AN ACT TO PROVIDE A METHOD FOR THE MANAGEMENT OF STORM WATER AND OTHER NONPOINT SOURCE POLLUTION; TO CREATE THE HARRISON COUNTY STORM WATER MANAGEMENT DISTRICT AND TO DEFINE ITS DUTIES, POWERS AND RESPONSIBILITIES; TO AUTHORIZE PUBLIC AGENCIES TO CONTRACT WITH THE DISTRICT; TO AUTHORIZE THE CONSOLIDATION OF THE HARRISON COUNTY WASTEWATER AND SOLID WASTE MANAGEMENT DISTRICT AND THE HARRISON COUNTY STORM WATER MANAGEMENT DISTRICT BY JOINT RESOLUTION OF SUCH DISTRICTS; 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 Storm Water Management District Act."

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

(2) It is further found and declared that it is in the public interest to foster and promote by all reasonable means the abatement of storm water and other nonpoint source pollution, including pollution caused by septic tanks and thus to facilitate the abatement of such pollution in the most economically advantageous manner, including through the realization of economies of scale; that the abatement of such pollution can best be accomplished through the establishment of a management district to provide for the planning and financing of adequate storm water and other nonpoint source pollution planning, management and prevention, and the facilities therefor (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 such authority to obtain such facilities and services.

(3) It is further found and declared that to aid in
remedying these conditions, and to promote the most economical
development and operation of adequate storm water and other
nonpoint source pollution planning, management and prevention, and
the facilities therefor, 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 such
facilities to plan, acquire, construct, finance, develop, own,
operate or maintain such facilities within Harrison County to
abate pollution from storm water and other nonpoint sources; and
to apply and contract for and to accept grants-in-aid and other
funds from the federal government and the state government and
their agencies.

(4) It is further found and declared that it is necessary in
order to accomplish the objectives and purposes of the Harrison
County Storm Water Management District and the public agencies
with which it contracts, for such district and such public
agencies, in the implementation of the powers granted pursuant to
this act, to be authorized to engage in conduct which may be
anticompetitive or contrary to prohibition of federal or state
antitrust laws; and accordingly, it is the intent and policy of
this act to displace competition with respect to those powers
authorized herein to be exercised by such district and such public
agencies.

(5) The Legislature further finds that the authority and
powers conferred under this act and the expenditure of public
money pursuant thereto constitute a valid public purpose; that the
creation and establishment of the Harrison County Storm Water
Management District is necessary and essential to the
accomplishment of the aforesaid purposes; that this act operates
on a subject in which the state at large is interested; and that each of these matters are 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) "Collection and management facilities" means, such pipes, collection facilities, trunk lines, storm drains, retention facilities, pretreatment and treatment facilities and other related facilities which as the district shall deem necessary or advisable for the abatement of pollution from storm water and other nonpoint source pollution.

(b) "County" means Harrison County.

(c) "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.

(d) "District" means the Harrison County Storm Water Management District.

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

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

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

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

(i) "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
thereto, including land and any rights or undivided interest
therein, 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 or incident to determining the feasibility or
practicability of the project;

(vi) Administrative expenses; and

(vii) Any other expenses as may be necessary or
incidental to the project financing.

(j) "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.

(k) "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.

(1) "State" means the State of Mississippi.

(m) "Storm water" means storm water runoff, snowmelt
runoff and surface drainage as defined at 40 CFR 122.26(b)(13).

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

SECTION 4. (1) There is hereby created and established a
public body corporate and politic constituting a political
subdivision of the State of Mississippi to be known as the
"Harrison County Storm Water Management District." The district
shall be deemed to be acting 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, are hereby authorized to be consolidated into a single
agency, to be known as the Harrison County Wastewater, Storm Water
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
pursuant to subsection (2) of this section before their
consolidation, and the word "district" refers to the single
district resulting from that consolidation.

Such consolidation may be effected by the unanimous
resolution of the original district and the filing of a copy of
such 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 in
to the district, the following provisions shall apply:

(a) All property, rights and powers of each of the
original districts are hereby vested in and shall be exercised by
the district, subject, however, 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 hereby 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 defeased or 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 is hereby authorized to act in its own name or in the
name of either of the original districts as may be convenient or
advisable. 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 as hereby established shall be a public
body corporate and politic constituting a political subdivision of
the State of Mississippi. The district shall be deemed to be
acting 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 majority vote thereof, shall
appoint a citizen of the county to serve, at the will and pleasure
of the board of supervisors, as a director of such board of
directors, and he shall enjoy equal powers with each and every
member thereof. 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, delivered to the public agency for whom he constitutes the designee, and to the district and 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 members of the board. A majority of the members of the board shall constitute a quorum for lawful action by the board.

(2) The board of directors may elect or appoint and prescribe the duties of such officers as the board of directors deem necessary or advisable, 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 so 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 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 shall have authority to cause copies to be made 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
such certificates.

SECTION 6. The district shall have all of the rights and
powers necessary or convenient to carry out and effectuate the
purposes and provisions of this act, including, but without
limiting the generality of the foregoing, the right and power:
(a) 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 such 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
storm water and other nonpoint source pollution collection and
management facilities, whether or not such facilities or 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 storm water
management system within the counties or municipalities in the
district. The district may pay all or part of the costs of any
storm water 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 apply for any necessary and proper permits for
the conduct of any activities authorized by this act and any
activities conducted by the district shall be subject to the
issuance of all necessary and proper permits by the Mississippi
Department of Environmental Quality or other governmental entity having jurisdiction regarding such activities;

(f) To hold permits related to the management of storm water on its own behalf and as administrative agent for other persons;

(g) 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 therein;

(h) 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;

(i) To fix, charge, collect, maintain and revise rates, fees and other charges for any services rendered by it to any public agency;

(j) To apply and contract for 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 or any instrumentality thereof, or from the state or any instrumentality thereof, or from any source, public or private, and to comply with and make agreements with respect to the terms and conditions thereof;

(k) To invest any money of the district, notwithstanding any law to the contrary, on such terms and in such 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 such insurers as it may deem necessary or desirable;

(m) To employ architects, engineers, attorneys, financial advisors and such other consultants as it deems proper and to fix and pay their compensation and to appoint and retain
such 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 do and perform any acts and things authorized by
this act under, through or by means of its officers, agents and
employees or by contracts with any person;

(p) To enter into any and all contracts of such nature
and duration, execute any and all instruments, and do and perform
any and all acts or things necessary, convenient or desirable for
the purposes of the district, or to carry out any power expressly
granted in this act including, without limiting the generality of
the foregoing, contracts with public agencies and other persons
and such public agencies and other person are hereby also
empowered to enter into such contracts with the districts which
may include provisions for exclusive dealing, fee payment
requirements, territorial division and other conduct or
arrangements which may have an anticompetitive effect; and

(q) To adopt an issue 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 such 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 such 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. Such
board or entities may initiate proceedings under the provisions of
Title 11, Chapter 27, Mississippi Code of 1972. The eminent
domain proceedings thereby initiated shall be conducted according
to an governed by the provisions of Title 11, Chapter 27,
SECTION 7. (1) The district shall have the power to adopt and promulgate all reasonable rules and regulations regarding the specifications and standards relating to the construction, operation and maintenance of all storm water and management facilities located within any public agency which contracts with district pursuant to this act so as to cause compliance with the standards established by any federal or state agency, and so as to effect the abatement of pollution occasioned by storm water and other nonpoint source pollution, including pollution from septic tanks. The district shall also have the power to adopt and promulgate all reasonable rules and regulations regarding the specifications and standards relating to the construction, operation and maintenance of all storm water management facilities either owned or operated by the district so as to cause compliance with the above-described standards and to effect the abatement of pollution.

(2) All such 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 violation thereof shall be punishable by a fine of not less than Fifty Dollars ($50.00) and not more that Five Hundred Dollars ($500.00) per offense as may be prescribed in such rules and regulations.

(3) In the event of a violation of any rule or regulation adopted by the district to cause compliance with the standards established by any federal or state agency, or to effect the abatement of pollution, the district in addition to enforcement authority continued herein, shall have authority to sue for and obtain damages or other appropriate relief, including injunctive relief.

(4) All such 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 relating thereto.

SECTION 8. (1) Any public agency may, pursuant to a duly
adopted resolution of the governing body of such 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 storm water 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 such contracts whereby the
public agency is obligated to make payments in amounts which shall
be sufficient to enable the district to meet its expenses.

(2) If ten percent (10%) or fifteen hundred (1500),
whichever is less, of the qualified electors of any affected
public agency shall file a written protest against entering into
such contract with the district on or before the date and time
specified in such resolution, then an election on the question of
entering into such contract shall be called and held as set forth
in Section 9 of this act; however, in the event Harrison County is
an affected public agency, then the qualified electors of such
county shall mean the qualified electors of such county who reside
within the unincorporated areas within such county's geographical
limits. If no such protest is filed, then such contracts may be
issued without an election. Such contracts may also contain such
other terms and conditions as the authority and the public agency
may determine, including provisions whereby the public agency is
obligated to make payments under such contracts irrespective of
whether or not use or services are rendered or whether or not the
collection or disposal facilities contemplated by such contracts

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are completed, operable or operating, and notwithstanding suspension, interruption, interference, reduction or curtailment of the use or services of such collection or disposal facilities. Such 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 storm water 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 such treatment facilities; and, where the public agency's obligation is joint and several, then in the event any other public agency or other person defaults in his obligation, 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, 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 such contract and to the extent such obligations of the public agency are payable solely from the revenues and other money derived by the public agency from the operation of its storm water management facilities or any combination thereof which are the subject of such contract, such obligations may be treated as expenses of operating such facilities. Charges for the use of the storm water 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 such
contacts. A public agency may make such 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.
Such committee shall consist of one (1) representative selected by
the district who shall be the coordinating committee’s chairman,
and such other representatives from among the contracting parties
as shall be provided for by the terms of the contract. Such
coordinating committee shall have such rights and powers with
respect to the subject matter of the contract as shall be provided
for therein.

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

SECTION 9. (1) Where an election is to be called as
provided in Section 8 of this act, the governing authority of the
affected public agency shall publish a notice of such 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 such notice shall be made not less than
twenty-one (21) days prior to the date fixed for such election and
the last publication shall be made not more than seven (7) days
prior to such a date.

(2) An election provided for in this act shall be held in
the affected public agency, as far as practicable, in the same
manner as other elections are held in such affected public
agencies. At such election, all qualified electors of the
affected public agency may vote; however, in the event Harrison
County is an affected public agency, then the qualified electors
of such county shall mean the qualified electors of such county
who reside within the unincorporated areas within Harrison
County’s geographical limits. The ballots used at such election
shall have printed thereon 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 (✓) opposite his choice on the proposition.

(3) When the results of the election 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 thereon in the affected public
agency voted in favor of the contract, and unless a majority of
the qualified electors who voted thereon in the affected public
agency voted in favor of the contract, then such contract shall
not be entered into. Should a majority of the qualified electors
who vote thereon in the affected public agency vote in favor of
entering into the contract, then the affected public agency may
enter into the contract.

SECTION 10. If the district finds and records on its minutes that
the acquisition or construction of any collection and/or
management facilities, or any interest therein, or any portion
thereof, or any property or any interest therein or any portion
thereof, 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 such 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. If, after advertising for competitive bids as to other
proposed purchases, acquisition or contract, only one (1) bid is
received, 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 11. The district shall cause an audit of its books
and accounts to be made at least once in each year by an
independent certified public accountant and the cost thereof may
be paid from any available money of the district.

SECTION 12. This act shall be deemed to provide an
additional, alternative and complete method for the doing of the
things authorized hereby and shall be deemed and construed to be
supplemental and additional 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 such powers now existing; provided, that insofar as the
provisions of this act are inconsistent with the provisions of any
other law, general, special or local, (including the provisions of
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, including, without limitation, the entering
into of the contracts referred to in Section 8 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 13. This act shall take effect and be in force from
and after its passage.