HOUSE BILL NO. 1638

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

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

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

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

(2) Furthermore, it is in the public interest to foster and promote by all reasonable means the abatement of stormwater and other nonpoint source pollution, including pollution caused by septic tanks and thus to facilitate the abatement of the pollution in the most economically advantageous manner, including through the realization of economies of scale; that the abatement of the pollution can best be accomplished through the establishment of a management district to provide for the planning and financing of adequate stormwater and other nonpoint source pollution planning, management and prevention, and the facilities (on a qualitative and quantitative basis) for the benefit of all public agencies and
other persons within Harrison County who desire by means of and
through the authority to obtain the facilities and services.

(3) Furthermore, to aid in remedying these conditions, and
to promote the most economical development and operation of
adequate stormwater and other nonpoint source pollution planning,
management and prevention, and the facilities, a public body

corporate and politic of the state shall be created with authority
to cause and assist in compliance with the standards established
by law regarding the facilities to plan, acquire, construct,
finance, develop, own, operate or maintain the facilities within
Harrison County to abate pollution from stormwater and other
nonpoint sources; and to apply and accept grants-in-aid and other
funds from the federal government and the state government and
their agencies.

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

(5) The Legislature further finds that the authority and
powers conferred under this act and the expenditure of public
money constitute a valid public purpose; that the creation and
establishment of the Harrison County Stormwater Management
District is necessary and essential to the accomplishment of these
purposes; that this act operates on a subject in which the state
at large is interested; and that each of these matters is declared
as a matter of express legislative determination.
SECTION 3. Whenever used in this act, the following words and terms shall have the following respective meanings unless a different meaning clearly appears from the context:

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

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

(c) "County" means Harrison County.

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

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

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

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

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

(i) "Project" means the collection, conveyance, retention, detention and any other portion of a stormwater
management system and any property, real or personal, used as or in connection with those purposes.

(j) "Project cost" means:

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

(ii) All costs of construction;

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

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

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

(vi) Administrative expenses; and

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

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

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

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

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

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

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

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

The consolidation may be effected by the unanimous resolution of the original district and the filing of a copy of a resolution...
with the Secretary of State, certified by the secretaries of each of the original districts.

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

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

(b) All debts, liabilities, obligations, agreements and covenants of the original districts are imposed upon the district.

Any property of the original districts in which a mortgage or security interest has been granted to any bondholders or other creditors of either of the original districts shall continue to be subject to that mortgage or security interest until the mortgage or security interest is terminated in accordance with its terms. All bondholders and other creditors of the original districts and persons having claims against or contracts with the original districts of any kind or character may enforce those debts, claims or contracts against the district in the same manner as they might have against the original districts, respectively, and the rights and remedies of those bondholders, creditors and persons having claims or contracts shall not be limited or restricted in any manner by this act.

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

(d) All regulations of the original districts shall continue to be in effect as the regulations of the district until amended, supplemented or rescinded by the district in accordance with law.
(e) All employees of the original districts shall become employees of the district. Nothing in this act shall affect the civil service status, if any, of those employees or their rights, privileges, obligations or status with respect to any pension or retirement system.

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

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

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

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

SECTION 6. The district shall have all of the rights and powers necessary to carry out the provisions of this act, including, but not limited to, the following:
(a) The right and power to sue and be sued in its own
name;
(b) To adopt an official seal and alter it at the
pleasure of the board;
(c) To maintain an office or offices at a place or
places within the management area as it may determine;
(d) To plan, develop, acquire, construct, reconstruct,
operate, own, manage, lease (as lessor or lessee), dispose of,
participate in, maintain, repair, extend or improve one or more
stormwater and other nonpoint source pollution collection and
management facilities, whether or not the facilities are to be
owned by the district; to acquire, construct, improve or modify,
to operate or cause to be operated and maintained, either as owner
of all or of any part in common with others, a stormwater
management system within the counties or municipalities in the
district. The district may pay all or part of the costs of any
stormwater management system from any contribution by person,
firms, public agencies or corporations. The district may receive,
accept and use all funds, public or private and pay all cost of
development, implementation and maintenance as may be determined
as necessary for any project;
(e) To hold permits related to the management of
stormwater on its own behalf and as administrative agent for other
persons;
(f) To acquire, own, hold, use, lease (as lessor or
lessee), sell or otherwise dispose of, mortgage, pledge or grant a
security interest in any real or personal property, contract,
commodity or service or interest;
(g) To make and enforce, and from time to time, amend
and repeal, bylaws and rules and regulations for the management of
its business and affairs and for the use, maintenance and
operation of any of its collection and management facilities and
any other of its properties;
(h) To fix, charge, collect, maintain and revise rates, fees and other charges for any services rendered by it to any person;

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

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

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

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

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

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

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

(p) To enter into any contracts, execute any instruments, and perform any act necessary, for the purposes of the district, or to carry out any power expressly granted in this act including, but not limited to, contracts with public agencies and other persons. Public agencies and other persons may enter
into contracts with the districts which may include provisions for exclusive dealing, fee payment requirements, territorial division and other conduct which may have an anticompetitive effect;

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

SECTION 7. (1) The district shall have the power to adopt and promulgate rules and regulations regarding the specifications and standards relating to the construction, operation and maintenance of all stormwater and management facilities located within any public agency which contracts with the district under this act to comply with the standards established by any federal or state agency, and to effect the abatement of pollution occasioned by stormwater and other nonpoint source pollution, including pollution from septic tanks. The district shall also have the power to adopt and promulgate rules and regulations regarding the specifications and standards relating to the construction, operation and maintenance of all stormwater management facilities either owned or operated by the district, which must comply with the above-described standards and to effect the abatement of pollution.
(2) All rules and regulations prescribed by the district, after publication one (1) time in a newspaper of general circulation in Harrison County, shall have the full force and effect of law, and any violation shall be punishable by a fine of not less than Fifty Dollars ($50.00) and not more than Five Hundred Dollars ($500.00) per offense as may be prescribed in the rules and regulations.

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

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

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

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

   (b) Acquire, finance, lease (as lessor or lessee), improve, extend, operate or maintain stormwater collection and/or management facilities to be owned by the authority or any other person for the purpose of furnishing services to the public agency; including in each instance contracts where the public agency is obligated to make payments in amounts which shall be sufficient to enable the district to meet its expenses, interest and principal payments (whether at maturity or upon sinking fund
redemption) for its bonds, reserves for debt service, payment into
the requirements of any rate covenant with respect to debt service
coverage contained in any resolution, trust indenture or other
security agreement relating to its bonds.

(2) If ten percent (10%) or fifteen hundred (1500),
whichever is less, of the qualified electors of any affected
public agency files a written protest against entering into the
contract with the district on or before the date and time
specified in the resolution, then an election on the question of
entering into the contract shall be called and held as set forth
in Section 12 of this act; however, if Harrison County is an
affected public agency, then the qualified electors of the county
shall mean the qualified electors of the county who reside within
the unincorporated areas within the county's geographical limits.

If no protest is filed, then the contracts may be issued without
an election. The contracts may also contain other terms and
conditions as the authority and the public agency may determine,
including provisions where the public agency is obligated to make
payments under the contracts regardless of whether or not use or
services are rendered or whether or not the collection or disposal
facilities contemplated by the contracts are completed, operable
or operating, and notwithstanding suspension, interruption,
interference, reduction or curtailment of the use or services of
the collection or disposal facilities. The contract may be for a
term covering the life of the facilities or for any other term or
for an indefinite period, and may be made with or without
consideration.

(3) Contracts referred to in this section may provide that
the obligation of a public agency to make payments to the district
with respect to certain stormwater collection and/or management
facilities is several, or is joint and several, with the
obligations of other public agencies or other persons contracting
with the authority for the use or services of the treatment
facilities. Where the public agency's obligation is joint and
several, and if any other public agency or other person defaults
in his obligation, then the public agency may be required to
increase its payments to the authority by a proportional amount,
taking into consideration the remaining persons who are likewise
contracting with the authority and who are not in default.

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

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

(6) Contracts referred to in this section may, in order to
provide effective and prompt cooperation and coordination of any
matters among persons contracting with the district as provided in
this act, establish a coordinating committee of such persons. The
committee shall consist of one (1) representative selected by the
district who shall be the coordinating committee’s chairman, and
other representatives from among the contracting parties as
provided under the terms of the contract. The coordinating
committee shall have rights and powers with respect to the subject
matter of the contract as provided under the contract.

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

SECTION 9. Any public agency, other than a county, having
taxing powers may levy a special ad valorem tax without limitation
as to rate or amount upon all taxable property within its
geographical limits to pay all or a portion of the payments to be
made by that agency under contracts referred to in Section 8 of
this act and, if the contract of the public agency provides, then
the contract shall constitute an enforceable obligation against
the taxing power of the public agency to the extent provided in
the contract. Harrison County may levy a special ad valorem tax
without limitations as to rate or amount upon all taxable property
lying within any unincorporated area within its geographical
limits to pay all or a portion of the payments to be made by that
county under contracts referred to in Section 8 of this act and,
if the contract of the county provides, then the contract shall
constitute an enforceable obligation against the taxing power of
the county to the extent provided in the contract. The special ad
valorem tax authorized by this section shall not be reimbursable
by the state under the provisions otherwise made for
reimbursements under the homestead exemption laws. For the
purposes of this act and under the authority of this act, the
Harrison County Stormwater Waste Management District as an entity
specifically is excluded from being an authorized taxing unit
under the definition of a public agency.
SECTION 10. Whenever a public agency enters into a contract referred to in Section 8 of this act, and the payments are to be made either wholly or partly from the revenues of the public agency's collection facilities or disposal facilities or any combination thereof, the duty is imposed on the public agency to fix, establish and maintain, and from time to time adjust, the rates charged by the public agency for the service of the facilities to the end that the revenues from the facilities, together with any ad valorem taxes levied for the payments, will be sufficient at all times to pay:

(a) The expense of operating and maintaining the facilities;
(b) All of the public agency's obligations to the authority under the contract;
(c) All of the public agency's obligations under and in connection with any outstanding bonds secured in whole or in part by the revenues of the facilities.

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

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

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

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

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

(5) It is the intent of the Legislature that any pledge of
earnings, revenues or other money made by the district shall be
valid and binding from the time the pledge is made; that the
earnings, revenues or other money pledged and received by the
district shall immediately be subject to the lien of the pledge,
shall be valid and binding as against all parties having claims of
any kind in tort, contract or otherwise against the district
regardless of whether the parties have notice. Neither the
resolution nor any other instrument by which a pledge is created
need be recorded.
(6) Neither the commissioners of the district nor any person executing the bonds shall be personally liable for the bonds or be subject to any personal liability or accountability.

(7) Whenever any bonds shall have been signed by the officers designated by resolution of the district to sign the bonds who were in office at the time of the signing but who may have ceased to be the officers before the sale and delivery of the bonds, or who may not have been in office on the date the bonds may bear, the manual or facsimile signatures of the officers upon the bonds and the coupons appertaining thereto, shall nevertheless be valid for all purposes and have the same effect as if the person officially executing the bonds had remained in office until the delivery of the bonds to the purchaser or had been in office on the date the bonds may bear. Before issuing bonds (other than interim certificates, notes, refunding bonds as provided in Section 12 of this act or other evidences of indebtedness of the district), the board of directors of the district shall adopt a resolution declaring its intent to issue the bonds and stating the principal amount of the bonds proposed to be issued and the date and time upon which the board of directors proposes to direct the issuance of the bonds. The resolution shall be published once a week for at least three (3) consecutive weeks in at least one (1) newspaper having a general circulation within the geographical limits of all of the public agencies (a) which have been contracted with the district under the provisions of this act, (b) whose contracts relate to the bonds proposed to be issued, and (c) which are authorized by a law other than this act to hold elections. Each public agency which meets all of the criteria set forth in (a), (b) and (c) above is hereinafter in this section referred to as an "affected public agency" and, together with other agencies, collectively referred to as the "affected public agencies."
(8) If ten percent (10%) or fifteen hundred (1500), whichever is less, of the qualified electors of each affected public agency files a written protest against the issuance of the bonds with the board of directors of the district on or before the date and time specified in the resolution, then an election on the question of the issuance of the bonds shall be called and held as set forth in this section; however, if Harrison County is an affected public agency, then the qualified electors of the county shall mean the qualified electors of the county who reside within the unincorporated areas within the county’s geographical limits. If no protest is filed, then the bonds may be issued without an election on the question of issuance of the bonds at any time within a period of two (2) years after the date specified in the above-mentioned resolution. Nothing contained in this subsection shall be construed to require the adoption or publication of a resolution of the kind described in this subsection, or to grant any right of protest or election, with respect to the issuance of interim certificates, notes, refunding bonds as provided in Section 12 of this act or other evidences of indebtedness of the district.

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

(10) An election provided for in this act shall be held in each of the affected public agencies, as far as practicable, in the same manner as other elections are held in the affected public
agencies; however, if one or more affected public agencies have overlapping geographical limits, then the affected public agencies with overlapping geographical limits may provide for a consolidated election in the manner as their respective governing authorities may determine. At the election, all qualified electors of each affected public agency may vote; however, if Harrison County is an affected public agency, then the qualified electors of the county shall mean the qualified electors of the county who reside within the unincorporated areas within Harrison County’s geographical limits. The ballots used at the election shall have printed thereon a brief statement of the principal amount and purpose of the proposed bond issue and the words "FOR THE BOND ISSUE" and "AGAINST THE BOND ISSUE," and the voters shall vote by placing a cross (x) or check mark (\(\checkmark\)) opposite his choice on the proposition; however, if the election is being held under Section 8(2) of this act, the ballot shall contain a brief statement of the nature of the contract and the words "FOR THE CONTRACT" and "AGAINST THE CONTRACT," and the voters shall vote by placing a cross (x) or check mark (\(\checkmark\)) opposite his choice on the proposition.

(11) When the results of the election on the question of the issuance of the bonds as provided in this section shall have been canvassed by the respective election directors of the affected public agencies and certified by them to the board of directors of the district, it shall be the duty of the board of directors of the district to determine and adjudicate whether or not a majority of the qualified electors who voted in each of the affected public agencies voted in favor of the issuance of the bonds, and unless a majority of the qualified electors who voted in each of the affected public agencies voted in favor of the issuance of the bonds, then the bonds shall not be issued. Should a majority of the qualified electors who vote in each of the affected public agencies vote in favor of the issuance of the bonds, then the
board of directors of the district may issue the bonds, either in whole or in part, and if in part from time to time, within two (2) years from the date of the election or within two (2) years after the final favorable termination of any litigation affecting the issuance of the bonds, as determined by the board of directors.

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

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

SECTION 14. Bonds issued under the provisions of this act shall not be deemed to constitute, within the meaning of any constitutional or statutory limitation, a debt, liability or obligation of the state, nor shall the bonds constitute a pledge of the full faith and credit of the state, but shall be payable solely from the revenues or assets of the district pledged.
therefor. Each bond issued under this act shall contain on the
face thereof a statement to the effect that the district shall
not be obligated to pay the same nor the interest thereon except
from the revenues or assets pledged therefor and that neither the
full faith and credit nor the taxing power of the state is pledged
to the payment of the principal of or the interest on the bonds.

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

(a) Covenant as to the use of any or all of its
property, real or personal;
(b) Redeem the bonds, to covenant for their redemption
and to provide the terms and conditions;
(c) Covenant to charge rates, fees and charges
sufficient to meet operating and maintenance expenses, renewals
and replacements, principal and debt service on bonds, creation
and maintenance of any reserves required by a bond resolution,
trust indenture or other security instrument and to provide for
any margins or coverages over and above debt service on the bonds
deemed desirable for the marketability of the bonds;
(d) Covenant and prescribe as to events of default and
terms and conditions upon which any or all of its bonds shall
become or may be declared due before maturity, as to the terms and
conditions upon which the declaration and its consequences may be
waived and as to the consequence of default and the remedies of
bondholders;
(e) Covenant as to the mortgage or pledge of or the
grant of a security interest in any real or personal property and
all or any part of the revenues from any collection facilities or
any revenue-producing contract or contracts made by the district
with any person to secure the payment of bonds, subject to
agreements with the holders of bonds as may then exist;
(f) Covenant as to the custody, collection, securing,
investment and payment of any revenues, assets, money, funds or
property with respect to which the district may have any rights or
interest;

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

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

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

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

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

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

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

(n) Make all other covenants and perform any acts as
may be necessary in order to secure its bonds, or which in the
absolute discretion of the district tend to make the bonds more
marketable, notwithstanding that the covenants may not be
enumerated, it being the intention to give the district power to
do all things in the issuance of bonds and in the provisions for
security thereof which are not inconsistent with the Mississippi
Constitution of 1890; and
(o) Execute all instruments necessary in the exercise of the powers granted under this act or in the performance of duties, which may contain covenants and provisions, as any purchaser of the bonds of the district may reasonably require.

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

SECTION 17. (1) The exercise of the powers granted by this act will be in all respects for the benefit of the people of the state, for their well-being and prosperity and for the improvement of their social and economic conditions, and the district shall not be required to pay any tax or assessment on any property owned
by the district under the provisions of this act or upon the
income of the district; nor shall the district be required to pay
any recording fee or transfer tax of any kind on account of
instruments recorded by it or on its behalf.

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

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

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

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

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

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

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

Except as expressly provided in this act, the actions contemplated hereby, other than the issuance and sale of bonds by
the district but otherwise including without limitation the
entering into of the contracts referred to in Sections 8 and 11 of
this act by the district, the contracting public agencies and any
other persons thereto, and the setting of rates, fees and charges
by the district, may be taken without the obtaining of any
authorization approval or consent of the state or any political
subdivision or any department, division, commission, board,
bureau, agency or instrumentality of either thereof and without
any other proceeding or the fulfilling of any other condition or
the happening of any other thing, except as expressly provided in
this act.

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