

By: Representatives Simpson, Barnett  
(116th), Creel, Dedeaux, Fredericks, Guice,  
Ishee, Janus, Peranich

To: Local and Private  
Legislation; Ways and Means

HOUSE BILL NO. 1638

1 AN ACT TO PROVIDE A METHOD FOR THE MANAGEMENT OF STORMWATER  
2 AND OTHER NONPOINT SOURCE POLLUTION; TO CREATE THE HARRISON COUNTY  
3 STORMWATER MANAGEMENT DISTRICT AND TO DEFINE ITS DUTIES, POWERS  
4 AND RESPONSIBILITIES; TO AUTHORIZE PUBLIC AGENCIES TO CONTRACT  
5 WITH THE DISTRICT AND TO LEVY TAXES IN CONNECTION WITH THE  
6 DISTRICT; TO AUTHORIZE THE CONSOLIDATION OF THE HARRISON COUNTY  
7 WASTEWATER AND SOLID WASTE MANAGEMENT DISTRICT AND THE HARRISON  
8 COUNTY STORMWATER MANAGEMENT DISTRICT BY JOINT RESOLUTION OF THE  
9 DISTRICTS; TO AUTHORIZE THE ISSUANCE OF BONDS AND NOTES; AND FOR  
10 RELATED PURPOSES.

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

12 **SECTION 1.** This act shall be known, and may be cited as, the  
13 "Harrison County Stormwater Management District Act."

14 **SECTION 2.** (1) It is declared that management and proper  
15 disposal of stormwater is an important public concern; that  
16 pollution from inadequate or uneconomical management and/or  
17 disposal of stormwater and other nonpoint source pollution can  
18 adversely affect the economy and growth of the state; and that the  
19 need for more adequate and economical stormwater and nonpoint  
20 source pollution management is most acute within certain counties.

21 (2) Furthermore, it is in the public interest to foster and  
22 promote by all reasonable means the abatement of stormwater and  
23 other nonpoint source pollution, including pollution caused by  
24 septic tanks and thus to facilitate the abatement of the pollution  
25 in the most economically advantageous manner, including through  
26 the realization of economies of scale; that the abatement of the  
27 pollution can best be accomplished through the establishment of a  
28 management district to provide for the planning and financing of  
29 adequate stormwater and other nonpoint source pollution planning,  
30 management and prevention, and the facilities (on a qualitative  
31 and quantitative basis) for the benefit of all public agencies and



32 other persons within Harrison County who desire by means of and  
33 through the authority to obtain the facilities and services.

34 (3) Furthermore, to aid in remedying these conditions, and  
35 to promote the most economical development and operation of  
36 adequate stormwater and other nonpoint source pollution planning,  
37 management and prevention, and the facilities, a public body  
38 corporate and politic of the state shall be created with authority  
39 to cause and assist in compliance with the standards established  
40 by law regarding the facilities to plan, acquire, construct,  
41 finance, develop, own, operate or maintain the facilities within  
42 Harrison County to abate pollution from stormwater and other  
43 nonpoint sources; and to apply and accept grants-in-aid and other  
44 funds from the federal government and the state government and  
45 their agencies.

46 (4) Furthermore, it is necessary in order to accomplish the  
47 objectives and purposes of the Harrison County Stormwater  
48 Management District and the public agencies with which it  
49 contracts, for the district and public agencies, in the  
50 implementation of the powers granted under this act, to engage in  
51 conduct which may be anticompetitive or contrary to prohibition of  
52 federal or state antitrust laws; and accordingly, it is the intent  
53 of this act to displace competition with respect to those powers  
54 authorized in this act to be exercised by the district and public  
55 agencies.

56 (5) The Legislature further finds that the authority and  
57 powers conferred under this act and the expenditure of public  
58 money constitute a valid public purpose; that the creation and  
59 establishment of the Harrison County Stormwater Management  
60 District is necessary and essential to the accomplishment of these  
61 purposes; that this act operates on a subject in which the state  
62 at large is interested; and that each of these matters is declared  
63 as a matter of express legislative determination.



64           **SECTION 3.** Whenever used in this act, the following words  
65 and terms shall have the following respective meanings unless a  
66 different meaning clearly appears from the context:

67           (a) "Bonds" mean any bonds, interim certificates, notes  
68 or other evidences of indebtedness of the district issued under  
69 this act.

70           (b) "Collection and management facilities" means pipes,  
71 collection facilities, trunklines, storm drains, retention  
72 facilities, pretreatment and treatment facilities and other  
73 related facilities which the district deems necessary for the  
74 abatement of pollution from stormwater and other nonpoint source  
75 pollution.

76           (c) "County" means Harrison County.

77           (d) "Ditch" means any branch or lateral drain, tile  
78 drain, levee, sluiceway, water course, floodgate, and any other  
79 construction work found necessary for the reclamation of wet  
80 overflow lands.

81           (e) "District" means the Harrison County Stormwater  
82 Management District.

83           (f) "Facilities" mean any structure, building, ditch,  
84 pipe, channel, improvement, land or other real or personal  
85 property used or useful in stormwater management system under this  
86 act.

87           (g) "Other nonpoint source pollution" means any runoff  
88 which causes or contributes to cause pollution or degradation of  
89 the receiving waters.

90           (h) "Person" means a natural person, public agency,  
91 cooperative or private corporation, association, firm, partnership  
92 or business trust or other entity of any nature, organized and  
93 existing under the laws of any state or of the United States or  
94 any other political subdivision.

95           (i) "Project" means the collection, conveyance,  
96 retention, detention and any other portion of a stormwater



97 management system and any property, real or personal, used as or  
98 in connection with those purposes.

99 (j) "Project cost" means:

100 (i) All costs of site preparation and other  
101 start-up costs;

102 (ii) All costs of construction;

103 (iii) All costs of real and personal property  
104 required for the purposes of the project and facilities related to  
105 the project, including land and any rights or undivided interest,  
106 easements, franchises, fees, utility charges, permits, approvals,  
107 licenses, and certificates and the securing of any permits,  
108 approvals, licenses and certificates and all machinery and  
109 equipment, including motor vehicles which are used for project  
110 functions;

111 (iv) All costs of engineering, geotechnical,  
112 architectural and legal services;

113 (v) All costs of plans and specifications and all  
114 expenses necessary for determining the feasibility of the project;

115 (vi) Administrative expenses; and

116 (vii) Any other expenses necessary for financing  
117 of the project.

118 (k) "Public agency" means any incorporated city or  
119 town, county, political subdivision, governmental district or  
120 unit, public corporation or governmental agency created under the  
121 laws of the state, lying wholly or partially within the management  
122 area.

123 (l) "Septic tank" means any private wastewater  
124 treatment system, including septic tanks, privy vaults, cesspools,  
125 surface and subsurface soil absorption systems, land dispersal  
126 systems, and any other kind of private wastewater treatment system  
127 the contents of which, if introduced into the waters of the State  
128 of Mississippi or of the United States, would cause pollution or  
129 degradation of such waters.



130 (m) "State" means the State of Mississippi.

131 (n) "Stormwater" means stormwater runoff, snowmelt  
132 runoff and surface drainage as defined at 40 CFR 122.26(b)(13).

133 (o) "Stormwater management system" means a system which  
134 is designed and constructed, implemented or operated to control  
135 stormwater discharges to prevent or reduce flooding, over drainage  
136 or water pollution or to otherwise affect the quantity of  
137 discharges from the system. The stormwater management system  
138 includes all pipes, channels, ditches, streams, wetlands,  
139 detention or retention basins, ponds or other stormwater  
140 conveyance or treatment facilities.

141 **SECTION 4.** (1) There is established a public body corporate  
142 and politic constituting a political subdivision of the State of  
143 Mississippi to be known as the "Harrison County Stormwater  
144 Management District." The district may act in all respects for  
145 the benefit of the people of the state in the performance of  
146 essential public functions and the district shall be empowered in  
147 accordance with the provisions of this act to promote the health,  
148 welfare and prosperity of the general public.

149 (2) The district and the Harrison County Wastewater and  
150 Solid Waste Management District created by Chapter 885, Local and  
151 Private Laws of 1982, and by Chapter 862, Local and Private Laws  
152 of 1986, may be consolidated into a single agency, to be known as  
153 the Harrison County Wastewater, Stormwater and Solid Waste  
154 Management District, which shall be a continuance of the corporate  
155 existence of those districts.

156 (3) As used in this section, the words "original districts"  
157 refer to the districts which are authorized to be consolidated  
158 under subsection (2) of this section before their consolidation,  
159 and the word "district" refers to the single district resulting  
160 from that consolidation.

161 The consolidation may be effected by the unanimous resolution  
162 of the original district and the filing of a copy of a resolution



163 with the Secretary of State, certified by the secretaries of each  
164 of the original districts.

165 (4) In the event the original districts are consolidated  
166 into the district, the following provisions shall apply:

167 (a) All property, rights and powers of each of the  
168 original districts are vested in and shall be exercised by the  
169 district, subject, to all pledges, covenants, agreements and  
170 trusts made or created by the original districts, respectively.

171 (b) All debts, liabilities, obligations, agreements and  
172 covenants of the original districts are imposed upon the district.  
173 Any property of the original districts in which a mortgage or  
174 security interest has been granted to any bondholders or other  
175 creditors of either of the original districts shall continue to be  
176 subject to that mortgage or security interest until the mortgage  
177 or security interest is terminated in accordance with its terms.  
178 All bondholders and other creditors of the original districts and  
179 persons having claims against or contracts with the original  
180 districts of any kind or character may enforce those debts, claims  
181 or contracts against the district in the same manner as they might  
182 have against the original districts, respectively, and the rights  
183 and remedies of those bondholders, creditors and persons having  
184 claims or contracts shall not be limited or restricted in any  
185 manner by this act.

186 (c) In continuing the functions and carrying out the  
187 contracts, obligations and duties of the original districts, the  
188 district may act in its own name or in the name of either of the  
189 original districts as may be necessary. Any references to either  
190 of the original districts in any other law or regulation shall be  
191 deemed to refer to and apply to the district.

192 (d) All regulations of the original districts shall  
193 continue to be in effect as the regulations of the district until  
194 amended, supplemented or rescinded by the district in accordance  
195 with law.



196 (e) All employees of the original districts shall  
197 become employees of the district. Nothing in this act shall  
198 affect the civil service status, if any, of those employees or  
199 their rights, privileges, obligations or status with respect to  
200 any pension or retirement system.

201 (f) The district shall be governed by the consolidated  
202 boards of directors of the original districts, which shall  
203 continue as a single board governed by the provisions of this act.

204 (5) The district shall be a public body corporate and  
205 politic constituting a political subdivision of the State of  
206 Mississippi. The district may act in all respects for the benefit  
207 of the people of the state in the performance of essential public  
208 functions and the district shall be empowered in accordance with  
209 the provisions of this act to promote the health, welfare and  
210 prosperity of the general public.

211 **SECTION 5.** (1) All powers of the district shall be vested  
212 in a board of directors. The mayor, acting in his executive  
213 capacity of each incorporated city located within the management  
214 area, shall serve as a director. In addition, the Board of  
215 Supervisors of Harrison County, by a majority vote, shall appoint  
216 a citizen of the county to serve, at the will and pleasure of the  
217 board of supervisors, as a director of the board of directors, and  
218 he or she shall enjoy equal powers with each and every director.  
219 Each director may designate a person to represent him at meetings  
220 of the board, and each designee may lawfully vote and otherwise  
221 act on behalf of the director who designates the designee. Any  
222 designation shall be in writing and delivered to the public agency  
223 for whom he constitutes the designee and to the district. The  
224 designation shall continue in effect until revoked or amended by  
225 writing and delivered to the public agency and the district. All  
226 actions affecting rates, bonds or capital improvements shall be by  
227 unanimous vote of all directors of the board. A majority of the



228 directors of the board shall constitute a quorum for lawful action  
229 by the board.

230 (2) The board of directors may prescribe the duties of the  
231 officers as the board of directors deems necessary, including an  
232 executive director and a secretary. The executive director, who,  
233 at the discretion of the board of directors, may also serve as  
234 secretary, shall be a person of good moral character and shall be  
235 a professional engineer registered in the State of Mississippi  
236 with a minimum of ten (10) years recent practical experience in  
237 the management and administration of public works operations which  
238 may include, but is not limited to, supervision, public financing,  
239 regulatory codes and related functions as minimum qualifications  
240 to administer the programs and duties of the district. The  
241 executive director shall administer, manage and direct the affairs  
242 and business of the district, subject to the policies, control and  
243 direction of the board of directors. The executive director shall  
244 give bond executed by a surety company or companies authorized to  
245 do business in this state in the sum of not less than Twenty-five  
246 Thousand Dollars (\$25,000.00) payable to the district, conditioned  
247 upon faithful performance of his duties and the proper accounting  
248 for all funds which may come into his or her hands as executive  
249 director. The secretary of the district shall keep a record of  
250 the proceedings of the district and shall be custodian of all  
251 books, documents and papers filed with the district, the minute  
252 book or journal of the district and its official seal. The  
253 secretary may provide copies of all minutes and other records and  
254 documents of the district and to certify under the seal of the  
255 district that such copies are true and accurate copies, and all  
256 persons dealing with the district may rely upon the certificates.

257 **SECTION 6.** The district shall have all of the rights and  
258 powers necessary to carry out the provisions of this act,  
259 including, but not limited to, the following:





260 (a) The right and power to sue and be sued in its own  
261 name;

262 (b) To adopt an official seal and alter it at the  
263 pleasure of the board;

264 (c) To maintain an office or offices at a place or  
265 places within the management area as it may determine;

266 (d) To plan, develop, acquire, construct, reconstruct,  
267 operate, own, manage, lease (as lessor or lessee), dispose of,  
268 participate in, maintain, repair, extend or improve one or more  
269 stormwater and other nonpoint source pollution collection and  
270 management facilities, whether or not the facilities are to be  
271 owned by the district; to acquire, construct, improve or modify,  
272 to operate or cause to be operated and maintained, either as owner  
273 of all or of any part in common with others, a stormwater  
274 management system within the counties or municipalities in the  
275 district. The district may pay all or part of the costs of any  
276 stormwater management system from any contribution by person,  
277 firms, public agencies or corporations. The district may receive,  
278 accept and use all funds, public or private and pay all cost of  
279 development, implementation and maintenance as may be determined  
280 as necessary for any project;

281 (e) To hold permits related to the management of  
282 stormwater on its own behalf and as administrative agent for other  
283 persons;

284 (f) To acquire, own, hold, use, lease (as lessor or  
285 lessee), sell or otherwise dispose of, mortgage, pledge or grant a  
286 security interest in any real or personal property, contract,  
287 commodity or service or interest;

288 (g) To make and enforce, and from time to time, amend  
289 and repeal, bylaws and rules and regulations for the management of  
290 its business and affairs and for the use, maintenance and  
291 operation of any of its collection and management facilities and  
292 any other of its properties;



293           (h) To fix, charge, collect, maintain and revise rates,  
294 fees and other charges for any services rendered by it to any  
295 person;

296           (i) To apply and to accept any grants or gifts or loans  
297 or appropriations of funds or property or financial or other aid  
298 in any form from the United States, the State of Mississippi or  
299 from any source, public or private, and to comply with and make  
300 agreements with respect to the terms and conditions thereof,  
301 subject to any agreements with bondholders;

302           (j) To borrow money and to issue bonds for any of its  
303 corporate purposes, to provide for and secure the payment of bonds  
304 and to provide for the rights of the bondholders;

305           (k) To invest any money of the district, including  
306 proceeds from the sale of any bonds, notwithstanding any law to  
307 the contrary, but subject to any agreements with bondholders, on  
308 the terms and in a manner as the district deems proper;

309           (l) To procure insurance against any loss in connection  
310 with its property, other assets and business in such amounts and  
311 from insurers as it may deem necessary;

312           (m) To employ architects, engineers, attorneys,  
313 financial advisors, consultants, officers, agents and employees as  
314 it deems proper and to fix and pay their compensation;

315           (n) To enter on any lands, waters or premises for the  
316 purpose of making surveys, borings, sounding and examinations for  
317 the purposes of the district;

318           (o) To perform any acts authorized by this act, through  
319 or by means of its officers, agents and employees or by contracts  
320 with any person;

321           (p) To enter into any contracts, execute any  
322 instruments, and perform any act necessary, for the purposes of  
323 the district, or to carry out any power expressly granted in this  
324 act including, but not limited to, contracts with public agencies  
325 and other persons. Public agencies and other persons may enter



326 into contracts with the districts which may include provisions  
327 for exclusive dealing, fee payment requirements, territorial  
328 division and other conduct which may have an anticompetitive  
329 effect;

330 (q) To adopt a certificate of necessity to use the  
331 power of eminent domain, including the right of immediate  
332 possession, in the acquisition of real property. Upon the  
333 adoption of the certificate of necessity, which shall state the  
334 description of the real property needed to be acquired by eminent  
335 domain, the authority shall transmit a copy of the certificate to  
336 the Board of Supervisors of Harrison County, the governing  
337 authorities of any public entity with the power of eminent domain  
338 or to any other entity with the power of eminent domain. The  
339 board or entities may initiate proceedings under the provisions of  
340 Title 11, Chapter 27, Mississippi Code of 1972. The eminent  
341 domain proceedings initiated shall be conducted according to and  
342 governed by the provisions of Title 11, Chapter 27, Mississippi  
343 Code of 1972.

344 **SECTION 7.** (1) The district shall have the power to adopt  
345 and promulgate rules and regulations regarding the specifications  
346 and standards relating to the construction, operation and  
347 maintenance of all stormwater and management facilities located  
348 within any public agency which contracts with the district under  
349 this act to comply with the standards established by any federal  
350 or state agency, and to effect the abatement of pollution  
351 occasioned by stormwater and other nonpoint source pollution,  
352 including pollution from septic tanks. The district shall also  
353 have the power to adopt and promulgate rules and regulations  
354 regarding the specifications and standards relating to the  
355 construction, operation and maintenance of all stormwater  
356 management facilities either owned or operated by the district,  
357 which must comply with the above-described standards and to effect  
358 the abatement of pollution.



359 (2) All rules and regulations prescribed by the district,  
360 after publication one (1) time in a newspaper of general  
361 circulation in Harrison County, shall have the full force and  
362 effect of law, and any violation shall be punishable by a fine of  
363 not less than Fifty Dollars (\$50.00) and not more than Five  
364 Hundred Dollars (\$500.00) per offense as may be prescribed in the  
365 rules and regulations.

366 (3) If a violation of any rule or regulation adopted by the  
367 district, which complies with the standards established by any  
368 federal or state agency, or to effect the abatement of pollution,  
369 the district in addition to enforcement authority, shall have  
370 authority to sue for damages or other appropriate relief,  
371 including injunctive relief.

372 (4) All rules and regulations prescribed, and the penalties  
373 fixed thereunder, by the authority of this act shall not conflict  
374 with or suspend any rules, regulations or penalties prescribed by  
375 general law. All fines and penalties levied and collected under  
376 this act shall be remitted and accounted for in accordance with  
377 the general law.

378 **SECTION 8.** (1) Any public agency may, under a duly adopted  
379 resolution of the governing body of the public agency, enter into  
380 contracts with the district for the district to:

381 (a) Acquire, finance, lease (as lessor or lessee),  
382 improve, extend, operate or maintain the collection and/or  
383 management facilities of the public agency; or

384 (b) Acquire, finance, lease (as lessor or lessee),  
385 improve, extend, operate or maintain stormwater collection and/or  
386 management facilities to be owned by the authority or any other  
387 person for the purpose of furnishing services to the public  
388 agency; including in each instance contracts where the public  
389 agency is obligated to make payments in amounts which shall be  
390 sufficient to enable the district to meet its expenses, interest  
391 and principal payments (whether at maturity or upon sinking fund



392 redemption) for its bonds, reserves for debt service, payment into  
393 the requirements of any rate covenant with respect to debt service  
394 coverage contained in any resolution, trust indenture or other  
395 security agreement relating to its bonds.

396 (2) If ten percent (10%) or fifteen hundred (1500),  
397 whichever is less, of the qualified electors of any affected  
398 public agency files a written protest against entering into the  
399 contract with the district on or before the date and time  
400 specified in the resolution, then an election on the question of  
401 entering into the contract shall be called and held as set forth  
402 in Section 12 of this act; however, if Harrison County is an  
403 affected public agency, then the qualified electors of the county  
404 shall mean the qualified electors of the county who reside within  
405 the unincorporated areas within the county's geographical limits.  
406 If no protest is filed, then the contracts may be issued without  
407 an election. The contracts may also contain other terms and  
408 conditions as the authority and the public agency may determine,  
409 including provisions where the public agency is obligated to make  
410 payments under the contracts regardless of whether or not use or  
411 services are rendered or whether or not the collection or disposal  
412 facilities contemplated by the contracts are completed, operable  
413 or operating, and notwithstanding suspension, interruption,  
414 interference, reduction or curtailment of the use or services of  
415 the collection or disposal facilities. The contract may be for a  
416 term covering the life of the facilities or for any other term or  
417 for an indefinite period, and may be made with or without  
418 consideration.

419 (3) Contracts referred to in this section may provide that  
420 the obligation of a public agency to make payments to the district  
421 with respect to certain stormwater collection and/or management  
422 facilities is several, or is joint and several, with the  
423 obligations of other public agencies or other persons contracting  
424 with the authority for the use or services of the treatment



425 facilities. Where the public agency's obligation is joint and  
426 several, and if any other public agency or other person defaults  
427 in his obligation, then the public agency may be required to  
428 increase its payments to the authority by a proportional amount,  
429 taking into consideration the remaining persons who are likewise  
430 contracting with the authority and who are not in default.

431 (4) The obligations of a public agency arising under the  
432 terms of any contract referred to in this section, whether or not  
433 payable solely from revenues or solely from a pledge of ad valorem  
434 taxes as provided in Section 9 of this act or any combination  
435 thereof, shall not be construed as being included within the  
436 indebtedness limitation of the public agency for purposes of any  
437 constitutional or statutory limitation or provision. To the  
438 extent provided in the contract and to the extent the obligations  
439 of the public agency are payable solely from the revenues and  
440 other money derived by the public agency from the operation of its  
441 stormwater management facilities or any combination thereof which  
442 are the subject of the contract, the obligations may be treated as  
443 expenses of operating the facilities. Charges for the use of the  
444 stormwater management system shall be reasonably calculated to  
445 reflect use of the facilities made by properties in the district.

446 (5) Contracts referred to in this section may also provide  
447 for payments in the form of contributions to defray the cost of  
448 any purpose set forth in the contracts and as advances for any  
449 collection and/or management facilities which are subject to the  
450 contracts. A public agency may make contributions or advances  
451 from its general fund or surplus fund or from any money legally  
452 available therefor.

453 (6) Contracts referred to in this section may, in order to  
454 provide effective and prompt cooperation and coordination of any  
455 matters among persons contracting with the district as provided in  
456 this act, establish a coordinating committee of such persons. The  
457 committee shall consist of one (1) representative selected by the



458 district who shall be the coordinating committee's chairman, and  
459 other representatives from among the contracting parties as  
460 provided under the terms of the contract. The coordinating  
461 committee shall have rights and powers with respect to the subject  
462 matter of the contract as provided under the contract.

463 (7) Payments made or to be made to the district by a public  
464 agency or other person under a contract for the use or services of  
465 stormwater management facilities shall be determined by the method  
466 specified in the contract and shall not be subject to approval or  
467 review by the Public Service Commission.

468 **SECTION 9.** Any public agency, other than a county, having  
469 taxing powers may levy a special ad valorem tax without limitation  
470 as to rate or amount upon all taxable property within its  
471 geographical limits to pay all or a portion of the payments to be  
472 made by that agency under contracts referred to in Section 8 of  
473 this act and, if the contract of the public agency provides, then  
474 the contract shall constitute an enforceable obligation against  
475 the taxing power of the public agency to the extent provided in  
476 the contract. Harrison County may levy a special ad valorem tax  
477 without limitations as to rate or amount upon all taxable property  
478 lying within any unincorporated area within its geographical  
479 limits to pay all or a portion of the payments to be made by that  
480 county under contracts referred to in Section 8 of this act and,  
481 if the contract of the county provides, then the contract shall  
482 constitute an enforceable obligation against the taxing power of  
483 the county to the extent provided in the contract. The special ad  
484 valorem tax authorized by this section shall not be reimbursable  
485 by the state under the provisions otherwise made for  
486 reimbursements under the homestead exemption laws. For the  
487 purposes of this act and under the authority of this act, the  
488 Harrison County Stormwater Waste Management District as an entity  
489 specifically is excluded from being an authorized taxing unit  
490 under the definition of a public agency.



491           **SECTION 10.** Whenever a public agency enters into a contract  
492 referred to in Section 8 of this act, and the payments are to be  
493 made either wholly or partly from the revenues of the public  
494 agency's collection facilities or disposal facilities or any  
495 combination thereof, the duty is imposed on the public agency to  
496 fix, establish and maintain, and from time to time adjust, the  
497 rates charged by the public agency for the service of the  
498 facilities to the end that the revenues from the facilities,  
499 together with any ad valorem taxes levied for the payments, will  
500 be sufficient at all times to pay:

501                   (a) The expense of operating and maintaining the  
502 facilities;

503                   (b) All of the public agency's obligations to the  
504 authority under the contract;

505                   (c) All of the public agency's obligations under and in  
506 connection with any outstanding bonds secured in whole or in part  
507 by the revenues of the facilities.

508           **SECTION 11.** (1) The district may issue bonds in principal  
509 amounts as in the opinion of the district shall be necessary to  
510 provide sufficient funds for achieving any of its corporate  
511 purposes, including, but not limited to, the following: The  
512 financing of the acquisition, construction, improvement or  
513 extension of stormwater management facilities, or any combination  
514 thereof, whether or not the facilities are owned by the district,  
515 the payment of interest on bonds of the district, establishment of  
516 reserves to secure the bonds, expenses incident to the issuance of  
517 the bonds and to the implementation of the district's programs,  
518 and all other expenditures of the district necessary to carry out  
519 its corporate purposes and powers.

520                   (2) The district may issue the types of bonds subject only  
521 to any agreement with the holders of particular bonds, including  
522 bonds which the principal and interest are payable exclusively  
523 from all or a portion of the revenues derived from one or more





524 stormwater management facilities, the contracts entered into by  
525 public agencies, and other persons under Section 8 of this act, or  
526 any combination of any of the foregoing, or which may be secured  
527 by a pledge of any grant, subsidy or contribution from any public  
528 agency or other person, or a pledge of any income or revenues,  
529 funds or money of the authority from any other source.

530 (3) Bonds shall be authorized by a resolution of the  
531 district. The bonds shall bear the date or dates, mature at the  
532 time or times, bear interest at such rate or rates, be in such  
533 denomination or denominations, be in such form, either coupon, or  
534 registered, carry such conversions or registration privileges,  
535 have such rank or priority, be executed in a manner and by the  
536 officers, be payable from sources in a medium of payment at such  
537 place or places within or without the state provided that one (1)  
538 place shall be within the state, be subject to the terms of  
539 redemption prior to maturity, all as may be provided by resolution  
540 or resolutions of the district.

541 (4) Any bonds of the district may be sold at a price or  
542 prices, at public or private sale, in a manner and at a time as  
543 determined by the district to be in the public interest, and the  
544 district may pay all expenses, premiums, fees and commissions  
545 which it deems necessary and advantageous in connection with the  
546 issuance and sale of the bonds.

547 (5) It is the intent of the Legislature that any pledge of  
548 earnings, revenues or other money made by the district shall be  
549 valid and binding from the time the pledge is made; that the  
550 earnings, revenues or other money pledged and received by the  
551 district shall immediately be subject to the lien of the pledge,  
552 shall be valid and binding as against all parties having claims of  
553 any kind in tort, contract or otherwise against the district  
554 regardless of whether the parties have notice. Neither the  
555 resolution nor any other instrument by which a pledge is created  
556 need be recorded.



557 (6) Neither the commissioners of the district nor any person  
558 executing the bonds shall be personally liable for the bonds or be  
559 subject to any personal liability or accountability.

560 (7) Whenever any bonds shall have been signed by the  
561 officers designated by resolution of the district to sign the  
562 bonds who were in office at the time of the signing but who may  
563 have ceased to be the officers before the sale and delivery of the  
564 bonds, or who may not have been in office on the date the bonds  
565 may bear, the manual or facsimile signatures of the officers upon  
566 the bonds and the coupons appertaining thereto, shall nevertheless  
567 be valid for all purposes and have the same effect as if the  
568 person officially executing the bonds had remained in office until  
569 the delivery of the bonds to the purchaser or had been in office  
570 on the date the bonds may bear. Before issuing bonds (other than  
571 interim certificates, notes, refunding bonds as provided in  
572 Section 12 of this act or other evidences of indebtedness of the  
573 district), the board of directors of the district shall adopt a  
574 resolution declaring its intent to issue the bonds and stating the  
575 principal amount of the bonds proposed to be issued and the date  
576 and time upon which the board of directors proposes to direct the  
577 issuance of the bonds. The resolution shall be published once a  
578 week for at least three (3) consecutive weeks in at least one (1)  
579 newspaper having a general circulation within the geographical  
580 limits of all of the public agencies (a) which have been  
581 contracted with the district under the provisions of this act, (b)  
582 whose contracts relate to the bonds proposed to be issued, and (c)  
583 which are authorized by a law other than this act to hold  
584 elections. Each public agency which meets all of the criteria set  
585 forth in (a), (b) and (c) above is hereinafter in this section  
586 referred to as an "affected public agency" and, together with  
587 other agencies, collectively referred to as the "affected public  
588 agencies."



589           (8) If ten percent (10%) or fifteen hundred (1500),  
590 whichever is less, of the qualified electors of each affected  
591 public agency files a written protest against the issuance of the  
592 bonds with the board of directors of the district on or before the  
593 date and time specified in the resolution, then an election on the  
594 question of the issuance of the bonds shall be called and held as  
595 set forth in this section; however, if Harrison County is an  
596 affected public agency, then the qualified electors of the county  
597 shall mean the qualified electors of the county who reside within  
598 the unincorporated areas within the county's geographical limits.  
599 If no protest is filed, then the bonds may be issued without an  
600 election on the question of issuance of the bonds at any time  
601 within a period of two (2) years after the date specified in the  
602 above-mentioned resolution. Nothing contained in this subsection  
603 shall be construed to require the adoption or publication of a  
604 resolution of the kind described in this subsection, or to grant  
605 any right of protest or election, with respect to the issuance of  
606 interim certificates, notes, refunding bonds as provided in  
607 Section 12 of this act or other evidences of indebtedness of the  
608 district.

609           (9) Where an election is to be called as provided in this  
610 act, the board of directors of the district shall give notice of  
611 the election to the governing authority of each of the affected  
612 public agencies. The governing authority of each affected public  
613 agency shall publish a notice of the election once a week for at  
614 least three (3) consecutive weeks in a newspaper having a general  
615 circulation within Harrison County. The first publication of the  
616 notice shall be made not less than twenty-one (21) days before the  
617 date fixed for the election and the last publication shall be made  
618 not more than seven (7) days before the date of the election.

619           (10) An election provided for in this act shall be held in  
620 each of the affected public agencies, as far as practicable, in  
621 the same manner as other elections are held in the affected public



622 agencies; however, if one or more affected public agencies have  
623 overlapping geographical limits, then the affected public agencies  
624 with overlapping geographical limits may provide for a  
625 consolidated election in the manner as their respective governing  
626 authorities may determine. At the election, all qualified  
627 electors of each affected public agency may vote; however, if  
628 Harrison County is an affected public agency, then the qualified  
629 electors of the county shall mean the qualified electors of the  
630 county who reside within the unincorporated areas within Harrison  
631 County's geographical limits. The ballots used at the election  
632 shall have printed thereon a brief statement of the principal  
633 amount and purpose of the proposed bond issue and the words "FOR  
634 THE BOND ISSUE" and "AGAINST THE BOND ISSUE," and the voters shall  
635 vote by placing a cross (x) or check mark (√) opposite his choice  
636 on the proposition; however, if the election is being held under  
637 Section 8(2) of this act, the ballot shall contain a brief  
638 statement of the nature of the contract and the words "FOR THE  
639 CONTRACT" and "AGAINST THE CONTRACT," and the voters shall vote by  
640 placing a cross (x) or check mark (√) opposite his choice on the  
641 proposition.

642 (11) When the results of the election on the question of the  
643 issuance of the bonds as provided in this section shall have been  
644 canvassed by the respective election directors of the affected  
645 public agencies and certified by them to the board of directors of  
646 the district, it shall be the duty of the board of directors of  
647 the district to determine and adjudicate whether or not a majority  
648 of the qualified electors who voted in each of the affected public  
649 agencies voted in favor of the issuance of the bonds, and unless a  
650 majority of the qualified electors who voted in each of the  
651 affected public agencies voted in favor of the issuance of the  
652 bonds, then the bonds shall not be issued. Should a majority of  
653 the qualified electors who vote in each of the affected public  
654 agencies vote in favor of the issuance of the bonds, then the



655 board of directors of the district may issue the bonds, either in  
656 whole or in part, and if in part from time to time, within two (2)  
657 years from the date of the election or within two (2) years after  
658 the final favorable termination of any litigation affecting the  
659 issuance of the bonds, as determined by the board of directors.

660       **SECTION 12.** The district may issue refunding bonds for the  
661 purpose of paying any of its bonds at or before maturity or upon  
662 acceleration or redemption. Refunding bonds may be issued at a  
663 time before the maturity or redemption of the refunded bonds as  
664 the district deems to be in the public interest. The refunding  
665 bonds may be issued in sufficient amounts to pay for the payment  
666 of the principal of the bonds being refunded, together with any  
667 redemption premium, any interest accrued or to accrue to the date  
668 of payment of the bonds, the expenses of issuing the refunding  
669 bonds, the expenses of redeeming the bonds being refunded, and the  
670 reserves for debt services or other capital or current expenses  
671 from the proceeds of the refunding bonds as required by the  
672 resolution, trust indenture or other security instruments. The  
673 issue of refunding bonds, the maturities and other details, the  
674 security, the rights of the holders and the rights, duties and  
675 obligations of the district which respect to the bonds shall be  
676 governed by the provisions of this act relating to the issuance of  
677 bonds other than refunding bonds as may be applicable.

678       **SECTION 13.** All bonds issued under this act may be validated  
679 as now provided by law in Sections 31-13-1 through 31-13-11,  
680 Mississippi Code of 1972. The validation proceedings shall be  
681 instituted in the Chancery Court of Harrison County.

682       **SECTION 14.** Bonds issued under the provisions of this act  
683 shall not be deemed to constitute, within the meaning of any  
684 constitutional or statutory limitation, a debt, liability or  
685 obligation of the state, nor shall the bonds constitute a pledge  
686 of the full faith and credit of the state, but shall be payable  
687 solely from the revenues or assets of the district pledged



688 therefor. Each bond issued under this act shall contain on the  
689 face thereof a statement to the effect that the district shall  
690 not be obligated to pay the same nor the interest thereon except  
691 from the revenues or assets pledged therefor and that neither the  
692 full faith and credit nor the taxing power of the state is pledged  
693 to the payment of the principal of or the interest on the bonds.

694 **SECTION 15.** The district shall have the power in connection  
695 with the issuance of its bonds to:

696 (a) Covenant as to the use of any or all of its  
697 property, real or personal;

698 (b) Redeem the bonds, to covenant for their redemption  
699 and to provide the terms and conditions;

700 (c) Covenant to charge rates, fees and charges  
701 sufficient to meet operating and maintenance expenses, renewals  
702 and replacements, principal and debt service on bonds, creation  
703 and maintenance of any reserves required by a bond resolution,  
704 trust indenture or other security instrument and to provide for  
705 any margins or coverages over and above debt service on the bonds  
706 deemed desirable for the marketability of the bonds;

707 (d) Covenant and prescribe as to events of default and  
708 terms and conditions upon which any or all of its bonds shall  
709 become or may be declared due before maturity, as to the terms and  
710 conditions upon which the declaration and its consequences may be  
711 waived and as to the consequence of default and the remedies of  
712 bondholders;

713 (e) Covenant as to the mortgage or pledge of or the  
714 grant of a security interest in any real or personal property and  
715 all or any part of the revenues from any collection facilities or  
716 any revenue-producing contract or contracts made by the district  
717 with any person to secure the payment of bonds, subject to  
718 agreements with the holders of bonds as may then exist;

719 (f) Covenant as to the custody, collection, securing,  
720 investment and payment of any revenues, assets, money, funds or



721 property with respect to which the district may have any rights or  
722 interest;

723 (g) Covenant as to the purposes to which the proceeds  
724 from the sale of any bonds to be issued may be applied, and the  
725 pledge of such proceeds to secure the payment of the bonds;

726 (h) Covenant as to the limitations on the issuance of  
727 any additional bonds, the terms upon which additional bonds may be  
728 issued and secured, and the refunding of outstanding bonds;

729 (i) Covenant as to the rank or priority of any bonds  
730 with respect to any lien or security;

731 (j) Covenant as to the procedure by which the terms of  
732 any contract with or for the benefit of the holders of the bonds  
733 may be amended or abrogated, the amount of bonds the holders of  
734 which must consent to, and the manner in which the consent may be  
735 given;

736 (k) Covenant as to the custody of any of its properties  
737 or investments, the safekeeping, insurance and the use and  
738 disposition of insurance proceeds;

739 (l) Covenant as to the vesting in a trustee or  
740 trustees, within or outside the state, of the properties, rights,  
741 powers and duties in trust as the district may determine;

742 (m) Covenant as to the appointing and providing for the  
743 duties and obligations of a paying agent or paying agents or other  
744 fiduciaries within or outside the state;

745 (n) Make all other covenants and perform any acts as  
746 may be necessary in order to secure its bonds, or which in the  
747 absolute discretion of the district tend to make the bonds more  
748 marketable, notwithstanding that the covenants may not be  
749 enumerated, it being the intention to give the district power to  
750 do all things in the issuance of bonds and in the provisions for  
751 security thereof which are not inconsistent with the Mississippi  
752 Constitution of 1890; and



753           (o) Execute all instruments necessary in the exercise  
754 of the powers granted under this act or in the performance of  
755 duties, which may contain covenants and provisions, as any  
756 purchaser of the bonds of the district may reasonably require.

757           **SECTION 16.** The district may, in any authorizing resolution  
758 of the board of directors, trust indenture or other security  
759 instrument relating to its bonds, provide for the appointment of a  
760 trustee who shall have the powers provided under this act to  
761 represent the bondholders of any issue of bonds in the enforcement  
762 or protection of their rights under any resolution, trust  
763 indenture or security instrument. The district may also provide  
764 in a resolution, trust indenture or other security instrument that  
765 the trustee, or if the trustee so appointed shall fail or decline  
766 to protect and enforce the bondholders' rights, then a percentage  
767 of bondholders as set forth in, and subject to the provisions of  
768 the resolution, trust indenture or other security instrument, may  
769 petition the chancery court of proper jurisdiction for the  
770 appointment of a receiver of the stormwater collection and/or  
771 management facilities, the revenues of which are pledged to the  
772 payment of the principal of and interest on the bonds held by the  
773 bondholder. The receiver may exercise any power granted in any  
774 resolution, trust indenture or security instrument to enter upon  
775 and take possession of, acquire, construct or reconstruct, or  
776 operate and maintain the facilities, fix, charge, collect, enforce  
777 and receive all revenues derived from the facilities and perform  
778 the public duties to carry out the contracts and obligations of  
779 the district in the same manner as the district itself might do,  
780 all under the direction of the chancery court.

781           **SECTION 17.** (1) The exercise of the powers granted by this  
782 act will be in all respects for the benefit of the people of the  
783 state, for their well-being and prosperity and for the improvement  
784 of their social and economic conditions, and the district shall  
785 not be required to pay any tax or assessment on any property owned





786 by the district under the provisions of this act or upon the  
787 income of the district; nor shall the district be required to pay  
788 any recording fee or transfer tax of any kind on account of  
789 instruments recorded by it or on its behalf.

790 (2) Any bonds issued by the district under the provisions of  
791 this act, their transfer and the income therefrom shall at all  
792 times be free from taxation by the state or any local unit or  
793 political subdivision or other instrumentality of the state  
794 excepting inheritance and gift taxes.

795 **SECTION 18.** All bonds issued under the provisions of this  
796 act shall be legal investments for trustees, other fiduciaries,  
797 savings banks, trust companies and insurance companies organized  
798 under the laws of the State of Mississippi; and the bonds shall be  
799 legal securities which may be deposited with and shall be received  
800 by all public officers and bodies of the state and all  
801 municipalities and political subdivisions for the purpose of  
802 securing the deposit of public funds.

803 **SECTION 19.** Whether or not any bonds of the district and  
804 interest coupons, if any, appertaining thereto would otherwise  
805 qualify, the bonds and coupons are made investment securities  
806 within the meaning and for all purposes of Article 8 of the  
807 Uniform Commercial Code as enacted in the state.

808 **SECTION 20.** The state covenants with the holders of any  
809 bonds of the district that as long as the bonds are outstanding  
810 and unpaid, the state will not limit or alter the rights and  
811 powers of the district under this act to conduct the activities  
812 referred to herein in any way pertinent to the interests of the  
813 bondholders, including without limitation, the district's right to  
814 charge and collect rates, fees and charges and to fulfill the  
815 terms of any covenants made with bondholders, or in any other way  
816 impair the rights and remedies of the bondholder, unless provision  
817 for full payment of the bonds, by escrow or otherwise, has been



818 made under the terms of the bonds or the resolution, trust  
819 indenture or security instrument securing the bonds.

820         **SECTION 21.** If the district finds and records on its minutes  
821 that the acquisition or construction of any collection and/or  
822 management facilities, any interest or any property which is  
823 authorized by this act is available or can be acquired or  
824 contracted for, from or with only a single source, person, firm or  
825 corporation, then the acquisition or contract may be made or  
826 entered into without meeting the requirements of any law relating  
827 to acquisition purchases or contracts by competitive bids. After  
828 advertising for competitive bids as to other proposed purchases,  
829 acquisition or contract, if only one (1) bid is received, then the  
830 district may reject the bid and negotiate privately any purchase,  
831 contract or acquisition for a consideration not exceeding that  
832 proposed in the bid.

833         **SECTION 22.** The district shall have an audit of its books  
834 and accounts at least once a year by an independent certified  
835 public accountant and the cost of the audit may be paid from any  
836 available money of the district.

837         **SECTION 23.** This act shall be deemed to provide an  
838 additional, alternative and complete method for the performance of  
839 duties and shall be deemed and construed to be supplemental to any  
840 powers conferred by other law on public agencies (including the  
841 provisions of Sections 51-39-1 through 51-39-43, Mississippi Code  
842 of 1972) and not in derogation of any powers now existing;  
843 provided, that the provisions of this act are inconsistent with  
844 the provisions of any other law, general, special or local,  
845 (including the provisions of Sections 51-39-1 through 51-39-43,  
846 Mississippi Code of 1972) now in existence or hereafter (unless  
847 with specific reference to this act) adopted, the provisions of  
848 this act shall be controlling.

849         Except as expressly provided in this act, the actions  
850 contemplated hereby, other than the issuance and sale of bonds by



851 the district but otherwise including without limitation the  
852 entering into of the contracts referred to in Sections 8 and 11 of  
853 this act by the district, the contracting public agencies and any  
854 other persons thereto, and the setting of rates, fees and charges  
855 by the district, may be taken without the obtaining of any  
856 authorization approval or consent of the state or any political  
857 subdivision or any department, division, commission, board,  
858 bureau, agency or instrumentality of either thereof and without  
859 any other proceeding or the fulfilling of any other condition or  
860 the happening of any other thing, except as expressly provided in  
861 this act.

862       **SECTION 24.** This act shall take effect and be in force from  
863 and after its passage.

