

**\*\*\*Adopted\*\*\*  
AMENDMENT No. 1 PROPOSED TO**

**House Bill NO. 1338**

**By Senator(s) Committee**

**Amend by striking all after the enacting clause and inserting  
in lieu thereof the following:**

21        SECTION 1. (1) Any county in the State of Mississippi is  
22 authorized to construct a dam or low-water control structure on  
23 any lake or natural body of water with an outlet or evidence of  
24 the flow or occurrence of water, including a lake or body of water  
25 located partially within the county and partially without the  
26 county or partially in another state adjacent or contiguous to the  
27 State of Mississippi. The county is authorized to use available  
28 funds from any source, including county ad valorem taxes, any  
29 available monies in the general fund of the county, funds from the  
30 issuance of bonds, donations, gifts or through interagency  
31 agreements or interlocal cooperation for such funding, for the  
32 purpose of carrying out and accomplishing the following functions  
33 and activities:

34            (a) Construction of a dam or low-water control  
35 structure on such lake or body of water at such location as the  
36 county may deem most advantageous whether within or without the  
37 boundaries of the county or whether within or without the

38 boundaries of the State of Mississippi, in whole or in part.

39           (b) Requesting and obtaining necessary assistance and  
40 input from, and coordinating the activities of, any state or  
41 federal agency or landowners for the purposes of carrying out and  
42 implementing necessary planning, permitting and funding  
43 requirements as well as all necessary and proper actions and  
44 agreements required of the county for the construction of such a  
45 dam or low-water control structure.

46           (c) Issuance of general obligation bonds in an amount  
47 not to exceed the aggregate principal amount of Two Hundred Fifty  
48 Thousand Dollars (\$250,000.00) and management of the proceeds from  
49 such bond issue in accordance with the terms and provisions of  
50 Sections 19-9-1 through 19-9-31, and subject to the power and  
51 authority conferred upon boards of supervisors for the borrowing  
52 of money and for the pledging of the full faith and credit of the  
53 county.

54           (2) Any county in the State of Mississippi is authorized to  
55 make application to and contract with the United States or any  
56 agency or department thereof to sponsor a project or projects for  
57 the environmental restoration of such a lake or body of water,  
58 including participation as a local sponsor with the United States  
59 Army Corps of Engineers in evaluating and constructing water  
60 resources projects designed to enhance and restore water quality  
61 and habitat value in such lake or body of water, including:

62           (a) Coordinating activities and assistance of federal,  
63 state and local agencies and landowners for the purpose of  
64 carrying out and implementing necessary planning, permitting and  
65 funding requirements for construction and operation of such  
66 projects.

67           (b) Authorization to enter into project cooperation

68 agreements with the United States Department of Army and to serve  
69 as nonfederal sponsors for such projects.

70 (c) Authorization to expend county funds, apply for,  
71 accept as a gift or receive through interagency agreement or  
72 interlocal cooperation, technical assistance, in-kind assistance,  
73 and acquisition of real estate or leasehold interest as may be  
74 necessary and appropriate for such project.

75 (d) Authorization to acquire in the name of the county  
76 through direct purchase or eminent domain procedures and to make  
77 available to the United States Department of Army all lands,  
78 easements, and rights-of-way required for the construction,  
79 implementation, operation and maintenance of such project,  
80 including, but not limited to, those required for utility  
81 relocations, borrow materials and dredged or excavated material  
82 disposal.

83 (e) Operation, maintenance, repair, replacement and  
84 rehabilitation of project features following the completion of  
85 such construction.

86 SECTION 2. Section 11-27-81, Mississippi Code of 1972, is  
87 amended as follows:

88 11-27-81. The right of immediate possession pursuant to  
89 Sections 11-27-81 through 11-27-89, Mississippi Code of 1972, may  
90 be exercised only:

91 (a) By the State Highway Commission for the acquisition  
92 of highway rights-of-way only;

93 (b) By any county or municipality for the purpose of  
94 acquiring rights-of-way to connect existing roads and streets to  
95 highways constructed or to be constructed by the State Highway  
96 Commission;

97 (c) By any county or municipality for the purpose of

98 acquiring rights-of-way for widening existing roads and streets of  
99 such county or municipality; provided, however, that said  
100 rights-of-way shall not displace a property owner from his  
101 dwelling or place of business;

102 (d) By the boards of supervisors of any county of this  
103 state for the acquisition of highway or road rights-of-way in  
104 connection with a state-aid project designated and approved in  
105 accordance with Sections 65-9-1 through 65-9-31, Mississippi Code  
106 of 1972;

107 (e) By the Mississippi Wayport Authority for the  
108 purposes of acquiring land and easements for the Southeastern  
109 United States Wayport Project as authorized by Sections 61-4-1  
110 through 61-4-13, Mississippi Code of 1972;

111 (f) By any county or municipality for the purpose of  
112 acquiring rights-of-way for water, sewer, drainage and other  
113 public utility purposes; provided, however, that such acquisition  
114 shall not displace a property owner from his dwelling or place of  
115 business;

116 (g) By any county authorized to exercise the power of  
117 eminent domain under Section 19-7-41 for the purpose of acquiring  
118 land for construction of a federal correctional facility or other  
119 federal penal institution; \* \* \*

120 (h) By the Mississippi Major Economic Impact Authority  
121 for the purpose of acquiring land, property and rights-of-way for  
122 a project as defined in Section 57-75-5(f)(iv)1 or any facility  
123 related to the project as provided in Section 57-75-11(e)(ii);

124 (i) By the boards of supervisors of any county of this  
125 state for the purpose of constructing dams or low-water control  
126 structures on lakes or bodies of water under the provisions of  
127 Section 1 of this act; or

128           (j) By the board of supervisors of any county of this  
129 state for the purpose of acquiring land, property and/or  
130 rights-of-way for any project the board of supervisors, by a duly  
131 adopted resolution, determines to be related to a project as  
132 defined in Section 57-75-5(f)(iv). The board of supervisors of a  
133 county may not exercise the right to immediate possession under  
134 this item (j) after July 1, 2003.

135           SECTION 3. Section 19-9-1, Mississippi Code of 1972, is  
136 amended as follows:

137           19-9-1. The board of supervisors of any county is authorized  
138 to issue negotiable bonds of the county to raise money for the  
139 following purposes:

140           (a) Purchasing or erecting, equipping, repairing,  
141 reconstructing, remodeling and enlarging county buildings,  
142 courthouses, office buildings, jails, hospitals, nurses' homes,  
143 health centers, clinics, and related facilities, and the purchase  
144 of land therefor;

145           (b) Erecting, equipping, repairing, reconstructing,  
146 remodeling, or acquiring county homes for indigents, and  
147 purchasing land therefor;

148           (c) Purchasing or constructing, repairing, improving  
149 and equipping buildings for public libraries and for purchasing  
150 land, equipment and books therefor, whether the title to same be  
151 vested in the county issuing such bonds or in some subdivision of  
152 the state government other than the county, or jointly in such  
153 county and other such subdivision;

154           (d) Establishing county farms for convicts, purchasing  
155 land therefor, and erecting, remodeling, and equipping necessary  
156 buildings therefor;

157           (e) Constructing, reconstructing, and repairing roads,

158 highways and bridges, and acquiring the necessary land, including  
159 land for road-building materials, acquiring rights-of-way  
160 therefor; and the purchase of heavy construction equipment and  
161 accessories thereto reasonably required to construct, repair and  
162 renovate roads, highways and bridges and approaches thereto within  
163 the county;

164 (f) Erecting, repairing, equipping, remodeling or  
165 enlarging or assisting or cooperating with another county or other  
166 counties in erecting, repairing, equipping, remodeling, or  
167 enlarging buildings, and related facilities for an agricultural  
168 high school, or agricultural high school-junior college, including  
169 gymnasiums, auditoriums, lunchrooms, vocational training  
170 buildings, libraries, teachers' homes, school barns, garages for  
171 transportation vehicles, and purchasing land therefor;

172 (g) Purchasing or renting voting machines and any other  
173 election equipment to be used in elections held within the county;

174 (h) Constructing, reconstructing or repairing boat  
175 landing ramps and wharves fronting on the Mississippi Sound or the  
176 Gulf of Mexico and on the banks or shores of the inland waters,  
177 levees, bays and bayous of any county bordering on the Gulf of  
178 Mexico or fronting on the Mississippi Sound, having two (2)  
179 municipalities located therein, each with a population in excess  
180 of twenty thousand (20,000) in accordance with the then last  
181 preceding federal census;

182 (i) Assisting the Board of Trustees of State  
183 Institutions of Higher Learning, the Office of General Services or  
184 any other state agency in acquiring a site for constructing  
185 suitable buildings and runways and equipping an airport for any  
186 state university or other state-supported four-year college now or  
187 hereafter in existence in such county;

188           (j) Aiding and cooperating in the planning,  
189 undertaking, construction or operation of airports and air  
190 navigation facilities, including lending or donating money,  
191 pursuant to the provisions of the airport authorities law, being  
192 Sections 61-3-1 through Section 61-3-83, Mississippi Code of 1972,  
193 regardless of whether such airports or air navigation facilities  
194 are located in the county or counties issuing such bonds;

195           (k) Establishing rubbish and garbage disposal systems  
196 in accordance with the provisions of Sections 19-5-17 through  
197 19-5-27;

198           (l) Defraying the expenses of projects of the county  
199 cooperative service district in which it is a participating  
200 county, regardless of whether the project is located in the county  
201 issuing such bonds;

202           (m) Purchasing machinery and equipment which have an  
203 expected useful life in excess of ten (10) years. The life of  
204 such bonds shall not exceed the expected useful life of such  
205 machinery and equipment. Machinery and equipment shall not  
206 include any motor vehicle weighing less than twelve thousand  
207 (12,000) pounds;

208           (n) Purchasing fire fighting equipment and apparatus,  
209 and providing housing for the same and purchasing land necessary  
210 therefor;

211           (o) A project for which a certificate of public  
212 convenience and necessity has been obtained by the county pursuant  
213 to the Regional Economic Development Act;

214           

(p) Constructing dams or low-water control structures  
215 on lakes or bodies of water under the provisions of Section 1 of  
216 this act.

217           SECTION 4. Section 19-5-91, Mississippi Code of 1972, is

218 amended as follows:

219           19-5-91. The board of supervisors of any county through any  
220 part of which any river or other stream may run, or any part of  
221 which any river or other stream may touch or border, on which the  
222 United States of America has authorized navigation projects,  
223 including channel clearing, channel improvement, cut-offs, levees,  
224 dams, or other navigation projects, is hereby authorized and  
225 empowered, for that part of such river or stream running through  
226 any part of said county or bordering or touching said county, as  
227 aforesaid, to give satisfactory assurances to the United States of  
228 America, or any agency thereof, including the Secretary of  
229 Defense, that it will:

230           (a) Provide, without cost to the United States, all  
231 lands, easements and rights-of-way necessary for the construction  
232 of the project;

233           (b) Hold and save the United States free from damages  
234 due to the construction of the works; and

235           (c) Maintain and operate all of the works after  
236 completion in accordance with regulations prescribed pursuant to  
237 the terms of any federal law relating to navigation or to  
238 navigable streams.

239           Any such board of supervisors is also hereby authorized and  
240 empowered to accept the conveyance of any lands, easements and  
241 rights-of-way over and on behalf of any lands that may be  
242 benefited by the maintenance of such works, to accept assurances  
243 from landowners whose property is benefited by such navigation  
244 projects, to levy, assess and collect such taxes on said area so  
245 benefited as will be necessary, to save and hold the United States  
246 free from all damages due to the construction of the works and to  
247 exercise the right of eminent domain for the condemnation of



248 rights-of-way and easements in like manner as is exercised by  
249 boards of supervisors for the condemnation of public road  
250 rights-of-way, and to maintain such works in said county after  
251 completion and generally to accept agreements for landowners  
252 benefited by such navigation projects to save the county harmless  
253 on account of said assurances given by the county as aforesaid to  
254 the United States of America, or any agency thereof, including the  
255 Secretary of Defense.

256 Any such board of supervisors also is authorized to enter  
257 into any contracts or agreements with the United States, or any  
258 agency or department thereof, to sponsor a project for the  
259 environmental restoration of a lake or body of water as described  
260 in, and in accordance with the provisions of Section 1 of this  
261 act.

262 SECTION 5. Section 51-3-39, Mississippi Code of 1972, is  
263 amended as follows:

264 51-3-39. (1) Any person proposing to construct, enlarge,  
265 repair or alter a dam or reservoir in this state except as  
266 provided elsewhere in this section, before proceeding with the  
267 construction thereof, must obtain written authorization from the  
268 board. Applications shall be made on forms provided by the board,  
269 and detailed plans shall be required when deemed necessary by the  
270 board in order to determine whether the proposed construction will  
271 provide adequate safety for downstream lives and property, and  
272 will not adversely affect downstream water rights or plans for the  
273 proper utilization of the water resources of the state. Provided  
274 further, that:

275 (a) Written construction authorization shall not be  
276 required for any dam or barrier to impound water which (i) is a  
277 peripheral dam or barrier of eight (8) feet or less in height,

278 measured from the point of lowest elevation of the toe of the dam  
279 or barrier, regardless of impounded storage volume, (ii) impounds  
280 twenty-five (25) acre-feet or less at maximum storage volume, or  
281 (iii) which does not impound a watercourse with a continuous flow  
282 of water.

283 (b) Any person who seeks to build and maintain a dam on  
284 any watercourse lying in whole or in part within a levee district  
285 duly constituted under the laws of this state shall first obtain  
286 permission from the levee board of such levee district.

287 (c) Any person intending to acquire the right to store  
288 or use water from a reservoir formed by a dam on a watercourse  
289 regardless of whether or not written construction authorization  
290 therefor was required under this section, may do so only by making  
291 an application for a permit as provided elsewhere in this chapter.

292 (2) The board may request other agencies, or contract with  
293 consultants, to recommend land treatment or facilities necessary  
294 to prevent pollution of the waters of this state, or to protect  
295 the safety and general welfare of the people, and in the board's  
296 discretion, may require that these recommendations be followed  
297 before authorization to construct or modify the dam is issued, or  
298 order the removal of the dam after it has been constructed or  
299 request the commission to order the removal of the dam after it  
300 has been constructed or modified when such recommendations are not  
301 followed.

302 (3) The board and commission shall be authorized to make  
303 inspections of dams and reservoirs, regardless of whether or not  
304 written construction authorization therefor was required under  
305 this section, for the purpose of determining their safety, and  
306 shall require owners to perform at their expense such work as may  
307 be necessary for maintenance and operation which will safeguard

308 life and property. Provided, however, a dam or reservoir may be  
309 exempt from inspections when the commission determines that the  
310 location, size or condition is such that lives and property will  
311 not be endangered. In carrying out the provisions of this  
312 section, the board and commission are authorized to expend  
313 available state funds, to receive funds from federal agencies, to  
314 contract with consultants and/or other agencies, and the  
315 commission may issue orders to owners of dams or reservoirs found  
316 to be unsafe requiring them to take the prescribed remedial action  
317 to safeguard downstream lives and property.

318 (4) No dam or reservoir, regardless of whether or not  
319 written construction authorization therefor is required under this  
320 section, may be constructed in such a manner as to impair the  
321 common law or other lawful rights of water users below or plans  
322 for the proper utilization of the water resources of the state.  
323 The board is authorized to prescribe such minimum flow releases  
324 from any dam or reservoir as may be found necessary to protect  
325 downstream users or otherwise prudently manage available surface  
326 water.

327 (5) When the board or commission finds a dam or reservoir  
328 constructed or modified in violation of this chapter or that the  
329 owner of a dam or reservoir has allowed the structure to  
330 deteriorate and remain in an unsafe condition after having been  
331 ordered to make the necessary repairs, then the commission may  
332 cause the structure to be removed and/or the board may revoke or  
333 modify any other authorization pertaining thereto.

334 (6) The provisions of this section shall not be construed as  
335 creating any liability for damages against the state and/or  
336 against its officers, agents and employees.

337 (7) The provisions of this section shall apply also to a

338 county board of supervisors when constructing dams or low-water  
339 control structures on lakes or bodies of water in accordance with  
340 the provisions of Section 1 of this act.

341 SECTION 6. Nothing in this act shall be construed to require  
342 the prior approval of a levee board for the repair or construction  
343 of flood control structures in areas that are not located in a  
344 levee district area.

345 SECTION 7. This act shall take effect and be in force from  
346 and after its passage.

**Further, amend by striking the title in its entirety and  
inserting in lieu thereof the following:**

1 AN ACT TO AUTHORIZE ANY COUNTY TO CONSTRUCT A DAM OR  
2 LOW-WATER CONTROL STRUCTURE ON LAKES OR BODIES OF WATER LOCATED  
3 PARTIALLY WITHIN AND PARTIALLY WITHOUT THE BOUNDARIES OF THE  
4 COUNTY; TO PROVIDE THAT SUCH A COUNTY MAY ISSUE GENERAL OBLIGATION  
5 BONDS IN AN AMOUNT NOT TO EXCEED \$250,000.00; TO AUTHORIZE SUCH A  
6 COUNTY TO CONTRACT WITH THE UNITED STATES OR ANY AGENCY OR  
7 DEPARTMENT THEREOF TO SPONSOR A PROJECT FOR THE ENVIRONMENTAL  
8 RESTORATION OF SUCH A LAKE OR BODY OF WATER; TO ACQUIRE, THROUGH  
9 PURCHASE OR EMINENT DOMAIN PROCEDURES, CERTAIN LANDS, EASEMENTS  
10 AND RIGHTS-OF-WAY ASSOCIATED WITH A JOINT COUNTY/FEDERAL PROJECT;  
11 TO AMEND SECTIONS 19-9-1, 19-5-91 AND 51-3-39, MISSISSIPPI CODE OF  
12 1972, IN CONFORMITY THERETO; TO AMEND SECTION 11-27-81,  
13 MISSISSIPPI CODE OF 1972, TO ALLOW COUNTY BOARDS OF SUPERVISORS TO  
14 EXERCISE THE RIGHT TO IMMEDIATE POSSESSION FOR PROPERTY OR  
15 RIGHTS-OF-WAY LOCATED WITHIN THE COUNTY FOR CERTAIN PROJECTS; TO  
16 PROVIDE THAT NOTHING IN THIS ACT SHALL BE CONSTRUED TO REQUIRE THE  
17 PRIOR APPROVAL OF A LEVEE BOARD FOR REPAIR OR CONSTRUCTION OF  
18 FLOOD CONTROL STRUCTURES IN AREAS THAT ARE NOT LOCATED IN A LEVEE  
19 DISTRICT AREA; AND FOR RELATED PURPOSES.