

By: Representatives Frierson, Guice,
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To: Conservation and Water
Resources

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 638

1 AN ACT TO AMEND SECTION 49-17-703, MISSISSIPPI CODE OF 1972,
2 TO CLARIFY THE LEGISLATIVE INTENT OF THE LEGISLATURE IN REGARDS TO
3 THE MISSISSIPPI GULF REGION UTILITY BOARD; TO AMEND SECTION
4 49-17-713, MISSISSIPPI CODE OF 1972, TO REVISE WHEN THE UTILITY
5 BOARD MAY ENTER ONTO PUBLIC OR PRIVATE LANDS; TO AMEND SECTION
6 49-17-715 AND 49-17-717, MISSISSIPPI CODE OF 1972, TO REVISE THE
7 AUTHORITY OF GEORGE COUNTY UTILITY AUTHORITY AND ITS BOARD OF
8 DIRECTORS AND TO ALLOW THE CITY OF LUCEDALE TO PARTICIPATE UNDER
9 THIS ACT IF THE GEORGE COUNTY UTILITY AUTHORITY DISSOLVES; TO
10 AMEND SECTIONS 49-17-721, 49-17-725, 49-17-729, 49-17-733,
11 49-17-737 AND 49-17-739, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT
12 CERTAIN POWERS OF THE BOARD OF DIRECTORS OF PEARL RIVER COUNTY,
13 STONE COUNTY, HARRISON COUNTY, JACKSON COUNTY, HANCOCK COUNTY AND
14 COMMON POWERS OF ALL COUNTY AUTHORITIES SHALL BE SUBJECT TO
15 AGREEMENT WITH AFFECTED UTILITY PROVIDERS AND REVISE THE NUMBER OF
16 DIRECTORS ON THE STONE AND HANCOCK COUNTIES UTILITY BOARDS; TO
17 AMEND SECTIONS 49-17-743, 49-17-745, 49-17-747, 49-17-749,
18 49-17-751 AND 49-17-773, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT
19 CERTAIN POWERS OF CERTAIN COUNTY AUTHORITIES, RULES AND
20 REGULATIONS RELATING TO CONSTRUCTION, OPERATION AND MAINTENANCE OF
21 ANY WATER, WASTEWATER AND STORM WATER SYSTEMS WITHIN EACH COUNTY
22 AUTHORITY'S SERVICE AREA, CONTRACTS BETWEEN PUBLIC AGENCIES AND
23 COUNTY AUTHORITIES, RATES AND FEES BY PUBLIC AGENCIES FOR SERVICES
24 PROVIDED BY COUNTY AUTHORITIES AND POWER OF COUNTY AUTHORITIES TO
25 ISSUE BONDS SHALL BE SUBJECT TO APPROVAL AND AGREEMENT OF ALL
26 AFFECTED UTILITIES; AND FOR RELATED PURPOSES.

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

28 **SECTION 1.** Section 49-17-703, Mississippi Code of 1972, is
29 amended as follows:

30 49-17-703. In the spirit of the report of the Governor's
31 Commission on Recovery, Rebuilding and Renewal, the Legislature
32 finds that there is a need for voluntary consolidation of water,
33 wastewater and storm water services in order to reduce costs,
34 promote resilience in the event of a disaster, improve the quality
35 of the natural environment, and improve the planning and delivery
36 of quality water, wastewater and storm water services within the
37 areas of the Counties of George, Hancock, Harrison, Jackson, Pearl
38 River and Stone. It is further declared that there is the need
39 for the planning, acquisition, construction, maintenance,

40 operation and coordination of water, wastewater and storm water
41 services in order to ensure protection of the waters of the state
42 and to ensure the delivery of water, wastewater and storm water
43 services to citizens of the Gulf Coast Region. The creation of
44 the Mississippi Gulf Coast Region Utility Act is determined to be
45 necessary and essential to the accomplishment of these purposes.
46 To facilitate the purposes of the act, the Gulf Coast Region
47 Utility Board, the George County Utility Authority, the Hancock
48 County Utility Authority, the Harrison County Utility Authority,
49 the Jackson County Utility Authority, the Pearl River County
50 Utility Authority and the Stone County Utility Authority are
51 created herein.

52 **SECTION 2.** Section 49-17-713, Mississippi Code of 1972, is
53 amended as follows:

54 49-17-713. (1) The utility board shall have the right and
55 powers necessary to carry out the purposes of this act, including,
56 but not limited to:

57 (a) Make recommendations to the county authorities
58 pertaining to water, wastewater and storm water issues in the Gulf
59 Coast Region;

60 (b) Make recommendations necessary to achieve
61 compatibility and uniformity of systems and technology related to
62 water, wastewater and storm water in the Gulf Coast Region;

63 (c) Help resolve cross-jurisdictional and multicounty
64 disputes pertaining to water, wastewater and storm water issues
65 between county authorities when requested by the county
66 authorities;

67 (d) Recommend short-term and long-term priorities for
68 water, wastewater and storm water related projects;

69 (e) Recommend emergency preparedness procedures in the
70 Gulf Coast Region related to water, wastewater and storm water;

71 (f) Recommend training standards related to operations
72 of water, wastewater and storm water systems;

73 (g) Sue and be sued in its own name and to enjoy all
74 the protections, immunities and benefits provided by the
75 Mississippi Tort Claims Act, as it may be amended from time to
76 time;

77 (h) Adopt an official seal and alter the same at
78 pleasure;

79 (i) Maintain office space at such place or places
80 within the boundaries of the board as it may determine;

81 (j) Own or lease real or personal property;

82 (k) Invest money of the utility board, including
83 proceeds from the sale of any bonds subject to any agreements with
84 bond holders on such terms and in such manner as the utility board
85 deems proper;

86 (l) Apply for, accept and utilize grants, gifts and
87 other funds from any source for any purpose necessary in support
88 of the purpose of this act and to coordinate the distribution of
89 funds to the county authorities;

90 (m) Employ and terminate staff, including, but not
91 limited to, attorneys, engineers and consultants as may be
92 necessary;

93 (n) Enter into contracts for all operation and
94 maintenance needs of the utility board;

95 (o) Enter into contracts to conduct studies of regional
96 issues regarding water, wastewater and storm water services and to
97 provide assistance, funds and guidance in the construction,
98 operation and maintenance of regional water, wastewater and storm
99 water services;

100 (p) Enter into contracts with any person or any public
101 agency in furtherance of any of the purposes authorized by this
102 act upon such consideration as the board of directors and such
103 person may agree. Any such contract may extend over any period of
104 time, including a term which extends beyond the term of the then
105 majority of the existing board members, notwithstanding any

106 provision or rule of law to the contrary; may be upon such terms
107 and for such consideration, nominal or otherwise, as the parties
108 thereto shall agree; and may provide that it shall continue in
109 effect until bonds specified therein, refunding bonds issued in
110 lieu of such bonds, and all other obligations specified therein
111 are paid or terminated. Any such contract shall be binding upon
112 the parties thereto according to its terms. The utility board may
113 also assume or continue any contractual or other business
114 relationships entered into by the members of the utility board,
115 including the rights to receive and acquire property transferred
116 under option to purchase agreements;

117 (q) Contract with the authorities under any terms
118 mutually agreed by the parties to carry out any powers, duties or
119 responsibilities granted by this act or any other laws to the
120 authorities;

121 (r) Acquire insurance for the utility board's systems,
122 facilities, buildings, treatment plants and all property, real or
123 personal, to insure against all risks as any insurance may, from
124 time to time, be available;

125 (s) Make, enforce, amend and repeal rules and
126 regulations for the management of the utility board's business and
127 affairs consistent with the other provisions of this act;

128 (t) When invited by the local county authority and the
129 local utility provider or providers, enter onto public or private
130 lands, waters or premises for the purposes of making surveys,
131 borings or soundings, or conducting tests, examinations or
132 inspections for the purposes of the utility board, subject to
133 responsibility for any damage done to property entered;

134 (u) Apply, contract for, accept, receive and administer
135 gifts, grants, appropriations and donations of money, materials,
136 and property of any kind, including loans and grants from the
137 United States, the state, a unit of local government, or any
138 agency, department, district or instrumentality of any of the

139 foregoing, upon any terms and conditions as the United States, the
140 state, a unit of local government, or any agency, department,
141 district or instrumentality shall impose;

142 (v) Utility board may create, maintain and regulate
143 reservoirs and promulgate and enforce rules and regulations for
144 the creation and maintenance of reservoirs; and

145 (w) Make other recommendations to carry out the
146 purposes of this act.

147 (2) This section shall repeal July 1, 2009.

148 **SECTION 3.** Section 49-17-715, Mississippi Code of 1972, is
149 amended as follows:

150 49-17-715. * * *

151 (1) If the George County Utility Authority is dissolved by
152 January 1, 2007, the board of supervisors may reestablish the
153 county authority by a resolution duly adopted and entered on its
154 minutes stating the necessity for the county authority. The board
155 shall file a certified copy of the resolution with the Secretary
156 of State, the Public Service Commission and the utility board.

157 (2) If the George County Utility Authority is dissolved by
158 January 1, 2007, the City of Lucedale may exist as a city utility
159 authority and its governing authorities may exercise all the
160 powers that the George County Utility Authority would have if not
161 dissolved.

162 **SECTION 4.** Section 49-17-717, Mississippi Code of 1972, is
163 amended as follows:

164 49-17-717. (1) If the authority is created, all powers of
165 the George County Utility Authority shall be exercised by a board
166 of directors comprised of five (5) directors appointed as follows:
167 Within thirty (30) days of creation of the authority, the Board of
168 Supervisors of George County shall appoint three (3) residents
169 from the county, and the Board of Aldermen of the City of Lucedale
170 shall appoint two (2) residents from the city. The directors
171 shall serve at the will and pleasure of the governing body making

172 the appointments. Any vacancy arising by expiration of a
173 director's term, or a vacancy created by the removal of a director
174 for any other reason, shall be filled by appointment made by the
175 party originally responsible for the appointment of the director
176 vacating his or her appointment.

177 (2) All business of the George County Utility Authority
178 shall be transacted as provided in Section 49-17-741, except that
179 all actions affecting rates, bonds or capital improvements must be
180 by unanimous vote of all members of the board and upon the
181 approval of all affected local utility providers.

182 (3) In addition to any other powers and rights conferred
183 upon such board of directors, the board is granted and may
184 exercise subject to agreement with affected utility providers all
185 powers and rights granted pursuant to Sections 49-17-739 through
186 49-17-773 to promote the health, welfare and prosperity of the
187 general public.

188 **SECTION 5.** Section 49-17-721, Mississippi Code of 1972, is
189 amended as follows:

190 49-17-721. (1) All powers of the Pearl River County Utility
191 Authority shall be exercised by a board of directors comprised of
192 seven (7) directors appointed as follows: Within thirty (30) days
193 of passage of this act, the Board of Supervisors of Pearl River
194 County shall appoint four (4) residents from the county, and the
195 Board of Aldermen of the City of Picayune shall appoint two (2)
196 residents from the city, and the Board of Aldermen of the City of
197 Poplarville shall appoint one (1) resident from the city. The
198 directors shall serve at the will and pleasure of the governing
199 body making the appointments.

200 (2) In addition to any other powers and rights conferred
201 upon such board of directors, the board is granted and may
202 exercise, subject to agreement with affected utility providers,
203 all powers and rights granted pursuant to Sections 49-17-739

204 through 49-17-773 to promote the health, welfare and prosperity of
205 the general public.

206 **SECTION 6.** Section 49-17-725, Mississippi Code of 1972, is
207 amended as follows:

208 49-17-725. (1) All powers of the Stone County Utility
209 Authority shall be exercised by a board of directors comprised of
210 seven (7) directors appointed as follows: Within thirty (30) days
211 of passage of this act, the Board of Supervisors of Stone County
212 shall appoint four (4) residents from the county, any of which may
213 be members of the board of supervisors, the Board of Aldermen of
214 the City of Wiggins shall appoint two (2) residents from the city
215 and the mayor or his designee. The directors shall serve at the
216 will and pleasure of the governing body making the appointments.

217 (2) In addition to any other powers and rights conferred
218 upon such board of directors, the board is granted and may
219 exercise, subject to agreement with affected utility providers,
220 all powers and rights granted pursuant to Sections 49-17-739
221 through 49-17-773 to promote the health, welfare and prosperity of
222 the general public.

223 **SECTION 7.** Section 49-17-729, Mississippi Code of 1972, is
224 amended as follows:

225 49-17-729. (1) All powers of the Harrison County Utility
226 Authority shall be exercised by a consolidated board consisting of
227 the Board of Directors of the Harrison County Wastewater and Solid
228 Waste Management District and the additional director provided
229 under this section for a total of seven (7) directors. Upon
230 consolidation, the Board of Supervisors of Harrison County shall
231 appoint one (1) additional director who shall be a resident of the
232 unincorporated area from the county. The director shall serve at
233 the will and pleasure of the board of supervisors. The
234 consolidated board shall consist of the mayor of each city
235 participating in the authority and the directors appointed by the

236 board of supervisors. Each director may appoint a delegate to
237 represent him at a meeting of the board.

238 (2) All business of the Harrison County Utility Authority
239 shall be transacted as provided in Section 49-17-741, except that
240 all actions affecting rates, bonds or capital improvements must be
241 by unanimous vote of all members of the board.

242 (3) In addition to any other powers and rights conferred
243 upon such board of directors, the board is granted and may
244 exercise all powers and rights granted pursuant to Sections
245 49-17-739 through 49-17-773 to promote the health, welfare and
246 prosperity of the general public, including the power and right to
247 regulate and control solid waste within its jurisdictional
248 boundaries.

249 **SECTION 8.** Section 49-17-733, Mississippi Code of 1972, is
250 amended as follows:

251 49-17-733. (1) Upon creation of the Jackson County Utility
252 Authority, all powers of the Jackson County Utility Authority
253 shall be exercised by the Board of Directors of the Mississippi
254 Gulf Coast Regional Wastewater Authority.

255 (2) Upon consolidation of the Jackson County Utility
256 Authority and the Mississippi Gulf Coast Wastewater Authority, the
257 county authority shall be governed by a board consisting of seven
258 (7) directors.

259 (a) The members of the Board of Directors of the
260 Mississippi Gulf Coast Regional Wastewater Authority shall serve
261 as Directors of the Jackson County Utility Authority at the will
262 and pleasure of the governing body making the appointment. * * *
263 The governing body making the appointment shall appoint a person
264 residing within the corporate boundaries of the governing body to
265 serve as a director and may reappoint directors as necessary.

266 (b) The City of Gautier shall appoint one (1) director
267 who resides within the City of Gautier for an initial term of
268 three (3) years.

269 (c) The Board of Supervisors of Jackson County shall
270 appoint three (3) additional directors for an initial term of two
271 (2) and four (4) years, respectively, who reside within the
272 unincorporated area of Jackson County.

273 (3) (a) After expiration of the initial terms, all
274 appointed directors shall serve a term of six (6) years.

275 (b) No director shall hold an elected public office.

276 (4) In addition to any other powers and rights conferred
277 upon such board of directors, the board is granted and may
278 exercise, subject to agreement with affected utility providers,
279 all powers and rights granted pursuant to Sections 49-17-739
280 through 49-17-773 to promote the health, welfare and prosperity of
281 the general public.

282 **SECTION 9.** Section 49-17-737, Mississippi Code of 1972, is
283 amended as follows:

284 49-17-737. (1) After consolidation, all powers of the
285 Hancock County Utility Authority shall be exercised by a board
286 consisting of the following:

287 (a) One (1) director appointed by the Mayor of Bay St.
288 Louis for an initial term of two (2) years;

289 (b) One (1) director appointed by the Mayor of Waveland
290 for an initial term of three (3) years;

291 (c) One (1) director appointed by the board of
292 supervisors who is a resident of Hancock County * * *;

293 (d) One (1) director who is the Chairman of the
294 Diamondhead Water and Sewer District;

295 (e) One (1) director who is the Chairman of the Kiln
296 Fire and Water District;

297 (f) One (1) director who is the Chairman of the Hancock
298 County Water and Sewer District; * * *

299 (g) One (1) director who is the Chairman of the
300 Pearlinton Water and Sewer District; and

301 (h) One (1) director who is a member of the Standard
302 Dedeaux Association.

303 After expiration of the initial terms, the appointees in
304 paragraphs (a), (b) and (c) shall be appointed to a term of four
305 (4) years. However, the board may declare a vacancy and reappoint
306 a director if any director is absent for three (3) consecutive
307 meetings of the Hancock County Utility Authority.

308 (2) In addition to any other powers and rights conferred
309 upon such board of directors, the board is granted and may
310 exercise, subject to agreement with affected utility providers,
311 all powers and rights granted pursuant to Sections 49-17-739
312 through 49-17-773 to promote the health, welfare and prosperity of
313 the general public.

314 **SECTION 10.** Section 49-17-739, Mississippi Code of 1972, is
315 amended as follows:

316 49-17-739. The purpose of Sections 49-17-739 through
317 49-17-773 is to confer certain powers, subject to agreement with
318 affected utility providers, on the county authorities for the
319 purpose of cooperating with federal, state and local public
320 agencies and all local utility providers for the further
321 development of local and regional water, wastewater and storm
322 water services within the Gulf Coast Region. In addition to the
323 powers over water, wastewater and storm water, the Harrison County
324 Utility Authority is granted power over solid waste within its
325 jurisdiction.

326 **SECTION 11.** Section 49-17-743, Mississippi Code of 1972, is
327 amended as follows:

328 49-17-743. (1) From and after the passage of this act, each
329 and every county authority shall have, subject to the approval and
330 agreement of all local utility providers affected by their
331 actions, in addition to any other powers granted under any other
332 provision of law, including, but not limited to, the following:

333 (a) Make recommendations to local utility providers
334 pertaining to water, wastewater and storm water issues in the Gulf
335 Coast Region;

336 (b) To acquire, construct, improve, enlarge, extend,
337 repair, operate and maintain one or more of its systems used for
338 the collection, transportation, treatment and disposal of water,
339 wastewater and storm water;

340 (c) To make contracts with any person in furtherance
341 thereof; and to make contracts with any person, under the terms of
342 which the county authority will collect, transport, treat or
343 dispose of water, wastewater and storm water for such person;

344 (d) To make contracts with any person to design and
345 construct any water, wastewater and storm water systems or
346 facilities, and thereafter to purchase, lease or sell, by
347 installments over such terms as may be deemed desirable,
348 reasonable and necessary, or otherwise, any such system or
349 systems;

350 (e) To enter into operating agreements with any person,
351 for such terms and upon such conditions as may be deemed
352 desirable, for the operation of any water, wastewater and storm
353 water systems; and the county authority may lease to or from any
354 person, for such term and upon such conditions as may be deemed
355 desirable, any water, wastewater and storm water collection,
356 transportation, treatment or its other facilities or systems. Any
357 such contract may contain provisions requiring any public agency
358 or other person to regulate the quality and strength of materials
359 to be handled by the respective system or systems and also may
360 provide that the county authority shall have the right to use any
361 streets, alleys and public ways and places within the jurisdiction
362 of a public agency or other person during the term of the
363 contract;

364 (f) To enter into contracts with any person or any
365 public agency, including, but not limited to, contracts authorized

366 by this act, in furtherance of any of the purposes authorized
367 under this act upon such consideration as the board of directors
368 and such person may agree. Any such contract may extend over any
369 period of time, notwithstanding any provision or rule of law to
370 the contrary; may be upon such terms and for such consideration,
371 nominal or otherwise, as the parties thereto shall agree; and may
372 provide that it shall continue in effect until bonds specified
373 therein, refunding bonds issued in lieu of such bonds, and all
374 other obligations specified therein are paid or terminated. Any
375 such contract shall be binding upon the parties thereto according
376 to its terms;

377 (g) To adopt an official seal and alter the same at
378 pleasure;

379 (h) To sue and be sued, in its own name, and to enjoy
380 all of the protections, immunities and benefits provided by the
381 Mississippi Tort Claims Act, as it may be amended or supplemented
382 from time to time;

383 (i) To maintain office space at such place or places
384 within the county authority boundaries as it may determine;

385 (j) To invest money of the county authority, including
386 proceeds from the sale of any bonds subject to any agreements with
387 bondholders, on such terms and in such manner as the county
388 authority deems proper;

389 (k) To require the necessary relocation or rerouting of
390 roads and highways, railroad, telephone and telegraph lines, and
391 properties, electric power lines, gas pipelines and related
392 facilities, or to require the anchoring or other protection of any
393 of these, provided fair compensation is first paid to the owners
394 or an agreement with such owners regarding the payment of the cost
395 of such relocation, and to acquire easements or rights-of-way for
396 such relocation or rerouting and to convey the same to the owners
397 of the property being relocated or rerouted in connection with the
398 purposes of this act;

399 (l) Subject to the approval and agreement of all local
400 utility providers affected by their proposed actions, to acquire,
401 construct, improve or modify, to operate or cause to be operated
402 and maintained, either as owner of all or of any part in common
403 with others, any water, wastewater or storm water system within
404 the county authority's service area. The county authority may pay
405 all or part of the cost of any system from any contribution by
406 persons, firms, public agencies or corporations. The county
407 authority may receive, accept and use all funds, public or
408 private, and pay all costs of the development, implementation and
409 maintenance as may be determined as necessary for any project;

410 (m) Subject to the approval and agreement of all
411 affected utility providers, to acquire, in its own name, by
412 purchase on any terms and conditions and in any manner as it may
413 deem proper, including by eminent domain, property for public use,
414 or by gift, grant, lease, or otherwise, real property or easements
415 therein, franchises and personal property necessary or convenient
416 for its corporate purposes;

417 (n) To acquire insurance for the county authority's
418 systems, facilities, buildings, treatment plants and all property,
419 real or personal, to insure against all risks as any insurance
420 may, from time to time, be available;

421 (o) To use any property and rent or lease any property
422 to or from others, including public agencies, or make contracts
423 for the use of the property. The county authority may sell,
424 lease, exchange, transfer, assign, pledge, mortgage or grant a
425 security interest for any property. The powers to acquire, use
426 and dispose of property as set forth in this paragraph shall
427 include the power to acquire, use and dispose of any interest in
428 that property, whether divided or undivided. Title to any
429 property of the county authority shall be held by the county
430 authority exclusively for the benefit of the public;

431 (p) To apply, contract for, accept, receive and
432 administer gifts, grants, appropriations and donations of money,
433 materials and property of any kind, including loans and grants
434 from the United States, the state, a unit of local government, or
435 any agency, department, district or instrumentality of any of the
436 foregoing, upon any terms and conditions as the United States, the
437 state, a unit of local government, or any agency, department,
438 district or instrumentality shall impose. The county authority
439 may administer trusts. The county authority may sell, lease,
440 transfer, convey, appropriate and pledge any and all of its
441 property and assets;

442 (q) To make and enforce, and from time to time amend
443 and repeal, bylaws, rules, ordinances and regulations for the
444 management of its business and affairs and for the construction,
445 use, maintenance and operation of any of the systems under its
446 management and control;

447 (r) To employ and terminate staff and other personnel,
448 including attorneys, engineers and consultants as may be necessary
449 to the functioning of the county authority. The board of
450 directors, in its discretion, may employ an executive director
451 having the authority to employ and fire employees and other duties
452 as determined by the board;

453 (s) To establish and maintain, subject to the approval
454 and agreement of all local utility providers affected by its
455 proposed actions, rates, fees and any other charges for services
456 and the use of systems and facilities within the control of the
457 county authority, and from time to time, to adjust such rates,
458 fees and any other charges to the end that the revenues therefrom
459 will be sufficient at all times to pay the expenses of operating
460 and maintaining of the facilities and treatment systems and all of
461 the persons' obligations under any contract or bonds resolution
462 with respect thereto or any obligation of any person under any
463 agreement, contract, indenture or bonds resolution with respect

464 thereto. Such rates, fees, assessments and any other charges
465 shall not be subject to the jurisdiction of the Mississippi Public
466 Service Commission;

467 (t) To adopt rules and regulations necessary to
468 accomplish the purposes of the county authority and to assure the
469 payment, subject to the approval and agreement of all local
470 utility providers affected by its proposed actions, of each
471 participating person or public agency of its proportionate share
472 of the costs for use of any of the systems and facilities of the
473 county authority and for the county authority's proportionate
474 share of the costs of the utility board;

475 (u) To enter, subject to the approval and agreement of
476 all local utility providers affected by its proposed actions, on
477 public or private lands, waters or premises for the purpose of
478 making surveys, borings or soundings, or conducting tests,
479 examinations or inspections for the purposes of the authority,
480 subject to responsibility for any damage done to property entered;

481 (v) To accept industrial wastewater from within the
482 boundaries of the county authority for treatment and to require
483 the pretreatment of same when, in the opinion of the county
484 authority, such pretreatment is necessary;

485 (w) To control and operate, subject to the approval and
486 agreement of all local utility providers which might possibly be
487 affected by its proposed actions, or which might possibly curtail
488 the future activities of such local utility providers, local
489 retail water, wastewater and storm water services, and may provide
490 or be responsible for direct servicing of those services to
491 residences, businesses and individuals; however, the county
492 authority shall not provide the same services in an area provided
493 by a public utility or person holding a certificate of public
494 convenience and necessity issued by the Mississippi Public Service
495 Commission for the provision of such services in the certificated
496 area. Any rates, fees, assessments or other charges shall not be

497 under the control or regulation of the Mississippi Public Service
498 Commission;

499 (x) To assume control and administer, within the county
500 authority's jurisdiction, any water, wastewater or storm water
501 system or systems by agreement or contract with any person if the
502 person providing such services requests to be relieved of that
503 responsibility. However, the person may maintain control over
504 connections in their service areas and may charge rates, fees and
505 any other charges in addition to the rates, fees and any charges
506 of the county authority;

507 (y) Subject to the approval and agreement of all
508 affected utility providers or whose future activities might be
509 curtailed by the actions of the county authority, the county
510 authority shall have the power of eminent domain for the
511 particular purpose of the acquisition of property designated by
512 plan to sufficiently accommodate the location of water, wastewater
513 or storm water systems and such requirements related directly
514 thereto pursuant to the provisions of Chapter 27, Title 11,
515 Mississippi Code of 1972. The county authority may acquire by
516 eminent domain property necessary for any system and the exercise
517 of the powers, rights and duties conferred upon the county
518 authority by this act. No person owning the drilling rights or
519 the right to share in production shall be prevented from
520 exploring, developing or producing oil or gas with necessary
521 rights-of-way for ingress and egress, pipelines and other means of
522 transporting such interests on any lands or interest of the county
523 authority held or used for the purposes of this act, but any such
524 activities shall be subject to reasonable regulations by the board
525 of directors that will adequately protect the systems or projects
526 of the county authority;

527 (z) To use any legally available funds to acquire,
528 rebuild, operate and maintain any existing water, wastewater or
529 storm water systems owned or operated by any person;

530 (aa) To refuse to receive water, wastewater or storm
531 water from any public agency or person; and

532 (bb) Subject to the approval and agreement of all
533 affected utility providers or whose future activities might be
534 curtailed by the actions of the county authority, so long as any
535 indebtedness on the systems of the county authority remains
536 outstanding, to require by contract with a member public agency,
537 or other person, that all water, wastewater and storm water within
538 the boundaries of the respective county authority be disposed of
539 through the appropriate treatment system to the extent that the
540 same may be available, but no public agency shall be precluded
541 from constructing, operating and maintaining its own such system
542 after the current indebtedness owing on the system as of the
543 effective date of this act is paid in full.

544 (2) The Harrison County Utility Authority shall have all
545 powers provided in subsection (1) of this section. However, such
546 authority's powers shall not be subject to the approval and
547 agreement of all local utility providers affected by its proposed
548 actions or whose future activities might be curtailed by the
549 actions of the county authority.

550 (3) For the purposes of this act, the following shall be
551 exempt from payment of fees authorized by the county authorities:

552 (a) Users whose storm water runoff is not discharged
553 into or through the storm water facilities of the district;

554 (b) Any entity that possesses a valid individual storm
555 water National Pollution Discharge Elimination System (NPDES)
556 permit;

557 (c) Any entity that has coverage under a general storm
558 water National Pollution Discharge Elimination System (NPDES)
559 permit; and

560 (d) Any Class II real property, as defined in Section
561 112 of the Mississippi Constitution of 1890, that is classified as
562 agriculture or forest land.

563 **SECTION 12.** Section 49-17-745, Mississippi Code of 1972, is
564 amended as follows:

565 49-17-745. (1) Subject to the approval and agreement of all
566 affected utility providers or whose future activities might be
567 curtailed by the actions of the county authority, the county
568 authority shall have the power, duty and responsibility to
569 exercise general supervision over the design, construction,
570 operation and maintenance of water, wastewater and storm water
571 systems. However, all actions by a county authority that affect
572 other utility providers are subject to the approval of those
573 providers, whether or not those providers are subject to the
574 county authority's jurisdiction. The county authority may, in
575 such cases, make recommendations to local utility providers
576 pertaining to water, wastewater and storm water issues in the Gulf
577 Coast Region.

578 However, the Harrison County Utility Authority shall have the
579 power, duty and responsibility to exercise general supervision
580 over the design, construction, operation and maintenance of water,
581 wastewater and storm water systems and its powers shall not be
582 subject to the approval and agreements required by this subsection
583 (1).

584 (2) Subject to the provisions of Section 49-17-745(1), the
585 county authority shall adopt rules and regulations regarding the
586 design, construction or installation, operation and maintenance of
587 water, wastewater and storm water systems.

588 (3) Subject to the provisions of Section 49-17-745(1), the
589 county authority shall adopt rules and regulations regarding the
590 use of decentralized treatment systems, individual on-site
591 wastewater treatment systems and centralized wastewater treatment
592 systems.

593 (4) Subject to the provisions of Section 49-17-745(1), the
594 county authority shall adopt rules establishing performance
595 standards for water, wastewater and storm water systems and the

596 operation and maintenance of the same. Such rules and regulations
597 shall include the implementation of a standard application form
598 for the installation, operation and maintenance of such systems;
599 application review; approval or denial procedures for any proposed
600 system; inspection, monitoring and reporting guidelines; and
601 enforcement procedures.

602 (5) (a) Subject to the provisions of Section 49-17-745(1),
603 before a building or development which requires the installation
604 of a water, wastewater or storm water system is constructed, the
605 system must be submitted to the county authority for certification
606 that the system complies with the county authority requirements
607 for such system.

608 (b) Subject to the provisions of Section 49-17-745(1),
609 before approving or renewing a water, wastewater or storm water
610 related permit for a system within a county authority, the state
611 agency must require certification that the system complies with
612 the requirements of the county authority.

613 (6) Subject to the provisions of Section 49-17-745(1), any
614 system of any municipality, public agency or other persons which
615 becomes connected with, or tied into, the systems of the county
616 authority shall be subject to the county authority's jurisdiction
617 and the terms of this act. Any system of any municipality, public
618 agency or other persons which is not connected with, or tied into,
619 the systems of the county authority shall not be subject to the
620 county authority's jurisdiction.

621 (7) Subject to the provisions of Section 49-17-745(1),
622 notwithstanding the provisions of Section 51-39-1 et seq., the
623 county authority shall have the full power to adopt rules and
624 regulations and to construct, maintain and operate facilities for
625 the control of storm water quality and quantity. In addition, the
626 provisions of Section 51-33-1 et seq. relating to drainage
627 districts and flood control districts do not apply to the county
628 authority.

629 (8) Subject to the provisions of Section 49-17-745(1), the
630 county authority may control and operate the local retail water,
631 wastewater or storm water services and may provide or be
632 responsible for direct servicing of those services to residences,
633 businesses and individuals; however, the county authority shall
634 not provide the same service in an area provided by a public
635 utility or person holding a certificate of public convenience and
636 necessity issued by the Mississippi Public Service Commission for
637 the provision of such services in the certificated area.

638 (9) No permit shall be required by a county authority for
639 land used for agricultural purposes, including forestry activities
640 as defined in Section 95-3-29(2)(c), or for the erection,
641 maintenance, repair or extension of farm buildings or farm
642 structures, including forestry buildings and structures outside
643 the corporate limits of a municipality, except such permit may be
644 required by the Harrison County Utility Authority.

645 (10) No permit shall be required or fees charged by a county
646 authority to owners of single-family residential or agricultural
647 water wells that have not been contracted with or served by the
648 county authority, except such permit or fees may be charged by the
649 Harrison County Utility Authority.

650 (11) The Harrison County Utility Authority shall have all
651 powers authorized by this section and shall not be subject to the
652 approval and agreements required by subsection (1) of this
653 section.

654 (12) For the purposes of this act, the following shall be
655 exempt from payment of fees authorized by the county authorities:

656 (a) Users whose storm water runoff is not discharged
657 into or through the storm water facilities of the district;

658 (b) Any entity that possesses a valid individual storm
659 water National Pollution Discharge Elimination System (NPDES)
660 permit;

661 (c) Any entity that has coverage under a general storm
662 water National Pollution Discharge Elimination System (NPDES)
663 permit; and

664 (d) Any Class II real property, as defined in Section
665 112 of the Mississippi Constitution of 1890, that is classified as
666 agriculture or forest land.

667 **SECTION 13.** Section 49-17-747, Mississippi Code of 1972, is
668 amended as follows:

669 49-17-747. (1) Subject to the provisions of Section
670 49-17-745(1), any public agency or person, pursuant to a duly
671 adopted resolution of the governing body of such public agency or
672 person, may enter into contracts with the county authority or
673 county authorities under the terms of which the county authority
674 will manage, operate and contract for usage of its systems and
675 facilities, or other services, for such person or public agency.

676 (2) Subject to the provisions of Section 49-17-745(1), any
677 public agency or person may enter into contracts with the county
678 authority for the county authority to purchase or sell, by
679 installments over such terms as may be deemed desirable, or
680 otherwise, to any person or any systems. Any public agency may
681 sell, donate, convey, or otherwise dispose of water, wastewater
682 and storm water facilities or systems; or any equipment, personal
683 property or any other things, deemed necessary for the
684 construction, operation, and maintenance to the county authority
685 without the necessity of appraisal, advertising, or bidding. This
686 section creates an alternative method of disposal of public
687 property.

688 (3) Subject to the provisions of Section 49-17-745(1), any
689 public agency is authorized to enter into operating agreements
690 with the county authority, for such terms and upon such conditions
691 as may be deemed desirable, for the operation of any of its
692 systems of any person by the county authority or by any person
693 contracting with the county authority to operate such systems.

694 (4) Any public agency may lease to or from the county
695 authority, for such term and upon such conditions as may be deemed
696 desirable, any of its systems.

697 (5) Any municipality or county may donate office space,
698 equipment, supplies and materials to the authority.

699 (6) Subject to the provisions of Section 49-17-745(1), any
700 such contract may contain provisions requiring any public agency
701 or other person to regulate the quality and strength of the
702 material to be handled by the wastewater or storm water systems
703 and may also provide that the county authority shall have the
704 right to use any streets, alleys and public ways and places within
705 the jurisdiction of a public agency or other person during the
706 term of the contract. Such contracts may obligate the public
707 agency to make payments to the county authority or to a trustee in
708 amounts which shall be sufficient to enable the county authority
709 to defray the expenses of administering, operating and maintaining
710 its respective systems, to pay interest and principal (whether at
711 maturity upon redemption or otherwise) on bonds of the county
712 authority, issued under this act and to fund reserves for debt
713 service, for operation and maintenance and for renewals and
714 replacements, to fulfill the requirements of any rate covenant
715 with respect to debt service coverage contained in any resolution,
716 trust indenture or other security agreement relating to the bonds
717 of the county authority issued under this act or to fulfill any
718 other requirement relating to bonds issued pursuant to this act.

719 (7) Subject to the provisions of Section 49-17-745(1), any
720 public agency shall have the power to enter into such contracts
721 with the county authority as in the discretion of the governing
722 body of the public agency would be in the best interest of the
723 public agency. Such contracts may include a pledge of the full
724 faith and credit of such public agency and/or the avails of any
725 special assessments made by such public agency against property
726 receiving benefits, as now or hereafter are provided by law. Any

727 such contract may provide for the sale, or lease to, or use of by
728 the county authority, of the systems or any part thereof, of the
729 public agency; and may provide that the county authority shall
730 operate its systems or any part thereof of the public agency; and
731 may provide that any public agency shall have the right to
732 continued use and/or priority use of the systems or any part
733 thereof during the useful life thereof upon payment of reasonable
734 charges therefor; and may contain provisions to assure equitable
735 treatment of persons or public agencies who contract with the
736 county authority under this act; and may contain such other
737 provisions and requirements as the parties thereto may determine
738 to be appropriate or necessary. Such contracts may extend over
739 any period of time, notwithstanding any provisions of law to the
740 contrary, and may extend beyond the life of the respective systems
741 or any part thereof or the term of the bonds sold with respect to
742 such facilities or improvements thereto.

743 (8) The obligations of a public agency arising under the
744 terms of any contract referred to in this act, whether or not
745 payable solely from a pledge of revenues, shall not be included
746 within the indebtedness limitations of the public agency for
747 purposes of any constitutional or statutory limitation or
748 provision. To the extent provided in such contract and to the
749 extent such obligations of the public agency are payable wholly or
750 in part from the revenues and other monies derived by the public
751 agency from the operation of its systems or of its combined
752 systems, or any part thereof, such obligations shall be treated as
753 expenses of operating such systems.

754 (9) Contracts referred to in this section may also provide
755 for payments in the form of contributions to defray the cost of
756 any purpose set forth in the contracts and as advances for the
757 respective systems or any part thereof subject to repayment by the
758 county authority. A public agency may make such contributions or

759 advances from its general fund or surplus fund or from special
760 assessments or from any monies legally available therefor.

761 (10) Payments made, or to be made, to the county authority
762 by a public agency or other person under a contract for any of its
763 treatment systems, or any part thereof, shall not be subject to
764 approval or review by the Mississippi Public Service Commission.

765 (11) Subject to the provisions of Section 49-17-745(1), and
766 subject to the terms of a contract or contracts referred to in
767 this act, the county authority is hereby authorized to do and
768 perform any and all acts or things necessary, convenient or
769 desirable to carry out the purposes of such contracts, including
770 the fixing, charging, collecting, maintaining and revising of
771 rates, fees and other charges for the services rendered to any
772 user of any of the systems operated or maintained by the county
773 authority, whether or not such systems are owned by the county
774 authority.

775 (12) No provision of this act shall be construed to prohibit
776 any public agency, otherwise permitted by law to issue bonds, from
777 issuing bonds in the manner provided by law for the construction,
778 renovation, repair or development of any of the county authority's
779 systems, or any part thereof, owned or operated by such public
780 agency.

781 (13) The Harrison County Utility Authority shall have all
782 powers authorized by this section and shall not be subject to the
783 approval and agreements required by subsection (1) of Section
784 49-17-745.

785 **SECTION 14.** Section 49-17-749, Mississippi Code of 1972, is
786 amended as follows:

787 49-17-749. (1) Subject to the provisions of Section
788 49-17-745(1), whenever a public agency shall have executed a
789 contract under this act and the payments thereunder are to be made
790 either wholly or partly from the revenues of the public agency's
791 systems, or any part thereof, or a combination of such systems,

792 the duty is hereby imposed on the public agency to establish and
793 maintain and from time to time to adjust the rate or fees charged
794 by the public agency for the services of such systems, so that the
795 revenues therefrom, together with any taxes and special
796 assessments levied in support thereof, will be sufficient at all
797 times to pay:

798 (a) The expense of operating and maintaining such
799 systems, including all of the public agency's obligations to the
800 county authority, its successors or assigns under such contract;
801 and

802 (b) All of the public agency's obligations under and in
803 connection with bonds theretofore issued, or which may be issued
804 thereafter and secured by the revenues of such systems. Any such
805 contract may require the use of consulting engineers and financial
806 experts to advise the public agency whether and when such rates
807 and fees are to be adjusted.

808 (13) The Harrison County Utility Authority shall have all
809 powers authorized by this section and shall not be subject to the
810 approval and agreements required by subsection (1) of Section
811 49-17-745.

812 **SECTION 15.** Section 49-17-751, Mississippi Code of 1972, is
813 amended as follows:

814 49-17-751. (1) Subject to the approval and agreement of all
815 affected utility providers or whose future activities might be
816 curtailed by the actions of the county authority and
817 notwithstanding the provisions of Sections 77-3-21 and 77-3-23,
818 Mississippi Code of 1972, the certificate of public convenience
819 and necessity held by any municipality, public agency, district,
820 public utility or other person authorized by law to provide water,
821 sewer and wastewater services may be cancelled and its powers,
822 duties and responsibilities transferred to the county authority in
823 the manner provided by this section.

824 (2) Any entity described in subsection (1) of this section
825 desiring to have its certificate of public convenience and
826 necessity cancelled and its powers, duties and responsibilities
827 transferred to the county authority shall make a determination to
828 that effect on its official minutes if a public entity, or by
829 affidavit if not a public entity, and transmit such determination
830 to the county authority.

831 (3) Upon receipt of the document evidencing such
832 determination from an entity to transfer its powers, duties and
833 responsibilities to the county authority, the county authority
834 shall, by resolution, declare whether it is willing and able to
835 accept such transfer from the entity.

836 (4) Upon completion of the requirements of subsections (2)
837 and (3) herein and agreement by both parties to the transfer, the
838 holder of the certificate of public convenience and necessity and
839 the county authority shall jointly petition the Public Service
840 Commission to cancel the certificate of public convenience and
841 necessity. The petition must be accompanied by copies of the
842 official minutes, affidavit or resolution, as the case may be,
843 reflecting the actions of the petitioners. After review of the
844 petition and any other evidence as the Public Service Commission
845 deems necessary, the commission may issue an order cancelling the
846 certificate and transferring to the county authority the powers,
847 duties and responsibilities granted by the certificate, including
848 all assets and debts of the transferor petitioner related to such
849 certificated services, real or personal, or both, if it finds
850 that:

851 (a) Subsections (2) and (3) of this section have been
852 complied with; and

853 (b) Such action is in the public interest.

854 (5) Subject to the provisions of Sections 49-17-745(1) and
855 49-17-751(1), the county authority and providers of water, sewer,
856 wastewater and storm water services that are not holders of a

857 certificate of a public convenience and necessity from the Public
858 Service Commission may enter into agreements for the provision of
859 such services, including, but not limited to, the transfer to the
860 county authority of such provider's powers, duties,
861 responsibilities, assets and debts.

862 (6) However, the powers conferred in this section to the
863 Harrison County Utility Authority shall not be subject to the
864 approval and agreement of affected utility providers in Harrison
865 County or the agreements required by Section 49-17-745(1).

866 **SECTION 16.** Section 49-17-773, Mississippi Code of 1972, is
867 amended as follows:

868 49-17-773. For the purposes of satisfying any temporary cash
869 flow demands and deficiencies, and to maintain a working balance
870 for the county authority, the county, municipalities or public
871 agencies or any local utility provider or providers, except local
872 utility providers within Harrison County within the geographic
873 boundaries of the county authority, or other persons, subject to
874 their lawful authority to do so, are authorized to advance, at any
875 time, such funds which, in its discretion, are necessary, or
876 borrow such funds by issuance of notes, for initial capital
877 contribution and to cover start-up costs until such times as
878 sufficient bonds, assets and revenues have been secured to satisfy
879 the needs of the county authority for its management, operation
880 and formation. To this end, the county, municipality, public
881 agency or person, subject to their lawful authority to do so,
882 shall advance such funds, or borrow such funds by issuance of
883 notes, under such terms and conditions as may be provided by
884 resolution of the governing body, or other persons as defined in
885 this act, subject to their lawful authority to do so, except that
886 each such resolution shall state:

- 887 (a) The need for the proceeds advanced or borrowed;
- 888 (b) The amount to be advanced or the amount to be
889 borrowed;

890 (c) The maximum principal amount of any note issued,
891 the interest rate or maximum interest rate to be incurred, and the
892 maturity date of said note;

893 (d) In addition, the governing body, or other persons
894 as defined in this act, subject to their lawful authority to do
895 so, may arrange for lines of credit with any bank, firm or person
896 for the purpose of providing an additional source of repayment for
897 notes issued pursuant to this section. Amounts drawn on a line of
898 credit may be evidenced by negotiable or nonnegotiable notes or
899 other evidences of indebtedness and contain such terms and
900 conditions as the governing body, or other persons as defined in
901 this act, subject to their lawful authority to do so, may
902 authorize in the resolution approving the same;

903 (e) The governing body of the county, municipalities or
904 other persons as defined in this act, subject to their lawful
905 authority to do so, may authorize the repayment of such advances,
906 notes, lines of credit and other debt incurred under this section,
907 along with all costs associated with the same, including, but not
908 limited to, rating agency fees, printing costs, legal fees, bank
909 or trust company fees, line of credit fees and other charges to be
910 reimbursed by the county authority under such terms and conditions
911 as are reasonable and are to be provided for by resolution of the
912 governing body, or terms agreed upon with other persons as defined
913 in this act, subject to their lawful authority to do so;

914 (f) In addition, the governing body of the county,
915 municipality or public agency may lease or donate office space and
916 equipment to the county authority under such terms and conditions
917 as are reasonable and are to be provided for by resolution of the
918 governing body, or terms agreed upon by the county authority.

919 **SECTION 17.** This act shall take effect and be in force from
920 and after its passage.