

By: Senator(s) Gollott

To: Judiciary

COMMITTEE SUBSTITUTE
FOR
SENATE BILL NO. 2953

1 AN ACT TO AMEND SECTION 51-15-119, MISSISSIPPI CODE OF 1972,
2 TO AUTHORIZE THE PAT HARRISON WATERWAY DISTRICT TO DESIGNATE
3 EMPLOYEES AS PEACE OFFICERS WITHIN THE PARKS AND PROPERTY OF THE
4 DISTRICT; AND FOR RELATED PURPOSE.

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

6 **SECTION 1.** Section 51-15-119, Mississippi Code of 1972, is
7 amended as follows:

8 51-15-119. (1) The Pat Harrison Waterway District through
9 its board of directors is hereby empowered:

10 (a) To develop in conjunction with the United States
11 Army Corps of Engineers, United States Secretary of Agriculture,
12 or with the head of any other federal or state agency as may be
13 involved, plans for public works of improvement to make navigable
14 or for the prevention of flood water damage, or the conservation,
15 development, recreation, utilization and disposal of water,
16 including the impoundment, diversion, flowage and distribution of
17 waters for beneficial use as defined in Article 1 of this chapter,
18 and in connection with the Okatibbee River Basin project as
19 authorized under Public Law 874, 87th Congress, October 23, 1962,
20 and substantially in accordance with the recommendation of the
21 Chief of Engineers in House Document 549 of the 87th Congress.

22 (b) To impound overflow water and the surface water of
23 any streams in the Pat Harrison Waterway District or its
24 tributaries within the project area, within or without the
25 district, at the place or places and in the amount as may be
26 approved by the Office of Land and Water Resources of the State of
27 Mississippi, by the construction of a dam or dams, reservoir or
28 reservoirs, work or works, plants and any other necessary or



29 useful related facilities contemplated and described as a part of
30 the project within and without the district, to control, store,
31 and preserve these waters, and to use, distribute, and sell them,
32 to construct or otherwise acquire within the project area all
33 works, plants or other facilities necessary or useful to the
34 project for processing the water and transporting it to cities and
35 other facilities necessary or useful to the project for the
36 purpose of processing the water and transporting it to cities and
37 other facilities for domestic, municipal, commercial, industrial,
38 agricultural and manufacturing purposes, and is hereby given the
39 power to control open channels for water delivery purposes and
40 water transportation.

41 (c) To acquire and develop any other available water
42 necessary or useful to the project and to construct, acquire, and
43 develop all facilities within the project area deemed necessary or
44 useful with respect thereto.

45 (d) To forest and reforest and to aid in the foresting
46 and reforesting of the project area, and to prevent and aid in the
47 prevention of soil erosion and flood within the area; to control,
48 store and preserve within the boundaries of the project area the
49 waters of any streams in the area, for irrigation of lands and for
50 prevention of water pollution.

51 (e) To acquire by condemnation all property of any
52 kind, real, personal or mixed, or any interest therein, within or
53 without the boundaries of the district, necessary for the project
54 and the exercise of the powers, rights, privileges and functions
55 conferred upon the district by this article, according to the
56 procedure provided by law for the condemnation of lands or other
57 property taken for rights-of-way or other purposes by railroad,
58 telephone or telegraph companies and according to the provisions
59 of Section 29-1-1. For the purposes of this article the right of
60 eminent domain of the district shall be superior and dominant to
61 the right of eminent domain of railroad, telegraph, telephone,



62 gas, power and other companies or corporations and shall be
63 sufficient to enable the acquisition of county roads, state
64 highways or other public property in the project area, and the
65 acquisition or relocation of this property in the project area.
66 The cost of right-of-way purchases, rerouting and elevating all
67 other county-maintained roads affected by construction shall be
68 borne by the water management district, and new construction shall
69 be of equal quality as in roads existing as of June 1, 1962. The
70 county in which such work is done may assist in these costs if the
71 board of supervisors desires.

72 The amount and character of interest in land, other property
73 and easements to be acquired shall be determined by the board of
74 directors, and their determination shall be conclusive and shall
75 not be subject to attack in the absence of manifold abuse of
76 discretion or fraud on the part of such board in making this
77 determination. However,

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

82 (ii) No person or persons owning the drilling
83 rights or the right to share in production shall be prevented from
84 exploring, developing or producing oil or gas with necessary
85 rights-of-way for ingress and egress, pipelines and other means of
86 transporting these products by reason of the inclusion of the
87 lands or mineral interests within the project area, whether below
88 or above the water line, but any activities shall be under
89 reasonable regulations by the board of directors that will
90 adequately protect the project; and

91 (iii) In drilling and developing, these persons
92 are hereby vested with a right to have mineral interests
93 integrated and their lands developed in the drilling unit or units
94 that the State Oil and Gas Board shall establish after due



95 consideration of the rights of all owners to be included in the
96 drilling unit.

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

119 Any bona fide, resident householder actually living or
120 maintaining a residence on land taken by the district by
121 condemnation shall have the right to repurchase his former land
122 from the board of directors for a price not exceeding the price
123 paid for his land, plus any permanent improvements and plus the
124 cost of condemnation.

125 (f) To require the necessary relocation of roads and
126 highways, railroad, telephone and telegraph lines and properties,
127 electric power lines, pipelines, and mains and facilities in the



128 project area, or to require the anchoring or other protection of
129 any of these, provided due compensation is first paid the owners
130 thereof or agreement is had with the owners regarding the payment
131 of the cost of relocation. Further, the district is hereby
132 authorized to acquire easements or rights-of-way in or outside of
133 the project area for the relocation of roads, highways, railroad,
134 telephone and telegraph lines and properties, electric power
135 lines, pipelines, and mains and facilities, and to convey them to
136 the owners thereof in connection with the relocation as a part of
137 the construction of the project. However, the directors of the
138 district shall not close any public access road to the project
139 existing prior to the construction of the reservoir unless the
140 board of supervisors of the county in which the road is located
141 agrees.

142 (g) To overflow and inundate any public lands and
143 public property, including sixteenth section lands and in lieu
144 lands, within the project area.

145 (h) To construct, extend, improve, maintain and
146 reconstruct, to cause to be constructed, extended, improved,
147 maintained and reconstructed, and to use and operate all
148 facilities of any kind within the project area necessary or
149 convenient to the project and to the exercise of powers, rights,
150 privileges and functions.

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

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

153 (k) To make bylaws for the management and regulation of
154 its affairs.

155 (l) To employ engineers, attorneys, who may or may not
156 be a director, and all necessary agents and employees to properly
157 finance, construct, operate and maintain the projects and the
158 plants, and to pay reasonable compensation for these services; for
159 all services in connection with the issuance of bonds as provided
160 in this article, the attorney's fee shall not exceed one percent



161 (1%) of the principal amount of these bonds. For any other
162 services, only reasonable compensation shall be paid for those
163 services. The board shall have the right to employ a general
164 manager or executive director, who shall, at the discretion of the
165 board, have the power to employ and discharge employees. Without
166 limiting the generality of the foregoing, it may employ fiscal
167 agents or advisors in connection with its financing program and in
168 connection with the issuance of its bonds.

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

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

176 (o) To apply for and accept grants from the United
177 States of America or from any corporation or agency created or
178 designated by the United States of America, and to ratify and
179 accept applications heretofore or hereafter made by voluntary
180 associations to these agencies for grants to construct, maintain
181 or operate any project or projects which hereafter may be
182 undertaken or contemplated by the district.

183 (p) To do all other acts or things necessary,
184 requisite, or convenient to the exercising of the powers, rights,
185 privileges or functions conferred upon it by this article or any
186 other law.

187 (q) To make such contracts in the issuance of bonds
188 that may be necessary to ensure the marketability thereof.

189 (r) To enter into contracts with municipalities,
190 corporations, districts, public agencies, political subdivisions
191 of any kind, and others for any services, facilities or
192 commodities that the project may provide. The district is also
193 authorized to contract with any municipality, corporation or



194 public agency for the rental, leasing, purchase or operation of
195 the water production, water filtration or purification, water
196 supply and distributing facilities of the municipality,
197 corporation or public agency upon consideration as the district
198 and entity may agree. Any contract may be upon any terms and for
199 any time as the parties may agree, and it may provide that it
200 shall continue in effect until bonds specified therein and
201 refunding bonds issued in lieu of these bonds and all obligations
202 are paid. Any contract with any political subdivision shall be
203 binding upon the political subdivisions according to its terms,
204 and the municipalities or other political subdivisions shall have
205 the power to enter into these contracts as in the discretion of
206 the governing authorities thereof would be to the best interest of
207 the people of the municipality or other political subdivisions.
208 These contracts may include within the discretion of the governing
209 authorities a pledge of the full faith and credit of the political
210 subdivisions for the performance thereof.

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

215 (t) To operate and maintain within the project area,
216 with the consent of the governing body of any city or town located
217 within the district, any works, plants or facilities of any city
218 deemed necessary or convenient to the accomplishment of the
219 purposes for which the district is created.

220 (u) Subject to the provisions of this article, from
221 time to time to lease, sell or otherwise lawfully dispose of
222 property of any kind, real, personal or mixed, or any interest
223 therein within the project area or acquired outside the project
224 area as authorized in this article, for the purpose of furthering
225 the business of the district.



226 (v) When, in the opinion of the board of directors as
227 shown by resolution duly passed, it shall not be necessary to the
228 carrying on of the business of the district that the district own
229 any lands acquired, the board shall advertise the lands for sale
230 to the highest and best bidder for cash, and shall receive and
231 publicly open the bids thereon. The board shall, by resolution,
232 determine the highest and best bid submitted for the land and
233 shall thereupon notify the former owner, his/her heirs or
234 devisees, by registered mail of the land to be sold and the
235 highest and best bid received therefore, and the former owner, or
236 his/her heirs or devisees, shall have the exclusive right at
237 his/her or their option for a period of thirty (30) days in which
238 to meet such highest and best bid and to purchase such property.

239 (w) To prevent or aid in the prevention of damage to
240 person or property from the waters of the Pascagoula River or any
241 of its tributaries.

242 (x) To acquire by purchase, lease, gift or in any other
243 manner (otherwise than by condemnation) and to maintain, use and
244 operate all property of any kind, real, personal or mixed, or any
245 interest therein within the project area, within or without the
246 boundaries of the district, necessary for the project and
247 convenient to the exercise of the powers, rights, privileges and
248 functions conferred upon the district by this article.

249 (y) In the purchase of or in the entering into of all
250 lease purchase agreements for supplies, equipment, heavy equipment
251 and the like, the directors shall in all instances comply with the
252 provisions of law pertaining to public purchases by public bids on
253 these supplies and equipment.

254 (z) To designate employees as peace officers with the
255 power to make arrests for violations of regulations of the
256 district. The officers are authorized to carry weapons and to
257 enforce the laws of the state within the confines of district



258 parks and property. Any employee so designated is required to
259 obtain and maintain certification pursuant to Title 45, Chapter 6.

260 (2) The board of directors shall annually prepare a
261 five-year plan containing a prioritized list detailing the
262 purposes, goals and projected costs of projects which it intends
263 to implement or is in the process of implementing and shall file
264 such plans with the clerk of the board of supervisors of each
265 member county on or before July 15 of each year.

266 (3) The board of directors shall, after completion of the
267 annual audit of the district and upon receipt of the written
268 report thereon, file a copy of such audit with the clerk of the
269 board of supervisors of each member county.

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

