

By: Representatives Smith (59th), Moore,
Rogers (61st), Baker (74th), Weathersby

To: Local and Private
Legislation; Ways and Means

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 1822

1 AN ACT TO AMEND CHAPTER 977, LOCAL AND PRIVATE LAWS OF 1994,
2 AS LAST AMENDED BY CHAPTER 903, LOCAL AND PRIVATE LAWS OF 2005, TO
3 PROVIDE THAT THE BOUNDARIES OF THE WEST RANKIN UTILITY AUTHORITY
4 SHALL ENCOMPASS ALL OF RANKIN COUNTY; TO AUTHORIZE THE AUTHORITY
5 TO REQUEST THAT THE BOARD OF SUPERVISORS OF RANKIN COUNTY OR ANY
6 PUBLIC ENTITY UTILIZE EMINENT DOMAIN ON BEHALF OF THE AUTHORITY;
7 TO ELIMINATE THE NECESSITY FOR PUBLIC HEARINGS BEFORE EACH MEMBER
8 ENTITY OF THE AUTHORITY BEFORE THE ISSUANCE OF ANY BONDS BY THE
9 AUTHORITY; TO REVISE THE PROCEDURE TO INITIATE THE ISSUANCE OF
10 BONDS BY THE AUTHORITY; AND FOR RELATED PURPOSES.

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

12 **SECTION 1.** Chapter 977, Local and Private Laws of 1994, as
13 amended by Chapter 987, Local and Private Laws of 2000, as amended
14 by Chapter 1004, Local and Private Laws of 2004, as amended by
15 Chapter 903, Local and Private Laws of 2005, is amended as
16 follows:

17 Section 1. This act is for the purpose of authorizing a
18 cooperative effort by the member agencies and any and all public
19 agencies situated in whole or in part within Rankin County,
20 including any existing municipality and other eligible
21 municipalities or public agencies, for the acquisition,
22 construction and operation of one or more systems for the
23 collection, transportation, treatment and disposal of wastewater;
24 for the treatment and distribution of potable water; and for the
25 collection, transportation and disposal of nonhazardous solid
26 waste; all of the foregoing, including sewerage systems, sewage
27 disposal systems, waterworks and water supply systems, solid waste
28 collection, transportation and disposal systems, in order to
29 ensure an adequate supply of water for domestic, commercial and
30 industrial use and to prevent and control the pollution of the
31 lands and waters in this state by the creation of a West Rankin

32 Utility Authority. This act may be cited as the "West Rankin
33 Utility Authority Act."

34 Section 2. Words and phrases used in this act shall have
35 meanings as follows:

36 (a) "Act" means the West Rankin Utility Authority Act,
37 as amended from time to time.

38 (b) "Authority" means the West Rankin Utility
39 Authority.

40 (c) "Board of directors" means the board of directors
41 of the authority.

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

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

47 (i) All costs of site preparation and other
48 start-up costs;

49 (ii) All costs of construction;

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

58 (iv) All costs of engineering, geotechnical,
59 architectural and legal services;

60 (v) All costs of plans and specifications and all
61 expenses necessary or incident to determining the feasibility or
62 practicability of the project;

63 (vi) Administrative expenses; and

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

66 (f) "Ditch" means any branch or lateral drain, tile
67 drain, levee, sluiceway, watercourse, floodgate and any other
68 construction work fund necessary for the reclamation of wet and
69 overflowed lands.

70 (g) "Facilities" means any structure, building, ditch,
71 pipe, channel, improvement, land or other real or personal
72 property used or useful in a system under this act.

73 (h) "Member agencies" means the members of the
74 authority which include the City of Brandon, the City of Flowood,
75 the City of Pearl, the City of Richland, the Pearl River Valley
76 Water Supply District, the Jackson Municipal Airport Authority,
77 the Mississippi Department of Mental Health and any public agency
78 which is located in whole or in part within Rankin County and
79 elects to become a constituent member of the West Rankin Utility
80 Authority upon its organization or which subsequently elects to
81 become a member of the West Rankin Utility Authority and which is
82 admitted to the authority by affirmative vote of the board of
83 directors of such authority, in accordance with the provisions of
84 Section 3(2) of this act.

85 (i) "Metropolitan area" means any area served by a
86 member agency.

87 * * *

88 (j) "Metropolitan area plan" means a comprehensive plan
89 for a sewage disposal system, water distribution system and solid
90 waste transportation, collection and disposal system within the
91 metropolitan area, consistent with standards established pursuant
92 to applicable federal and state law.

93 (k) "Metropolitan authority" means the authority.

94 (l) "Municipality" means any incorporated city or town
95 of the State of Mississippi, whether operating under general law

96 or under special charter, lying wholly or partly within the
97 metropolitan area.

98 (m) "Person" means and includes the State of
99 Mississippi, a municipality as defined herein, any public agency
100 as defined herein or any other city, town or political subdivision
101 or governmental agency of the State of Mississippi or of the
102 United States of America, or any private utility, individual,
103 copartnership, association, firm, trust, estate or any other
104 entity whatsoever.

105 (n) The terms "pollution" and "waters of the state"
106 shall have meanings as set forth in the Mississippi Air and Water
107 Pollution Control Law, as now or hereafter amended, appearing as
108 Sections 49-17-1 through 49-17-70, Mississippi Code of 1972.

109 (o) "Public agency" means any * * * municipality
110 (including the City of Brandon, the City of Flowood, the City of
111 Richland and the City of Pearl), lying wholly or partially within
112 Rankin County, the Jackson Municipal Airport Authority, the
113 Mississippi Department of Mental Health, the Pearl River Valley
114 Water Supply District, and any public utility district created
115 pursuant to Sections 19-5-151 through 19-5-257, Mississippi Code
116 of 1972, or any other state board or commission of the State of
117 Mississippi lying wholly or partially within Rankin County and
118 having the power to own and operate waterworks, water supply
119 systems, sewerage systems, treatment facilities, sewage disposal
120 systems, solid waste disposal or other facilities or systems for
121 the collection, transportation, treatment and disposal of waste.

122 (p) "Sewerage system" means pipelines or conduits,
123 canals, pumping stations and force mains, and all other
124 structures, devices, facilities and appliances appurtenant
125 thereto, used for collecting or conducting waste to an ultimate
126 point for treatment or disposal.

127 (q) "System" means any or all of the following:
128 sewerage system, waste disposal system and water supply system and

129 all vehicles, structures, devices, facilities and appliances used
130 for treatment or distribution of potable water or for collecting
131 or conducting waste, solid waste or sewage to an ultimate point
132 for treatment or disposal.

133 (r) "Treatment facilities" means any plant, disposal
134 field, lagoon, pumping station, constructing drainage ditch or
135 surface water intercepting ditch, canal, incinerator, area devoted
136 to sanitary landfills or other works not specifically mentioned
137 herein, installed for the purpose of treating, neutralizing,
138 stabilizing or disposing of wastewater, sludge or solid waste or
139 facilities to provide cooling water to collect, control and
140 dispose of waste heat.

141 (s) "Waste" means sewage, solid waste, industrial
142 waste, municipal waste, recreational waste and agricultural waste,
143 waste heat and any other waste that may cause impairment of the
144 quality of the waters in the state.

145 (t) "Waste disposal system" means a system for
146 disposing of waste, including, but not limited to, sewerage
147 systems and treatment facilities, and solid waste disposal
148 facilities, as such terms are defined herein.

149 (u) "Water supply system" means waterworks, pipelines,
150 conduits, pumping stations and all other structures, devices and
151 appliances appurtenant thereto, including land and right-of-way
152 thereto, for use for transporting water to a point of ultimate
153 use.

154 (v) "Waterworks" means all works, plants or other
155 facilities necessary for the purpose of collecting, storing,
156 treating and transporting water for domestic, municipal,
157 commercial, industrial, agricultural and manufacturing purposes,
158 including open channels.

159 Words of the masculine gender shall be deemed and construed
160 to include correlative words of the feminine and neuter genders.
161 Unless the context shall otherwise indicate, words and terms

162 herein defined shall be equally applicable to the plural as well
163 as the singular form of any such words and terms.

164 Section 3. (1) * * * The metropolitan authority shall have
165 the power to sue and be sued, provided that the metropolitan
166 authority shall not be liable and shall be immune from suit at law
167 or in equity on account of any wrongful or tortious act or
168 omission, including libel, slander or defamation, by it, or any
169 such act or omission by any employee of the metropolitan
170 authority, subject to and in accordance with the provisions of
171 Sections 11-46-1 through 11-46-19, Mississippi Code of 1972.

172 (2) If at any time any public agency within the metropolitan
173 area * * * shall elect to become a member agency of the
174 metropolitan authority by a majority vote of the governing body of
175 such public agency, such public agency may be admitted as a member
176 agency of the metropolitan authority, upon the approval by a
177 three-fifths (3/5) affirmative vote of the total membership of the
178 board of directors of the metropolitan authority and by a
179 concurrent affirmative vote of directors representing sixty
180 percent (60%) of the total payments for use of the system of the
181 metropolitan authority during the preceding fiscal year.

182 Section 4. All powers of the metropolitan authority shall be
183 exercised by a board of directors to be selected and composed as
184 follows: The governing body of each member agency shall appoint
185 one (1) person to serve on the board of directors of the
186 metropolitan authority, each such director to serve at the
187 pleasure of the respective governing body.

188 The board of directors of the metropolitan authority shall
189 annually elect from its number a president and vice president of
190 the metropolitan authority and such other officers as, in the
191 judgment of the board, are necessary. The president shall be the
192 chief executive officer of the metropolitan authority and the
193 presiding officer of the board, and shall have the same right to
194 vote as any other director. The vice president shall perform all

195 duties and exercise all powers conferred by this act upon the
196 president when the president is absent or fails or declines to
197 act, except the president's right to vote. The board shall also
198 appoint a secretary and a treasurer who may or may not be members
199 of the board, and it may combine those officers. The treasurer
200 shall give bond in the sum of not less than Fifty Thousand Dollars
201 (\$50,000.00) as set by the board of directors, and each director
202 may be required to give bond in the sum of not less than Ten
203 Thousand Dollars (\$10,000.00), with sureties qualified to do
204 business in this state, and the premiums on the bonds shall be an
205 expense of the metropolitan authority. Each such bond shall be
206 payable to the State of Mississippi; the condition of each such
207 bond shall be that the treasurer or director will faithfully
208 perform all duties of his office and account for all money or
209 other assets which shall come into his custody as treasurer or
210 director of the metropolitan authority.

211 Except for the election or appointment of officers, all
212 business of the metropolitan authority shall be transacted by a
213 three-fifths (3/5) affirmative vote of the total membership of the
214 board of directors and, if the authority shall own or operate a
215 system, by a concurrent vote of directors representing sixty
216 percent (60%) of the total payments for use of the system of the
217 metropolitan authority during the preceding fiscal year. The
218 quorum for any meeting of the board of directors shall be
219 three-fifths (3/5) of the total membership of the board of
220 directors and, if the authority shall own or operate a system, the
221 presence of directors representing more than sixty percent (60%)
222 of the total payments for use of the system of the metropolitan
223 authority during the preceding fiscal year. Upon admission of a
224 new member agency, the authority and the new member agency are
225 each authorized to enter into agreements with the other setting
226 out the responsibilities and obligations of both the authority and

227 the member agency and setting forth the terms and conditions of
228 the business to be conducted between them.

229 Section 5. The metropolitan authority is authorized and
230 empowered to acquire, construct, improve, enlarge, extend, repair,
231 operate and maintain one or more systems and to make contracts
232 with any person in furtherance thereof; and to make contracts with
233 any public agency, under the terms of which the metropolitan
234 authority will collect, transport, treat and dispose of
235 wastewater; treat and distribute potable water; and collect,
236 transport and dispose of nonhazardous solid waste. The
237 metropolitan authority may also enter into contracts with any
238 person to design and construct any system, and thereafter
239 purchase, lease or sell, by installments over such terms as may be
240 deemed desirable, or otherwise, any such system. The metropolitan
241 authority is also authorized to enter into operating agreements
242 with any person, for such terms and upon such conditions as may be
243 deemed desirable, for the operation of any facilities or systems;
244 and the metropolitan authority may lease to or from any person,
245 for such term and upon such conditions as may be deemed desirable,
246 any facilities or systems. Any such contract may contain
247 provisions requiring any public agency or other person to regulate
248 the quality of water and the quality and strength of waste to be
249 handled by the system and may also provide that the metropolitan
250 authority shall have the right to use any streets, alleys and
251 public ways and places within the jurisdiction of a public agency
252 during the term of the contract. Any provision of this act to the
253 contrary notwithstanding, the metropolitan authority shall not
254 become the owner of any existing sewage disposal system unless all
255 municipalities or other public agencies currently utilizing such
256 system or any portion thereof * * * are offered access to such
257 sewage disposal system * * *. * * *

258 Section 6. The metropolitan authority, through its board of
259 directors, in addition to any and all powers now or hereafter
260 granted to it, is hereby empowered:

261 (a) To develop and maintain long-range planning for
262 collection treatment and distribution of water and for the
263 collection, transportation, treatment and disposal of waste and
264 for pollution abatement.

265 (b) To adopt and issue a certificate of convenience and
266 necessity to use the power of eminent domain, including the right
267 of immediate possession, in the acquisition of real property.
268 Upon the adoption of a certificate of convenience and necessity,
269 which shall state the description of the real property needed to
270 be acquired by eminent domain, the authority shall transmit a copy
271 of the certificate to the Board of Supervisors of Rankin County,
272 the governing authorities of any public entity with the power of
273 eminent domain or any other entity with the power of eminent
274 domain. The board or entities may initiate proceedings under the
275 provisions of Title 11, Chapter 27, Mississippi Code of 1972, on
276 behalf of the authority to carry out the purposes set forth in the
277 certificate. The eminent domain proceeding thereby initiated
278 shall be conducted according to and governed by the provisions of
279 Title 11, Chapter 27, Mississippi Code of 1972.

280 (c) To acquire and to own, maintain, use, operate and
281 convey or otherwise dispose of any and all property of any kind,
282 real, personal or mixed, or any interest therein within or without
283 the boundaries of its designated metropolitan area necessary or
284 convenient to the exercise of the purposes of and the powers
285 granted by Section 21-27-7 and Sections 21-27-161 through
286 21-27-191, Mississippi Code of 1972, as amended, unless any of the
287 foregoing is otherwise prohibited under the State Constitution or
288 this act. The amount and character of interest in land, other
289 property, and easements thus to be acquired shall be determined by
290 the board of directors, and their determination shall be

291 conclusive and shall not be subject to attack in the absence of
292 manifold abuse of discretion or fraud on the part of such board in
293 making such determination. However,

294 (i) In acquiring lands, the metropolitan authority
295 shall not acquire minerals or royalties; provided that sand and
296 gravel shall not be considered as minerals within the meaning of
297 this section; and

298 (ii) No person or persons owning the drilling
299 rights or the right to share in production shall be prevented from
300 exploring, developing or producing oil or gas with necessary
301 rights-of-way for ingress and egress, pipelines and other means of
302 transporting interests on any land or interest thereon of the
303 metropolitan authority held or used for the purposes of this act;
304 but any such activities shall be under such reasonable regulations
305 by the board of directors as will adequately protect the systems
306 of the metropolitan authority contemplated by this act.

307 (d) To provide for the necessary relocation or
308 rerouting of roads and highways, railroad, telephone and telegraph
309 lines and properties, electric power lines, gas pipe lines and
310 related facilities, or to require the anchoring or other
311 protection of any of these, provided due compensation is first
312 paid to the owners thereof or agreement is had with such owners
313 regarding the payment of the cost of such relocation, and to
314 acquire easements or rights-of-way for such relocation or
315 rerouting and to convey the same to the owners of the property
316 being relocated or rerouted in connection with the purpose of this
317 act.

318 (e) To enter into contracts with any public agency,
319 including, but not limited to, contracts authorized by Section 7
320 of this act, in furtherance of any of the purposes authorized by
321 this act upon such consideration as the board of directors and
322 such public agency may agree. Any such contract may extend over
323 any period of time, notwithstanding any provision or rule of law

324 to the contrary, may be upon such terms as the parties thereto
325 shall agree, and may provide that it shall continue in effect
326 until bonds specified therein, refunding bonds issued in lieu of
327 such bonds, and all other obligations specified therein are paid
328 or terminated. Any such contract shall be binding upon the
329 parties thereto according to its terms.

330 (f) To make and enforce, and from time to time amend
331 and repeal, bylaws and rules and regulations for the management of
332 its business and affairs and for the construction, use,
333 maintenance and operation of any systems under its management and
334 control and any other of its properties.

335 (g) To employ staff and other personnel, including
336 attorneys, engineers and consultants. The board of directors may,
337 in its discretion, employ a general manager having the authority
338 to employ and fire employees of the metropolitan authority.

339 (h) To accept and utilize grants and other funds from
340 any source for systems.

341 (i) To establish and maintain rates and charges for the
342 use of the services of such systems, and from time to time to
343 adjust such rates, to the end that the revenues therefrom will be
344 sufficient at all times to pay the expenses of operating and
345 maintaining such systems and all of the metropolitan authority's
346 obligations under any contract or bond resolution with respect
347 thereto.

348 (j) To adopt rules and regulations necessary to carry
349 out the implementation of the metropolitan area plan and to assure
350 the payment by each participating public agency of its
351 proportionate share of system costs.

352 (k) To refuse to receive waste from any public agency
353 or subdivision thereof that does not comply with the provisions of
354 the metropolitan area plan applicable to the particular area
355 within which such public agency or subdivision thereof is located.

356 (l) To accept industrial waste for treatment and to
357 require the pretreatment of same when in the opinion of the
358 metropolitan authority such pretreatment is necessary.

359 (m) To adopt all necessary and reasonable rules and
360 regulations to carry out and effectuate any water supply, waste
361 treatment or waste disposal plan adopted for the metropolitan
362 area, as contractually authorized.

363 (n) So long as any indebtedness on any sewerage system,
364 treatment facilities and sewage disposal system of the
365 metropolitan authority remains outstanding, to require by contract
366 with a public agency or other person that all waste within the
367 metropolitan area be disposed of through sewerage systems,
368 treatment facilities and sewage disposal systems which comprise a
369 part of the metropolitan area plan, to the extent that the same
370 may be available, but no public agency shall be precluded from
371 constructing, operating and maintaining its own sewerage system
372 after the current indebtedness owing on the system as of the
373 effective date of this act is paid in full.

374 Section 7. (1) Any public agency may, pursuant to a duly
375 adopted resolution of the governing authority of such public
376 agency, enter into contracts with the metropolitan authority under
377 the terms of which the metropolitan authority will collect, * * *
378 transport, treat and dispose of wastewater, treat and distribute
379 potable water; and collect, transport and dispose of nonhazardous
380 solid waste. Any public agency may also, pursuant to a duly
381 adopted resolution of the governing authority of such public
382 agency, enter into contracts with the metropolitan authority under
383 the terms of which the metropolitan authority will collect, store,
384 treat and distribute water for such public agency. Any public
385 agency may also enter into contracts with the metropolitan
386 authority for the metropolitan authority to purchase or sell, by
387 installments over such terms as may be deemed desirable, or
388 otherwise, any waterworks, water supply systems, waste collection,

389 transportation, sewage disposal or treatment facilities or
390 systems. Any public agency is also authorized to enter into
391 operating agreements with the metropolitan authority, for such
392 terms and upon such conditions as may be deemed desirable, for the
393 operation of waterworks, water supply systems, waste collection,
394 transportation, sewage disposal or treatment facilities or systems
395 by the metropolitan authority or by any person contracting with
396 the metropolitan authority to operate such systems; and any public
397 agency may lease to or from the metropolitan authority, for such
398 term and upon such conditions as may be deemed desirable, any
399 waterworks, water supply systems, waste collection,
400 transportation, treatment or sewage disposal or treatment
401 facilities or systems. Any such contract may contain provisions
402 requiring any public agency to regulate the quality of water and
403 the quality and strength of waste to be handled by the sewage
404 disposal system and may also provide that the metropolitan
405 authority shall have the right to use any streets, alleys and
406 public ways and places within the jurisdiction of a public agency
407 during the term of the contract for any of its systems. Such
408 contracts may obligate the public agency to make payments to the
409 metropolitan authority or to a trustee in amounts which shall be
410 sufficient to enable the metropolitan authority to defray the
411 expenses of administering, operating and maintaining its
412 waterworks, water supply system and sewage disposal system and
413 other systems, to pay interest and principal (whether at maturity
414 upon redemption or otherwise) on bonds of the metropolitan
415 authority issued pursuant to this act and to fund reserves for
416 debt service, for operation and maintenance and for renewals and
417 replacements, and to fulfill the requirements of any rate covenant
418 with respect to debt service coverage contained in any resolution,
419 trust indenture or other security agreement relating to the bonds
420 of the metropolitan authority issued pursuant to this act. Any
421 public agency shall have the power to enter into such contracts

422 with the metropolitan authority as in the discretion of the
423 governing authorities thereof would be in the best interest of
424 such public agency. Such contracts may include a pledge of the
425 full faith and credit of such public agency and/or the avails of
426 any special assessments made by such public agency against
427 property receiving benefits, as now or hereafter provided by law.
428 Any such contract may provide for the sale or lease to or use of
429 by the metropolitan authority of any system or any part thereof of
430 the public agency; may provide that such metropolitan authority
431 shall operate any system or any part thereof of the public agency;
432 may provide that any public agency shall have the right to
433 continued use and/or priority use of any of its system or any part
434 thereof during the useful life thereof upon payment of reasonable
435 charges therefor; may contain provisions to assure equitable
436 treatment of public agencies who contract with the metropolitan
437 authority pursuant to this act; and may contain such other
438 provisions and requirements as the parties thereto may determine
439 to be appropriate or necessary. Such contracts may extend over
440 any period of time, notwithstanding any provisions of law to the
441 contrary, and may extend beyond the life of the system or any part
442 thereof or the term of any bonds sold with respect to such
443 facilities or improvements thereto.

444 (2) The obligations of a public agency arising under the
445 terms of any contract referred to in this act, whether or not
446 payable solely from a pledge of revenues, shall not be included
447 within the indebtedness limitations of the public agency for
448 purposes of any constitutional or statutory limitation or
449 provision. To the extent provided in such contract and to the
450 extent such obligations of the public agency are payable wholly or
451 in part from the revenues and other monies derived by the public
452 agency from the operation of its system or any part thereof, such
453 obligations shall be treated as expenses of operating such system.

454 (3) Contracts referred to in this section may also provide
455 for payments in the form of contributions to defray the cost of
456 any purpose set forth in the contracts and as advances for the
457 system or any part thereof subject to repayment by the
458 metropolitan authority. A public agency may make such
459 contributions or advances from its general fund or surplus fund or
460 from special assessments or from any monies legally available
461 therefor.

462 (4) Payments made or to be made to the metropolitan
463 authority by a public agency pursuant to a contract for a system
464 or any part thereof shall not be subject to approval or review by
465 the Mississippi Public Service Commission.

466 (5) Subject to the terms of a contract or contracts referred
467 to in this act, the metropolitan authority is hereby authorized to
468 do and perform any and all acts or things necessary, convenient or
469 desirable to carry out the purposes of such contracts, including
470 the fixing, charging, collecting, maintaining and revising of
471 rates, fees and other charges for the services rendered by any
472 system operated or maintained by the metropolitan authority,
473 whether or not such system is owned by the metropolitan authority.

474 (6) No provision of this act shall be construed to prohibit
475 any public agency, otherwise permitted by law to issue bonds, from
476 issuing bonds in the manner provided by law for the construction,
477 renovation, repair or development of a system or any part thereof
478 owned or operated by such public agency.

479 Section 8. Whenever a public agency shall have executed a
480 contract pursuant to this act and the payments thereunder are to
481 be made either wholly or partly from the revenues of a system, of
482 a public agency or any part thereof or a combination of such
483 systems, the duty is hereby imposed on the public agency to
484 establish and maintain and from time to time to adjust the rates
485 charged by the public agency for the services of such system or
486 systems, such that the revenues therefrom together with any taxes

487 and special assessments levied in support thereof will be
488 sufficient at all times to pay: (a) the expense of operating and
489 maintaining such system or systems, including all of the public
490 agency's obligations to the metropolitan authority, its successors
491 or assigns under such contract; and (b) all of the public agency's
492 obligations under and in connection with revenue bonds theretofore
493 issued, or which may be issued thereafter and secured by the
494 revenues of such system or systems. Any such contract may require
495 the use of consulting engineers and financial experts to advise
496 the public agency whether and when such rates are to be adjusted.

497 Section 9. (1) The metropolitan authority shall have the
498 power and is hereby authorized, from time to time, to borrow money
499 and to issue revenue bonds in such principal amounts as the
500 metropolitan authority may determine to be necessary to provide
501 sufficient funds for achieving one or more of the purposes of this
502 act, including, without limiting the generality of the foregoing,
503 to defray all the costs of the project, the cost of the
504 acquisition, construction, improvement, repair or extension of a
505 system, or any part thereof, whether or not such facilities are
506 owned by the metropolitan authority, the payment of interest on
507 bonds of the metropolitan authority issued pursuant to this act,
508 establishment of reserves to secure such bonds and payment of the
509 interest thereon, expenses incident to the issuance of such bonds
510 and to the implementation of the metropolitan authority's system,
511 and all other expenditures of the metropolitan authority incident
512 to or necessary or convenient to carry out the purposes of this
513 act.

514 (2) Before issuing bonds (other than interim notes or
515 refunding bonds as provided in Section 10 of this act) hereunder,
516 the board of directors of the metropolitan authority shall first
517 hold a public hearing * * * with due notice of the time, date and
518 place of the hearing published in a newspaper of general
519 circulation in the metropolitan area. The board of directors

520 shall adopt a resolution declaring its intention to issue such
521 bonds and stating the maximum principal amount of bonds proposed
522 to be issued, a general generic description of the proposed
523 improvements and the proposed location thereof, and the date, time
524 and place at which the board of directors proposes to take further
525 action with respect to the issuance of such bonds. The board of
526 directors shall then cause the resolution of intent to * * * be
527 published once a week for at least three (3) consecutive weeks in
528 at least one (1) newspaper having a general circulation within the
529 metropolitan area. The first publication of such resolution shall
530 be made not less than twenty-one (21) days before the date fixed
531 in such resolution to direct the issuance of the bonds and the
532 last publication shall be made not more than seven (7) days before
533 such date.

534 * * *

535 (3) Following the public hearing, bonds of the metropolitan
536 authority may be issued pursuant to this act * * * payable from
537 and secured by a pledge of all or any part of the revenues under
538 one or more contracts entered into pursuant to this act between
539 the metropolitan authority and one or more of its member public
540 agencies and from all or any part of the revenues derived from the
541 operation of any designated system or any part or parts thereof
542 and any other monies legally available and designated therefor, as
543 may be determined by the metropolitan authority, subject only to
544 any agreement with the purchasers of the bonds. Such bonds may be
545 further secured by a trust indenture between the metropolitan
546 authority and a corporate trustee, which may be any trust company
547 or bank having powers of a trust company without or within the
548 state.

549 (4) Bonds of the metropolitan authority issued pursuant to
550 this act shall be authorized by a resolution or resolutions
551 adopted by a three-fifths (3/5) affirmative vote of the total
552 membership of the board of directors of the metropolitan authority

553 and by a concurrent affirmative vote of directors representing
554 sixty percent (60%) of the total payments for use of the system of
555 the metropolitan authority during the preceding fiscal year. Such
556 bonds may be issued in series, and each series of such bonds shall
557 bear such date or dates, mature at such time or times, bear
558 interest at such rate or rates (not exceeding the maximum rate set
559 out in Section 75-17-103, Mississippi Code of 1972, as amended),
560 be in such denomination or denominations, be in such form, carry
561 such conversion privileges, have such rank or priority, be
562 executed in such manner and by such officers, be payable from such
563 sources in such medium of payment at such place or places within
564 or without the state, provided that one such place shall be within
565 the state, and be subject to such terms of redemption prior to
566 maturity, all as may be provided by resolution or resolutions of
567 the board of directors.

568 (5) Bonds of the metropolitan authority issued pursuant to
569 this act may be sold at such price or prices, at public or private
570 sale, in such manner and at such times as may be determined by the
571 metropolitan authority to be in the public interest, and the
572 metropolitan authority may pay all expenses, premiums, fees and
573 commissions which it may deem necessary and advantageous in
574 connection with the issuance and sale thereof.

575 (6) Any pledge of earnings, revenues or other monies made by
576 the metropolitan authority shall be valid and binding from the
577 time the pledge is made. The earnings, revenues or other monies
578 so pledged and thereafter received by the metropolitan authority
579 shall immediately be subject to the lien of such pledge without
580 any physical delivery thereof or further act, and the lien of any
581 such pledge shall be valid and binding as against all parties
582 having claims of any kind in tort, contract or otherwise against
583 such metropolitan authority irrespective of whether such parties
584 have notice thereof. Neither the resolution nor any other
585 instrument by which a pledge is created need be recorded.

586 (7) Neither the members of the board of directors nor any
587 person executing the bonds shall be personally liable on the bonds
588 or be subject to any personal liability or accountability by
589 reason of the issuance thereof.

590 (8) Proceeds from the sale of bonds of the metropolitan
591 authority may be invested, pending their use, in such securities
592 as may be specified in the resolution authorizing the issuance of
593 the bonds or the trust indenture securing them, and the earnings
594 on such investments applied as provided in such resolution or
595 trust indenture.

596 (9) Whenever any bonds shall have been signed by the
597 officer(s) designated by the resolution of the board of directors
598 to sign the bonds who were in office at the time of such signing
599 but who may have ceased to be such officer(s) prior to the sale
600 and delivery of such bonds, or who may not have been in office on
601 the date such bonds may bear, the manual or facsimile signatures
602 of such officer(s) upon such bonds shall nevertheless be valid and
603 sufficient for all purposes and have the same effect as if the
604 person so officially executing such bonds had remained in office
605 until the delivery of the same to the purchaser or had been in
606 office on the date such bonds may bear.

607 Section 10. The metropolitan authority may by resolution
608 adopted by its board of directors issue refunding bonds for the
609 purpose of paying any of its bonds at or prior to maturity or upon
610 acceleration or redemption. Refunding bonds may be issued at such
611 time prior to the maturity or redemption of the refunded bonds as
612 the board of directors deems to be in the public interest, without
613 an election on the question of the issuance thereof. The
614 refunding bonds may be issued in sufficient amounts to pay or
615 provide the principal of the bonds being refunded, together with
616 any redemption premium thereon, any interest accrued or to accrue
617 to the date of payment of such bonds, the expenses of issue of the
618 refunding bonds, the expenses of redeeming the bonds being

619 refunded, and such reserves for debt service or other capital or
620 current expenses from the proceeds of such refunding bonds as may
621 be required by the resolution, trust indenture or other security
622 instruments. The issue of refunding bonds, the maturities and
623 other details thereof, the security therefor, the rights of the
624 holders and the rights, duties and obligations of the metropolitan
625 authority in respect of the same shall be governed by the
626 provisions of this act relating to the issue of bonds other than
627 refunding bonds insofar as the same may be applicable. Any such
628 refunding may be effected, whether the obligations to be refunded
629 shall have then matured or shall thereafter mature, either by the
630 exchange of the refunding bonds for the obligations to be refunded
631 thereby with the consent of the holders of the obligations so to
632 be refunded, or by sale of the refunding bonds and the application
633 of the proceeds thereof to the payment of the obligations proposed
634 to be refunded thereby, and regardless of whether the obligations
635 proposed to be refunded shall be payable on the same date or
636 different dates or shall be due serially or otherwise.

637 Section 11. All bonds (other than refunding bonds, interim
638 notes and certificates of indebtedness, which may be validated)
639 issued pursuant to this act shall be validated as now provided by
640 law in Sections 31-13-1 through 31-13-11, Mississippi Code of
641 1972, as amended from time to time; however, notice of such
642 validation proceedings shall be addressed to the citizens of the
643 State of Mississippi and the citizens of the respective member
644 public agencies (a) which have contracted with the metropolitan
645 authority pursuant to this act, and (b) whose contracts and the
646 payments to be made by the public agencies thereunder constitute
647 security for the bonds of the metropolitan authority proposed to
648 be issued, and that such notice shall be published at least once
649 in a newspaper * * * having a general circulation within the
650 metropolitan area. Such validation proceedings shall be
651 instituted in the Chancery Court of Rankin County. The validity

652 of the bonds so validated and of the contracts and payments to be
653 made by the public agencies thereunder constituting security for
654 the bonds shall be forever conclusive against the metropolitan
655 authority and the public agencies which are parties to said
656 contracts; and the validity of said bonds and said contracts and
657 the payments to be made thereunder shall never be called in
658 question in any court in this state.

659 Section 12. Bonds issued under the provisions of this act
660 shall not be deemed to constitute, within the meaning of any
661 constitutional or statutory limitation, an indebtedness of the
662 metropolitan authority or any member agency thereof. Such bonds
663 shall not be secured by a pledge of the full faith and credit of
664 the State of Mississippi, the metropolitan authority or any member
665 agency thereof, but shall be payable solely from the revenues or
666 assets of the metropolitan authority pledged therefor. Each bond
667 issued under this act shall contain on the face thereof a
668 statement to the effect that the metropolitan authority shall not
669 be obligated to pay the same nor the interest thereon except from
670 the revenues or assets pledged therefor.

671 Section 13. The metropolitan authority shall have power in
672 connection with the issuance of its bonds to:

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

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

677 (c) Covenant to charge rates, fees and charges
678 sufficient to meet operating and maintenance expenses, renewals
679 and replacements, principal and debt service on bonds, creation
680 and maintenance of any reserves required by a bond resolution,
681 trust indenture or other security instrument and to provide for
682 any margins or coverages over and above debt service on the bonds
683 deemed desirable for the marketability of the bonds.

684 (d) Covenant and prescribe as to events of default and
685 terms and conditions upon which any or all of its bonds shall
686 become or may be declared due before maturity, as to the terms and
687 conditions upon which such declaration and its consequences may be
688 waived and as to the consequences of default and the remedies of
689 the registered owners of the bonds.

690 (e) Covenant as to the mortgage or pledge of or the
691 grant of a security interest in any real or personal property and
692 all or any part of the revenues from any designated system or any
693 part thereof or any revenue-producing contract or contracts made
694 by the metropolitan authority with any person to secure the
695 payment of bonds, subject to such agreements with the registered
696 owners of bonds as may then exist.

697 (f) Covenant as to the custody, collection, securing,
698 investment and payment of any revenues, assets, monies, funds or
699 property with respect to which the metropolitan authority may have
700 any rights or interest.

701 (g) Covenant as to the purposes to which the proceeds
702 from the sale of any bonds then or thereafter to be issued may be
703 applied, and the pledge of such proceeds to secure the payment of
704 the bonds.

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

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

710 (j) Covenant as to the procedure by which the terms of
711 any contract with or for the benefit of the registered owners of
712 bonds may be amended or abrogated, the amount of bonds the
713 registered owners of which must consent thereto, and the manner in
714 which such consent may be given.

715 (k) Covenant as to the custody of any of its properties
716 or investments, the safekeeping thereof, the insurance to be

717 carried thereon, and the use and disposition of insurance
718 proceeds.

719 (l) Covenant as to the vesting in a trustee or
720 trustees, within or outside the state, of such properties, rights,
721 powers and duties in trust as the metropolitan authority may
722 determine.

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

726 (n) Make all other covenants and to do any and all such
727 acts and things as may be necessary or convenient or desirable in
728 order to secure its bonds, or in the absolute discretion of the
729 metropolitan authority tend to make the bonds more marketable,
730 notwithstanding that such covenants, acts or things may not be
731 enumerated herein; it being the intention hereof to give the
732 metropolitan authority power to do all things in the issuance of
733 bonds and in the provisions for security thereof which are not
734 inconsistent with the Constitution of the state.

735 (o) Execute all instruments necessary or convenient in
736 the exercise of the powers herein granted or in the performance of
737 covenants or duties, which may contain such covenants and
738 provisions, as any purchaser of the bonds of the metropolitan
739 authority may reasonably require.

740 Section 14. The metropolitan authority may, in any
741 authorizing resolution of the board of directors, trust indenture
742 or other security instrument relating to its bonds, provide for
743 the appointment of a trustee who shall have such powers as are
744 provided therein to represent the registered owners of any issue
745 of bonds in the enforcement or protection of their rights under
746 any such resolution, trust indenture or security instrument. The
747 metropolitan authority may also provide in such resolution, trust
748 indenture or other security instrument that the trustee, or in the
749 event that the trustee so appointed shall fail or decline to so

750 protect and enforce such registered owners' rights then such
751 percentage of registered owners as shall be set forth in, and
752 subject to the provisions of, such resolution, trust indenture or
753 other security interest, may petition the court of proper
754 jurisdiction for the appointment of a receiver of the waterworks,
755 water supply system or sewage disposal system the revenues of
756 which are pledged to the payment of the principal of and interest
757 on the bonds of such registered owners. Such receiver may
758 exercise any power as may be granted in any such resolution, trust
759 indenture or security instrument to enter upon and take possession
760 of, acquire, construct or reconstruct or operate and maintain such
761 system fix charges for services of the system and enforce
762 collection thereof, and receive all revenues derived from such
763 system or facilities and perform the public duties and carry out
764 the contracts and obligations of the metropolitan authority in the
765 same manner as the metropolitan authority itself might do, all
766 under the direction of such court.

767 Section 15. (1) The exercise of the powers granted by this
768 act will be in all respects for the benefit of the people of the
769 state, for their well-being and prosperity and for the improvement
770 of their social and economic conditions, and the metropolitan
771 authority shall not be required to pay any tax or assessment on
772 any property owned by the metropolitan authority under the
773 provisions of this act or upon the income therefrom; nor shall any
774 metropolitan authority be required to pay any recording fee or
775 transfer tax of any kind on account of instruments recorded by it
776 or on its behalf.

777 (2) Any bonds issued by the metropolitan authority under the
778 provisions of this act, their transfer and the income therefrom
779 shall at all times be free from taxation by the state or any local
780 unit or political subdivision or other instrumentality of the
781 state, excepting inheritance and gift taxes.

782 Section 16. All bonds issued under the provisions of this
783 act shall be legal investments for trustees, other fiduciaries,
784 savings banks, trust companies and insurance companies organized
785 under the laws of the State of Mississippi; and such bonds shall
786 be legal securities which may be deposited with and shall be
787 received by all public officers and bodies of the state and all
788 municipalities and other political subdivisions thereof for the
789 purpose of securing the deposit of public funds.

790 Section 17. The state hereby covenants with the registered
791 owners of any bonds of the metropolitan authority that so long as
792 the bonds are outstanding and unpaid the state will not limit or
793 alter the rights and powers of the metropolitan authority under
794 this act to conduct the activities referred to herein in any way
795 pertinent to the interests of the bondholders, including, without
796 limitation, the metropolitan authority's right to charge and
797 collect rates, fees and charges and to fulfill the terms of any
798 covenants made with the registered owners of the bonds, or in any
799 other way impair the rights and remedies of the registered owners
800 of the bonds, unless provision for full payment of such bonds, by
801 escrow or otherwise, has been made pursuant to the terms of the
802 bonds or the resolution, trust indenture or security interest
803 securing the bonds.

804 Section 18. The provisions of this act are cumulative of
805 other statutes now or hereafter enacted relating to the issuance
806 of bonds and systems; and to the design, construction, acquisition
807 or approval of facilities for such purposes, and any public agency
808 may exercise all presently held powers in the furtherance of this
809 act.

810 Section 19. If any clause, sentence, paragraph, section or
811 part of the provisions of this act shall be adjudged by any court
812 of competent jurisdiction to be invalid, such judgment shall not
813 affect, impair or invalidate the remainder thereof directly

814 involved in the controversy in which such judgment shall have been
815 rendered.

816 **SECTION 2.** This act shall take effect and be in force from
817 and after its passage.