AN ACT TO AMEND SECTION 51-13-111, MISSISSIPPI CODE OF 1972, TO AUTHORIZE THE BOARD OF DIRECTORS OF THE TOMBIGBEE RIVER VALLEY WATER MANAGEMENT DISTRICT TO TRANSFER THE ELVIS PRESLEY PARK TO THE DEPARTMENT OF WILDLIFE, FISHERIES AND PARKS; AND FOR RELATED PURPOSES.

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

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

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

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

To enter into agreements with the United States of America, as represented by the United States Army Corps of Engineers, to meet the requirements of local cooperation for flood control and navigation projects as set out in House Document No. 167, 84th Congress, First Session, as authorized by Public Law 85-500, 85th Congress, dated July 3, 1958, as amended, and House Document No. 486, 79th Congress, Second Session, as approved by Public Law 525, 79th Congress, as amended.

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

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

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

(e) To acquire by condemnation all property of any
kind, real, personal, or mixed, or any interest therein, within or
without the boundaries of the district, necessary for the projects
and the exercise of the powers, rights, privileges and functions
conferred upon the district by this article, according to the
procedure provided by law for the condemnation of lands or other
property taken for rights-of-way or other purposes by railroads,
telephone, or telegraph companies, and according to the provisions
of Section 29-1-1. For the purposes of this article the right of
eminent domain of the district shall be superior and dominant to
the right of eminent domain of railroad, telegraph, telephone,
gas, power and other companies or corporations and shall be
sufficient to enable the acquisition of county roads, state
highways, or other public property in the project area, and the
acquisition or relocation of this property in the project area.
The cost of right-of-way purchases, rerouting and elevating all
other county-maintained roads affected by construction shall be
borne by the water management district, and new construction shall
be of equal quality as in roads existing as of May 1, 1962. The
county in which the work is done may assist in these costs if the
board of supervisors desires.
The amount and character of interest in land, other property,
and easements to be acquired shall be determined by the board of
directors, and their determination shall be conclusive and shall
not be subject to attack in the absence of manifold abuse of
discretion or fraud on the part of such board in making such
determination. However,

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(v) When, in the opinion of the board of directors as
shown by resolution duly passed, it shall not be necessary to the
carrying on of the business of the district that the district own
any lands acquired, the board shall advertise these lands for sale
to the highest and best bidder for cash and shall receive and
publicly open the bids thereon. The board shall, by resolution,
determine the highest and best bid submitted for the land and
shall thereupon notify the former owner, his/her heirs or
devisees, by registered mail of the land to be sold and the
highest and best bid received therefor, and the former owner, or
his/her heirs or devisees, shall have the exclusive right at
his/her or their option for a period of thirty (30) days in which
to meet such highest and best bid and to purchase the property.
Provided further, that the board may transfer title to that
certain property known as the Trace State Park in Pontotoc County
to the Department of Environmental Quality; provided, however,
that any of the property that is under current lease shall not be
included in the transfer. Such transfer of title shall require a
resolution duly adopted by the board and by the Commission on
Environmental Quality and shall be exempt from any bid
requirements herein. In addition, the board may transfer title to that certain property known as the Elvis Presley Park in Lee County to the Department of Wildlife, Fisheries and Parks, upon the terms and conditions as it may determine. The transfer of title shall require a resolution duly adopted by the board and shall be exempt from any bid requirement in this section.

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

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

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

(z) In addition to, or in conjunction with, any other powers and duties of the district arising under this chapter, to exercise those powers, duties and functions of a joint water management district set forth in Sections 51-8-27 through 51-8-55, except the power of eminent domain under Section 51-8-33. Before exercising those powers and duties, the district must comply with the provisions of Sections 51-8-63 and 51-8-65. In exercising the functions of a joint water management district, the district may apply to the Environmental Quality Permit Board for delegation of those powers and duties as provided by Section 51-3-15, and to apply to the Mississippi Commission on Environmental Quality for delegation of those powers and duties provided by Section 51-3-21.
SECTION 2. This act shall take effect and be in force from and after July 1, 2002.