

By: Representative Ellington

To: Conservation and Water Resources

HOUSE BILL NO. 934

1 AN ACT TO AMEND SECTION 21-27-203, MISSISSIPPI CODE OF 1972,
2 TO PROVIDE THAT THE OPERATOR OF A SEWERAGE SYSTEM OR SEWERAGE
3 DISPOSAL SYSTEM, INCLUDING ANY COLLECTION OR TREATMENT FACILITIES
4 OR PLANTS ASSOCIATED WITH THE SYSTEM AND REGARDLESS OF WHETHER THE
5 SYSTEM DOES NOT TREAT WATER, SHALL BE REQUIRED TO BE CERTIFIED; TO
6 AMEND SECTIONS 49-17-5, 49-17-165, 49-17-169, 49-17-305 AND
7 49-17-309, MISSISSIPPI CODE OF 1972, IN CONFORMITY THERETO; TO
8 BRING FORWARD SECTION 21-27-201 AND SECTIONS 21-27-205 THROUGH
9 21-27-221, MISSISSIPPI CODE OF 1972, FOR THE PURPOSES OF
10 AMENDMENT; AND FOR RELATED PURPOSES.

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

12 **SECTION 1.** Section 21-27-201, Mississippi Code of 1972, is
13 brought forward as follows:

14 21-27-201. Sections 21-27-201 through 21-27-221 shall be
15 known as the "Municipal and Domestic Water and Wastewater System
16 and Nonhazardous Solid Waste Management Facilities Operator's
17 Certification Act of 1992."

18 **SECTION 2.** Section 21-27-203, Mississippi Code of 1972, is
19 amended as follows:

20 21-27-203. For purposes of Sections 21-27-201 through
21 21-27-221, the following terms shall have the meanings ascribed
22 herein, unless the context shall otherwise require:

23 (a) "Association" means the Mississippi Water and
24 Pollution Control Operator's Association, Inc.

25 (b) "Board" means the Mississippi State Board of
26 Health.

27 (c) "Commission" means the Mississippi Commission on
28 Environmental Quality.

29 (d) "Community water system" means a public water
30 system serving piped water for human consumption to, or a sewerage
31 disposal system serving, fifteen (15) or more individual service



32 connections used by year-round consumers or regularly serving
33 twenty-five (25) or more individual consumers year-round,
34 including, but not limited to, any collection, pretreatment,
35 treatment, storage and/or distribution facilities or equipment
36 used primarily as part of, or in connection with, that system,
37 regardless of whether or not the components are under the
38 ownership or control of the operator of the system and regardless
39 of whether the system collects or distributes, but does not treat,
40 the water.

41 (e) "Nontransient, noncommunity water system" means a
42 public water system that is not a community water system and that
43 regularly serves at least twenty-five (25) of the same persons
44 over six (6) months per year.

45 (f) "Operator" means the person who directly supervises
46 and is personally responsible for the daily operation and
47 maintenance of a wastewater facility, community water system,
48 nontransient, noncommunity water system, commercial nonhazardous
49 solid waste management landfill, sewerage system as defined in
50 Section 49-17-5, collection or treatment facilities or plants as
51 defined in Section 49-17-165 and Section 49-17-305, or any sewer
52 system required to be certificated by the Public Service
53 Commission.

54 (g) "Person" means the state or any agency or
55 institution of the state, any municipality, political subdivision,
56 public or private corporation, individual, partnership,
57 association or other entity, including any officer or governing or
58 managing body of any municipality, political subdivision, or
59 public or private corporation, or the United States or any officer
60 or employee of the United States.

61 (h) "Pollution" means contamination or other alteration
62 of the physical, chemical or biological properties of any waters
63 of the state, including change in temperature, taste, color,
64 turbidity or odor of the waters, or the discharge of any liquid,



65 gaseous, solid, radioactive or other substance or heat into any
66 waters of the state.

67 (i) "Wastewater facilities" means pipelines or
68 conduits, pumping stations, force mains, treatment plants, lagoons
69 or any other structure, device, appurtenance or facility, whether
70 operated individually or in any combination, used for collecting,
71 treating and/or disposing of municipal or domestic wastewater, by
72 either surface or underground methods, which is required to have a
73 permit under Section 49-17-29.

74 (j) "Waters of the state" means all waters within the
75 jurisdiction of this state, including all streams, lakes, ponds,
76 impounding reservoirs, marshes, watercourses, waterways, wells,
77 springs, irrigation systems, drainage systems and all other bodies
78 or accumulations of water, surface and underground, natural or
79 artificial, situated wholly or partly within or bordering upon the
80 state, and such coastal waters as are within the jurisdiction of
81 the state, except lakes, ponds or other surface waters which are
82 wholly landlocked and privately owned.

83 **SECTION 3.** Section 21-27-205, Mississippi Code of 1972, is
84 brought forward as follows:

85 21-27-205. (1) The board shall classify all municipal and
86 domestic water collection, storage, treatment and/or distribution
87 systems actually used or intended for use as community water
88 systems or nontransient, noncommunity water systems according to
89 size, type, character of water to be treated, number of service
90 connections, and other physical conditions affecting the operation
91 and maintenance of those systems, and also according to the degree
92 of skill, knowledge, training and experience required of the
93 operators of those systems to ensure competent, efficient
94 operation and maintenance of such systems and protection of public
95 health.

96 (2) The commission shall classify all municipal and domestic
97 wastewater facilities according to size, type, character of



98 wastewater to be treated, and other physical conditions affecting
99 the operation and maintenance of the facilities, and also
100 according to the degree of skill, knowledge, training and
101 experience required of the operators of the facilities to ensure
102 competent, efficient operation and maintenance of the facilities
103 and prevention of pollution of waters of the state.

104 (3) The commission shall establish reciprocal certification
105 arrangements with other states and private companies that
106 establish training and certification programs for operators of
107 commercial nonhazardous solid waste management landfills that meet
108 or exceed the requirements of the commercial nonhazardous solid
109 waste management landfill operator training and certification
110 program established by the commission.

111 **SECTION 4.** Section 21-27-207, Mississippi Code of 1972, is
112 brought forward as follows:

113 21-27-207. Both the board and commission may adopt, modify,
114 repeal and promulgate, after due notice and hearing, and may make
115 exceptions to and grant exemptions and variances from and may
116 enforce those rules, regulations and procedures as are necessary
117 or appropriate to effectuate the duties and responsibilities of
118 these agencies arising under Sections 21-27-201 through 21-27-221.
119 The rules, regulations and procedures shall include, but not be
120 limited to, the following: criteria for classifying municipal and
121 domestic community water systems, nontransient, noncommunity water
122 systems and wastewater facilities; qualifications for operators of
123 community water systems, nontransient, noncommunity water systems
124 and wastewater facilities; procedures for examining or testing
125 applicants for operator certificates; procedures and fees for
126 issuing, reissuing, modifying, revoking or terminating operator
127 certificates; and reciprocal certification of operators certified
128 in other states having certification requirements not less
129 stringent than those established by the board and commission.
130 Both the board and commission shall consult with the advisory



131 committee established under this chapter in promulgating the
132 rules, regulations and procedures.

133 **SECTION 5.** Section 21-27-211, Mississippi Code of 1972, is
134 brought forward as follows:

135 21-27-211. (1) It is unlawful to operate or cause to be
136 operated any wastewater facility or community water system covered
137 under Sections 21-27-201 through 21-27-221 unless the operator of
138 that facility or system holds a current certificate of competency
139 issued by the board or commission, as provided by Sections
140 21-27-201 through 21-27-221, in a classification corresponding to
141 the classification of the facility or system. After July 1, 1998,
142 it shall be unlawful to operate or cause to be operated any
143 nontransient, noncommunity water system covered under Sections
144 21-27-201 through 21-27-221, unless the operator of that system
145 holds a current certificate of competency issued by the board. If
146 an operator is lost due to illness, death, resignation, discharge
147 or other legitimate cause, the owner or president of the governing
148 board of the facility or system shall immediately notify either
149 the board or commission, as the case may be. The facility or
150 system may continue to operate without a certified operator on an
151 interim basis for a period not to exceed one hundred eighty (180)
152 days, except for good cause shown upon petition to the responsible
153 agency. The board or the commission, as the case may be, may
154 grant, upon petition of the facility or system, an extension of
155 the interim operating period not to exceed an additional one
156 hundred eighty (180) days for good cause shown.

157 (2) It is unlawful to operate or cause to be operated any
158 commercial nonhazardous solid waste management landfill permitted
159 under Section 49-17-29 unless the operator of that facility holds
160 a current certificate of competency issued by the commission, as
161 provided by Sections 21-27-201 through 21-27-221. However, in the
162 event of temporary loss of an operator due to illness, death,
163 resignation, discharge or other legitimate cause, notice shall be



164 immediately given to the commission and the continued operation of
165 the facility without a certified operator may proceed on an
166 interim basis for a period not to exceed one hundred eighty (180)
167 days, except for good cause shown upon petition to the commission.

168 **SECTION 6.** Section 21-27-213, Mississippi Code of 1972, is
169 brought forward as follows:

170 21-27-213. (1) Notwithstanding any provision of Sections
171 21-27-201 through 21-27-221 to the contrary, any person who is an
172 operator of a municipal or domestic wastewater facility or
173 community water system on July 1, 1986, may, on or before June 30,
174 1987, apply to the board or commission for, and shall be issued,
175 an operator's certificate without examination or proof of other
176 qualifications, if the application is accompanied by an affidavit
177 of the owner of the facility or system verifying the status of the
178 applicant. Any certificate so issued shall be valid only for the
179 particular facility being operated by the applicant, and then only
180 so long as the facility remains in the same or a lower
181 classification as at the time the application is filed.

182 (2) Notwithstanding any provision of Sections 21-27-201
183 through 21-27-221 to the contrary, any person who is an operator
184 of a nontransient, noncommunity water system on July 1, 1997, may,
185 before June 30, 1998, apply to the board for an operator's
186 certificate without examination. The application shall be
187 accompanied by an affidavit of the owner of the system verifying
188 the status of the applicant. The board shall consider the
189 performance history of any system operated by the applicant in
190 determining whether to issue a certificate under this subsection.
191 Upon review of the performance history and the application, the
192 board may grant or deny the issuance of a certificate under this
193 subsection. Any certificate issued under this subsection shall be
194 valid only for the particular facility being operated by the
195 applicant.



196 **SECTION 7.** Section 21-27-215, Mississippi Code of 1972, is
197 brought forward as follows:

198 21-27-215. Notwithstanding any provision of Sections
199 21-27-201 through 21-27-221 to the contrary, holders of valid
200 certificates of competency obtained through examination under the
201 voluntary certification program sponsored by the association may,
202 on or before June 30, 1987, apply to the board or commission for,
203 and shall be issued, an operator's certificate issued under the
204 provisions of Sections 21-27-201 through 21-27-221 without further
205 examination or proof of other qualifications, provided such
206 state-issued certificate shall be valid only for the class of
207 facility covered by the association certificate.

208 **SECTION 8.** Section 21-27-217, Mississippi Code of 1972, is
209 brought forward as follows:

210 21-27-217. (1) Any person found by the board or commission,
211 as the case may be, or any duly designated hearing officer
212 appointed thereby, violating any of the provisions of Sections
213 21-27-201 through 21-27-221, or any rule or regulation promulgated
214 by the board or commission hereunder, or any order issued by the
215 board or commission in the exercise of their authority and duties
216 hereunder, shall be subject to a civil penalty of not less than
217 One Hundred Dollars (\$100.00) nor more than One Thousand Dollars
218 (\$1,000.00), for each violation, such penalty to be levied and
219 assessed by the board or commission or designated hearing officer.
220 Appeals from such actions may be taken as provided hereinafter.
221 Each day upon which a violation occurs shall be deemed a separate
222 and additional violation.

223 In determining the amount of any monetary penalty assessed
224 hereunder, the board or commission or duly appointed hearing
225 officer shall consider all factors bearing upon the violation,
226 including but not limited to, any resulting actual or probable
227 pollution of the lands and/or waters of the state and/or
228 endangerment to public health, and the nature and extent thereof,



229 any violation of the terms or conditions of permits issued by the
230 board or commission for the affected facility, and any actual or
231 probable damage to the affected facility caused by improper
232 operation thereof.

233 (2) In lieu of, or in addition to, the penalty provided in
234 subsection (1) of this section, the board and commission shall
235 have power to institute and maintain in the name of the state any
236 and all proceedings necessary or appropriate to enforce the
237 provisions of Sections 21-27-201 through 21-27-221, rules and
238 regulations in force pursuant hereto, and orders and operator
239 certifications made and issued hereunder, in the appropriate
240 circuit, chancery, county or justice court of the county in which
241 venue may lie. The board and commission may obtain mandatory or
242 prohibitory injunctive relief, either temporary or permanent.

243 (3) Any person found guilty of violating any provision of
244 Sections 21-27-201 through 21-27-221, upon conviction, shall be
245 punished by a fine of not less than One Hundred Dollars (\$100.00)
246 nor more than One Thousand Dollars (\$1,000.00) per day of
247 violation.

248 **SECTION 9.** Section 21-27-219, Mississippi Code of 1972, is
249 brought forward as follows:

250 21-27-219. (1) Whenever the board or commission or an
251 employee thereof has reason to believe that a violation of any
252 provision of a regulation or of any order of the board or
253 commission has occurred, the board or commission may cause a
254 written complaint to be served upon the alleged violator or
255 violators. The complaint shall specify the provisions of Sections
256 21-27-201 through 21-27-221 or regulation or order alleged to have
257 been violated and the facts alleged to constitute a violation
258 thereof, and shall require that the alleged violator appear before
259 the board or commission, or any duly designated hearing officer
260 appointed thereby, at a time and place specified in the notice and
261 answer the charges complained of. The time of appearance before



262 the board or commission or designated hearing officer shall be not
263 less than thirty (30) days from the date of the service of the
264 complaint.

265 (2) The board or commission or designated hearing officer
266 shall afford an opportunity for a fair hearing to the alleged
267 violator or violators at the time and place specified in the
268 complaint. On the basis of the evidence produced at the hearing,
269 the board or commission or designated hearing officer shall make
270 findings of fact and conclusions of law and enter such order as in
271 its opinion will best further the purposes of Sections 21-27-201
272 through 21-27-221 and shall give written notice of such order to
273 the alleged violator, and the board or commission or designated
274 hearing officer may assess such penalties as hereinbefore
275 provided.

276 (3) Except as otherwise expressly provided, any notice or
277 other instrument issued by or under authority of the board or
278 commission or designated hearing officer may be served on any
279 person affected thereby personally or by publication, and proof of
280 such service may be made in like manner as in case of service of a
281 summons in a civil action, such proof to be filed in the office of
282 the board or commission; or such service may be made by mailing a
283 copy of the notice, order or other instrument by certified mail,
284 directed to the person affected at his last known post office
285 address as shown by the files or records of the board or
286 commission, and proof thereof may be made by the affidavit of the
287 person who did the mailing, filed in the office of the board or
288 commission.

289 (4) In conducting the hearings provided in this section, any
290 member of the board or commission, or the chief administrative
291 officer thereof, or the duly designated hearing officer, shall
292 have the authority to issue subpoenas to appear and give
293 testimony, to produce records, or both, and in case of contumacy
294 or refusal to obey a notice of hearing or subpoena issued



295 hereunder, the circuit court shall have jurisdiction upon
296 application of the board or commission or its representative to
297 issue an order requiring obedience to the hearing notice or
298 subpoena of the board or commission or designated hearing officer.
299 Any failure to obey such court order may be punished by such court
300 as contempt thereof. Any member of the board or commission, or
301 the chief administrative officer thereof, or the designated
302 hearing officer, may administer oaths. A verbatim record of the
303 hearing shall be made. Witnesses who are subpoenaed shall receive
304 the same fees and mileage as in civil actions.

305 (5) Any person aggrieved by the decision of the board or
306 commission to issue, deny, modify or revoke any operator
307 certification hereunder shall be entitled to a full hearing before
308 the board or commission or duly designated hearing officer
309 appointed thereby in the same manner as provided hereinabove, and
310 appeals from such actions shall be in the same manner as provided
311 hereinafter.

312 **SECTION 10.** Section 21-27-221, Mississippi Code of 1972, is
313 brought forward as follows:

314 21-27-221. (1) Any person aggrieved by the final decision
315 of any duly designated hearing officer appointed by the board or
316 commission as a result of any hearing held under the provisions of
317 Sections 21-27-201 through 21-27-221 may, within thirty (30) days
318 of receipt of written notice of the action of the hearing officer,
319 appeal such final decision to the full board or commission, as the
320 case may be, by filing therewith a written notice of appeal. No
321 cost bond or other security shall be required to perfect such
322 appeal. The hearing officer shall forthwith prepare and submit to
323 the board or commission the record made at the hearing, which
324 shall thereupon become the record of the cause. Appeals to the
325 board or commission shall be considered only upon the record made
326 before the hearing officer. The board or commission shall review
327 all findings of fact and conclusions of law of the hearing



328 officer, together with any penalties levied, and may affirm,
329 modify or reverse and remand the decision of the hearing officer,
330 as may be determined to be necessary or appropriate. Appeals from
331 the final decision of the board or commission shall be perfected
332 as hereinafter provided.

333 (2) Any person aggrieved by the final decision of the board
334 or commission as a result of any hearing held under the provisions
335 of Sections 21-27-201 through 21-27-221, including hearings
336 requested incidental to the issuance, denial, modification or
337 revocation of any operator certification issued hereunder, may,
338 within thirty (30) days of receipt of written notice of the action
339 of the board or commission, appeal such final decision to the
340 chancery court of the county of the situs in whole or in part of
341 the subject matter by giving a cost bond with sufficient sureties,
342 payable to the state in the sum of not less than One Hundred
343 Dollars (\$100.00) nor more than Five Hundred Dollars (\$500.00), to
344 be fixed by the board or commission and to be filed with and
345 approved by the chief administrative officer of the appropriate
346 agency, who shall forthwith certify the same together with a
347 certified copy of the record made before the board or commission
348 or designated hearing officer in the matter to the chancery court
349 to which the appeal is taken, which shall thereupon become the
350 record of the cause. An appeal to the chancery court as provided
351 herein shall not stay the decision of the board or commission.
352 The aggrieved party may, within such thirty (30) days, petition
353 the said chancery court for an appeal with supersedeas and the
354 chancellor shall grant a hearing on said petition and upon good
355 cause shown may grant such appeal with supersedeas; the appellant
356 shall be required to post a supersedeas bond with sufficient
357 sureties according to law in an amount to be determined by the
358 chancellor. Appeals shall be considered only upon the record as
359 made before the board or commission. The chancery court shall
360 always be deemed open for hearing of such appeals and the



361 chancellor may hear the same in termtime or in vacation at any
362 place in his district, and the same shall have precedence over all
363 civil cases, except election contests. The chancery court shall
364 review all questions of law and of fact. If no prejudicial error
365 be found, the matter shall be affirmed. If prejudicial error be
366 found, the same shall be reversed, and the chancery court shall
367 remand the matter to the board or commission for appropriate
368 action as may be indicated or necessary under the circumstances.
369 Appeals may be taken from the chancery court to the Supreme Court
370 in the manner as now required by law, except that if a supersedeas
371 is desired by the party appealing to the chancery court, he may
372 apply therefor to the chancellor thereof, who shall award a writ
373 of supersedeas, without additional bond, if in his judgment
374 material damage is not likely to result thereby; but otherwise, he
375 shall require such supersedeas bond as he deems proper, which
376 shall be payable to the state for damage.

377 **SECTION 11.** Section 49-17-5, Mississippi Code of 1972, is
378 amended as follows:

379 49-17-5. For the purposes of Sections 49-17-1 through
380 49-17-43, the following words and phrases shall have the meanings
381 ascribed to them in this section:

382 (1) **Water.**

383 (a) "Pollution" means such contamination, or other
384 alteration of the physical, chemical or biological properties, of
385 any waters of the state, including change in temperature, taste,
386 color, turbidity, or odor of the waters, or such discharge of any
387 liquid, gaseous, solid, radioactive, or other substance or leak
388 into any waters of the state unless in compliance with a valid
389 permit issued therefor by the Permit Board.

390 (b) "Wastes" means sewage, industrial wastes, oil field
391 wastes, and all other liquid, gaseous, solid, radioactive, or
392 other substances which may pollute or tend to pollute any waters
393 of the state.



394 (c) "Sewerage system" means pipelines or conduits,
395 pumping stations, and force mains, and other structures, devices,
396 appurtenances and facilities used for collecting or conducting
397 wastes to an ultimate point for treatment or disposal.

398 (d) "Treatment works" means any plant or other works,
399 used for the purpose of treating, stabilizing or holding wastes.

400 (e) "Disposal system" means a system for disposing of
401 wastes, either by surface or underground methods, and includes
402 sewerage systems, treatment works, disposal wells and other
403 systems.

404 (f) "Waters of the state" means all waters within the
405 jurisdiction of this state, including all streams, lakes, ponds,
406 impounding reservoirs, marshes, watercourses, waterways, wells,
407 springs, irrigation systems, drainage systems, and all other
408 bodies or accumulations of water, surface and underground, natural
409 or artificial, situated wholly or partly within or bordering upon
410 the state, and such coastal waters as are within the jurisdiction
411 of the state, except lakes, ponds or other surface waters which
412 are wholly landlocked and privately owned, and which are not
413 regulated under the Federal Clean Water Act (33 USCS 1251 et
414 seq.).

415 (g) "Underground water" means an underground source of
416 drinking water as defined within the regulations of the Federal
417 Safe Drinking Water Act.

418 (h) "Operator" means a person who directly supervises
419 and is personally responsible for the daily operation and
420 maintenance of a sewerage system.

421 (2) **Air.**

422 (a) "Air contaminant" means particulate matter, dust,
423 fumes, gas, mist, smoke or vapor, or any combination thereof,
424 produced by processes other than natural.

425 (b) "Air pollution" means the presence in the outdoor
426 atmosphere of one or more air contaminants in quantities, of



427 characteristic, and of a duration which are materially injurious
428 or can be reasonably expected to become materially injurious to
429 human, plant or animal life or to property, or which unreasonably
430 interfere with enjoyment of life or use of property throughout the
431 state or throughout such area of the state as shall be affected
432 thereby.

433 (c) "Air contamination" means the presence in the
434 outdoor atmosphere of one or more air contaminants which
435 contribute to a condition of air pollution.

436 (d) "Air contamination source" means any source at,
437 from, or by reason of which there is emitted into the atmosphere
438 any air contaminant, regardless of who the person may be who owns
439 or operates the building, premises or other property in, at, or on
440 which such source is located, or the facility, equipment or other
441 property by which the emission is caused or from which the
442 emission comes.

443 (e) "Air-cleaning device" means any method, process or
444 equipment, the primary function of which is to remove, reduce or
445 render less noxious air contaminants discharged into the
446 atmosphere.

447 (f) "Area of the state" means any city or county or
448 portion thereof, or other substantial geographical area of the
449 state as may be designated by the Mississippi Commission on
450 Environmental Quality.

451 (g) "Federal Clean Air Act" means the Federal Clean Air
452 Act, 42 USCS 7401 et seq., as amended.

453 (3) **General.**

454 (a) "Commission" means the Mississippi Commission on
455 Environmental Quality acting through the Office of Pollution
456 Control of the Department of Environmental Quality.

457 (b) "Person" means the state or other agency or
458 institution thereof, any municipality, political subdivision,
459 public or private corporation, individual, partnership,



460 association or other entity, and includes any officer or governing
461 or managing body of any municipality, political subdivision, or
462 public or private corporation, or the United States or any officer
463 or employee thereof.

464 (c) "Pollution Emergency Fund" means the fund
465 established under Section 49-17-68.

466 (d) "General permit" means a permit for categories of
467 sources that involve similar wastes and have similar monitoring
468 requirements and restrictions.

469 **SECTION 12.** Section 49-17-165, Mississippi Code of 1972, is
470 amended as follows:

471 49-17-165. Whenever used in Sections 49-17-161 through
472 49-17-209, the following words and terms shall have the following
473 respective meanings unless a different meaning clearly appears
474 from the context:

475 (a) "Act" means the Southern Regional Wastewater
476 Management Act, as the same may be amended.

477 (b) "Bonds" means any bonds, interim certificates,
478 notes or other evidences of indebtedness of the district issued
479 under Sections 49-17-161 through 49-17-209.

480 (c) "Collection facilities" means any plants,
481 structures, facilities and other real and personal property used
482 or useful in the collection of wastewater for ultimate discharge
483 into trunk lines, including, without limiting the generality of
484 the foregoing, sewers, conduits, pipelines, mains, pumping and
485 ventilating stations, plants and works, connections and any other
486 real and personal property and rights therein necessary or useful
487 or convenient for the purposes of the district in connection
488 therewith.

489 (d) "County" means Hancock County.

490 (e) "District" means the Southern Regional Wastewater
491 Management District.



492 (f) "Management area" means all of the area lying
493 within the territorial boundaries of Hancock County.

494 (g) "Person" means the state or other agency or
495 institution thereof, any municipality, political subdivision,
496 public or private corporation, individual, partnership,
497 association or other entity, and includes any officer or governing
498 or managing body of any municipality, political subdivision or
499 public or private corporation.

500 (h) "Pollution" means such contamination, or other
501 alteration of the physical, chemical or biological properties, of
502 any waters of the state, including change in temperature, taste,
503 color, turbidity or odor of the waters, or such discharge of any
504 liquid, gaseous, solid, radioactive, or other substance into any
505 waters of the state as will or is likely to create a nuisance or
506 render such waters harmful, detrimental or injurious to public
507 health, safety or welfare, or to domestic, commercial, industrial,
508 agricultural, recreational or other legitimate beneficial uses, or
509 to livestock, wild animals, birds, fish or other aquatic life.

510 (i) "Public agency" means any incorporated city or
511 town, county, political subdivision, governmental district or
512 unit, public corporation or governmental agency created under the
513 laws of the state, lying wholly or partially within the management
514 area.

515 (j) "State" means the State of Mississippi.

516 (k) "Treatment facilities" means treatment plants and
517 any related trunk lines.

518 (l) "Treatment plants" means any plants, structures,
519 facilities and other real and personal property used or useful in
520 the treating, neutralizing, stabilizing or disposing of
521 wastewater, including, without limiting the generality of the
522 foregoing plants, disposal fields and lagoons and any other real
523 and personal property and rights therein necessary or useful or



524 convenient for the purposes of the district in connection
525 therewith.

526 (m) "Trunk lines" means trunk sewers and other
527 structures and facilities used or useful in the conducting of
528 wastewater from collection facilities to treatment plants,
529 including, without limiting the generality of the foregoing,
530 conduits, pipelines, mains, pumping and ventilating stations and
531 any other real and personal property and rights therein necessary
532 or useful or convenient for the purposes of the district in
533 connection therewith.

534 (n) "Wastewater" means water containing sewage,
535 industrial wastes, oil field wastes and other liquid, gaseous,
536 solid, radioactive or other substances which may pollute or tend
537 to pollute any waters of the state.

538 (o) "Operator" means a person who directly supervises
539 and is personally responsible for the daily operation and
540 maintenance of collection facilities, treatment facilities or
541 treatment plants operated by the district.

542 **SECTION 13.** Section 49-17-169, Mississippi Code of 1972, is
543 amended as follows:

544 49-17-169. (1) All powers of the district shall be vested
545 in a board of directors which shall consist of the mayor of each
546 city participating in the Southern Regional Wastewater Management
547 District and the President of the Board of Supervisors of Hancock
548 County. Each director may appoint a delegate to represent him at
549 a meeting of the board.

550 (2) The board of directors may elect or appoint and
551 prescribe the duties of such officers as the board of directors
552 deems necessary or advisable, including an executive director and
553 a secretary. The executive director, who, at the discretion of
554 the board of directors, may also serve as secretary, shall be a
555 person of good moral character and shall be a professional
556 engineer registered in the State of Mississippi with a minimum of



557 ten (10) years' recent practical experience in the management and
558 administration of public works operations which may include, but
559 is not limited to, supervision, public financing, regulatory codes
560 and related functions as minimum qualifications to administer the
561 programs and duties of the district. The executive director shall
562 administer, manage and direct the affairs and business of the
563 district, subject to the policies, control and direction of the
564 board of directors. The executive director shall give bond
565 executed by a surety company or companies authorized to do
566 business in this state in the penal sum of Twenty-five Thousand
567 Dollars (\$25,000.00) payable to the district, conditioned upon the
568 faithful performance of his duties and the proper accounting for
569 all funds which may come into his hands as executive director. The
570 secretary of the district shall keep a record of the proceedings
571 of the district and shall be custodian of all books, documents and
572 papers filed with the district, the minute book or journal of the
573 district and its official seal. The secretary shall have
574 authority to cause copies to be made of all minutes and other
575 records and documents of the district and to certify under the
576 seal of the district that such copies are true and accurate
577 copies, and all persons dealing with the district may rely upon
578 such certificates.

579 (3) Each director may receive as compensation a sum not to
580 exceed One Hundred Dollars (\$100.00) per month for attending
581 meetings of the board of directors during that month and may
582 receive reimbursement for actual and necessary expenses incurred
583 in the performance of his duties upon express authorization of the
584 board.

585 (4) Each person employed by the board as an operator shall
586 be required to detain an operator's certificate under the
587 provisions of Sections 21-27-201 through 21-27-221.

588 **SECTION 14.** Section 49-17-305, Mississippi Code of 1972, is
589 amended as follows:



590 49-17-305. Whenever used in Sections 49-17-301 through
591 49-17-353, the following words and terms shall have the following
592 respective meanings unless a different meaning clearly appears
593 from the context:

594 (a) "Act" means this Mississippi Gulf Coast Regional
595 Wastewater Authority Act, as the same may be amended.

596 (b) "Authority" means the Mississippi Gulf Coast
597 Regional Wastewater Authority.

598 (c) "Bonds" means any bonds, interim certificates,
599 notes or other evidences of indebtedness of the authority issued
600 under Sections 49-17-301 through 49-17-353.

601 (d) "Collection facilities" means any plants,
602 structures, facilities and other real and personal property used
603 or useful in the collection of wastewater for ultimate discharge
604 into trunk lines, including, without limiting the generality of
605 the foregoing, sewers, conduits, pipelines, mains, pumping and
606 ventilating stations, plants and works, connections and any other
607 real and personal property and rights therein necessary or useful
608 or convenient for the purposes of the authority in connection
609 therewith.

610 (e) "County" or "counties bordering on the Gulf of
611 Mexico" means Hancock, Harrison or Jackson County.

612 (f) "Persons" means a natural person, public agency,
613 state or other agency or institution thereof, any municipality,
614 political subdivision, cooperative or public or private
615 corporation, partnership, association or other entity of any
616 nature whatsoever organized and existing under the laws of any
617 state or of the United States or any instrumentality thereof, and
618 includes any officer or governing or managing body of any
619 municipality, political subdivision, or public or private
620 corporation.

621 (g) "Pollution" means such contamination, or other
622 alteration of the physical, chemical or biological properties, of



623 any waters of the state, including change in temperature, taste,
624 color, turbidity or odor of the waters, or such discharge of any
625 liquid, gaseous, solid, radioactive, or other substance into any
626 waters of the state as will or is likely to create a nuisance or
627 render such waters harmful, detrimental or injurious to public
628 health, safety or welfare, or to domestic, commercial, industrial,
629 agricultural, recreational or other legitimate beneficial uses, or
630 to livestock, wild animals, birds, fish or other aquatic life.

631 (h) "Public agency" means any incorporated city or
632 town, county, political subdivision, governmental district or
633 unit, public corporation or governmental agency created under the
634 laws of the state, lying wholly or partially within the
635 territorial boundaries of the counties bordering on the Gulf of
636 Mexico.

637 (i) "State" means the State of Mississippi.

638 (j) "Treatment facilities" means treatment plants and
639 any related trunk lines.

640 (k) "Treatment plants" means any plants, structures,
641 facilities and other real and personal property used or useful in
642 the treating, neutralizing, stabilizing or disposing of
643 wastewater, including, without limiting the generality of the
644 foregoing plants, disposal fields and lagoons and any other real
645 and personal property and rights therein necessary or useful or
646 convenient for the purposes of the authority in connection
647 therewith.

648 (l) "Trunk lines" means trunk sewers and other
649 structures and facilities used or useful in the conducting of
650 wastewater from collection facilities to treatment plants,
651 including, without limiting the generality of the foregoing,
652 conduits, pipelines, mains, pumping and ventilating stations and
653 any other real and personal property and rights therein necessary
654 or useful or convenient for the purposes of the authority in
655 connection therewith.



656 (m) "Wastewater" means water containing sewage,
657 industrial wastes, oil field wastes and all other liquid, gaseous,
658 solid, radioactive or other substances which may pollute or tend
659 to pollute any waters of the state.

660 (n) "Operator" means a person who directly supervises
661 and is personally responsible for the daily operation and
662 maintenance of collection facilities, treatment facilities or
663 treatment plants operated by the authority.

664 **SECTION 15.** Section 49-17-309, Mississippi Code of 1972, is
665 amended as follows:

666 49-17-309. (1) All powers of the Authority shall be vested
667 in a board of commissioners which shall be composed, and whose
668 members shall be selected, as follows:

669 (a) Initially, the board of commissioners shall be
670 composed as follows:

671 (i) Within thirty (30) days of the effective date
672 of Sections 49-17-301 through 49-17-353, the board of supervisors
673 of each county and the governing body of each incorporated city or
674 town lying within such county shall nominate one (1) person for
675 appointment by the Governor to the board of commissioners.

676 (ii) Within thirty (30) days following such
677 nomination, each such board of supervisors and such governing body
678 of an incorporated city or town lying within said county shall
679 certify in writing to the Governor the nominations of the
680 individuals for appointment to the board of commissioners;
681 provided, that each such board of supervisors or such governing
682 body shall nominate only individuals who are residents of its
683 respective county and who do not hold any elected public office or
684 any position as a paid employee of any public agency.

685 (iii) Within fifteen (15) days of receiving such
686 nominations, the Governor shall appoint to the board of
687 commissioners of the Authority each individual so nominated. Each
688 member of the board of commissioners appointed as provided in



689 subsection (1) (a) of this section shall remain in office until the
690 time of reorganization of the board of commissioners as provided
691 in subsection (1) (b) of this section.

692 (b) At such time as determined by the board of
693 commissioners, but in no event later than one (1) year following
694 the effective date of Sections 49-17-301 through 49-17-353, the
695 board of commissioners shall adopt a resolution declaring the
696 commencement of the reorganization of said board, which
697 reorganization shall be as follows:

698 (i) Each member of the board of commissioners
699 appointed by a board of supervisors of a county or by a governing
700 body of an incorporated city or town which has not prior to the
701 declaration of commencement of the reorganization of the board
702 contracted with the Authority under the provisions of Sections
703 49-17-301 through 49-17-353, shall have his or her term of office
704 automatically terminated by operation of Sections 49-17-301
705 through 49-17-353 and no appointment of a successor shall
706 thereafter be permitted, except as provided in subsection
707 (1) (b) (iv) of this section.

708 (ii) Within thirty (30) days of the declaration of
709 commencement of the reorganization of the board, the chairman of
710 the board as reconstituted under the provision of subsection
711 (1) (b) (i) of this section, shall certify the nomination in writing
712 to the Governor of the individual members of the board of
713 commissioners who were originally nominated by such board of
714 supervisors or the governing body of an incorporated city or town
715 lying within said county prior to its reconstitution and who are
716 selected for removal from the board of commissioners.

717 (iii) Within fifteen (15) days of receiving the
718 nominations for removal made in accordance with subsection
719 (1) (b) (ii) of this section, the Governor shall dismiss from office
720 each individual member of the board of commissioners of the
721 Authority so nominated. The Governor shall thereupon establish



722 staggered terms of office for the remaining members of the board
723 of commissioners; provided, however, that each term of office
724 shall be not less than two (2) years, nor more than six (6) years
725 and the terms of all offices with respect to each such county
726 shall be staggered over time as evenly as practicable, as shall be
727 determined by the Governor. Each member shall remain in office
728 for the period of such member's term and until a successor shall
729 be duly appointed and qualified.

730 (iv) The number of members of the board of
731 commissioners shall be increased by one (1) each time a county, or
732 an incorporated city or town, which has not theretofore contracted
733 with the Authority enters into such a contract. Within fifteen
734 (15) days following the entering into of said contract, the board
735 of supervisors of the county, or the governing body of the
736 incorporated city or town, entering into such contract shall
737 nominate for appointment one (1) person to the board of
738 commissioners for the county entering into such contract or in
739 which such incorporated city or town is located. Within fifteen
740 (15) days following the execution of such contract, the board of
741 commissioners shall certify in writing to the Governor the
742 individual nominated for appointment to the board of
743 commissioners. The Governor shall appoint such individual so
744 nominated to the board of commissioners of the Authority within
745 fifteen (15) days of receiving such certification. The Governor
746 shall establish the term of office of such member of the board of
747 commissioners in compliance with the provisions of subsection
748 (1)(b)(iii) of this section regarding staggered terms.

749 (v) The successor of each member of the board of
750 commissioners shall be nominated and appointed in the same manner
751 provided in subsection (1)(b)(iv) of this section for the
752 nomination and appointment of additional members, and shall serve
753 a term of six (6) years, and for such period thereafter until a
754 successor shall be duly appointed and qualified.



755 (c) Each member of the board of commissioners shall be
756 eligible for reappointment. All vacancies shall be filled by
757 nomination and appointment in the same manner provided in
758 subsection (1)(b)(v) of this section for the appointment of
759 successors, provided that any person appointed to fill a vacancy
760 shall serve only for the unexpired term. Any member may be
761 removed at any time prior to the expiration of said member's term
762 of office for misfeasance, malfeasance or willful neglect of duty,
763 as determined by the Governor with the concurrence of the
764 nominating public agency. Before assuming office, each member
765 shall take and subscribe to the constitutional oath of office
766 before a chancery clerk, and a record of such oath shall be filed
767 with the Secretary of State. The board of commissioners shall
768 annually select a chairman and a vice chairman from among its
769 members.

770 (2) The board of commissioners shall elect or appoint and
771 prescribe the duties of such officers as the board of
772 commissioners deems necessary or advisable, including a general
773 manager and a secretary. The general manager, who, at the
774 discretion of the board of commissioners, may also serve as
775 secretary, shall be a person of good moral character and shall be
776 a person of proven ability as an administrator with a minimum of
777 five (5) years' experience in the management and administration of
778 a public works operation or comparable experience which may
779 include, but is not limited to, supervision, public financing,
780 regulatory codes and related functions as minimum qualifications
781 to administer the programs and duties of the Authority. The
782 general manager shall administer, manage and direct the affairs
783 and business of the Authority, subject to the policies, control
784 and direction of the board of commissioners. The general manager
785 shall give bond executed by a surety company or companies
786 authorized to do business in this state in the penal sum of Fifty
787 Thousand Dollars (\$50,000.00) payable to the Authority conditioned



788 upon the faithful performance of his duties and the proper
789 accounting for all funds which may come into his hands as general
790 manager. The secretary of the Authority shall keep a record of
791 the proceedings of the Authority and shall be custodian of all
792 books, documents and papers filed with the Authority, the minute
793 book or journal of the Authority and its official seal. The
794 secretary shall have authority to cause copies to be made of all
795 minutes and other records and documents of the Authority and to
796 certify under the seal of the Authority that such copies are true
797 and accurate copies, and all persons dealing with the Authority
798 may rely upon such certificates.

799 (3) Upon express, prior authorization of the Authority, each
800 commissioner may receive a per diem of not to exceed Fifty Dollars
801 (\$50.00) per day for attending each day's meeting of the board of
802 commissioners and for each day spent in attending to the business
803 of the Authority and, in addition, may receive reimbursement for
804 actual and necessary expenses incurred.

805 (4) Each person employed by the board as an operator shall
806 be required to obtain an operator's certificate under the
807 provisions of Sections 21-27-201 through 21-27-221.

808 **SECTION 16.** This act shall take effect and be in force from
809 and after July 1, 2002.

