

By: Representative Eaton

To: Wildlife, Fisheries and
Parks; Forestry

HOUSE BILL NO. 1404

1 AN ACT TO RENAME THE ROSS BARNETT LAKE IN MIZE, MISSISSIPPI,
2 THE PRENTISS WALKER LAKE; TO TRANSFER CONTROL AND MANAGEMENT OF
3 THE LAKE FROM THE DEPARTMENT OF WILDLIFE, FISHERIES AND PARKS TO
4 THE PAT HARRISON WATERWAY DISTRICT; TO AMEND SECTION 55-3-11,
5 MISSISSIPPI CODE OF 1972, IN CONFORMITY THERETO; TO BRING FORWARD
6 SECTIONS 51-15-119 AND 51-15-123, MISSISSIPPI CODE OF 1972, FOR
7 PURPOSES OF AMENDMENT; AND FOR RELATED PURPOSES.

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

9 **SECTION 1.** The Ross Barnett Lake located in Mize,
10 Mississippi, in Smith County, shall be renamed the Prentiss Walker
11 Lake, and the control and management of the lake shall be
12 transferred from the Department of Wildlife, Fisheries and Parks
13 to the Pat Harrison Waterway District. Any reference in state law
14 to the Ross Barnett Lake shall be deemed to mean the Prentiss
15 Walker Lake. The Board of Directors of the Pat Harrison Waterway
16 District shall place a distinctive plaque in a prominent place
17 near the Prentiss Walker Lake, which states the background,
18 accomplishments and service to the state of the Honorable Prentiss
19 Walker.

20 **SECTION 2.** Section 55-3-11, Mississippi Code of 1972, is
21 amended as follows:

22 55-3-11. The State Forestry Commission shall have the
23 control and management of any and all forests or public parks set
24 aside and dedicated as provided for in Section 55-3-7, and shall
25 have authority to issue grazing or farming permits or leases on
26 said parks, and to make sales of timber and other forest products
27 of the soil from same. Except as otherwise provided in Section 1
28 of this act, the Mississippi Commission on Wildlife, Fisheries and
29 Parks shall have the control and management of any and all lands

30 set aside and dedicated for a fish and game refuge and/or
31 preserve. The State Forestry Commission and the Mississippi
32 Commission on Wildlife, Fisheries and Parks shall cooperate in the
33 utilization of any lands so dedicated both for forestry and game
34 and fish conservation purposes.

35 In the case of state forests and/or state parks the State
36 Forestry Commission, and, in the case of fish and game preserves,
37 the Mississippi Commission on Wildlife, Fisheries and Parks, is
38 hereby vested with authority to institute proceedings against
39 trespassers and others in the name of the State of Mississippi,
40 and to do all things necessary and proper to obtain the most
41 complete and advantageous developments of state forests, parks,
42 and fish and game preserves.

43 **SECTION 3.** Section 51-15-119, Mississippi Code of 1972, is
44 brought forward as follows:

45 51-15-119. (1) The Pat Harrison Waterway District through
46 its board of directors is hereby empowered:

47 (a) To develop in conjunction with the United States
48 Army Corps of Engineers, United States Secretary of Agriculture,
49 or with the head of any other federal or state agency as may be
50 involved, plans for public works of improvement to make navigable
51 or for the prevention of flood water damage, or the conservation,
52 development, recreation, utilization and disposal of water,
53 including the impoundment, diversion, flowage and distribution of
54 waters for beneficial use as defined in Article 1 of this chapter,
55 and in connection with the Okatibbee River Basin project as
56 authorized under Public Law 874, 87th Congress, October 23, 1962,
57 and substantially in accordance with the recommendation of the
58 Chief of Engineers in House Document 549 of the 87th Congress.

59 (b) To impound overflow water and the surface water of
60 any streams in the Pat Harrison Waterway District or its
61 tributaries within the project area, within or without the
62 district, at the place or places and in the amount as may be

63 approved by the Office of Land and Water Resources of the State of
64 Mississippi, by the construction of a dam or dams, reservoir or
65 reservoirs, work or works, plants and any other necessary or
66 useful related facilities contemplated and described as a part of
67 the project within and without the district, to control, store,
68 and preserve these waters, and to use, distribute, and sell them,
69 to construct or otherwise acquire within the project area all
70 works, plants or other facilities necessary or useful to the
71 project for processing the water and transporting it to cities and
72 other facilities necessary or useful to the project for the
73 purpose of processing the water and transporting it to cities and
74 other facilities for domestic, municipal, commercial, industrial,
75 agricultural and manufacturing purposes, and is hereby given the
76 power to control open channels for water delivery purposes and
77 water transportation.

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

82 (d) To forest and reforest and to aid in the foresting
83 and reforesting of the project area, and to prevent and aid in the
84 prevention of soil erosion and flood within the area; to control,
85 store and preserve within the boundaries of the project area the
86 waters of any streams in the area, for irrigation of lands and for
87 prevention of water pollution.

88 (e) To acquire by condemnation all property of any
89 kind, real, personal or mixed, or any interest therein, within or
90 without the boundaries of the district, necessary for the project
91 and the exercise of the powers, rights, privileges and functions
92 conferred upon the district by this article, according to the
93 procedure provided by law for the condemnation of lands or other
94 property taken for rights-of-way or other purposes by railroad,
95 telephone or telegraph companies and according to the provisions

96 of Section 29-1-1. For the purposes of this article the right of
97 eminent domain of the district shall be superior and dominant to
98 the right of eminent domain of railroad, telegraph, telephone,
99 gas, power and other companies or corporations and shall be
100 sufficient to enable the acquisition of county roads, state
101 highways or other public property in the project area, and the
102 acquisition or relocation of this property in the project area.
103 The cost of right-of-way purchases, rerouting and elevating all
104 other county-maintained roads affected by construction shall be
105 borne by the water management district, and new construction shall
106 be of equal quality as in roads existing as of June 1, 1962. The
107 county in which such work is done may assist in these costs if the
108 board of supervisors desires.

109 The amount and character of interest in land, other property
110 and easements to be acquired shall be determined by the board of
111 directors, and their determination shall be conclusive and shall
112 not be subject to attack in the absence of manifold abuse of
113 discretion or fraud on the part of such board in making this
114 determination. However,

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

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

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

134 Moreover, when any site or plot of land is to be rented,
135 leased or sold to any person, firm or corporation for the purpose
136 of operating recreational facilities thereon for profit, the board
137 shall, by resolution, specify the terms and conditions of the
138 sale, rental or lease, and shall advertise for public bids
139 thereon. When these bids are received, they shall be publicly
140 opened by the board, and the board shall thereupon determine the
141 highest and best bid submitted and shall immediately notify the
142 former owner of the site or plot of the amount, terms and
143 conditions of the highest and best bid. The former owner of the
144 site or plot shall have the exclusive right at his option, for a
145 period of thirty (30) days after written notice is received by the
146 land owner of the determination of the highest and best bid by the
147 board, to rent, lease or purchase the site or plot of land by
148 meeting the highest and best bid and by complying with all terms
149 and conditions of renting, leasing or sale as specified by the
150 board. However, the board shall not in any event rent, lease or
151 sell to any former owner more land than was taken from the former
152 owner for the construction of the project, or one-quarter (1/4)
153 mile of shore line, whichever is lesser. If this option is not
154 exercised by the former owner within a period of thirty (30) days,
155 the board shall accept the highest and best bid submitted.

156 Any bona fide, resident householder actually living or
157 maintaining a residence on land taken by the district by
158 condemnation shall have the right to repurchase his former land
159 from the board of directors for a price not exceeding the price

160 paid for his land, plus any permanent improvements and plus the
161 cost of condemnation.

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

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

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

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

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

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

192 (1) To employ engineers, attorneys, who may or may not
193 be a director, and all necessary agents and employees to properly
194 finance, construct, operate and maintain the projects and the
195 plants, and to pay reasonable compensation for these services; for
196 all services in connection with the issuance of bonds as provided
197 in this article, the attorney's fee shall not exceed one percent
198 (1%) of the principal amount of these bonds. For any other
199 services, only reasonable compensation shall be paid for those
200 services. The board shall have the right to employ a general
201 manager or executive director, who shall, at the discretion of the
202 board, have the power to employ and discharge employees. Without
203 limiting the generality of the foregoing, it may employ fiscal
204 agents or advisors in connection with its financing program and in
205 connection with the issuance of its bonds.

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

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

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

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

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

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

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

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

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

263 (v) When, in the opinion of the board of directors as
264 shown by resolution duly passed, it shall not be necessary to the
265 carrying on of the business of the district that the district own
266 any lands acquired, the board shall advertise the lands for sale
267 to the highest and best bidder for cash, and shall receive and
268 publicly open the bids thereon. The board shall, by resolution,
269 determine the highest and best bid submitted for the land and
270 shall thereupon notify the former owner, his/her heirs or
271 devisees, by registered mail of the land to be sold and the
272 highest and best bid received therefor, and the former owner, or
273 his/her heirs or devisees, shall have the exclusive right at
274 his/her or their option for a period of thirty (30) days in which
275 to meet such highest and best bid and to purchase such property.

276 (w) To prevent or aid in the prevention of damage to
277 person or property from the waters of the Pascagoula River or any
278 of its tributaries.

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

286 (y) In the purchase of or in the entering into of all
287 lease purchase agreements for supplies, equipment, heavy equipment
288 and the like, the directors shall in all instances comply with the

289 provisions of law pertaining to public purchases by public bids on
290 these supplies and equipment.

291 (z) To designate employees as peace officers with the
292 power to make arrests for violations of regulations of the
293 district. The officers are authorized to carry weapons and to
294 enforce the laws of the state within the confines of district
295 parks and property. Any employee so designated is required to
296 obtain and maintain certification pursuant to Section 45-6-1 et
297 seq.

298 (aa) To contract with persons, who are certified
299 according to the minimum standards established by the Board on Law
300 Enforcement Officer Standards and Training under Section 45-6-1 et
301 seq., to serve as peace officers with the power to make arrests
302 for violations of regulations of the district. Such officers are
303 authorized to carry weapons and to enforce the laws of the state
304 within the confines of district parks and property. All persons
305 with which the district has contracted under this paragraph (aa)
306 shall be independent contractors and shall not be considered as
307 employees under Chapter 46 of Title 11, Mississippi Code of 1972.

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

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

318 **SECTION 4.** Section 51-15-123, Mississippi Code of 1972, is
319 brought forward as follows:

320 51-15-123. (1) The Pat Harrison Waterway District is
321 authorized to establish or otherwise provide for public parks and

322 recreation facilities and for the preservation of fish and
323 wildlife, and to acquire land otherwise than by condemnation
324 except as provided in subsection (e) of Section 51-15-119 for such
325 purposes, within the project area.

326 (2) Except as otherwise provided in this subsection (2),
327 from and after July 1, 1999, the district shall not expend on
328 public parks and recreation facilities any monies derived from the
329 payments required from member counties under this article. The
330 district may expend such monies on the repair, replacement and
331 maintenance of public parks and recreation facilities existing on
332 or before January 1, 1998.

333 **SECTION 5.** This act shall take effect and be in force from
334 and after July 1, 2005.