

By: Senator(s) Gollott

To: Judiciary

SENATE BILL NO. 2953
(As Sent to Governor)

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; TO AUTHORIZE THE PAT HARRISON WATERWAY DISTRICT TO
5 CONTRACT WITH CERTAIN PERSONS TO SERVE AS PEACE OFFICERS FOR SUCH
6 PURPOSES; AND FOR RELATED PURPOSE.

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

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

10 51-15-119. (1) The Pat Harrison Waterway District through
11 its board of directors is hereby empowered:

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

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



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

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

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

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



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

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

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

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

93 (iii) In drilling and developing, these persons
94 are hereby vested with a right to have mineral interests
95 integrated and their lands developed in the drilling unit or units



96 that the State Oil and Gas Board shall establish after due
97 consideration of the rights of all owners to be included in the
98 drilling unit.

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

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

127 (f) To require the necessary relocation of roads and
128 highways, railroad, telephone and telegraph lines and properties,



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

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

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

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

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

155 (k) To make bylaws for the management and regulation of
156 its affairs.

157 (l) To employ engineers, attorneys, who may or may not
158 be a director, and all necessary agents and employees to properly
159 finance, construct, operate and maintain the projects and the
160 plants, and to pay reasonable compensation for these services; for
161 all services in connection with the issuance of bonds as provided



162 in this article, the attorney's fee shall not exceed one percent
163 (1%) of the principal amount of these bonds. For any other
164 services, only reasonable compensation shall be paid for those
165 services. The board shall have the right to employ a general
166 manager or executive director, who shall, at the discretion of the
167 board, have the power to employ and discharge employees. Without
168 limiting the generality of the foregoing, it may employ fiscal
169 agents or advisors in connection with its financing program and in
170 connection with the issuance of its bonds.

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

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

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

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

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

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



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

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

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

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



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

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

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

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

256 (z) To designate employees as peace officers with the
257 power to make arrests for violations of regulations of the
258 district. The officers are authorized to carry weapons and to
259 enforce the laws of the state within the confines of district
260 parks and property. Any employee so designated is required to



261 obtain and maintain certification pursuant to Section 45-6-1 et
262 seq.

263 (aa) To contract with persons, who are certified
264 according to the minimum standards established by the Board on Law
265 Enforcement Officer Standards and Training under Section 45-6-1 et
266 seq., to serve as peace officers with the power to make arrests
267 for violations of regulations of the district. Such officers are
268 authorized to carry weapons and to enforce the laws of the state
269 within the confines of district parks and property. All persons
270 with which the district has contracted under this paragraph (aa)
271 shall be independent contractors and shall not be considered as
272 employees under Chapter 46 of Title 11, Mississippi Code of 1972.

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

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

283 **SECTION 2.** This act shall take effect and be in force from
284 and after its passage.

