 or methods of determining and allocating, among the parties, costs
118 of planning, design, construction, operation, maintenance,
119 renewals, replacements, improvements, and disposal related to any
120 facility. In carrying out its functions and activities as an
121 agent with respect to planning, design, construction, operation,
122 and maintenance of any facility, the agent shall be governed by
123 the laws and regulations applicable to that agent as a separate
124 legal entity and not by any laws or regulations which may be
125 applicable to any of the other participating parties. The agent
126 shall act for the benefit of the public. In any agreement, the

127 district may delegate its powers and duties related to the
128 planning, design, construction, operation, and maintenance of any
129 facility to the party acting as agent and all actions taken by
130 that agent in accordance with the agreement may be binding upon
131 the district without further action or approval of the district;

132 (j) To apply, contract for, accept, receive and
133 administer gifts, grants, appropriations, and donations of money,
134 materials, and property of any kind, including loans and grants
135 from the United States, the state, a unit of local government, or
136 any agency, department, authority, or instrumentality of any of
137 the foregoing, upon any terms and conditions as the United States,
138 the state, a unit of local government, or any agency, department,
139 authority, or instrumentality shall impose. The district may
140 administer trusts. The district may sell, lease, transfer,
141 convey, appropriate and pledge any and all of its property and
142 assets;

143 (k) To employ professional and administrative staff and
144 personnel and to retain legal, engineering, fiscal, accounting and
145 other professional services;

146 (l) To assume or continue any contractual or other
147 business relationships entered into by the municipalities or
148 counties who are members of the district, including the rights to
149 receive and acquire transferred rights under option to purchase
150 agreements;

151 (m) To enter on public or private lands, waters, or
152 premises for the purpose of making surveys, borings or soundings,
153 or conducting tests, examinations or inspections for the purposes
154 of the district, subject to responsibility for any damage done to
155 property entered;

156 (n) To do and perform any acts and things authorized by
157 this chapter under, through or by means of its officers, agents
158 and employees, or by contracts with any person; and

159 (o) To do and perform any and all acts or things
160 necessary, convenient or desirable for the purposes of the
161 district, or to carry out any power expressly granted in this
162 chapter.

163 SECTION 2. Section 51-39-43, Mississippi Code of 1972, is
164 amended as follows:

165 51-39-43. This chapter, without reference to any other
166 statute, shall be deemed to be full and complete authority for the
167 creation of a district. No proceedings shall be required for the
168 creation of a district other than those provided for and required
169 in this act. All the necessary powers to be exercised by the
170 governing body of a county or municipality and by the board of
171 commissioners of any district, in order to carry out this chapter,
172 are hereby conferred.

173 The powers conferred by this chapter are in addition and
174 supplemental to other powers conferred by law.

175 SECTION 3. This act shall take effect and be in force from
176 and after July 1, 2001.