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To: Environment Prot, Cons
and Water Res; Finance

COMMITTEE SUBSTITUTE
FOR
SENATE BILL NO. 2943

1 AN ACT TO CREATE THE GULF REGION WATER UTILITY AUTHORITY FOR
2 THE COASTAL REGION OF THE STATE; TO EMPOWER THE AUTHORITY; TO
3 PROVIDE FOR A BOARD OF DIRECTORS FOR THE AUTHORITY; TO REQUIRE THE
4 AUTHORITY TO PROVIDE WATER, STORM WATER AND WASTEWATER SERVICES
5 AND FACILITIES; TO REQUIRE THE DEPARTMENT OF ENVIRONMENTAL QUALITY
6 TO DEVELOP A MASTER PLAN FOR WATER, STORM WATER AND WASTEWATER
7 SERVICES FOR THE AREA WITHIN THE AUTHORITY; TO PROVIDE
8 REQUIREMENTS FOR THE MASTER PLAN; TO REQUIRE WATER, STORM WATER
9 AND WASTEWATER PROJECTS TO COMPLY WITH THE MASTER PLAN; TO
10 AUTHORIZE THE AUTHORITY TO ISSUE REVENUE BONDS FOR SUCH PROJECTS;
11 AND FOR RELATED PURPOSES.

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

13 SECTION 1. This act may be cited as the "Gulf Region Water
14 Utility Authority Act."

15 SECTION 2. In accordance with the report of the Governor's
16 Commission on Recovery, Rebuilding and Renewal, the Legislature
17 finds that there is a need for consolidation of water, wastewater
18 and storm water services in order to reduce costs, promote
19 resilience in the event of disaster, improve the quality of the
20 natural environment, and improve the planning and delivery of
21 quality services to all residents within the Counties of George,
22 Hancock, Harrison, Jackson, Pearl River and Stone. It is further
23 declared that there is need for the planning, acquisition,
24 construction, maintenance, operation and coordination of
25 user-funded water, storm water and wastewater systems in order to
26 ensure protection of the waters of the state and to ensure the
27 delivery of water, storm water and wastewater services to citizens
28 within these counties. The creation of the Gulf Region Water
29 Utility Authority is determined to be necessary and essential to
30 the accomplishment of these purposes.

31 **SECTION 3.** (1) Words and phrases used in this act shall
32 have meanings as follows:

33 (a) "Act" means the Gulf Region Water Utility Authority
34 Act as same is amended from time to time.

35 (b) "Authority" means the Gulf Region Water Utility
36 Authority.

37 (c) "Board of directors" or "board" means the Board of
38 Directors of the Gulf Region Water Utility Authority.

39 (d) "Bonds" mean interim notes having a maturity of
40 three (3) years or less, revenue bonds and other certificates of
41 indebtedness of the authority issued under the provisions of this
42 act.

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

44 (i) All costs of site preparation and other
45 start-up costs;

46 (ii) All costs of construction;

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

55 (iv) All costs of engineering, geotechnical,
56 architectural and legal services;

57 (v) All costs of plans and specifications and all
58 expenses necessary or incident to determining the feasibility or
59 practicability of the project;

60 (vi) Administrative expenses; and

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

63 (f) "Department" means the Mississippi Department of
64 Environmental Quality.

65 (g) "Fiscal year" means the period of time beginning on
66 July 1 of each year and ending on June 30 of each year.

67 (h) "Groundwater" means that water occurring beneath
68 the surface of the ground.

69 (i) "Groundwater system" means a system for the
70 drainage, conservation, development, utilization, impoundment,
71 diversion, flowage, distribution and disposal of groundwater.

72 (j) "Master plan" means the comprehensive plan for the
73 development of regional water, wastewater and storm water systems
74 that incorporates existing systems and includes new systems to
75 provide efficient, environmentally sound, and storm resistant
76 water, wastewater and storm water infrastructure protective of
77 human health for all municipalities and political subdivisions
78 within George, Hancock, Harrison, Jackson, Pearl River and Stone
79 Counties. The master plan shall address current and future
80 infrastructure needs and involves the acquisition, construction,
81 development, maintenance and operation of water, wastewater and
82 storm water systems.

83 (k) "Municipality" means any incorporated city, town,
84 or village of the State of Mississippi, whether operating under
85 general law or under special charter, lying wholly or partly
86 within the boundaries of the authority.

87 (l) "Person" means the State of Mississippi, a
88 municipality, any public agency, or any other city, town, village
89 or political subdivision or governmental agency, governmental
90 instrumentality of the State of Mississippi or of the United
91 States of America, or any private utility, individual,
92 copartnership, association, firm, trust, estate or any other
93 entity whatsoever.

94 (m) "Public agency" means any county, municipality or
95 person lying wholly or partially within the boundaries of the

96 authority, any state board or commission owning or operating
97 properties within the boundaries of the authority, any district
98 created pursuant to the general laws of the State of Mississippi
99 or local and private laws of the State of Mississippi, including,
100 but not limited to, the Harrison County Wastewater and Solid Waste
101 Management District, the Mississippi Gulf Coast Regional
102 Wastewater Authority in Jackson County, the Southern Regional
103 Wastewater District in Hancock County, or any other political
104 subdivision of the State of Mississippi lying wholly or partially
105 within the boundaries of the authority and having the power to own
106 and operate waterworks, water supply systems, sewerage systems,
107 treatment facilities, sewage treatment systems, or other
108 facilities or systems for the collection, transportation, and
109 treatment of water, storm water and wastewater.

110 (n) "Sewage treatment system" means a system for
111 collecting, transferring, treating and disposing of wastewater,
112 including, but not limited to, sewerage systems and treatment
113 facilities, as these terms are defined in this act.

114 (o) "Sewerage system" means pipelines or conduits,
115 canals, pumping stations and force mains, and all other
116 structures, devices, facilities and appliances appurtenant
117 thereto, used for collecting or conducting wastewater to an
118 ultimate point for treatment.

119 (p) "Storm water" means any flow occurring during or
120 following any form of natural precipitation and resulting from
121 that precipitation.

122 (q) "System" means any plants, structures, facilities
123 and other real and personal property used or useful in the
124 collection of wastewater for ultimate discharge into trunk lines,
125 including, without limiting the generality of the foregoing,
126 sewers, conduits, pipelines, mains, pumping and ventilating
127 stations, plants and works, connections and any other real and
128 personal property and rights therein necessary or useful or

129 convenient for the purposes of the authority in connection
130 therewith. System also includes any plants, structures,
131 facilities, pipelines, conduits and other real and personal
132 property used for the purpose of collecting, storing, treating and
133 transporting water for domestic, municipal, commercial,
134 industrial, agricultural and manufacturing purposes. System also
135 includes plants, structures, facilities, pipelines, conduits and
136 other real and personal property used for the collection,
137 transfer, treatment and disposal of storm water.

138 (r) "Treatment systems" means the collective or
139 individual systems for collecting, transferring, treating and
140 disposing of sewage, water, wastewater, storm water and
141 groundwater, or its particular individual substance, and including
142 all treatment facilities, pipelines, conduits, pumping stations
143 and all other structures, devices and appliances appurtenant
144 thereto, including land and right-of-way thereto.

145 (s) "Trunk lines" means trunk sewers and other
146 structures and facilities used or useful in the conducting of
147 wastewater from collection facilities to treatment plants,
148 including, without limiting the generality of the foregoing,
149 conduits, pipelines, mains, pumping and ventilating stations and
150 any other real and personal property and rights therein necessary
151 or useful or convenient for the purposes of the authority in
152 connection therewith.

153 (t) "Wastewater" means water being disposed of by any
154 person and which is contaminated with waste or sewage, including
155 industrial, municipal, and any other wastewater that may cause
156 impairment of the quality of the waters in the state.

157 (u) "Water supply system" means pipelines, conduits,
158 pumping stations and all other structures, devices and appliances
159 appurtenant thereto, including land and right-of-way thereto, for
160 use for transporting water to a point of ultimate use.

161 (v) "Waterworks" means all works, plants or other
162 facilities necessary for the purpose of collecting, storing,
163 treating and transporting water for domestic, municipal,
164 commercial, industrial, agricultural and manufacturing purposes,
165 including open channels.

166 **SECTION 4.** (1) In order to ensure the protection of human
167 health and the environment, in particular the waters of the state,
168 the Mississippi Department of Environmental Quality is hereby
169 empowered and authorized, in addition to any other powers, to
170 develop a master plan, with input from all affected counties and
171 municipalities within the boundaries of the authority, for the
172 delivery of water, storm water and wastewater services for the
173 areas within the authority.

174 (2) The master plan shall include, but not be limited to,
175 the following:

176 (a) An inventory of the sources, composition and
177 quantities, and quality of wastewater and storm water annually
178 generated within the boundaries of the authority, and the source,
179 composition and quality of drinking water currently available
180 throughout the authority's territory;

181 (b) An inventory of all existing facilities where
182 wastewater is currently being managed, including the environmental
183 suitability and operational history of each facility, and the
184 remaining available permitted capacity for each facility;

185 (c) An inventory of existing potable water treatment
186 and distribution systems within the boundaries of the authority.
187 The inventory shall identify the entities engaging in treatment
188 and distribution of potable water on a wholesale and retail basis;

189 (d) A strategy for achieving reduction of pollution to
190 waters of the state by wastewater and storm water and to improve
191 the quality and ensure the availability of potable water available
192 to the residents within the boundaries of the authority;

193 (e) A projection of wastewater and storm water
194 generated within the boundaries of the authority over the next
195 twenty (20) years and a projection of the potable water needs of
196 the area within the boundaries of the authority within the next
197 twenty (20) years;

198 (f) An identification of the additional facilities,
199 including an evaluation of alternative treatment and management
200 technologies, and the amount of additional capacity needed to
201 manage the quantities projected in paragraph (e);

202 (g) An estimation of development, construction and
203 operational costs;

204 (h) A plan for meeting any projected capacity
205 shortfall, including a schedule and methodology for attaining the
206 required capacity;

207 (i) Prioritization of infrastructure;

208 (j) A projection of demographic changes in the six (6)
209 counties to determine future service needs;

210 (k) Identification of barriers that are restricting
211 population growth and solutions to facilitate population growth;

212 (l) Identification, evaluation and incorporation of
213 existing water, wastewater and storm water plans or planning
214 efforts in the six (6) counties; and

215 (m) Any other information as determined by the
216 department or the authority.

217 (3) The authority may assume the powers and duties for the
218 implementation and revision of the master plan upon entering into
219 a memorandum of agreement with the department.

220 (4) (a) All proposed water, wastewater and storm water
221 projects within the boundaries of the authority must be in
222 compliance with the master plan. All proposed projects must be
223 submitted to the department or authority, as the case may be, for
224 review of compliance and approval or disapproval. If a proposed
225 project is disapproved for failure to comply with the master plan,

226 a statement listing the deficiencies in compliance shall be
227 included with the notice of disapproval.

228 (b) Compliance with the state plan does not relieve the
229 obligation to comply with other applicable state agency regulatory
230 requirements.

231 (c) All permit applicants who apply for required water,
232 wastewater and storm water related permits within the boundaries
233 of the authority must include a certification that the proposed
234 water, wastewater and storm water projects are consistent with the
235 master plan.

236 **SECTION 5.** There is hereby created the Gulf Region Water
237 Utility Authority composed of George, Hancock, Harrison, Jackson,
238 Pearl River and Stone Counties for the planning, acquisition,
239 construction, maintenance, operation and coordination of
240 user-funded water, storm water and wastewater systems in order to
241 ensure protection of the waters of the state and to ensure the
242 delivery of water, storm water and wastewater services to citizens
243 within the counties.

244 **SECTION 6.** (1) (a) All powers of the authority shall be
245 exercised by a board of directors to be composed of a total of
246 nine (9) directors appointed as provided in this subsection.

247 (b) Upon passage of this act, the Governor shall
248 appoint one (1) resident from each county within the authority.
249 The initial terms of the members appointed under this paragraph
250 shall be as follows: the George County director shall serve for
251 one (1) year; the Hancock County director shall serve for two (2)
252 years; the Harrison County director shall serve for three (3)
253 years; the Jackson County director shall serve for four (4) years;
254 the Pearl River County director shall serve for five (5) years;
255 the Stone County director shall serve for six (6) years. Upon the
256 expiration of the initial term of a director appointed by the
257 Governor under this paragraph, subsequent appointments of

258 directors shall be made by the board of supervisors of the county
259 that the director whose term has expired represents.

260 (c) The Governor shall appoint three (3) at-large
261 members. At-large members shall be residents of the district.
262 Upon passage of this act, the Governor shall appoint the at-large
263 members whose initial terms shall be for two (2), four (4) and six
264 (6) years, respectively, as designated by the Governor. The
265 appointments made under this paragraph shall be made so that no
266 county shall have more than three (3) residents on the board of
267 directors.

268 (d) After the expiration of the initial terms of the
269 directors, all subsequent terms shall be for a period of six (6)
270 years. An appointment to fill a vacancy shall be for the balance
271 of the unexpired term.

272 (e) At the initial meeting of the board, the board
273 shall elect a president and a vice president, and the board shall
274 have the ability to appoint an executive director, secretary and
275 treasurer. Thereafter, the board will annually, at the last
276 meeting of the fiscal year, elect a president and vice president
277 who shall serve in their respective offices for the next fiscal
278 year. The directors shall serve without a salary but are entitled
279 to receive a per diem.

280 (2) The president shall be the chief executive officer of
281 the authority and the presiding officer of the board, and shall
282 have the same right to vote as any other director. The vice
283 president shall perform all duties and exercise all powers
284 conferred by this act upon the president when the president is
285 absent or fails or declines to act, except the president's right
286 to vote. The executive director, secretary and treasurer shall
287 each give bond in the sum of not less than One Hundred Thousand
288 Dollars (\$100,000.00), as set by the board of directors, and each
289 director may be required to give bond in the sum of not less than
290 Fifty Thousand Dollars (\$50,000.00), with sureties qualified to do

291 business in this state, and the premiums on said bonds shall be an
292 expense of such authority. Each bond shall be payable to the
293 State of Mississippi. The condition of each bond shall be that
294 the executive director, secretary, treasurer or director will
295 faithfully perform all duties of his office and account for all
296 money or other assets which shall come into his custody as
297 treasurer or director of such authority.

298 (3) A quorum for any meeting of the board of directors shall
299 be the majority of the total membership of the board of directors.
300 All business of the authority shall be transacted by vote of the
301 board of directors.

302 (4) Notwithstanding the provisions of Section 51-39-1 et
303 seq., the authority shall have full power to adopt rules and
304 regulations and to construct, maintain and operate facilities for
305 the control of storm water quality. The provisions of Section
306 51-39-1 et seq. do not apply to the authority. The provisions of
307 Section 51-33-1 et seq. relating to drainage districts and flood
308 control districts do not apply to the authority.

309 **SECTION 7.** (1) To become a member of the authority, any
310 county, municipality, public agency, or other person within the
311 boundaries of the authority must pass a duly adopted resolution
312 joining the authority and expressly stating that it is subject to
313 the authority's jurisdiction and power, with such resolution
314 spread upon its official minutes and the authority must approve
315 the county, municipality, public agency or other person for
316 membership.

317 (2) A copy of the resolution shall be furnished to the
318 Mississippi Public Service Commission by the county, municipality,
319 public agency or other person becoming a member of the authority.
320 Accordingly, the Mississippi Public Service Commission shall
321 cancel any certificate of public convenience and necessity
322 applicable thereto.

323 **SECTION 8.** (1) The authority shall have the right and
324 powers necessary to carry out the purposes of this act, including,
325 but not limited to:

326 (a) To sue and be sued, in its own name, provided that
327 the authority shall not be liable and shall be immune from suit at
328 law or in equity on account of any wrongful or tortious act or
329 omission including libel, slander, or defamation by it, or any
330 such act or omission by an employee of the authority, subject to
331 and in accordance with the provisions of Sections 11-46-1 through
332 11-46-23;

333 (b) To adopt an official seal and alter the same at
334 pleasure;

335 (c) To maintain office space at such place or places
336 within the authority boundaries as it may determine;

337 (d) To own/lease real or personal property;

338 (e) To invest money of the authority;

339 (f) To manage, approve and establish standards,
340 including the appropriateness of the use of individual on-site
341 wastewater treatment systems;

342 (g) To construct new and centrally located facilities
343 and build new systems in unincorporated areas that have no
344 service-area entity established or in uncertificated areas;

345 (h) To coordinate funding from state, local and federal
346 sources;

347 (i) To provide a six-county contract for all operation
348 and maintenance needs of the authority;

349 (j) To pass necessary ordinances imposing fees and
350 requirements for transport lines within the boundaries of the
351 authority;

352 (k) To develop and maintain long-range planning for
353 collection and treatment systems of water, wastewater, storm water
354 and groundwater from within the areas encompassed by the authority
355 and for pollution abatement;

356 (1) To require the necessary relocation or rerouting of
357 roads and highways, railroad, telephone and telegraph lines and
358 properties, electric power lines, gas pipelines and related
359 facilities, or to require the anchoring or other protection of any
360 of these, provided the cost of relocating and rerouting is first
361 paid to the owners or an agreement with such owners regarding the
362 payment of the cost of such relocation, and to acquire easements
363 or rights-of-way for such relocation or rerouting and to convey
364 the same to the owners of the property being relocated or rerouted
365 in connection with the purpose of this act;

366 (m) To enter into contracts with any person or any
367 public agency, including, but not limited to, contracts authorized
368 by Section 13 of this act, in furtherance of any of the purposes
369 authorized by this act upon such consideration as the board of
370 directors and such person may agree. Any such contract may extend
371 over any period of time including a term which extends beyond the
372 term of the then majority of the existing board members,
373 notwithstanding any provision or rule of law to the contrary; may
374 be upon such terms as the parties thereto shall agree; and may
375 provide that it shall continue in effect until bonds specified
376 therein, refunding bonds issued in lieu of such bonds, and all
377 other obligations specified therein are paid or terminated. Any
378 such contract shall be binding upon the parties thereto according
379 to its terms;

380 (n) To make and enforce, and from time to time amend
381 and repeal, bylaws and rules and regulations for the management of
382 its business and affairs and for the construction, use,
383 maintenance and operation of any of the systems under its
384 management and control and any other of its properties;

385 (o) To employ and terminate staff and other personnel,
386 including attorneys, engineers and consultants as may be necessary
387 to the functioning of the authority. The board of directors, in
388 its discretion, may employ an executive director having the

389 authority to employ and fire employees and other duties as
390 determined by the authority;

391 (p) To apply for, accept and utilize grants, gifts and
392 other funds from any source for any purpose necessary in support
393 of the purpose of this act;

394 (q) To establish and maintain rates and charges for the
395 use of the services of such of the systems and facilities within
396 the control of the authority, and within the areas encompassed by
397 the authority, and from time to time to adjust such rates, to the
398 end that the revenues therefrom will be sufficient at all times to
399 pay the expenses of operating and maintaining such of its works,
400 facilities and treatment systems and all of the municipality's
401 obligations under any contract or bond resolution with respect
402 thereto. Such rates shall not be subject to the jurisdiction of
403 the Mississippi Public Service Commission;

404 (r) To adopt rules and regulations necessary to carry
405 out the implementation of the master plan and to assure the
406 payment of each participating person or public agency of its
407 proportionate share of the costs for use of any of the systems and
408 facilities of the authority;

409 (s) To refuse to receive wastewater and storm water
410 from any public agency or subdivision thereof not currently using
411 any system and which may be acquired or within the control of the
412 authority, or any other person that does not comply with the
413 provisions of the master plan applicable to the particular area
414 within which such public agency or subdivision thereof or any
415 other person is located;

416 (t) To accept industrial wastewater from within the
417 boundaries of the authority for treatment and to require the
418 pretreatment of same when, in the opinion of the authority, such
419 pretreatment is necessary; and

420 (u) So long as any indebtedness on the systems of the
421 authority remains outstanding, to require by contract with a

422 public agency, or other person, that all water, wastewater and
423 storm water within the boundaries of the authority be disposed of
424 through the appropriate treatment system which comprise a part of
425 the master plan, to the extent that the same may be available, but
426 no public agency shall be precluded from constructing, operating
427 and maintaining its own such system after the current indebtedness
428 owing on the system as of the effective date of this act is paid
429 in full.

430 (2) The authority may assume control and administer water,
431 wastewater and storm water systems within the boundaries of the
432 authority by agreement with the governing board providing such
433 services that request to be relieved of that responsibility.
434 However, the governing board shall maintain authority over
435 connections in their service areas and may charge a premium in
436 addition to the treatment charges of the regional authority. The
437 governing board shall be responsible for collecting treatment fees
438 from local customers or members.

439 (3) The authority may review and approve water and sewer
440 connections in addition to any approvals required by the
441 Department of Environmental Quality and the Department of Health.

442 (4) The authority may create, maintain and regulate
443 reservoirs and to promulgate and enforce rules and regulations for
444 the creation and maintenance of reservoirs.

445 (5) The authority may control and operate local retail
446 water, wastewater and storm water services and may provide or be
447 responsible for direct servicing of those services to residences,
448 businesses and individuals; however, the authority shall not
449 provide the same services in an area provided by a public utility
450 or person holding a certificate of public convenience or necessity
451 issued by the Mississippi Public Service Commission for the
452 provision of such services in the certificated area.

453 (6) The authority may acquire and rebuild existing water,
454 wastewater and storm water systems owned by any public utility as
455 defined by Section 77-3-3(d)(iv).

456 **SECTION 9.** (1) Any public agency may contract with the
457 authority for the management, operation and usage of its treatment
458 systems and treatment facilities, or other services for the
459 agency. The obligations of a public agency arising under the
460 terms of any contract, whether or not payable solely from a pledge
461 of revenues, shall not be included within the indebtedness
462 limitations of the public agency for purposes of any
463 constitutional or statutory limitation or provision.

464 (2) Contracts referred to in this section may also provide
465 for payments in the form of contributions to defray the cost of
466 any purpose set forth in the contract and as advances for the
467 respective systems or any part thereof subject to repayment by the
468 authority. The payments are not subject to approval by the Public
469 Service Commission.

470 **SECTION 10.** The authority may acquire water and sewer trunk
471 lines; acquire, construct, improve, enlarge, extend, repair,
472 operate and maintain one or more systems used for the collection,
473 transportation, and treatment of water, wastewater and storm water
474 and contract with any person for such purposes. The authority may
475 contract with any person, within its designated area, to collect,
476 transport, treat or dispose of water, wastewater and storm water
477 for such person. The authority also may contract with any person
478 to design and construct any water, wastewater or storm water
479 treatment systems, or any other of its treatment facilities or
480 systems and thereafter to purchase, lease or sell, by installments
481 over such terms as may be deemed desirable, reasonable and
482 necessary, any such system or systems. The authority is
483 authorized to enter into operating agreements with any person, for
484 such terms and upon such conditions as may be deemed desirable,
485 for the operation of any water, wastewater or storm water

486 treatment systems, or other of its treatment facilities or
487 systems; and the authority may lease to or from any person, for
488 such term and upon such conditions as may be deemed desirable, any
489 water, wastewater or storm water, collection, transportation,
490 treatment, or its other treatment facilities or systems. Any such
491 contract may contain provisions requiring any public agency or
492 other person to regulate the quality and strength of materials to
493 be handled by the respective treatment system or systems and also
494 may provide that the authority shall have the right to use any
495 streets, alleys and public ways and places within the jurisdiction
496 of a public agency or other person during the term of the
497 contract.

498 **SECTION 11.** (1) (a) The authority shall have the duty and
499 responsibility to exercise general supervision over the design,
500 construction, operation and maintenance of water, wastewater or
501 storm water treatment systems;

502 (b) The authority may adopt rules and regulations
503 governing the design, construction or installation, operation and
504 maintenance of water, wastewater or storm water treatment systems
505 and establishing performance standards for water, wastewater or
506 storm water treatment systems;

507 (c) All rules and regulations shall be consistent with
508 the master plan developed by the Mississippi Department of
509 Environmental Quality;

510 (d) Such rules and regulations may include the
511 implementation of a standard application form for the
512 installation, operation and maintenance of such treatment systems;
513 application review; approval or denial procedures for any proposed
514 system; inspection, monitoring and reporting guidelines; and
515 enforcement procedures;

516 (e) Rules and regulations for individual on-site
517 wastewater treatment systems may be adopted by the authority.

518 (2) The authority may adopt rules and regulations regarding
519 the construction of a residence, building, facility or development
520 which may require the installation of a water, wastewater or storm
521 water treatment system.

522 (3) Any system of any county, municipality, public agency or
523 other persons which becomes connected with, or tied into, the
524 treatment systems of the authority, shall be subject to its
525 jurisdiction and the terms of this act.

526 **SECTION 12.** (1) (a) The authority may acquire by
527 condemnation property necessary for any system and the exercise of
528 the powers, rights, and duties conferred upon the authority by
529 this act.

530 (b) Any county, municipality, public agency or other
531 person being a member agency, or being connected with, or tied
532 into, the collection, transportation or treatment systems of the
533 authority may agree to use its eminent domain powers to acquire
534 such property, easements, rights-of-way and other property
535 interests as may be required and requested by the board of
536 directors for the benefit of the authority and at the cost of the
537 authority as provided in this subsection.

538 (c) The authority may reimburse or pay all costs,
539 including professional fees, along with damages awarded in
540 connection with the exercise of such eminent domain power by a
541 member agency or other entity under the terms of this act.

542 (2) The amount and character of interest in land, other
543 property, and easements thus to be acquired shall be determined by
544 the board of directors, and their determination shall be
545 conclusive and shall not be subject to attack in the absence of
546 manifold abuse of discretion or fraud on the part of such board in
547 making such determination. However:

548 (a) In acquiring lands, either by negotiation or
549 eminent domain through action of a member agency, the authority
550 shall not acquire mineral rights or royalties; sand and gravel

551 shall not be considered as minerals within the meaning of this
552 section;

553 (b) No person or persons owning the drilling rights or
554 the right to share in production shall be prevented from
555 exploring, developing or producing oil or gas with necessary
556 rights-of-way for ingress and egress, pipelines and other means of
557 transporting such interests on any lands or interest of the
558 authority held or used for the purposes of this act, but any such
559 activities shall be subject to reasonable regulations by the board
560 of directors that will adequately protect the systems or projects
561 of the authority; and

562 (c) In acquiring lands, either by negotiation or
563 eminent domain through action of a member agency, the authority
564 shall acquire only any interest or rights in such facilities,
565 components and systems which are part of the master plan
566 implemented by the authority.

567 **SECTION 13.** (1) The authority may enter into contracts with
568 any public agency, pursuant to a duly adopted resolution of the
569 governing authority of such public agency, to manage, operate and
570 contract for usage of its treatment systems and treatment
571 facilities, or other services, for such person or public agency.
572 Any public agency or person may also enter into contracts for the
573 authority to purchase or sell, by installments over such terms as
574 may be deemed desirable, or otherwise, to any person any treatment
575 systems. Any public agency is authorized to enter into operating
576 agreements with the authority, for such terms and upon such
577 conditions as may be deemed desirable, for the operation of any of
578 its treatment systems of any person by the authority or by any
579 person contracting with the authority to operate such treatment
580 systems; and any public agency may lease to or from the authority,
581 for such term and upon such conditions as may be deemed desirable,
582 any of its treatment systems. Any such contract may contain
583 provisions requiring any public agency or other person to regulate

584 the quality and strength of the material to be handled by the
585 water, wastewater or storm water systems and may also provide that
586 the authority shall have the right to use any streets, alleys and
587 public ways and places within the jurisdiction of a public agency
588 or other person during the term of the contract. Such contracts
589 may obligate the public agency to make payments to the authority
590 or to a trustee in amounts which shall be sufficient to enable the
591 authority to defray the expenses of administering, operating and
592 maintaining its respective systems, to pay interest and principal
593 (whether at maturity upon redemption or otherwise) on bonds of the
594 authority, issued under this act and to fund reserves for debt
595 service, for operation and maintenance and for renewals and
596 replacements, and to fulfill the requirements of any rate covenant
597 with respect to debt service coverage contained in any resolution,
598 trust indenture or other security agreement relating to the bonds
599 of the authority issued under this act. Such contracts may
600 include a pledge of the full faith and credit of such public
601 agency and/or the avails of any special assessments made by such
602 public agency against property receiving benefits, as now or
603 hereafter is provided by law. Any such contract may provide for
604 the sale, or lease to, or use of by the authority, of the systems
605 or any part thereof, of the public agency; and may provide that
606 the authority shall operate its systems or any part thereof of the
607 public agency; and may provide that any public agency shall have
608 the right to continued use and/or priority use of the systems or
609 any part thereof during the useful life thereof upon payment of
610 reasonable charges therefor; and may contain provisions to assure
611 equitable treatment of persons or public agencies who contract
612 with the authority under this act; and may contain such other
613 provisions and requirements as the parties thereto may determine
614 to be appropriate or necessary. Such contracts may extend over
615 any period of time, notwithstanding any provisions of law to the
616 contrary, and may extend beyond the life of the respective systems

617 or any part thereof or the term of the bonds sold with respect to
618 such facilities or improvements thereto. Any public agency may
619 donate property to the authority for the purposes herein without
620 the necessity of appraisal, advertising or bid. This section
621 creates an alternative method of disposal of public property. Any
622 public agency may contribute cash or in-kind contributions to
623 assist the purposes of the authority. Any public agency may
624 assist the authority in borrowing by lending its credit worthiness
625 to the authority for any borrowing.

626 (2) The obligations of a public agency arising under the
627 terms of any contract referred to in this act, whether or not
628 payable solely from a pledge of revenues, shall not be included
629 within the indebtedness limitations of the public agency for
630 purposes of any constitutional or statutory limitation or
631 provision. To the extent provided in such contract and to the
632 extent such obligations of the public agency are payable wholly or
633 in part from the revenues and other monies derived by the public
634 agency from the operation of its treatment systems or of its
635 combined treatment systems, waterworks and water supply systems or
636 any part thereof, such obligations shall be treated as expenses of
637 operating such systems.

638 (3) Contracts referred to in this section may also provide
639 for payments in the form of contributions to defray the cost of
640 any purpose set forth in the contracts and as advances for the
641 respective systems or any part thereof subject to repayment by the
642 authority. A public agency may make such contributions or
643 advances from its general fund or surplus fund or from special
644 assessments or from any monies legally available therefor.

645 (4) Payments made, or to be made, to the authority by a
646 public agency or other person under a contract for any of its
647 treatment systems, or any part thereof, shall not be subject to
648 approval or review by the Mississippi Public Service Commission.

649 (5) Subject to the terms of a contract or contracts referred
650 to in this act, the authority is hereby authorized to do and
651 perform any and all acts or things necessary, convenient or
652 desirable to carry out the purposes of such contracts, including
653 the fixing, charging, collecting, maintaining and revising of
654 rates, fees and other charges for the services rendered to any
655 user of any of the systems operated or maintained by the
656 authority, whether or not such systems are owned by the authority.

657 (6) No provision of this act shall be construed to prohibit
658 any public agency, otherwise permitted by law to issue bonds, from
659 issuing bonds in the manner provided by law for the construction,
660 renovation, repair or development of any of the authority's
661 treatment systems, or any part thereof, owned or operated by such
662 public agency.

663 **SECTION 14.** Whenever a public agency executes a contract
664 under this act and the payments are to be made either wholly or
665 partly from the revenues of the public agency's treatment systems,
666 or any part thereof, or a combination of such systems, the duty is
667 hereby imposed on the public agency to establish and maintain and
668 from time to time to adjust the rates charged by the public agency
669 for the services of such treatment systems, so that the revenues
670 therefrom together with any taxes and special assessments levied
671 in support thereof will be sufficient at all times to pay: (a)
672 the expense of operating and maintaining such treatment systems
673 including all of the public agency's obligations to the authority,
674 its successors or assigns under such contract; and (b) all of the
675 public agency's obligations under and in connection with revenue
676 bonds theretofore issued, or which may be issued thereafter and
677 secured by the revenues of such treatment systems. Any such
678 contract may require the use of consulting engineers and financial
679 experts to advise the public agency whether and when such rates
680 are to be adjusted.

681 SECTION 15. (1) The authority shall have the power and is
682 hereby authorized, from time to time, to borrow money and to issue
683 revenue bonds and interim notes in such principal amounts as the
684 authority may determine to be necessary to provide sufficient
685 funds for achieving one or more of the purposes of this act,
686 including, without limiting the generality of the foregoing, to
687 defray all the costs of the project, the cost of the acquisition,
688 construction, improvement, repair or extension of a system, or any
689 part thereof, whether or not such facilities are owned by the
690 authority, the payment of interest on bonds of the authority
691 issued pursuant to this act, establishment of reserves to secure
692 such bonds and payment of the interest thereon, expenses incident
693 to the issuance of such bonds and to the implementation of the
694 authority's system, and all other expenditures of the authority
695 incident to or necessary or convenient to carry out the purposes
696 of this act.

697 (2) Before issuing bonds (other than interim notes or
698 refunding bonds as provided in Section 16 of this act) hereunder,
699 the board of directors of the authority shall adopt a resolution
700 declaring its intention to issue such bonds and stating the
701 maximum principal amount of bonds proposed to be issued, a general
702 generic description of the proposed improvements and the proposed
703 location thereof and the date, time and place at which the board
704 of directors proposes to take further action with respect to the
705 issuance of such bonds. The resolution of the authority shall be
706 published once a week for at least three (3) consecutive weeks in
707 at least one (1) newspaper having a general circulation within the
708 geographical limits of all of the public agencies which have
709 contracted with the authority pursuant to this act and whose
710 contracts relate to the bonds proposed to be issued.

711 (3) Bonds of the authority issued pursuant to this act shall
712 be payable from and secured by a pledge of all or any part of the
713 revenues under one or more contracts entered into pursuant to this

714 act between the authority and one or more of its member public
715 agencies and from all or any part of the revenues derived from the
716 operation of any designated system or any part or parts thereof
717 and any other monies legally available and designated therefor, as
718 may be determined by such authority, subject only to any agreement
719 with the purchasers of the bonds. Such bonds may be further
720 secured by a trust indenture between such authority and a
721 corporate trustee, which may be any trust company or bank having
722 powers of a trust company without or within the state.

723 (4) Bonds of the authority issued pursuant to this act shall
724 be authorized by a resolution or resolutions adopted by a majority
725 affirmative vote of the total membership of the board of directors
726 of the authority. Such bonds may be issued in series, and each
727 series of such bonds shall bear such date or dates, mature at such
728 time or times, bear interest at such rate or rates (not exceeding
729 the maximum rate set out in Section 75-17-103, Mississippi Code of
730 1972, as amended), be in such denomination or denominations, be in
731 such form, carry such conversion privileges, have such rank or
732 priority, be executed in such manner and by such officers, be
733 payable from such sources in such medium of payment at such place
734 or places within or without the state, provided that one such
735 place shall be within the state, and be subject to such terms of
736 redemption prior to maturity, all as may be provided by resolution
737 or resolutions of the board of directors.

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

745 (6) Any pledge of earnings, revenues or other monies made by
746 the authority shall be valid and binding from the time the pledge

747 is made. The earnings, revenues or other monies so pledged and
748 thereafter received by such authority shall immediately be subject
749 to the lien of such pledge without any physical delivery thereof
750 or further act, and the lien of any such pledge shall be valid and
751 binding as against all parties having claims of any kind in tort,
752 contract or otherwise against such authority irrespective of
753 whether such parties have notice thereof. Neither the resolution
754 nor any other instrument by which a pledge is created need be
755 recorded.

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

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

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

777 (10) The authority has the discretion to advance or borrow
778 funds needed to satisfy any short-term cash flow demands or
779 deficiencies or to cover start-up costs until such time as

780 sufficient bonds, assets and revenues have been secured to satisfy
781 the needs of the authority.

782 SECTION 16. (1) Refunding bonds. The authority may, by
783 resolution adopted by its board of directors, issue refunding
784 bonds for the purpose of paying any of its bonds at or prior to
785 maturity or upon acceleration or redemption. Refunding bonds may
786 be issued at such time prior to the maturity or redemption of the
787 refunded bonds as the board of directors deems to be in the public
788 interest, without an election on the question of the issuance
789 thereof. The refunding bonds may be issued in sufficient amounts
790 to pay or provide the principal of the bonds being refunded,
791 together with any redemption premium thereon, any interest accrued
792 or to accrue to the date of payment of such bonds, the expenses of
793 issue of the refunding bonds, the expenses of redeeming the bonds
794 being refunded, and such reserves for debt service or other
795 capital or current expenses from the proceeds of such refunding
796 bonds as may be required by the resolution, trust indenture or
797 other security instruments. The issue of refunding bonds, the
798 maturities and other details thereof, the security therefor, the
799 rights of the holders and the rights, duties and obligations of
800 the authority in respect of the same shall be governed by the
801 provisions of this act relating to the issue of bonds other than
802 refunding bonds insofar as the same may be applicable. Any such
803 refunding may be effected, whether the obligations to be refunded
804 shall have then matured or shall thereafter mature, either by the
805 exchange of the refunding bonds for the obligations to be refunded
806 thereby with the consent of the holders of the obligations so to
807 be refunded, or by sale of the refunding bonds and the application
808 of the proceeds thereof to the payment of the obligations proposed
809 to be refunded thereby, and regardless of whether the obligations
810 proposed to be refunded shall be payable on the same date or
811 different dates or shall be due serially or otherwise.

812 (2) Interim notes. Borrowing by the authority may be made
813 by the delivery of interim notes to any person or public agency or
814 financial institution by a simple majority vote of the board of
815 directors.

816 **SECTION 17.** All bonds (other than refunding bonds, interim
817 notes and certificates of indebtedness, which may be validated)
818 issued pursuant to this act shall be validated as now provided by
819 law in Sections 31-13-1 through 31-13-11, Mississippi Code of
820 1972, as amended from time to time; however, notice of such
821 validation proceedings shall be addressed to the citizens of the
822 State of Mississippi and the citizens of the respective member
823 public agencies (a) which have contracted with the authority
824 pursuant to this act, and (b) whose contracts and the payments to
825 be made by the public agencies thereunder constitute security for
826 the bonds of such authority proposed to be issued, and that such
827 notice shall be published at least once in a newspaper or
828 newspapers having a general circulation within the geographical
829 boundaries of each of the member public agencies to whose citizens
830 the notice is addressed and within the State of Mississippi. Such
831 validation proceedings shall be instituted in any chancery courts
832 within the boundaries of the authority. The validity of the bonds
833 so validated and of the contracts and payments to be made by the
834 public agencies thereunder constituting security for the bonds
835 shall be forever conclusive against the authority and the public
836 agencies which are parties to said contracts; and the validity of
837 said bonds and said contracts and the payments to be made
838 thereunder shall never be called in question in any court in this
839 state.

840 **SECTION 18.** Bonds issued under the provisions of this act
841 shall not be deemed to constitute, within the meaning of any
842 constitutional or statutory limitation, an indebtedness of the
843 authority or any member agency thereof. Such bonds shall be
844 payable solely from the revenues or assets of the authority

845 pledged therefor. Each bond issued under this act shall contain
846 on the face thereof a statement to the effect that such authority
847 shall not be obligated to pay the same nor the interest thereon
848 except from the revenues or assets pledged therefor.

849 **SECTION 19.** The authority shall have power in connection
850 with the issuance of its bonds to:

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

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

855 (c) Covenant to charge rates, fees and charges
856 sufficient to meet operating and maintenance expenses, renewals
857 and replacements, principal and debt service on bonds, creation
858 and maintenance of any reserves required by a bond resolution,
859 trust indenture or other security instrument and to provide for
860 any margins or coverages over and above debt service on the bonds
861 deemed desirable for the marketability of the bonds.

862 (d) Covenant and prescribe as to events of default and
863 terms and conditions upon which any or all of its bonds shall
864 become or may be declared due before maturity, as to the terms and
865 conditions upon which such declaration and its consequences may be
866 waived and as to the consequences of default and the remedies of
867 the registered owners of the bonds.

868 (e) Covenant as to the mortgage or pledge of or the
869 grant of a security interest in any real or personal property and
870 all or any part of the revenues from any designated system or any
871 part thereof or any revenue-producing contract or contracts made
872 by such authority with any person to secure the payment of bonds,
873 subject to such agreements with the registered owners of bonds as
874 may then exist.

875 (f) Covenant as to the custody, collection, securing,
876 investment and payment of any revenues, assets, monies, funds or

877 property with respect to which such authority may have any rights
878 or interest.

879 (g) Covenant as to the purposes to which the proceeds
880 from the sale of any bonds then or thereafter to be issued may be
881 applied, and the pledge of such proceeds to secure the payment of
882 the bonds.

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

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

888 (j) Covenant as to the procedure by which the terms of
889 any contract with or for the benefit of the registered owners of
890 bonds may be amended or abrogated, the amount of bonds the
891 registered owners of which must consent thereto, and the manner in
892 which such consent may be given.

893 (k) Covenant as to the custody of any of its properties
894 or investments, the safekeeping thereof, the insurance to be
895 carried thereon, and the use and disposition of insurance
896 proceeds.

897 (l) Covenant as to the vesting in a trustee or
898 trustees, within or outside the state, of such properties, rights,
899 powers and duties in trust as such authority may determine.

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

903 (n) Make all other covenants and to do any and all such
904 acts and things as may be necessary or convenient or desirable in
905 order to secure its bonds, or in the absolute discretion of the
906 authority tend to make the bonds more marketable, notwithstanding
907 that such covenants, acts or things may not be enumerated herein;
908 it being the intention hereof to give any authority power to do
909 all things in the issuance of bonds and in the provisions for

910 security thereof which are not inconsistent with the Constitution
911 of the state.

912 (o) Execute all instruments necessary or convenient in
913 the exercise of the powers herein granted or in the performance of
914 covenants or duties, which may contain such covenants and
915 provisions, as any purchaser of the bonds of such authority may
916 reasonably require.

917 **SECTION 20.** The authority may, in any authorizing resolution
918 of the board of directors, trust indenture or other security
919 instrument relating to its bonds, provide for the appointment of a
920 trustee who shall have such powers as are provided therein to
921 represent the registered owners of any issue of bonds in the
922 enforcement or protection of their rights under any such
923 resolution, trust indenture or security instrument. The authority
924 may also provide in such resolution, trust indenture or other
925 security instrument that the trustee, or in the event that the
926 trustee so appointed shall fail or decline to so protect and
927 enforce such registered owners' rights then such percentage of
928 registered owners as shall be set forth in, and subject to the
929 provisions of, such resolution, trust indenture or other security
930 interest, may petition the court of proper jurisdiction for the
931 appointment of a receiver of the waterworks, water supply system
932 or sewage disposal system, the revenues of which are pledged to
933 the payment of the principal of and interest on the bonds of such
934 registered owners. Such receiver may exercise any power as may be
935 granted in any such resolution, trust indenture or security
936 instrument to enter upon and take possession of, acquire,
937 construct or reconstruct or operate and maintain such system fix
938 charges for services of the system and enforce collection thereof,
939 and receive all revenues derived from such system or facilities
940 and perform the public duties and carry out the contracts and
941 obligations of such authority in the same manner as such authority
942 itself might do, all under the direction of such court.

943 **SECTION 21.** (1) The exercise of the powers granted by this
944 act will be in all respects for the benefit of the people of the
945 state, for their well-being and prosperity and for the improvement
946 of their social and economic conditions, and the authority shall
947 not be required to pay any tax or assessment on any property owned
948 by the authority under the provisions of this act or upon the
949 income therefrom; nor shall any authority be required to pay any
950 recording fee or transfer tax of any kind on account of
951 instruments recorded by it or on its behalf.

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

957 **SECTION 22.** All bonds issued under the provisions of this
958 act shall be legal investments for trustees, other fiduciaries,
959 savings banks, trust companies and insurance companies organized
960 under the laws of the State of Mississippi; and such bonds shall
961 be legal securities which may be deposited with and shall be
962 received by all public officers and bodies of the state and all
963 municipalities and other political subdivisions thereof for the
964 purpose of securing the deposit of public funds.

965 **SECTION 23.** The state hereby covenants with the registered
966 owners of any bonds of any authority that so long as the bonds are
967 outstanding and unpaid the state will not limit or alter the
968 rights and powers of any authority under this act to conduct the
969 activities referred to herein in any way pertinent to the
970 interests of the bondholders, including, without limitation, such
971 authority's right to charge and collect rates, fees and charges
972 and to fulfill the terms of any covenants made with the registered
973 owners of the bonds, or in any other way impair the rights and
974 remedies of the registered owners of the bonds, unless provision
975 for full payment of such bonds, by escrow or otherwise, has been

976 made pursuant to the terms of the bonds or the resolution, trust
977 indenture or security interest securing the bonds.

978 **SECTION 24.** The provisions of this act are cumulative of
979 other statutes now or hereafter enacted relating to the issuance
980 of bonds and systems; and to the design, construction, acquisition
981 or approval of facilities for such purposes, and any public agency
982 may exercise all presently held powers in the furtherance of this
983 act.

984 **SECTION 25.** If any clause, sentence, paragraph, section or
985 part of the provisions of this act shall be adjudged by any court
986 of competent jurisdiction to be invalid, such judgment shall not
987 affect, impair or invalidate the remainder thereof directly
988 involved in the controversy in which such judgment shall have been
989 rendered.

990 **SECTION 26.** This act shall take effect and be in force from
991 and after its passage.