

By: Representative Brown

To: Conservation and Water Resources; Ways and Means

HOUSE BILL NO. 1127

1 AN ACT TO AMEND SECTION 51-39-25, MISSISSIPPI CODE OF 1972,  
2 TO AUTHORIZE STORM WATER MANAGEMENT DISTRICTS TO ASSESS A CERTAIN  
3 AMOUNT OF USER FEES; TO AMEND SECTION 51-39-43, MISSISSIPPI CODE  
4 OF 1972, TO CONFORM TO THE PRECEDING SECTION; AND FOR RELATED  
5 PURPOSES.

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

7 **SECTION 1.** Section 51-39-25, Mississippi Code of 1972, is  
8 amended as follows:

9 51-39-25. The district shall have all the rights and powers  
10 necessary or convenient to carry out the purposes of this chapter,  
11 including, but not limited to, the following:

12 (a) To sue and be sued in its own name;

13 (b) To adopt an official seal and alter the seal at its  
14 pleasure;

15 (c) To maintain an office or offices at any place or  
16 places within the geographic boundaries of its members as it may  
17 determine;

18 (d) To establish a graduated storm water user fee,  
19 which may be assessed and collected from each user of the storm  
20 water facilities provided by the district. The fees shall be  
21 reasonable in an amount not to exceed Three Dollars and  
22 Seventy-seven Cents (\$3.77) and used exclusively by the district  
23 for the purposes set forth in this act. The graduated storm water  
24 user fee shall be based on actual or estimated use of the storm  
25 water facility of the district and each user or user class shall  
26 only be required to pay its proportionate share of the  
27 construction, administration, operation and maintenance costs of  
28 the facilities based on the actual or estimated proportionate

29 contribution to the total storm water runoff from all users or  
30 user classes. To insure a proportionate distribution of all costs  
31 to each user or user class, the user contribution shall be based  
32 on factors such as the amount of impervious area utilized by the  
33 user and the volume or rate of storm water runoff;

34 The fee structure shall provide adjustments for users who  
35 construct facilities to retain and control the storm water runoff.  
36 Prior to establishing or amending any user fees, the district  
37 shall advertise its intent to do so by publishing a notice in a  
38 newspaper of general circulation in the area served by the  
39 district at least thirty (30) days in advance of the meeting at  
40 which the district shall consider user fee proposals. The  
41 following shall be exempted from payment of user fees authorized  
42 by the district:

43 (i) Users whose storm water runoff is not  
44 discharged into or through the storm water facilities of the  
45 district;

46 (ii) Any entity that possesses a valid individual  
47 storm water National Pollution Discharge Elimination System  
48 (NPDES) permit;

49 (iii) Any entity that has coverage under a general  
50 storm water National Pollution Discharge Elimination System  
51 (NPDES) permit; and

52 (iv) Any Class II real property, as defined in  
53 Section 112 of the Mississippi Constitution of 1890, that is  
54 classified as agriculture or forest land;

55 (e) To acquire, construct, improve, or modify, to  
56 operate or cause to be operated and maintained, either as owner of  
57 all or of any part in common with others, a storm water management  
58 system within the counties or municipalities in the district. The  
59 district may pay all or part of the cost of any storm water  
60 management system from any contribution by persons, firms, public  
61 agencies or corporations. The district may receive, accept and

62 use all funds, public or private, and pay all cost of development,  
63 implementation and maintenance as may be determined as necessary  
64 for any project;

65         (f) To acquire, in its own name, by purchase on any  
66 terms and conditions and in any manner as it may deem proper,  
67 except by eminent domain, property for public use, or by gift,  
68 grant, lease or otherwise, real property or easements therein,  
69 franchises and personal property necessary or convenient for its  
70 corporate purposes. These purposes shall include, but are not  
71 limited to, the constructing or acquiring of a storm water  
72 management system; the improving, extending, reconstructing,  
73 renovating or remodeling of any existing storm water management  
74 system or part thereof; or the demolition to make room for any  
75 project or any part thereof. The district may insure the storm  
76 water management system against all risks as any insurance may,  
77 from time to time, be available. The district may also use any  
78 property and rent or lease any property to or from others,  
79 including public agencies, or make contracts for the use of the  
80 property. The district may sell, lease, exchange, transfer,  
81 assign, pledge, mortgage or grant a security interest for any  
82 property. The powers to acquire, use and dispose of property as  
83 set forth in this paragraph shall include the power to acquire,  
84 use and dispose of any interest in that property, whether divided  
85 or undivided. Title to any property of the district shall be held  
86 by the district exclusively for the benefit of the public;

87         (g) To adopt, modify, repeal and promulgate rules and  
88 regulations implementing or effectuating the powers and duties of  
89 the district under any statute within the district's jurisdiction,  
90 and where otherwise not prohibited by federal or state law, to  
91 make exceptions to and grant variances and exemptions from, and to  
92 enforce those rules and regulations. Those rules and regulations  
93 may include, but shall not be limited to, rules and regulations  
94 for (i) the management of the district's business and affairs;

95 (ii) the use, operation, maintenance or implementation of the  
96 district's storm water management system or any portion of that  
97 system, facility or any other property owned or operated by the  
98 district; and (iii) specifications and standards relating to the  
99 planning, design or construction of the storm water management  
100 system or any facility owned or operated by the district;

101 (h) To enter into contracts or leases with any person  
102 or public agency and to execute all instruments necessary or  
103 convenient for construction, operation and maintenance of the  
104 storm water management system and leases of projects. Without  
105 limiting the generality of the above, authority is specifically  
106 granted to units of local government and to the district to enter  
107 into contracts, lease agreements or other undertaking relative to  
108 the furnishing of storm water management system services or  
109 facilities or both by the district to a unit of local government  
110 and by a unit of local government to the district;

111 (i) To exercise any powers, rights or privileges  
112 conferred by this chapter either alone or jointly or in common  
113 with any other public or private parties. In any exercise of any  
114 powers, rights and privileges jointly or in common with others for  
115 the construction, operation and maintenance of facilities, the  
116 district may own an undivided interest in any facilities with any  
117 other party with which it may jointly or in common exercise the  
118 rights and privileges conferred by this chapter and may enter into  
119 any agreement with respect to any facility with any other party  
120 participating in those facilities. An agreement may contain any  
121 terms, conditions and provisions, consistent with this section, as  
122 the parties to the agreement shall deem to be in their best  
123 interest including, but not limited to, provisions for the  
124 planning, design, construction, operation, implementation and  
125 maintenance of any facility by any party to an agreement. Any  
126 party or parties shall be designated in or under any agreement as  
127 agent or agents on behalf of itself and one or more of the other

128 parties to the agreement, or by any other means as may be  
129 determined by the parties. The agreement shall include a method  
130 or methods of determining and allocating, among the parties, costs  
131 of planning, design, construction, operation, maintenance,  
132 renewals, replacements, improvements and disposal related to any  
133 facility. In carrying out its functions and activities as an  
134 agent with respect to planning, design, construction, operation  
135 and maintenance of any facility, the agent shall be governed by  
136 the laws and regulations applicable to that agent as a separate  
137 legal entity and not by any laws or regulations which may be  
138 applicable to any of the other participating parties. The agent  
139 shall act for the benefit of the public. In any agreement, the  
140 district may delegate its powers and duties related to the  
141 planning, design, construction, operation and maintenance of any  
142 facility to the party acting as agent and all actions taken by  
143 that agent in accordance with the agreement may be binding upon  
144 the district without further action or approval of the district;

145       (j) To apply, contract for, accept, receive and  
146 administer gifts, grants, appropriations and donations of money,  
147 materials and property of any kind, including loans and grants  
148 from the United States, the state, a unit of local government, or  
149 any agency, department, authority or instrumentality of any of the  
150 foregoing, upon any terms and conditions as the United States, the  
151 state, a unit of local government, or any agency, department,  
152 authority or instrumentality shall impose. The district may  
153 administer trusts. The district may sell, lease, transfer,  
154 convey, appropriate and pledge any and all of its property and  
155 assets;

156       (k) To employ professional and administrative staff and  
157 personnel and to retain legal, engineering, fiscal, accounting and  
158 other professional services;

159       (l) To assume or continue any contractual or other  
160 business relationships entered into by the municipalities or

161 counties who are members of the district, including the rights to  
162 receive and acquire transferred rights under option to purchase  
163 agreements;

164           (m) To enter on public or private lands, waters or  
165 premises for the purpose of making surveys, borings or soundings,  
166 or conducting tests, examinations or inspections for the purposes  
167 of the district, subject to responsibility for any damage done to  
168 property entered;

169           (n) To do and perform any acts and things authorized by  
170 this chapter under, through or by means of its officers, agents  
171 and employees, or by contracts with any person; and

172           (o) To do and perform any and all acts or things  
173 necessary, convenient or desirable for the purposes of the  
174 district, or to carry out any power expressly granted in this  
175 chapter.

176           **SECTION 2.** Section 51-39-43, Mississippi Code of 1972, is  
177 amended as follows:

178           51-39-43. This chapter, without reference to any other  
179 statute, shall be deemed to be full and complete authority for the  
180 creation of a district. No proceedings shall be required for the  
181 creation of a district other than those provided for and required  
182 in this chapter. All the necessary powers to be exercised by the  
183 governing body of a county or municipality and by the board of  
184 commissioners of any district, in order to carry out this chapter,  
185 are hereby conferred.

186           The powers conferred by this chapter are in addition and  
187 supplemental to other powers conferred by law.

188           **SECTION 3.** This act shall take effect and be in force from  
189 and after July 1, 2006.