

By: Representative Baker (74th)

To: Conservation and Water
Resources; Appropriations

HOUSE BILL NO. 1364

1 AN ACT TO AMEND SECTION 51-9-1, MISSISSIPPI CODE OF 1972, TO
2 REVISE THE MEMBERSHIP OF THE PEARL RIVER INDUSTRIAL COMMISSION; TO
3 AMEND SECTION 51-9-107, MISSISSIPPI CODE OF 1972, TO REVISE THE
4 TERMS OF THE MEMBERS OF THE COMMISSION; TO AMEND SECTION 51-9-121,
5 MISSISSIPPI CODE OF 1972, TO REVISE THE DUTIES OF THE BOARD OF
6 DIRECTORS OF THE PEARL RIVER VALLEY WATER SUPPLY DISTRICT; TO
7 AMEND SECTION 51-9-123, MISSISSIPPI CODE OF 1972, TO REVISE HOW
8 BIDS ARE ADVERTISED; TO AMEND SECTION 51-9-127, MISSISSIPPI CODE
9 OF 1972, TO REQUIRE CERTAIN REPORTING BY THE COMMISSION TO THE
10 LEGISLATURE, THE INTERNAL REVENUE SERVICE AND THE STATE TAX
11 COMMISSION; AND FOR RELATED PURPOSES.

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

13 **SECTION 1.** Section 51-9-1, Mississippi Code of 1972, is
14 amended as follows:

15 51-9-1. There is hereby created the Pearl River Industrial
16 Commission, composed of Hinds, Leake, Madison, Neshoba, Rankin and
17 such other counties in the state through which or bordering which
18 the Pearl River runs. The governor shall appoint one (1) member
19 to the commission from each county from a list of three (3) names
20 to be submitted by the board of supervisors in each participating
21 county. The three (3) names submitted by the board of supervisors
22 of Madison and Rankin Counties shall be the names of persons who
23 reside on and are holders or residential leases from the Pearl
24 River Valley Water Supply District which are located in Rankin and
25 Madison Counties. In his appointment the governor shall designate
26 the chairman and vice-chairman of the commission. The board of
27 supervisors in any county through which or by which the Pearl
28 River runs, other than those counties named above, may bring that
29 county in as a member of the commission by resolution presented to
30 the Governor; and the board of supervisors in such county may, in
31 its discretion, call an election prior to taking such action, said

32 election to be held as nearly as possible in the same manner other
33 elections are held in the county.

34 **SECTION 2.** Section 51-9-107, Mississippi Code of 1972, is
35 amended as follows:

36 51-9-107. All powers of the district shall be exercised by a
37 board of directors, to be composed of the following:

38 (a) Each member of the Pearl River Industrial
39 Commission whose county becomes a part of the Pearl River Valley
40 Water Supply District shall be a member of the Board of Directors
41 of the Pearl River Valley Water Supply District. Such directors
42 shall serve on this board during their term of office on the Pearl
43 River Industrial Commission. In addition the board of supervisors
44 of each county which becomes a part of the district shall appoint
45 one (1) additional member who shall serve a four-year term
46 beginning on the date of appointment and ending four (4) years
47 later on the same day of the month on which the member was
48 appointed.

49 (b) The Mississippi Commission on Environmental
50 Quality, the Mississippi Commission on Wildlife, Fisheries and
51 Parks, Forestry Commission and the State Board of Health of the
52 State of Mississippi shall each appoint one (1) director from that
53 department to serve on the Board of Directors of the Pearl River
54 Valley Water Supply District to serve at the pleasure of the
55 respective board appointing him.

56 (c) Each director shall take and subscribe to the oath
57 of office required by Section 268 of the Constitution of the State
58 of Mississippi before a chancery clerk, that he will faithfully
59 discharge the duties of the office, which oath shall be filed with
60 the said clerk and by him preserved.

61 (d) Each director shall receive per diem compensation
62 in the amount as provided in Section 25-3-69 for attending regular
63 and special call meetings of the board and for each day spent in
64 attending to the necessary activities of the district that have

65 been approved by the board as a whole and shall be reimbursed for
66 actual expenses thus incurred upon express authorization of the
67 board, including travel expenses, as provided in Section 25-3-41.

68 (e) The board of directors shall annually elect from
69 its number a president and a vice president of the district, and
70 such other officers as in the judgment of the board are necessary.
71 The president shall be the chief executive officer of the district
72 and the presiding officer of the board, and shall have the same
73 right to vote as any other director. The vice president shall
74 perform all duties and exercise all powers conferred by this
75 article upon the president when the president is absent or fails
76 or declines to act, except the president's right to vote. The
77 board shall also appoint a secretary and a treasurer who may or
78 may not be members of the board, and it may combine those offices.
79 The treasurer shall give bond in the sum of not less than Fifty
80 Thousand Dollars (\$50,000.00) as set by the board of directors and
81 each director shall give bond in the sum of not less than Ten
82 Thousand Dollars (\$10,000.00), and the premiums on said bonds
83 shall be an expense of the district. The condition of each such
84 bond shall be that the treasurer or director will faithfully
85 perform all duties of office and account for all money which shall
86 come into his custody as treasurer or director of the district.

87 **SECTION 3.** Section 51-9-121, Mississippi Code of 1972, is
88 amended as follows:

89 51-9-121. The Pearl River Valley Water Supply District
90 through its board of directors is hereby empowered:

91 (a) To impound overflow water and the surface water of
92 the Pearl River or its tributaries within the project area, within
93 or without this district at the place or places and in the amount
94 as may be approved by the Office of Land and Water Resources of
95 the State of Mississippi, by the construction of a dam or dams,
96 reservoir or reservoirs, works, plants, and any other necessary or
97 useful related facilities contemplated and described as a part of

98 the project within or without the district, to control, store, and
99 preserve these waters, and to use, distribute, and sell the same.
100 The Pearl River Valley Water Supply District is also empowered to
101 construct or otherwise acquire within the project area all works,
102 plants, or other facilities necessary or useful to the project for
103 the purpose of processing the water and transporting it to cities
104 and others for domestic, municipal, commercial, industrial,
105 agricultural, and manufacturing purposes and is hereby given the
106 power to control open channels for water delivery purposes.

107 (b) To acquire and develop any other available water
108 necessary or useful to the project and to construct, acquire, and
109 develop all facilities within the project area deemed necessary or
110 useful with respect thereto.

111 (c) To prevent or aid in the prevention of damage to
112 person or property from the waters of the Pearl River or any of
113 its tributaries.

114 (d) To forest and reforest, and to aid in the foresting
115 and reforesting of the project area, and to prevent and aid in the
116 prevention of soil erosion and floods within this area; to
117 control, store, and preserve within the boundaries of the project
118 area the waters of the Pearl River or any of its tributaries, for
119 irrigation of lands and for prevention of water pollution.

120 (e) To acquire by purchase, lease, gift, or in any
121 other manner (otherwise than by condemnation) and to maintain,
122 use, and operate all property of any kind, real, personal, or
123 mixed, or any interest therein within the project area, within or
124 without the boundaries of the district, necessary for the project
125 and convenient to the exercise of the powers, rights, privileges,
126 and functions conferred upon the district by this article.

127 (f) To acquire by condemnation all property of any
128 kind, real, personal, or mixed, or any interest therein within the
129 project area not exceeding one-quarter (1/4) mile from the
130 outside line of the three hundred (300) feet above sea level

131 contour on each side of Pearl River except as provided for
132 rights-of-way under subsection (g) of this section, within or
133 without the boundaries of the district, necessary for the project
134 and the exercise of the powers, rights, privileges, and functions
135 conferred upon the district by this article, according to the
136 procedure provided by law for the condemnation of lands or other
137 property taken for rights-of-way or other purposes by railroads,
138 telephone, or telegraph companies. For the purposes of carrying
139 out this article, the right of eminent domain of the district
140 shall be superior and dominant to the right of eminent domain of
141 railroad, telegraph, telephone, gas, power, and other companies or
142 corporations, and shall be sufficient to enable the acquisition of
143 county roads, state highways, or other public property in the
144 project area and the acquisition, or relocation, of the above
145 mentioned utility property in the project area; however,
146 Mississippi Highway 43 as presently located shall be kept open as
147 part of the state highway system. The cost of right-of-way
148 purchases, rerouting, and elevating all other county maintained
149 roads affected by construction of the reservoir shall be borne by
150 the water district, and new construction shall be of equal quality
151 as in roads existing as of May 5, 1958. The amount and character
152 of interest in land, other property, and easements thus to be
153 acquired shall be determined by the board of directors, and their
154 determination shall be conclusive and shall not be subject to
155 attack in the absence of manifold abuse of discretion or fraud on
156 the part of such board in making such determination. However,
157 (i) In acquiring lands, either by negotiation or
158 condemnation, the district shall not acquire minerals or royalties
159 within the project area; sand and gravel shall not be considered
160 as minerals within the meaning of this section; and
161 (ii) No person or persons owning the drilling
162 rights or the right to share in production shall be prevented from
163 exploring, developing, or producing oil or gas with necessary

164 rights-of-way for ingress and egress, pipe lines, and other means
165 of transporting these products by reason of the inclusion of such
166 lands or mineral interests within the project area, whether below
167 or above the water line; but any such activities shall be under
168 such reasonable regulations by the board of directors as will
169 adequately protect the reservoir; and

170 (iii) In drilling and developing, these persons
171 are hereby vested with a special right to have the mineral
172 interest integrated and their lands developed in such drilling
173 unit or units as the State Oil and Gas Board shall establish after
174 due consideration of the rights of all of the owners to be
175 included in the drilling unit.

176 Moreover, where any site or plot of land is to be rented,
177 leased, or sold to any person, firm, or corporation for the
178 purpose of operating recreational facilities thereon for profit,
179 then the board shall, by resolution, specify the terms and
180 conditions of the sale, rental, or lease, and shall advertise for
181 public bids thereon. When bids are received, they shall be
182 publicly opened by the board, and the board shall thereupon
183 determine the highest and best bid submitted and shall immediately
184 notify the former owner of the site or plot of the amount, terms,
185 and conditions of the highest and best bid. The former owner of
186 the site or plot shall have the exclusive right at his option, for
187 a period of thirty (30) days after the determination of the
188 highest and best bid by the board, to rent, lease, or purchase
189 said site or plot of land by meeting such highest and best bid and
190 by complying with all terms and conditions of the renting,
191 leasing, or sale as specified by the board. However, the board
192 shall not in any event rent, lease, or sell to any former owner
193 more land than was taken from the former owner for the
194 construction of the project, or one-quarter (1/4) mile of
195 shoreline, whichever is the lesser. If this option is not

196 exercised by the former owner within a period of thirty (30) days,
197 then the board shall accept the highest and best bid submitted.

198 Any bona fide, resident householder, actually living or
199 maintaining a residence on land taken by the district by
200 condemnation shall have the right to repurchase not exceeding
201 forty (40) acres of his former land or other available land from
202 the board of directors for a price not exceeding the price paid
203 for condemning his land.

204 (g) To require the necessary relocation of roads and
205 highways, railroad, telephone, and telegraph lines and properties,
206 electric power lines, gas pipelines and mains and facilities in
207 the project area, or to require the anchoring or other protection
208 of any of these, provided due compensation is first paid the
209 owners thereof or agreement is had with the owners regarding the
210 payment of the cost of the relocation. It is further provided
211 that the district is hereby authorized to acquire easements or
212 rights-of-way in or outside of the project area for the relocation
213 of the roads, highways, railroad, telephone, and telegraph lines
214 and properties, electric power lines, gas pipelines and mains and
215 facilities, and to convey the same to the owners thereof in
216 connection with the relocation as a part of the construction of
217 the project; however, the directors of the district shall not
218 close any public access road to the reservoir existing prior to
219 the construction of the reservoir unless the board of supervisors
220 of the county in which the road is located agrees.

221 (h) To overflow and inundate any public lands and
222 public property, including sixteenth section lands and in lieu
223 lands, within the project area.

224 (i) To construct, extend, improve, maintain, and
225 reconstruct, to cause to be constructed, extended, improved,
226 maintained, and reconstructed, and to use and operate facilities
227 of any kind within the project area necessary or convenient to the
228 project and to the exercise of such powers, rights, privileges,

229 and functions. From and after July 1, 2006, funds expended for
230 improvements made to residences owned by the district may only be
231 made for permanent fixtures to such residences.

232 (j) To sue and be sued in its corporate name.

233 (k) To adopt, use, and alter a corporate seal.

234 (l) To make bylaws for the management and regulation of
235 its affairs.

236 (m) (i) To employ engineers, attorneys, and all
237 necessary agents and employees to properly finance, construct,
238 operate, and maintain the project and the plants and facilities of
239 the district and carry out the provisions of this article, and to
240 pay reasonable compensation for the services. For all services in
241 connection with the issuance of bonds as provided in this article,
242 the attorney's fee shall not exceed one-quarter of one percent
243 (1/4 of 1%) of the principal amount of said bonds. For any other
244 services, only reasonable compensation shall be paid for these
245 services. * * * Without limiting the generality of the foregoing,
246 it may employ fiscal agents or advisors in connection with its
247 financing program and in connection with the issuance of its
248 bonds.

249 (ii) The board shall have the right to employ a
250 general manager, who shall, at the discretion of the board, have
251 the power to employ and discharge employees. If the board
252 provides the general manager with a vehicle or reimbursement for
253 mileage in use of a vehicle, the board must certify in its records
254 that the vehicle used by the general manager is the most
255 economical mode of transportation. The board shall report all of
256 the general manager's taxable compensation provided by the board
257 to the Internal Revenue Service and the State Tax Commission by
258 January 31, 2007, for the 2006 tax year and by January 31 each
259 year thereafter for the preceding tax year, all taxable income
260 compensation of the general manager and the appropriate

261 withholdings from such compensation for income tax and Federal
262 Insurance Contributions Act (FICA) purposes.

263 (n) To make contracts and to execute instruments
264 necessary or convenient to the exercise of the powers, rights,
265 privileges, and functions conferred upon it by this article.

266 (o) To make or cause to be made surveys and engineering
267 investigations relating to the project, or related projects, for
268 the information of the district to facilitate the accomplishment
269 of the purposes for which it is created.

270 (p) To apply for and accept grants from the United
271 States of America, or from any corporation or agency created or
272 designated by the United States of America, and to ratify and
273 accept applications heretofore or hereafter made by voluntary
274 associations to these agencies for grants to construct, maintain,
275 or operate any project or projects which hereafter may be
276 undertaken or contemplated by the district.

277 (q) To do any other acts or things necessary or
278 convenient to the exercising of the powers, rights, privileges, or
279 functions conferred upon it by this article or any other law.

280 (r) To make contracts in the issuance of bonds that may
281 be necessary to insure the marketability thereof.

282 (s) To enter into contracts with municipalities,
283 corporations, districts, public agencies, political subdivisions
284 of any kind, and others for any services, facilities or
285 commodities that the project may provide. The district is also
286 authorized to contract with any municipality, corporation, or
287 public agency for the rental, leasing, purchase, or operation of
288 the water production, water filtration or purification, water
289 supply and distributing facilities of the municipality,
290 corporation, or public agency upon such consideration as the
291 district and such entity may agree. Any such contract may be upon
292 any terms and for any time as the parties may agree, and it may
293 provide that it shall continue in effect until bonds specified

294 therein and refunding bonds issued in lieu of these bonds are
295 paid. Any contract with any political subdivision shall be
296 binding upon said political subdivision according to its terms,
297 and any municipalities or other political subdivisions shall have
298 the power to enter into such contracts as in the discretion of the
299 governing authorities thereof would be to the best interest of the
300 people of the municipality or other political subdivision. These
301 contracts may include, within the discretion of the governing
302 authorities, a pledge of the full faith and credit of the
303 political subdivisions for the performance thereof.

304 (t) To fix and collect charges and rates for any
305 services, facilities, or commodities furnished by it in connection
306 with the project, and to impose penalties for failure to pay these
307 charges and rates when due.

308 (u) To operate and maintain within the project area
309 with the consent of the governing body of any city or town located
310 within the district, any works, plants, or facilities of any city
311 deemed necessary or convenient to the accomplishment of the
312 purposes for which the district is created.

313 (v) Subject to the provisions of this article, from
314 time to time to lease, sell, or otherwise dispose of any property
315 of any kind, real, personal, or mixed, or any interest therein
316 within the project area or acquired outside the project area as
317 authorized in this article, for the purpose of furthering the
318 business of the district.

319 (w) When, in the opinion of the board of directors as
320 shown by resolution duly passed, it shall not be necessary to the
321 carrying on of the business of the district that the district own
322 any lands acquired, then the board shall advertise these lands for
323 sale to the highest and best bidder for cash and shall receive and
324 publicly open the bids thereon. The board shall, by resolution,
325 determine the highest and best bid submitted for such land and
326 shall thereupon notify the former owner, his heirs or devisees, by

327 registered mail of the land to be sold and the highest and best
328 bid received therefor, and the former owner, or his heirs or
329 devisees, shall have the exclusive right at his or their option
330 for a period of thirty (30) days in which to meet the highest and
331 best bid and to purchase the property.

332 (x) In addition to, or in conjunction with, any other
333 powers and duties of the district arising under this chapter, to
334 exercise those powers, duties and functions of a joint water
335 management district set forth in Sections 51-8-27 through 51-8-55,
336 except the power of eminent domain under Section 51-8-33. Before
337 exercising those powers and duties, the district must comply with
338 the provisions of Sections 51-8-63 and 51-8-65. In exercising the
339 functions of a joint water management district, the district may
340 apply to the Environmental Quality Permit Board for delegation of
341 those powers and duties as provided by Section 51-3-15, and to
342 apply to the Mississippi Commission on Environmental Quality for
343 delegation of those powers and duties provided by Section 51-3-21.

344 Any transaction regarding any property under the provisions of
345 this section shall be executed in accordance with the provisions
346 of Section 29-1-1.

347 (y) To study its district-wide needs and prepare a
348 written report for the Legislature and file such report with the
349 Clerk of the House of Representatives, the Secretary of the
350 Senate, and the PEER Committee by December 1, 2006, which includes
351 the following:

352 (i) How the district intends to expand garbage
353 collection and mosquito control;

354 (ii) Prospective improvements to recreational
355 facilities and infrastructure;

356 (iii) How the district intends to reduce the cost
357 of the vehicle and mileage reimbursement provided to the general
358 manager;

359 (iv) The report given to the Internal Revenue
360 Service and the State Tax Commission by January 31, 2007, for the
361 2006 tax year and by January 31 each year thereafter for the
362 preceding tax year, of all taxable income compensation of the
363 general manager and the appropriate withholdings from such
364 compensation for income tax and Federal Insurance Contributions
365 Act (FICA) purposes; and

366 (v) The district's intent to improve any other
367 facilities and services used by residents of the district and the
368 general public.

369 **SECTION 4.** Section 51-9-123, Mississippi Code of 1972, is
370 amended as follows:

371 51-9-123. (1) All construction contracts by the district,
372 where the amount of the contract shall exceed Two Thousand Five
373 Hundred Dollars (\$2,500.00), shall be made upon at least three (3)
374 weeks public notice by advertisement in a newspaper of general
375 circulation in the district, which notice shall state the thing to
376 be done and invite sealed proposals, to be filed with the
377 secretary of the district, to do the work; and in all such cases,
378 before the notice shall be published, the plans and specification
379 for the work shall be filed with the secretary of the district and
380 there remain. The board of directors of the district shall award
381 the contract to the lowest bidder, who will comply with the terms
382 imposed by such board and enter into bond with sufficient
383 sureties, to be approved by the board, in such penalty as shall be
384 fixed by such board, but in no case to be less than the contract
385 price, conditioned for the prompt, proper, and efficient
386 performance of the contract. The board of directors shall not
387 work with one (1) developer, exclusively, before publishing the
388 required notice in this section.

389 (2) The public notice by advertisement required by this
390 section shall not be worded in such a manner that targets one (1)
391 certain developer.

392 **SECTION 5.** Section 51-9-127, Mississippi Code of 1972, is
393 amended as follows:

394 51-9-127. (1) The board of directors of the district shall
395 have the power to adopt and promulgate all reasonable regulations
396 as follows to secure, maintain, and preserve the sanitary
397 condition of all water in and to flow into any reservoir owned by
398 the district, to prevent waste of water or the unauthorized use
399 thereof, and to regulate residence, hunting, fishing, boating,
400 camping, circulation of vehicular traffic on land, the parking of
401 such vehicles, and all recreational and business privileges in,
402 along, or around any such reservoir, any body of land, or any
403 easement owned by the district.

404 (2) The board of directors shall require reporting of
405 measures of performance and progress toward measurable goals that
406 demonstrate what the service outputs are, the expected quality
407 levels of the outputs and the productivity expected from various
408 employees and funds by all divisions that the board governs.

409 (3) The board of directors shall establish a policy to
410 require any consultant to disclose any interests that the
411 consultant may have in the development firms that the consultant
412 may recommend and to prohibit a contractor from gain interest in
413 any firm that may subsequently bid on matters that were subjects
414 of the contractor's work for the district.

415 (4) The board shall create and utilize an advisory board
416 composed of one (1) resident from each homeowner's association of
417 neighborhoods located on district property that would inform the
418 committees of the board of directors on issues of district
419 development and any other issues chosen by the board of directors.

420 (5) All such regulations prescribed by the board of
421 directors, after publication in a daily newspaper of statewide
422 circulation and in a newspaper of general circulation in each
423 county comprising the area of the district, shall have the full
424 force and effect of law; and violation thereof shall be punishable

425 by fine not to exceed One Thousand Dollars (\$1,000.00), as may be
426 prescribed in such regulations, or by imprisonment not to exceed
427 fifteen (15) days, or both the amount of the fine and the term of
428 the imprisonment, within the maximum limit set by this statute and
429 within the maximum limit prescribed in such regulations, to be
430 determined by the court.

431 All such rules and regulations so prescribed and the
432 penalties fixed thereunder relating to hunting, fishing, and
433 boating shall not conflict with, exceed, alter, or suspend any
434 regulations, rules, or penalties prescribed by general statute or
435 by the Mississippi Commission on Wildlife, Fisheries and Parks;
436 and all fines and penalties levied and collected under this
437 article shall be remitted and accounted for in accordance with the
438 general statutes relating thereto.

439 (6) In the event of a violation of any regulation adopted to
440 prevent pollution of the waters in any reservoir owned by the
441 district, or the threat of continuous violation thereof, the
442 district shall have authority to sue for and obtain damages and
443 other appropriate relief, including injunctive relief.

444 **SECTION 6.** This act shall take effect and be in force from
445 and after July 1, 2006.