

By: Senator(s) Kirby, Ross, Lee (35th)

To: Local and Private

SENATE BILL NO. 3148

1 AN ACT TO AMEND CHAPTER 977, LOCAL AND PRIVATE LAWS OF 1994,
2 AS LAST AMENDED BY CHAPTER 1004, LOCAL AND PRIVATE LAWS OF 2004,
3 TO CLARIFY THE BOUNDARIES OF THE WEST RANKIN UTILITY AUTHORITY AND
4 TO ELIMINATE THE REQUIREMENT FOR CHANCERY COURT APPROVAL OF ANY
5 AMENDMENT TO THE BOUNDARIES OF THE METROPOLITAN AREA; AND FOR
6 RELATED PURPOSES.

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

8 **SECTION 1.** Chapter 977, Local and Private Laws of 1994, as
9 last amended by Chapter 1004, Local and Private Laws of 2004, is
10 amended as follows:

11 Section 1. This act is for the purpose of authorizing a
12 cooperative effort by the Cities of Brandon, Flowood, Pearl,
13 Richland and other eligible municipalities, public agencies and
14 political subdivisions for the acquisition, construction and
15 operation of one or more systems for the collection,
16 transportation, treatment and disposal of wastewater; for the
17 treatment and distribution of potable water; and for the
18 collection, transportation and disposal of nonhazardous solid
19 waste; all of the foregoing, including sewerage systems, sewage
20 disposal systems, waterworks and water supply systems, solid waste
21 collection, transportation and disposal systems, in order to
22 ensure an adequate supply of water for domestic, commercial and
23 industrial use and to prevent and control the pollution of the
24 lands and waters in this state by the creation of a West Rankin
25 Utility Authority. This act may be cited as the "West Rankin
26 Utility Authority Act."

27 Section 2. Words and phrases used in this act shall have
28 meanings as follows:

29 (a) "Act" means the West Rankin Utility Authority Act,
30 as amended from time to time.

31 (b) "Authority" means the West Rankin Utility
32 Authority.

33 (c) "Board of directors" means the board of directors
34 of the authority.

35 (d) "Bonds" means revenue bonds, interim notes having a
36 maturity of three (3) years or less, and other certificates of
37 indebtedness of the authority issued under the provisions of this
38 act.

39 (e) "Costs of the project" means:

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

42 (ii) All costs of construction;

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

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

53 (v) All costs of plans and specifications and all
54 expenses necessary or incident to determining the feasibility or
55 practicability of the project;

56 (vi) Administrative expenses; and

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

59 (f) "Ditch" means any branch or lateral drain, tile
60 drain, levee, sluiceway, water course, floodgate and any other

61 construction work fund necessary for the reclamation of wet and
62 overflowed lands.

63 (g) "Facilities" means any structure, building, ditch,
64 pipe, channel, improvement, land or other real or personal
65 property used or useful in a system under this act.

66 (h) "Member agency" means the City of Brandon, the City
67 of Flowood, the City of Pearl and the City of Richland and any
68 public agency which elects to become a constituent member of the
69 West Rankin Utility Authority upon its organization or which
70 subsequently elects to become a member of the West Rankin Utility
71 Authority and which is admitted to the authority by affirmative
72 vote of the board of directors of such authority, in accordance
73 with the provisions of Section 3(5) of this act.

74 (i) "Metropolitan area" means * * * the area described
75 as follows:

76 PARCEL A

77 Beginning at the point of intersection of the South line
78 of Section 16, Township 4 North, Range 1 East with the
79 Rankin-Hinds County line, and from this point thence run
80 east along the South line of sections 16, 15, 14, and
81 13, Township 4 North, Range 1 East, continuing East
82 along the South line of sections 18, 17, 16, 15, 14, and
83 13, Township 4 North, Range 2 East, continuing East
84 along the South line of section 18, Township 4 North,
85 Range 3 East, a distance of approximately 11 miles,
86 excluding that portion of the municipal limits of the
87 City of Florence within Section 13, Township 4 North,
88 Range 1 East, and that portion of said City within
89 Section 18, Township 4 North, Range 2 East, to a point
90 on the Southeast corner of Section 18, Township 4 North,
91 Range 3 East; thence run north along the east line of
92 sections 18 and 7 to the Southeast corner of Section 6,
93 Township 4 North, Range 3 East, approximately two miles;

94 thence run east along the South line of Sections 5 and 4
95 to the Southeast corner of Section 4, Township 4 North,
96 Range 3 East, a distance of approximately two miles;
97 thence run north along the East line of Section 4,
98 Township 4 North, Range 3 East, approximately one mile
99 to the intersection of the South line of Section 34,
100 Township 5 North, Range 3 East; thence run East along
101 the South line of Sections 34, 35, and 36, Township 5
102 North, Range 3 East, to the Southeast corner of Section
103 36, Township 5 North, Range 3 East; thence run South
104 along the West line of Section 31, Township 5 North,
105 Range 4 East, to the Southwest Corner of said Section
106 31; thence run East a distance of approximately two
107 miles along the South lines of Sections 31 and 32,
108 Township 5 North, Range 4 East, to the Southeast corner
109 of said Section 32; thence run North a distance of
110 approximately six miles along the East lines of Sections
111 32, 29, 20, 17, 8, and 5, Township 5 North, Range 4
112 East; thence continue North a distance of approximately
113 six miles along the East lines of Sections 32, 29, 20,
114 17, 8, and 5, Township 6 North, Range 4 East; thence
115 continue North a distance of approximately six miles
116 along the East lines of Sections 32, 29, 20, 17, 8 and
117 5, Township 7 North, Range 4 East; thence continue North
118 a distance of approximately three and one-half miles
119 along the East lines of Sections 32, 29, 20 and 17,
120 Township 8 North, Range 4 East to the point of
121 intersection with Rankin-Madison County Line; thence run
122 generally South and West along the West line of Rankin
123 County to the point of beginning.

124 PARCEL B

125 All land included in the Project Area as set forth in
126 the Pearl River Valley Water Supply District Law which

127 is within Rankin County and lying north of a line
128 beginning at the Southeast corner of Section 20,
129 Township 8 North, Range 4 East continuing easterly to
130 the Rankin-Scott County Line, said line running along
131 South line of Sections 21, 22, 23 and 24, Township 8
132 North, Range 4 East; thence continue East along South
133 line of Sections 19, 20, 21 and 22, Township 8 North,
134 Range 5 East.

135 (j) "Metropolitan area plan" means a comprehensive plan
136 for a sewage disposal system, water distribution system and solid
137 waste transportation, collection and disposal system within the
138 metropolitan area, consistent with standards established pursuant
139 to applicable federal and state law.

140 (k) "Metropolitan authority" means the authority.

141 (l) "Municipality" means any incorporated city or town
142 of the State of Mississippi, whether operating under general law
143 or under special charter, lying wholly or partly within the
144 metropolitan area.

145 (m) "Person" means and includes the State of
146 Mississippi, a municipality as defined herein, any public agency
147 as defined herein or any other city, town or political subdivision
148 or governmental agency of the State of Mississippi or of the
149 United States of America, or any private utility, individual,
150 copartnership, association, firm, trust, estate or any other
151 entity whatsoever.

152 (n) The terms "pollution" and "waters of the state"
153 shall have meanings as set forth in the Mississippi Air and Water
154 Pollution Control Law, as now or hereafter amended, appearing as
155 Sections 49-17-1 through 49-17-70, Mississippi Code of 1972.

156 (o) "Public agency" means any county, municipality
157 (including the City of Brandon, the City of Flowood, the City of
158 Richland and the City of Pearl), lying wholly or partially within
159 the metropolitan area, any state board or commission owning or

160 operating properties within a metropolitan area, a district
161 created pursuant to Sections 51-9-101 through 51-9-163 or Sections
162 19-5-151 through 19-5-257, Mississippi Code of 1972, or any other
163 political subdivision of the State of Mississippi lying wholly or
164 partially within a metropolitan area and having the power to own
165 and operate waterworks, water supply systems, sewerage systems,
166 treatment facilities, sewage disposal systems, solid waste
167 disposal or other facilities or systems for the collection,
168 transportation, treatment and disposal of waste.

169 (p) "Sewerage system" means pipelines or conduits,
170 canals, pumping stations and force mains, and all other
171 structures, devices, facilities and appliances appurtenant
172 thereto, used for collecting or conducting waste to an ultimate
173 point for treatment or disposal.

174 (q) "System" means any or all of the following:
175 sewerage system, waste disposal system and water supply system and
176 all vehicles, structures, devices, facilities and appliances used
177 for treatment or distribution of potable water or for collecting
178 or conducting waste, solid waste or sewage to an ultimate point
179 for treatment or disposal.

180 (r) "Treatment facilities" means any plant, disposal
181 field, lagoon, pumping station, constructing drainage ditch or
182 surface water intercepting ditch, canal, incinerator, area devoted
183 to sanitary landfills or other works not specifically mentioned
184 herein, installed for the purpose of treating, neutralizing,
185 stabilizing or disposing of wastewater, sludge or solid waste or
186 facilities to provide cooling water to collect, control and
187 dispose of waste heat.

188 (s) "Waste" means sewage, solid waste, industrial
189 waste, municipal waste, recreational waste and agricultural waste,
190 waste heat and any other waste that may cause impairment of the
191 quality of the waters in the state.

192 (t) "Waste disposal system" means a system for
193 disposing of waste, including, but not limited to, sewerage
194 systems and treatment facilities, and solid waste disposal
195 facilities, as such terms are defined herein.

196 (u) "Water supply system" means waterworks, pipelines,
197 conduits, pumping stations and all other structures, devices and
198 appliances appurtenant thereto, including land and right-of-way
199 thereto, for use for transporting water to a point of ultimate
200 use.

201 (v) "Waterworks" means all works, plants or other
202 facilities necessary for the purpose of collecting, storing,
203 treating and transporting water for domestic, municipal,
204 commercial, industrial, agricultural and manufacturing purposes,
205 including open channels.

206 Words of the masculine gender shall be deemed and construed
207 to include correlative words of the feminine and neuter genders.
208 Unless the context shall otherwise indicate, words and terms
209 herein defined shall be equally applicable to the plural as well
210 as the singular form of any such words and terms.

211 Section 3. (1) The City of Brandon, the City of Flowood,
212 the City of Pearl, and the City of Richland are authorized to file
213 a joint petition, which may be joined in by any public agency
214 lying wholly or partly within the metropolitan area, for the
215 organization of a metropolitan authority in this state under the
216 provisions of this act in the manner hereinafter provided; and,
217 when so organized, the metropolitan authority shall be a political
218 subdivision of the State of Mississippi, and a body politic and
219 corporate, and shall have the powers granted to a metropolitan
220 authority under the act.

221 (2) A petition for the organization of a metropolitan
222 authority shall be filed in the Chancery Court of Rankin County,
223 which petition shall show the proposed metropolitan area, the
224 proposed member public agencies and the necessity and desirability

225 of the proposed metropolitan authority and shall be signed by duly
226 authorized elected public officials of the municipalities within
227 the proposed metropolitan area joining in filing the petition and
228 the authorized officers of any other public agency joining in the
229 petition. Upon the filing of said petition the chancery clerk
230 shall promptly give written notice of the same to a chancellor of
231 said chancery court who shall enter an order setting a date not
232 less than thirty (30) days from the date of the order for a
233 hearing on the organization of such metropolitan authority. Any
234 public agency not a petitioner and any private utility within the
235 proposed metropolitan area shall be served with process as a party
236 defendant to said petition. The chancery clerk shall cause a
237 notice of such hearing addressed to the taxpayers and qualified
238 electors of the proposed metropolitan area and all other persons
239 interested to be published once a week for at least three (3)
240 successive weeks in a newspaper or newspapers published in Rankin
241 County having a general circulation within the proposed
242 metropolitan area, which notice shall state the date, place and
243 time of such hearing, that a petition has been filed to organize a
244 metropolitan authority under the provisions of this act, describe
245 the proposed metropolitan area, and command that all such persons
246 appear before the chancery court or the chancellor in vacation on
247 the date and hour of the hearing to show cause, if any they can,
248 why the proposed metropolitan authority should not be organized
249 and established as set forth in the said petition. The first
250 publication shall be at least twenty-one (21) days before the date
251 of such hearing and the last publication shall be not more than
252 seven (7) days before the date of such hearing.

253 (3) The chancery court may hear the petition at any term
254 thereof, or the chancellor of said court may fix a time to hear
255 such petition at any time in vacation, and may determine all
256 matters pertaining thereto, may adjourn the hearing from time to
257 time, and may continue the case for want of sufficient notice or

258 other good cause. If said petition shall prove defective in any
259 manner, the petitioners, upon motion, shall be permitted to amend
260 the same. At such hearing, or a day to which the same may be
261 continued, the chancellor shall take evidence and all interested
262 persons objecting to the creation of such metropolitan authority
263 may appear and contest the same. If the chancellor shall find
264 that a sound plan exists for the creation of a metropolitan
265 authority to accomplish the purposes set forth in this act and the
266 same would meet a public necessity, he shall render a decree
267 creating such metropolitan authority under the provisions of this
268 act, specifying in the decree the metropolitan area to be served
269 thereby, which may be less than the area set out in the petition.
270 The chancellor shall not include within the metropolitan area of a
271 proposed metropolitan authority any area lying within the
272 corporate limits of a municipality unless such municipality shall
273 have either joined in the petition or filed a written consent to
274 such inclusion adopted by its governing body. If the chancellor
275 finds that the proposed metropolitan authority should not be
276 organized, then he shall dismiss the proceedings.

277 (4) When so organized, the metropolitan authority shall have
278 the power to sue and be sued, provided that the metropolitan
279 authority shall not be liable and shall be immune from suit at law
280 or in equity on account of any wrongful or tortious act or
281 omission, including libel, slander or defamation, by it, or any
282 such act or omission by any employee of any such metropolitan
283 authority, subject to and in accordance with the provisions of
284 Sections 11-46-1 through 11-46-19, Mississippi Code of 1972.

285 (5) If at any time any public agency within the metropolitan
286 area of the duly organized metropolitan authority shall elect to
287 become a member agency of the metropolitan authority by a majority
288 vote of the governing body of such public agency, such public
289 agency may be admitted as a member agency of such metropolitan
290 authority, upon the approval by a three-fifths (3/5) affirmative

291 vote of the total membership of the board of directors of the
292 metropolitan authority and by a concurrent affirmative vote of
293 directors representing sixty percent (60%) of the total payments
294 for use of the system of the metropolitan authority during the
295 preceding fiscal year.

296 * * *

297 Section 4. All powers of the metropolitan authority shall be
298 exercised by a board of directors to be selected and composed as
299 follows: The governing body of each member agency shall appoint
300 one (1) person to serve on the board of directors of the
301 metropolitan authority, each such director to serve at the
302 pleasure of the respective governing body.

303 The board of directors of the metropolitan authority shall
304 annually elect from its number a president and vice president of
305 the metropolitan authority and such other officers as, in the
306 judgment of the board, are necessary. The president shall be the
307 chief executive officer of the metropolitan authority and the
308 presiding officer of the board, and shall have the same right to
309 vote as any other director. The vice president shall perform all
310 duties and exercise all powers conferred by this act upon the
311 president when the president is absent or fails or declines to
312 act, except the president's right to vote. The board shall also
313 appoint a secretary and a treasurer who may or may not be members
314 of the board, and it may combine those officers. The treasurer
315 shall give bond in the sum of not less than Fifty Thousand Dollars
316 (\$50,000.00) as set by the board of directors, and each director
317 may be required to give bond in the sum of not less than Ten
318 Thousand Dollars (\$10,000.00), with sureties qualified to do
319 business in this state, and the premiums on said bonds shall be an
320 expense of such metropolitan authority. Each such bond shall be
321 payable to the State of Mississippi; the condition of each such
322 bond shall be that the treasurer or director will faithfully
323 perform all duties of his office and account for all money or

324 other assets which shall come into his custody as treasurer or
325 director of such metropolitan authority.

326 Except for the election or appointment of officers, all
327 business of the metropolitan authority shall be transacted by a
328 three-fifths (3/5) affirmative vote of the total membership of the
329 board of directors and, if the authority shall own or operate a
330 system, by a concurrent vote of directors representing sixty
331 percent (60%) of the total payments for use of the system of the
332 metropolitan authority during the preceding fiscal year. The
333 quorum for any meeting of the board of directors shall be
334 three-fifths (3/5) of the total membership of the board of
335 directors and, if the authority shall own or operate a system, the
336 presence of directors representing more than sixty percent (60%)
337 of the total payments for use of the system of the metropolitan
338 authority during the preceding fiscal year.

339 Section 5. The metropolitan authority is authorized and
340 empowered to acquire, construct, improve, enlarge, extend, repair,
341 operate and maintain one or more systems and to make contracts
342 with any person in furtherance thereof; and to make contracts with
343 any public agency, under the terms of which the metropolitan
344 authority will, within its designated metropolitan area, provide
345 water to or accept, transport, treat or dispose of waste from such
346 public agency. A metropolitan authority may also enter into
347 contracts with any person to design and construct any system, and
348 thereafter purchase, lease or sell, by installments over such
349 terms as may be deemed desirable, or otherwise, any such system.
350 The metropolitan authority is also authorized to enter into
351 operating agreements with any person, for such terms and upon such
352 conditions as may be deemed desirable, for the operation of any
353 facilities or systems; and the metropolitan authority may lease to
354 or from any person, for such term and upon such conditions as may
355 be deemed desirable, any facilities or systems. Any such contract
356 may contain provisions requiring any public agency or other person

357 to regulate the quality of water and the quality and strength of
358 waste to be handled by the system and may also provide that a
359 metropolitan authority shall have the right to use any streets,
360 alleys and public ways and places within the jurisdiction of a
361 public agency during the term of the contract. Any provision of
362 this act to the contrary notwithstanding, the metropolitan
363 authority shall not become the owner of any existing sewage
364 disposal system unless all municipalities or other public agencies
365 currently utilizing such system or any portion thereof, including
366 the City of Richland, are offered access to such sewage disposal
367 system on terms not less favorable than the terms contained in
368 contracts with the City of Jackson in existence prior to
369 acquisition of such ownership. The City of Richland shall have
370 access to such system on terms not less favorable than the terms
371 contained in the contract between the Richland Water and Sewer
372 District (now the City of Richland) and the City of Jackson dated
373 the 21st day of February 1975, as interpreted by the Circuit Court
374 of Rankin County in Cause No. 14,141; provided, however, that the
375 City of Richland will also pay its proportionate share of the
376 operation, maintenance and debt service of the West Rankin Pumping
377 Station, beginning at such time as such system is acquired by the
378 metropolitan authority.

379 Section 6. The metropolitan authority, through its board of
380 directors, in addition to any and all powers now or hereafter
381 granted to it, is hereby empowered:

382 (a) To develop and maintain long-range planning for
383 collection treatment and distribution of water and for the
384 collection, transportation, treatment and disposal of waste and
385 for pollution abatement.

386 (b) To acquire and to own, maintain, use, operate and
387 convey or otherwise dispose of any and all property of any kind,
388 real, personal or mixed, or any interest therein within or without
389 the boundaries of its designated metropolitan area necessary or

390 convenient to the exercise of the purposes of and the powers
391 granted by Section 21-27-7 and Sections 21-27-161 through
392 21-27-191, Mississippi Code of 1972, as amended, unless any of the
393 foregoing is otherwise prohibited under the State Constitution or
394 this act. The amount and character of interest in land, other
395 property, and easements thus to be acquired shall be determined by
396 the board of directors, and their determination shall be
397 conclusive and shall not be subject to attack in the absence of
398 manifold abuse of discretion or fraud on the part of such board in
399 making such determination. However,

400 (i) In acquiring lands, a metropolitan authority
401 shall not acquire minerals or royalties; provided that sand and
402 gravel shall not be considered as minerals within the meaning of
403 this section; and

404 (ii) No person or persons owning the drilling
405 rights or the right to share in production shall be prevented from
406 exploring, developing or producing oil or gas with necessary
407 rights-of-way for ingress and egress, pipelines and other means of
408 transporting interests on any land or interest thereon of any
409 metropolitan authority held or used for the purposes of this act;
410 but any such activities shall be under such reasonable regulations
411 by the board of directors as will adequately protect the systems
412 of any such metropolitan authority contemplated by this act.

413 (c) To provide for the necessary relocation or
414 rerouting of roads and highways, railroad, telephone and telegraph
415 lines and properties, electric power lines, gas pipe lines and
416 related facilities, or to require the anchoring or other
417 protection of any of these, provided due compensation is first
418 paid to the owners thereof or agreement is had with such owners
419 regarding the payment of the cost of such relocation, and to
420 acquire easements or rights-of-way for such relocation or
421 rerouting and to convey the same to the owners of the property

422 being relocated or rerouted in connection with the purpose of this
423 act.

424 (d) To enter into contracts with any public agency,
425 including, but not limited to, contracts authorized by Section 7
426 of this act, in furtherance of any of the purposes authorized by
427 this act upon such consideration as the board of directors and
428 such public agency may agree. Any such contract may extend over
429 any period of time, notwithstanding any provision or rule of law
430 to the contrary, may be upon such terms as the parties thereto
431 shall agree, and may provide that it shall continue in effect
432 until bonds specified therein, refunding bonds issued in lieu of
433 such bonds, and all other obligations specified therein are paid
434 or terminated. Any such contract shall be binding upon the
435 parties thereto according to its terms.

436 (e) To make and enforce, and from time to time amend
437 and repeal, bylaws and rules and regulations for the management of
438 its business and affairs and for the construction, use,
439 maintenance and operation of any systems under its management and
440 control and any other of its properties.

441 (f) To employ staff and other personnel, including
442 attorneys, engineers and consultants. The board of directors may,
443 in its discretion, employ a general manager having the authority
444 to employ and fire employees of the metropolitan authority.

445 (g) To accept and utilize grants and other funds from
446 any source for systems.

447 (h) To establish and maintain rates and charges for the
448 use of the services of such systems, and from time to time to
449 adjust such rates, to the end that the revenues therefrom will be
450 sufficient at all times to pay the expenses of operating and
451 maintaining such systems and all of the metropolitan authority's
452 obligations under any contract or bond resolution with respect
453 thereto.

454 (i) To adopt rules and regulations necessary to carry
455 out the implementation of the metropolitan area plan and to assure
456 the payment by each participating public agency of its
457 proportionate share of system costs.

458 (j) To refuse to receive waste from any public agency
459 or subdivision thereof that does not comply with the provisions of
460 the metropolitan area plan applicable to the particular area
461 within which such public agency or subdivision thereof is located.

462 (k) To accept industrial waste for treatment and to
463 require the pretreatment of same when in the opinion of such
464 metropolitan authority such pretreatment is necessary.

465 (l) To adopt all necessary and reasonable rules and
466 regulations to carry out and effectuate any water supply, waste
467 treatment or waste disposal plan adopted for the metropolitan
468 area, as contractually authorized.

469 (m) So long as any indebtedness on any sewerage system,
470 treatment facilities and sewage disposal system of the
471 metropolitan authority remains outstanding, to require by contract
472 with a public agency or other person that all waste within the
473 metropolitan area be disposed of through sewerage systems,
474 treatment facilities and sewage disposal systems which comprise a
475 part of the metropolitan area plan, to the extent that the same
476 may be available, but no public agency shall be precluded from
477 constructing, operating and maintaining its own sewerage system
478 after the current indebtedness owing on the system as of the
479 effective date of this act is paid in full.

480 Section 7. (1) Any public agency may, pursuant to a duly
481 adopted resolution of the governing authority of such public
482 agency, enter into contracts with the metropolitan authority under
483 the terms of which the metropolitan authority will collect, within
484 its designated metropolitan area, and transport, treat or dispose
485 of waste for such public agency. Any public agency may also,
486 pursuant to a duly adopted resolution of the governing authority

487 of such public agency, enter into contracts with the metropolitan
488 authority under the terms of which the metropolitan authority will
489 collect, store, treat and distribute water for such public agency.
490 Any public agency may also enter into contracts with the
491 metropolitan authority for the metropolitan authority to purchase
492 or sell, by installments over such terms as may be deemed
493 desirable, or otherwise, any waterworks, water supply systems,
494 waste collection, transportation, sewage disposal or treatment
495 facilities or systems. Any public agency is also authorized to
496 enter into operating agreements with the metropolitan authority,
497 for such terms and upon such conditions as may be deemed
498 desirable, for the operation of waterworks, water supply systems,
499 waste collection, transportation, sewage disposal or treatment
500 facilities or systems by such metropolitan authority or by any
501 person contracting with the metropolitan authority to operate such
502 systems; and any public agency may lease to or from the
503 metropolitan authority, for such term and upon such conditions as
504 may be deemed desirable, any waterworks, water supply systems,
505 waste collection, transportation, treatment or sewage disposal or
506 treatment facilities or systems. Any such contract may contain
507 provisions requiring any public agency to regulate the quality of
508 water and the quality and strength of waste to be handled by the
509 sewage disposal system and may also provide that such metropolitan
510 authority shall have the right to use any streets, alleys and
511 public ways and places within the jurisdiction of a public agency
512 during the term of the contract for any of its systems. Such
513 contracts may obligate the public agency to make payments to such
514 metropolitan authority or to a trustee in amounts which shall be
515 sufficient to enable such metropolitan authority to defray the
516 expenses of administering, operating and maintaining its
517 waterworks, water supply system and sewage disposal system and
518 other systems, to pay interest and principal (whether at maturity
519 upon redemption or otherwise) on bonds of such metropolitan

520 authority issued pursuant to this act and to fund reserves for
521 debt service, for operation and maintenance and for renewals and
522 replacements, and to fulfill the requirements of any rate covenant
523 with respect to debt service coverage contained in any resolution,
524 trust indenture or other security agreement relating to the bonds
525 of such metropolitan authority issued pursuant to this act. Any
526 public agency shall have the power to enter into such contracts
527 with the metropolitan authority as in the discretion of the
528 governing authorities thereof would be in the best interest of
529 such public agency. Such contracts may include a pledge of the
530 full faith and credit of such public agency and/or the avails of
531 any special assessments made by such public agency against
532 property receiving benefits, as now or hereafter provided by law.
533 Any such contract may provide for the sale or lease to or use of
534 by such metropolitan authority of any system or any part thereof
535 of the public agency; may provide that such metropolitan authority
536 shall operate any system or any part thereof of the public agency;
537 may provide that any public agency shall have the right to
538 continued use and/or priority use of any of its system or any part
539 thereof during the useful life thereof upon payment of reasonable
540 charges therefor; may contain provisions to assure equitable
541 treatment of public agencies who contract with such metropolitan
542 authority pursuant to this act; and may contain such other
543 provisions and requirements as the parties thereto may determine
544 to be appropriate or necessary. Such contracts may extend over
545 any period of time, notwithstanding any provisions of law to the
546 contrary, and may extend beyond the life of the system or any part
547 thereof or the term of any bonds sold with respect to such
548 facilities or improvements thereto.

549 (2) The obligations of a public agency arising under the
550 terms of any contract referred to in this act, whether or not
551 payable solely from a pledge of revenues, shall not be included
552 within the indebtedness limitations of the public agency for

553 purposes of any constitutional or statutory limitation or
554 provision. To the extent provided in such contract and to the
555 extent such obligations of the public agency are payable wholly or
556 in part from the revenues and other monies derived by the public
557 agency from the operation of its system or any part thereof, such
558 obligations shall be treated as expenses of operating such system.

559 (3) Contracts referred to in this section may also provide
560 for payments in the form of contributions to defray the cost of
561 any purpose set forth in the contracts and as advances for the
562 system or any part thereof subject to repayment by a metropolitan
563 authority. A public agency may make such contributions or
564 advances from its general fund or surplus fund or from special
565 assessments or from any monies legally available therefor.

566 (4) Payments made or to be made to any metropolitan
567 authority by a public agency pursuant to a contract for a system
568 or any part thereof shall not be subject to approval or review by
569 the Mississippi Public Service Commission.

570 (5) Subject to the terms of a contract or contracts referred
571 to in this act, any metropolitan authority is hereby authorized to
572 do and perform any and all acts or things necessary, convenient or
573 desirable to carry out the purposes of such contracts, including
574 the fixing, charging, collecting, maintaining and revising of
575 rates, fees and other charges for the services rendered by any
576 system operated or maintained by a metropolitan authority, whether
577 or not such system is owned by such metropolitan authority.

578 (6) No provision of this act shall be construed to prohibit
579 any public agency, otherwise permitted by law to issue bonds, from
580 issuing bonds in the manner provided by law for the construction,
581 renovation, repair or development of a system or any part thereof
582 owned or operated by such public agency.

583 Section 8. Whenever a public agency shall have executed a
584 contract pursuant to this act and the payments thereunder are to
585 be made either wholly or partly from the revenues of a system, of

586 a public agency or any part thereof or a combination of such
587 systems, the duty is hereby imposed on the public agency to
588 establish and maintain and from time to time to adjust the rates
589 charged by the public agency for the services of such system or
590 systems, such that the revenues therefrom together with any taxes
591 and special assessments levied in support thereof will be
592 sufficient at all times to pay: (a) the expense of operating and
593 maintaining such system or systems, including all of the public
594 agency's obligations to such metropolitan authority, its
595 successors or assigns under such contract; and (b) all of the
596 public agency's obligations under and in connection with revenue
597 bonds theretofore issued, or which may be issued thereafter and
598 secured by the revenues of such system or systems. Any such
599 contract may require the use of consulting engineers and financial
600 experts to advise the public agency whether and when such rates
601 are to be adjusted.

602 Section 9. (1) The metropolitan authority shall have the
603 power and is hereby authorized, from time to time, to borrow money
604 and to issue revenue bonds in such principal amounts as such
605 metropolitan authority may determine to be necessary to provide
606 sufficient funds for achieving one or more of the purposes of this
607 act, including, without limiting the generality of the foregoing,
608 to defray all the costs of the project, the cost of the
609 acquisition, construction, improvement, repair or extension of a
610 system, or any part thereof, whether or not such facilities are
611 owned by such metropolitan authority, the payment of interest on
612 bonds of such metropolitan authority issued pursuant to this act,
613 establishment of reserves to secure such bonds and payment of the
614 interest thereon, expenses incident to the issuance of such bonds
615 and to the implementation of such metropolitan authority's system,
616 and all other expenditures of the metropolitan authority incident
617 to or necessary or convenient to carry out the purposes of this
618 act.

619 (2) Before issuing bonds (other than interim notes or
620 refunding bonds as provided in Section 10 of this act) hereunder,
621 the board of directors of the metropolitan authority shall first
622 hold a public hearing before the governing authorities of each
623 affected public agency with due notice of the time, date and place
624 of said hearing published in a newspaper of general circulation in
625 said public agency, and then shall adopt a resolution declaring
626 its intention to issue such bonds and stating the maximum
627 principal amount of bonds proposed to be issued, a general generic
628 description of the proposed improvements and the proposed location
629 thereof and the date, time and place at which the board of
630 directors proposes to take further action with respect to the
631 issuance of such bonds. No director shall vote for the resolution
632 of intent to issue such bonds unless the governing authorities of
633 the entity represented by said director shall have adopted a
634 resolution, not more than sixty (60) days before said vote,
635 authorizing said director to vote therefor. The resolution of the
636 authority shall be published once a week for at least three (3)
637 consecutive weeks in at least one (1) newspaper having a general
638 circulation within the geographical limits of all of the public
639 agencies:

640 (a) Which have contracted with the metropolitan
641 authority pursuant to this act; and

642 (b) Whose contracts relate to the bonds proposed to be
643 issued, (each member agency which meets all of the criteria set
644 forth in (a) and (b) foregoing is hereinafter in this section
645 referred to as "affected member agency," and, together with other
646 such agencies, collectively referred to as the "affected member
647 agencies"); provided, however, that if no newspaper has a general
648 circulation within the geographical limits of all of the affected
649 member agencies, then such resolution shall be published in as
650 many different newspapers as may be required to provide general
651 circulation of the publication of such resolution within the

652 geographical limits of each affected member agency; and, provided
653 further, that if no newspaper has a general circulation within the
654 geographical limits of any particular affected member agency, then
655 notice in such affected member agency shall be made by posting a
656 copy of such resolution for at least twenty-one (21) days next
657 preceding the date therein at two (2) public places within the
658 geographical limits of such member agency. The first publication
659 of such resolution shall be made not less than twenty-one (21)
660 days prior to the date fixed in such resolution to direct the
661 issuance of the bonds and the last publication shall be made not
662 more than seven (7) days prior to such date. If twenty percent
663 (20%) of the qualified electors residing in the authority or one
664 thousand five hundred (1,500), whichever is lesser, shall file a
665 written protest against the issuance of such bonds on or before
666 the date specified in such resolution, then an election on the
667 question of the issuance of such bonds shall be called and held as
668 herein provided. If no such protest be filed, then such bonds may
669 be issued without an election on the question of the issuance
670 thereof at any time within a period of two (2) years after the
671 date specified in the above-mentioned resolution. Where an
672 election is to be called, notice of such election shall be signed
673 by the president of the board of directors, and shall be published
674 once a week for at least three (3) consecutive weeks in the same
675 manner as publication of the resolution. The first publication of
676 such notice shall be made not less than twenty-one (21) days prior
677 to the date fixed for such election and the last publication shall
678 be made not more than seven (7) days prior to such date. The
679 election shall be conducted by the election commissioners of the
680 county in which the authority is located. Such election shall be
681 held, as far as is practicable, in the same manner as other county
682 special elections are held in the county where the authority is
683 located. At such election, all qualified electors residing in the
684 metropolitan area may vote, and the ballots used at such election

685 shall have printed thereon a brief statement of the amount and
686 purpose of the proposed bond issue and the words "FOR THE BOND
687 ISSUE" and "AGAINST THE BOND ISSUE," and the voter shall vote by
688 placing a cross (X) or check mark (√) opposite his choice on the
689 proposition. When the results of the election on the question of
690 the issuance of such bonds shall have been canvassed by the
691 election commissioners of the county in which the authority is
692 located and certified by them to the board of directors of the
693 authority, it shall be the duty of the board of directors of the
694 authority to determine and adjudicate whether or not a majority of
695 the qualified electors who voted thereon in such election voted in
696 favor of the issuance of such bonds, and unless a majority of the
697 qualified electors who voted thereon in such election shall have
698 voted in favor of the issuance of such bonds, then such bonds
699 shall not be issued. Should a majority of the qualified electors
700 who vote thereon in such election vote in favor of the issuance of
701 such bonds, then the board of directors may issue such bonds,
702 either in whole or in part, within two (2) years after the date of
703 the election or the date of the final favorable termination of any
704 litigation affecting the issuance of such bonds.

705 (3) Bonds of any metropolitan authority issued pursuant to
706 this act shall be payable from and secured by a pledge of all or
707 any part of the revenues under one or more contracts entered into
708 pursuant to this act between the metropolitan authority and one or
709 more of its member public agencies and from all or any part of the
710 revenues derived from the operation of any designated system or
711 any part or parts thereof and any other monies legally available
712 and designated therefor, as may be determined by such metropolitan
713 authority, subject only to any agreement with the purchasers of
714 the bonds. Such bonds may be further secured by a trust indenture
715 between such metropolitan authority and a corporate trustee, which
716 may be any trust company or bank having powers of a trust company
717 without or within the state.

718 (4) Bonds of the metropolitan authority issued pursuant to
719 this act shall be authorized by a resolution or resolutions
720 adopted by a three-fifths (3/5) affirmative vote of the total
721 membership of the board of directors of the metropolitan authority
722 and by a concurrent affirmative vote of directors representing
723 sixty percent (60%) of the total payments for use of the system of
724 the metropolitan authority during the preceding fiscal year. Such
725 bonds may be issued in series, and each series of such bonds shall
726 bear such date or dates, mature at such time or times, bear
727 interest at such rate or rates (not exceeding the maximum rate set
728 out in Section 75-17-103, Mississippi Code of 1972, as amended),
729 be in such denomination or denominations, be in such form, carry
730 such conversion privileges, have such rank or priority, be
731 executed in such manner and by such officers, be payable from such
732 sources in such medium of payment at such place or places within
733 or without the state, provided that one such place shall be within
734 the state, and be subject to such terms of redemption prior to
735 maturity, all as may be provided by resolution or resolutions of
736 the board of directors.

737 (5) Bonds of the metropolitan authority issued pursuant to
738 this act may be sold at such price or prices, at public or private
739 sale, in such manner and at such times as may be determined by
740 such metropolitan authority to be in the public interest, and such
741 metropolitan authority may pay all expenses, premiums, fees and
742 commissions which it may deem necessary and advantageous in
743 connection with the issuance and sale thereof.

744 (6) Any pledge of earnings, revenues or other monies made by
745 the metropolitan authority shall be valid and binding from the
746 time the pledge is made. The earnings, revenues or other monies
747 so pledged and thereafter received by such metropolitan authority
748 shall immediately be subject to the lien of such pledge without
749 any physical delivery thereof or further act, and the lien of any
750 such pledge shall be valid and binding as against all parties

751 having claims of any kind in tort, contract or otherwise against
752 such metropolitan authority irrespective of whether such parties
753 have notice thereof. Neither the resolution nor any other
754 instrument by which a pledge is created need be recorded.

755 (7) Neither the members of the board of directors nor any
756 person executing the bonds shall be personally liable on the bonds
757 or be subject to any personal liability or accountability by
758 reason of the issuance thereof.

759 (8) Proceeds from the sale of bonds of the metropolitan
760 authority may be invested, pending their use, in such securities
761 as may be specified in the resolution authorizing the issuance of
762 the bonds or the trust indenture securing them, and the earnings
763 on such investments applied as provided in such resolution or
764 trust indenture.

765 (9) Whenever any bonds shall have been signed by the
766 officer(s) designated by the resolution of the board of directors
767 to sign the bonds who were in office at the time of such signing
768 but who may have ceased to be such officer(s) prior to the sale
769 and delivery of such bonds, or who may not have been in office on
770 the date such bonds may bear, the manual or facsimile signatures
771 of such officer(s) upon such bonds shall nevertheless be valid and
772 sufficient for all purposes and have the same effect as if the
773 person so officially executing such bonds had remained in office
774 until the delivery of the same to the purchaser or had been in
775 office on the date such bonds may bear.

776 Section 10. The metropolitan authority may by resolution
777 adopted by its board of directors issue refunding bonds for the
778 purpose of paying any of its bonds at or prior to maturity or upon
779 acceleration or redemption. Refunding bonds may be issued at such
780 time prior to the maturity or redemption of the refunded bonds as
781 the board of directors deems to be in the public interest, without
782 an election on the question of the issuance thereof. The
783 refunding bonds may be issued in sufficient amounts to pay or

784 provide the principal of the bonds being refunded, together with
785 any redemption premium thereon, any interest accrued or to accrue
786 to the date of payment of such bonds, the expenses of issue of the
787 refunding bonds, the expenses of redeeming the bonds being
788 refunded, and such reserves for debt service or other capital or
789 current expenses from the proceeds of such refunding bonds as may
790 be required by the resolution, trust indenture or other security
791 instruments. The issue of refunding bonds, the maturities and
792 other details thereof, the security therefor, the rights of the
793 holders and the rights, duties and obligations of a metropolitan
794 authority in respect of the same shall be governed by the
795 provisions of this act relating to the issue of bonds other than
796 refunding bonds insofar as the same may be applicable. Any such
797 refunding may be effected, whether the obligations to be refunded
798 shall have then matured or shall thereafter mature, either by the
799 exchange of the refunding bonds for the obligations to be refunded
800 thereby with the consent of the holders of the obligations so to
801 be refunded, or by sale of the refunding bonds and the application
802 of the proceeds thereof to the payment of the obligations proposed
803 to be refunded thereby, and regardless of whether the obligations
804 proposed to be refunded shall be payable on the same date or
805 different dates or shall be due serially or otherwise.

806 Section 11. All bonds (other than refunding bonds, interim
807 notes and certificates of indebtedness, which may be validated)
808 issued pursuant to this act shall be validated as now provided by
809 law in Sections 31-13-1 through 31-13-11, Mississippi Code of
810 1972, as amended from time to time; however, notice of such
811 validation proceedings shall be addressed to the citizens of the
812 State of Mississippi and the citizens of the respective member
813 public agencies (a) which have contracted with the metropolitan
814 authority pursuant to this act, and (b) whose contracts and the
815 payments to be made by the public agencies thereunder constitute
816 security for the bonds of such metropolitan authority proposed to

817 be issued, and that such notice shall be published at least once
818 in a newspaper or newspapers having a general circulation within
819 the geographical boundaries of each of the member public agencies
820 to whose citizens the notice is addressed and within the State of
821 Mississippi. Such validation proceedings shall be instituted in
822 the Chancery Court of Rankin County. The validity of the bonds so
823 validated and of the contracts and payments to be made by the
824 public agencies thereunder constituting security for the bonds
825 shall be forever conclusive against such metropolitan authority
826 and the public agencies which are parties to said contracts; and
827 the validity of said bonds and said contracts and the payments to
828 be made thereunder shall never be called in question in any court
829 in this state.

830 Section 12. Bonds issued under the provisions of this act
831 shall not be deemed to constitute, within the meaning of any
832 constitutional or statutory limitation, an indebtedness of the
833 metropolitan authority or any member agency thereof. Such bonds
834 shall not be secured by a pledge of the full faith and credit of
835 the State of Mississippi, the metropolitan authority or any member
836 agency thereof, but shall be payable solely from the revenues or
837 assets of the metropolitan authority pledged therefor. Each bond
838 issued under this act shall contain on the face thereof a
839 statement to the effect that such metropolitan authority shall not
840 be obligated to pay the same nor the interest thereon except from
841 the revenues or assets pledged therefor.

842 Section 13. The metropolitan authority shall have power in
843 connection with the issuance of its bonds to:

844 (a) Covenant as to the use of any or all of its
845 property, real or personal.

846 (b) Redeem the bonds, to covenant for their redemption
847 and to provide the terms and conditions thereof.

848 (c) Covenant to charge rates, fees and charges
849 sufficient to meet operating and maintenance expenses, renewals

850 and replacements, principal and debt service on bonds, creation
851 and maintenance of any reserves required by a bond resolution,
852 trust indenture or other security instrument and to provide for
853 any margins or coverages over and above debt service on the bonds
854 deemed desirable for the marketability of the bonds.

855 (d) Covenant and prescribe as to events of default and
856 terms and conditions upon which any or all of its bonds shall
857 become or may be declared due before maturity, as to the terms and
858 conditions upon which such declaration and its consequences may be
859 waived and as to the consequences of default and the remedies of
860 the registered owners of the bonds.

861 (e) Covenant as to the mortgage or pledge of or the
862 grant of a security interest in any real or personal property and
863 all or any part of the revenues from any designated system or any
864 part thereof or any revenue-producing contract or contracts made
865 by such metropolitan authority with any person to secure the
866 payment of bonds, subject to such agreements with the registered
867 owners of bonds as may then exist.

868 (f) Covenant as to the custody, collection, securing,
869 investment and payment of any revenues, assets, monies, funds or
870 property with respect to which such metropolitan authority may
871 have any rights or interest.

872 (g) Covenant as to the purposes to which the proceeds
873 from the sale of any bonds then or thereafter to be issued may be
874 applied, and the pledge of such proceeds to secure the payment of
875 the bonds.

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

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

881 (j) Covenant as to the procedure by which the terms of
882 any contract with or for the benefit of the registered owners of

883 bonds may be amended or abrogated, the amount of bonds the
884 registered owners of which must consent thereto, and the manner in
885 which such consent may be given.

886 (k) Covenant as to the custody of any of its properties
887 or investments, the safekeeping thereof, the insurance to be
888 carried thereon, and the use and disposition of insurance
889 proceeds.

890 (l) Covenant as to the vesting in a trustee or
891 trustees, within or outside the state, of such properties, rights,
892 powers and duties in trust as such metropolitan authority may
893 determine.

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

897 (n) Make all other covenants and to do any and all such
898 acts and things as may be necessary or convenient or desirable in
899 order to secure its bonds, or in the absolute discretion of the
900 metropolitan authority tend to make the bonds more marketable,
901 notwithstanding that such covenants, acts or things may not be
902 enumerated herein; it being the intention hereof to give any
903 metropolitan authority power to do all things in the issuance of
904 bonds and in the provisions for security thereof which are not
905 inconsistent with the Constitution of the state.

906 (o) Execute all instruments necessary or convenient in
907 the exercise of the powers herein granted or in the performance of
908 covenants or duties, which may contain such covenants and
909 provisions, as any purchaser of the bonds of such metropolitan
910 authority may reasonably require.

911 Section 14. The metropolitan authority may, in any
912 authorizing resolution of the board of directors, trust indenture
913 or other security instrument relating to its bonds, provide for
914 the appointment of a trustee who shall have such powers as are
915 provided therein to represent the registered owners of any issue

916 of bonds in the enforcement or protection of their rights under
917 any such resolution, trust indenture or security instrument. The
918 metropolitan authority may also provide in such resolution, trust
919 indenture or other security instrument that the trustee, or in the
920 event that the trustee so appointed shall fail or decline to so
921 protect and enforce such registered owners' rights then such
922 percentage of registered owners as shall be set forth in, and
923 subject to the provisions of, such resolution, trust indenture or
924 other security interest, may petition the court of proper
925 jurisdiction for the appointment of a receiver of the waterworks,
926 water supply system or sewage disposal system the revenues of
927 which are pledged to the payment of the principal of and interest
928 on the bonds of such registered owners. Such receiver may
929 exercise any power as may be granted in any such resolution, trust
930 indenture or security instrument to enter upon and take possession
931 of, acquire, construct or reconstruct or operate and maintain such
932 system fix charges for services of the system and enforce
933 collection thereof, and receive all revenues derived from such
934 system or facilities and perform the public duties and carry out
935 the contracts and obligations of such metropolitan authority in
936 the same manner as such metropolitan authority itself might do,
937 all under the direction of such court.

938 Section 15. (1) The exercise of the powers granted by this
939 act will be in all respects for the benefit of the people of the
940 state, for their well-being and prosperity and for the improvement
941 of their social and economic conditions, and the metropolitan
942 authority shall not be required to pay any tax or assessment on
943 any property owned by the metropolitan authority under the
944 provisions of this act or upon the income therefrom; nor shall any
945 metropolitan authority be required to pay any recording fee or
946 transfer tax of any kind on account of instruments recorded by it
947 or on its behalf.

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

953 Section 16. All bonds issued under the provisions of this
954 act shall be legal investments for trustees, other fiduciaries,
955 savings banks, trust companies and insurance companies organized
956 under the laws of the State of Mississippi; and such bonds shall
957 be legal securities which may be deposited with and shall be
958 received by all public officers and bodies of the state and all
959 municipalities and other political subdivisions thereof for the
960 purpose of securing the deposit of public funds.

961 Section 17. The state hereby covenants with the registered
962 owners of any bonds of any metropolitan authority that so long as
963 the bonds are outstanding and unpaid the state will not limit or
964 alter the rights and powers of any metropolitan authority under
965 this act to conduct the activities referred to herein in any way
966 pertinent to the interests of the bondholders including without
967 limitation such metropolitan authority's right to charge and
968 collect rates, fees and charges and to fulfill the terms of any
969 covenants made with the registered owners of the bonds, or in any
970 other way impair the rights and remedies of the registered owners
971 of the bonds, unless provision for full payment of such bonds, by
972 escrow or otherwise, has been made pursuant to the terms of the
973 bonds or the resolution, trust indenture or security interest
974 securing the bonds.

975 Section 18. The provisions of this act are cumulative of
976 other statutes now or hereafter enacted relating to the issuance
977 of bonds and systems; and to the design, construction, acquisition
978 or approval of facilities for such purposes, and any public agency
979 may exercise all presently held powers in the furtherance of this
980 act.

981 Section 19. If any clause, sentence, paragraph, section or
982 part of the provisions of this act shall be adjudged by any court
983 of competent jurisdiction to be invalid, such judgment shall not
984 affect, impair or invalidate the remainder thereof directly
985 involved in the controversy in which such judgment shall have been
986 rendered.

987 * * *

988 **SECTION 2.** This act shall take effect and be in force from
989 and after its passage.