

By: Representative Holland

To: Public Buildings,
Grounds and Lands

HOUSE BILL NO. 1359

1 AN ACT TO AMEND SECTION 51-13-111, MISSISSIPPI CODE OF 1972,
2 TO AUTHORIZE THE BOARD OF DIRECTORS OF THE TOMBIGBEE RIVER VALLEY
3 WATER MANAGEMENT DISTRICT TO TRANSFER THE ELVIS PRESLEY PARK TO
4 THE MISSISSIPPI DEPARTMENT OF WILDLIFE, FISHERIES AND PARKS IN LEE
5 COUNTY, MISSISSIPPI; TO AUTHORIZE THE BOARD OF DIRECTORS OF THE
6 TOMBIGBEE RIVER VALLEY WATER MANAGEMENT DISTRICT TO PAY
7 \$200,000.00 TO THE MISSISSIPPI DEPARTMENT OF WILDLIFE, FISHERIES
8 AND PARKS AT THE TIME OF SUCH TRANSFER AND TO PROVIDE THAT SUCH
9 FUNDS WILL BE USED FOR THE PURPOSE OF CONSTRUCTING AN OFFICE
10 BUILDING ON THE ELVIS PRESLEY PARK FOR THE MISSISSIPPI DEPARTMENT
11 OF WILDLIFE, FISHERIES AND PARKS; AND FOR RELATED PURPOSES.

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

13 **SECTION 1.** Section 51-13-111, Mississippi Code of 1972, is
14 amended as follows:

15 51-13-111. The Tombigbee River Valley Water Management
16 District through its board of directors is hereby empowered:

17 (a) To develop, in conjunction with the United States
18 Army Corps of Engineers, United States Secretary of Agriculture,
19 or with the head of any other federal or state agency as may be
20 involved, plans for public works of improvement for the prevention
21 of floodwater damage, or the conservation, development,
22 navigation, utilization and disposal of water, including the
23 impoundment, diversion, flowage and distribution of waters for
24 beneficial use as defined in Chapter 3 of this title.

25 To enter into agreements with the United States of America,
26 as represented by the United States Army Corps of Engineers, to
27 meet the requirements of local cooperation for flood control and
28 navigation projects as set out in House Document No. 167, 84th
29 Congress, First Session, as authorized by Public Law 85-500, 85th
30 Congress, dated July 3, 1958, as amended, and House Document No.



31 486, 79th Congress, Second Session, as approved by Public Law 525,
32 79th Congress, as amended.

33 (b) To impound overflow water and the surface water of
34 the Tombigbee River or its tributaries within the project area,
35 within or without the district, at the place or places and in the
36 amount as may be approved by the Office of Land and Water
37 Resources of the State of Mississippi, by the construction of a
38 dam or dams, reservoir or reservoirs, work or works, plants and
39 any other necessary or useful related facilities contemplated and
40 described as a part of the project, within or without the
41 district, to control, store and preserve these waters, and to use,
42 distribute, and sell them, to construct or otherwise acquire
43 within the project area all works, plants, or other facilities
44 necessary or useful to the project for processing the water and
45 transporting it to cities and other facilities for domestic,
46 municipal, commercial, industrial, agricultural and manufacturing
47 purposes, and is hereby given the power to control open channels
48 for water delivery purposes and water transportation.

49 (c) To acquire and develop any other available water
50 necessary or useful to the project and to construct, acquire and
51 develop all facilities within the project area deemed necessary or
52 useful with respect thereto, including terminals.

53 (d) To forest and reforest, and to aid in the foresting
54 and reforesting of the project area, and to prevent and to aid in
55 the prevention of soil erosion and flood within the area; to
56 control, store, and preserve within the boundaries of the project
57 area the waters of the Tombigbee River or any of its tributaries
58 for irrigation of lands and for prevention of water pollution.

59 (e) To acquire by condemnation all property of any
60 kind, real, personal, or mixed, or any interest therein, within or
61 without the boundaries of the district, necessary for the projects
62 and the exercise of the powers, rights, privileges and functions
63 conferred upon the district by this article, according to the



64 procedure provided by law for the condemnation of lands or other
65 property taken for rights-of-way or other purposes by railroads,
66 telephone, or telegraph companies, and according to the provisions
67 of Section 29-1-1. For the purposes of this article the right of
68 eminent domain of the district shall be superior and dominant to
69 the right of eminent domain of railroad, telegraph, telephone,
70 gas, power and other companies or corporations and shall be
71 sufficient to enable the acquisition of county roads, state
72 highways, or other public property in the project area, and the
73 acquisition or relocation of this property in the project area.
74 The cost of right-of-way purchases, rerouting and elevating all
75 other county-maintained roads affected by construction shall be
76 borne by the water management district, and new construction shall
77 be of equal quality as in roads existing as of May 1, 1962. The
78 county in which the work is done may assist in these costs if the
79 board of supervisors desires.

80 The amount and character of interest in land, other property,
81 and easements to be acquired shall be determined by the board of
82 directors, and their determination shall be conclusive and shall
83 not be subject to attack in the absence of manifold abuse of
84 discretion or fraud on the part of such board in making such
85 determination. However,

86 (i) In acquiring lands, either by negotiation or
87 condemnation, the district shall not acquire minerals or royalties
88 within the project area; sand and gravel shall not be considered
89 as minerals within the meaning of this section; and

90 (ii) No person or persons owning the drilling
91 rights or the right to share in production shall be prevented from
92 exploring, developing, or producing oil or gas with necessary
93 rights-of-way for ingress and egress, pipelines, and other means
94 of transporting these products by reason of the inclusion of the
95 lands or mineral interests within the project area, whether below
96 or above the waterline, but any activities shall be under



97 reasonable regulations by the board of directors that will
98 adequately protect the project; and

99 (iii) In drilling and developing, these persons
100 are hereby vested with a special right to have mineral interests
101 integrated and their lands developed in the drilling unit or units
102 that the State Oil and Gas Board shall establish after due
103 consideration of the rights of all owners to be included in the
104 drilling unit.

105 Moreover, when any site or plot of land is to be sold to any
106 person, firm, or corporation for the purpose of operating
107 recreational facilities thereon for profit, the board shall, by
108 resolution, specify the terms and conditions of the sale and shall
109 advertise for public bids thereon. When these bids are received,
110 they shall be publicly opened by the board, and the board shall
111 thereupon determine the highest and best bid submitted and shall
112 immediately notify the former owner of the site or plot of the
113 amount, terms, and conditions of the highest and best bid. The
114 former owner of the site or plot shall have the exclusive right at
115 his option, for a period of thirty (30) days after written notice
116 is received by the landowner of the determination of the highest
117 and best bid by the board, to purchase the site or plot of land by
118 meeting the highest and best bid and by complying with all terms
119 and conditions of the sale as specified by the board. However,
120 the board shall not sell to any former owner more land than was
121 taken from the former owner for the construction of the project,
122 or one-quarter (1/4) mile of shoreline, whichever shall be the
123 lesser. If this option is not exercised by the former owner
124 within a period of thirty (30) days, the board shall accept the
125 highest and best bid submitted.

126 Any bona fide resident householder actually living or
127 maintaining a residence on land taken by the district by
128 condemnation shall have the right to repurchase his former land



129 from the board of directors for a price not exceeding the price
130 paid for condemning his land, plus any permanent improvements.

131 In addition and notwithstanding any other provision in this
132 section to the contrary, the board may lease or rent all or any
133 portion of any property that it owns to any person, firm, or
134 corporation for the purpose of operating recreational facilities
135 for profit or not for profit or for any other public purpose
136 provided the land is open for the use of the general public or is
137 otherwise used for the public benefit and upon any other terms and
138 conditions as the board may determine. The leasing or renting of
139 all or any portion of any such land upon said conditions shall
140 require a resolution duly adopted by the board and shall be exempt
141 from any bid requirements in this section.

142 (f) To require the necessary relocation of roads and
143 highways, railroad, telephone, and telegraph lines and properties,
144 electric power lines, gas pipelines and mains and facilities in
145 the project area, or to require the anchoring or other protection
146 of any of these, provided due compensation is first paid the
147 owners thereof or agreement is had with the owners regarding the
148 payment of the cost of relocation. Further, the district is
149 hereby authorized to acquire easements or rights-of-way in or
150 outside of the project area for the relocation of roads, highways,
151 railroad, telephone, and telegraph lines and properties, electric
152 power lines, gas pipelines and mains and facilities, and to convey
153 them to the owners thereof in connection with the relocation as a
154 part of the construction of the project. However, the directors
155 of the district shall not close any public access road to the
156 project existing prior to the construction of the reservoir unless
157 the board of supervisors of the county in which the road is
158 located agrees thereto.

159 (g) To overflow and inundate any public lands and
160 public property, including sixteenth section lands and in lieu
161 lands, within the project area.



162 (h) To construct, extend, improve, maintain and
163 reconstruct, to cause to be constructed, extended, improved,
164 maintained and reconstructed, and to use and operate all
165 facilities of any kind within the project area necessary or
166 convenient to the project and to the exercise of powers, rights,
167 privileges and functions.

168 (i) To sue and be sued in its corporate name.

169 (j) To adopt, use, and alter a corporate seal.

170 (k) To make bylaws for the management and regulation of
171 its affairs.

172 (l) To employ engineers, attorneys, and all necessary
173 agents and employees to properly finance, construct, operate, and
174 maintain the project and the plants and to pay reasonable
175 compensation for these services; for all services in connection
176 with the issuance of bonds as provided in this article, the
177 attorney's fee shall not exceed one-quarter of one percent (1/4 of
178 1%) of the principal amount of these bonds. For any other
179 services, only reasonable compensation shall be paid for these
180 services. The board shall have the right to employ a general
181 manager, who shall, at the discretion of the board, have the power
182 to employ and discharge employees. Without limiting the
183 generality of the foregoing, it may employ fiscal agents or
184 advisors in connection with its financing program and in
185 connection with the issuance of its bonds.

186 (m) To make contracts and to execute instruments
187 necessary or convenient to the exercise of the powers, rights,
188 privileges, and functions conferred upon it by this article.

189 (n) To make or cause to be made surveys and engineering
190 investigations relating to the project, or related projects, for
191 the information of the district to facilitate the accomplishment
192 of the purposes for which it is created.

193 (o) To apply for and accept grants from the United
194 States of America, or from any corporation or agency created or



195 designated by the United States of America, and to ratify and
196 accept applications heretofore or hereafter made by voluntary
197 associations to these agencies for grants to construct, maintain
198 or operate any project or projects which hereafter may be
199 undertaken or contemplated by the district.

200 (p) To do any other acts or things necessary,
201 requisite, or convenient to the exercising of the powers, rights,
202 privileges or functions conferred upon it by this article or any
203 other law.

204 (q) To make contracts in the issuance of bonds that may
205 be necessary to insure the marketability thereof.

206 (r) To enter into contracts with municipalities,
207 corporations, districts, public agencies, political subdivisions
208 of any kind, and others for any services, facilities or
209 commodities that the project may provide. The district is also
210 authorized to contract with any municipality, corporation, or
211 public agency for the rental, leasing, purchase, or operation of
212 the water production, water filtration or purification, water
213 supply and distributing facilities of the municipality,
214 corporation, or public agency upon consideration as the district
215 and entity may agree. Any contract may be upon any terms and for
216 any time as the parties may agree, and it may provide that it
217 shall continue in effect until bonds specified therein, refunding
218 bonds issued in lieu of these bonds, and all obligations are paid.
219 Any contract with any political subdivision shall be binding upon
220 these political subdivisions according to its terms, and the
221 municipalities or other political subdivisions shall have the
222 power to enter into these contracts as in the discretion of the
223 governing authorities thereof would be to the best interest of the
224 people of the municipality or other political subdivision. These
225 contracts may include, within the discretion of the governing
226 authorities, a pledge of the full faith and credit of the
227 political subdivisions for the performance thereof.



228 (s) To fix and collect charges and rates for any
229 services, facilities or commodities furnished by it in connection
230 with the project, and to impose penalties for failure to pay these
231 charges and rates when due.

232 (t) To operate and maintain within the project area,
233 with the consent of the governing body of any city or town located
234 within the district, any works, plants or facilities of any city
235 deemed necessary or convenient to the accomplishment of the
236 purposes for which the district is created.

237 (u) Subject to the provisions of this article, from
238 time to time to lease, sell, or otherwise lawfully dispose of any
239 property of any kind, real, personal, or mixed, or any interest
240 therein within the project area or acquired outside the project
241 area as authorized in this article, for the purpose of furthering
242 the business of the district.

243 (v) When, in the opinion of the board of directors as
244 shown by resolution duly passed, it shall not be necessary to the
245 carrying on of the business of the district that the district own
246 any lands acquired, the board shall advertise these lands for sale
247 to the highest and best bidder for cash and shall receive and
248 publicly open the bids thereon. The board shall, by resolution,
249 determine the highest and best bid submitted for the land and
250 shall thereupon notify the former owner, his/her heirs or
251 devisees, by registered mail of the land to be sold and the
252 highest and best bid received therefor, and the former owner, or
253 his/her heirs or devisees, shall have the exclusive right at
254 his/her or their option for a period of thirty (30) days in which
255 to meet such highest and best bid and to purchase the property.
256 Provided further, that the board may transfer title to that
257 certain property known as the Trace State Park in Pontotoc County
258 to the Department of Environmental Quality; provided, however,
259 that any of the property that is under current lease shall not be
260 included in the transfer. Such transfer of title shall require a



261 resolution duly adopted by the board and by the Commission on
262 Environmental Quality and shall be exempt from any bid
263 requirements herein. In addition, the board may transfer title to
264 that certain property known as the Elvis Presley Park in Lee
265 County to Lee County, Mississippi, upon the terms and conditions
266 as it may determine. The transfer of title shall require a
267 resolution duly adopted by the board and shall be exempt from any
268 bid requirement in this section. In addition, the board may
269 transfer title to all or any portion of that certain property
270 known as the Elvis Presley Park in Lee County to the Mississippi
271 Department of Wildlife, Fisheries and Parks upon the terms and
272 conditions as it may determine, including, but not limited to,
273 authorizing the board to pay the sum of Two Hundred Thousand
274 Dollars (\$200,000.00) to the Mississippi Department of Wildlife,
275 Fisheries and Parks at the time of the transfer with such funds to
276 be used by the Mississippi Department of Wildlife, Fisheries and
277 Parks for the construction of an office building on the Elvis
278 Presley Park for use by the Mississippi Department of Wildlife
279 Fisheries and Parks. Such transfer of title and the payment of
280 such sum of money shall require a resolution duly adopted by the
281 board and by the Mississippi Department of Wildlife, Fisheries and
282 Parks and shall be exempt from any bid requirement in this
283 section.

284 (w) To prevent or aid in the prevention of damages to
285 persons or property from the waters of the Tombigbee River or any
286 of its tributaries.

287 (x) To acquire by purchase, lease, gift or in any other
288 manner (otherwise than by condemnation) and to maintain, use, and
289 operate all property of any kind, real, personal, or mixed, or any
290 interest therein within the project area, within or without the
291 boundaries of the district, necessary for the project and
292 convenient to the exercise of the powers, rights, privileges and
293 functions conferred upon the district by this article.



294 (y) In the purchase of or in the entering into of all
295 lease purchase agreements for supplies, equipment, heavy
296 equipment, and the like, the directors shall in all instances
297 comply with the provisions of law pertaining to public purchases
298 by public bids on these supplies and equipment.

299 (z) In addition to, or in conjunction with, any other
300 powers and duties of the district arising under this chapter, to
301 exercise those powers, duties and functions of a joint water
302 management district set forth in Sections 51-8-27 through 51-8-55,
303 except the power of eminent domain under Section 51-8-33. Before
304 exercising those powers and duties, the district must comply with
305 the provisions of Sections 51-8-63 and 51-8-65. In exercising the
306 functions of a joint water management district, the district may
307 apply to the Environmental Quality Permit Board for delegation of
308 those powers and duties as provided by Section 51-3-15, and to
309 apply to the Mississippi Commission on Environmental Quality for
310 delegation of those powers and duties provided by Section 51-3-21.

311 **SECTION 2.** This act shall take effect and be in force from
312 and after July 1, 2002.

