

Senate Amendments to House Bill No. 1772

TO THE CLERK OF THE HOUSE:

THIS IS TO INFORM YOU THAT THE SENATE HAS ADOPTED THE AMENDMENTS SET OUT BELOW:

AMENDMENT NO. 1

Amend by striking all after the enacting clause and inserting in lieu thereof the following:

14 **SECTION 1.** The purpose of this act is to create the St.
15 Catherine Creek Utility Authority for the purpose of providing
16 solid waste, storm water, water and wastewater systems for
17 economic development activities within Adams County. The act
18 provides for a cooperative effort by an area situated within Adams
19 County, Mississippi, including the areas situated within the
20 corporate boundaries of any existing municipality and other
21 eligible municipalities, public agencies and political
22 subdivisions, for the acquisition, construction, operation of a
23 user funded solid waste, storm water, water or wastewater systems,
24 in order to prevent and control the pollution of the waters in
25 this state by the creation of the St. Catherine Creek Utility
26 Authority. This act may be cited as the "St. Catherine Creek
27 Utility Authority Act."

28 **SECTION 2.** As used in this act:

29 (a) "Authority" means the St. Catherine Creek Utility
30 Authority created under this act.

31 (b) "Board of directors" means the Board of Directors
32 of the St. Catherine Creek Utility Authority.

33 (c) "Facilities" mean any structure, building, ditch,
34 pipe, channel, improvement, land, or other real or personal
35 property used or useful in water system, wastewater system or
36 combination of systems under this act.

37 (d) "Fiscal year" means the period of time beginning on
38 October 1 of each year and ending on September 30 of each year.

39 (e) "Governing body" means the elected or duly
40 appointed officials constituting the governing body of a
41 municipality or county.

42 (f) "Municipality" means any incorporated city, town or
43 village in this state.

44 (g) "Person" means the State of Mississippi, a
45 municipality, any public agency or any other city, town, village,
46 or political subdivision or governmental agency of the State of
47 Mississippi or of the United States of America, or any private
48 utility, individual, copartnership, association, firm, trust,
49 estate or any other entity whatsoever.

50 (h) "Project" means the construction, development or
51 acquisition by the authority of Adams County of any infrastructure
52 for economic development, including industrial, commercial and
53 residential development; the construction and operation of water
54 or wastewater systems or services and includes upgrading or repair
55 of existing systems.

56 (i) "Public agency" means any municipality, county,
57 political subdivision, governmental authority or unit, public
58 institution of higher learning, community college authority,
59 planning and development authority, drainage authority or any body
60 politic and corporate or governmental agency created under the
61 laws of this state.

62 (j) "Solid waste" means any garbage, refuse, sludge
63 from a waste treatment plant, water supply treatment plant or air
64 pollution control facility and other discarded material, including
65 solid, liquid, semisolid or contained gaseous material resulting
66 from industrial, commercial, mining and agricultural operations,
67 and from community activities, but does not include solid or
68 dissolved material in domestic sewage, or solid or dissolved
69 materials in irrigation return flows or industrial discharges
70 which are point sources subject to permits under Section 402 of
71 the Federal Water Pollution Control Act, as amended (86 Stat.
72 880), or source, special nuclear or by-product material as defined
73 by the Atomic Energy Act of 1954.

74 (k) "State" means the State of Mississippi.

75 (l) "System" or "systems" means any plants, structures,
76 facilities and other real and personal property, used or useful in
77 the generation, storage, transportation or supply of solid waste,
78 water, and the collection, transportation, treatment or disposal
79 of wastewater and storm water, including, but not limited to,
80 tanks, reservoirs, lakes, streams, ponds, pipes, trunk lines,
81 mains, sewers, conduits, pipelines, pumping and ventilating
82 stations, plants and works, connections and any other real and
83 personal property and rights therein necessary, useful or
84 convenient for the purposes of the authority in connection
85 therewith.

86 (m) "Wastewater" means water being disposed of by any
87 person and which is contaminated with waste or sewage, including
88 industrial, municipal and any other wastewater that may cause
89 impairment of the quality of the waters in the state.

90 (n) "Water" means potable water, surface water and
91 groundwater.

92 (o) "Water supply system" means pipelines, conduits,
93 pumping stations and all other structures, devices and appliances
94 appurtenant thereto, including land and right-of-way thereto, for
95 use for transporting water to a point of ultimate use.

96 (p) "Waterworks" means all works, plants or other
97 facilities necessary for the purpose of collecting, storing,
98 treating and transporting water for domestic, municipal,
99 commercial, industrial, agricultural and manufacturing purposes,
100 including open channels.

101 (q) "Unit of local government" means any county or
102 municipality of the state.

103 **SECTION 3.** There is hereby created and established a public
104 body corporate and politic constituting a political subdivision of
105 the State of Mississippi to be known as the St. Catherine Creek
106 Utility Authority. The authority is composed of the geographic
107 area of Adams County for the purpose of acquiring property for
108 economic development and for the planning, acquisition,

109 construction, maintenance, operation and coordination of solid
110 waste, storm water, water and wastewater systems in order to
111 ensure the delivery of solid waste, storm water, water and
112 wastewater services to citizens residing within the boundaries of
113 Adams County. The St. Catherine Creek Utility Authority shall be
114 deemed to be acting in all respects for the benefit of the people
115 of the state in the performance of essential public functions, and
116 the St. Catherine Creek Utility Authority shall be empowered in
117 accordance with the provisions of this act to promote the health,
118 welfare and prosperity of the general public.

119 **SECTION 4.** (1) All powers of the St. Catherine Creek
120 Utility Authority shall be exercised by a board of directors
121 comprised of five (5) directors who shall be appointed by the
122 Board of Supervisors of Adams County. The directors shall serve
123 at the will and pleasure of the board of supervisors.

124 (2) The board of directors shall elect annually from its
125 number a president and a vice president of the authority and such
126 other officers as in the judgment of the board are necessary. The
127 president shall be the chief executive officer of the authority
128 and the presiding officer of the board, and shall have the same
129 right to vote as any other director. The vice president shall
130 perform all duties and exercise all powers conferred by this act
131 upon the president when the president is absent, fails or declines
132 to act, except the president's right to vote. The board shall
133 appoint a secretary and a treasurer who may or may not be members
134 of the board, and it may combine these offices. The treasurer
135 shall give bond in the sum of not less than One Hundred Thousand
136 Dollars (\$100,000.00) as set by the board of directors, and each
137 director may be required to give bond in the sum of not less than
138 Twenty-five Thousand Dollars (\$25,000.00), with sureties qualified
139 to do business in this state, and the premiums on said bond shall
140 be an expense of such authority. Each such bond shall be payable
141 to the State of Mississippi and the condition of each such bond
142 shall be that the treasurer and director will faithfully perform
143 all duties of his office and account for all money and other

144 assets which shall come into his or her custody as treasurer or
145 member of the board of directors.

146 (3) The members of the board of directors shall serve
147 without salary, but shall be entitled to receive per diem as
148 provided for in Section 25-3-69, Mississippi Code of 1972.
149 Members of the board of directors shall be reimbursed their actual
150 travel and hotel expenses as provided in Section 25-3-41,
151 Mississippi Code of 1972, incurred while in the performance of
152 their duties as members of the board of directors, to be paid on
153 an itemized statement. Expenses shall be paid from available
154 funds of the authority.

155 (4) All business of the authority shall be transacted by a
156 majority affirmative vote of the total membership of the board of
157 directors. The quorum for any meeting of the board of directors
158 shall be a majority of the total membership of the board of
159 directors.

160 (5) Regular meetings of the board shall be held as set forth
161 in its bylaws for management of the authority's business and
162 affairs. Additional meetings of the board shall be held at the
163 call of the chairman or whenever a majority of commissioners so
164 request.

165 **SECTION 5.** (1) The authority shall have the following
166 powers, in addition to any other powers granted under any other
167 provision of law:

168 (a) To acquire, construct, improve, enlarge, extend,
169 repair, operate and maintain one or more of its systems used for
170 the collection, transportation, treatment and disposal of solid
171 waste, storm water, water, and wastewater.

172 (b) To make contracts with any person in furtherance of
173 its purposes and make contracts with any person, under the terms
174 of which the authority will collect, transport, treat or dispose
175 of solid waste, storm water, water and wastewater for such person.

176 (c) To make contracts with any person to design and
177 construct any solid waste, storm water, water and wastewater
178 systems or facilities, and thereafter to purchase, lease or sell,

179 by installments over such terms as may be deemed desirable,
180 reasonable and necessary, or otherwise, any such system or
181 systems.

182 (d) To enter into operating agreements with any person,
183 for such terms and upon such conditions as may be deemed
184 desirable, for the operation of any solid waste, storm water,
185 water and wastewater systems and to lease to or from any person,
186 for such term and upon such conditions as may be deemed desirable,
187 any solid waste, storm water, water and wastewater collection,
188 transportation, treatment or other facilities or systems. Any
189 such contract may contain provisions requiring any public agency
190 or other person to regulate the quality and strength of materials
191 to be handled by the respective system or systems and also may
192 provide that the authority shall have the right to use any
193 streets, alleys and public ways and places within the jurisdiction
194 of a public agency or other person during the term of the
195 contract.

196 (e) To enter into contracts with any person or any
197 public agency, including, but not limited to, contracts authorized
198 by this act, in furtherance of any of the purposes authorized
199 under this act upon such consideration as the board of directors
200 and such person may agree. Any such contract may extend over any
201 period of time, notwithstanding any provision or rule of law to
202 the contrary, may be upon such terms and for such consideration,
203 nominal or otherwise, as the parties thereto shall agree and may
204 provide that it shall continue in effect until bonds specified
205 therein, refunding bonds issued in lieu of such bonds and all
206 other obligations specified therein are paid or terminated. Any
207 such contract shall be binding upon the parties thereto according
208 to its terms.

209 (f) To adopt an official seal and alter the same at its
210 pleasure.

211 (g) To sue and be sued, in its own name, and to enjoy
212 all of the protections, immunities and benefits provided by the

213 Mississippi Tort Claims Act as it may be amended or supplemented
214 from time to time.

215 (h) To maintain office space at such place or places
216 within the authority boundaries as it may determine.

217 (i) To invest money of the authority, including
218 proceeds from the sale of any bonds subject to any agreements with
219 bondholders, on such terms and in such manner as the authority
220 deems proper.

221 (j) To require the necessary relocation or rerouting of
222 roads and highways, railroads, telephone and telegraph lines, and
223 properties, electric power lines, gas pipelines and related
224 facilities, or to require the anchoring or other protection of any
225 of these, provided fair compensation is first paid to the owners
226 or an agreement with such owners regarding the payment of the cost
227 of such relocation, and to acquire easements or rights-of-way for
228 such relocation or rerouting and to convey the same to the owners
229 of the property being relocated or rerouted in connection with the
230 purposes of this act.

231 (k) To acquire, construct, improve or modify, to
232 operate or cause to be operated and maintained, either as owner of
233 all or of any part in common with others, any solid waste, storm
234 water, water or wastewater system within the authority's service
235 area. The authority may pay all or part of the cost of any system
236 from any contribution by persons, firms, public agencies or
237 corporations. The authority may receive, accept and use all
238 funds, public or private, and pay all costs of the development,
239 implementation and maintenance as may be determined as necessary
240 for any project.

241 (l) To acquire, in its own name, by purchase on any
242 terms and conditions and in any manner as it may deem proper,
243 except by eminent domain, property for public use, or by gift,
244 grant, lease, or otherwise, real property or easements therein,
245 franchises and personal property necessary or convenient for its
246 corporate purposes.

247 (m) To acquire, in its own name, by purchase on any
248 terms and conditions and in any manner as it may deem proper,
249 except eminent domain, property for the economic development of
250 the county, or by gift, grant, lease, or otherwise, real property
251 or easements therein and may lease or manage such property for the
252 economic development of the county and personal property necessary
253 or convenient for the economical development of the county.

254 (n) To acquire insurance for the authority's systems,
255 facilities, buildings, treatment plants and all property, real or
256 personal, to insure against all risks as any insurance may, from
257 time to time, be available.

258 (o) To use any property and rent or lease any property
259 to or from others, including public agencies, or make contracts
260 for the use of the property. The authority may sell, lease,
261 exchange, transfer, assign, pledge, mortgage or grant a security
262 interest for any property. The powers to acquire, use and dispose
263 of property as set forth in this paragraph shall include the power
264 to acquire, use and dispose of any interest in that property,
265 whether divided or undivided. Title to any property of the
266 authority shall be held by the authority exclusively for the
267 benefit of the public.

268 (p) To apply, contract for, accept, receive and
269 administer gifts, grants, appropriations and donations of money,
270 materials, and property of any kind, including loans and grants
271 from the United States, the state, a unit of local government, or
272 any agency, department, district or instrumentality of any of the
273 foregoing, upon any terms and conditions as the United States, the
274 state, a unit of local government, or any agency, department,
275 district or instrumentality shall impose. The authority may
276 administer trusts. The authority may sell, lease, transfer,
277 convey, appropriate and pledge any and all of its property and
278 assets.

279 (q) To make and enforce, and from time to time, amend
280 and repeal bylaws, rules, ordinances and regulations for the
281 management of its business and affairs and for the construction,

282 use, maintenance and operation of any of the systems under its
283 management and control.

284 (r) To employ and terminate staff and other personnel,
285 including attorneys, engineers and consultants as may be necessary
286 to the functioning of the authority. The board of directors, in
287 its discretion, may employ an executive director having the
288 authority to employ and fire employees and other duties as
289 determined by the board of directors.

290 (s) To establish and maintain rates, fees, assessments
291 and any other charges for services and the use of systems and
292 facilities within the control of the authority, and from time to
293 time, to adjust such rates, fees, assessments and any other
294 charges to the end that the revenues therefrom will be sufficient
295 at all times to pay the expenses of operating and maintaining of
296 the facilities and treatment systems and all of the obligations
297 under any contract or bond resolutions with respect thereto or any
298 obligation of any person under any agreement, contract, indenture
299 or bond resolutions with respect thereto; however, nothing in this
300 act shall authorize the levy of any type of impact fee. Such
301 rates, fees, assessments and any other charges shall not be
302 subject to the jurisdiction of the Mississippi Public Service
303 Commission.

304 (t) To adopt rules and regulations necessary to
305 accomplish the purposes of the authority and to assure the payment
306 of each participating person or public agency of its proportionate
307 share of the costs for use of any of the systems.

308 (u) To enter on public or private lands, waters or
309 premises for the purpose of making surveys, borings or soundings,
310 or conducting tests, examinations or inspections for the purposes
311 of the district, subject to responsibility for any damage done to
312 property entered.

313 (v) To accept industrial wastewater from within the
314 boundaries of the authority for treatment and to require the
315 pretreatment of same when, in the opinion of the authority, such
316 pretreatment is necessary.

317 (w) To control and operate local retail solid waste,
318 storm water, water and wastewater services and may provide or be
319 responsible for direct servicing of those services to residences,
320 businesses and individuals; however, the authority shall not
321 provide the same services in an area provided by a public utility
322 or person holding a certificate of public convenience and
323 necessity issued by the Mississippi Public Service Commission for
324 the provision of such services in the certificated area, except in
325 industrial areas. Any rates, fees, assessments or other charges
326 shall not be under the control or regulation of the Mississippi
327 Public Service Commission.

328 (x) To assume control and administer, within the
329 authority's jurisdiction, any solid waste, storm water, water or
330 wastewater system or systems by agreement and/or contract with any
331 person providing that such services are requested by such person
332 to be relieved of that responsibility. However, the person may
333 maintain control over connections in their service areas and may
334 charge rates, fees and any other charges in addition to the rates,
335 fees and any charges of the authority.

336 (y) To use any legally available funds to acquire,
337 rebuild, operate and maintain any existing water or wastewater
338 systems owned or operated by any person.

339 (z) To refuse to receive wastewater from any public
340 agency or person.

341 (aa) So long as any indebtedness on the property or
342 systems of the authority remains outstanding, to require by
343 contract with a public agency, or other person, that all solid
344 waste, storm water, water and wastewater within the boundaries of
345 the respective authority be disposed of through the appropriate
346 treatment system to the extent that the same may be available.

347 (2) For the purposes of this act, the following shall be
348 exempt from payment of fees or assessments authorized by the
349 authority for a storm water system or storm water facilities:

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

352 (b) Any entity that possesses a valid individual storm
353 water National Pollution Discharge Elimination System (NPDES)
354 permit;

355 (c) Any entity that has coverage under a general storm
356 water National Pollution Discharge Elimination System (NPDES)
357 permit; and

358 (d) Any Class II real property, as defined in Section
359 112, Mississippi Constitution of 1890, that is classified as
360 agriculture or forest land.

361 **SECTION 6.** (1) The authority shall have the power, duty and
362 responsibility to exercise general supervision over the design,
363 construction, operation and maintenance of solid waste, storm
364 water, water and wastewater systems.

365 (2) The authority may adopt rules and regulations regarding
366 the design, construction or installation, operation and
367 maintenance of solid waste, storm water, water and wastewater
368 systems.

369 (3) The authority may adopt rules establishing a standard
370 application form for the installation, operation and maintenance
371 of water and wastewater systems, application review, approval or
372 denial procedures for any proposed system, inspection, monitoring
373 and reporting guidelines and enforcement procedures.

374 (4) Any system of any municipality, public agency or other
375 persons which becomes connected with, or tied into, the systems of
376 the authority, shall be subject to the authority's jurisdiction
377 and the terms of this act.

378 (5) The authority shall approve all solid waste, storm
379 water, water and wastewater systems prior to approval or renewal
380 of any permit issued by the appropriate state agency or staff.

381 (6) Notwithstanding the provisions of Section 51-39-1 et
382 seq., Mississippi Code of 1972, the authority shall have the full
383 power to adopt rules and regulations and to construct, maintain
384 and operate facilities for the control of storm water quality and
385 quantity. In addition, the provisions of Section 51-33-1 et seq.,

386 Mississippi Code of 1972, relating to drainage districts and flood
387 control districts do not apply to the authority.

388 **SECTION 7.** (1) Any public agency or person, pursuant to a
389 duly adopted resolution of the governing body of such public
390 agency or person, may enter into contracts with the authority
391 under the terms of which the authority will manage, operate and
392 contract for usage of its systems and facilities, or other
393 services, for such person or public agency.

394 (2) Any public agency or person may enter into contracts
395 with the authority for the authority to purchase or sell, by
396 installments over such terms as may be deemed desirable, or
397 otherwise, to any person or any systems. Any public agency may
398 sell, donate, convey, or otherwise dispose of solid waste, storm
399 water, water and wastewater facilities or systems, or any
400 equipment, personal property or any other things, deemed necessary
401 for the construction, operation, and maintenance to the authority
402 without the necessity of appraisal, advertising or bidding. This
403 section creates an alternative method of disposal of public
404 property.

405 (3) Any public agency is authorized to enter into operating
406 agreements with the authority, for such terms and upon such
407 conditions as may be deemed desirable, for the operation of any of
408 its property or systems of any person by the authority or by any
409 person contracting with the authority to operate such systems.

410 (4) Any public agency may lease property or systems to or
411 from the authority for such term and upon such conditions as may
412 be deemed desirable.

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

415 (6) Any such contract may contain provisions requiring any
416 public agency or other person to regulate the quality and strength
417 of the material to be handled by the wastewater systems and may
418 also provide that the authority shall have the right to use any
419 streets, alleys and public ways and places within the jurisdiction
420 of a public agency or other person during the term of the

421 contract. Such contracts may obligate the public agency to make
422 payments to the authority or to a trustee in amounts which shall
423 be sufficient to enable the authority to defray the expenses of
424 administering, operating and maintaining its respective systems,
425 to pay interest and principal (whether at maturity upon redemption
426 or otherwise) on bonds of the authority issued under this act and
427 to fund reserves for debt service, for operation and maintenance
428 and for renewals and replacements, to fulfill the requirements of
429 any rate covenant with respect to debt service coverage contained
430 in any resolution, trust indenture or other security agreement
431 relating to the bonds of the authority issued under this act or to
432 fulfill any other requirement relating to bonds issued pursuant to
433 this act.

434 (7) Any public agency shall have the power to enter into
435 such contracts with the authority as in the discretion of the
436 governing body of the public agency would be in the best interest
437 of the public agency. Such contracts may include a pledge of the
438 full faith and credit of such public agency and/or the avails of
439 any special assessments made by such public agency against
440 property receiving benefits, as now or hereafter are provided by
441 law. Any such contract may provide for the sale, or lease to, or
442 use of by the authority of the systems, or any part thereof, of
443 the public agency; and may provide that the authority shall
444 operate its systems or any part thereof of the public agency; and
445 may provide that any public agency shall have the right to
446 continued use and/or priority use of the systems or any part
447 thereof during the useful life thereof upon payment of reasonable
448 charges therefor; and may contain provisions to assure equitable
449 treatment of persons or public agencies who contract with the
450 authority under this act; and may contain such other provisions
451 and requirements as the parties thereto may determine to be
452 appropriate or necessary. Such contracts may extend over any
453 period of time, notwithstanding any provisions of law to the
454 contrary, and may extend beyond the life of the respective

455 systems, or any part thereof, or the term of the bonds sold with
456 respect to such facilities or improvements thereto.

457 (8) The obligations of a public agency arising under the
458 terms of any contract referred to in this act, whether or not
459 payable solely from a pledge of revenues, shall not be included
460 within the indebtedness limitations of the public agency for
461 purposes of any constitutional or statutory limitation or
462 provision. To the extent provided in such contract and to the
463 extent such obligations of the public agency are payable wholly or
464 in part from the revenues and other monies derived by the public
465 agency from the operation of its systems or of its combined
466 systems, or any part thereof, such obligations shall be treated as
467 expenses of operating such systems.

468 (9) Contracts referred to in this section may also provide
469 for payments in the form of contributions to defray the cost of
470 any purpose set forth in the contracts and as advances for the
471 respective systems or any part thereof subject to repayment by the
472 authority. A public agency may make such contributions or
473 advances from its general fund or surplus fund or from special
474 assessments or from any monies legally available therefor.

475 (10) Payments made, or to be made, to the authority by a
476 public agency or other person under a contract for any of its
477 treatment systems, or any property thereof, shall not be subject
478 to approval or review by the Mississippi Public Service
479 Commission.

480 (11) Subject to the terms of a contract or contracts
481 referred to in this act, the authority is hereby authorized to do
482 and perform any and all acts or things necessary, convenient or
483 desirable to carry out the purposes of such contracts, including
484 the fixing, charging, collecting, maintaining and revising of
485 rates, fees, assessments and other charges for the services
486 rendered to any user of any of the properties or systems operated
487 or maintained by the authority, whether or not such systems are
488 owned by the authority.

489 (12) Any public agency in the county having the right of
490 eminent domain may agree to use its respective eminent domain
491 powers for the benefit of the authority and at the cost of the
492 authority as set forth hereinafter in this subsection (12) to
493 acquire such property, easements, rights-of-way and other property
494 interests as may be required and requested by the board of
495 directors.

496 The authority may reimburse or pay all costs, including
497 professional fees, along with damages awarded in connection with
498 the exercise of such eminent domain power to the entity which has
499 agreed to exercise its eminent domain powers under the terms of
500 this act.

501 The amount and character of interest in land, other property,
502 and easements thus to be acquired shall be determined by the board
503 of directors, and their determination shall be conclusive and
504 shall not be subject to attack in the absence of manifold abuse of
505 discretion or fraud on the part of such board in making such
506 determination, however:

507 (a) In acquiring lands, either by negotiation or
508 eminent domain through action of the public agency, the authority
509 shall not acquire mineral rights or royalties, provided that sand
510 and gravel shall not be considered as minerals within the meaning
511 of this section;

512 (b) No person or persons owning the drilling rights or
513 the right to share in production shall be prevented from
514 exploring, developing or producing oil or gas with necessary
515 rights-of-way for ingress and egress, pipelines and other means of
516 transporting such interests on any land or interest thereon of the
517 authority held or used for the purposes of this act, but any such
518 activities shall be subject to and secondary to such reasonable
519 regulations by the board of directors as will adequately protect
520 the systems of the authority contemplated by this act; and

521 (c) In acquiring lands, either by negotiation or
522 eminent domain through action of the public agency, the authority
523 shall acquire only any interest or rights in such facilities,

524 components and systems which are part of the authority's plan
525 implemented by the authority.

526 (13) No provision of this act shall be construed to prohibit
527 any public agency, otherwise permitted by law to issue bonds, from
528 issuing bonds in the manner provided by law for the construction,
529 renovation, repair or development of any of the authority's
530 systems, or any part thereof, owned or operated by such public
531 agency.

532 **SECTION 8.** Whenever a public agency shall have executed a
533 contract under this act and the payments thereunder are to be made
534 either wholly or partly from the revenues of the public agency's
535 systems, or any part thereof, or a combination of such systems,
536 the duty is hereby imposed on the public agency to establish and
537 maintain and from time to time to adjust the rate or fees charged
538 by the public agency for the services of such systems, so that the
539 revenues therefrom, together with any taxes and special
540 assessments levied in support thereof, will be sufficient at all
541 times to pay: (a) the expense of operating and maintaining such
542 properties or systems, including all of the public agency's
543 obligations to the authority, its successors or assigns under such
544 contract; and (b) all of the public agency's obligations under and
545 in connection with bonds theretofore issued, or which may be
546 issued thereafter and secured by the revenues of such systems.
547 Any such contract may require the use of consulting engineers and
548 financial experts to advise the public agency whether and when
549 such rates and fees are to be adjusted.

550 **SECTION 9.** (1) Notwithstanding the provisions of Sections
551 77-3-21 and 77-3-23, Mississippi Code of 1972, the certificate of
552 public convenience and necessity held by any municipality, public
553 agency, district, public utility or other person authorized by law
554 to provide water, sewer and wastewater services may be canceled
555 and its powers, duties and responsibilities transferred to the
556 authority in the manner provided by this section.

557 (2) Any entity described in subsection (1) of this section
558 desiring to have its certificate of public convenience and

559 necessity canceled and its powers, duties and responsibilities
560 transferred to the authority shall make a determination to that
561 effect on its official minutes if a public entity, or by affidavit
562 if not a public entity, and transmit such determination to the
563 authority.

564 (3) Upon receipt of the document evidencing such
565 determination from an entity to transfer its powers, duties and
566 responsibilities to the authority, the authority shall by
567 resolution declare whether it is willing and able to accept such
568 transfer from the entity.

569 (4) Upon completion of the requirements of subsections (2)
570 and (3) herein and agreement by both parties to the transfer, the
571 holder of the certificate of public convenience and necessity and
572 the authority shall jointly petition the Public Service Commission
573 to cancel the certificate of public convenience and necessity.
574 The petition must be accompanied by copies of the official
575 minutes, affidavit or resolution, as the case may be, reflecting
576 the actions of the petitioners. After review of the petition and
577 any other evidence as the Public Service Commission deems
578 necessary, the commission may issue an order canceling the
579 certificate and transferring to the authority the powers, duties
580 and responsibilities granted by the certificate, including all
581 assets and debts of the transferor petitioner related to such
582 certificated services, real or personal, or both, if it finds
583 that:

584 (a) Subsections (2) and (3) of this section have been
585 complied with; and

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

587 (5) The authority and providers of water, sewer, or
588 wastewater services that are not holders of a certificate of a
589 public convenience and necessity from the Public Service
590 Commission may enter into agreements for the provision of such
591 services, including, but not limited to, the transfer to the
592 authority of such provider's powers, duties, responsibilities,
593 assets and debts.

594 **SECTION 10.** (1) Any system of a municipality, public agency
595 or person that becomes subject to the jurisdiction of the
596 authority and this act shall not impair, invalidate or abrogate
597 any liens, bonds or other certificates of indebtedness related to
598 water, storm water or wastewater facilities and systems incurred
599 prior to becoming subject to the jurisdiction of the authority.

600 (2) The authority may do and perform any and all acts
601 necessary, convenient or desirable to ensure the payment,
602 redemption or satisfaction of such liens, bonds or other
603 certificates of indebtedness.

604 **SECTION 11.** (1) Sections 11 through 20 of this act apply to
605 all bonds to be issued after the effective date of this act and
606 such provisions shall not affect, limit or alter the rights and
607 powers of any authority under this act or any law of Mississippi
608 to conduct the activities referred to herein in any way pertinent
609 to the interests of the bondholders, including, without
610 limitation, such authority's right to charge and collect rates,
611 fees and charges and to fulfill the terms of any covenants made
612 with the registered owners of any existing bonds, or in any other
613 way impair the rights and remedies of the registered owners of any
614 existing bonds, unless provision for full payment of such bonds,
615 by escrow or otherwise, has been made pursuant to the terms of the
616 bonds or the resolution, trust indenture or security interest
617 securing the bonds.

618 (2) The authority shall have the power and is hereby
619 authorized, from time to time, to borrow money and to issue
620 revenue bonds and interim notes in such principal amounts as the
621 authority may determine to be necessary to provide sufficient
622 funds for achieving one or more of the purposes of this act,
623 including, without limiting the generality of the foregoing, to
624 defray all the costs of the project, the cost of the acquisition,
625 construction, improvement, repair or extension of a system, or any
626 part thereof, whether or not such facilities are owned by the
627 authority, the payment of interest on bonds of the authority
628 issued pursuant to this act, establishment of reserves to secure

629 such bonds and payment of the interest thereon, expenses incident
630 to the issuance of such bonds and to the implementation of the
631 authority's system, and all other expenditures of the authority
632 incident to or necessary or convenient to carry out the purposes
633 of this act.

634 (3) Before issuing bonds, other than interim notes or
635 refunding bonds as provided in Section 12 of this act, the board
636 of directors of the authority shall adopt a resolution declaring
637 its intention to issue such bonds and stating the maximum
638 principal amount of bonds proposed to be issued, a general generic
639 description of the proposed improvements and the proposed location
640 thereof and the date, time and place at which the board of
641 directors proposes to take further action with respect to the
642 issuance of such bonds. The resolution of the authority shall be
643 published once a week for at least three (3) consecutive weeks in
644 at least one (1) newspaper having a general circulation within the
645 geographical limits of all of the public agencies which have
646 contracted with the authority pursuant to this act.

647 (4) Bonds of the authority issued pursuant to this act shall
648 be payable from and secured by a pledge of all or any part of the
649 revenues under one or more contracts entered into pursuant to this
650 act between the authority and one or more of its contracting
651 public agencies and from all or any part of the revenues derived
652 from the operation of any designated system or any part or parts
653 thereof and any other monies legally available and designated
654 therefor, as may be determined by such authority, subject only to
655 any agreement with the purchasers of the bonds. Such bonds may be
656 further secured by a trust indenture between such authority and a
657 corporate trustee, which may be any trust company or bank having
658 powers of a trust company without or within the state.

659 (5) Bonds of the authority issued pursuant to this act shall
660 be authorized by a resolution or resolutions adopted by a majority
661 affirmative vote of the total membership of the board of directors
662 of the authority. Such bonds may be issued in series, and each
663 series of such bonds shall bear such date or dates, mature at such

664 time or times, bear interest at such rate or rates (not exceeding
665 the maximum rate set out in Section 75-17-103, Mississippi Code of
666 1972), be in such denomination or denominations, be in such form,
667 carry such conversion privileges, have such rank or priority, be
668 executed in such manner and by such officers, be payable from such
669 sources in such medium of payment at such place or places within
670 or without the state, provided that one such place shall be within
671 the state, and be subject to such terms of redemption prior to
672 maturity, all as may be provided by resolution or resolutions of
673 the board of directors. The term of such bonds issued pursuant to
674 this act shall not exceed forty (40) years.

675 (6) Bonds of the authority issued pursuant to this act may
676 be sold at such price or prices, at public or private sale, in
677 such manner and at such times as may be determined by the
678 authority to be in the public interest, and the authority may pay
679 all expenses, premiums, fees and commissions which it may deem
680 necessary and advantageous in connection with the issuance and
681 sale thereof.

682 (7) Any pledge of earnings, revenues or other monies made by
683 the authority shall be valid and binding from the time the pledge
684 is made. The earnings, revenues or other monies so pledged and
685 thereafter received by the authority shall immediately be subject
686 to the lien of such pledge without any physical delivery thereof
687 or further act, and the lien of any such pledge shall be valid and
688 binding as against all parties having claims of any kind in tort,
689 contract or otherwise against such authority irrespective of
690 whether such parties have notice thereof. Neither the resolution
691 nor any other instrument by which a pledge is created need be
692 recorded.

693 (8) Neither the members of the board of directors nor any
694 person executing the bonds shall be personally liable on the bonds
695 or be subject to any personal liability or accountability by
696 reason of the issuance thereof.

697 (9) Proceeds from the sale of bonds of the authority may be
698 invested, pending their use, in such securities as may be

699 specified in the resolution authorizing the issuance of the bonds
700 or the trust indenture securing them, and the earnings on such
701 investments applied as provided in such resolution or trust
702 indenture.

703 (10) Whenever any bonds shall have been signed by the
704 officer(s) designated by the resolution of the board of directors
705 to sign the bonds who were in office at the time of such signing
706 but who may have ceased to be such officer(s) prior to the sale
707 and delivery of such bonds, or who may not have been in office on
708 the date such bonds may bear, the manual or facsimile signatures
709 of such officer(s) upon such bonds shall nevertheless be valid and
710 sufficient for all purposes and have the same effect as if the
711 person so officially executing such bonds had remained in office
712 until the delivery of the same to the purchaser or had been in
713 office on the date such bonds may bear.

714 (11) The authority has the discretion to advance or borrow
715 funds needed to satisfy any short-term cash flow demands or
716 deficiencies or to cover start-up costs until such time as
717 sufficient bonds, assets and revenues have been secured to satisfy
718 the needs of the authority.

719 **SECTION 12.** (1) The authority may, by resolution adopted by
720 its board of directors, issue refunding bonds for the purpose of
721 paying any of its bonds at or prior to maturity or upon
722 acceleration or redemption. Refunding bonds may be issued at such
723 time prior to the maturity or redemption of the refunded bonds as
724 the board of directors deems to be in the public interest, without
725 an election on the question of the issuance thereof. The
726 refunding bonds may be issued in sufficient amounts to pay or
727 provide the principal of the bonds being refunded, together with
728 any redemption premium thereon, any interest accrued or to accrue
729 to the date of payment of such bonds, the expenses of issue of the
730 refunding bonds, the expenses of redeeming the bonds being
731 refunded, and such reserves for debt service or other capital or
732 current expenses from the proceeds of such refunding bonds as may
733 be required by the resolution, trust indenture or other security

734 instruments. The issue of refunding bonds, the maturities and
735 other details thereof, the security therefor, the rights of the
736 holders and the rights, duties and obligations of the authority in
737 respect of the same shall be governed by the provisions of this
738 act relating to the issue of bonds other than refunding bonds
739 insofar as the same may be applicable. Any such refunding may be
740 effected, whether the obligations to be refunded shall have then
741 matured or shall thereafter mature, either by the exchange of the
742 refunding bonds for the obligations to be refunded thereby with
743 the consent of the holders of the obligations so to be refunded,
744 or by sale of the refunding bonds and the application of the
745 proceeds thereof to the payment of the obligations proposed to be
746 refunded thereby, and regardless of whether the obligations
747 proposed to be refunded shall be payable on the same date or
748 different dates or shall be due serially or otherwise.

749 (2) Borrowing by the authority may be made by the delivery
750 of interim notes to any person or public agency or financial
751 institution by a simple majority vote of the board of directors.

752 **SECTION 13.** All bonds (other than refunding bonds, interim
753 notes and certificates of indebtedness, which may be validated)
754 issued pursuant to this act shall be validated as now provided by
755 law in Sections 31-13-1 through 31-13-11, Mississippi Code of
756 1972; however, notice of such validation proceedings shall be
757 addressed to the citizens of the respective public agencies (a)
758 which have contracted with the authority pursuant to this act, and
759 (b) whose contracts and the payments to be made by the public
760 agencies thereunder constitute security for the bonds of the
761 authority proposed to be issued, and that such notice shall be
762 published at least once in a newspaper or newspapers having a
763 general circulation within the geographical boundaries of each of
764 the contracting public agencies to whose citizens the notice is
765 addressed. Such validation proceedings shall be instituted in any
766 chancery courts within the boundaries of the authority. The
767 validity of the bonds so validated and of the contracts and
768 payments to be made by the public agencies thereunder constituting

769 security for the bonds shall be forever conclusive against the
770 authority and the public agencies which are parties to the
771 contracts; and the validity of the bonds, the contracts and the
772 payments to be made thereunder shall never be called in question
773 in any court in this state.

774 **SECTION 14.** Bonds issued under the provisions of this act
775 shall not be deemed to constitute, within the meaning of any
776 constitutional or statutory limitation, an indebtedness of the
777 authority. Such bonds shall be payable solely from the revenues
778 or assets of the authority pledged therefor. Each bond issued
779 under this act shall contain on the face thereof a statement to
780 the effect that the authority shall not be obligated to pay the
781 same nor the interest thereon except from the revenues or assets
782 pledged therefor.

783 **SECTION 15.** The authority shall have power in connection
784 with the issuance of its bonds pursuant to this act to:

785 (a) Covenant as to the use of any or all of its
786 property, real or personal;

787 (b) Redeem the bonds, to covenant for their redemption
788 and to provide the terms and conditions thereof;

789 (c) Covenant to charge rates, fees and charges
790 sufficient to meet operating and maintenance expenses, renewals
791 and replacements, principal and debt service on bonds, creation
792 and maintenance of any reserves required by a bond resolution,
793 trust indenture or other security instrument and to provide for
794 any margins or coverages over and above debt service on the bonds
795 deemed desirable for the marketability of the bonds;

796 (d) Covenant and prescribe as to events of default and
797 terms and conditions upon which any or all of its bonds shall
798 become or may be declared due before maturity, as to the terms and
799 conditions upon which such declaration and its consequences may be
800 waived and as to the consequences of default and the remedies of
801 the registered owners of the bonds;

802 (e) Covenant as to the mortgage or pledge of or the
803 grant of a security interest in any real or personal property and

804 all or any part of the revenues from any designated system or any
805 part thereof or any revenue-producing contract or contracts made
806 by such authority with any person to secure the payment of bonds,
807 subject to such agreements with the registered owners of bonds as
808 may then exist;

809 (f) Covenant as to the custody, collection, securing,
810 investment and payment of any revenues, assets, monies, funds or
811 property with respect to which such authority may have any rights
812 or interest;

813 (g) Covenant as to the purposes to which the proceeds
814 from the sale of any bonds then or thereafter to be issued may be
815 applied, and the pledge of such proceeds to secure the payment of
816 the bonds;

817 (h) Covenant as to the limitations on the issuance of
818 any additional bonds, the terms upon which additional bonds may be
819 issued and secured, and the refunding of outstanding bonds;

820 (i) Covenant as to the rank or priority of any bonds
821 with respect to any lien or security;

822 (j) Covenant as to the procedure by which the terms of
823 any contract with or for the benefit of the registered owners of
824 bonds may be amended or abrogated, the amount of bonds the
825 registered owners of which must consent thereto, and the manner in
826 which such consent may be given;

827 (k) Covenant as to the custody of any of its properties
828 or investments, the safekeeping thereof, the insurance to be
829 carried thereon, and the use and disposition of insurance
830 proceeds;

831 (l) Covenant as to the vesting in a trustee or
832 trustees, within or outside the state, of such properties, rights,
833 powers and duties in trust as the authority may determine;

834 (m) Covenant as to the appointing and providing for the
835 duties and obligations of a paying agent or paying agents or other
836 fiduciaries within or outside the state;

837 (n) Make all other covenants and to do any and all such
838 acts and things as may be necessary or convenient or desirable in

839 order to secure its bonds, or in the absolute discretion of the
840 authority tend to make the bonds more marketable, notwithstanding
841 that such covenants, acts or things may not be enumerated herein;
842 it being the intention hereof to give the authority power to do
843 all things in the issuance of bonds and in the provisions for
844 security thereof which are not inconsistent with the constitution
845 of the state; and

846 (o) Execute all instruments necessary or convenient in
847 the exercise of the powers herein granted or in the performance of
848 covenants or duties, which may contain such covenants and
849 provisions, as any purchaser of the bonds of the authority may
850 reasonably require.

851 **SECTION 16.** The authority may, in any authorizing resolution
852 of the board of directors, trust indenture or other security
853 instrument relating to its bonds issued pursuant to this act,
854 provide for the appointment of a trustee who shall have such
855 powers as are provided therein to represent the registered owners
856 of any issue of bonds in the enforcement or protection of their
857 rights under any such resolution, trust indenture or security
858 instrument. The authority may also provide in such resolution,
859 trust indenture or other security instrument that the trustee, or
860 in the event that the trustee so appointed shall fail or decline
861 to so protect and enforce such registered owners' rights then such
862 percentage of registered owners as shall be set forth in, and
863 subject to the provisions of, such resolution, trust indenture or
864 other security interest, may petition the court of proper
865 jurisdiction for the appointment of a receiver of the authority's
866 systems, the revenues of which are pledged to the payment of the
867 principal of and interest on the bonds of such registered owners.
868 Such receiver may exercise any power as may be granted in any such
869 resolution, trust indenture or security instrument to enter upon
870 and take possession of, acquire, construct or reconstruct or
871 operate and maintain such system, fix charges for services of the
872 system and enforce collection thereof, and receive all revenues
873 derived from such system or facilities and perform the public

874 duties and carry out the contracts and obligations of such
875 authority in the same manner as such authority itself might do,
876 all under the direction of such court.

877 **SECTION 17.** (1) The exercise of the powers granted by this
878 act will be in all respects for the benefit of the people of the
879 state, for their well-being and prosperity and for the improvement
880 of their social and economic conditions, and the authority shall
881 not be required to pay any tax or assessment on any property owned
882 by the authority under the provisions of this act or upon the
883 income therefrom; nor shall the authority be required to pay any
884 recording fee or transfer tax of any kind on account of
885 instruments recorded by it or on its behalf.

886 (2) Any bonds issued by the authority under and pursuant to
887 the provisions of this act, their transfer and the income
888 therefrom shall at all times be free from taxation by the state or
889 any local unit or political subdivision or other instrumentality
890 of the state, except inheritance and gift taxes.

891 **SECTION 18.** All bonds issued under the provisions of this
892 act shall be legal investments for trustees, other fiduciaries,
893 savings banks, trust companies and insurance companies organized
894 under the laws of the State of Mississippi; and such bonds shall
895 be legal securities which may be deposited with and shall be
896 received by all public officers and bodies of the state and all
897 municipalities and other political subdivisions thereof for the
898 purpose of securing the deposit of public funds.

899 **SECTION 19.** The state hereby covenants with the registered
900 owners of any bonds of any authority that so long as the bonds are
901 outstanding and unpaid the state will not limit or alter the
902 rights and powers of any authority under this act to conduct the
903 activities referred to herein in any way pertinent to the
904 interests of the bondholders, including, without limitation, such
905 authority's right to charge and collect rates, fees, assessments
906 and charges and to fulfill the terms of any covenants made with
907 the registered owners of the bonds, or in any other way impair the
908 rights and remedies of the registered owners of the bonds, unless

909 provision for full payment of such bonds, by escrow or otherwise,
910 has been made pursuant to the terms of the bonds or the
911 resolution, trust indenture or security interest securing the
912 bonds.

913 **SECTION 20.** For the purposes of satisfying any temporary
914 cash flow demands and deficiencies, and to maintain a working
915 balance for the authority, the county, municipalities or public
916 agencies within the geographic boundaries of the authority, or
917 other persons, subject to their lawful authority to do so, are
918 authorized to advance, at any time, such funds which, in its
919 discretion, are necessary, or borrow such funds by issuance of
920 notes, for initial capital contribution and to cover start-up
921 costs until such times as sufficient bonds, assets and revenues
922 have been secured to satisfy the needs of the authority for its
923 management, operation and formation. To this end, the county,
924 municipality, public agency or person, subject to their lawful
925 authority to do so, shall advance such funds, or borrow such funds
926 by issuance of notes, under such terms and conditions as may be
927 provided by resolution of the governing body, or other persons as
928 defined in this act, subject to their lawful authority to do so,
929 except that each such resolution shall state:

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

931 (b) The amount to be advanced or the amount to be
932 borrowed;

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

936 (d) In addition, the governing body, or other persons
937 as defined in this act, subject to their lawful authority to do
938 so, may arrange for lines of credit with any bank, firm or person
939 for the purpose of providing an additional source of repayment for
940 notes issued pursuant to this section. Amounts drawn on a line of
941 credit may be evidenced by negotiable or nonnegotiable notes or
942 other evidences of indebtedness and contain such terms and
943 conditions as the governing body, or other persons as defined in

944 this act, subject to their lawful authority to do so, may
945 authorize in the resolution approving the same;

946 (e) The governing body of the county, municipalities or
947 other persons as defined in this act, subject to their lawful
948 authority to do so, may authorize the repayment of such advances,
949 notes, lines of credit and other debt incurred under this section,
950 along with all costs associated with the same, including, but not
951 limited to, rating agency fees, printing costs, legal fees, bank
952 or trust company fees, line of credit fees and other charges to be
953 reimbursed by the authority under such terms and conditions as are
954 reasonable and are to be provided for by resolution of the
955 governing body, or terms agreed upon with other persons as defined
956 in this act, subject to their lawful authority to do so;

957 (f) In addition, the governing body of the county,
958 municipality or public agency may lease or donate office space and
959 equipment to the authority under such terms and conditions as are
960 reasonable and are to be provided for by resolution of the
961 governing body, or terms agreed upon by the authority.

962 **SECTION 21.** If any clause, sentence, paragraph, section or
963 part of the provisions of this act shall be adjudged by any court
964 of competent jurisdiction to be invalid, such judgment shall not
965 affect, impair or invalidate the remainder thereof directly
966 involved in the controversy in which such judgment shall have been
967 rendered.

968 **SECTION 22.** This act shall take effect and be in force from
969 and after its passage.

**Further, amend by striking the title in its entirety and
inserting in lieu thereof the following:**

1 AN ACT TO CREATE THE ST. CATHERINE CREEK UTILITY AUTHORITY
2 WITHIN ADAMS COUNTY, MISSISSIPPI; TO PROVIDE THAT THE AUTHORITY
3 SHALL BE GOVERNED BY A BOARD OF DIRECTORS APPOINTED BY THE BOARD
4 OF SUPERVISORS OF ADAMS COUNTY; TO PROVIDE FOR THE MEMBERSHIP OF
5 THE BOARD OF DIRECTORS; TO AUTHORIZE THE AUTHORITY TO PLAN,
6 ACQUIRE, CONSTRUCT, MAINTAIN, OPERATE AND COORDINATE SOLID WASTE,
7 STORM WATER, WATER AND WASTEWATER SYSTEMS IN ORDER TO ENSURE THE
8 DELIVERY OF SOLID WASTE, STORM WATER, WATER AND WASTEWATER
9 SERVICES TO CITIZENS RESIDING WITHIN THE BOUNDARIES OF ADAMS
10 COUNTY; TO AUTHORIZE THE AUTHORITY TO ISSUE REVENUE BONDS TO
11 PROVIDE FUNDS NECESSARY TO ACHIEVE THE PURPOSES OF THIS ACT; AND
12 FOR RELATED PURPOSES.

SS26\HB1772A.J

John O. Gilbert
Secretary of the Senate