

By: Representatives Frierson, Guice,
Dedeaux, Formby

To: Conservation and Water
Resources

HOUSE BILL NO. 638
(As Passed the House)

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. The City of Lucedale, as an utility authority, may
162 only exercise its powers with respect to the incorporated
163 municipality and shall not extend its authority to George County.

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

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

172 shall appoint two (2) residents from the city. The directors
173 shall serve at the will and pleasure of the governing body making
174 the appointments. Any vacancy arising by expiration of a
175 director's term, or a vacancy created by the removal of a director
176 for any other reason, shall be filled by appointment made by the
177 party originally responsible for the appointment of the director
178 vacating his or her appointment.

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

184 (3) In addition to any other powers and rights conferred
185 upon such board of directors, the board is granted and may
186 exercise subject to agreement with affected utility providers all
187 powers and rights granted pursuant to Sections 49-17-739 through
188 49-17-773 to promote the health, welfare and prosperity of the
189 general public.

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

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

202 (2) In addition to any other powers and rights conferred
203 upon such board of directors, the board is granted and may
204 exercise, subject to agreement with affected utility providers,

205 all powers and rights granted pursuant to Sections 49-17-739
206 through 49-17-773 to promote the health, welfare and prosperity of
207 the general public.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

379 (g) To adopt an official seal and alter the same at
380 pleasure;

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

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

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

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

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

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

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

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

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

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

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

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

466 thereto. Such rates, fees, assessments and any other charges
467 shall * * * be subject to the jurisdiction of the Mississippi
468 Public Service Commission;

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

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

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

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

499 be under the control or regulation of the Mississippi Public
500 Service Commission;

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

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

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

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

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

546 (cc) Any person, except any person located within
547 Harrison County Utility Authority, aggrieved by any rates, fees,
548 assessments or other charges of a county authority or any utility
549 provider within the county may appeal to the Mississippi Public
550 Service Commission.

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

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

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

561 (b) Any entity that possesses a valid individual storm
562 water National Pollution Discharge Elimination System (NPDES)
563 permit;

564 (c) Any entity that has coverage under a general storm
565 water National Pollution Discharge Elimination System (NPDES)
566 permit; and

567 (d) Any Class II real property, as defined in Section
568 112 of the Mississippi Constitution of 1890, that is classified as
569 agriculture or forest land.

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

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

585 However, the Harrison County Utility Authority shall have the
586 power, duty and responsibility to exercise general supervision
587 over the design, construction, operation and maintenance of water,
588 wastewater and storm water systems and its powers shall not be
589 subject to the approval and agreements required by this subsection
590 (1).

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

595 (3) Subject to the provisions of Section 49-17-745(1), the
596 county authority shall adopt rules and regulations regarding the

597 use of decentralized treatment systems, individual on-site
598 wastewater treatment systems and centralized wastewater treatment
599 systems.

600 (4) Subject to the provisions of Section 49-17-745(1), the
601 county authority shall adopt rules establishing performance
602 standards for water, wastewater and storm water systems and the
603 operation and maintenance of the same. Such rules and regulations
604 shall include the implementation of a standard application form
605 for the installation, operation and maintenance of such systems;
606 application review; approval or denial procedures for any proposed
607 system; inspection, monitoring and reporting guidelines; and
608 enforcement procedures.

609 (5) (a) Subject to the provisions of Section 49-17-745(1),
610 before a building or development which requires the installation
611 of a water, wastewater or storm water system is constructed, the
612 system must be submitted to the county authority for certification
613 that the system complies with the county authority requirements
614 for such system.

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

620 (6) Subject to the provisions of Section 49-17-745(1), any
621 system of any municipality, public agency or other persons which
622 becomes connected with, or tied into, the systems of the county
623 authority shall be subject to the county authority's jurisdiction
624 and the terms of this act. Any system of any municipality, public
625 agency or other persons which is not connected with, or tied into,
626 the systems of the county authority shall not be subject to the
627 county authority's jurisdiction.

628 (7) Subject to the provisions of Section 49-17-745(1),
629 notwithstanding the provisions of Section 51-39-1 et seq., the

630 county authority shall have the full power to adopt rules and
631 regulations and to construct, maintain and operate facilities for
632 the control of storm water quality and quantity. In addition, the
633 provisions of Section 51-33-1 et seq. relating to drainage
634 districts and flood control districts do not apply to the county
635 authority.

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

645 (9) No permit shall be required by a county authority for
646 land used for agricultural purposes, including forestry activities
647 as defined in Section 95-3-29(2)(c), or for the erection,
648 maintenance, repair or extension of farm buildings or farm
649 structures, including forestry buildings and structures outside
650 the corporate limits of a municipality, except such permit may be
651 required by the Harrison County Utility Authority.

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

657 (11) The Harrison County Utility Authority shall have all
658 powers authorized by this section and shall not be subject to the
659 approval and agreements required by subsection (1) of this
660 section.

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

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

665 (b) Any entity that possesses a valid individual storm
666 water National Pollution Discharge Elimination System (NPDES)
667 permit;

668 (c) Any entity that has coverage under a general storm
669 water National Pollution Discharge Elimination System (NPDES)
670 permit; and

671 (d) Any Class II real property, as defined in Section
672 112 of the Mississippi Constitution of 1890, that is classified as
673 agriculture or forest land.

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

676 49-17-747. (1) Subject to the provisions of Section
677 49-17-745(1), any public agency or person, pursuant to a duly
678 adopted resolution of the governing body of such public agency or
679 person, may enter into contracts with the county authority or
680 county authorities under the terms of which the county authority
681 will manage, operate and contract for usage of its systems and
682 facilities, or other services, for such person or public agency.

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

695 (3) Subject to the provisions of Section 49-17-745(1), any
696 public agency is authorized to enter into operating agreements
697 with the county authority, for such terms and upon such conditions
698 as may be deemed desirable, for the operation of any of its
699 systems of any person by the county authority or by any person
700 contracting with the county authority to operate such systems.

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

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

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

726 (7) Subject to the provisions of Section 49-17-745(1), any
727 public agency shall have the power to enter into such contracts

728 with the county authority as in the discretion of the governing
729 body of the public agency would be in the best interest of the
730 public agency. Such contracts may include a pledge of the full
731 faith and credit of such public agency and/or the avails of any
732 special assessments made by such public agency against property
733 receiving benefits, as now or hereafter are provided by law. Any
734 such contract may provide for the sale, or lease to, or use of by
735 the county authority, of the systems or any part thereof, of the
736 public agency; and may provide that the county authority shall
737 operate its systems or any part thereof of the public agency; and
738 may provide that any public agency shall have the right to
739 continued use and/or priority use of the systems or any part
740 thereof during the useful life thereof upon payment of reasonable
741 charges therefor; and may contain provisions to assure equitable
742 treatment of persons or public agencies who contract with the
743 county authority under this act; and may contain such other
744 provisions and requirements as the parties thereto may determine
745 to be appropriate or necessary. Such contracts may extend over
746 any period of time, notwithstanding any provisions of law to the
747 contrary, and may extend beyond the life of the respective systems
748 or any part thereof or the term of the bonds sold with respect to
749 such facilities or improvements thereto.

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

761 (9) Contracts referred to in this section may also provide
762 for payments in the form of contributions to defray the cost of
763 any purpose set forth in the contracts and as advances for the
764 respective systems or any part thereof subject to repayment by the
765 county authority. A public agency may make such contributions or
766 advances from its general fund or surplus fund or from special
767 assessments or from any monies legally available therefor.

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

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

782 (12) No provision of this act shall be construed to prohibit
783 any public agency, otherwise permitted by law to issue bonds, from
784 issuing bonds in the manner provided by law for the construction,
785 renovation, repair or development of any of the county authority's
786 systems, or any part thereof, owned or operated by such public
787 agency.

788 (13) The Harrison County Utility Authority shall have all
789 powers authorized by this section and shall not be subject to the
790 approval and agreements required by subsection (1) of Section
791 49-17-745.

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

794 49-17-749. (1) Subject to the provisions of Section
795 49-17-745(1), whenever a public agency shall have executed a
796 contract under this act and the payments thereunder are to be made
797 either wholly or partly from the revenues of the public agency's
798 systems, or any part thereof, or a combination of such systems,
799 the duty is hereby imposed on the public agency to establish and
800 maintain and from time to time to adjust the rate or fees charged
801 by the public agency for the services of such systems, upon
802 approval by the Mississippi Public Service Commission, so that the
803 revenues therefrom, together with any taxes and special
804 assessments levied in support thereof, will be sufficient at all
805 times to pay:

806 (a) The expense of operating and maintaining such
807 systems, including all of the public agency's obligations to the
808 county authority, its successors or assigns under such contract;
809 and

810 (b) All of the public agency's obligations under and in
811 connection with bonds theretofore issued, or which may be issued
812 thereafter and secured by the revenues of such systems. Any such
813 contract may require the use of consulting engineers and financial
814 experts to advise the public agency whether and when such rates
815 and fees are to be adjusted. The adjustment of rates or fees by a
816 public agency or any utility provider within the county who has
817 contracted with a public agency, except the Harrison County
818 Utility Authority, may be implemented only upon approval by the
819 Public Service Commission.

820 (2) Any person aggrieved by any rates, fees, assessments or
821 other charges of a public agency or any utility provider within
822 the county, except the Harrison County Utility Authority, who has
823 contracted with a public agency may appeal to the Mississippi
824 Public Service Commission.

825 (3) The Harrison County Utility Authority shall have all
826 powers authorized by this section and shall not be subject to the

827 approval and agreements required by subsection (1) of Section
828 49-17-745.

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

831 49-17-751. (1) Subject to the approval and agreement of all
832 affected utility providers or whose future activities might be
833 curtailed by the actions of the county authority and
834 notwithstanding the provisions of Sections 77-3-21 and 77-3-23,
835 Mississippi Code of 1972, the certificate of public convenience
836 and necessity held by any municipality, public agency, district,
837 public utility or other person authorized by law to provide water,
838 sewer and wastewater services may be cancelled and its powers,
839 duties and responsibilities transferred to the county authority in
840 the manner provided by this section.

841 (2) Any entity described in subsection (1) of this section
842 desiring to have its certificate of public convenience and
843 necessity cancelled and its powers, duties and responsibilities
844 transferred to the county authority shall make a determination to
845 that effect on its official minutes if a public entity, or by
846 affidavit if not a public entity, and transmit such determination
847 to the county authority.

848 (3) Upon receipt of the document evidencing such
849 determination from an entity to transfer its powers, duties and
850 responsibilities to the county authority, the county authority
851 shall, by resolution, declare whether it is willing and able to
852 accept such transfer from the entity.

853 (4) Upon completion of the requirements of subsections (2)
854 and (3) herein and agreement by both parties to the transfer, the
855 holder of the certificate of public convenience and necessity and
856 the county authority shall jointly petition the Public Service
857 Commission to cancel the certificate of public convenience and
858 necessity. The petition must be accompanied by copies of the
859 official minutes, affidavit or resolution, as the case may be,

860 reflecting the actions of the petitioners. After review of the
861 petition and any other evidence as the Public Service Commission
862 deems necessary, the commission may issue an order cancelling the
863 certificate and transferring to the county authority the powers,
864 duties and responsibilities granted by the certificate, including
865 all assets and debts of the transferor petitioner related to such
866 certificated services, real or personal, or both, if it finds
867 that:

868 (a) Subsections (2) and (3) of this section have been
869 complied with; and

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

871 (5) Subject to the provisions of Sections 49-17-745(1) and
872 49-17-751(1), the county authority and providers of water, sewer,
873 wastewater and storm water services that are not holders of a
874 certificate of a public convenience and necessity from the Public
875 Service Commission may enter into agreements for the provision of
876 such services, including, but not limited to, the transfer to the
877 county authority of such provider's powers, duties,
878 responsibilities, assets and debts.

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

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

885 49-17-773. For the purposes of satisfying any temporary cash
886 flow demands and deficiencies, and to maintain a working balance
887 for the county authority, the county, municipalities or public
888 agencies or any local utility provider or providers, except local
889 utility providers within Harrison County within the geographic
890 boundaries of the county authority, or other persons, subject to
891 their lawful authority to do so, are authorized to advance, at any
892 time, such funds which, in its discretion, are necessary, or

893 borrow such funds by issuance of notes, for initial capital
894 contribution and to cover start-up costs until such times as
895 sufficient bonds, assets and revenues have been secured to satisfy
896 the needs of the county authority for its management, operation
897 and formation. To this end, the county, municipality, public
898 agency or person, subject to their lawful authority to do so,
899 shall advance such funds, or borrow such funds by issuance of
900 notes, under such terms and conditions as may be provided by
901 resolution of the governing body, or other persons as defined in
902 this act, subject to their lawful authority to do so, except that
903 each such resolution shall state:

904 (a) The need for the proceeds advanced or borrowed;

905 (b) The amount to be advanced or the amount to be
906 borrowed;

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

910 (d) In addition, the governing body, or other persons
911 as defined in this act, subject to their lawful authority to do
912 so, may arrange for lines of credit with any bank, firm or person
913 for the purpose of providing an additional source of repayment for
914 notes issued pursuant to this section. Amounts drawn on a line of
915 credit may be evidenced by negotiable or nonnegotiable notes or
916 other evidences of indebtedness and contain such terms and
917 conditions as the governing body, or other persons as defined in
918 this act, subject to their lawful authority to do so, may
919 authorize in the resolution approving the same;

920 (e) The governing body of the county, municipalities or
921 other persons as defined in this act, subject to their lawful
922 authority to do so, may authorize the repayment of such advances,
923 notes, lines of credit and other debt incurred under this section,
924 along with all costs associated with the same, including, but not
925 limited to, rating agency fees, printing costs, legal fees, bank

926 or trust company fees, line of credit fees and other charges to be
927 reimbursed by the county authority under such terms and conditions
928 as are reasonable and are to be provided for by resolution of the
929 governing body, or terms agreed upon with other persons as defined
930 in this act, subject to their lawful authority to do so;

931 (f) In addition, the governing body of the county,
932 municipality or public agency may lease or donate office space and
933 equipment to the county authority under such terms and conditions
934 as are reasonable and are to be provided for by resolution of the
935 governing body, or terms agreed upon by the county authority.

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