To: Environment Prot, Cons and Water Res

MISSISSIPPI LEGISLATURE
REGULAR SESSION 2001
By: Senator(s) Frazier

SENATE BILL NO. 2443

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

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

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

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

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

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

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

(d) To establish a graduated storm water user fee, which may be assessed and collected from each user of the storm water facilities provided by the district. The fees shall be reasonable in amount and used exclusively by the district for the purposes set forth in this act. The graduated storm water user fee shall be based on actual or estimated use of the storm water facility of the district and each user or user class shall only be required to pay its proportionate share of the construction, administration, operation and maintenance costs of the facilities based on the actual or estimated proportionate contribution to the total storm water runoff from all users or user classes. To
insure a proportionate distribution of all costs to each user or
user class, the user contribution shall be based on factors such
as the amount of impervious area utilized by the user and the
volume or rate of storm water runoff.

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

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

(f) To acquire, in its own name, by purchase on any
terms and conditions and in any manner as it may deem proper,
except by eminent domain, property for public use, or by gift,
grant, lease, or otherwise, real property or easements therein,
franchises and personal property necessary or convenient for its
corporate purposes. These purposes shall include, but are not
limited to, the constructing or acquiring of a storm water
management system; the improving, extending, reconstructing,
renovating, or remodeling of any existing storm water management
system or part thereof; or the demolition to make room for any project or any part thereof. The district may insure the storm water management system against all risks as any insurance may, from time to time, be available. The district may also use any property and rent or lease any property to or from others, including public agencies, or make contracts for the use of the property. The district may sell, lease, exchange, transfer, assign, pledge, mortgage or grant a security interest for any property. The powers to acquire, use, and dispose of property as set forth in this paragraph shall include the power to acquire, use, and dispose of any interest in that property, whether divided or undivided. Title to any property of the district shall be held by the district exclusively for the benefit of the public;

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

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

(i) To exercise any powers, rights, or privileges
conferred by this chapter either alone or jointly or in common
with any other public or private parties. In any exercise of any
powers, rights, and privileges jointly or in common with others
for the construction, operation, and maintenance of facilities,
the district may own an undivided interest in any facilities with
any other party with which it may jointly or in common exercise
the rights and privileges conferred by this chapter and may enter
into any agreement with respect to any facility with any other
party participating in those facilities. An agreement may contain
any terms, conditions, and provisions, consistent with this
section, as the parties to the agreement shall deem to be in their
best interest, including, but not limited to, provisions for the
planning, design, construction, operation, implementation and
maintenance of any facility by any party to an agreement. Any
party or parties shall be designated in or under any agreement as
agent or agents on behalf of itself and one or more of the other
parties to the agreement, or by any other means as may be
determined by the parties. The agreement shall include a method
or methods of determining and allocating, among the parties, costs
of planning, design, construction, operation, maintenance,
renewals, replacements, improvements, and disposal related to any
facility. In carrying out its functions and activities as an
agent with respect to planning, design, construction, operation,
and maintenance of any facility, the agent shall be governed by
the laws and regulations applicable to that agent as a separate
legal entity and not by any laws or regulations which may be
applicable to any of the other participating parties. The agent
shall act for the benefit of the public. In any agreement, the
district may delegate its powers and duties related to the planning, design, construction, operation, and maintenance of any facility to the party acting as agent and all actions taken by that agent in accordance with the agreement may be binding upon the district without further action or approval of the district;

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

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

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

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

(n) To do and perform any acts and things authorized by this chapter under, through or by means of its officers, agents and employees, or by contracts with any person; and
(o) To do and perform any and all acts or things necessary, convenient or desirable for the purposes of the district, or to carry out any power expressly granted in this chapter.

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

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

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

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