

By: Representative Brown (20th)

To: Public Utilities

HOUSE BILL NO. 1294

1 AN ACT TO CREATE NEW SECTION 51-41-8, MISSISSIPPI CODE OF  
 2 1972, TO PROHIBIT THE STATE, A MUNICIPALITY AND ANY POLITICAL  
 3 SUBDIVISION OF THE STATE FROM EXERCISING THE POWER OF EMINENT  
 4 DOMAIN OVER THE FACILITIES OF A QUALIFIED CORPORATION OR WATER  
 5 AUTHORITY EXCEPT WHEN THE PUBLIC SERVICE COMMISSION CANCELS THE  
 6 CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY GRANTED TO THE  
 7 FACILITIES; TO AMEND SECTION 77-3-5, MISSISSIPPI CODE OF 1972, TO  
 8 PROHIBIT THE PUBLIC SERVICE COMMISSION FROM REGULATING THE RATES  
 9 FOR THE SALE OF WATER OR SEWER SERVICES BY CERTAIN ENTITIES; TO  
 10 AMEND SECTIONS 51-41-1 AND 51-41-3, MISSISSIPPI CODE OF 1972, TO  
 11 CONFORM TO THE PROVISIONS OF THIS ACT; AND FOR RELATED PURPOSES.

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

13 **SECTION 1.** The following shall be codified as Section  
 14 51-41-8, Mississippi Code of 1972:

15 51-41-8. The state, a municipality and any political  
 16 subdivision of the state may not exercise the power of eminent  
 17 domain over the facilities of a qualified corporation or water  
 18 authority unless the Mississippi Public Service Commission, in  
 19 accordance with Section 77-3-21, cancels the certificate of public  
 20 convenience and necessity granted to the qualified corporation or  
 21 water authority in accordance with Section 77-3-13 for the service  
 22 area where those facilities are located. Nothing in this chapter  
 23 shall be construed to constitute a waiver by any water authority,  
 24 qualified corporation or water provider of any right granted to it  
 25 under federal law.

26 **SECTION 2.** Section 77-3-5, Mississippi Code of 1972, is  
 27 amended as follows:

28 77-3-5. Subject to the limitations imposed in this article  
 29 and in accordance with the provisions hereof, the Public Service  
 30 Commission shall have exclusive original jurisdiction over the  
 31 intrastate business and property of public utilities. However,



32 the commission shall not have jurisdiction over the production and  
33 gathering of natural gas or the sale of natural gas in or within  
34 the vicinity of the field where produced, or over the facilities  
35 and equipment utilized in any such operations, including, but not  
36 limited to, such facilities as separators, scrubbers and gasoline  
37 plants of all types. Moreover, the commission shall not have  
38 jurisdiction to regulate the rates for the sales:

39 (a) Of gas, water, electricity or sewage disposal  
40 services by municipalities to such persons as said municipalities  
41 are authorized by law to serve;

42 (b) Of gas or electricity by cooperative gas or  
43 electric power associations to the members thereof as consumers,  
44 except as provided by Sections 77-3-15 and 77-3-17, where service  
45 is rendered in a municipality;

46 (c) Of water or sewage disposal service by nonprofit  
47 corporations, associations or water authorities created under  
48 Chapter 41, Title 51, Mississippi Code of 1972; or

49 (d) Of water by districts organized under the  
50 provisions of Chapter 45, Laws of 1966-1967, Extraordinary  
51 Session.

52 **SECTION 3.** Section 51-41-1, Mississippi Code of 1972, is  
53 amended as follows:

54 51-41-1. It is the intent of the Legislature to provide a  
55 means, in addition to the incorporation of districts authorized in  
56 Sections 19-5-151 through 19-5-207, by which not-for-profit  
57 corporations or associations involved in the provision  
58 of \* \* \* water or sewer services to members of the public and  
59 others for compensation may convert their entity status from that  
60 of a body corporate to that of a body politic, thereby allowing  
61 those entities the opportunity to access the tax-exempt capital  
62 markets and thereby assuring the State of Mississippi and the  
63 customers of those entities of \* \* \* water or sewer services at  
64 reasonable rates \* \* \*.



65           **SECTION 4.** Section 51-41-3, Mississippi Code of 1972, is  
66 amended as follows:

67           51-41-3. As used in this chapter, unless the context  
68 otherwise requires:

69           (a) "Board" means the board of directors of the water  
70 authority;

71           (b) "Bond" means any bond, promissory note, lease  
72 purchase agreement or other evidence of indebtedness of any nature  
73 along with all debt securing instruments of every nature related  
74 thereto;

75           (c) "Indenture" means a mortgage, an indenture of  
76 mortgage, deed of trust, trust agreement, loan agreement, security  
77 agreement or trust indenture executed by the water authority as  
78 security for any bonds;

79           (d) "Project" means any raw or potable water or  
80 wastewater intake, treatment, distribution, transmission, storage,  
81 pumping, well site, well field or other facility or system, or any  
82 combination of the foregoing, that has as its purpose the  
83 providing of \* \* \* water or sewer services for compensation to  
84 members of the public and commercial, industrial or other users or  
85 the treatment of wastewater, along with any and all other  
86 appurtenances, equipment, betterments or improvements related  
87 thereto. The above projects may include any lands, or interest in  
88 any lands, deemed by the board to be desirable in connection with  
89 the projects, and necessary equipment for the proper functioning  
90 and operation of the buildings or facilities involved;

91           (e) "Qualified corporation" means any not-for-profit  
92 corporation or association that provides, distributes, transmits,  
93 treats, pumps or stores \* \* \* water or provides sewer services to  
94 or for the benefit of members of the general public and  
95 commercial, industrial and other users for compensation;

96           (f) "United States" means the United States of America  
97 or any of its agencies or instrumentalities;



98 (g) "State" means the State of Mississippi; and

99 (h) "Water authority" means that body politic and  
100 governmental entity organized under the provisions of this  
101 chapter.

102 **SECTION 5.** This act shall take effect and be in force from  
103 and after July 1, 2012.

