

By: Senator(s) Nunnelee (By Request),
Jordan, Dawkins, Moffatt

To: Finance

SENATE BILL NO. 3164

1 AN ACT TO AUTHORIZE THE STORM WATER MANAGEMENT DISTRICT TO
2 ISSUE SPECIAL IMPROVEMENT BONDS AND REVENUE BONDS FOR PROJECTS; TO
3 ALLOW TEMPORARY BORROWING IN ANTICIPATION OF BOND PROCEEDS; TO
4 AUTHORIZE STORM WATER MANAGEMENT DISTRICTS TO LEVY USER FEES; TO
5 AUTHORIZE THE GOVERNING BODY OF A COUNTY AND/OR A MUNICIPALITY TO
6 LEVY AN AD VALOREM TAX NOT TO EXCEED TWO MILLS ON TAXABLE REAL
7 PROPERTY IN THE STORM WATER MANAGEMENT DISTRICT AND TO MAKE
8 SPECIAL ASSESSMENTS ON REAL PROPERTY IN SUCH DISTRICT; TO PROVIDE
9 FOR THE CALCULATION OF SPECIAL ASSESSMENTS; TO REQUIRE THE
10 IMPOSITION OF CERTAIN RATES, FEES, TOLLS OR CHARGES TO SUPPORT ANY
11 REVENUE BONDS ISSUED; TO AUTHORIZE THE CREATION OF A BILLING AND
12 COLLECTION SYSTEM FOR STORM WATER FEES; TO AUTHORIZE THE BILLING
13 AND COLLECTION OF STORM WATER FEES ON CERTAIN UTILITY BILLS; TO
14 REQUIRE THAT A CERTAIN PORTION OF THE PAYMENT ON UTILITY BILLS BE
15 DISTRIBUTED AS STORM WATER FEE PAYMENTS; TO AMEND SECTIONS
16 51-39-7, 51-39-25 AND 51-39-31, MISSISSIPPI CODE OF 1972, TO
17 PROVIDE AN EXEMPTION FROM REVENUE BONDS AND SPECIAL ASSESSMENTS
18 FOR ENTITIES WITH A STORM WATER PERMIT FOR INDUSTRIAL ACTIVITIES;
19 AND FOR RELATED PURPOSES.

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

21 SECTION 1. (1) Any public agency may, in accordance with a
22 duly adopted resolution, contract with the district for the
23 district to acquire, construct or provide facilities and projects
24 to be owned by the district for furnishing storm water management
25 and related services to the public agency or to users within the
26 boundaries of the public agency. The public agency shall be
27 obligated to make payments which shall be sufficient to enable the
28 district to meet its expenses, interest and principal payments
29 (whether at maturity or upon sinking funds redemption) for its
30 bonds, reserves for debt service, payments into funds for
31 operation, maintenance, renewals and replacements, and the
32 requirements of covenant with respect to debt service coverage
33 contained in any resolution, trust indenture or other security
34 agreement relating to its bonds. The contracts may also contain

35 other terms and conditions as the district and the public agency
36 may determine. Any contract may be for a term covering the life
37 of the facilities or for any other term or for an indefinite
38 period and may be made with or without consideration. The
39 contract may provide that the amounts payable by the public agency
40 are in lieu of all or any part of the rates, fees, tolls and
41 charges which would otherwise be collected from the users of the
42 facilities.

43 (2) Contracts may provide for payments in the form of
44 contributions to defray the cost of any purpose set forth in the
45 contracts and as advances for any facilities subject to repayment
46 by the district. A public agency may make those contributions or
47 advances from its general fund, general obligation bond proceeds,
48 surplus fund or from any monies legally available therefor.

49 (3) Subject to the terms of a contract referred to in this
50 section, the district may do and perform any and all acts or
51 things necessary, convenient or desirable to carry out the
52 purposes of the contract, including the fixing, charging,
53 collecting, maintaining and revising of rates, fees, tolls and
54 charges for the services rendered by the facilities operated or
55 maintained by the district, whether or not those facilities are
56 owned by the district.

57 SECTION 2. Whenever a public agency enters into a contract
58 as authorized by this chapter, and the payments are to be made
59 either wholly or partly from the revenues of the district's
60 facilities, the duty is imposed on the public agency at the
61 direction of the district to fix, establish, maintain, and, from
62 time to time, adjust the rates, fees, tolls and charges assessed
63 by the public agency for the service of the facilities to the end
64 that the revenues from the facilities, together with any ad
65 valorem taxes levied for the payments, will be sufficient at all
66 times to pay: (a) the expense of operating and maintaining the
67 facilities; (b) all of the public agency's obligations to the

68 district under the contract; and (c) all of the obligations under
69 and in connection with any outstanding bonds issued to finance in
70 whole or in part the facilities.

71 SECTION 3. (1) The district may issue special improvement
72 bonds or revenue bonds to provide funds for the purpose of
73 planning, design, construction, operation, maintenance or
74 improvement of the storm water management system or any project of
75 the district, including acquisition of land, by resolution spread
76 upon the minutes of the board. Special improvement bonds or
77 revenue bonds may be issued from time to time without an election
78 being held upon the question of their issuance unless the board of
79 commissioners of the district is presented with a petition for an
80 election upon the question of issuance signed by twenty percent
81 (20%) or fifteen hundred (1500), whichever is the lesser, of the
82 qualified electors residing within the district. The resolution
83 authorizing any issue of bonds other than the initial issue shall
84 be published in a manner similar to the publication of the
85 resolution, as outlined in this chapter. If an election is
86 required, it shall be held in substantial accord with the election
87 outlined in this chapter. The cost of this election shall be
88 borne by the district.

89 (2) Special improvement bonds shall be payable primarily
90 from special assessments authorized in this chapter and, if
91 provided in the proceedings authorizing the bonds, the avails of
92 the ad valorem tax levy authorized in this chapter.

93 (3) Revenue bonds shall be payable from the rates, fees,
94 tolls and charges authorized in this chapter.

95 (4) If provided in the proceedings authorizing the issuance
96 of the bonds and agreed to by resolution of the governing body
97 authorizing the board of commissioners of the district to make a
98 pledge, then when there are insufficient revenues received from
99 special assessments and the avails of the ad valorem tax levy,
100 according to the provisions made in the proceedings authorizing

101 the issuance of the bonds, to meet the interest or principal
102 payments or both when due on any bonds issued under this chapter
103 (excluding for this purpose any amounts in a reserve fund for
104 those bonds), then, upon certification of that fact by the board
105 of commissioners of the district to the governing body, the
106 governing body shall levy an ad valorem tax on all taxable
107 property within the geographical limits of the district. The
108 avails of the tax, together with any other monies available for
109 that purpose, shall be sufficient to provide for the payment of
110 the principal of and interest on the bonds as the principal and
111 interest falls due. If provided in the proceedings for the
112 issuance of the bonds, the avails of the tax may also be used to
113 replenish any reserve fund established for the bonds.

114 SECTION 4. (1) All bonds issued under this chapter shall be
115 lithographed or engraved and printed in two (2) or more colors to
116 prevent counterfeiting. They shall be in denominations of not
117 less than One Thousand Dollars (\$1,000.00) nor more than Five
118 Thousand Dollars (\$5,000.00), and may be registered as issued, and
119 shall be numbered in a regular series from one (1) upward. Each
120 bond shall specify on its face the purpose for which it was
121 issued, the total amount authorized to be issued, the interest on
122 the bond, that it is payable to bearer and that the interest to
123 accrue thereon is evidenced by proper coupons attached thereto.

124 (2) The bonds shall contain any covenants and provisions;
125 shall be executed; shall be in any form, format, type,
126 denomination or denominations; shall be payable as to principal
127 and interest, at any place or places; and shall mature at any time
128 or times, all as shall be determined by the board of commissioners
129 and set forth in the resolution under which the bonds shall be
130 issued. The date of maturity of the bonds shall not exceed
131 twenty-five (25) years from the date of the bond.

132 (3) All bonds shall bear interest at a rate or rates not to
133 exceed a greater net interest cost to maturity than that allowed

134 in Section 75-17-103. No bond shall bear more than one (1) rate
135 of interest. Each bond shall bear interest from its date to its
136 stated maturity date at the interest rate specified in the bid.
137 All bonds of the same maturity shall bear the same rate of
138 interest. All interest accruing on the bonds so issued shall be
139 payable semiannually, or annually, except that the first interest
140 coupon attached to those bonds may be for any period not exceeding
141 one (1) year. No interest payment shall be evidenced by more than
142 one (1) coupon and supplemental coupons, cancelled coupons and
143 zero interest coupons will not be permitted. No interest coupon
144 shall vary more than twenty-five percent (25%) in interest rate
145 from any other interest coupon in the same bond issue. The
146 interest rate on any one (1) interest coupon shall not exceed that
147 allowed in Section 75-17-103.

148 (4) The bonds shall be signed by the chairman and
149 secretary-treasurer of the commission with the seal of the
150 commission affixed thereto; however, the coupons may bear only the
151 facsimile signatures of such chairman and secretary-treasurer.

152 (5) Notwithstanding any provisions of the general laws to
153 the contrary, any bonds and interest coupons issued under this
154 chapter shall be securities within the meaning of Article 8 of the
155 Uniform Commercial Code, being Section 75-8-101 et seq.,
156 Mississippi Code of 1972.

157 (6) Notwithstanding the foregoing provisions of this
158 section, bonds referred to in this chapter may be issued under the
159 supplemental powers and authorizations conferred by the provisions
160 of the Registered Bond Act, Sections 31-21-1 through 31-21-7.

161 SECTION 5. The bonds issued under this chapter shall be sold
162 upon sealed bids in the manner provided for in Section 31-19-25,
163 Mississippi Code of 1972, in conformity with this chapter. The
164 bonds may be sold to the United States of America or an agency or
165 instrumentality thereof at private sale.

166 Each interest rate specified in any bid must be in a multiple
167 of one-tenth of one percent (1/10 of 1%) or in multiples of
168 one-eighth of one percent (1/8 of 1%), and a zero rate of interest
169 cannot be named. Any premium must be paid in bank funds as a part
170 of the purchase price, and bids shall not contemplate the
171 cancellation of any interest coupon or the waiver of interest or
172 other concession by the bidder as a substitute for bank funds.

173 The bonds may be refunded in like manner as revenue bonds of
174 municipalities shall be refunded.

175 The bonds shall be submitted to validation under Sections
176 31-13-1 through 31-13-11, Mississippi Code of 1972.

177 SECTION 6. (1) There is hereby created a statutory lien to
178 the nature of a mortgage lien upon any facility or facilities
179 acquired or constructed in accordance with this chapter, including
180 all extensions and improvements thereof or combinations thereof
181 subsequently made, which lien shall be in favor of the holder or
182 holders of any bonds issued under those sections. All such
183 property shall remain subject to the statutory lien until payment
184 in full of the principal of and interest on the bonds. Any holder
185 of the bonds or any of the coupons representing interest thereon
186 may, either at law or in equity, by suit, action, mandamus or
187 other proceedings, in any court of competent jurisdiction, protect
188 and enforce the statutory lien and compel the performance of all
189 duties required by this chapter, including the making and
190 collection of sufficient rates for the service or services, the
191 proper accounting thereof, and the performance of any duties
192 required by covenants with the holders of any bonds.

193 (2) If any default is made in the payment of the principal
194 of or interest on the bonds, any court having jurisdiction of the
195 action may appoint a receiver to administer the district and the
196 facility or facilities, with power to charge and collect rates
197 sufficient to provide for the payment of all bonds and obligations
198 outstanding against the district, and for payment of operating

199 expenses. The receiver may apply the income and revenues of the
200 district and any covenants with bondholders.

201 (3) No holder or holders of any bonds issued under this
202 chapter shall ever have the right to compel the levy of any tax to
203 pay the bonds or the interest thereon except when the governing
204 body of the county or municipality has made a levy of a special
205 tax and consented to the pledge thereof, as provided in this
206 chapter.

207 SECTION 7. (1) In addition to the purposes authorized by
208 this chapter, any district created under this chapter may issue
209 special improvement bonds or revenue bonds of the district, for
210 any of the following purposes:

211 (a) To improve or extend the facilities of the district
212 or to conduct projects of the district; and

213 (b) To enter into cooperative agreements with the state
214 or federal government, or both, to obtain financial assistance in
215 the form of loans or grants as may be available from the state or
216 federal government, or both (reference to the state or federal
217 government as used in this section shall specifically include any
218 agency thereof).

219 (2) The district may make any covenants and do any acts and
220 things as may be necessary, convenient and desirable to secure the
221 bonds or make the bonds more marketable, notwithstanding that the
222 covenants, acts or things may not be enumerated in this chapter or
223 expressly authorized in this chapter. It is the intention of this
224 chapter to give the board of commissioners, in issuing the special
225 improvement bonds or revenue bonds, the power to do all things
226 required or necessary in the issuance of those bonds and for their
227 execution which are not inconsistent with the Mississippi
228 Constitution of 1890.

229 SECTION 8. (1) Pending the issuance of special improvement
230 bonds or revenue bonds by the district, the district may make
231 temporary borrowings not to exceed two (2) years in anticipation

232 of the issue of bonds in order to provide funds in any amounts as
233 may, from time to time, be deemed advisable before the issue of
234 bonds. To provide for the temporary borrowings, the district may
235 enter into any purchase, loan or credit agreement, or agreements
236 or other agreement or agreements with any banks or trust companies
237 or other lending institutions, investment banking firms or persons
238 in the United States having power to enter into the same. The
239 agreements may contain any provisions not inconsistent with this
240 chapter as may be authorized by the board.

241 (2) All temporary borrowings made under this section shall
242 be evidenced by notes of the district which shall be issued, from
243 time to time, for any amounts, in any form and in any
244 denominations and subject to terms and conditions of sale and
245 issue, prepayment or redemption and maturity, rate or rates of
246 interest and time of payment of interest as the board shall
247 authorize and direct and in accordance with this chapter. The
248 authorization and direction may provide for the subsequent
249 issuance of replacement notes to refund, upon issuance thereof,
250 any notes, and may specify any other terms and conditions with
251 respect to the notes and replacement notes thereby authorized for
252 issuance as the board may determine and direct.

253 SECTION 9. Any county, municipality or other political
254 subdivision, public corporation, agency or instrumentality of the
255 state, a county or municipality may enter into a contract or
256 contracts obligating any district to manage its storm water in a
257 storm water management system or at a facility or facilities owned
258 or operated by the district and obligating the county,
259 municipality or other political subdivision, public corporation,
260 agency or instrumentality of the state, a county or municipality
261 to make payments to the district for the management on any terms,
262 provisions and conditions as deemed appropriate. Any costs to a
263 county, municipality or other political subdivision, public
264 corporation, agency or instrumentality of the state, a county or

265 municipality shall be paid annually out of funds of the county,
266 municipality or other political subdivision, public corporation,
267 agency or instrumentality of the state or any county or
268 municipality. The entering into a contract or contracts shall not
269 constitute the incurring of a debt by the county, municipality or
270 other unit of local government, public corporation, agency or
271 instrumentality of the state, or any county or municipality within
272 the meaning of any constitutional or statutory limitations on
273 debts of the state, the counties or the municipalities.

274 SECTION 10. (1) The governing body of a county or
275 municipality in which a district exists, may, according to the
276 terms of the resolution and upon receipt of a resolution of the
277 board of commissioners adopted by a three-fifths (3/5) majority of
278 that board requesting the funds, levy a special tax, not to exceed
279 two (2) mills annually, on all taxable real property in the
280 district. The avails of the tax shall be paid over to the board
281 of commissioners of the district to be used either for (a) the
282 support of the district; (b) planning, design, construction,
283 operation, maintenance or improvement of the storm water
284 management system of the district; or (c) the retirement of any
285 special improvement bonds issued by the district; or (d) for any
286 combination of those uses.

287 (2) The proceeds derived from two (2) mills of the levy
288 authorized in this section shall be excluded from the ten percent
289 (10%) increase limitation under Section 27-39-321.

290 (3) Following the initial tax levy, the special tax levy
291 under this subsection may be increased only when the governing
292 body, after receipt of the resolution of the board of
293 commissioners requesting an increase and stating the proposed
294 amount of the increase and the purposes for which the additional
295 revenues shall be used, has determined the need for additional
296 revenues, adopts a resolution declaring its intention to increase
297 the levy and has held an election on the question of increasing

298 the tax levy prescribed in this section. The notice calling for
299 an election shall state the purposes for which the additional
300 revenues shall be used and the amount of the tax levy to be
301 imposed for those purposes. The tax levy may be increased only if
302 the proposed increase is approved by a three-fifths (3/5) majority
303 of those voting within the district. Subject to specific
304 provisions of this subsection to the contrary, the publication of
305 notice and manner of holding the election within the district
306 shall be as prescribed by law for the holding of elections for the
307 issuance of bonds by the governing body. The election shall be
308 held only within the district.

309 SECTION 11. In addition to the sources of funding provided
310 for in this chapter, the board of commissioners, if approved by
311 the governing body in the resolution creating the district, may
312 levy and collect special assessments on certain property located
313 in the district to provide funds for the purposes for which
314 special improvement bonds may be issued under this chapter. The
315 board of commissioners may pledge the receipts from the special
316 assessments to secure the payment of the principal of, premium, if
317 any, and interest on any special improvement bonds authorized to
318 be issued under this chapter. Special assessments may be levied
319 on the property within the boundaries of the district at the time
320 the county or municipal tax levies are made. Any special
321 assessments authorized under this section shall be levied and
322 collected in the manner provided in Sections 21-41-1 through
323 21-41-53, Mississippi Code of 1972. The board may secure bonds of
324 the district solely from the receipts of special assessments, or
325 may pledge any revenues in addition to the pledge of revenue from
326 any tax levy authorized in this chapter, or from any combination
327 of monies from the special assessments and tax levies.

328 SECTION 12. (1) Funds for debt service for special
329 improvement bonds may be provided by charges upon the properties
330 benefited according to procedures set forth in this section.

331 (2) So long as any special improvement bonds authorized by
332 this chapter shall remain outstanding, it is the duty of the
333 governing body, at the time annual county or municipal tax levies
334 are made, as the case may be, to levy those assessments as are
335 certified to them by the district as being due and payable at a
336 stated time. It is the duty of the tax collector of the county or
337 the municipal tax collector in which the district lies to collect
338 those charges and pay the funds collected to the board of
339 commissioners of the district for payment to interest and
340 principal and to the retirement of bonds issued by the district in
341 accordance with the maturities schedule.

342 (3) One (1) of the following procedures may be utilized in
343 providing funds as authorized by this section:

344 (a) (i) Funds for debt service may be provided by
345 charges assessed against the property abutting the street,
346 easement or other right-of-way on which a facility or facilities
347 of the district are constructed according to the frontage of the
348 property.

349 (ii) The board of commissioners of the district,
350 after giving notice and hearing protests in the manner prescribed
351 by Sections 21-41-5 and 21-41-7, Mississippi Code of 1972, shall
352 by resolution spread upon its minutes define the services to be
353 offered and the entire area to be benefited by each improvement.
354 Each improvement may be designated as a project, or all
355 improvements may be designated as one (1) project.

356 (iii) If a majority of the property owners or the
357 owners of more than a majority of the front footage of the
358 property involved and actually residing on property owned by them
359 and included within that part of any street, avenue, etc., ordered
360 to be specially improved, or otherwise actually occupying property
361 owned by them and included within that area designated for a
362 project, shall file a protest, then the improvement shall not be
363 made and the assessment shall not be made.

364 (iv) The resolution shall direct that the cost to
365 be assessed against each lot or parcel of land shall be determined
366 by dividing the entire assessable cost of the project by the total
367 number of front feet fronting on the street, easement or other
368 right-of-way in which all of the facilities embraced within the
369 project are installed and multiplying the quotient by the total
370 number of front feet in any particular lot or parcel of land
371 fronting on the street, easement or other right-of-way in which
372 facilities are constructed. The result thereof shall be delivered
373 by the board to the governing body of the county or municipality
374 as the amount of special tax to be assessed against each lot or
375 piece of ground for the owner's part of the total cost of the
376 improvements.

377 (v) The resolution may, at the discretion of the
378 board, provide for the district to pay the assessment against any
379 property abutting a facility or facilities designated as necessary
380 and essential to the overall operation of the storm water
381 management system. The district shall seek to recover the
382 assessment from the owner of the improved property.

383 (b) (i) Funds for debt service may be provided by
384 charges assessed against a lot or block in a recorded subdivision
385 of land or by other appropriately designated parcel or tract of
386 land in accord with the following procedure.

387 (ii) The board of commissioners of the district,
388 after giving notice and hearing protests in the manner prescribed
389 by Sections 21-41-5 and 21-41-7, Mississippi Code of 1972, shall
390 by resolution spread upon its minutes define the services to be
391 offered and the entire area to be benefited by each improvement.
392 Each improvement may be designated as a project, or all
393 improvements may be designated as one (1) project.

394 (iii) If a majority of the property owners or the
395 owners of more than a majority of the front footage of the
396 property involved and actually residing on property owned by them

397 and included within that part of any street, avenue, etc., ordered
398 to be specially improved, or otherwise actually occupying property
399 owned by them and included within that area designated as a
400 project, shall file a protest, then the improvement shall not be
401 made and the assessment shall not be made.

402 (iv) Charges shall be assessed in accord with the
403 provisions of Sections 21-41-9 through 21-41-21 and 21-41-25
404 through 21-41-39, Mississippi Code of 1972.

405 SECTION 13. (1) The board of commissioners of the district
406 issuing revenue bonds under this chapter shall prescribe and
407 collect reasonable rates, fees, tolls or charges for the services,
408 facilities and commodities of its storm water management system.
409 The board shall prescribe penalties for the nonpayment of those
410 rates, fees, tolls or charges. The board shall revise the rates,
411 fees, tolls or charges from time to time whenever necessary to
412 insure the economic operation of the storm water management
413 system. The rates, fees, tolls or charges prescribed shall be, as
414 nearly as possible, sufficient to produce revenue at least
415 sufficient to: (a) provide for all expenses of operation and
416 maintenance of the storm water management system, including
417 reserves therefor; (b) pay, when due, all revenue bonds and
418 interest thereon for the payment of which the revenues are or
419 shall have been pledged, charged or otherwise encumbered,
420 including reserves therefor; and (c) provide funds for reasonable
421 expansions, extensions and improvements of service.

422 (2) (a) A district may create a system for the billing and
423 collection of rates, fees, tolls and charges for the services of
424 the storm water management system. Storm water fees may be based
425 on the amount of impervious area or any other factor determined
426 appropriate by the board of commissioners.

427 (b) Storm water fees, upon certification by the board
428 to the governing body of the county or municipality, may be
429 assessed on any utility bill distributed by that county or

430 municipality. The board of commissioners shall establish a
431 process of notice and hearing consistent with the due process
432 protections in the Mississippi Constitution and the Constitution
433 of the United States for any person aggrieved by the levy of a
434 rate, fee, toll or charge made under this section. The board of
435 commissioners shall pay the reasonable costs incurred in
436 collecting the storm water fees.

437 (c) If the storm water fees are assessed as part of a
438 county or municipal utility bill, any payment received toward that
439 bill shall be divided among the services for which charges are
440 assessed on a pro rata basis. Before the fifteenth day of each
441 month, the entity collecting payments from utility bills shall pay
442 to the board of commissioners the revenue collected from utility
443 bill payments during the preceding month.

444 SECTION 14. Bonds issued under this chapter and the income
445 therefrom shall be exempt from all state, county and municipal
446 taxation, except inheritance, transfer and estate taxes. It may
447 be so stated on the face of the bonds.

448 SECTION 15. The National Pollutant Discharge Elimination
449 System (NPDES) storm water permit regulations, promulgated by the
450 U.S. Environmental Protection Agency and adopted by the State of
451 Mississippi require certain categories of industrial activity as
452 defined by Title 40, Code of Federal Regulations, to obtain an
453 NPDES permit or submit a certification of "no exposure." Only
454 storm water discharges from those areas that are associated with
455 industrial activity are addressed in the permit.

456 Any area of an industrial site covered by an NPDES storm
457 water permit or any area covered under a certification of "no
458 exposure" shall be exempt from special assessments and ad valorem
459 taxes authorized under this chapter. Other areas of the
460 industrial site, separate from industrial activities, shall be
461 subject to special assessments and ad valorem taxes if the area
462 meets the conditions established under this chapter.

463 SECTION 16. Section 51-39-7, Mississippi Code of 1972, is
464 amended as follows:

465 51-39-7. (1) (a) Any single unit of local government or
466 any combination of units of local government may create a
467 district.

468 (b) If any unit of local government is located within
469 an existing district, then the unit of local government shall
470 petition the district to provide a service or function needed by
471 the petitioning unit, if the service or function is one which the
472 district has the power and authority to perform. Upon receipt of
473 the petition, the district shall have ninety (90) days within
474 which to respond affirmatively to the petition, setting forth its
475 intent to meet the need or perform the service or function and its
476 plan to meet the need or perform the service or function. If the
477 existing district does not affirmatively respond in a timely
478 fashion, then the petitioning unit of local government may form a
479 district as provided in this chapter.

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

482 (d) A district may be formed although adequate water
483 supply, flood control, drainage or other water or wastewater
484 management activities are being undertaken by one or more of the
485 units of local government interested in creating a district or by
486 another public agency existing and operating within the
487 geographical area of the district.

488 (2) Creation of a district shall be initiated by ordinance
489 or resolution duly adopted by the governing body of each unit of
490 local government. The ordinance or resolution shall state: (a)
491 the necessity for the proposed district; (b) the primary function
492 of the proposed district; (c) the geographic boundaries of the
493 proposed district within the jurisdiction of the unit of local
494 government; (d) the names and geographic boundaries of any other
495 units of local government proposing to be in the district; (e) the

496 date upon which the governing body intends to create the district;
497 (f) the estimated cost of projects to be conducted and maintained
498 by the district; however, the estimate shall not serve as a
499 limitation upon the financing of any project or to invalidate any
500 ordinance or resolution adopted under this section; (g) the name
501 of a designated representative of the unit of local government to
502 enter into an incorporation agreement with the other units of
503 local government, if applicable; * * * (h) any other information
504 reasonably necessary to inform the constituency of the unit of
505 local government of the purpose and proposed obligations of the
506 unit of local government and other units of local government, if
507 applicable, proposing to create the district; (i) a statement of
508 whether or not a governing body shall exercise the authority to
509 levy ad valorem taxes under this chapter; and (j) a statement of
510 whether or not a governing body shall exercise the authority to
511 levy assessments under this chapter.

512 (3) The governing body of the unit of local government may
513 hold a public meeting or public hearing on the necessity for
514 creation of the district. The governing body shall provide notice
515 in the manner provided under Section 51-39-9 of any public meeting
516 or public hearing.

517 SECTION 17. Section 51-39-25, Mississippi Code of 1972, is
518 amended as follows:

519 51-39-25. The district shall have all the rights and powers
520 necessary or convenient to carry out the purposes this chapter,
521 including, but not limited to, the following:

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

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

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

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

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

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

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

584 (h) To exercise any powers, rights or privileges
585 conferred by this chapter either alone or jointly or in common
586 with any other public or private parties. In any exercise of any
587 powers, rights and privileges jointly or in common with others for
588 the construction, operation and maintenance of facilities, the
589 district may own an undivided interest in any facilities with any
590 other party with which it may jointly or in common exercise the
591 rights and privileges conferred by this chapter and may enter into
592 any agreement with respect to any facility with any other party

593 participating in those facilities. An agreement may contain any
594 terms, conditions and provisions, consistent with this section, as
595 the parties to the agreement shall deem to be in their best
596 interest, including, but not limited to, provisions for the
597 planning, design, construction, operation, implementation and
598 maintenance of any facility by any party to an agreement. Any
599 party or parties shall be designated in or under any agreement as
600 agent or agents on behalf of itself and one or more of the other
601 parties to the agreement, or by any other means as may be
602 determined by the parties. The agreement shall include a method
603 or methods of determining and allocating, among the parties, costs
604 of planning, design, construction, operation, maintenance,
605 renewals, replacements, improvements and disposal related to any
606 facility. In carrying out its functions and activities as an
607 agent with respect to planning, design, construction, operation
608 and maintenance of any facility, the agent shall be governed by
609 the laws and regulations applicable to that agent as a separate
610 legal entity and not by any laws or regulations which may be
611 applicable to any of the other participating parties. The agent
612 shall act for the benefit of the public. In any agreement, the
613 district may delegate its powers and duties related to the
614 planning, design, construction, operation and maintenance of any
615 facility to the party acting as agent and all actions taken by
616 that agent in accordance with the agreement may be binding upon
617 the district without further action or approval of the district;

618 (i) To apply, contract for, accept, receive and
619 administer gifts, grants, appropriations and donations of money,
620 materials and property of any kind, including loans and grants
621 from the United States, the state, a unit of local government or
622 any agency, department, authority or instrumentality of any of the
623 foregoing, upon any terms and conditions as the United States, the
624 state, a unit of local government, or any agency, department,
625 authority or instrumentality shall impose. The district may

626 administer trusts. The district may sell, lease, transfer,
627 convey, appropriate and pledge any and all of its property and
628 assets;

629 (j) To employ professional and administrative staff and
630 personnel and to retain legal, engineering, fiscal, accounting and
631 other professional services;

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

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

642 (m) To do and perform any acts and things authorized by
643 this chapter under, through or by means of its officers, agents
644 and employees, or by contracts with any person; * * *

645 (n) To do and perform any and all acts or things
646 necessary, convenient or desirable for the purposes of the
647 district, or to carry out any power expressly granted in this
648 chapter;

649 (o) To fix, charge, collect, maintain and revise rates,
650 fees, tolls and charges for any services rendered to any person or
651 public agency;

652 (p) To borrow money and to issue bonds to pay all or
653 part of the capital costs of any project and for any of its
654 purposes, except bonds may not be issued for operating or
655 implementation costs; and

656 (q) To invest any monies of the district, including
657 proceeds from the sale of any bonds subject to any agreement with

658 bondholders, on any terms and in any manner as the district deems
659 proper.

660 SECTION 18. Section 51-39-31, Mississippi Code of 1972, is
661 amended as follows:

662 51-39-31. (1) Any public agency may, in accordance with a
663 duly adopted resolution or ordinance, contract with the district
664 for the district to acquire, construct or provide facilities and
665 projects to be owned by the district for furnishing storm water
666 management and related services to the public agency or to users
667 within the boundaries of the public agency. The public agency
668 shall be obligated to make payments which shall be sufficient to
669 enable the district to meet its expenses, and payments into funds
670 for operation, maintenance and renewals and replacements. The
671 contracts may also contain other terms and conditions as the
672 district and the public agency may determine. Any contract may be
673 for a term covering the life of the facilities or for any other
674 term or for an indefinite period.

675 (2) Contracts may provide for payments in the form of
676 contributions to defray the cost of any purpose set forth in the
677 contracts and as advances for any facilities subject to repayment
678 by the district. A public agency may make those contributions or
679 advances from its general fund, general obligation bond proceeds,
680 or surplus fund or from any monies legally available therefor.
681 The entering into of any contract under this section shall not
682 constitute the incurring of a debt by a public agency within the
683 meaning of any constitutional or statutory limitations on debts of
684 the state or units of local government.

685 (3) Subject to the terms of a contract, the district may do
686 and perform any and all acts or things necessary, convenient or
687 desirable to carry out the purposes of the contract, including the
688 fixing, charging, collecting, maintaining and revising of rates,
689 fees, tolls and charges for the services rendered by the

690 facilities operated or maintained by the district, whether or not
691 those facilities are owned by the district.

692 SECTION 19. Section 1 through 15 of this act shall be
693 codified in Chapter 39 of Title 51, Mississippi Code of 1972.

694 SECTION 20. This act shall take effect and be in force from
695 and after July 1, 2001.